

APPENDIX H

AGREEMENT AND PLAN OF MERGER
Upper Connecticut Valley Hospital Association
And
Indian Stream Health Center, Inc.

THIS AGREEMENT AND PLAN OF MERGER ("Agreement") made this 4th day of June, 2021, (the "Execution Date") by and between **UPPER CONNECTICUT VALLEY HOSPITAL ASSOCIATION** ("UCVH"), a New Hampshire nonprofit corporation with a principal place of business at 181 Corliss Lane, Colebrook, NH 03576, and **INDIAN STREAM HEALTH CENTER, INC.** ("ISHC"), a New Hampshire nonprofit corporation with a principal place of business at 141 Corliss Lane, Colebrook, NH 03576, said corporations being sometimes hereinafter individually referred to as a "Party" and collectively as the "Corporations" or the "Parties."

WHEREAS, UCVH and ISHC are each New Hampshire 501(c)(3) tax exempt nonprofit corporations engaged in the delivery of health care services in the Colebrook, New Hampshire community;

WHEREAS, UCVH is a critical access hospital engaged in the delivery of hospital and health care services in Colebrook, New Hampshire and the surrounding communities; and

WHEREAS, ISHC is a designated Federally-Qualified Health Center ("FQHC") engaged in the delivery of health care services and formed to provide healthcare services regardless of income level in Colebrook, New Hampshire and the surrounding communities; and

WHEREAS, the Parties recognize that the delivery of primary care services and other services provided by ISHC represents a crucial component of health care delivery in Colebrook, New Hampshire and that the Parties' charitable missions are aligned in supporting the efficient delivery of ISHC's health care services; and

WHEREAS, the Parties desire to support the continuing delivery of primary care and other services in Colebrook, New Hampshire and anticipate that a combination of their existing organizations will allow them to achieve economic efficiencies and enhance the sustainability of their charitable assets and missions; and

WHEREAS, representatives of the Parties have engaged in an analysis of the efficacy of a combination to support and sustain the delivery of primary health care services in their communities, which has included the establishment of a number of sub-committees tasked with reviewing the benefits of such a combination; and

WHEREAS, as a result of their analysis and review, the respective Boards of Directors of the Corporations deem it advisable that ISHC be merged with and into UCVH under the laws of

the State of New Hampshire in the manner provided therefor pursuant to NH RSA 292:7 (the "Merger").

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, and for the purpose of prescribing the terms and conditions of the Merger, the mode of carrying the same into effect, the manner and the basis of converting the assets and debts of ISHC into assets and debts of UCVH, and such other details and provisions as are deemed necessary or desirable, the parties hereto do hereby agree to merge upon the terms and conditions below stated:

1. AGREEMENT TO MERGE:

The Corporations hereby agree that ISHC shall be merged with and into UCVH pursuant to N.H. RSA 292:7 and that upon the Effective Date of the Merger, the separate corporate existence of ISHC shall cease and UCVH shall continue its corporate existence under New Hampshire law as the surviving corporation in the Merger (the "Surviving Corporation"), and the corporate existence of UCVH, with all of its rights, privileges, immunities, powers and franchises, shall continue unaffected by the Merger. A certified copy of the Plan of Merger attached hereto at Appendix 1 shall be filed with the New Hampshire Secretary of State, Corporations Division, New Hampshire Attorney General Charitable Trusts Unit, and the Town Clerk of the Town of Colebrook, New Hampshire.

2. MERGER EFFECTIVE DATE AND TIME:

The Merger herein contemplated shall become effective upon the filing of a Certificate of Merger with the New Hampshire Secretary of State (the "Effective Date") which filing will occur within thirty (30) days of the date on which all of the conditions precedent to the Merger under this Agreement have been satisfied, or such date as may be agreed upon by the Parties. The Parties' goal is to complete the Merger as soon as possible, with time being of the essence. The Merger will become effective at 12:01 a.m. on the Effective Date (the "Merger Effective Time.")

3. EFFECT OF THE MERGER:

The Merger shall have the effects set forth in this Agreement and the applicable provisions of New Hampshire law. Without limiting the generality of the foregoing, and subject thereto, at the Merger Effective Time (i) all the estate, assets, property, rights, privileges, immunities, powers and franchises of ISHC shall vest in the Surviving Corporation, and (ii) all debts, liabilities, obligations and duties of ISHC shall become the debts, liabilities, obligations and duties of the Surviving Corporation.

4. Representations and Warranties of UCVH:

UCVH hereby represents and warrants to ISHC as follows:

