

**AGREEMENT FOR AFFILIATION  
WITH  
EXETER HEALTH RESOURCES, INC.**

**TABLE OF CONTENTS**

<b>Article I.</b>	<b>Joint Vision and Goals of the Affiliation .....</b>	<b>2</b>
<b>Article II.</b>	<b>Closing Date.....</b>	<b>3</b>
2.1	Closing Memorandum .....	4
2.2	Actions to Be Taken as of the Closing Date .....	4
2.3	Deliverables of the Parties on the Closing Date .....	4
<b>Article III.</b>	<b>Pre-Closing Covenants .....</b>	<b>5</b>
3.1	Reasonable, Good Faith Efforts .....	5
3.2	Regulatory Filings and Investigations .....	5
3.3	Costs of the Transaction.....	6
3.4	Exclusivity; Other Discussions .....	7
3.5	Compliance with Law .....	8
3.6	EHR Conduct of Business .....	8
3.7	WDH Conduct of Business.....	8
3.8	WDHS Conduct of Business.....	9
3.9	Confidentiality.....	9
3.10	Public Statements.....	9
3.11	CRICO Risk Appraisal .....	9
3.12	Due Diligence .....	11
3.13	Formation of Network Parent .....	12
3.14	Initial Network Parent Board; Mirror Boards.....	12
3.15	EHR Articles of Agreement and Bylaws .....	12
3.16	WDH Articles of Agreement and Bylaws .....	13
3.17	Initial Integration Process .....	13
3.18	Key Agreements.....	13
3.19	Injunctive Relief.....	13
<b>Article IV.</b>	<b>Representations and Warranties .....</b>	<b>14</b>
4.1	EHR.....	14
4.2	MGH .....	14
4.3	WDH .....	15
4.4	WDHS.....	16
<b>Article V.</b>	<b>Conditions Precedent.....</b>	<b>16</b>

5.1	Conditions Precedent Applicable to each of MGH, WDH, WDHS and EHR.....	16
5.2	Conditions Precedent Applicable to MGH and WDH.....	17
5.3	Conditions Precedent to the obligations of EHR .....	18
5.4	Conditions Precedent to the Obligations of WDHS .....	18
<b>Article VI.</b>	<b>Term and Termination of Transaction Agreement .....</b>	<b>19</b>
6.1	Term .....	19
6.2	Mutual Consent.....	19
6.3	MGH or WDH Material Breach .....	19
6.4	EHR Material Breach.....	19
6.5	WDH Material Adverse Change.....	20
6.6	EHR Material Adverse Change .....	20
6.7	Definition of Material Adverse Change.....	20
6.8	Exclusion from Federal Programs .....	21
6.9	Change of Control.....	21
6.10	Expiration.....	21
6.11	Reimbursement Obligations.....	21
<b>Article VII.</b>	<b>Dispute Resolution .....</b>	<b>21</b>
7.1	Stage One: Presidents .....	21
7.2	Stage Two: Non-Binding Mediation.....	22
7.3	Stage Three: Litigation .....	22
7.4	Injunctive Relief.....	22
7.5	Effect of Dispute Resolution Process on Performance .....	22
<b>Article VIII.</b>	<b>Miscellaneous.....</b>	<b>22</b>
8.1	Governing Law .....	22
8.2	Successors; Assignment.....	22
8.3	Amendment.....	23
8.4	Headings .....	23
8.5	Waiver.....	23
8.6	Severability .....	23
8.7	Entire Agreement .....	23
8.8	Notices .....	23
8.9	Counterparts.....	23

**AGREEMENT FOR AFFILIATION**  
**WITH**  
**EXETER HEALTH RESOURCES, INC.**

This Agreement for Affiliation with Exeter Health Resources, Inc. (the “**Transaction Agreement**”) is being entered into as of April 12, 2019 (the “**Execution Date**”) by and among **Exeter Health Resources, Inc.**, a New Hampshire not-for-profit corporation (“**EHR**”), **Wentworth-Douglass Hospital**, a New Hampshire not-for-profit corporation (“**WDH**”), and **The Massachusetts General Hospital**, a Massachusetts not-for-profit corporation (“**MGH**”). Unless the context otherwise requires, the terms “**Party**” and “**Parties**” as used herein refer individually and collectively, respectively, to EHR, WDH and MGH.

**Wentworth-Douglass Health System**, a New Hampshire not-for-profit corporation (“**WDHS**”) is executing this Agreement solely with respect to its rights and obligations under Sections 2.1, 2.2(e), 2.2(f), 2.3(a), 2.3(b), 2.3(c), 2.3(d), 3.3.1, 3.4.4, 3.8, 3.9, 3.10, 4.4, 5.1, 5.4, 6.1, 8.2, 8.3, 8.8, and 8.9 and is not a “**Party**” hereto.

WHEREAS, MGH is the sole corporate member of certain Massachusetts not-for-profit provider entities which are exempt from federal income tax as organizations described in Section 501(c)(3) of the Code and which are referred to herein collectively as the “**MGH Subsidiaries**” including: The General Hospital Corporation (“**GHC**”) that owns and operates the tertiary, acute care hospital in Boston, Massachusetts known as “Massachusetts General Hospital”; the Massachusetts General Physicians Organization, Inc. (“**MGPO**”) that employs a substantial number of the physicians on the medical staff of GHC; and Martha’s Vineyard Hospital, Inc., Nantucket Cottage Hospital and Cooley Dickinson Health Care Corporation that operate acute care community hospitals in Massachusetts;

WHEREAS, pursuant to an acquisition effective on January 1, 2017 (the “**WDH Affiliation**”), MGH became the sole corporate member of WDH which is the sole corporate member of Wentworth-Douglass Hospital & Health Foundation, a New Hampshire not-for-profit corporation (“**The Foundation**”) and Wentworth-Douglass Physician Corporation, a New Hampshire not-for-profit corporation (“**WDPC**”), both of which are exempt from federal income tax as organizations described in Section 501(c)(3) of the Code (collectively the “**WDH Subsidiaries**”);

WHEREAS, upon the closing of the WDH Affiliation, WDHS, the former parent of WDH, continued to operate for certain purposes specifically defined in Section 11.2 of the Governance Agreement by and among WDH, WDHS and MGH dated as of January 1, 2017 (the “**Original Governance Agreement**”);

WHEREAS, EHR is the sole corporate member of the following New Hampshire not-for-profit entities that are referred to herein collectively as the “**EHR Subsidiaries**”: Exeter Hospital (“**EH**”), Rockingham VNA & Hospice (“**RVNA**”), and Core Physicians, LLC (“**Core**”), all three of which are exempt from federal income tax as organizations described in Section



501(c)(3) of the Code; and Exeter Med Real, Inc. (“**EMRI**”) which is exempt from federal income tax as an organization described in Section 501(c)(25) of the Code;

WHEREAS, the Parties entered into a certain Mutual Non-Disclosure and Confidentiality Agreement dated as of September 14, 2017 and a certain Common Interest and Joint Defense Agreement dated December 18, 2017 (collectively, the “**Confidentiality Agreements**”), and a certain Letter of Intent dated as of May 14, 2018 that was joined by WDHS (the “**LOI**”) pursuant to which the Parties expressed their intent to enter into a transaction (the “**Affiliation**”) whereby MGH would become the sole corporate member of a newly formed New Hampshire not-for-profit holding company (the “**Network Parent**”) which would become the sole corporate member of each of WDH and EHR, and the indirect parent of the WDH Subsidiaries and the EHR Subsidiaries (sometimes referred to herein collectively as the “**Local Organization Subsidiaries**”); and

WHEREAS, as contemplated by the LOI, the Parties desire to memorialize certain of the definitive terms of the Affiliation in this Transaction Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and in order to effectuate the Affiliation contemplated by the LOI, the Parties agree as follows:

**Article I.      Joint Vision and Goals of the Affiliation**

1.1      The purpose of the Affiliation is for WDH, EHR and the newly-created Network Parent to form a combined and integrated New Hampshire-based regional health care system (the “**Network**”) that will act in coordination with MGH to ensure that New Hampshire Seacoast residents have long-term, sustainable access to high quality health care services. Working together as part of one integrated organization, the Network Parent, WDH and EHR, in coordination with MGH, will be able to: (i) develop more expansive access to local health care services in the Seacoast Region (as defined in Section 1.2 below) and such other locations as may be determined by the Network Parent Board (as defined in Section 2.1), with enhanced coordination for all services and seamless, appropriate access to primary, secondary, tertiary and quaternary care; (ii) improve quality and continuity of care through shared leadership and joint investment in resources such as comprehensive population health management and a single electronic medical record; (iii) coordinate and rationalize clinical programs and services in order to promote the provision of the appropriate level of care at the right provider location; (iv) achieve economies of scale and enable the Parties to more efficiently use their clinical and administrative resources by spreading care management, capital planning and other overhead costs across a broader integrated delivery system; and (v) increase WDH’s and EHR’s ability to recruit and retain highly-qualified physicians, clinicians and other staff through Network-wide coordination. During the period of time between execution of the LOI and the Execution Date, the Parties have been engaged in planning toward achieving the goals listed above and the integration described in Section 1.4 hereof, and some of the results of that planning are memorialized in this Transaction Agreement.

1.2 The term “**Seacoast Region**” as used in this Transaction Agreement refers to: (i) in New Hampshire - all of Strafford County and parts of Rockingham, Belknap and Carroll Counties; and (ii) in Maine - parts of York County; all as shown on the Seacoast Region map attached hereto as Exhibit A. For the avoidance of doubt, the “Seacoast Region” is not a definition of the market or the service area for any of the Parties or for the combined organizations after the Closing.

1.3 The Network Parent will be the sole member of WDH and EHR and shall be the indirect parent of the Local Organization Subsidiaries. The Network Parent shall oversee the development of the Network’s collaborative strategy and clinical service lines, and will assume certain governance functions for WDH, EHR, EH and the other Local Organization Subsidiaries through its reserved powers. The Network Parent will adhere to the following guiding principles: (i) supporting and strengthening the charitable missions of each of WDH, EHR, EH and the other Local Organizations; (ii) aligning the shared visions and strategic objectives of the Parties and MGH; (iii) maximizing the value of each of WDH, EHR, EH and the other Local Organization Subsidiaries while preserving the unique culture of each constituent entity; and (iv) approaching any operational changes resulting from the Affiliation in a transparent, sensitive and comprehensive manner. As further set forth in the Governance Agreement (defined in Section 5.1(g) below), the Parties intend that the Network Parent shall be the primary focus of MGH clinical development in the “Seacoast Region.”

1.4 To achieve the redesign for care delivery for patients in the Seacoast Region, MGH, EHR and WDH have planned and expect to implement (over a time period to be mutually determined) integration of certain key clinical programs including, without limitation, an initial focus on primary care, musculoskeletal services, behavioral health and substance use disorder treatment, obstetrics and neonatology services, and cardiovascular services.

## **Article II. Closing Date**

2.1 Closing Memorandum. Upon satisfaction or written waiver of all of the conditions precedent set forth in Article V below, the President and CEO of EHR (the “**EHR President**”), the President and CEO of WDH (the “**WDH President**”), the President of MGH (the “**MGH President**”) and the Chairman of the Board of WDHS (the “**WDHS Chairman**”) shall execute and deliver a written memorandum (the “**Closing Memorandum**”): (i) confirming their agreement that all conditions precedent to the completion of the Affiliation applicable to such entity have been satisfied or waived; (ii) specifying the date upon which the Affiliation will become effective (the “**Closing Date**”), such Closing Date shall be no more than twenty (20) business days after the date of the Closing Memorandum; (iii) listing the initial members (the “**Initial Network Parent Trustees**”) of the Network Parent Board of Trustees (the “**Network Parent Board**”), the composition of which will be consistent with the Network Parent Bylaws (as defined in Section 3.13 below); (iv) listing the initial officers of the Network Parent including the Interim CEO of the Network Parent; and (v) confirming the capitalization funding amounts to be transferred to the Network Parent for initial working capital by each of EHR and WDH on the Closing Date. If all of the conditions precedent are satisfied or waived, the failure of a Party to execute and deliver the Closing Memorandum shall not excuse such Party’s obligations to complete the transactions contemplated by this Transaction Agreement.

2.2 Actions to Be Taken as of the Closing Date. The following actions shall be taken to be effective as of the Closing Date:

(a) MGH and WDH shall amend the WDH Bylaws and Articles of Agreement as set forth in Section 3.16.

(b) EHR shall amend the Bylaws and Articles of Agreement of EHR, EH and RVNA, and the Operating Agreement of Core as set forth in Section 3.15;

(c) MGH shall elect the Initial Network Parent Trustees as set forth in the Closing Memorandum;

(d) The Original Governance Agreement shall terminate and be of no further force or effect without any further action being required by or on behalf of any of the parties thereto;

(e) WDHS shall merge with and into WDH, which shall be the surviving entity;

(f) In the event that the “go-live” date for implementation at WDH of the Epic-based Partners eCare electronic health record system has not occurred on or before the Closing Date, the Network Parent will create an *ad hoc* Partners eCare subcommittee of the WDH Board of Trustees and will appoint to such subcommittee the WDHS Board Chair and up to three (3) other WDHS Trustees who will be designated by WDHS in the Closing Memorandum. The charter for this subcommittee will be to monitor, and to make recommendations to the WDH Board of Trustees regarding, the preparation for and implementation of Partners eCare at WDH. No later than sixty (60) days following the date upon which Partners eCare has achieved “go-live” status at WDH, the subcommittee will be dissolved; and

(g) Within five (5) business days after the Closing Date, each of WDH, WDPC, EH, RVNA, and Core shall file the required updates of each entity’s Medicare and Medicaid enrollment information.

2.3 Deliverables of the Parties on the Closing Date. On or before the Closing Date:

(a) MGH shall deliver to EHR, WDH and WDHS a copy of resolutions adopted by its Board of Trustees evidencing each vote and approval required by this Transaction Agreement as of the Closing Date;

(b) WDH and the WDH Subsidiaries shall deliver to EHR, MGH and WDHS a copy of resolutions adopted by their respective governing boards evidencing the votes and approvals required by this Transaction Agreement as of the Closing Date;

(c) WDHS shall deliver to MGH, WDH and EHR a copy of resolutions adopted by its Board of Directors evidencing each vote and approval required by this Transaction

Agreement as of the Closing Date, including a certificate attesting to such vote in a form suitable for filing in accordance with RSA 292:7;

(d) EHR and each of the EHR Subsidiaries shall deliver to MGH, WDH and WDHS a copy of resolutions adopted by their respective governing boards evidencing the votes and approvals required by this Transaction Agreement as of the Closing Date; and

(e) WDH, MGH and EHR shall complete a final reconciliation of the shared expenses described in Section 3.3.3.

### **Article III. Pre-Closing Covenants**

Each of the Parties agree that, during the Term (as defined in Section 6.1 below) of this Transaction Agreement, it shall comply with each of the following covenants that is applicable to such Party.

3.1 Reasonable, Good Faith Efforts. Each of the Parties agrees to use reasonable efforts and to act in good faith to obtain all necessary regulatory approvals (as is more particularly described in Section 3.2 below) and all necessary corporate and other approvals, to seek satisfaction of the other conditions precedent described in Article V below and to take such other actions as may be necessary or appropriate to effectuate the Affiliation as contemplated by this Transaction Agreement.

#### **3.2 Regulatory Filings and Investigations.**

3.2.1 Each of the Parties agrees to use reasonable best efforts to cooperate with each other in connection with any filings or submissions with federal and state regulatory agencies (each an “**Agency**” and collectively the “**Agencies**”) that are required by law to be made or that are reasonably requested by an Agency, and that have not heretofore been made, with respect to the Affiliation and in connection with any inquiry, review or investigation of the Affiliation undertaken by any such Agency. As of the Execution Date, the Parties have identified the following required filings or submissions: (i) a Premerger Notification (the “**HSR Notice**”) pursuant to the Hart-Scott-Rodino Antitrust Improvement Act of 1976 (the “**HSR Act**”) to be filed with the Federal Trade Commission (the “**FTC**”) and the Department of Justice (the “**DOJ**”), with courtesy copies of the HSR Notice to be provided to the Consumer Protection and NH Antitrust Bureau of the New Hampshire Office of the Attorney General (“**NH AGO**”), the Massachusetts Office of the Attorney General (“**MA AGO**”), and the Office of the Maine Attorney General (“**ME AGO**”); (ii) a Notice of Proposed Acquisition Transaction filed with the Director of the NH AGO Charitable Trusts Unit; (iii) a Notice of Material Change (the “**HPC Notice**”) filed with the Massachusetts Health Policy Commission (“**HPC**”); and (iv) such notices or other filings, if any, as may be required by the New Hampshire Department of Health and Human Services, Bureau of Health Facilities Administration (“**BHFA**”). The Parties anticipate that the MA AGO and the ME AGO may request information and documents regarding the Affiliation. The Parties will also cooperate in determining whether any other regulatory notices, filings or approvals are required, including without limitation filings required after the Closing Date.

3.2.2 The HSR Notice shall be filed as promptly as reasonably practical following the Execution Date.

3.2.3 Following submission of the filings listed in Section 3.2.1 above, the Parties agree to use reasonable best efforts (i) to comply by the earliest reasonably practical date with any request from the Agencies reviewing the Affiliation for additional information, documents or other material; (ii) to cooperate with each other in connection with responding to all such requests and with resolving any investigation or other inquiry regarding the Affiliation being conducted by any of the Agencies including during the waiting period under the HSR Act and notice periods required by law or imposed by any Agency; and (iii) avoid the entry of, or effect the dissolution of any suit or other proceeding that would otherwise have the effect of preventing or materially delaying the consummation of the transactions contemplated by this Transaction Agreement. Each Party shall promptly inform the other Parties of the substance of any oral communication that such Party has with any Agency reviewing this Affiliation and will provide copies of written communications by such Party with any Agency reviewing the Affiliation.

### 3.3 Costs of the Transaction.

3.3.1 Except as otherwise agreed in writing, EHR, WDH, WDHS and MGH shall each bear all of the fees, costs and expenses of all attorneys and agents, advisors, consultants, investment bankers, economists, accountants, litigation support professionals and document search firms (collectively, the “**Consultants**”) as may be retained by EHR, WDH, WDHS or MGH, respectively, in connection with: (i) the negotiation of this Transaction Agreement and the Governance Agreement; (ii) the conduct of any reviews or investigations of the Affiliation conducted or initiated by any Agency; (iii) the defense of any litigation or administrative proceedings challenging the Affiliation initiated by any Agency or by any private plaintiff (collectively, “**Litigation**”); (iv) any due diligence conducted pursuant to this Agreement; and (v) the closing of the Affiliation.

3.3.2 Except as may be otherwise set forth herein or as may be otherwise mutually agreed to by the Parties in writing, MGH/WDH collectively, and EHR individually, will each pay 50% of all filing fees and costs imposed by Agencies related to any reviews of the Affiliation by such Agencies; provided, however, that MGH will pay 100% of the HSR Filing fees for itself, WDH and EHR.

3.3.3 In the event that EHR and MGH/WDH agree in writing to retain jointly any attorneys and/or Consultants for the Parties’ mutual and common benefit in connection with any Agency review and/or in connection with any Litigation related to this Agreement or the Affiliation, EHR and MGH/WDH agree that they will share equally (i.e., 50% by EHR and 50% by MGH/WDH) the fees and expenses of such jointly retained attorneys and/or Consultants unless the Parties agree in writing to share said fees and expenses on any other basis. Any such written agreement shall set forth the tasks of the attorneys and/or consultants and an estimated budget for the cost of such services. Such fees and expenses will be reconciled no later than the Closing Date.

3.3.4 In order to achieve the most efficient use of attorneys and Consultants in connection with the review of the Affiliation by the Agencies, including in the event of a “second request” by the FTC, or the defense of any Litigation, EHR hereby agrees that, on and after the Execution Date, MGH’s outside antitrust counsel will lead the development of strategy in relation to Agency reviews at all times consulting with EHR and its attorneys, and the Parties will coordinate activities and allocation of tasks as between EHR’s attorneys and Consultants and MGH/WDH’s attorneys and Consultants in relation to such Agency reviews, provided that EHR’s participation in such strategy shall be subject to the agreement of EHR, which agreement shall not be unreasonably withheld, delayed or conditioned. Such consultation and coordination shall not in and of itself create an attorney-client relationship.

3.4 Exclusivity; Other Discussions.

3.4.1 Without the prior written approval of MGH and WDH, EHR agrees that neither it, nor any of its members, trustees, directors, officers, employees or other agents, nor any of the EHR Subsidiaries (now existing or created after the Execution Date), will enter into discussions with any third party concerning a possible merger, consolidation, acquisition or other corporate affiliation, transaction, joint venture or management agreement that would result (i) in a sale of substantially all of the assets of EHR or any of the EHR Subsidiaries, or (ii) in an entity that is not currently EHR gaining the right to control EHR or its operations, or any EHR Subsidiaries or their operations, through having the right to appoint a majority of the members of the Boards of Trustees or governing body of EHR or any of the EHR Subsidiaries or to manage substantially all of the operations of EHR or of any EHR Subsidiary.

3.4.2 Without the prior written approval of EHR and WDH, MGH agrees that neither it, nor any of its members, trustees, directors, officers, employees or other agents, nor any of the MGH Subsidiaries (now existing or created after the Execution Date) will enter into discussions or agreements concerning a possible merger, consolidation, acquisition or other corporate affiliation, joint venture or management agreement with any other hospital, hospital system, health facility, or medical group located in the Seacoast Region.

3.4.3 Without the prior written approval of EHR and MGH, WDH agrees that neither it, nor any of its members, trustees, directors, officers, employees or other agents, nor any of the WDH Subsidiaries (now existing or created after the Execution Date) will enter into discussions or agreements concerning a possible merger, consolidation, acquisition or other corporate affiliation, joint venture or management agreement with any other hospital or hospital system whose principal location is in the Seacoast Region.

3.4.4 Without the prior written approval of EHR and MGH, WDHS agrees that neither it, nor any of its members, trustees, directors, officers, employees or other agents will enter into discussions or agreements concerning a possible merger, consolidation, acquisition or other corporate affiliation, joint venture or management agreement with any other hospital or hospital system.