- a. Organization and Good Standing. UCVH is a non-profit voluntary 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 business as now conducted.
- b. Authorization of Agreement. UCVH has all requisite power, authority and legal capacity to execute and deliver, and has taken all corporate action, and has obtained all required corporate approvals, necessary for it to validly execute and deliver, this Agreement and each agreement, document, or instrument or certificate contemplated by this Agreement to be executed and delivered by UCVH in connection with the consummation of the Merger and to perform its obligations hereunder and thereunder. This Agreement has been duly and validly executed and delivered by UCVH and (assuming the due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes legal, valid and binding obligations of UCVH enforceable against UCVH in accordance with its terms.
- c. Consents of Third Parties: Except for (i) the consent of UCVH's parent entity, North Country Healthcare ("NCH"), and any consent expressly contemplated by or referenced in this Agreement, UCVH is not required to obtain any consent, approval, authorization, waiver, order, license or permit of or from, or to make any declaration or filing with, or to give any notification to, any person (including any governmental body) in connection with the execution and delivery of this Agreement, the compliance by UCVH with any of the provisions hereof or thereof, the consummation of the Merger by UCVH, or the taking by UCVH of any other action contemplated hereby or thereby.
- d. Tax Status; New Hampshire Charitable Trust Status. UCVH is an entity exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code. UCVH is a charitable trust under the laws of the State of New Hampshire and is registered with the Charitable Trust Unit of the Office of the New Hampshire Attorney General (the "CTU"). UCVH has filed in a timely manner all annual reports and other filings it is required to file with the CTU.
- e. Litigation. There are no legal proceedings pending or, to the knowledge of UCVH, threatened against UCVH, or to which UCVH is otherwise a party before any governmental body, that, if adversely determined, would reasonably be expected to have a material adverse effect on the ability of UCVH to perform its obligations

under this Agreement or to consummate the Merger. UCVH is not subject to any order of any governmental body except to the extent the same would not reasonably be expected to materially adversely affect the ability of UCVH to perform its obligations under this Agreement or to consummate the Merger.

- f. Hospital Licensure. UCVH is licensed as a hospital under N.H. RSA 151 and under the New Hampshire Administrative Rules PART He-P 802, and is organized and operated in such a manner as to meet all applicable statutory and regulatory requirements imposed on such licensees.
- g. Financial Statements and Condition. UCVH has furnished its most recent audited financial statements together with the report of its independent accountants pertaining to said financial statements. Such financial statements present fairly the financial condition and the results of the operations of UCVH at the dates thereof, using generally accepted-accounting principles consistently applied. Since the above date, there has been: (i) no material adverse change in the financial condition or business of UCVH; (ii) no material loss, destruction or damage to the properties of UCVH; and (iii) no agreement, contract or commitment has been entered into or agreed to be entered into except for those in the ordinary course of business or as has been otherwise disclosed to ISHC in writing.
- h. Insurance. UCVH has maintained and will continue to maintain until the Effective Date its usual and customary property, casualty, liability, extended coverage, and other insurance, including without limitation, insurance on UCVH's tangible personal property and realty, whether owned or leased, against loss or damage by fire or other casualty, in an amount equal to or in excess of one hundred percent (100%) of the replacement value thereof, subject to current deductibles; all such insurance is in full force and effect as of the date of this Agreement, is carried in reputable companies authorized to do business in new Hampshire, and is in amounts and with coverages normally and customarily carried by similar businesses in New Hampshire.
- i. Opportunity for Due Diligence. UCVH has had, or will have had prior to closing, full opportunity to conduct due diligence regarding legal, financial, operational, regulatory, clinical and other matters pertaining to ISHC specifically, and the Merger generally, and the satisfaction of the actions described in Section 9 below will be conclusive evidence that the results of such due diligence are satisfactory to UCVH.

5. REPRESENTATIONS AND WARRANTIES OF ISHC.

ISHC hereby represents and warrants to UCVH as follows:

- a. Organization and Good Standing. ISHC is a non-profit voluntary 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 business as now conducted.
- b. Authorization of Agreement. ISHC has all requisite power, authority and legal capacity to execute and deliver, and has taken or will take all corporate action, and has obtained all required corporate approvals, necessary for it to validly execute and deliver, this Agreement and each agreement, document, or instrument or certificate contemplated by this Agreement to be executed and delivered by ISHC in connection with the consummation of the Merger and to perform its obligations hereunder and thereunder. This Agreement has been duly and validly executed and delivered by ISHC and (assuming the due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes legal, valid and binding obligations of ISHC enforceable against ISHC in accordance with its terms.
- c. Consents of Third Parties: Except for any consent expressly contemplated by or referenced in this Agreement, ISHC is not required to obtain any consent, approval, authorization, waiver, order, license or permit of or from, or to make any declaration or filing with, or to give any notification to, any person (including any governmental body) in connection with the execution and delivery of this Agreement, the compliance by ISHC with any of the provisions hereof or thereof, the consummation of the Merger by ISHC, or the taking by ISHC of any other action contemplated hereby or thereby.
- d. Tax Status; New Hampshire Charitable Trust Status. ISHC is an entity exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code. ISHC is a charitable trust under the laws of the State of New Hampshire and is registered with the CTU. ISHC has filed in a timely manner all annual reports and other filings it is required to file with the CTU.
- e. Litigation. There are no legal proceedings pending or, to the Knowledge of ISHC, threatened against ISHC, or to which ISHC is otherwise a party before any governmental body that, if adversely determined, would reasonably be expected to have a material adverse effect on the ability of ISHC to perform its obligations under this Agreement or to consummate the Merger. ISHC is not subject to any order of any governmental body except to the extent the same would not reasonably

be expected to materially adversely affect the ability of ISHC to perform its obligations under this Agreement or to consummate the Merger.

- f. Environmental Matters. ISHC has not received notice from any person of, and no director or officer has Knowledge of, any (i) pending or threatened environmental claim related to any of its real property or (ii) that it is in material violation of any environmental law.
- g. Federally-Qualified Health Center Certification. At all times prior to the termination of such certification as contemplated by Section 7 herein, ISHC has been certified by the U.S. Health Resources & Services Administration (“HRSA”) as a Federally-Qualified Health Center and is organized and operated in such a manner as to meet all applicable statutory and regulatory requirements imposed by such certification. ISHC has notified UCVH of a Notice of Award received by ISHC and dated February 25, 2021 which includes a “drawdown restriction” (the “NOA”), pursuant to which HRSA’s approval is required prior to ISHC’s drawdown of funds from any HRSA grants.
- h. Financial Statements and Condition. ISHC has furnished its most recent audited financial statements for the calendar year 2019 together with the report of its independent accountants pertaining to said financial statements. Such financial statements present fairly the financial condition and the results of the operations of ISHC at the dates thereof, using generally accepted-accounting principles consistently applied. ISHC also has provided unaudited financial statements for the calendar year 2020 and will provide audited financial statements to UCVH prior to the Merger Effective Time, as contemplated in Section 9 below. To the best of ISHC’s Knowledge, since the date of the 2019 financial statements, there has been: (i) no material adverse change in the financial condition or business of ISHC; (ii) no material loss, destruction or damage to the properties of ISHC; and (iii) no agreement, contract or commitment has been entered into or agreed to be entered into except for those in the ordinary course of business or as has been otherwise disclosed to UCVH in writing or referenced within this Agreement. For the purposes of this Agreement “To ISHC’s Knowledge”, “to the best of ISHC’s Knowledge,” or other similar qualification means the actual or constructive knowledge of any director or officer of ISHC, after due inquiry.
- i. Insurance. ISHC has maintained and will continue to maintain until the Effective Date its usual and customary property, casualty, liability, extended coverage, and other insurance, including without limitation, insurance on ISHC’s tangible personal property and realty, whether owned or leased, against loss or damage by fire or other casualty, in an amount equal to or in excess of one hundred percent

(100%) of the replacement value thereof, subject to current deductibles; all such insurance is in full force and effect as of the date of this Agreement, is carried in reputable companies authorized to do business in New Hampshire or is provided under the Federal Tort Claims Act, and is in amounts and with coverages normally and customarily carried by similar businesses in New Hampshire.

6. AUTHORIZED SHARES OF SURVIVING CORPORATION:

Neither Corporation has capital stock; therefore, there shall be no exchange of shares.

7. OBLIGATIONS OF ISHC:

ISHC shall take such actions as necessary to terminate its status as FQHC, effective immediately prior to the Merger Effective Time.

8. OBLIGATIONS OF SURVIVING CORPORATION:

- a. Immediately following the Merger, UCVH will operate, or will contract with Weeks Medical Center ("WMC") or another third party to operate, a rural health clinic ("RHC") at the real property currently owned by ISHC in Colebrook, New Hampshire for a period of three (3) years from the Merger Effective Time, subject to any period of renovations or remodeling that UCVH determines is necessary in its discretion, and also subject to material adverse federal regulatory changes to RHC reimbursement and structure. The proposed agreement between UCVH and WMC shall be substantially in the form attached as Appendix 2. If a third-party operates, or succeeds to the interest of WMC in operating, the RHC, UCVH shall assure that such third party shall assume all obligations, including the operation of an RHC, relating to the provision of provider services as set forth in this Agreement and Appendix 2. In the event of material adverse changes to RHC reimbursement and structure, UCVH agrees to operate a primary care practice for at least a three (3) year period subject to the obligations contained in Section 8.a, 8.b, and 8.c.
- b. The RHC will utilize a charity care program that offers free care to patients with household incomes below 300% of the Federal poverty level, conditioned on a patient applying for Medicaid and providing documentation to support income. The RHC will also offer a self-pay discount of approximately 40%. The RHC will utilize and offer the charity care program and self-pay discount for a period of at least three (3) years from the Merger Effective Time, after which period UCVH may modify such program and discount, if deemed necessary, by a vote of the UCVH Board of Directors.

- c. The RHC will offer outpatient behavioral health services, substance use disorder services—including medication-assisted treatment—and care management/outreach. The RHC will offer these services for a period of three (3) years from the Merger Effective Time, after which period UCVH may modify such services, if deemed necessary, by a vote of the UCVH Board of Directors.
- d. UCVH will work with NCH to continue to offer patients an NCH 340B discount program participation at the retail pharmacy at ISHC's current location, so long as the federal government does not materially reduce the benefit of such program.
- e. Effective as of the Effective Date, UCVH shall amend its Bylaws to provide at least two (2) seats with full voting rights on its Board of Directors which shall be filled by individuals from ISHC's current Board of Directors and selected by ISHC prior to Closing, subject to approval by NCH. The Directors selected by ISHC shall serve for a period of three (3) years on UCVH's Board of Directors.
- f. Prior to the Effective Date, UCVH shall host an in-person and virtual job fair for ISHC employees, to assist in identifying employment opportunities within the NCH healthcare system for potentially displaced ISHC employees.
- g. Prior to the Effective Date, ISHC shall pay severance to those current employees of ISHC who are eligible for severance pursuant to the agreed-upon plan between UCVH and ISHC.