3.5 Compliance with Law. Each of the Parties shall comply, and shall cause their respective Subsidiaries to comply, in all material respects with all laws applicable to such Party or Subsidiary.

3.6 EHR Conduct of Business.

3.6.1 EHR agrees that it, and each of the EHR Subsidiaries, shall continue to operate in its respective usual, regular and ordinary manner, consistent with past practices. Without limiting the generality of the foregoing, neither EHR nor any EHR Subsidiary shall (except with the prior written consent of MGH, which shall not be unreasonably withheld): (i) amend its respective articles of agreement or corporate bylaws (other than for those amendments provided for in this Transaction Agreement that are to be adopted by EHR and the EHR Subsidiaries and to be made effective as of the Closing Date); (ii) except as set forth on Schedule 3.6.1 hereto, enter into any new severance or retention agreement with any executive employee, adopt any new severance or retention policies, or modify any such agreements or policies as are in effect on the Execution Date (other than to extend the term or amend the Closing Date of existing severance or retention arrangements); (iii) make any material reduction or material addition to any service line, as such service line is operating on the Execution Date; (iv) make any commitment for any capital projects other than those projects set forth in EHR's approved capital budgets for the fiscal years ending in 2019 and 2020, and provided that in no event will the aggregate capital project commitments for such fiscal years exceed Fifty Million Dollars (\$50 million); or (v) except as set forth on Schedule 3.6.1, enter into any Material Transaction. For purposes of this Article III of this Agreement, a "**Material Transaction**" shall be (x) any short-term (i.e., less than a year) indebtedness in excess of Two Million Dollars (\$2,000,000) in aggregate or long-term (i.e., a year or more) indebtedness in excess of Ten Million Dollars in aggregate, and (y) any contract, real estate or equipment lease, obligation or other undertaking that will be accounted for as an operating expense in excess of Two Million Dollars (\$2,000,000) per annum or Ten Million Dollars (\$10,000,000) in the aggregate over the life of any particular obligation. MGH shall take action with regard to any request for consent required by this Section 3.6.1 within ten (10) business days of receipt of such request. If MGH does not take action to approve or disapprove such request within the ten (10) business day period, the request shall be deemed approved as of the end of such period.

3.6.2 This Section 3.6 shall not restrict in any manner the ability of any of EHR and the EHR Subsidiaries to perform their respective obligations under applicable laws and regulations or agreements in existence with third parties as of the Execution Date.

3.7 WDH Conduct of Business.

3.7.1 WDH agrees that it, and each of the WDH Subsidiaries, shall continue to operate in its usual, regular and ordinary manner, consistent with past practices. Without limiting the generality of the foregoing, neither WDH nor any WDH Subsidiary shall (except with the prior written consent of EHR, which shall not be unreasonably withheld): (i) amend its respective articles of agreement or bylaws (other than for those amendments provided for in this Transaction Agreement that are to be adopted by WDH and the WDH Subsidiaries and to be made effective as of the Closing Date); (ii) except as set forth on Schedule 3.7.1 hereto, enter

into any new severance or retention agreement with any executive employee, adopt any new severance or retention policies, or modify any such agreements or policies as are in effect on the Execution Date (other than to extend the term or amend the Closing Date of existing severance or retention arrangements); (iii) make any material reduction or addition to any service line, as such service line is operating on the Execution Date; or (iv) except as set forth on Schedule 3.7.1, enter into any Material Transaction. EHR shall take action with regard to any request for consent required by this Section 3.7.1 within ten (10) business days of receipt of such request. If EHR does not take action to approve or disapprove such request within the ten (10) business day period, the request shall be deemed approved as of the end of such period.

3.7.2 This Section 3.7 shall not restrict in any manner the ability of any of WDH and the WDH Subsidiaries to perform their respective obligations under applicable laws and regulations or agreements in existence with third parties as of the Execution Date.

3.8 WDHS Conduct of Business. WDHS shall not enter into any agreements or transactions not contemplated by the Original Governance Agreement.

3.9 Confidentiality. The Parties hereby ratify and confirm the Confidentiality Agreements, which shall remain in effect through the Closing Date. If this Transaction Agreement terminates prior to the Closing Date, each Recipient (as such term is defined in the Confidentiality Agreements) agrees that: (i) it shall promptly return to the Discloser (as such term is defined in the Confidentiality Agreements) or, with the permission of the Discloser, destroy all Confidential Information (as such term is defined in the Confidentiality Agreements) obtained from a Discloser, and all notes, memoranda and other material which reflect, interpret, evaluate or are derived from such Confidential Information, and (ii) it will not use such Confidential Information of the Discloser for any purpose whatsoever. Notwithstanding the provisions of the Confidentiality Agreements, any Party may furnish copies of this Transaction Agreement and the Exhibits hereto to an Agency reviewing or investigating this Transaction if such disclosure is required by law, subject to notice to the Discloser, or, subject to the mutual agreement of the Parties, if such disclosure is requested by the Agency. When doing so, the Parties shall request that the Agency keep this Transaction Agreement and the Exhibits hereto confidential to the extent permitted by law.

3.10 Public Statements. None of the Parties shall without the prior written consent of the other Parties, make or permit any person under its control, or any member of its governing body, to make any written public comment, statement, or announcement, or any release to trade publications or to the press with respect to the Affiliation, this Transaction Agreement or any conversations, negotiations or agreements among the Parties or actions taken by MGH, WDH, WDHS, or EHR with respect to this Transaction Agreement or the Affiliation.

3.11 CRICO Risk Appraisal.

3.11.1 MGH has engaged CRICO Strategies (a division of the Risk Management Foundation of the Harvard Medical Institutions) to conduct a risk appraisal in consultation with MGH of EHR and the EHR Subsidiaries and, based on the results of such risk appraisal, to develop a series of recommendations (the “**Quality and Safety Recommendations**”) designed



to reduce medical errors and the malpractice exposure of EHR and the EHR Subsidiaries. The Quality and Safety Recommendations will be developed in conjunction with leadership at EHR, WDH and MGH. EHR and the EHR Subsidiaries will use all reasonable efforts to cooperate with CRICO Strategies in the conduct of the risk appraisal and the development of the Quality and Safety Recommendations.

3.11.2 As the first step for providing feedback on such Quality and Safety Recommendations, MGH Quality and Safety leadership and CRICO Strategies representatives have met with EHR leadership to provide a “report out” on the findings from the Focused Risk Appraisal (“**FRE**”) and the Risk Appraisal and Planning Process (“**RAP**”) conducted by CRICO Strategies. As a component of that report out, CRICO Strategies identified one EHR clinical service line for which CRICO Strategies will conduct a detailed quality and safety assessment (the “**Service-line Assessment**”).

3.11.3 On or before June 1, 2019, CRICO Strategies will deliver to EHR the comprehensive written report of Quality and Safety Recommendations which shall include all components of the evaluation, the FRE, the RAP and the Service-line Assessment. Upon receipt by EHR of the Quality and Safety Recommendations, MGH and EHR shall engage in a dialogue over a period not to exceed ten (10) business days regarding the Quality and Safety Recommendations, including costs and benefits, relative priorities and time required for implementation. Whether or not EHR elects to implement all or any of the Quality and Safety Recommendations, within ten (10) business days after the conclusion of such dialogue, MGH will identify in writing to EHR those Quality and Safety Recommendations (if any) that MGH has determined in its reasonable discretion must be fully implemented by EHR (either before or after the Closing Date, as applicable) as a condition of MGH’s obligation to consummate the Affiliation (collectively, the “**Required Quality and Safety Recommendations**”).

3.11.4 Within ten (10) business days after delivery to EHR of the list of Required Quality and Safety Recommendations, EHR will either (i) promptly develop a plan to implement the Required Quality and Safety Recommendations (along with any other Quality and Safety Recommendations that EHR has elected to implement) or (ii) inform MGH in writing that EHR has elected not to implement one or more of the Required Quality and Safety Recommendations. If a Required Quality and Safety Recommendation cannot practicably be implemented before the Closing Date (including Recommendations that require the agreement of persons not under the control of EHR or one of the EHR Subsidiaries) it shall be sufficient for EHR to develop a plan for the prompt implementation of such Recommendation after the Closing; provided that such plan has been submitted to MGH and approved by MGH in writing in advance of the Closing.

3.11.5 In the event that EHR elects not to implement all of the Required Quality and Safety Recommendations, either EHR or MGH shall have the right to terminate this Transaction Agreement by giving written notice of termination to the other Parties, which notice must be given within ten (10) business days of the receipt by MGH of the EHR communication described in Section 3.11.4(ii) above.

3.11.6 If the Quality and Safety Recommendations are not delivered to EHR by June 1, 2019, EHR shall have the right to terminate this Transaction Agreement by giving

written notice of termination to the other Parties, which notice must be given no later than June 11, 2019 or such right to terminate is waived.

3.12 Due Diligence. Each Party shall have the right to continue its due diligence as follows:

(a) MGH and WDH shall have the right to conduct such due diligence review of EHR and the EHR Subsidiaries' business, finances, operations and facilities as MGH and WDH determine to be reasonably necessary to evaluate EHR, the EHR Affiliates, and the Affiliation. Subject to the terms and conditions of the Confidentiality Agreements, EHR and the EHR Subsidiaries shall grant to MGH and WDH and their counsel, accountants and other representatives, reasonable access during normal business hours to their books and records, personnel and facilities as may reasonably be requested from time to time. EHR and the EHR Subsidiaries shall direct their accountants, attorneys and other representatives to cooperate with the representatives of MGH and WDH in connection with the due diligence review described in this Section 3.12 for such purpose.

(b) EHR shall have the right to conduct such due diligence review of WDH and the WDH Subsidiaries' business, finances, operations and facilities as EHR determines to be reasonably necessary to evaluate WDH, the WDH Subsidiaries, and the Affiliation. Subject to the terms and conditions of the Confidentiality Agreements, WDH and the WDH Subsidiaries shall grant to EHR and its counsel, accountants and other representatives, reasonable access during normal business hours to their books and records, personnel and facilities as may reasonably be requested from time to time for such purpose. WDH and the WDH Subsidiaries shall direct their accountants, attorneys and other representatives to cooperate with the representatives of EHR in connection with the due diligence review described in this Section 3.12.

(c) In addition, EHR shall have the right to conduct such due diligence review of Partners, MGH, and the MGH Subsidiaries' organizational structure, finances, and the policies and procedures of MGH and Partners as EHR determines is reasonably necessary for EHR to evaluate the Affiliation. Subject to the terms and conditions of the Confidentiality Agreements, MGH shall grant to EHR and its counsel, accountants and other representatives, reasonable access during normal business hours to its books and records and personnel as may reasonably be requested from time to time for such purpose. MGH shall direct its accountants, attorneys and other representatives to cooperate with the representatives of EHR in connection with the due diligence review described in this Section 3.12.

(d) The rights of a Party under this Agreement shall not be deemed waived or limited by any knowledge that the Party could have acquired through due diligence, whether before or after the Execution Date, or by any investigation or diligence carried out by that Party during the Term. Each Party hereby acknowledges that, regardless of any investigation made (or not made) by or on behalf of another Party, and regardless of the results of any such investigation, each Party has entered into this Affiliation in express reliance upon the representation and warranties of the other Parties made in this Agreement, both as of the time of the Execution Date and the Closing Date.

3.13 Formation of Network Parent. Following the Execution Date, MGH will cause the formation of a new Hampshire non-profit entity for the purpose of serving as the Network Parent by: (i) adopting the articles of agreement of the Network Parent (the “**Network Parent Articles**”), in the form set forth in Exhibit B-1 attached hereto, and filing the same with the Office of the New Hampshire Secretary of State and the appropriate City Clerk, if applicable; and (ii) adopting the Bylaws of the Network Parent (the “**Network Parent Bylaws**”), substantially in the form set forth in Exhibit B-2, which Network Parent Bylaws are to be effective as of the Closing Date. MGH will be the sole member of the Network Parent when formed. Prior to the Closing Date, MGH shall file a Form 1023 for recognition of the Network Parent as an organization exempt from U.S. income tax under Section 501(c)(3) of the Code and as an organization that is not a private foundation under Section 509 of the Code. EHR and its counsel will be afforded the opportunity to review and comment on the organization documents and the Form 1023.

3.14 Initial Network Parent Board; Mirror Boards. Upon organization of the Network Parent and prior to the Closing Date, the MGH President shall be the sole Trustee of the Network Parent. After the Execution Date, the Parties shall convene a joint nominating committee, composed of: (i) the WDH President and the EHR President, (ii) the Board Chairs of each of WDH and EHR and another trustee representative currently serving on the nominating committee of each of WDH and EHR, and (iii) three senior leadership representatives from MGH (the “**Initial Joint Nominating Committee**”). The Initial Joint Nominating Committee shall prepare a recommendation to the MGH Board of Trustees for the individual trustees to serve as the Network Parent Trustees upon the Closing Date and designating the Chair, Vice Chair, Treasurer and Secretary of the Initial Network Parent Board. MGH, as the sole member of the Network Parent, shall elect the Network Parent Trustees, as so nominated, for terms that will commence on the Closing Date as set forth in the Closing Memorandum. After the selection of the Network Parent Trustees and prior to the Closing Date, the Board of Trustees of MGH shall take such action as is necessary to elect the same individuals who are elected as the Initial Network Parent Trustees to also serve as the initial trustees of the Boards of each of WDH and EHR. The Parties intend that these identically composed, so called “mirror boards,” will take office as of the Closing Date.

3.15 EHR Articles of Agreement and Bylaws. After the Execution Date and prior to the Closing Date, the Board of Trustees of EHR (the “**EHR Board**”) shall take all necessary action to: (i) adopt the Amended and Restated Articles of Agreement of EHR (the “**Restated EHR Articles**”) in a form mutually agreeable to the Parties, and to file the same with the Office of the New Hampshire Secretary of State and the Clerk of the Town of Exeter, to be effective on the Closing Date; (ii) adopt Amended and Restated Bylaws of EHR in a form mutually agreeable to the Parties, which Restated EHR Bylaws are to be effective as of the Closing Date; (iii) adopt Amended and Restated Articles of Agreement of EH in a form mutually agreeable to the Parties, and to file the same with the Office of the New Hampshire Secretary of State and the Clerk of the Town of Exeter, to be effective on the Closing Date; (iv) adopt the Amended and Restated Bylaws of EH in a form mutually agreeable to the Parties; and (v) adopt the Amended and Restated Operating Agreement for Core in a form mutually agreeable to the Parties. After the selection of the Network Parent Trustees and prior to the Closing Date, the Board of Trustees of EHR shall take such action as is necessary to elect the same individuals who are elected as the

Initial Network Parent Trustees to also serve as the initial trustees of the Boards of each of EHR and EH. The Parties intend that these identically composed, so called “mirror boards,” will take office as of the Closing Date.

3.16 WDH Articles of Agreement and Bylaws. After the Execution Date and prior to the Closing Date, the Boards of Trustees of MGH and WDH shall take all necessary action to: (i) adopt Amended and Restated Articles of Agreement of WDH in a form mutually agreeable to the Parties, and to file the same with the Office of the New Hampshire Secretary of State and the Clerk of the City of Dover, to be effective on the Closing Date; and (ii) adopt Amended and Restated Bylaws of WDH in a form mutually agreeable to the Parties, which Restated WDH Bylaws are to be effective as of the Closing Date.

3.17 Initial Integration Process. During the period between the Execution Date and the Closing Date, EHR, WDH and MGH shall develop a mutually agreed upon short-term merger integration process that will commence as of the Closing Date. The process will include a timeline and approach to operational integration at the Network Parent and clinical collaboration across EHR, WDH, the EHR Subsidiaries, the WDH Subsidiaries and MGH, with an initial focus on the service lines described in Section 1.4 above, provided that the integration process shall be carried out under the oversight and governance of the Network Parent Board. The Parties also shall jointly develop a policy on support of community charitable organizations to be effective on and after the Closing Date, which policy will establish a framework for determining ongoing support by EHR and WDH of charitable organizations in their respective communities, subject to community need and financial feasibility.

3.18 Key Agreements. Each of EHR, MGH and WDH shall obtain all consents, approval, or waivers that may be required under the Key Agreements (as defined below) applicable to such Party, and any conditions imposed in connection with such consents or approvals shall be reasonably acceptable to the Party that is subject to such condition. The Parties shall exchange schedules of Key Agreements on execution of this Agreement. For the purposes of this Transaction Agreement, “**Key Agreements**” means any: (i) loan agreement or other instrument evidencing a debt for borrowed money, (ii) payer agreement, (iii) agreement for the lease of equipment with a value in excess of \$1 million dollars or rental of real property with a lease cost in excess of \$1 million annually, or (iv) agreement with a hospital-based physician or physician group to provide services within the hospital, in each case: (x) to which one of the Parties or any of its affiliates is a party and (y) which contains a requirement that the other party provide a consent, approval or waiver as a result of or as a condition of the completion of the Affiliation, and (z) with respect to which the failure to obtain the consent or approval of the other party thereto to the Affiliation could have a material adverse effect on the implementation of the Affiliation or on the business, financial condition or property of the affected Party. The Parties shall exchange updated schedules listing any additional Key Agreements at least five (5) days before the execution and delivery of the Closing Memorandum.

3.19 Injunctive Relief. The Parties acknowledge and agree that none of EHR, MGH or WDH would have adequate remedies in damages alone in the event that the other Party(ies) were to violate Sections 3.4 or 3.9 above. Accordingly, the Parties agree that each Party shall be entitled to seek injunctive relief to prevent such violation by the other Party(ies), in addition to

such enforcing Party's rights to damages and all other available rights and remedies. If any legal action pursuant to this Section 3.19 is brought by one Party against another Party, the prevailing Party (defined as a Party that obtains injunctive relief against another Party) shall be entitled to recover its reasonable costs, expenses and attorneys' fees associated with obtaining such relief.

**Article IV. Representations and Warranties**

4.1 EHR. EHR represents and warrants to MGH and WDH that the following statements are correct and complete in all material respects as of the Execution Date and will be correct and complete in all material respects on and as of the Closing Date as though such representations and warranties had been made on and as of the Closing Date:

4.1.1 Each of EHR, EH, RVNA and EMRI is a voluntary not-for-profit corporation duly organized, validly existing and in good standing under the laws of the State of New Hampshire. Core is a validly existing limited liability company duly organized, validly existing and in good standing under the laws of the State of New Hampshire. Each of these entities has all requisite corporate power and authority to own, lease and operate its properties and to carry on its businesses as now conducted, and each is qualified to do business in each jurisdiction in which the nature of its business or the ownership or leasing of its properties makes such qualification necessary.

4.1.2 The execution and delivery of this Transaction Agreement by EHR and the consummation of the Affiliation contemplated hereunder (i) is within EHR's corporate powers and not in contravention of the governing documents of EHR or the EHR Subsidiaries and has been duly authorized by all appropriate corporate action; (ii) does not require a filing with any Agency other than as noted in Section 3.2 above; (iii) will not violate any applicable law; (iv) does not and will not violate any judgment, order, or decree of any court or Agency to which EHR or any EHR Subsidiary or any of their respective properties or assets is subject; and (v) except for any consent or approval required under any Key Agreement which is identified on Schedule 4.1.4, does not require the consent or approval of any third party.

4.1.3 This Transaction Agreement has been duly executed by EHR and is valid and binding upon EHR as to its obligations hereunder, enforceable against it according to its terms.

4.1.4 Schedule 4.1.4 contains a complete list of all of the Key Agreements to which EHR or any of the EHR Subsidiaries is a party.

4.2 MGH. MGH represents and warrants to EHR that the following statements are correct and complete in all material respects as of the Execution Date and will be correct and complete in all material respects on and as of the Closing Date as though such representations and warranties had been made on and as of the Closing Date:

4.2.1 MGH is a not-for-profit corporation duly organized, validly existing and in good standing under the laws of The Commonwealth of Massachusetts, and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its

businesses as now conducted. MGH is validly qualified to do business in each jurisdiction in which the nature of its business or the ownership or leasing of its properties makes such qualification necessary.

4.2.2 The execution and delivery of this Transaction Agreement by MGH and the consummation of the Affiliation contemplated hereunder by MGH: (i) is within its corporate powers and not in contravention of its governing documents and has been duly authorized by all appropriate corporate action; (ii) does not require a filing with any Agency other than as noted in Section 3.2 above; (iii) will not violate any applicable law; (iv) does not and will not violate any judgment, order, or decree of any court or Agency to which MGH or any MGH Subsidiary or any of their respective properties or assets is subject; and (v) except for any consent or approval required under any Key Agreement which is identified on Schedule 4.2.4, does not require the approval of any third party. No further consent, vote or other corporate action by Partners is required in order for MGH to enter into or be bound by this Agreement.

4.2.3 This Transaction Agreement has been duly executed by MGH and is valid and binding upon MGH as to its obligations hereunder, enforceable against it according to its terms.

4.2.4 Schedule 4.2.4 contains a complete list of all of the Key Agreements to which MGH or any of the MGH Subsidiaries is a party.

4.3 WDH. WDH represents and warrants to EHR that the following statements are correct and complete in all material respects as of the Execution Date and will be correct and complete in all material respects on and as of the Closing Date as though such representations and warranties had been made on and as of the Closing Date:

4.3.1 WDH is a not-for-profit corporation duly organized, validly existing and in good standing under the laws of the State of New Hampshire and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its businesses as now conducted. WDH is validly qualified to do business in each jurisdiction in which the nature of its business or the ownership or leasing of its properties makes such qualification necessary.

4.3.2 The execution and delivery of this Transaction Agreement by WDH and the consummation of the Affiliation contemplated hereunder by WDH: (i) is within its corporate powers and not in contravention of its governing documents and has been duly authorized by all appropriate corporate action; (ii) does not require a filing with any Agency other than as noted in Section 3.2 above; (iii) will not violate any applicable law; (iv) does not and will not violate any judgment, order, or decree of any court or Agency to which WDH or any WDH Subsidiary or any of their respective properties or assets is subject; and (v) except for any consent or approval required under any Key Agreement which is identified on Schedule 4.3.4, does not require the approval of any third party.

4.3.3 This Transaction Agreement has been duly executed by WDH and is valid and binding upon WDH as to its obligations hereunder, enforceable against it according to its terms.

4.3.4 Schedule 4.3.4 contains a complete list of all of the Key Agreements to which WDH or any of the WDH Subsidiaries is a party.

4.4 WDHS. WDHS represents and warrants to EHR, MGH and WDH that the following statements are correct and complete in all material respects as of the Execution Date and will be correct and complete in all material respects on and as of the Closing Date as though such representations and warranties had been made on and as of the Closing Date:

4.4.1 WDHS is a not-for-profit corporation duly organized, validly existing and in good standing under the laws of the State of New Hampshire and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its businesses as now conducted. WDHS is validly qualified to do business in each jurisdiction in which the nature of its business or the ownership or leasing of its properties makes such qualification necessary.

4.4.2 The execution and delivery of this Transaction Agreement by WDHS and the consummation of the Affiliation contemplated hereunder by WDHS: (i) is within its corporate powers and not in contravention of its governing documents and has been duly authorized by all appropriate corporate action; (ii) does not require a filing with any Agency other than as noted in Section 3.2 above; (iii) will not violate any applicable law; (iv) does not and will not violate any judgment, order, or decree of any court or Agency to which WDHS or any WDHS Subsidiary or any of their respective properties or assets is subject; and (v) does not require the approval of any third party.

4.4.3 This Transaction Agreement has been duly executed by WDHS and is valid and binding upon WDHS as to its obligations hereunder, enforceable against it according to its terms.

4.4.4 Since its date of organization, WDHS has not: (i) incurred any liabilities other than liabilities related to the engagement of legal counsel or (ii) entered into any agreements or commitments other than the Original Governance Agreement.

## **Article V. Conditions Precedent**

The Affiliation shall not be effectuated until each of the following conditions is satisfied or waived:

5.1 Conditions Precedent Applicable to each of MGH, WDH, WDHS and EHR. The obligations of each of MGH, WDH, WDHS and EHR to complete the Affiliation shall be subject to the satisfaction of the following conditions:

(a) HSR Notice. The waiting period under the HSR Act shall have expired or have otherwise been terminated without any challenge to the Affiliation by the applicable federal Agency; or if such Agency has initiated a challenge, the matter shall have been resolved to the reasonable satisfaction of each of MGH, WDH and EHR.

(b) NH AGO Review. The NH AGO shall have issued a “no action letter” with respect to the Affiliation; any conditions attached to such no action letter shall be

reasonably acceptable to each of MGH, WDH and EHR; and any pre-closing conditions imposed by the NH AGO shall have been satisfactorily met by the Parties. Alternatively, if the NH AGO initiates a challenge to the Affiliation, the matter shall have been resolved to the reasonable satisfaction of each of MGH, WDH and EHR. It is agreed by all Parties that conditions substantially similar to those that were imposed by the NH AGO on WDH and MGH relative to completion of the WDH Affiliation are deemed to be reasonably acceptable to each Party hereto.

(c) HPC Notice. HPC shall have notified MGH and EHR that it will not perform a Cost and Market Impact Review (“**CMIR**”) with respect to the Affiliation; or if HPC undertakes a CMIR with respect to the Affiliation, the thirty (30) day waiting period following issuance of HPC’s final report of such CMIR shall have expired or shall have been waived by HPC.

(d) Bureau of Health Facilities Administration. If the BHFA requires any submission or filings regarding licensing as a result of the Affiliation, written confirmation that all such requirements have been satisfied shall have been obtained from BHFA.

(e) No Litigation. The implementation of the Affiliation shall not be the subject of any pending or threatened Litigation or regulatory investigation or enforcement action (other than as described in Section 5.1(a) and (b) above); or if so subject, the Parties have agreed, in their sole discretion, to proceed with the Affiliation.

(f) Network Parent and Governance. The Network Parent shall have been formed and the Network governance structure described in Sections 3.13, 3.14, 3.15 and 3.16 above shall have been adopted by the applicable Boards of Directors/Trustees as described in such Sections hereof; provided, however, that neither MGH nor EHR shall be entitled to invoke the closing condition described in this Section 5.1(f) as a basis for not consummating the Affiliation if such Party has failed to take the actions that it is required to take pursuant to Sections 3.13, 3.14 and 3.16 above (in the case of MGH) or Section 3.15 above (in the case of EHR).

(g) Governance Agreement. The relevant Parties, including the Network Parent, shall have executed a Governance Agreement substantially in the form attached hereto as Exhibit C (the “**Governance Agreement**”).

5.2 Conditions Precedent Applicable to MGH and WDH. In addition to the conditions set forth in Section 5.1, the obligations of MGH and WDH to complete the Affiliation shall be subject to the following conditions:

(a) Each of the representations and warranties of EHR in Section 4.1 and WDHS in Section 4.4, respectively, hereof shall be true, correct and complete in all material respects on and as of the Closing Date as though such representations and warranties had been made on and as of the Closing Date

(b) There shall have been no Material Adverse Change (as defined in Section 6.7) with respect to EHR;



(c) EHR shall not have committed an uncured Material Breach (as defined in Section 6.3) of this Agreement; and

(d) EHR shall have implemented all of the Required Quality and Safety Recommendations to the reasonable satisfaction of MGH; or if it would not be reasonably possible for EHR to have implemented one or more of the Required Quality and Safety Recommendations prior to the Closing Date, EHR will have commenced implementation of such Required Quality and Safety Recommendation(s) on or before the Closing Date and will thereafter continue diligently toward full implementation of such Required Quality and Safety Recommendation(s).

(e) EHR shall demonstrate to the reasonable satisfaction of MGH, using EHR's unaudited internal financial statements prepared in accordance with past practice, that there has not been: (i) an annual consolidated loss on operations of more than Four Million Dollars (\$4,000,000.00) experienced by EHR and its Subsidiaries, taken as a whole, for the twelve month period ended on the last day of month that is closest to sixty (60) days prior to the Closing Date (excluding transaction-related expenses, retention bonuses and severance payments) or (ii) a reduction of more than ten percent (10%) in the consolidated net worth (excluding realized and unrealized losses on investments) of EHR and the EHR Subsidiaries, taken as a whole, between the date of the most recent audited balance sheet and the last day of the month that is closest to sixty (60) days prior to the Closing Date.

5.3 Conditions Precedent to the obligations of EHR. In addition to the conditions set forth in Section 5.1, the obligations of EHR shall be subject to the following conditions:

(a) Each of the representations and warranties of MGH, WDH and WDHS in Sections 4.2, 4.3, and 4.4 respectively shall be true, correct and complete in all material respects on and as of the Closing Date as though such representations and warranties had been made on and as of the Closing Date.

(b) There shall have been no Material Adverse Change with respect to MGH or WDH;

(c) WDH shall have delivered to EHR by July 1, 2019 an updated fair market value analysis of all of WDH's and WDPC's physician compensation relationships (provided that such analysis need not disclose the amounts paid to individual physicians) in form and substance reasonably satisfactory to EHR; and

(d) Neither MGH, WDH, nor WDHS shall have committed an uncured Material Breach of this Agreement.

5.4 Conditions Precedent to the Obligations of WDHS. In addition to the conditions set forth in Section 5.1, the obligations of WDHS shall be subject to the following conditions:

(a) Each of the representations and warranties of EHR, MGH and WDH in Section 4.1, Section 4.2 and Section 4.3, respectively, hereof shall be true, correct and complete

in all material respects on and as of the Closing Date as though such representations and warranties had been made on and as of the Closing Date;

(b) There shall have been no Material Adverse Change with respect to EHR;  
and

(c) EHR shall not have committed an uncured Material Breach of this Agreement.

**Article VI. Term and Termination of Transaction Agreement**

6.1 Term. The “**Term**” of this Transaction Agreement shall commence on the Execution Date and shall, unless earlier terminated in accordance with the provisions of Section 3.11.5 or 3.11.6 above or this Article VI, continue until the earlier to occur of: (i) the Closing Date or (ii) January 1, 2020 (the “**Outside Date**”) unless the Parties agree in writing to extend the term of this Agreement beyond said date. Notwithstanding the foregoing, either of MGH and EHR shall have the right to extend the Outside Date for up to three (3) thirty (30) day periods (i.e. not more than a total of 90 days past the Outside Date taking into account all extensions by either MGH or EHR) on written notice to all Parties and to WDHS.

6.2 Mutual Consent. This Transaction Agreement may be terminated at any time by the mutual written consent of MGH, WDH and EHR.

6.3 MGH or WDH Material Breach. This Transaction Agreement may be terminated by EHR upon the occurrence of a breach by MGH or by WDH of any material covenant contained in this Transaction Agreement (a “**Material Breach**”); provided, however, in such event EHR may terminate this Transaction Agreement pursuant to this Section 6.3 only after giving written notice of the Material Breach to MGH and WDH and either: (i) the breaching Party has been unable to remediate the Material Breach to the reasonable satisfaction of EHR within sixty (60) days after the breaching Party’s receipt of such notice, or (ii) in the event that it would not be reasonably possible for the breaching Party to remediate such Material Breach within such sixty (60) day period, the breaching Party has not, to the reasonable satisfaction of EHR, commenced remediation within such sixty (60) day period and thereafter diligently continued to pursue such remediation to completion.

6.4 EHR Material Breach. This Transaction Agreement may be terminated by MGH and WDH (acting jointly) upon the occurrence of a Material Breach by EHR; provided, however, that MGH and WDH may terminate this Transaction Agreement pursuant to this Section 6.4 only after giving written notice of the Material Breach to EHR and either: (i) EHR has been unable to remediate the Material Breach to the reasonable satisfaction of MGH and WDH within sixty (60) days after EHR’s receipt of such notice, or (ii) in the event that it would not be reasonably possible for EHR to remediate such Material Breach within such sixty (60) day period, EHR has not, to the reasonable satisfaction of MGH and WDH, commenced remediation within such sixty (60) day period and thereafter diligently continued to pursue such remediation to completion.

6.5 WDH Material Adverse Change. This Transaction Agreement may be terminated by EHR upon the occurrence of a Material Adverse Change with respect to WDH; provided, however that EHR can terminate this Transaction Agreement pursuant to this Section 6.5 only after giving written notice to WDH/MGH of such Material Adverse Change and either: (i) WDH has been unable to remediate such Material Adverse Change within sixty (60) days after receipt of EHR's notice; or (ii) in the event that it would not be reasonably possible for WDH and the WDH Subsidiaries to remediate such Material Adverse Change within such sixty (60) day period, WDH has not, to the reasonable satisfaction of EHR, commenced remediation within such sixty (60) day period and thereafter diligently continued to pursue such remediation to completion.

6.6 EHR Material Adverse Change. This Transaction Agreement may be terminated by MGH and WDH (acting jointly) upon the occurrence of a Material Adverse Change with respect to EHR; provided, however that MGH and WDH can terminate this Transaction Agreement pursuant to this Section 6.6 only after giving written notice to EHR of such Material Adverse Change and either: (i) EHR has been unable to remediate such Material Adverse Change within sixty (60) days after receipt of MGH and WDH's notice; or (ii) in the event that it would not be reasonably possible for EHR to remediate such Material Adverse Change within such sixty (60) day period, EHR has not, to the reasonable satisfaction of MGH and WDH, commenced remediation within such sixty (60) day period and thereafter diligently continued to pursue such remediation to completion.

6.7 Definition of Material Adverse Change. A Material Adverse Change with respect to any Party shall mean an event, circumstance, change or effect that is materially adverse to the business, condition, assets, liabilities or operations of that Party and its subsidiaries taken as a whole and that can reasonably be expected to last for an extended period of time (a "**Material Adverse Change**"). For the avoidance of doubt, none of the following shall constitute a Material Adverse Change, or shall be considered in determining whether a Material Adverse Change has occurred: (A) the announcement of the execution of this Agreement or the pendency of consummation of the Affiliation, including the threatened or actual impact on relationships of a Party and its subsidiaries with patients, physicians, vendors, suppliers, insurers, or employees (including the threatened or actual termination, suspension, modification or reduction of such relationships); (B) changes in the regional, national or world economy or financial markets as a whole or changes in general economic conditions that affect the health care industry, so long as such changes or conditions do not adversely affect one of the Parties and its subsidiaries, taken as a whole, in a materially disproportionate manner relative to other similarly situated participants in the health care industry or markets in which they operate; (C) any change in applicable law, rule or regulation, or in GAAP or the interpretation thereof, after the date hereof, so long as such changes do not adversely affect one of the Parties and its subsidiaries, taken as a whole, in a materially disproportionate manner relative to other similarly situated participants in the health care industry or markets in which they operate; (D) the failure, in and of itself, of the Party and its subsidiaries (on a consolidated basis) to meet any published or internally prepared estimates of revenues, earnings or other financial projections, performance measures or operating statistics; provided, however, that the facts and circumstances underlying any such failure (unless such facts and circumstances are described in subparagraphs (A), (B), (C) and (E) of this definition) may be considered in determining whether a Material Adverse Change has occurred;

and (E) compliance with the terms of, and taking any action required by, this Transaction Agreement.

6.8 Exclusion from Federal Programs. This Transaction Agreement may be terminated by EHR, MGH or WDH immediately after giving written notice to the other Parties upon the exclusion of any other Party from participation in any federally or state funded health care program, including, without limitation, Medicare or Medicaid.

6.9 Change of Control. This Transaction Agreement may be terminated by EHR immediately after giving written notice to MGH and WDH upon a change of direct or indirect control (a “**Change of Control**”) of MGH (through one or more transactions that include, without limitation, a change of sole corporate membership, merger or sale of substantially all assets) to any organization that is not an affiliate of MGH prior to such transaction(s).

6.10 Expiration. In the event that this Transaction Agreement expires as of the Outside Date or is validly terminated prior to the Closing Date, each of the Parties shall be relieved of its duties and obligations arising under this Transaction Agreement after the date of such expiration or termination; provided, however, that the obligations of the Parties set forth in Section 3.3, relating to the respective obligations of EHR, MGH and WDH to pay the costs of the Transaction, shall survive any such expiration or termination and shall be enforceable in accordance with their terms.

6.11 Reimbursement Obligations. In consideration of the Parties having entered into this Transaction Agreement and having conducted due diligence and good faith negotiations regarding the Affiliation, the Parties agree that:

(i) In the event that EHR terminates this Transaction Agreement pursuant to Section 6.3 (Material Breach by MGH or WDH), the Party in breach shall bear 50% of all of the costs of the Affiliation incurred by EHR described in Section 3.3.1 as of the date of termination up to a maximum of \$500,000; or

(ii) In the event that WDH and MGH (acting jointly) terminate this Transaction Agreement pursuant to Section 6.4 (Material Breach by EHR), EHR shall bear 50% of all of the costs of the Affiliation incurred by WDH and MGH described in Section 3.3.1 as of the date of termination up to a maximum of \$250,000.

The obligations set forth in this Section shall be the sole remedies for termination arising out of a material breach or for a wrongful failure to complete the Affiliation.

## **Article VII. Dispute Resolution**

Unless otherwise provided or limited elsewhere in this Transaction Agreement, any dispute between EHR and MGH/WDH arising under this Transaction Agreement shall be subject to the dispute resolution provision described below:

7.1 Stage One: Presidents. MGH/WDH or EHR may give the other written notice of any dispute which was not resolved in the normal course of business. Within ten (10) calendar

days after delivery of such notice, the MGH President, the WDH President and the EHR President (or their respective designees) shall meet to discuss and attempt to resolve the dispute. In the event that the Presidents (or their designees) fail to meet within such ten (10) day period, or after thirty (30) calendar days the Presidents are deadlocked and unable to agree on a resolution, any Party may proceed to Stage Two of the dispute resolution process as described below.

7.2 Stage Two: Non-Binding Mediation. If EHR or MGH/WDH elects to continue to seek resolution of the dispute, it will so notify the other in writing. Within fourteen (14) days of such notice, the Parties promptly will agree on a mediator who is experienced in mediation of health care matters similar to those in contention between the Parties. The mediation will be held promptly after the mediator is identified and will be conducted in accordance with the procedures prescribed by him or her. EHR and MGH/WDH will share equally in the cost of the mediation and each Party will remain solely responsible for its legal fees and other costs related to participation in the mediation. The Stage Two is non-binding but the Parties will be obligated to exert good faith efforts to reach common ground and resolve their differences.

7.3 Stage Three: Litigation. If mediation under Section 7.2 above is unsuccessful, or if the Parties are unable to agree on a mediator in a timely fashion, either EHR or MGH/WDH may pursue its remedies at law and/or in equity by filing suit in a court of competent jurisdiction.

7.4 Injunctive Relief. Nothing in this Article VII shall be interpreted to limit the rights of EHR, WDH or MGH to seek injunctive or equitable relief during the dispute resolution process for disputes arising under Section 3.4 (Exclusivity), 3.9 (Confidentiality) or 3.10 (Public Statements).

7.5 Effect of Dispute Resolution Process on Performance. Until a dispute is finally resolved in accordance with this Article VII, and as long as this Transaction Agreement remains in effect, the Parties shall continue to perform all of their respective obligations under this Transaction Agreement, except that the non-breaching Party's obligation to complete the Affiliation transaction shall be held in abeyance until the dispute is finally resolved, subject to any equitable relief granted by a court of competent jurisdiction. The pendency of court proceedings or other dispute resolution shall not in and of itself serve to extend the Term of this Agreement.

## **Article VIII. Miscellaneous**

8.1 Governing Law. This Agreement shall be governed by and construed in accordance with the internal substantive laws of the State of New Hampshire without regard to conflict of law principles thereof.

8.2 Successors; Assignment. This Transaction Agreement shall inure to the benefit of, and shall be binding upon, the respective successors and permitted assignees of the Parties. Neither WDHS nor any Party may assign any of its rights or delegate any of its obligations under this Transaction Agreement without the prior written consent of the other Parties and of WDHS, as applicable. For purposes of this Transaction Agreement, a Change of Control of a Party or of

WDHS shall be deemed to constitute an assignment of this Agreement by such Party or by WDHS, as applicable.

8.3 Amendment. The provisions of this Transaction Agreement may be amended only by a writing executed by all of the Parties and by WDHS, if such amendment would impair or change the rights of WDHS hereunder.

8.4 Headings. The headings in this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

8.5 Waiver. Each covenant contained herein shall be construed as being independent of each other covenant contained herein, so that waiver of compliance with any one covenant shall not be deemed to excuse compliance with any other covenant.

8.6 Severability. In case any provision in this Transaction Agreement shall be determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

8.7 Entire Agreement. Subject to Section 3.9 (Confidentiality), this Transaction Agreement, together with its Exhibits and Schedules, shall be deemed for all purposes to constitute the entire agreement of the Parties and of WDHS pertaining to the subject matter hereof and supersedes and cancels all prior agreements, whether oral or written, including without limitation the LOI. Each Party and WDHS confirms that it is not relying on any representations, warranties or covenants of the other Parties or of WDHS, as applicable, except as specifically set out in this Transaction Agreement.


8.8 Notices. Any notice hereunder may be given by hand; by certified mail, return receipt requested; by overnight delivery service with confirmation of receipt received in writing; or by electronic mail with a delivery receipt requested and received; in each case delivered to the receiving Party or WDHS at its mailing or e-mail address set forth on the signature page of this Transaction Agreement, or to such other address as EHR, MGH, WDH or WDHS may specify by written notice to the other Parties and WDHS.

8.9 Counterparts. This Agreement may be executed in any number of counterparts and by the Parties, WDHS and Partners on separate counterparts, but all such counterparts shall together constitute but one and the same instrument.

**\*\*Signatures on following page\*\***

**EXECUTION VERSION**

IN WITNESS WHEREOF, the Parties have caused this Transaction Agreement to be executed by their respective, duly authorized officers as of the Execution Date.

<p><b>EXETER HEALTH RESOURCES, INC.</b></p> <p>By:  Name: Kevin Callahan Its: President</p> <p>Notice Address for EHR: 5 Alumni Drive Exeter, NH 03833</p> <p>Attention: Kevin Callahan Email: KCallahan@ehr.org</p>	<p><b>THE MASSACHUSETTS GENERAL HOSPITAL</b></p> <p>By: _____ Name: Peter L. Slavin, M.D. Its: President</p> <p>Notice Address for MGH: 55 Fruit Street Boston, MA 02114</p> <p>Attention: Peter L. Slavin, M.D. Email: PSlavin@partners.org</p>
<p><b>WENTWORTH-DOUGLASS HOSPITAL</b></p> <p>By: _____ Name: Gregory J. Walker Its: President and Chief Executive Officer</p> <p>Notice Address for WDH: 789 Central Avenue Dover, NH 03820</p> <p>Attention: Gregory J. Walker Email: Greg.Walker@wdhospital.org</p>	

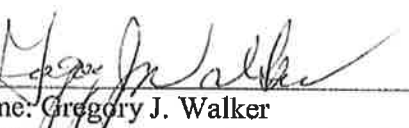
**EXECUTION VERSION**

IN WITNESS WHEREOF, the Parties have caused this Transaction Agreement to be executed by their respective, duly authorized officers as of the Execution Date.

<p>EXETER HEALTH RESOURCES, INC.</p> <p>By: _____ Name: Kevin Callahan Its: President</p> <p>Notice Address for EHR: 5 Alumni Drive Exeter, NH 03833</p> <p>Attention: Kevin Callahan Email: KCallahan@ehr.org</p>	<p>THE MASSACHUSETTS GENERAL HOSPITAL</p> <p>By: <u>PLM</u> Name: Peter L. Slavin, M.D. Its: President</p> <p>Notice Address for MGH: 55 Fruit Street Boston, MA 02114</p> <p>Attention: Peter L. Slavin, M.D. Email: PSlavin@partners.org</p>
<p>WENTWORTH-DOUGLASS HOSPITAL</p> <p>By: _____ Name: Gregory J. Walker Its: President and Chief Executive Officer</p> <p>Notice Address for WDH: 789 Central Avenue Dover, NH 03820</p> <p>Attention: Gregory J. Walker Email: Greg.Walker@wdhospital.org</p>	




IN WITNESS WHEREOF, the Parties have caused this Transaction Agreement to be executed by their respective, duly authorized officers as of the Execution Date.