9. CONDITIONS TO CLOSING:

The obligations of each party to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions:

- a. Receipt of all necessary third-party consents and regulatory approvals, including indication of taking "no action" to oppose the Merger by the Office of the Attorney General of the State of New Hampshire, Charitable Trusts Unit and acknowledgement and approval from the HRSA of the termination of ISHC's status as a Federally-Qualified Health Center as of the Merger Effective Time;
- b. Obtaining all necessary Board approvals;
- c. From the Execution Date and until the Merger Effective Time, ISCH shall remain an insured of, and maintain or, if necessary, extend the following insurance policies with, insurers currently insuring ISHC in the following categories: (1) Cyber-liability; (2) Gap Medical Professional Liability; (3) Medical and Professional Liability Umbrella Coverage; (4) Management Liability

("D&O/EPLI/Fiduciary"); (5) Property and General Liability; and (6) Worker's Compensation (collectively, the "Current Policies.").

- d. ISHC shall obtain and provide evidence of extended reporting period ("tail") coverage as necessary to extend the coverage of the D&O/EPLI/Fiduciary policy. Such tail coverage shall be effective for a period of three (3) years from the Merger Effective Time. The Parties agree that ISHC shall fund up to \$25,000.00 of such coverage, and that UCVH shall pay for the remaining costs of such coverage in excess of \$25,000.00. The amount of the "Applicable Liabilities," as set forth below, shall be increased by an amount equal to the cost to ISHC of purchasing such tail coverage. In such event, UCVH shall be provided with evidence prior to the Merger Effective Time of the cost of obtaining such tail coverage.
- e. If required by UCVH prior to the Merger Effective Time, ISHC shall also purchase tail coverage for ISHC's existing Cyber-liability, Gap Medical Professional Liability, and Medical and Professional Liability Umbrella Coverage policies, with the cost of such tail coverage to be paid entirely by UCVH.
- f. The Parties' satisfactory completion of remaining due diligence, which the parties agree to complete as promptly as possible, and in any event prior to the Merger Date;
- g. The termination of ISHC's status as an FQHC;
- h. The respective representations of the Parties in Sections 4 and 5 of this Agreement are true and correct as of the date of Closing;
- i. With the exception of accounts payable and expenses incurred in the ordinary course of business, ISHC does not incur debt or become indebted to any third party other than as referenced in the Applicable Liabilities as defined below; and
- j. The following specific liabilities of ISHC (the "Applicable Liabilities") do not exceed four hundred fifty thousand dollars (\$450,000.00). For the purposes of this Agreement, the Applicable Liabilities shall be calculated solely based upon the following obligations of ISHC: (i) mortgage and loan number 9062464 in favor of Granite Bank of approximately sixty thousand dollars (\$60,000.00); (ii) mortgage and loan number 9068776 in favor of Granite Bank of approximately eighty thousand dollars (\$80,000.00); (iii) Small Business Administration Economic Injury Disaster Loan ("SBA EIDL") loan number 3326537200 of approximately one hundred thousand dollars (\$100,000.00); (iv) outstanding monthly expenses (net of ISHC receivables) of seventy-five thousand dollars (\$75,000.00); and (v) total amount of severance payments pursuant to the agreed-upon plan between UCVH and ISHC of approximately one hundred, thirty-five thousand dollars

(\$135,000.00). The amount of Applicable Debt shall be subject to increase in accordance with 9.d above.

The Applicable Liabilities shall be calculated three (3) days prior to the closing of this transaction.

- k. With respect to any outstanding Payment Protection Program ("PPP") loan amounts, ISHC shall: (i) have received forgiveness of such amounts; or (ii) have available funds to repay such outstanding PPP loan amounts. A failure by ISHC to receive forgiveness or have funds available to repay such obligations will trigger the ability of the Parties to mutually extend the termination date under Section 10 until such forgiveness is granted.
- l. ISHC shall provide to UCVH copies of its audited financial statements for 2020, which shall occur at least thirty (30) days prior to the Merger Effective Time.

Either party may terminate this Agreement upon the failure to meet the above conditions to closing. The parties may mutually agree to proceed with closing by waiving any of the above conditions.

10. TERMINATION.

Either Party may terminate this Agreement by providing written notice to the other party in the event of any of the following: (i) mutual agreement of the Parties; (ii) any of the conditions to closing specified in Section 9 of this Agreement do not occur; or (iii) the Merger does not close by December 31, 2021.

11. CONFIDENTIALITY:

The terms of the Mutual Confidentiality Agreement dated October 29, 2020 and executed by UCVH and ISHC are hereby incorporated into this Agreement.

12. MISCELLANEOUS PROVISIONS:

- a. Nonsurvival of Representations and Warranties. None of the representations and warranties in this Agreement shall survive the Merger Effective Time. This Section shall not limit any covenant or agreement of either of UCVH or ISHC that by its terms contemplates performance after the Merger Effective Time, including, but not limited to survival of the covenants and agreements set forth in Sections 8, 11, and this Section 12.