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<p>WENTWORTH-DOUGLASS HOSPITAL</p> <p>By:  Name: Gregory J. Walker Its: President and Chief Executive Officer</p> <p>Notice Address for WDH: 789 Central Avenue Dover, NH 03820</p> <p>Attention: Gregory J. Walker Email: Greg.Walker@wdhospital.org</p>	

**EXECUTION VERSION**

WDHS is executing this Transaction Agreement solely with respect to its rights and obligations under Sections 2.1, 2.2(e), 2.2(f), 2.3(a), 2.3(b), 2.3(c), 2.3(d), 3.3.1, 3.4.4, 3.8, 3.9, 3.10, 4.4, 5.1, 5.4, 6.1, 8.2, 8.3, 8.8, and 8.9 and not as a "Party".

WENTWORTH-DOUGLASS HEALTH SYSTEM, INC.

By:   
Name: Roger L. Hamel  
Its: Chairman of the Board of Directors

Notice Address for WDHS:  
789 Central Avenue  
Dover, NH 03820

Attention: Roger L. Hamel  
Email: RLHamel@comcast.net

Partners HealthCare System, Inc., the sole corporate member of MGH, hereby confirms that it has taken all actions necessary to review and approve the execution, delivery and performance of this Transaction Agreement by MGH, WDH and the WDH Subsidiaries in accordance with its terms.

PARTNERS HEALTHCARE SYSTEM, INC.

By: \_\_\_\_\_  
Name: Anne Klibanski, M.D.  
Its: Interim President and CEO

Notice Address for Partners:  
800 Boylston Street, Suite 1150  
Boston, MA 02199

Attention: Anne Klibanski, M.D.  
Email: AKlibanski@partners.org

WDHS is executing this Transaction Agreement solely with respect to its rights and obligations under Sections 2.1, 2.2(e), 2.2(f), 2.3(a), 2.3(b), 2.3(c), 2.3(d), 3.3.1, 3.4.4, 3.8, 3.9, 3.10, 4.4, 5.1, 5.4, 6.1, 8.2, 8.3, 8.8, and 8.9 and not as a "Party".

**WENTWORTH-DOUGLASS HEALTH SYSTEM, INC.**

By: \_\_\_\_\_

Name: Roger L. Hamel

Its: Chairman of the Board of Directors

Notice Address for WDHS:

789 Central Avenue

Dover, NH 03820

Attention: Roger L. Hamel

Email: RLHamel@comcast.net

Partners HealthCare System, Inc., the sole corporate member of MGH, hereby confirms that it has taken all actions necessary to review and approve the execution, delivery and performance of this Transaction Agreement by MGH, WDH and the WDH Subsidiaries in accordance with its terms.

**PARTNERS HEALTHCARE SYSTEM, INC.**

By:  \_\_\_\_\_

Name: Anne Klibanski, M.D.

Its: Interim President and CEO

Notice Address for Partners:

800 Boylston Street, Suite 1150

Boston, MA 02199

Attention: Anne Klibanski, M.D.

Email: AKlibanski@partners.org

**LIST OF EXHIBITS AND SCHEDULES**

<b>Schedule 3.6.1</b>	Severance/Retention Agreements and Material Transactions - EHR
<b>Schedule 3.7.1</b>	Severance/Retention Agreements and Material Transactions - WDH
<b>Exhibit A</b>	Seacoast Region Map
<b>Exhibit B-1</b>	Network Parent Articles
<b>Exhibit B-2</b>	Network Parent Bylaws
<b>Exhibit C</b>	Governance Agreement

**Schedule 3.6.1**

**Severance/Retention Agreements and Material Transactions – EHR**

*Not Applicable*

**Schedule 3.7.1**

**Severance/Retention Agreements and Material Transactions - WDH**

*Not Applicable.*

**EXHIBIT A**

**Seacoast Region Map**

*[See Attached Map]*

## EXHIBIT A

### Definition of "Seacoast Region" solely for Transaction Agreement purposes



★ = Exeter Hospital

★ = Wentworth-Douglass

★ = Plaistow, NH

□ = Seacoast Region<sup>1</sup>

\* Not intended as a service area or market delineation for either Exeter Hospital or Wentworth-Douglass



**EXHIBIT B-1**

**Network Parent Articles**

ARTICLES OF AGREEMENT

OF

***[NETWORK PARENT]***

A NEW HAMPSHIRE NONPROFIT CORPORATION

**ARTICLE I. NAME**

The name of the corporation is ***[Network Parent]*** (the “Corporation”).

**ARTICLE II. OBJECT AND PURPOSE**

2.1 The Corporation is organized exclusively for charitable, educational and scientific purposes, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “***Code***”), or the corresponding provision(s) of any future United States Internal Revenue Law (“***Section 501(c)(3)***”), including, more specifically, for the following purposes:

- (a) to provide, directly or through hospital, charitable, scientific, educational, research and other institutions and entities that are controlled directly or indirectly, through sole corporate membership, stock ownership or otherwise by the Corporation (collectively, “***Subsidiary Organizations***”), hospital and other health care services;
- (b) to provide for the diagnosis, treatment and prevention of illness;
- (c) to conduct and support educational, research and other activities relating thereto;

- (d) to improve the health and welfare of all persons;
- (e) to operate the Corporation and the Subsidiary Organizations as an integral part of the comprehensive, integrated health care delivery system (the “**Partners System**”) organized and operated by Partners HealthCare System, Inc., a Massachusetts charitable corporation (“**PHS**”), that includes hospital, physician, charitable, scientific, educational, research and other institutions and entities that are controlled, directly or indirectly, through sole corporate membership, stock ownership or otherwise, by PHS (collectively, the “**Partners Affiliated Organizations**”);
- (f) to assist and support PHS and the Partners Affiliated Organizations in fulfilling their respective purposes, missions and objectives in a manner consistent with the purposes, missions and objectives of PHS and the Partners System; and
- (g) to engage in and carry on any such other activities consistent with or in furtherance of the above purposes and to have all such powers that are not inconsistent with the provisions of New Hampshire Revised Statutes Annotated (“**R.S.A.**”) 292, and R.S.A. 295.

2.2 Notwithstanding any other provisions of these Articles of Agreement, no part of the assets or net earnings of the Corporation shall inure to the benefit of any officer or trustee of the Corporation (“**Trustee**”) or any private individual or entity; no substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation except to the extent permitted by Section 510(h) of the Code; and the Corporation shall not participate in, or intervene in (including the publishing or distributing of any statement), any political campaign on behalf of (or in opposition to) any candidate for public office.

2.3 The Corporation shall not discriminate unlawfully in administering its policies and programs or in the employment of its personnel on the basis of race, color, religion, national or ethnic origin, sex, sexual orientation, handicap or otherwise.

### ARTICLE III. MEMBERSHIP AND PARTICIPATION

The Massachusetts General Hospital, a charitable corporation organized and existing pursuant to Chapter 180 of the Massachusetts General Laws, shall be the sole member of the Corporation (the “**Member**”).

#### **ARTICLE IV. DISPOSITION OF CORPORATE ASSETS**

4.1 Upon liquidation or dissolution of the Corporation, after payment of all its liabilities or due provision having been made therefor, all of the assets of the Corporation shall be distributed to one or more New Hampshire organizations described in Section 501(c)(3) of the Code as amended, which are created and operated for the purposes similar to those of the Corporation. No action may be taken by the Member or the Board of Trustees, to dissolve, liquidate, consolidate, merge or transfer all of the assets of the Corporation to other than an organization or organizations which are then organizations exempt from federal income taxation under the Internal Revenue Code.

4.2 No amendment to the Articles of Agreement of the Corporation, no voluntary liquidation or dissolution of the Corporation or merger or consolidation of the Corporation into or with another entity, and no sale of all or substantially all of the assets of the Corporation may occur without approval by the Member.

#### **ARTICLE V. ADDRESS**

The address at which the business of this Corporation is being carried on is *[address to be inserted]*.

#### **ARTICLE VI. CAPITAL STOCK; MEMBERSHIP CERTIFICATE**

The Corporation shall not issue any stock. The Corporation shall issue a membership certificate to the Member evidencing its membership in the Corporation.

#### **ARTICLE VII. LIMITATION ON PERSONAL LIABILITY**

7.1 No Trustee or officer of the Corporation shall be personally liable to the Corporation or its Member for monetary damages for breach of fiduciary duty as a Trustee or officer; provided, however, that this paragraph shall not eliminate or limit the liability of a Trustee or officer of the Corporation (a) for any breach of the Trustee's or officer's duty of loyalty to the Corporation or its Member, (b) for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of law, or (c) for any transaction for which the Trustee or officer derived an improper personal benefit. No amendment, modification or repeal of this paragraph, directly or by adoption of an inconsistent provision of these Articles of Agreement or the Corporation's Bylaws, shall apply to or have any effect on the liability or alleged liability of any Trustee or officer of the Corporation for or with respect to any acts or omissions of such Trustee or officer occurring prior to such amendment, modification or repeal.

7.2 The Corporation shall have the power to indemnify its members, trustees, officers, employees, agents, volunteers and other persons to the fullest extent legally permissible, but only to the extent that the status of the Corporation as exempt from federal income tax as an organization described in Section 501(c)(3) of the Code is not affected thereby.

### **ARTICLE XIII. SIGNATURES**

**Signature and Name**

**Post Office Address**

1. \_\_\_\_\_  
Signature

\_\_\_\_\_  
Street

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
City/Town State Zip

2. \_\_\_\_\_  
Signature

\_\_\_\_\_  
Street

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
City/Town State Zip

3. \_\_\_\_\_  
Signature

\_\_\_\_\_  
Street

\_\_\_\_\_

\_\_\_\_\_

Name (please print)

City/Town

State Zip

4. \_\_\_\_\_  
Signature

\_\_\_\_\_  
Street

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
City/Town State Zip

5. \_\_\_\_\_  
Signature

\_\_\_\_\_  
Street

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
City/Town State Zip

**EXHIBIT B-2**

**Network Parent Bylaws**

***[See Attached]***

**BYLAWS**

**OF**

***[NETWORK PARENT]***

Effective /\_\_\_\_\_, \_\_\_\_/

## ARTICLE I

### Name, Purpose, Principal Office and Fiscal Year

1.1 Name and Purpose. The name shall be *[Network Parent]* (the “Corporation”), and the purposes of the Corporation shall be as set forth in the Articles of Agreement, as from time to time amended (the “Articles”).

1.2 Location. The location of the principal office of the Corporation shall be in the State of New Hampshire, at such place as the Trustees may from time to time determine.

1.3 Nondiscrimination. The business of the Corporation shall in all respects be conducted without discrimination on the basis of race, national origin, religion, gender, sexual orientation, handicap or economic status (a) in the appointment, employment, and treatment of employees or personnel of any category; and (b) in the selection of Trustees or officers or the assignment of their duties and responsibilities. The employment and personnel practices of the Corporation shall at all times comply with all applicable legal requirements and conform to the best standards of fairness and human dignity.



1.4 Fiscal Year. The fiscal year of the Corporation shall be October 1 through September 30 unless otherwise decided by the Board of Trustees of the Corporation (the “Board of Trustees”).

1.5 Definitions. As used in these Bylaws, the following terms shall have the following meanings:

1.5.1 Material Outpatient Services. The term “Material Outpatient Services” shall mean an ambulatory service line provided by any Network Parent Subsidiary that has net patient service revenue of more than \$10 million per year.

1.5.2 MGH or the Member. The Massachusetts General Hospital, a Massachusetts charitable corporation exempt from federal taxation under Section 501(a) of the Code as an organization described in Section 501(c)(3) of the Code.

1.5.3 Partners. Partners HealthCare System, Inc., a Massachusetts charitable corporation exempt from federal taxation under Section 501(a) of the Code as an organization described in Section 501(c)(3) of the Code.

1.5.4 Partners System. A comprehensive, integrated health care delivery system (i) that is comprised of Partners and all hospital, charitable, scientific, educational, research and

other institutions and entities that are controlled, directly or indirectly, through sole corporate membership, stock ownership or otherwise by, or otherwise affiliated with, Partners and (ii) that provides, without limitation, hospital, physician and other health care services, education and research for the prevention, diagnosis, treatment and cure of human illness and community service.

1.5.5 Subsidiaries. All hospital, charitable, scientific, educational, research and other institutions and entities that are now or hereafter controlled, directly or indirectly, by the Corporation including, without limitation, Wentworth-Douglass Hospital (“WDH”), Wentworth-Douglass Physician Corporation (“WDPC”), Exeter Health Resources (“EHR”), Exeter Hospital (“EH”) and Core Physicians, LLC (“Core”).

1.5.6 Trustees. The members of the Board of Trustees as specified in Section 3.1 and Section 3.2 hereof.

1.5.7 The Code. The Internal Revenue Code of 1986 and the regulations issued thereunder, each as amended and in effect from time to time (or any successor thereto).

1.6 Compliance with Governance Agreement. In exercising their respective authorities and fulfilling their respective responsibilities under these Bylaws, the Member and the Board of

Trustees of the Corporation will comply with the provisions of the Governance Agreement dated as of / (the “Governance Agreement”) by and among the Corporation, the Member, WDH and EHR for the term of such Governance Agreement. If the Governance Agreement contains any provisions that vary from or are inconsistent with the provisions of these Bylaws, the provisions of the Governance Agreement shall control as if incorporated fully herein.

## ARTICLE II

### Membership

2.1 Sole Member. The sole Member of the Corporation shall be MGH, acting through its board of trustees, one or more duly authorized committees thereof or the President of the Member, or through such other persons as may from time to time be designated by the board of trustees of the Member to act on its behalf. In addition to the other commitments set forth in these Bylaws, the Member of the Corporation is responsible to meet the Long-Term Commitments which are attached hereto as Exhibit A and incorporated herein.

2.2 Annual Meeting. The Annual Meeting of the Member (the “Annual Meeting of the Member”) shall be held at the regularly scheduled July meeting of the board of trustees of the Member or at such other date or hour as may be fixed by the Member for the election of Trustees of the Corporation and for the transaction of such other business as may properly come before it.

If the Annual Meeting of the Member is not held on the day provided therefor, a "Special Meeting" in lieu of the Annual Meeting of the Member may be held with all the force and effect of an Annual Meeting of the Member, and in such case all references in these Bylaws to the Annual Meeting of the Member shall be deemed to refer to such Special Meeting.

2.3 Special Meetings. A Special Meeting of the Member may be called by the Member at any time or as otherwise required by law, and notice thereof shall be issued by the Secretary, or in the case of the death, absence, incapacity or refusal of the Secretary, by any other officer of the Corporation, whenever requested to do so in writing by the Member.

2.4 Notices. Notices of the Annual Meeting of the Member and Special Meetings of the Member shall be given by the Secretary or an Assistant Secretary by written or electronic notice mailed to the Member at its address recorded in the records of the Corporation at least ten (10) days prior to the date of the meeting. The notice of any meeting shall specify the time and place of the meeting and, except for the Annual Meeting of the Member, shall contain a brief statement of the purpose of the meeting, but no detailed statement need be included. No such notice need be given to the Member if a written waiver of notice, executed by the Member (or its authorized attorney) before or after such meeting, shall be filed with the records of the meeting.

2.5 Place of Meetings. All meetings of the Member shall be at the principal office of the Member in Boston, Massachusetts, or at such other place as shall be specified in the notice of the meeting.

2.6 Action by Writing. Any action required or permitted to be taken at a meeting of the Member may be taken without a meeting if a written consent thereto is (i) signed by the President of the Member or by such other officer of the Member as has been duly authorized by the board of trustees of the Member to take such action and (ii) is filed with the records of the Member's meetings. Any such consent shall be treated for all purposes as a vote at a meeting.

2.7 Voting. At each meeting of the Member, only the Member shall be entitled to vote.

2.8 Membership Certificate. The Corporation shall issue a membership certificate to the Member evidencing its membership in the Corporation.

### ARTICLE III

#### Board of Trustees

3.1 Composition During the Term of the Governance Agreement.

So long as the Governance Agreement is in effect, the Board of Trustees of the Corporation shall consist of twenty-one (21) to twenty-seven (27) persons, as follows:

- (a) The President of the Corporation serving *ex officio* as a non-voting Trustee;
- (b) The President of the WDH Medical Staff serving *ex officio* as a voting Trustee;
- (c) The President of the EH Medical Staff serving *ex officio* as a voting Trustee.
- (d) Seven (7) to nine (9) persons who are residents of the EHR service area, at least three (3) of whom shall be residents of Rockingham County, New Hampshire and all of whom shall be voting Trustees;
- (e) Seven (7) to eleven (11) persons who are residents of the WDH service area, at least four (4) of whom shall be residents of Strafford County, New Hampshire, and all of whom shall be voting Trustees; and

- (f) Four (4) persons drawn from the MGH and Partners communities, all of whom shall be voting Trustees (the “MGH-Designated Trustees”).

The Trustees described in subparagraphs (b) and (c) above shall be referred to herein as the “WDH-Designated Trustees”, and the Trustees described in subparagraphs (c) and (d) above shall be referred to herein as the “EHR-Designated Trustees”.

To the extent practicable, at least twenty percent (20%) of the Trustees shall be physicians. Such physician Trustees need not be currently active in the practice of medicine. The makeup of the voting Trustees shall at all times be compliant with the New Hampshire pecuniary benefit law, R.S.A. § 7:19-a.

### 3.2 Composition Upon Expiration of the Governance Agreement

Upon the expiration or termination of the Governance Agreement, the Board of Trustees of the Corporation shall consist of sixteen (16) to twenty-one (21) persons as follows:

- (a) The President of the Corporation serving *ex officio* as a non-voting Trustee;

- (b) The President of the WDH Medical Staff serving *ex officio* as a voting Trustee;
- (c) The President of the EH Medical Staff serving *ex officio* as a voting Trustee;
- (d) Ten (10) to fourteen (14) persons who are residents of the communities served by WDH and EHR, and (to the extent practicable), at least four (4) of whom shall be residents of Rockingham County, New Hampshire and at least four (4) of whom shall be residents of Strafford County, New Hampshire, and all of whom shall be voting Trustees; and
- (e) Three (3) or four (4) MGH-Designated Trustees, all of whom will be voting Trustees.

The Trustees described in the subparagraphs (b), (c) and (d) above shall be referred to herein as the "Local Trustees".

To the extent practicable, at least twenty percent (20%) of the Trustees shall be physicians. Such physician Trustees need not be currently active in the practice of medicine. The makeup of the voting Trustees shall at all times be compliant with the New Hampshire pecuniary benefit law, R.S.A. § 7:19-a.



3.3 Joint Nominating Committee.

3.3.1 During the term of the Governance Agreement, the joint nominating committee of the Corporation (the “Joint Nominating Committee”) will consist of: (i) three (3) EHR-Designated Trustees selected by majority vote of all of the EHR-Designated Trustees; (ii) three (3) WDH-Designated Trustees selected by majority vote of all of the WDH-Designated Trustees; and (iii) two (2) MGH-Designated Trustees selected by the President of the Member.

3.3.2 Upon the expiration or termination of the Governance Agreement, the Joint Nominating Committee will be composed of six (6) Local Trustees selected by majority vote of all of the Local Trustees and two (2) MGH-Designated Trustees selected by the President of the Member.

3.4 Nomination and Election.

3.4.1 During the term of the Governance Agreement, all of the Trustees, other than those serving *ex officio*, will be elected by the Board of Trustees of the Member acting upon nominations made as follows:

(i) nominations to fill any vacancies in the MGH-Designated Trustees will be made by majority vote of the MGH Nominating and Governance Committee (the “MGH Nominating Committee”);

(ii) nominations to fill any vacancies in the WDH-Designated Trustees will be made by majority vote of the WDH-Designated Trustee members of the Joint Nominating Committee; and

(iii) nominations to fill any vacancies in the EHR-Designated Trustees will be made by majority vote of the EHR-Designated Trustee members of the Joint Nominating Committee.

All such nominees shall be subject to the approval of the Board of Trustees and the MGH Nominating Committee, taking into account the applicable “Trustee Selection Criteria” attached hereto as Exhibit B and incorporated herein. If so approved, such nominees shall be submitted to the Member for election at the next Annual Meeting of the Member, or at such other times as are needed to fill any vacancies that occur between such Annual Meetings. If the Board of Trustees or the MGH Nominating Committee should fail to approve any nominee, the body that nominated such person shall put forward another nominee for such vacancy, which process will be repeated until the Member has elected a person to fill such vacancy.

3.4.2 Upon the expiration or termination of the Governance Agreement, all of the Trustees, other than those serving *ex officio*, will be elected by the Board of Trustees of the Member acting upon nominations made as follows:

(i) nominations to fill any vacancies in the MGH-Designated Trustees will be made by majority vote of the MGH Nominating Committee; and

(ii) nominations to fill any vacancies in the elected Local Trustees will be made by majority vote of the Local Trustees on the Joint Nominating Committee.

All such nominees shall be subject to the approval of the Board of Trustees and the MGH Nominating Committee, taking into account the Trustee Selection Criteria set forth on Exhibit B. If so approved, such nominees shall be submitted to the Member for election at the next Annual Meeting of the Member or at such other times as are needed to fill any vacancies that occur between such Annual Meetings. If the Board of Trustees or the MGH Nominating Committee should fail to approve any nominee, the body that nominated such person shall put forward another nominee for such vacancy, which process will be repeated until the Member has elected a person to fill such vacancy.

3.5 Tenure. Unless otherwise provided in these Bylaws, each elected Trustee shall be elected for a term of three (3) years commencing at the Annual Meeting of the Member, or on the actual

date of election in the case of any vacancy that is filled between Annual Meetings, and continuing thereafter until a successor is elected or until such elected Trustee sooner dies, resigns or is removed. In order to achieve and maintain staggered terms for three classes (of approximately equal size) of elected Trustees, or for such other reasons as the Member in its discretion may determine, the Member may at any time elect one or more of the nominees approved by the Board of Trustees and the MGH Nominating Committee to serve for a term of less than three (3) years.

3.6 Term Limits. No person who has served as an elected Trustee on the Board of Trustees for nine (9) consecutive years shall be eligible for re-election until one (1) year following the date on which such Trustee's last term expired; provided, however, that at the expiration such nine (9) year period for any elected Trustee then serving as the Chair, Vice Chair, Treasurer or Secretary, such elected Trustee will be eligible to be re-elected for one additional consecutive three (3) year term. For the purposes of these term limitations: (i) service on the board of any Subsidiary shall not be deemed to be a term as an elected Trustee of the Corporation; and (ii) a term shall be deemed "consecutive" to a prior or subsequent term if the period of time separating such term from the prior or subsequent term is equal to or less than 365 days. If a Trustee is elected to fill a vacancy on the Board of Trustees, the partial term served by such Trustee shall not be taken into account in applying the term limitation in this Section.