- b. Entire Agreement; Amendments and Waivers. This Agreement (including the exhibits and appendices attached hereto), and the Confidentiality Agreement (collectively, the “Merger Agreements”) represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof. Without limitation of the foregoing, the Merger Agreements supersede the Memorandum of Understanding between ISHC and UCVH dated October 29, 2020, and the parties agree that such Memorandum of Understanding is of no further force or effect. This Agreement can be amended, supplemented or changed, and any provision hereof can be waived, only by written instrument making specific reference to this Agreement signed by the party against whom enforcement of any such amendment, supplement, modification or waiver is sought. No action taken pursuant to this Agreement, including without limitation, any investigation by or on behalf of any party, shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, covenant or agreement contained herein. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by law.
- c. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New Hampshire applicable to contracts made and performed in such State, without giving effect to of application of its principles of conflicts of laws.
- d. Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing, shall be addressed to the receiving party’s address set forth in the introductory paragraph to this Agreement, or to such other address as a party may designate by notice hereunder, and shall be either (i) delivered by hand; (ii) sent by overnight courier, or (iii) sent by certified mail, return receipt requested, postage prepaid, or such other address as either party will advise the other party by notice delivered in accordance with the foregoing. All notices and other communications hereunder shall be deemed to have been given (i) if by hand, at the time of the delivery thereof to the receiving party at the address of such party set forth above, (ii) if sent by courier, on the next business day; or (iii) if sent by certified mail, on the fifth (5th) business day following the day such mailing is made.

In addition to the addresses set forth in the introductory paragraph to this Agreement, copies of notices to UCVH shall be sent to:

Alexander W. Campbell, Esq and Kara J. Dowal, Esq.

Shaheen & Gordon, P.A.
107 Storrs Street
P.O. Box 2703
Concord, NH 03301

And, copies of notices to ISHC shall be sent to:

Andrew B. Eills, Esq.
Sheehan, Phinney, Bass & Green, P.A.
1000 Elm St., 17th Floor
Manchester, NH 030101

- e. Severability. If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced by any law or public policy, all other terms or provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the Merger is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the Merger is consummated as originally contemplated to the greatest extent possible.
- f. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. No assignment of this Agreement or of any rights or obligations hereunder may be made by either party (by operation of law or otherwise) without the prior written consent of the other party hereto and any attempted assignment without the required consents shall be void.
- g. No Third-Party Beneficiaries. Nothing in this Agreement is intended to confer upon any person other than the Parties any rights, benefits or remedies.
- h. Expenses. Except as otherwise provided in this Agreement, each of ISHC and UCVH shall bear their own expenses incurred in connection with the negotiation and execution of this Agreement.
- i. Counterparts; Facsimiles. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, shall be deemed to constitute one and the same agreement. Facsimile or other electronic transmission of any signed original document and/or retransmission of any signed facsimile or other electronic transmission will be deemed the same as delivery of an original.

IN WITNESS WHEREOF, the Corporations have caused their respective representatives, duly authorized by the respective Boards of Directors of the Corporations, to execute this Plan and Agreement of Merger as of the date and year first written above.

**UPPER CONNECTICUT VALLEY HOSPITAL
ASSOCIATION**

Noreen Sabreque
Witness

By: Odette Crawford
Printed Name: Odette Crawford
Title: Chair, Board of Directors

INDIAN STREAM HEALTH CENTER, INC.

Noreen Sabreque
Witness

By: Gail Fisher
Printed Name: Gail Fisher
Title: President, Board of Directors

[Signature page to Agreement and Plan of Merger by and between Indian Stream Health Center, Inc. and Upper Connecticut Valley Hospital Association]

APPENDIX 1

PLAN OF MERGER

PLAN OF MERGER

Upper Connecticut Valley Hospital Association

And

Indian Stream Health Center, Inc.

THIS PLAN OF MERGER ("Plan") made this _____ day of _____, 2021, by and between **UPPER CONNECTICUT VALLEY HOSPITAL ASSOCIATION** ("UCVH"), a New Hampshire nonprofit corporation with a principal place of business at 181 Corliss Lane, Colebrook, NH 03576, and **INDIAN STREAM HEALTH CENTER, INC.** ("ISHC"), a New Hampshire nonprofit corporation with a principal place of business at 141 Corliss Lane, Colebrook, NH 03576, said corporations being sometimes hereinafter collectively referred to as the "Corporations" or the "Parties."

WHEREAS, UCVH and ISHC are each New Hampshire 501(c)(3) tax exempt nonprofit corporations engaged in the delivery of health care services in the Colebrook, New Hampshire community;

WHEREAS, UCVH is a critical access hospital engaged in the delivery of hospital and health care services in Colebrook, New Hampshire and the surrounding communities; and

WHEREAS, ISHC is a designated Federally Qualified Health Center ("FQHC") engaged in the delivery of health care services in Colebrook, New Hampshire and the surrounding communities; and

WHEREAS, the Parties recognize that the delivery of primary care services and other services provided by ISHC represents a crucial component of health care delivery in Colebrook, New Hampshire and that the Parties' charitable missions are aligned in supporting the efficient delivery of ISHC's health care services; and

WHEREAS, the Parties desire to support the continuing delivery of primary care and other services in Colebrook, New Hampshire and anticipate that a combination of their existing organizations will allow them to achieve economic efficiencies and enhance the sustainability of their charitable assets and missions; and

WHEREAS, representatives of the Parties have engaged in an analysis of the efficacy of a combination to support and sustain the delivery of primary health care services in their

communities, which has included the establishment of a number of sub-committees tasked with reviewing the benefits of such a combination; and

WHEREAS, as a result of their analysis, the respective Boards of Directors of the Corporations deem it advisable that ISHC be merged with and into UCVH under the laws of the State of New Hampshire in the manner provided therefor pursuant to NH RSA 292:7 (the "Merger"); and

WHEREAS, the terms of such Merger are set forth in a certain Agreement and Plan of Merger between the Parties dated as of _____, 2021 (the "Merger Agreement") and the Parties desire to set forth the plan for effecting the Merger in accordance with the Merger Agreement.

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, and for the purpose of prescribing the terms and conditions of the Merger, the mode of carrying the same into effect, the manner and the basis of converting the assets of ISHC into assets of UCVH, and such other details and provisions as are deemed necessary or desirable, the parties hereto do hereby agree to merge upon the terms and conditions below stated:

1. MERGER:

The Parties will be merged pursuant to New Hampshire RSA 292:7. The Surviving Corporation will survive the merger and will continue as a New Hampshire non-profit voluntary corporation under the laws of the State of New Hampshire.

2. MERGER EFFECTIVE DATE AND TIME:

The Merger will become effective at 12:01 a.m. on [_____, 2021] (the "Effective Date"). The Parties will make the filing required by New Hampshire RSA 292:7 with the New Hampshire Secretary of State and any other required filings prior to the Effective Date.

3. EFFECT OF THE MERGER:

On the Effective Date: (i) all the estate, assets, property, rights, privileges, immunities, powers and franchises of ISHC shall vest in the Surviving Corporation, and (ii) all debts, liabilities, obligations and duties of ISHC shall become the debts, liabilities, obligations and duties of the Surviving Corporation, without further act, instrument, or deed.

4. APPROVAL OF THE MERGER:

This Plan of Merger has been approved by the Boards of Directors of ISHC and the Surviving Corporation. A copy of the approval of the Board of Directors of ISHC is attached hereto as Exhibit A. A copy of the approval of the Board of Directors of the Surviving Corporation is attached hereto as Exhibit B.

5. NAME OF SURVIVING CORPORATION:

Upon the Effective Date, the name of the Surviving Corporation shall be “**Upper Connecticut Valley Hospital Association.**”

6. ADDRESS OF THE SURVIVING CORPORATION:

Upon the Effective Date, the address of the Surviving Corporation shall be 181 Corliss Lane, Colebrook, NH 03576.

7. PURPOSE OF SURVIVING CORPORATION; AMENDMENT TO SURVIVING CORPORATION BYLAWS:

The purpose of the Surviving Corporation shall be as stated in its existing Articles of Agreement filed with the New Hampshire Secretary of State (the “Articles”), which Articles shall not be amended or revised in connection with the Merger. The Surviving Corporation’s Bylaws shall be amended as reflected in the Merger Agreement.

8. FURTHER ASSURANCES:

From time to time, as and when required by the Surviving Corporation or by its successors and assigns, there will be executed and delivered on behalf of the Parties such deeds and other instruments, and there will be taken or caused to be taken on behalf of each of them such further and other action, as will be appropriate or necessary in order to vest or perfect in or to confirm of record or otherwise in the Surviving Corporation the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises, and authority of the Parties, and otherwise to carry out the purposes of this Plan of Merger, and the officers and directors of the Parties are fully authorized in the name and on behalf of the Parties or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

9. AMENDMENT AND TERMINATION:

This Plan of Merger may be amended or terminated by mutual written agreement of the Parties at any time prior to the Effective Date.

10. COUNTERPARTS:

This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, shall be deemed to constitute one and the same agreement.

EXHIBIT A

APPROVAL OF BOARD OF DIRECTORS OF
INDIAN STREAM HEALTH CENTER, INC.

EXHIBIT B

APPROVAL OF BOARD OF DIRECTORS OF
UPPER CONNECTICUT VALLEY HOSPITAL

APPENDIX 2

AGREEMENT BY AND BETWEEN UCVH AND WMC

See attached.

**LEASE AND SERVICES AGREEMENT
BETWEEN
UPPER CONNECTICUT VALLEY HOSPITAL
AND
WEEKS MEDICAL CENTER**

AGREEMENT made this ____ day of ____, 2021 by and between Upper Connecticut Valley Hospital with a principal place of business at 181 Corliss Lane, Colebrook, New Hampshire 03576, (hereinafter "Landlord"), and Weeks Medical Center, with a principal place of business at 173 Middle Street, Lancaster, New Hampshire 03584, (hereinafter "Tenant").

WHEREAS, Landlord is a New Hampshire hospital licensed under N.H. RSA 151 which owns certain Premises in Colebrook, New Hampshire, as more particularly described herein;

WHEREAS, Tenant is a New Hampshire hospital licensed under N.H. RSA 151 which maintains a primary care practice and operates a Medicare-certified Rural Health Clinic;

WHEREAS, Landlord and Tenant are both Affiliates and under common control of North Country Healthcare and therefore have mechanisms and processes for coordinated activities and dispute resolution associated with such coordinated activities;

WHEREAS, Tenant wishes to lease the Premises from Landlord for the purpose of operating a Medicare-certified Rural Health Clinic (the "RHC");

WHEREAS, Landlord and Tenant, as required as part of their joint affiliation with North Country Healthcare, have created a "Coordinated Activity Plan," attached hereto as **Exhibit A**, which outlines Tenant's provision of health care services provided as part of the RHC at the Premises;