3.7 Age Limit. No person shall be eligible for election or re-election as an elected Trustee after reaching the age of seventy-five.

3.8 Meetings. The Board of Trustees shall meet at least nine (9) times during each fiscal year at such time and place as the Trustees may determine. One of such meetings shall directly follow the Annual Meeting of the Member. Special Meetings may be called by the President of the Member, the Chair of the Board, or any three elected Trustees.

3.9 Vacancies. Vacancies in the Board of Trustees may be filled by the Member acting on nominations made in accordance with Section 3.4, and the person so elected shall serve for the balance of the vacant term being filled by such election.

3.10 Resignations. Any Trustee may resign at any time by delivering a resignation in writing to (a) the Chair of the Board, the President or the Secretary, (b) any meeting of the Member or the Board of Trustees, or (c) the Corporation at its principal office. Such resignation shall be effective upon receipt unless specified to be effective at some other time; provided, however, that the Board of Trustees may act to accept such resignation immediately or at any other time sooner than the time specified by such resigning Trustee in his or her resignation.

3.11 Removals. Any elected Trustee may be removed at any time for cause by vote of the Member. An elected Trustee may be removed for cause only after reasonable notice of the

grounds for the removal and an opportunity to be heard before the body proposing the removal. For the purposes of this Section 3.11, cause for removal of an elected Trustee shall include any of the following as determined by the Member:

- (a) inappropriate use or disclosure of confidential information of the Corporation or of any other institution or entity within the Partners System (a “Partners Organization”);
- (b) failure to adhere to any code of conduct or policies on conflict of interest adopted by the Member or Partners (“Partners COI Policies”);
- (c) recurring pursuit of personal interests in conflict with the best interests of the Corporation or of any other Partners Organization;
- (d) permitting or engaging in the misuse of the funds or other property of the Corporation or of any other Partners Organization;
- (e) engaging in unlawful or grossly negligent conduct related to the affairs of the Corporation or of any other Partners Organization;

- (f) repeated failure to attend Board of Trustee meetings or participate in other Trustee functions at which attendance is expected; and
- (g) failure to discharge responsibilities as a Trustee with ordinary prudence and in a manner reasonably believed to be in the best interests of the Corporation and the Partners System.

3.12 Notice. At the first meeting of the Board following the Annual Meeting of the Member, the Board shall establish a schedule for the Board meetings to be held in the ensuing twelve (12) months and shall provide such schedule to all Trustees and officers immediately thereafter. Once such schedule has been distributed, no other call or notice of such regularly scheduled meetings of the Board of Trustees shall be required. Notice of Special Meetings of the Board of Trustees shall be given by the Secretary or by the President of the Corporation by mail or by facsimile, e-mail or other electronic means at least three (3) days before the meeting to the Trustee's address as set forth in the records of the Corporation. Notice of a Special Meeting shall contain a specific description of the matters to be discussed and voted upon at the special meeting, and the agenda shall be limited to such matters. The presence of a Trustee at any meeting shall be deemed a waiver of actual notice and notice of any meeting may be waived in writing by a Trustee at any time.

3.13 Quorum and Voting. A majority of the voting Trustees then in office shall constitute a quorum for the transaction of business. A majority of the voting Trustees present at any meeting may adjourn the meeting from time to time, and such meeting may be continued as adjourned without further notice. If a quorum is present, a majority of the voting Trustees present may take any action on behalf of the Board of Trustees except to the extent that a larger or different number is required by law, the Articles, these Bylaws or the Governance Agreement. In the event that a Trustee is disqualified from voting pursuant to Section 7.1 (Conflict of Interest), such disqualified Trustee shall not be taken into account for determining whether a quorum is present for any vote on the subject and shall be prohibited from participating in the discussion of the subject and the voting thereon.

3.14 Major Decisions.

3.14.1 Major Decisions during the term of the Governance Agreement. During the term of the Governance Agreement, the following actions (each, a “Major Decision”) require the approval of a majority of each of: (i) the MGH-Designated Trustees, (ii) the EHR-Designated Trustees and the (iii) the WDH-Designated Trustees:

- (a) Any change in the Member or in the Reserved Powers of the Member (as defined in Section 4.2 below) other than as permitted under Section 3.3 of the Governance Agreement;



- (b) The merger of the Corporation, WDH, EHR, or any Subsidiary with any other organization (including with the other Subsidiaries, as applicable);
- (c) The closure of an inpatient service at WDH or EH or of any Material Outpatient Service at WDH, EH, RVNA, WDPC or Core;
- (d) The initiation of any Material Outpatient Service at WDH, EH, RVNA, WDPC or Core;
- (e) An acquisition by the Network Parent of an additional subsidiary;
- (f) Any change in the boundaries of the Seacoast Region;
- (g) The appointment of the President;
- (h) Approval of additional capital for the Network Parent pursuant to Section 8.1 of the Governance Agreement;
- (i) Approval of the transfer, use or expenditure of assets pursuant to the Governance Agreement;

(j) Approval of any payment of fees or transfer of funds pursuant to Section 4.1.1(f) of these Bylaws; and

(k) Amendment of the Governance Agreement other than as set forth in Section 3.3 of the Governance Agreement.

3.14.2 Major Decisions after the expiration of the Governance Agreement. Following the expiration or termination of the Governance Agreement, the following Major Decisions require the approval of: (i) at least two-thirds of the Local Trustees and (ii) at least two-thirds of the MGH-Designated Trustees:

(a) The closure of an inpatient service at WDH or EH or any Material Outpatient Service at WDH, EH, RVNA, WDPC or Core;

(b) Approval of any payment of fees or transfer of funds pursuant to Section 4.1.1(f) of these Bylaws; and

(c) The merger of the Corporation, EHR, WDH, or any Subsidiary with any other organization (including with the other Subsidiaries, as applicable).

3.15 Action by Unanimous Consent. Any action required or permitted to be taken at any meeting of the Trustees may be taken without a meeting if all of the voting Trustees shall consent in writing or by electronic transmission to such action and such consents are filed with the records of the meetings of the Board of Trustees. Such consents shall be treated for all purposes as votes at a meeting.

3.16 Participation through Communication Equipment. Trustees or the members of any committee of the Trustees may participate in any meeting of the Trustees or any such committee by means of a conference telephone, video or similar communication equipment which shall permit all persons participating in such meeting to hear each other at the same time; and participation by such means shall constitute presence in person at the meeting.

3.17 Procedure for Leave of Absence.

(a) Elected Trustees may, for health reasons or other compelling personal reasons, be granted leaves of absence for a stated period of time not to exceed one year. Absence for longer than one (1) year shall constitute voluntary resignation from the Board of Trustees. The Corporation will maintain directors and officers liability insurance coverage for the elected Trustee during any such leave.

(b) Requests for a leave of absence shall be made to the Chair of the Board of Trustees and shall state the beginning and anticipated ending dates and reason for the requested leave. The Chair shall communicate the request to the Board of Trustees for its approval.

(c) If the leave was for health reasons, prior to reinstatement the Chair of the Board of Trustees may request that the elected Trustee submit a report from his or her attending physician indicating that he or she is physically and/or mentally capable of resuming the elected Trustee's fiduciary responsibilities, with or without reasonable accommodation. The Chair shall review such report and, if the report is acceptable, present a recommendation on reinstatement to the Board of Trustees for its approval.

(d) Leaves of absence are matters of courtesy, not of right. In the event that the Board of Trustees determines in its sole discretion that an elected Trustee has not demonstrated a valid medical or personal reason for the leave of absence, or that the skill set of the elected Trustee would create a void on the Board of Trustees, the Board of Trustees will deny the request. In such event the elected Trustee who has requested the leave may withdraw such request or voluntarily resign from the Board of Trustees. The resulting vacancy may be filled in accordance with Section 3.4 hereof. The determination by the Board of Trustees shall be final, with no recourse by the elected Trustee to a hearing or appeal.

(e) During the leave of absence, the elected Trustee shall not exercise any governance responsibilities and shall be excused from all Board of Trustees responsibilities (e.g. meeting attendance, committee service), and his or her electronic access while on leave of absence will be governed by applicable Corporation policy.

(f) The duration of the leave of absence will be counted towards the elected Trustee's tenure for purposes of Sections 3.5 and 3.6 hereof.

#### ARTICLE IV

##### Responsibility and Authority of the Trustees and the Member

4.1 Responsibility and Authority of the Trustees. Except as otherwise provided by law, the Articles or these Bylaws, and subject to the Reserved Powers of the Member as set forth in these Bylaws, the Board of Trustees shall have responsibility and authority to discharge all such lawful powers, rights, privileges and duties (a) as are consistent with the New Hampshire Revised Statutes Annotated Chapters 292 and 295, as now in effect and as hereafter amended (or the corresponding provision(s) of any future New Hampshire Statutes and any other applicable law); (b) as are set forth in this Section 4.1; or (c) as may be set forth elsewhere in these Bylaws. The Board of Trustees shall exercise the following powers.

4.1.1 Financial Matters.

- (a) The Trustees shall oversee the development of the annual operating and capital budgets of the Corporation and its Subsidiaries within financial targets and time periods established by Partners for the Partners System and provided to the Corporation; shall review and approve such annual operating and capital budgets; and present such budgets to the Member for its review and approval in accordance with the procedure described in Section 4.2.2(a) hereof as part of the annual consolidated operating and capital budgets of the Partners System;
- (b) The Trustees shall review and approve such revisions to the annual operating and capital budgets of the Corporation and its Subsidiaries as the Board of Trustees determines to be necessary or appropriate from time to time and present any such budgets that include material revisions to the Member for its review and approval in accordance with the procedure described in Section 4.2.2(a) hereof;
- (c) The Trustees shall (i) monitor the results of operations of the Corporation and its Subsidiaries relative to the annual or revised operating budget of the Corporation approved by the Board of Trustees and the Member; and (ii) monitor the expenditure of funds on capital projects by the Corporation

relative to the annual or revised capital budget of the Corporation approved by the Board of Trustees and the Member;

- (d) The Trustees shall review and approve all proposed unbudgeted operating and capital expenditures of the Corporation and its Subsidiaries for each such unbudgeted expenditure that exceeds such amount as may be specified by the Member from time to time and present such proposed expenditure to the Member for its review and approval;
- (e) The Trustees shall review and approve each transaction pursuant to which the Corporation would incur new debt through lender financing or would guaranty the lender-financed debt of others and present such transaction to the Member for its review and approval;
- (f) The Trustees shall review and approve all budgeted and unbudgeted fees or transfers of the funds of the Corporation to any other entity in the Partners System for the support of System-wide initiatives or for other purposes; provided, however, that in order to approve any such fees or transfers the Board of Trustees must determine that such System-wide initiative or other purpose will provide benefits to the Corporation that are comparable to the benefits that are expected to be realized by other organizations within the Partners System, that such transfer is otherwise in the best interests of the Corporation and furthers its charitable mission; and

- (g) The Trustees shall oversee fundraising and development activities for the Wentworth-Douglass Hospital & Health Foundation, EHR and Exeter Hospital consistent with the mission and the overall strategies of the Network Parent, the Member and the Partners System.

4.1.2 Executive Management.

- (a) President and Chief Executive Officer of the Corporation. The elected Trustees shall (i) appoint the President in accordance with the procedure described in Section 5.4.1 hereof; and (ii) within compensation programs and guidelines established by the Member, annually evaluate the performance of the President and make recommendations to the President of the Member, who shall determine the President's compensation.
- (b) Other Senior Managers. The President shall (i) appoint such senior managers as he may see fit; (ii) establish performance objectives and annually evaluate the performance of such senior managers against such objectives; and (iii) within compensation guidelines established by the Member, determine the compensation of such senior managers.

4.1.3 Strategic Planning.



(a) The Trustees shall understand and support the mission, vision and goals of the Corporation and the Partners System; and

(b) In collaboration with the Member, the Trustees shall approve the strategic plan developed by the President and senior managers and oversee its implementation by the President.

4.1.4 Advocacy. Subject to their fiduciary duty under New Hampshire law, and in conjunction with other institutions and entities within the Partners System as coordinated by the Member, the Trustees shall represent and serve as an advocate for the interests of the Partners System, the Corporation and the Subsidiaries (including their clinicians, researchers, patients and staff and the citizens of the communities that they serve) to governmental bodies and officials, accreditation agencies and the community at large.

4.1.5 Board Performance.

(a) The Trustees shall participate in regular comprehensive communication by the Corporation with the Member and its management and with the trustees and management of other institutions and entities within the Partners System

regarding the strategies, objectives, performance and issues of the Corporation, the Subsidiaries, the Member and the Partners System;

(b) The Trustees shall receive and review regular reports on the performance and overall effectiveness of the Corporation, the Subsidiaries, the Member and the Partners System;

(c) The Trustees shall in coordination with the Member, provide for the orientation of new Trustees and the continuing education of incumbent Trustees; and

(d) The Trustees shall, in coordination with the Member, conduct periodic assessments and evaluations of the performance of the Board of Trustees.

4.1.6 Conduct of Operations. Consistent with applicable state law, the responsibility and authority of the Trustees as set forth in these Bylaws and consistent with any applicable policies of the Partners System, the Trustees shall authorize and approve (or delegate to the officers and senior managers of the Corporation the authority to authorize and approve) such policies, procedures, agreements and other commitments binding on the Corporation as may be necessary to conduct the operations of the Corporation.

4.2 Responsibility and Authority of the Member. The responsibility and authority of the Member (the “Reserved Powers”) are set forth in Sections 4.2.1, 4.2.2 and 4.2.3 hereof. The Member shall exercise its Reserved Powers in a fiduciary capacity.

4.2.1 Responsibility for Corporation's Affairs. In furtherance of its purposes to coordinate and support the Partners System, the Member shall have the responsibility and authority to oversee the affairs, funds and other property of the Corporation and the Subsidiaries and to oversee the Board of Trustees in the exercise of the Trustees’ fiduciary responsibility and authority as set forth in applicable law, the Articles and these Bylaws. The Member shall at all times exercise its responsibility and authority as a fiduciary in a manner that is consistent with the Articles and these Bylaws and with applicable law including, without limitation, New Hampshire charitable trust law.

4.2.2 Matters Requiring Approval by the Member. In addition to other matters that require approval by the Member by law or as specified in the Articles or these Bylaws, the following actions of the Board of Trustees shall require review and approval by the Member:

- (a) Final adoption of the annual and any materially revised operating and capital budgets of the Corporation submitted by the Board of Trustees pursuant to

Section 4.1.1(a) and (b) hereof. In the event that the Member does not approve any such annual or revised budget as submitted by the Board of Trustees, the Member shall advise the Board of Trustees of the reasons for such disapproval, and the Board of Trustees shall then have a reasonable period of time (not less than 30 days and not to exceed 60 days), as specified by the Member, to resubmit a modified annual or revised budget, consistent with the financial targets that have been established by Partners for the Partners System, that is responsive to the reasons for the Member's disapproval. If the Board of Trustees fails to submit on a timely basis a modified annual or revised budget that is responsive, in the Member's judgment, to the reasons for the prior disapproval, the Member shall have the right, after written notice to and consultation with the Board of Trustees, by a two-thirds vote of the Member's Board of Trustees to adopt and approve an annual or revised operating and capital budget for the Corporation which shall become the budget for the Corporation for the fiscal period specified therein;

- (b) In the event that the Member requests that the Board of Trustees submit a revised operating or capital budget for the Corporation, the Board of Trustees shall have a reasonable period of time (not less than 30 days and not to exceed 60 days), as specified by the Member, to submit such revised budget consistent with the financial targets that have been established by Partners for

the Partners System and responsive to the request of the Member. If the Board of Trustees fails to submit to the Member within such time period specified by the Member a revised operating or capital budget that is responsive, in the Member's judgment, to the Member's request, the Member shall have the right, after consultation with the Board of Trustees, by a two-thirds vote of the Member's Board of Trustees to adopt and approve a revised operating or capital budget for the Corporation which shall become the budget for the Corporation for the fiscal period specified therein;

- (c) Each unbudgeted operating or capital expenditure of the Corporation that exceeds such amount as has been specified in writing by the Member from time to time;
- (d) Each transaction pursuant to which the Corporation would incur new debt through lender financing or would guaranty the lender-financed debt of others;
- (e) Each material agreement or other commitment binding on the Corporation that requires an expenditure of funds with an aggregate value in excess of such amount as has been specified by the Member in writing from time to time;

- (f) Any pledge, sale or other disposition of all or substantially all of the property or assets of the Corporation;
- (g) A liquidation, dissolution or other restructuring of the Corporation;
- (h) Any transaction or project that requires an expenditure of funds in excess of such amount as has been specified by the Member in writing from time to time;
- (i) Any new business venture proposed by the Corporation involving an investment that exceeds such amount as has been specified by the Member in writing from time to time;
- (j) Each capital fundraising campaign proposed for the support of the Corporation or the Subsidiaries other than ongoing solicitations of unrestricted gifts in the ordinary course; and
- (k) Executive compensation policies for the Corporation and the Subsidiaries.

4.2.3 Transfer of Corporation or Other Property. In the event that the Board of Trustees has approved a transfer of the funds (including surplus funds) or other property of the Corporation in accordance with the requirements of Section 4.1.1(f) hereof but the Board of Trustees subsequently fails to implement such transfer, the Member will have the authority to implement such Board approved transfer; provided; however, that prior to implementing any such transfer, (1) the Member will request the Board of Trustees reconsider its decision not to implement the transfer and (ii) if after such reasonable time period (not to exceed 60 days) as has been specified by the Member, the Board of Trustees does not implement the transfer, the Member will have the authority by a two-thirds vote of the Member's Board of Trustees to implement such transfer of the funds or other property of the Corporation.

4.3 Sole Member of Subsidiaries. The Corporation, acting through the Board of Trustees or by or through any person or persons designated by the Board of Trustees to act on behalf of the Corporation, shall have and exercise such powers and duties as are required or permitted by law or as are specifically set forth in the bylaws or other governing document of such Subsidiary. Where the bylaws or other governing document of a direct or indirect Subsidiary give the Corporation the power to approve such Subsidiary's budgets, strategy, or service offerings, the Corporation's Trustees shall act as such Subsidiary's fiduciary governing authority with respect to those matters.

## ARTICLE V

### Officers

5.1 Officers. The Corporation shall have a Chair of the Board of Trustees (the “Chair”), a Vice Chair of the Board of Trustees (the “Vice Chair”), a President and Chief Executive Officer (the “President”), a Secretary, a Treasurer, one or more Assistant Secretaries and Assistant Treasurers and such other officers as the Board of Trustees or the President may from time to time elect or appoint. Officers (other than the Chair and Vice Chair) may, but need not be, Trustees, and except for the President shall not, by reason of their respective offices, become members of the Board of Trustees.

5.2 Annual Election of Officers. At the first meeting of the Board of Trustees following each Annual Meeting of the Member, the Board of Trustees shall elect the Chair, the Vice Chair, the Treasurer and the Secretary. Other officers may be elected or appointed at any time by the Board of Trustees or by the President, in each case specifying the title, powers, duties and terms of office of such officer.

5.3 Tenure. The Chair, Vice Chair, Treasurer and Secretary of the Corporation shall hold office until the first meeting of the Board of Trustees after the Annual Meeting of the Member following the date of such officer's election and until a successor is elected, or until the officer



sooner dies, resigns, becomes disqualified or is removed from office. Other officers elected or appointed by the Board of Trustees or the President shall serve for such terms as the Board of Trustees or the President may specify at the time of such officer's election or appointment (not to exceed four years).

#### 5.4 Vacancies.

5.4.1 Vacancy in the Office of President. Upon the occurrence of a vacancy in the office of the President, the Board of Trustees shall establish a search committee comprising the President of the Member and such voting Trustees and others, as the voting Trustees, in consultation with the President of the Member, may determine. The search committee shall submit to the Board of Trustees a nomination for the person to hold the office of the President, and the Board of Trustees shall act upon such nomination to elect the President and submit such election to the Member for its ratification.

5.4.2 Vacancies in Other Offices. The Board of Trustees may fill a vacancy in any office (other than the President) whose incumbent was elected or appointed by the Board of Trustees. The President may fill a vacancy in any office whose incumbent was appointed by the President. The person so elected or appointed will serve for the balance of the unexpired term of the office being filled or until a successor is elected or appointed or the incumbent dies, resigns, becomes disqualified or is removed.

5.5 Chair of the Board; Vice Chair of the Board. The Chair of the Board shall preside at all meetings of the Board of Trustees when present and shall perform the duties incident to the office. The Vice Chair, if any, shall have, exercise, and discharge the powers and duties of the Chair during the absence or disability of the Chair. In the event that both the Chair and the Vice Chair, if any, shall be absent or unable to act, the Trustees may elect from their number a temporary Chair to have, exercise and discharge the powers of the Chair during the absence or disability of both the Chair and Vice Chair.

5.6 President. The President shall be the chief executive officer of the Corporation and, as such, shall direct the activities of the Corporation, promote collaborative opportunities and the consistency of policies and procedures among the Corporation, the Subsidiaries and other institutions and entities within the Partners System, and have, exercise, and discharge such other powers and duties as these Bylaws, the Member or the Board of Trustees may assign to the President. The President may appoint vice presidents and senior managers of the Corporation and may retain other employees and agents, each of whom shall have, exercise and discharge such powers and duties as the President may assign to such individual.

5.7 Treasurer. The Treasurer, subject to the direction and control of the Board of Trustees, has general charge of the financial affairs of the Corporation and responsibility for the care and custody of its funds, securities and valuable papers, except records and documents required by

these Bylaws or by vote of the Board of Trustees to be kept by some other person. If required by vote of the Board of Trustees, the Treasurer shall give bond in such form and with such sureties as the Board of Trustees may require. If one or more Assistant Treasurers have been elected, an Assistant Treasurer may discharge the duties of the Treasurer in the event of the Treasurer's absence or disability.