WHEREAS, Landlord anticipates acquiring additional real property, equipment, and supplies located at 141 Corliss Lane in Colebrook, New Hampshire ("ISHC Property") through a merger with Indian Stream Health Center ("ISHC"), with such merger to close by the end of 2021 ("Merger");

WHEREAS, in the event that the Merger closes as anticipated, Tenant wishes to also lease the ISHC Property, and this Lease, including the description of the leased Premises and the amount of Base Rent, shall be amended as necessary to accomplish the addition of the ISHC Property to the leased Premises;

WHEREAS, in connection with the Merger and Landlord's anticipated ownership of the ISHC Property, Landlord will be obligated to provide certain primary care, behavioral health, and other healthcare services in the greater Colebrook region through the RHC, and Tenant agrees to provide such services in satisfaction of Landlord's obligations;

NOW, THEREFORE, in consideration of the promises and the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are

hereby acknowledged, the parties hereto covenant and agree as follows.

1. Leased Premises, Equipment and Supplies: The Landlord, in consideration of the rents, agreements, covenants and conditions herein contained on the part of the Tenant to be paid and performed, does hereby demise, lease and let to the Tenant, and the Tenant does hereby take and hire from the Landlord the following:
 - A. Premises. The building(s) and/or location(s) identified on **Exhibit B**, as may be amended by the Parties from time to time; and
 - B. Equipment. The equipment and supplies included in the list attached as **Exhibit C**, as may be amended by the Parties from time to time, and located on the Premises.
2. Term:
 - A. Original Term. The term of this lease shall be for a period of three (3) years, commencing on May 15, 2021, and terminating on May 14, 2024, (the "Original Term"), and the "Term" or "Lease Term" shall conclude at the expiration of the said Original Term, as may be extended by mutual agreement of the Parties.

Federal law and regulations stipulate that in the event that this Lease and Services Agreement is terminated prior to the conclusion of the first year of the Original Term, the Parties shall not enter into the same or similar lease during the first year of the Original Term. Notwithstanding the above, Landlord agrees that if in the unusual circumstance that should occur, Landlord shall enter into a new Lease and Services Agreement with a third party to assure that the obligations of the Merger Agreement and this Lease and Services Agreement are carried out.
3. Rental:
 - A. Base Rent: During the Original Term, the Tenant covenants and agrees to pay the Landlord, as "Base Rent", without prior notice or demand, in the amount or amounts set forth on **Exhibit D**, as may be amended by the Parties from time to time.
4. Use of Premises and Equipment; Tenant Representation and Warranty: The Tenant agrees that the Premises and Equipment shall be used as a medical office and uses incidental thereto as an RHC, and Tenant represents and warrants that during the Term it shall maintain its designation as a Medicare-certified Rural Health Clinic, subject to material adverse federal regulatory changes to RHC reimbursement and structure. Tenant's use of the Premises and Equipment shall be subject to the following conditions:

- A. Tenant's use of the Premises and Equipment shall include the provision of primary care services, outpatient behavioral health services, substance use disorder services—including medication-assisted treatment—and care management/outreach.
- B. In providing the above services, Tenant shall utilize a charity care program that offers free care to patients with household incomes below 300% of the Federal poverty level, conditioned on a patient applying for Medicaid and providing documentation to support income. Tenant shall also offer a self-pay discount of approximately 40%.
- C. Tenant shall maintain its designation as an RHC subject to material adverse federal regulatory changes to RHC reimbursement and structure.

In the event that Tenant fails to comply with any of the above conditions, Tenant shall be considered to be in default, and such default shall provide grounds for immediate termination of this Agreement by Landlord, with an immediate right of Landlord to take possession of the Premises and Equipment.

- 5. Utilities: Landlord shall pay all bills for utilities that are furnished to the Premises.
- 6. Maintenance of Premises: During the Lease Term, the Tenant agrees to maintain the Premises, and improvements therein, in good order, repair, and condition, reasonable wear and tear, and damage by fire or other casualty excepted.
- 7. Insurance: Tenant shall carry commercial general liability insurance in a company or companies licensed to do business in the state in which the Premises and Equipment are located and reasonably approved by Landlord. Said insurance shall be in such amounts as are typical maintained for similar businesses in the state.
- 8. Tenant's Indemnity. The Tenant shall indemnify and save harmless Landlord and Landlord's affiliates, and each of their directors, officers, managers, owners, agents, and employees, against and from all claims, expenses, or liabilities of whatever nature, (a) arising directly or indirectly from any default or breach by Tenant or Tenant's contractors, licensees, agents, servants, or employees under any of the terms or covenants of this Lease or the failure of Tenant or such persons to comply with any rule, order, regulation, or lawful direction now or hereafter in force of any public authority, in each case to the extent the same are related, directly or indirectly, to the Premises and Equipment, or Tenant's use thereof; or (b) arising directly or indirectly from any accident, injury, or damage to any person or property occurring on or about the Property, where such accident, injury, or damage results, or is claimed to have resulted, from any act, omission, or negligence on the part of Tenant, or Tenant's contractors, licensees, agents, servants, employees, or customers, or anyone claiming by or through Tenant. At the request of Landlord, Tenant shall defend any such claim or proceeding described in the foregoing paragraph of this Section 12 directly on behalf and for the benefit of Landlord. The indemnity provisions contained in this Section 12

shall survive the expiration or termination of this lease.