5.8 Secretary. The Secretary shall (i) attend and keep (or cause to be kept) records of all meetings of the Board of Trustees and all committees thereof; (ii) keep a record of the names and addresses of the Board of Trustees and of its officers and those serving on the various committees; (iii) issue notice for meetings or cause such notices to be issued; and (iv) perform such other duties as usually pertain to the office. Any Assistant Secretary may also discharge one or more of the duties of the Secretary.

5.9 Resignations. Any officer appointed by the Trustees may resign at any time by delivering a resignation in writing to (i) the Chair, the President or the Secretary, (ii) any meeting of the Member or the Trustees, or (iii) the Corporation at its principal office. Such resignation shall be effective upon receipt unless specified to be effective at some other time; provided, however, that the Board of Trustees may act to accept such resignation immediately or at any other time sooner than the time specified by such resigning Trustee in his or her resignation.

5.10 Removals. The President may be removed at any time with or without cause by (i) the President of the Member, after consultation with the Board of Trustees and with the approval of the Board of Trustees of the Member, or (ii) a majority vote of the voting Trustees then in office, with the approval of either the President of the Member or the Board of Trustees of the Member. Any other officer elected or appointed by the Board of Trustees may be removed at any time with or without cause by a majority vote of the voting Trustees then in office. An officer may be removed for cause only after reasonable notice of the grounds for the removal and an opportunity to be heard before the body or person proposing the removal. Removal of the President pursuant to this Section 5.10 shall be without prejudice to any rights to compensation or severance, if any, that may be set forth in a written agreement between the Corporation and the President.

## ARTICLE VI

### Committees of the Board of Trustees

6.1 Committees. The initial committees of the Board of Trustees shall be the: (i) Executive Committee (which also shall serve as the Finance Committee), (ii) Joint Nominating Committee (as described in Section 3.3 above), (iii) Strategic Planning Committee, and (iv) Regulatory Compliance Committee. The Executive Committee and the Joint Nominating Committee shall be standing (i.e. permanent) committees. All committees shall have such responsibilities and authority as shall be set forth in these Bylaws or otherwise determined by the Board of Trustees

from time to time. The Board of Trustees may, by vote of a majority of the voting Trustees then in office, establish other standing and *ad hoc* committees, dissolve committees other than the standing committees, and reorganize existing committees and delegate to any such committee or committees such responsibilities and authority as the Trustees may from time to time determine.

6.2 Composition of Committees. The members and chairs of all standing and special committees of the Board of Trustees shall be nominated by the Chair, upon the advice of the President, and appointed by a majority vote of the voting Trustees for one-year terms, unless otherwise specified by the Board of Trustees and in any event shall serve until their successors are appointed. The members of standing and *ad hoc* committees that execute powers of the Board of Trustees shall not include persons who are not Trustees. Unless otherwise set forth in these Bylaws or agreed by the President of the Member, at least one MGH-Designated Trustee shall serve on each board committee.

6.3 General Provisions Regarding Committees. Whenever any committee shall be authorized by the Board of Trustees or by these Bylaws to act on behalf of the Board of Trustees on any matter requiring action by the Board of Trustees, only the votes of the voting Trustees who are specifically appointed to a committee shall be counted in determining the committee's action. Fifty percent (50%) of the members of a committee shall be a quorum for purposes of action on behalf of such committee, and all matters shall be decided by majority vote. Each committee (i) shall determine its procedures regarding voting, quorum, and notice, etc. to the extent not

covered by these Bylaws, (ii) shall report regularly to the Board of Trustees, and (iii) may invite any person or persons to meet with the committee in an advisory capacity. If a person serves *ex officio* on a committee in more than one capacity, such person shall be counted only once for purposes of determining the presence of a quorum and shall be entitled to one vote only. The Board may not authorize a Committee to make a Major Decision as defined in Section 3.14 above.

6.4 Executive Committee. The Executive Committee shall consist of the Chair, the Vice Chair, the Treasurer, the Secretary, two other elected Trustees (including the immediate past Chair, if still serving as an elected Trustee) and the President, *ex officio* without a vote. The Committee shall, in the interim between meetings of the Board of Trustees, exercise all the power of that body, except for such powers as may be excluded by law, the Articles or these Bylaws, but in accordance with the general policy of the Corporation and the Subsidiaries and the direction of the Board. Without limiting the foregoing, the Executive Committee may not approve any Major Decision or any amendment to these Bylaws. The Chair of the Board shall serve as the Chair of the Executive Committee. The Secretary will keep (or cause to be kept) a record of all meetings and all action taken by the Executive Committee. Such records shall be submitted to each Trustee as soon as practical following each meeting of the Executive Committee. The Executive Committee shall hold meetings at such times as the Chair of the Executive Committee may determine, but at least quarterly.

## ARTICLE VII

### Conflict of Interest; Personal Liability

7.1 Conflict of Interest. Each Trustee shall comply with all laws that bear upon the Trustee's duties to the Corporation. Any Trustee or a member of such Trustee's immediate family that proposes to enter into a pecuniary benefit transaction (as defined by New Hampshire Revised Statutes Annotated 7:19-a) with the Corporation shall have an affirmative obligation to disclose such interest, or that of his or her family member. The Board of Trustees shall authorize the Trustee, or a member of such Trustee's immediate family, to enter into such pecuniary benefit transactions only in accordance with the applicable provisions of (i) New Hampshire Revised Statutes Annotated §7:19-a, as it may exist from time to time, and (ii) Partners Conflict of Interest Policies as they may exist from time to time and policies adopted pursuant thereto. All Trustees shall be subject to the Partners Conflict of Interest Policies.

7.2 Limit on Personal Liability. No Trustee or officer of the Corporation shall be personally liable to the Corporation, its Member, or a Subsidiary for monetary damages for breach of fiduciary duty as a Trustee or officer; *provided, however*, that this paragraph shall not eliminate or limit the liability of a Trustee or officer of the Corporation (i) for any breach of the Trustee's or officer's duty of loyalty, (ii) for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of law, or (iii) for any transaction for which the

Trustee or officer derived an improper personal benefit. No amendment, modification or repeal of this paragraph, directly or by adoption of an inconsistent provision of these Bylaws, shall apply to or have any effect on the liability or alleged liability of any Trustee or officer of the Corporation for or with respect to any acts or omissions of such Trustee or officer occurring prior to such amendment, modification or repeal.

## ARTICLE VIII

### Indemnification; Insurance

#### 8.1 Indemnification.

(a) To the extent permitted by law and consistent with the Corporation's status as an organization qualified under § 501(c)(3) of the Internal Revenue Code, the Corporation:

- (i) shall indemnify each of the Trustees and officers;
- (ii) shall indemnify each person who serves as a member of any of the following committees of the Corporation: (1) a committee elected or appointed by the Board of Trustees pursuant to Section 6.1; (2) any Medical Peer Review Committee; (3) any institutional review board; and (4) any other committee of the



Corporation designated by the Board of Trustees as qualifying for indemnification under this subparagraph (ii);

(iii) may indemnify any other employee or agent of the Corporation and any person who serves the Corporation in a volunteer capacity; and

(iv) may indemnify any person who, at the Corporation's request, serves as a trustee, director, committee member, officer, employee or agent of any other entity in which the Corporation shall have an interest or serves in any capacity with respect to any employee benefit plan of the Corporation or such other entity (each such person described in subparagraphs (i), (ii), (iii) and (iv) hereof being hereinafter referred to as an "Indemnified Person");

against all liabilities and expenses, of whatever nature, including amounts paid in satisfaction of judgments, in compromise or as fines and penalties, and counsel fees reasonably incurred by the Indemnified Person in connection with the defense or disposition of any action, suit or other proceeding, whether civil or criminal, in which the Indemnified Person may be involved or with which the Indemnified Person may be threatened, by reason of serving or having served the Corporation, such other entity or such employee benefit plan. Subject to the provisions of paragraph 8.1(b) below, the Board of Trustees, after consultation with the Member and its legal counsel, shall determine on a case by case basis those individuals who will be indemnified

pursuant to subparagraphs (iii) and (iv) hereof.

(b) Notwithstanding the foregoing, however, the Corporation shall not indemnify any Indemnified Person with respect to any matter as to which such Indemnified Person shall have been finally adjudicated in any legal proceeding or determined by the Board of Trustees, after consultation with the Member and its legal counsel, not to have acted in good faith in the reasonable belief that such Indemnified Person's action was in the best interests of the Corporation (or, to the extent that such matter relates to service with respect to an entity in which the Corporation has an interest or with respect to an employee benefit plan, in the best interests of such other entity or the participants or beneficiaries of such employee benefit plan).

(c) Subject to the provisions of paragraph 8.1(b) above, the Board of Trustees may and, in the case of an Indemnified Person described in Section 8.1(a)(i) and (ii) hereof shall, authorize that the Corporation pay expenses, including counsel fees, reasonably incurred by an Indemnified Person in connection with the defense or disposition of any such action, suit or other proceeding, in advance of the final disposition, upon receipt of a commitment in writing by the Indemnified Person to repay to the Corporation the amounts so paid if the Indemnified Person shall be adjudicated in any legal proceeding or determined by the Board of Trustees, after consultation with the Member and its legal counsel, not to have acted in good faith in the reasonable belief that such Indemnified Person's action was in the best interests of the Corporation, other entity or the participants or beneficiaries of an employee benefit plan, as the

case may be, which commitment may be accepted without reference to the financial ability of such Indemnified Person to make repayment.

(d) The right to indemnification provided by this Article VIII shall not be exclusive of or prejudice or otherwise affect any other rights of the Indemnified Person including any rights to indemnification, immunity or limitation of liability to which such Indemnified Person may be entitled by contract with the Corporation or under law, and shall extend to the successors, estate, heirs, executors and administrators of each Indemnified Person.

8.2 Insurance. The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a Trustee, officer, employee or other agent of the Corporation, or is or was serving at the request of the Corporation as a trustee, director, officer, employee or other agent of another organization in which it has an interest, against any liability incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability.

## ARTICLE IX

### Miscellaneous

9.1 Execution of Instruments. All checks, deeds, leases, transfers, contracts, bonds, notes and other obligations authorized to be executed by an officer of the Corporation on its behalf shall be signed by the Chair, the President or the Vice President of Finance/CFO of the corporation except as the Board of Trustees or the President may generally or in particular cases otherwise delegate or limit such power.

9.2 Prohibition Against Sharing in Corporate Earnings. No Trustee, officer or employee of, or member of a committee of, or person connected with the Corporation, or any other private individual, shall receive, at any time, any of the earnings from the operation of the Corporation; *provided* this shall not prevent the payment to any such person of such reasonable compensation for services rendered to or for the Corporation in the normal course of business in affecting any of its purposes as shall be fixed by the Board of Trustees. No such person or persons shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the Corporation. Upon the dissolution or winding up of the affairs of the Corporation, the remaining assets of the Corporation, after payment of its debts, shall be distributed to one or more New Hampshire organizations which are exempt from federal income taxation under Section 501(a) of the Code as an organization described in Section 501(c)(3) of the Code (or any successor provision thereof describing charitable organizations exempt from federal income taxation) and which are being operated for purposes similar to those of this Corporation.

9.3 Exempt Activities. Notwithstanding any other provisions of these Bylaws, no Trustee, officer, employee or representative of the Corporation shall take any action or carry on any activity, by or on behalf of, the Corporation not permitted to be taken or carried on by an organization exempt under Section 501(a) of the Code as described in Section 501(c)(3) of the Code or by an organization contributions to which are deductible under Section 170(c)(2) of the Code.

9.4 Voting of Interest in Other Corporations. Unless otherwise provided by the Board, the President or Treasurer may waive notice of, and act as (or appoint any person or persons to act as) proxy or attorney-in-fact for the Corporation (with or without power of substitution) at, any meeting of stockholders or members of any other corporation or organization in which this Corporation holds an equity or membership interest.

9.5 Corporate Records. The original, or attested copies of, the Articles, these Bylaws and records of all meetings of the Board, shall be kept in the State of New Hampshire at the principal office of the Corporation, or at the office of the Secretary and shall be available at all reasonable times for the inspection of any Trustee for any purpose relative to the affairs of the Corporation.

9.6 Evidence of Authority. A certificate by the Secretary, acting Secretary or assistant Secretary, as to any action taken by the Board, any committee or any officer or representative of

the Corporation shall, as to all persons who rely on the certificate in good faith, be conclusive evidence of such action.

## ARTICLE X

### Amendments

10.1 So long as the Governance Agreement is in effect, these Bylaws may be amended in whole or in part, or repealed and new bylaws adopted, by a majority vote of each of the following groups of Trustees: (i) the WDH-Designated Trustees, (ii) the EHR-Designated Trustees and (iii) the MGH-Designated Trustees. A written draft of the proposed amendment shall be submitted to all of the Trustees not less than ten (10) days prior to any such action by the Board of Trustees.

10.2 Upon the expiration or termination of the Governance Agreement, these Bylaws may be amended in whole or part, or repealed and new bylaws adopted, by a two-thirds vote of the voting Trustees; *provided, however*, that such vote must include the affirmative vote of (i) at least three (3) of the MGH-Designated Trustees *and* (ii) at least a majority of the Local Trustees. A written draft of the proposed amendment shall be submitted to all of the Trustees not less than ten (10) days prior to any such action by the Board of Trustees.

**EXHIBIT A**  
**LONG-TERM COMMITMENTS**

The below obligations of the Member and rights of the Network Parent, EHR, WDH and the Local Organization Subsidiaries (collectively, the “**Long-Term Commitments**”) will survive the expiration or termination of the Governance Agreement.

**1. Governance.**

1.1 Exercise of Reserved Powers. Consistent with the purposes of the Corporation and with New Hampshire laws and regulations, the Member agrees that it will exercise its Reserved Powers as defined in Section 4.2 of these Bylaws over the Corporation and the Subsidiaries in a manner that will continue, consistent with past policies and practices, to honor their charitable missions and values and to fulfill the healthcare needs of the communities that each serves, including the poor and underserved residents of those communities.

1.2 Member’s Commitment. Without limiting the foregoing Section 1.1, the Member will maintain each of Exeter Hospital and WDH as a general acute care hospital that: (i) offers substantially the same scope and level of services and programs as each respective hospital offered upon the expiration or termination of the Governance Agreement, subject to changes

approved in accordance with the approval process set forth in these Bylaws; (ii) provides quality hospital and health care services including access to, and treatment of, patients regardless of their insurance status or ability to pay; (iii) follows financial assistance policies and billing, collection and charge limitations consistent with federal and state law; (iv) continues to provide grants to charitable community organizations consistent with mutually agreed upon policies; (v) supports programs that benefit the health, health education and welfare of the communities that Exeter Hospital and WDH each, respectively serves; and (vi) participates in governmental health insurance programs. In connection with the commitments set forth in this Section 1.2, the Member will also ensure that the Corporation and the Subsidiaries are able to satisfy, as and when such obligations become due and payable, any and all of their obligations under all debt and any other long term-financial liabilities of the Corporation and its direct and indirect Subsidiaries that may be outstanding from time to time. The Member, EHR and WDH agree that the foregoing commitments relating to the maintenance of clinical services are subject to: (i) appropriate and adequate levels of patient demand for such services at each of WDH and Exeter Hospital; (ii) sufficient third party payer reimbursement to support the financial viability of Exeter Hospital and WDH, respectively; and (iii) Exeter Hospital and WDH, respectively, maintaining acceptable clinical quality and patient safety appropriate for a community hospital.

1.3 The Member, WDH and EHR intend that the Corporation shall be the primary focus of the Member's and Partners' clinical development in the Seacoast Region. Accordingly, except as otherwise permitted by Section 2.4 of the Governance Agreement during the term of



such Agreement and as in place upon the execution thereof, or as otherwise may be approved in writing by the Trustees of the Corporation, the Member, WDH and EHR agree that any hospital service, outpatient service or physician practice that is now or hereafter offered by Partners or any Partners Affiliate in the Seacoast Region shall: (i) be operated under the control of or under a contract with the Corporation or a Subsidiary, (ii) be located in a facility controlled by the Corporation or a Subsidiary, or (iii) be established pursuant to a strategic plan approved by the Corporation's Board.

2. **Community Hospital Committee.**

So long as the Board of Trustees of the Member continues to have a Community Hospital Committee (the "**Community Hospital Committee**"), the Corporation will have representation on that Committee with such representation consisting of the following four (4) individuals or such individual's designee if he or she is unable to attend a meeting of the Committee: (i) the Interim CEO or Network CEO, as applicable, *ex officio*; (ii) the Chair of the Corporation, *ex officio*; (iii) one (1) WDH physician leader selected by the WDH Board, and (iv) one (1) Exeter Hospital physician leader selected by the EHR Board. The Member shall be entitled to restructure the purposes and composition of the Community Hospital Committee so long as the effect of such restructuring on the Corporation is substantially the same as the effect of such restructuring on the Member's community hospitals in Massachusetts.

3. **Mandatory Withdrawals.**

3.1 **Withdrawal Definition.** “**Withdrawal**” shall mean one or more transactions (which may include, without limitation, a change of sole corporate membership of the Corporation, a merger involving the Corporation, the sale of substantially all of the assets of the Corporation, or a management agreement involving substantially all of the operations and assets of the Corporation) pursuant to which: (i) the Member ceases to have direct or indirect control of the Corporation, and (ii) the Corporation becomes either (1) an independently-governed entity or (2) a member of another not-for-profit health care system that has no corporate relationship with the Member, as determined by the Corporation or as determined by a majority of the Local Trustees, as applicable.

3.2 **Terms.** The terms of any Withdrawal must be mutually acceptable to the Corporation and the Member; provided, however, that, if the Corporation and the Member cannot reach agreement on the terms of the Withdrawal after a reasonable good faith effort by the Corporation and the Member, the Corporation will be entitled to proceed with the Withdrawal on such terms as are determined solely by the Corporation.

3.3 **Mandatory Withdrawal Event.** The majority of the Local Trustees, acting jointly, shall have the right to exercise a Withdrawal upon the occurrence of a “**Mandatory Withdrawal Event**,” which means any transaction or event or series of related transactions or

events that would result in the Corporation being controlled directly, or indirectly by, or that would result in substantially all of the assets of the Corporation being owned or managed by, any organization(s) that are not “**Exempt Organizations**” within the meaning of Section 501 of the Code, including without limitation through: (i) the Member becoming owned or controlled (directly or indirectly) by any organization(s) other than an Exempt Organization; (ii) the Member losing its status as an Exempt Organization; (iii) with respect to WDH, another event occurring that would violate Chapter 177 (HB 553) of the Laws of New Hampshire 1989; or (iv) any action or omission of the Member that would, in the opinion of nationally recognized tax counsel selected by the Corporation and approved by the Member, jeopardize the Corporation’s status as an Exempt Organization.

3.4 Standing to Enforce; Fees and Costs. A majority of the Local Trustees, acting jointly, shall have standing to take action to enforce the above Long-Term Commitments. In connection therewith, such Local Trustees so acting, may reasonably and in good faith engage independent legal counsel, accountants, or such other advisors or experts as may be required under the circumstances, all at the reasonable cost of the Corporation or the applicable Subsidiaries.

**Exhibit B**

**Network Parent Trustee Selection Criteria**

All candidates being considered for nomination and election to the Corporation Board of Trustees should possess the following characteristics:

1. Employment, professional status or personal experience that reflect a record of personal and professional accomplishment.
2. Well-regarded in the communities served by the Corporation, with a long-term, good reputation for high ethical standards.
3. Absence of conflicts of interest as defined in the Partners Code of Conduct and Conflict of Interest Policies, unless any such conflict is required pursuant to such policies and compliance with applicable state law governing pecuniary benefits.
4. An understanding and commitment to the mission of the Corporation, the Subsidiaries, the Member and the Partners System.

5. Willingness and availability to contribute time and energy to the Corporation and the Subsidiaries' Board and its committees.

When considering candidates for nomination and election to the Corporation Board of Trustees, the goal of the Corporation's Joint Nominating Committee, the Corporation's Board of Trustees, the MGH Nominating Committee, and the Member's Board of Trustees should be a Board of Trustees of the Corporation whose members demonstrate a balance of the following characteristics:

6. Knowledge in one or more relevant fields such as clinical care, finance, government and community affairs, education, research and technology, philanthropy or information systems.

7. Enhances the Corporation's the Member's and Partners' commitment to diversity.

8. Demonstrates a strategic perspective and an awareness of the dynamics of the complex and ever-changing healthcare environment and the need to participate and capitalize on opportunities that enhance the mission, vision and principles of the Corporation, the Subsidiaries, the Member and the Partners System.

9. Service and experience with other boards of directors/trustees or similar experience with a record of preparation, attendance, participation, interest and initiative.

10. Willingness to be an enthusiastic promoter of the Corporation, the Subsidiaries, the Member and the Partners System.

11. Local Trustees maintain geographic residence in the area served by the Corporation.

12. Maintains connections with public and influential community organizers and stakeholders important to the Corporation, the Subsidiaries, the Member and/or the Partners System.

**EXHIBIT C**

**Governance Agreement**

***[See Attached]***

**GOVERNANCE AGREEMENT**

**among**

***[NETWORK PARENT],***

**EXETER HEALTH RESOURCES, INC.,**

**WENTWORTH-DOUGLASS HOSPITAL,**

**and**

**THE MASSACHUSETTS GENERAL HOSPITAL**



**TABLE OF CONTENTS**

<b>I.</b>	<b>Term .....</b>	<b>2</b>
1.1	Term .....	2
1.2	Long-Term Commitments .....	2
<b>II.</b>	<b>Joint Vision .....</b>	<b>3</b>
2.1	Purpose.....	3
2.2	Network Parent Guiding Principles .....	3
2.3	Seacoast Region .....	3
2.4	Scope.....	3
<b>III.</b>	<b>Network Parent Governance .....</b>	<b>3</b>
3.1	Exercise of Reserved Powers .....	3
3.2	MGH Commitment .....	4
3.3	Realignment .....	4
<b>IV.</b>	<b>Interim CEO; Network CEO .....</b>	<b>5</b>
4.1	Interim CEO.....	5
4.2	Network CEO.....	5
4.3	CEO Reporting.....	5
4.4	CEO Compensation .....	5
4.5	Removal of the CEO .....	5
<b>V.</b>	<b>Network Parent Senior Executives.....</b>	<b>5</b>
5.1	Network Parent Senior Executives .....	5
5.2	Senior Executive Reporting .....	5
5.3	Removal of Senior Executives.....	6
<b>VI.</b>	<b>Local Organizations.....</b>	<b>6</b>
<b>VII.</b>	<b>Integration Process .....</b>	<b>6</b>
7.1	Network Integration Committee .....	6
7.2	Network Strategic Plan .....	6
7.3	Information Technology .....	7
7.4	Decisions Concerning Clinical Services .....	7
7.5	Community Hospital Committee.....	7
7.6	Quality and Safety Recommendations.....	8
<b>VIII.</b>	<b>Financial Matters .....</b>	<b>8</b>
8.1	Funding of Network Parent.....	8

8.2	Ownership and Use of Charitable Assets of Local Organizations.....	8
8.3	Ownership and Use of Charitable Assets of Network Parent .....	9
8.4	Fundraising .....	9
8.5	Capital .....	10
8.6	Partners Corporate Services .....	11
8.7	PHM Tax.....	11
<b>IX.</b>	<b>Joint Marketing and Co-Branding.....</b>	<b>12</b>
<b>X.</b>	<b>Withdrawal Events .....</b>	<b>12</b>
10.1	Withdrawal Definition .....	12
10.2	Terms .....	12
10.3	Mandatory Withdrawal Event.....	13
10.4	Discretionary Withdrawal.....	13
<b>XI.</b>	<b>Dispute Resolution .....</b>	<b>13</b>
11.1	Stage One .....	13
11.2	Stage Two: Non-Binding Mediation.....	13
11.3	Stage Three: Litigation .....	14
11.4	Injunctive Relief.....	14
11.5	Effect of Dispute Resolution Process on Performance .....	14
11.6	Standing to Enforce; Fees and Costs .....	14
<b>XII.</b>	<b>Miscellaneous.....</b>	<b>14</b>
12.1	Entire Agreement .....	14
12.2	Notices .....	14
12.3	Public Statements .....	14
12.4	Assignment; Merger.....	15
12.5	Severability .....	15
12.6	No Waiver.....	15
12.7	Governing Law .....	15
12.8	Counterparts.....	15

GOVERNANCE AGREEMENT

among

*[NETWORK PARENT],*

EXETER HEALTH RESOURCES, INC.,

WENTWORTH-DOUGLASS HOSPITAL,

and

THE MASSACHUSETTS GENERAL HOSPITAL

This GOVERNANCE AGREEMENT (the “**Governance Agreement**”) is being entered into as of *[\_\_\_\_\_]*, 2019 (the “**Effective Date**”) by and among *[Network Parent]*, a New Hampshire not-for-profit corporation *[(the “Network Parent”),]* Wentworth-Douglass Hospital, a New Hampshire not-for-profit corporation (“**WDH**”), Exeter Health Resources, Inc. (“**EHR**”), a New Hampshire not-for-profit corporation (“**EHR**”), The Massachusetts General Hospital, a Massachusetts not-for-profit corporation (“**MGH**”) and its sole corporate member, Partners HealthCare System, Inc. (“**Partners**”), which joins as a party to this Governance Agreement only with respect to Sections: 2.4, 3.3, 7.2, 8.6, 8.7, and IX. Unless the context otherwise requires, the terms “**Party**” and “**Parties**” as used herein refer to Network Parent, MGH, WDH and EHR. WDH and EHR are sometimes referred to herein individually as a “**Local Organization**” and collectively as the “**Local Organizations**”. For the purposes of this Governance Agreement, an “**Affiliate**” of a Party means any entity that directly or indirectly controls, is controlled by, or is under common control with such Party, where “control” means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, membership interests, the power to appoint directors or trustees, by contract, or otherwise.

WHEREAS, Partners is a Massachusetts not-for-profit corporation, exempt from federal income tax as an organization described in 501(c)(3) of the Internal Revenue Code (the “**Code**”) and the parent organization of MGH, several community and specialty hospitals, several academic and community physician organizations and a managed care plan that comprise a Boston-based, nonprofit health care system (collectively, the “**Partners System**”) that is committed to patient care, research, teaching and service to the community;

WHEREAS, MGH is the sole corporate member of certain Massachusetts not-for-profit provider entities which are tax exempt from federal income tax as organizations described in Section 501(c)(3) of the Code: The General Hospital Corporation that owns and operates the tertiary, acute care hospital in Boston, Massachusetts known as “Massachusetts General Hospital” (“**GHC**”); the Massachusetts General Physicians Organization, Inc. (“**MGPO**”) that employs a substantial number of the physicians on the medical staff of GHC; and Martha’s Vineyard Hospital, Inc., Nantucket Cottage Hospital and Cooley Dickinson Health Care

Corporation that operate acute care community hospitals in Massachusetts (collectively, the “**MGH MA Community Hospitals**”);

WHEREAS, pursuant to an acquisition that was effective on January 1, 2017 (the “**WDH Affiliation**”), MGH became the sole corporate member of WDH, and WDH became a part of the Partners System, subject to the terms of the Governance Agreement dated January 1, 2017 by and among WDH, the former parent of WDH, Wentworth-Douglass Health System (“**WDHS**”), and MGH (the “**Original Governance Agreement**”);

WHEREAS, the Parties have entered into a certain Agreement for Affiliation with Exeter Health Resources, Inc. dated April 12, 2019 (the “**Transaction Agreement**”) pursuant to which upon the Effective Date, MGH became the sole corporate member of the Network Parent, which in turn, became the sole corporate member of each of WDH and EHR (the “**Affiliation**”);

WHEREAS, upon the closing of the Affiliation, the Original Governance Agreement terminated and WDHS was merged with and into WDH as the surviving entity;

WHEREAS, on the Effective Date, WDH will continue to be the sole member of each of Wentworth-Douglass Hospital & Health Foundation, a New Hampshire not-for-profit corporation (“**The Foundation**”) and Wentworth-Douglass Physician Corporation, a New Hampshire not-for-profit corporation (“**WDPC**” and together with The Foundation, the “**WDH Subsidiaries**”); and EHR will continue to be the sole member of each of Exeter Hospital, Inc., Rockingham VNA (“**RVNA**”) & Hospice, Core Physicians, LLC (“**Core**”) and Exeter Med Real, Inc. (collectively, the “**EHR Subsidiaries**”, and together with the WDH Subsidiaries, the “**Local Organization Subsidiaries**”); and

WHEREAS, the Parties wish to confirm certain mutually agreed upon terms and conditions relating to the governance of the Network Parent, EHR, WDH and the Local Organization Subsidiaries by MGH on and after the Effective Date.

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

## **I. Term**

1.1 **Term**. The Governance Agreement shall commence on the Effective Date and shall continue until the fifth anniversary of the Effective Date (the “**Term**”) unless otherwise terminated as provided herein.

1.2 **Long-Term Commitments**. Notwithstanding the foregoing, the “**Long-Term Commitments**” of MGH and the rights of the Network Parent, EHR and WDH set forth in the Bylaws of the Network Parent (the “**Network Parent Bylaws**”) shall survive expiration of this Governance Agreement.

## **II. Joint Vision**

2.1 **Purpose**. The purpose of the Affiliation is for the Network Parent, WDH and EHR to create a combined and integrated health care network in the New Hampshire Seacoast

Region (the “**Seacoast Network**”) that will, in coordination with MGH, provide New Hampshire Seacoast residents with sustainable access to high quality health care services. Working together, the Network Parent, WDH and EHR, in collaboration with MGH, will be able to: (i) develop more expansive access to local, cost-effective health care services in the Seacoast Region (as defined in Section 2.3 below) with enhanced coordination for all services and seamless access to tertiary and quaternary care, (ii) improve quality and continuity of care through shared leadership and joint investment in resources such as comprehensive population health management and a single electronic medical record, (iii) coordinate and rationalize clinical programs with an initial focus on musculoskeletal, obstetrics and neonatology services, primary care, cardiovascular services, behavioral health and substance use disorder treatment, and promote that the appropriate level of care is provided at the right provider location, (iv) achieve economies of scale and enable the Parties to more efficiently use their clinical and administrative resources by spreading care management, capital planning and other overhead costs across a broader integrated delivery system, and (v) increase WDH’s, EHR’s and the Local Organization Subsidiaries’ ability to recruit and retain highly qualified physicians and other employees.

2.2 **Network Parent Guiding Principles.** The Network Parent will manage the operations of the new Seacoast Network and will assume much of the governing responsibilities for WDH, EHR and the Local Organization Subsidiaries with adherence to the following “**Network Parent Guiding Principles**”: (i) to support and strengthen the charitable missions of each of WDH, EHR and the Local Organization Subsidiaries, (ii) to make decisions that align with the shared visions and strategic objectives outlined in this Governance Agreement, (iii) to maximize the value of the Seacoast Network, as a whole, while preserving the unique culture of each provider in the Network, and (iv) to approach any operational changes identified through the process outlined herein at the Local Organizations and the Local Organization Subsidiaries in a transparent, sensitive and comprehensive manner consistent with their charitable missions.

2.3 **Seacoast Region.** The term “**Seacoast Region**” as used in this Governance Agreement refers to the geographic area shown on the map attached hereto as **Exhibit A**, which may be modified through the process set forth in the Network Parent Bylaws.

2.4 **Scope.** The Parties intend that the Network Parent shall be the primary focus of MGH’s and Partners’ clinical development in the Seacoast Region. Accordingly, except as set forth on **Schedule 2.4** attached hereto or as otherwise approved in writing by the board of Trustees of the Network Parent (the “**Network Parent Board**”), the Parties agree that any hospital service, outpatient service or physician practice that is now or hereafter offered by Partners or any Partners Affiliate in the Seacoast Region shall: (i) be operated under the control of or under a contract with the Network Parent, Local Organization or a Local Organization Subsidiary, (ii) be located in a facility controlled by the Network Parent, Local Organization, or a Local Organization Subsidiary, or (iii) be established pursuant to a strategic plan approved by the Network Parent Board.

### **III. Network Parent Governance**

3.1 **Exercise of Reserved Powers.** Consistent with the vision and values described herein and with New Hampshire laws and regulations, MGH agrees that it will exercise its “reserved powers” as such term is defined in the Network Parent Bylaws over the Network

Parent, EHR and WDH as a fiduciary and in a manner that will continue, consistent with past policies and practices, to honor Network Parent's, EHR's and WDH's charitable missions and values and to fulfill the healthcare needs of the communities that each serves, including the poor and underserved residents of those communities.

3.2 MGH Commitment. Without limiting the foregoing Section 3.1, MGH will maintain each of Exeter Hospital and WDH as a general acute care hospital that: (i) offers substantially the same scope and level of services and programs as each respective hospital offered on the Effective Date, subject to changes approved in accordance with the approval process set forth in the Network Bylaws; (ii) provides quality hospital and health care services including access to, and treatment of, patients regardless of their insurance status or ability to pay; (iii) follows financial assistance policies and billing, collection and charge limitations consistent with federal and state law; (iv) continues to provide grants to charitable community organizations in accordance with the policy described in Section 3.17 of the Transaction Agreement; (v) supports programs that benefit the health, health education and welfare of the communities that Exeter Hospital and WDH each, respectively serves; and (vi) participates in governmental health insurance programs. In connection with the commitments set forth in this Section 3.2, MGH will also ensure that the Network Parent and the Local Organization Subsidiaries are able to satisfy, as and when such obligations become due and payable, any and all of their obligations under all debt and any other long-term financial liabilities of Network Parent and its direct and indirect subsidiaries that may be outstanding from time to time. The Parties agree that the foregoing commitment is subject to the requirements that: (i) Exeter Hospital and WDH, respectively, continue to maintain appropriate and adequate levels of patient demand for such services; (ii) third party payer reimbursement exists to support the financial viability of Exeter Hospital and WDH, respectively; and (iii) Exeter Hospital and WDH, respectively, maintain an acceptable overall level of clinical quality and patient safety appropriate for a community hospital.

3.3 Realignment. The Parties acknowledge that Partners may reorganize the Partners System into a new structural model (a "**Realignment**"). A Realignment might include changing the membership of provider entities that are now, or hereafter become, members of the Partners System so that provider entities that share common characteristics come under common governance or under common intermediate parent entities (i.e. holding companies). These groupings of providers are referred to as "**Affinity Groups**." Accordingly, the Parties acknowledge and agree that MGH reserves the right in connection with such Realignment to restructure or realign the corporate membership of the Network Parent to shift the corporate membership (and the related "reserved powers") of the Network Parent and other provisions in the Governance Agreement to an Affinity Group to which the Network Parent and the Local Organizations have been assigned pursuant to the Realignment (and such Realignment shall not constitute a "Major Decision" as defined in the Network Parent Bylaws or otherwise require any approval of the Network Parent); provided however that: (1) any such changes involving the Network Parent and the Local Organizations as a result of such Realignment will be consistent with and substantially similar to corresponding changes that are being made to at least one of Partners' direct subsidiary hospitals, Newton-Wellesley Hospital or North Shore Medical Center (each of the foregoing "**First Tier Hospitals**"); (2) GHC will remain the principal academic medical center affiliate of the Network Parent and the Local Organizations; (3) Network Parent

will remain the sole member of WDH, EHR and the Local Organizations; (4) the Network CEO must continue to report to the Network Parent Board; (5) if another Partners entity replaces MGH as the corporate Member of the Network Parent, this Governance Agreement shall be amended to add such replacing entity as a Party to the Governance Agreement; and (6) the terms of the Realignment comply with New Hampshire law.

**IV. Interim CEO; Network CEO**

4.1 Interim CEO. The Interim CEO of the Network Parent, as identified in the Closing Memorandum which was executed by the Parties and WDHS and delivered upon the closing of the Affiliation (the “**Closing Memorandum**”), shall take office upon the Effective Date.

4.2 Network CEO. Within one (1) month following the Effective Date, or sooner if practicable, the Network Parent Board shall establish a search committee comprised of the President of MGH (the “**MGH President**”) and such trustees of the Network Parent Board (the “**Network Parent Trustees**”) and others as the Network Parent Board in consultation with the MGH President will determine. The search committee shall submit to the Network Parent Board a nomination for the person to hold the office of the President and Chief Executive Officer of the Network Parent (the “**Network CEO**”), whose selection will be subject to ratification by MGH. The Parties agree that the Interim CEO and the Network CEO shall reside and be active as a community member within the Seacoast Region, except to the extent that this residency requirement is otherwise waived by the Network Parent Board in a particular circumstance.

4.3 CEO Reporting. The Interim CEO and the Network CEO, as applicable, will report to the Network Parent Board and to the MGH President.

4.4 CEO Compensation. The Network Parent Board will make recommendations about the performance and compensation of the Interim CEO and the Network CEO, as applicable, for approval by the Compensation Committee of MGH.

4.5 Removal of the CEO. The MGH President will have the right to remove the Interim CEO and the Network CEO, as applicable, from his or her roles at the Network Parent and each of EHR and WDH without cause upon consultation with (but not approval of) the Network Parent Board.

**V. Network Parent Senior Executives**

5.1 Network Parent Senior Executives. The Interim CEO or the Network CEO, as applicable, shall have the authority to determine the composition of his or her senior executive team and to hire his or her direct reports after consultation with the appropriate MGH and/or Partners administrative department leaders to which such employee also reports, if applicable.

5.2 Senior Executive Reporting. Certain of the Network Parent senior executives will have dotted line reporting to the MGH administrative department leaders in their respective clinical and operational service areas but subject to overriding accountability to the Interim CEO or the Network CEO, as applicable.

5.3 Removal of Senior Executives. The Interim CEO or the Network CEO, as applicable, shall have the authority to terminate his or her direct reports after consultation with the appropriate MGH and/or Partners administrative department leaders to which such employee also reports, if applicable.

**VI. Local Organizations**

Subject to compliance with state law, the boards of trustees of WDH, EHR, and Exeter Hospital will be a “mirror board” of the Network Parent Board (i.e., identical in composition) on the Effective Date and as such Network Parent Board may change over time. The chief executive officer of each Local Organization serving immediately before the Effective Date shall continue to serve in that capacity until the appointment of the Network CEO. At such time as the Network CEO is appointed, the Network CEO will also be appointed as the President and Chief Executive Officer of EHR/Exeter Hospital and WDH, respectively. The Local Organizations will have the authority as designated to each such applicable Local Organization in the organizational documents adopted for such Local Organization on the Effective Date, which shall set forth the reserved powers retained by the Network Parent and MGH.

**VII. Integration Process**

7.1 Network Integration Committee. As a means of fostering closer operational and governance coordination between MGH, the Network Parent, the Local Organizations and the Local Organization Subsidiaries and to provide coordination for the implementation of the Affiliation and the commitments contained in this Governance Agreement, MGH, the Network Parent, and the Local Organizations will each appoint an equal number of members of their respective senior management teams to participate on a “**Network Integration Committee.**” The Network Integration Committee will review and seek to informally resolve any operational issues, and concerns relating to the implementation of the Affiliation. The Network Integration Committee will be organized promptly after the Effective Date and will remain in place for at least twenty-four (24) months and as long thereafter as the Network Parent, MGH and the Local Organizations determine is reasonably necessary to accomplish its purposes.

7.2 Network Strategic Plan. The Network Parent Board shall oversee development and implementation of a multi-year strategic plan for clinical and operational collaboration among MGH, the Network Parent, WDH, EHR and each of the Local Organization Subsidiaries (the “**Network Strategic Plan**”), which will include an initial twenty-four month integration plan (the “**Initial Integration Plan**”). The Initial Integration Plan will be composed of work plans that will be developed for each area of integration, which work plans will be executed upon by integration teams made up of representatives of each of the Parties including Partners, as applicable, who have expertise in each identified work plan area (the “**Integration Work Teams**”). The Network Strategic Plan will be subject to the approval of both the Network Parent Board and the MGH Board. The Integration Work Teams will provide updates on the progress of the Initial Integration Plan periodically to the Network Integration Committee.



7.3 Information Technology.

7.3.1 Implementation for EHR. MGH will oversee the implementation for EHR, Exeter Hospital, Core, and RVNA of: (i) Epic-based Partners eCare electronic health record system (“**Epic**”), (ii) PeopleSoft, and (iii) certain other mutually agreed upon information technology systems, which implementation will include Integration Work Teams developing and implementing work plans as described in Section 7.2 above for the achievement of certain mutually agreed upon information technology system milestones. Without limiting the foregoing, MGH will make best efforts to ensure that the “go-live” date for the implementation of Epic at Exeter Hospital and Core is no later than the third anniversary of the Effective Date.

7.3.2 Implementation for WDH. To the extent that the “go-live” date for implementation at WDH of Epic has not occurred on or before the Effective Date and, in connection therewith, a special subcommittee of the WDH Board has been appointed as set forth in the Closing Memorandum (the “**WDH Epic Subcommittee**”), such subcommittee will remain in place until no later than sixty (60) days following the date upon which Partners eCare has achieved “go-live” status at WDH and such subcommittee will be dissolved.

7.4 Decisions Concerning Clinical Services.

7.4.1 The Parties agree that any Major Decisions (as defined in the Network Parent Bylaws) regarding the consolidation, closure or initiation of any clinical services or programs that the Local Organizations and the Local Organization Subsidiaries operate or will operate in the Seacoast Region will be made in accordance with the Network Parent Guiding Principles set forth in Section 2.2 above and the Network Strategic Plan. Additionally, in reviewing the proposed closure or relocation of a service, the Network Parent Board shall consider, at a minimum: (i) the financial impact of the closure; (ii) the financial viability of the service; (iii) the impact on community access to services, with a special review of the impact on vulnerable and underserved portions of the community; (iv) the role of the service in fulfilling the charitable missions of the Network Parent and the Local Subsidiaries; and (v) the ability of other providers, including those affiliated with the Network Parent and others, to fill any gaps in services that might result.

7.4.2 Level II Nursery. Based on community needs review and service line planning efforts conducted by the Parties, there is mutual agreement that there is an identified, immediate need in the Seacoast Region to develop a Level II pediatric nursery in order to ensure that newborns and infants who require specialized care and hospitalization can receive that care without leaving the Seacoast Region. Given the scope and scale of WDH’s existing Ob/Gyn practice, the Parties agree that a Level II pediatric nursery will be developed at WDH and that plans for the development of such pediatric nursery will be included as part of the Initial Integration Plan.

7.5 Community Hospital Committee. So long as the MGH Board continues to have the Community Hospital Committee of the MGH Board (the “**Community Hospital Committee**”), the Network Parent will have representation on that Committee with such representation consisting of the following four (4) individuals or such individual’s designee if he or she is unable to attend a meeting of the Committee: (i) the Interim CEO or Network CEO, as

applicable, *ex officio*; (ii) the Chair of the Network Parent Board, *ex officio*; (iii) one (1) WDH physician leader selected by the WDH Board, and (iv) one (i) Exeter Hospital physician leader selected by the EHR Board. MGH shall be entitled to restructure the purposes and composition of the Community Hospital Committee so long as the effect of such restructuring on the Network Parent is substantially the same as the effect of such restructuring on the MGH MA Community Hospitals.

7.6 Quality and Safety Recommendations. To the extent that following the Effective Date, EHR or any EHR Subsidiary has not fully implemented any of the risk appraisal recommendations made by CRICO Strategies in consultation with MGH that EHR has committed to implement, EHR will: (i) continue to work diligently and in good faith toward timely, full implementation of the recommendation(s) and (ii) provide quarterly reports to MGH and the Network Parent Board of its progress on such implementation.

## **VIII. Financial Matters**

8.1 Funding of Network Parent. On the Effective Date, each of the Local Organizations shall transfer such amount as is identified in the Closing Memorandum to the Network Parent for the initial capitalization of the Network Parent. Approval of any subsequent transfer of funds from a Local Organization or a Local Organization Subsidiary in order to provide additional capital for the Network Parent other than as required in the ordinary course for working capital of the Network Parent shall constitute a Major Decision as defined in the Network Parent Bylaws and shall also be subject to review and approval by MGH in the exercise of its reserved powers.

### **8.2 Ownership and Use of Charitable Assets of Local Organizations.**

8.2.1 The assets of EHR and the EHR Subsidiaries, including without limitation real and personal property, investment fund balances, bequests, board-designated and unrestricted funds and all other assets, that are on the balance sheet of EHR and the EHR Subsidiaries, respectively, as of the Effective Date or that become the property of EHR and the EHR Subsidiaries, respectively, after the Effective Date, shall remain the property of EHR or the applicable EHR Subsidiary. All such assets shall be used and expended exclusively for appropriate charitable purposes of EHR and the EHR Subsidiaries for the benefit of the communities they have historically served in accordance with New Hampshire charitable trust laws and regulations, including NHRSA 7:19-b, and pursuant to the annual operating and capital budgets for EHR and the EHR Subsidiaries approved by the Network Parent Board and by MGH (in the exercise of its reserved powers).

8.2.2 The assets of WDH and the WDH Subsidiaries, including without limitation real and personal property, investment fund balances, bequests, board-designated and unrestricted funds and all other assets, that are on the balance sheet of WDH and the WDH Subsidiaries, respectively, as of the Effective Date or that become the property of WDH and the WDH Subsidiaries, respectively, after the Effective Date, shall remain the property of WDH or the applicable WDH Subsidiary. All such assets shall be used and expended exclusively for appropriate charitable purposes of WDH and the WDH Subsidiaries and for the benefit of the communities they have historically served in accordance with New Hampshire charitable trust

laws and regulations, including NHRSA 7:19-b, and pursuant to the annual operating and capital budgets for WDH and the WDH Subsidiaries approved by the Network Parent Board and by MGH (in the exercise of its reserved powers).

8.2.3 Any action or decision of the Network Parent Board to transfer, use or expend charitable assets of EHR and the EHR Subsidiaries or of WDH and the WDH Subsidiaries other than as specified in Sections 8.2.1 and 8.2.2 hereof, respectively, whether such action occurs in the approval of an operating or capital budget of the Network Parent or of either Local Organization and its Subsidiaries or in the approval of an unbudgeted expenditure or project of the Network Parent or either Local Organization and its Subsidiaries, shall constitute a Major Decision for purposes of the approval requirements specified in the Network Parent Bylaws and shall also be subject to review and approval by MGH in the exercise of its reserved powers.

8.3 Ownership and Use of Charitable Assets of Network Parent. The charitable assets of the Network Parent, including without limitation real and personal property, investment fund balances, bequests, board-designated and unrestricted funds and all other assets, that are transferred to the Network Parent pursuant to Section 8.1 hereof and are on the balance sheet of the Network Parent as of the Effective Date or that become the property of the Network Parent after the Effective Date shall remain the property of the Network Parent. All such assets shall be used and expended exclusively for appropriate charitable purposes of the Network Parent in accordance with New Hampshire charitable trust laws and regulations, including NHRSA 7:19-b, and pursuant to the annual operating and capital budgets for the Network Parent approved by the Network Parent Board and by MGH (in the exercise of its reserved powers).

8.4 Fundraising.

8.4.1 EHR and the EHR Subsidiaries. Subject to Section 8.4.3 below, EHR and Exeter Hospital will continue to have authority to oversee fundraising and development for EHR and the EHR Subsidiaries consistent with the mission, overall strategies and fundraising policies of Partners, the Network Parent, MGH, EHR and the EHR Subsidiaries. All funds that are raised through the efforts of EHR, Exeter Hospital or any other tax-exempt EHR Subsidiary will be used and expended in accordance with the provisions of Section 8.2.1 and 8.2.3 hereof.

8.4.2 WDH and the WDH Subsidiaries. Subject to Section 8.4.3 below, the Foundation will continue to be separately endowed and a supporting organization of WDH and the WDH Subsidiaries and will continue to have authority to oversee fundraising and development for WDH and the WDH Subsidiaries consistent with the mission, overall strategies and fundraising policies of Partners, the Network Parent, MGH, WDH and the WDH Subsidiaries. All funds that are raised through the efforts of The Foundation, WDH or any other tax-exempt WDH Subsidiary will be expended in accordance with the provisions of Section 8.2.2 and 8.2.3 hereof.

8.4.3 Coordination by the Network Parent. The Network Parent shall develop an integrated program to coordinate at the Network level the fundraising and philanthropic activities of each Local Organization. Each Local Organization agrees to continue to provide its

respective community benefits in accordance with approved budgets, including programs to benefit underserved populations and populations with special needs.

8.5 Capital.

8.5.1 Partners Financial Framework. The Parties agree that, except as is otherwise specifically set forth in this Governance Agreement, the allocation and use of capital by the Network Parent, EHR and the EHR Subsidiaries and WDH and the WDH Subsidiaries shall be determined in accordance with the capital policies and procedures adopted from time to time by the Board of Directors of Partners including, without limitation, the Partners' System-wide capital framework (the "**Partners Financial Framework**") and the capital project approval requirements of MGH.

8.5.2 Baseline Capital. On and after the Effective Date, in accordance with the Partners Financial Framework, the Network Parent will have the authority to approve capital expenditures in an amount equal to a percentage of the sum of the annual depreciation of the Local Organizations and the Local Organization Subsidiaries (the "**Baseline Capital**"). Such percentage shall be determined in accordance with the Partners Financial Framework as in effect from time to time and that is consistent with the level of baseline capital available to all other Partners community acute care hospitals. The Baseline Capital percentage as of the Effective Date shall be 65% of depreciation. The Network Parent shall develop an annual budget for capital projects, subject to the approval of the MGH Board and the Partners Board. Notwithstanding such approvals, all individual capital projects of the Network Parent, either Local Organization or any Local Organization Subsidiary that are being funded with such Baseline Capital will be subject to such review and approval by the MGH Board and such review and approval by Partners as is required under procedures and criteria that are applied consistently across the Partners System.

8.5.3 EHR Strategic Investment Plan. The EHR and Exeter Hospital Boards of Trustees have designated a total amount of Sixty One Million Dollars (\$61,000,000) on EHR's consolidated balance sheet (the "**EHR Strategic Investment Fund**") for use by EHR and the EHR Subsidiaries for the following: (i) Twenty Six Million Dollars (\$26,000,000) for the major strategic capital projects identified on Exhibit B to this Governance Agreement (the "**EHR Strategic Capital Projects**"), or for other future strategic opportunities as adopted by a vote of the Network Parent Board and approved by MGH and (where applicable) by the Partners Finance Committee; and (ii) Thirty Five Million Dollars (\$35,000,000) for Epic implementation at EHR and the EHR Subsidiaries. MGH agrees that the funding for the EHR Strategic Investment Fund will not be restricted or reduced as a result of the Partners Financial Framework capital allocation process, and WDH and MGH agree that the EHR Strategic Investment Fund will not be restricted or diminished by the Network Parent. Furthermore, EHR shall be permitted to spend the amount ultimately required to implement Epic should that amount exceed the \$35,000,000 estimate without further approval by the Partners Finance Committee or the Network Parent, and without reduction from the amount earmarked for EHR Strategic Capital Projects. For the avoidance of doubt, the \$26,000,000 designated for EHR Strategic Capital Projects shall not be increased by amounts unspent on Epic.

8.5.4 WDH Strategic Investment Fund. To the extent that any amounts that were board-designated as a “Strategic Investment Fund” on WDH’s balance sheet pursuant to the WDH Affiliation remain unspent as of the Effective Date (the “**WDH Strategic Investment Fund**”), WDH and the WDH Subsidiaries may continue to use such unspent amounts for the capital projects mutually agreed upon by WDH and MGH in the “**WDH Initial Capital Plan**” adopted as part of the WDH Affiliation or for other future strategic opportunities as determined by the Network Parent Board and approved by MGH and (where applicable) by the Partners Finance Committee. MGH agrees that the funding for the WDH Strategic Investment Fund will not be restricted or reduced as a result of the Partners Financial Framework; and EHR and MGH agree that the WDH Strategic Investment Fund will not be restricted or diminished by the Network Parent. Notwithstanding the foregoing, individual projects of WDH and the WDH Subsidiaries that are being funded with the WDH Strategic Investment Fund will continue to be subject to the Partners Finance Committee approval process and the then applicable Finance Committee Capital approval threshold, which is currently \$10,000,000.

8.5.5 Future Capital Projects. Except as described in Sections 8.5.3 and 8.5.4 hereof, all future capital projects of EHR and the EHR Subsidiaries, WDH and the WDH Subsidiaries and the Network Parent, whether funded from Baseline Capital or from additional funds made available to the Network Parent, EHR and the EHR Subsidiaries or WDH and the WDH Subsidiaries pursuant to the Partners Financial Framework, will require approval by the Network Parent Board, MGH and (where applicable) the Partners Finance Committee. All such projects will be reviewed in accordance with the procedures and criteria that are applied consistently across the Partners System. MGH agrees that the Finance Committee approval threshold will only be adjusted for EHR, WDH and the Network Parent to the extent that the same such adjustment is made to one of the First Tier Hospitals.

8.6 Partners Corporate Services. Certain services provided by Partners to its subsidiary entities (the “**Partners Corporate Services**”), including treasury and financing services, legal services, payer contracting, professional liability and other insurance, pension and retirement programs, information technology, supply chain, cash management, compliance, and clinical quality measurement, will be fully available to the Network Parent, WDH, EHR and Local Organization Subsidiaries both as offered as of the Effective Date and as may be offered in the future, in the same manner as such Partners Corporate Services are available to the First Tier Hospitals. As soon as reasonably practicable after the Effective Date, the Network Parent, EHR and the EHR Subsidiaries will participate in the Partners Corporate Services in accordance with the timeline and scope mutually agreed upon between the Parties in the Network Strategic Plan. The Network Parent, the Local Organizations and the Local Organization Subsidiaries will be charged for the Corporate Services (the “**Corporate Charges**”) on the same basis as the Corporate Charges are charged to the First Tier Hospitals.

8.7 PHM Tax. The Parties acknowledge and agree that the Network Parent, WDH, WDPC, EHR and Core will be charged a Partners System-wide fee for Population Health Management services (the “**PHM Tax**”) following the Effective Date *pro rata* only to extent of such entity’s use of the PHM services and programs.

## IX. Joint Marketing and Co-Branding

The Network Parent will be named and branded as such name and brand is identified through the process set forth in the Transaction Agreement. Except as otherwise may be determined by the Network Parent Board, each of the Local Organizations and the Local Organization Subsidiaries will retain the tradenames that they used prior to the Effective Date but will be identified as affiliates of MGH, Partners and the Network Parent in a manner that is consistent with the MGH and Partners branding standards and any Network Parent branding standards. The specific textual and graphic uses of the identification of EHR, WDH and the Local Organization Subsidiaries as affiliates of MGH, Partners and the Network Parent are in each case subject to the approval of MGH, Partners and the Network Parent.

## X. Withdrawal Events

10.1 Withdrawal Definition. For purposes of this Governance Agreement, “**Withdrawal**” shall mean one or more transactions (which may include, without limitation, a change of sole corporate membership of the Network Parent, a merger involving the Network Parent, the sale of substantially all of the assets of the Network Parent, or a management agreement involving substantially all of the operations and assets of the Network Parent) pursuant to which: (i) MGH ceases to have direct or indirect control of the Network Parent, and (ii) the Network Parent becomes either (1) an independently-governed entity or (2) a member of another not-for-profit health care system that has no corporate relationship with MGH, as determined by the Network Parent or as determined by a majority of the WDH-Designated Trustees (as such term is defined in the Network Parent Bylaws) (such majority vote of the WDH-Designated Trustees being referred to herein as the “**WDH Voting Bloc**”) and a majority of the EHR-Designated Trustees (as such term is defined in the Network Parent Bylaws) (such majority vote of the EHR-Designated Trustees being referred to herein as the “**EHR Voting Bloc**”), as applicable.

10.2 Terms. The terms of any Withdrawal must be mutually acceptable to the Network Parent and MGH; provided, however, that in the case of a Mandatory Withdrawal Event (as such term is defined in Section 10.3 below), if the Network Parent and MGH cannot reach agreement on the terms of the Withdrawal after a reasonable good faith effort by the Network Parent and MGH, the Network Parent will be entitled to proceed with the Withdrawal on such terms as are determined solely by the Network Parent.

10.3 Mandatory Withdrawal Event. During the Term, the EHR Voting Bloc and the WDH Voting Bloc shall each have the right unilaterally to exercise a Withdrawal upon the occurrence of a “**Mandatory Withdrawal Event**,” which means any transaction or event or series of related transactions or events that would result in the Network Parent being controlled directly, or indirectly by, or that would result in substantially all of the assets of the Network Parent being owned or managed by, any organization(s) that are not “**Exempt Organizations**” within the meaning of Section 501 of the Code, including without limitation through: (i) MGH becoming owned or controlled (directly or indirectly) by any organization(s) other than an Exempt Organization; (ii) MGH losing its status as an Exempt Organization; (iii) with respect to WDH, another event occurring that would violate Chapter 177 (HB 553) of the Laws of New Hampshire 1989; or (iv) any action or omission of MGH that would, in the opinion of nationally

recognized tax counsel selected by the Network Parent and approved by MGH, jeopardize Network Parent's status as an Exempt Organization.

10.4 Discretionary Withdrawal. During the Term, the EHR Voting Bloc and the WDH Voting Bloc, acting jointly, shall have the right to exercise a Withdrawal upon the occurrence of one of the below "**Discretionary Withdrawal Events**."

10.4.1 MGH proposes to divest control of the Network Parent through one or more transactions that include, without limitation, a change of sole corporate membership, or a merger or sale of substantially all assets to any Exempt Organization(s) that are not Affiliates of MGH;

10.4.2 A change of direct or indirect control of MGH (through one or more transactions that include a change of sole corporate membership, merger or sale of substantially all assets of MGH) to any Exempt Organization(s) that were not Affiliate(s) of MGH prior to such transaction; or

10.4.3 A Realignment that is inconsistent with the requirements of Section 3.3.

## **XI. Dispute Resolution**

Unless otherwise provided or limited elsewhere in this Governance Agreement, any dispute between any Party with another Party relating to the rights and obligations contained herein shall be subject to the dispute resolution provision described below.

11.1 Stage One. Any of the EHR Voting Bloc, the WDH Voting Bloc, or a majority of the MGH-Designated Trustees (as such term is defined in the Network Parent Bylaws) (such majority vote of the MGH-Designated Trustees being referred to herein as the "**MGH Voting Bloc**") may give the other Voting Blocs written notice of any dispute which was not resolved in the normal course of business. Within ten (10) calendar days after delivery of such notice, the MGH President, the Interim CEO or the Network CEO, and a designee from each of the WDH Voting Bloc and the EHR Voting Bloc (collectively, the "**Party Representatives**") shall meet to discuss and attempt to resolve the dispute. In the event that the Party Representatives fail to meet within that ten (10) day period, or that after thirty (30) calendar days the Party Representatives are deadlocked and unable to agree on a resolution, any of the MGH Voting Bloc, the WDH Voting Bloc or the EHR Voting Bloc may proceed to Stage Two of the dispute resolution process as described below by giving written notice to the other Voting Blocs.

11.2 Stage Two: Non-Binding Mediation. If any of the Party Representatives elects to continue to seek resolution of the dispute, it will so notify the other Party Representatives in writing. Within fourteen (14) days of such notice, the Party Representatives will agree on a mediator who is experienced in mediation of health care matters similar to those in contention between the Parties. The mediation will be held promptly after the mediator is identified and will be conducted in accordance with the procedures prescribed by him or her. MGH, WDH and EHR will share equally in the cost of the mediation and each such Party will remain solely responsible for its legal fees and other costs related to participation in the mediation. The Stage Two is non-binding but the Parties will be obligated to exert good faith efforts to reach common

ground and resolve their differences. The mediation period shall be sixty (60) days, unless extended by written agreement. The proposals and discussion made during mediation shall be Confidential Information and shall not be introduced as evidence in any court proceeding.

11.3 Stage Three: Litigation. If mediation under Section 11.2 above is unsuccessful, or if the Parties are unable to agree on a mediator in a timely fashion, any Party may pursue its remedies at law and/or in equity by filing suit in a court of competent jurisdiction.

11.4 Injunctive Relief. Nothing in this Article XI shall be interpreted to limit the rights of any Voting Bloc or party to seek injunctive or equitable relief during the dispute resolution process for disputes arising under this Governance Agreement relating to Section 2.4, Section 3.1, Section 3.2, and Section 8.2.

11.5 Effect of Dispute Resolution Process on Performance. Until a dispute is finally resolved in accordance with this Article XI, the Parties shall continue to perform all of their respective obligations under this Governance Agreement subject to any equitable relief ordered in accordance with Section 11.4.

11.6 Standing to Enforce; Fees and Costs. Any Voting Bloc shall have standing to take action to enforce this Governance Agreement and to assert the rights of WDH, EHR or the Local Organizations. The WDH Voting Bloc or EHR Voting Bloc may reasonably and in good faith engage independent legal counsel, accountants, or such other advisors or experts as may be required under the circumstances, all at the reasonable cost of the Network Parent or the applicable Local Organizations.

## **XII. Miscellaneous**

12.1 Entire Agreement. This Governance Agreement, including all Exhibits, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all previous discussions and agreements between the Parties with respect to such subject matter, except as set forth in the Network Parent Bylaws or the bylaws of its subsidiaries.

12.2 Notices. Any notice hereunder may be given by hand; by certified mail, return receipt requested; by overnight delivery service with confirmation of receipt received in writing; or by electronic mail with a return receipt requested and received; in each case delivered to the receiving Party at its mailing or email address set forth on the signature page of this Governance Agreement; or to such other address as the Network Parent, EHR, WDH or MGH may specify by written notice to the other Parties.

12.3 Public Statements. The timing, content and context of any public announcements, press releases or other public statements by any of the Parties concerning this Governance Agreement and all related matters will occur only upon, and will be determined in advance by, mutual agreement and consent of the Parties. Nothing in this Governance Agreement shall prohibit any Party from making a disclosure that, in the opinion of counsel to such Party, is required by law; provided, however, that the disclosing Party shall provide the other Party with written notice of the need for disclosure at least five (5) business days prior to making any such disclosure.



12.4 Assignment; Merger. Assignment by any Party of any of its rights or obligations under this Governance Agreement is expressly prohibited. This Agreement shall be binding on the successors and permitted assigns of the Parties. In the event of a merger of EHR into Exeter Hospital, Exeter Hospital shall succeed to all of the rights and obligations of EHR under this Agreement, and any reference to the EHR trustees herein shall be deemed to be a reference to the Exeter Hospital trustees.

12.5 Severability. If any provision of this Governance Agreement or the application thereof is held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall continue to be valid and enforceable to the fullest extent permitted by law, unless to do so would defeat the overall purposes of this Governance Agreement.

12.6 No Waiver. The failure by a Party at any time to require performance of any provision of this Governance Agreement shall not constitute a waiver of such provision and shall not affect the right of such Party to require performance at a later time.

12.7 Governing Law. This Governance Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire, without giving effect to conflict of laws principles thereof.

12.8 Counterparts. This Governance Agreement may be executed in counterparts, each of which shall be an original but all of which together shall constitute one Agreement.

**\*Signature page follows\*\***

IN WITNESS WHEREOF, the Parties have caused this Governance Agreement to be executed by their respective, duly authorized officers as of the Effective Date.

<p>EXETER HEALTH RESOURCES, INC.</p> <p>By: _____  Kevin Callahan  Its: President</p> <p>Notice Address for EHR:  5 Alumni Drive  Exeter, NH 03833  Attention: Kevin Callahan  Email: KCallahan@ehr.org</p>	<p>THE MASSACHUSETTS GENERAL HOSPITAL</p> <p>By: _____  Peter L. Slavin, M.D.  Its: President</p> <p>Notice Address for MGH:  55 Fruit Street  Boston, MA 02114  Attention: Peter L. Slavin, M.D.  Email: pslavin@partners.org</p>
<p>WENTWORTH-DOUGLASS HOSPITAL</p> <p>By: _____  Gregory J. Walker  Its: President and Chief Executive Officer</p> <p>Notice Address for WDH:  789 Central Avenue  Dover, NH 03820  Attention: Greg Walker  Email: Greg.Walker@wdhospital.org</p>	<p>[NETWORK PARENT SIGNATURE BLOCK]</p> <p>By: _____</p> <p>Its:</p> <p>Notice Address for <i>[Network Parent]</i></p>

PARTNERS HEALTHCARE SYSTEM, INC.

By: \_\_\_\_\_

Name: Anne Klibanski, M.D.

Its: Interim President and CEO

Notice Address for Partners:

800 Boylston Street

Suite 1150

Boston, MA 02199

Attn: Anne Klibanski, M.D.

Email: [aklibanski@partners.org](mailto:aklibanski@partners.org)

**List of Exhibits and Schedules**

**Schedule 2.4 – Existing Non-Network MGH/MGPO Clinical Collaborations in the Seacoast Region**

**Exhibit A – Seacoast Region Map**

**Exhibit B – EHR Strategic Capital Projects**

**Schedule 2.4****Existing Non-Network MGH/MGPO Clinical Collaborations in the Seacoast Region**

The following programs are existing clinical collaborations between York Hospital and Massachusetts General Hospital/Massachusetts General Physicians Organization, which are not subject to Section 2.4 of the Governance Agreement:

- **Cancer Center**
  - Genetic Counseling
  - Thoracic Surgery
  - Hematology Oncology
- Pathology
- **Education**
  - CME and Grand Rounds provision across several services
  - Simulation Training
- **Geriatrics**
- **MGHfC (Pediatrics)**
  - Lurie Center for Autism
  - Pediatric Gastroenterology
  - Tele - Neonatology and Newborn Medicine (includes supporting services\* and Consulting Medical Director for program oversight)
  - Tele - Acute Pediatrics and Critical Care (includes supporting services\*)
- \* *Supporting services includes quality oversight and education*
- **Neurology**
  - Joint Medical Director
  - Emergency TeleNeurology (includes TeleStroke)
  - Routine/Urgent TeleNeurology
  - Outpatient TeleNeurology
- **Palliative Care**
- **Psychiatry / Behavioral Health**
  - Geriatric Psychiatry
  - Child Psychiatry
- **Quality and Safety**
  - Advisory Services
  - Peer Review Services
- **Tele-Critical Care (includes Tele-Pulmonology)**
- **Surgery**

**EXHIBIT A**

**Seacoast Region Map**

***[See Attached Map]***

**EXHIBIT B**

**EHR Strategic Capital Projects**

1. Initial Commitment for Inpatient Recapitalization: \$20,000,000
2. Raymond Ambulatory Care Center: \$6,000,000.