9. Landlord's Indemnity. The Landlord shall indemnify and save harmless Tenant and Tenant's affiliates, and each of their directors, officers, managers, owners, agents, and employees, against and from all claims, expenses, or liabilities of whatever nature, (a) arising directly or indirectly from any default or breach by Landlord or Landlord's contractors, licensees, agents, servants, or employees under any of the terms or covenants of this Lease or the failure of Landlord or such persons to comply with any rule, order, regulation, or lawful direction now or hereafter in force of any public authority, in each case to the extent the same are related, directly or indirectly, to the Premises and Equipment, or Landlord's use thereof; or (b) arising directly or indirectly from any accident, injury, or damage to any person or property occurring on or about the Property, where such accident, injury, or damage results, or is claimed to have resulted, from any act, omission, or negligence on the part of Landlord, or Landlord's contractors, licensees, agents, servants, employees, or customers, or anyone claiming by or through Landlord. At the request of Tenant, Landlord shall defend any such claim or proceeding described in the foregoing paragraph of this Section 13 directly on behalf and for the benefit of Landlord. The indemnity provisions contained in this Section 13 shall survive the expiration or termination of this lease.
10. Notice: Whenever it shall be necessary or appropriate under the provisions of this lease that notice be given by one party to the other, such notice shall be given in writing, sent certified mail, return receipt requested, and postage prepaid as follows:

If to Landlord:

Upper Connecticut Valley Hospital
Attn: Scott Colby, President & CEO
181 Corliss Lane
Colebrook, NH 03576

If to Tenant:

Weeks Medical Center
Attn: Michael Lee, President & CEO
173 Middle Street
Lancaster, NH 03584
11. Entire Agreement/Amendment: This lease contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written. This lease may be modified or amended by a writing signed by both Parties.
12. Severability: If any portion of this lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this lease is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision

shall be deemed to be written, construed, and enforced as so limited.

13. Governing Law: This lease shall be construed in accordance with the laws of the State of New Hampshire.
14. Parties: This lease shall be binding upon the parties hereto, their successors, and assigns. Nothing herein shall be deemed to authorize or permit any assignment or other transfer, in whole or in part, of the interest of Tenant in violation of any other provisions contained in this lease. If there be more than one party tenant, the covenants of Tenant shall be the joint and several obligations of each such party and, if Tenant is a partnership, the covenants of Tenant shall be the joint and several obligations of each of the partners and the obligations of the firm.
15. Counterparts. This lease is executed in any number of counterparts, each copy of which is identical, and any one of which shall be deemed to be complete in itself and may be introduced in evidence or used for any purpose without the production of the other copies.
16. Ambiguities. Each party hereto has reviewed and revised (or requested revisions of) this lease, and therefore any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this lease or any exhibits hereto.
17. Captions. The captions throughout this lease are for convenience or reference only and shall in no way be held or deemed to define, limit, explain, describe, modify, or add to the interpretation, construction, or meaning of any provision of this lease.
18. Regulatory Matters.
 - A. Landlord and Tenant enter into this lease with the intent of conducting their relationship and implementing the agreements contained herein in full compliance with applicable federal, state and local law, including without limitation, the Medicare/Medicaid Anti-Kickback statute (the "Anti-Kickback Law") and Section 1877 of the Social Security Act (the "Stark Law"), as amended. Notwithstanding any unanticipated effect of any of the provisions of this lease, neither party will intentionally conduct itself under the terms of this lease in a manner that would constitute a violation of the Anti-Kickback Law or the Stark Law. Without limiting the generality of the foregoing, Landlord and Tenant expressly agree that nothing contained in this lease shall require either party to refer any patients to the other, or to any affiliate or subsidiary of the other.
 - B. If any health care legislation, regulation or government policy exists (including without limitation the Anti-Kickback Law and Stark Law) or is subsequently passed or adopted, the effect of which would cause either party to be in violation of such laws due to the existence of any provision of this

lease, then Landlord and Tenant agree to negotiate in good faith for a period of 90 days to modify the terms of this Lease to comply with applicable law. Should the parties hereto fail to agree upon modified terms to this lease within this time, either Landlord or Tenant may immediately terminate this Agreement by giving written notice to the other party.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

Landlord

Upper Connecticut Valley Hospital

By: _____
Name: Scott Colby
Title: President & CEO

Witness

Tenant

Weeks Medical Center

By: _____
Name: Michael Lee
Title: President & CEO

Witness

EXHIBIT A
TO
LEASE AGREEMENT

Coordinated Activity Plan

See attached.

COLEBROOK MEDICAL PRACTICE COORDINATED ACTIVITY PLAN

Proposed Coordinated Activity:

Status: **FINAL/APPROVED**

Adoption by Weeks Medical Center Affiliate Board: *April 27, 2021*

Adoption by Upper Connecticut Valley Hospital Affiliate Board: *April 29, 2021*

Adoption by NCH System Board: *May 6, 2021*

Effective Date: *May 1, 2021*

This Coordinated Activity Plan ("CAP") is adopted pursuant to Section 3 of the Management Services Agreement ("MSA") among North Country Healthcare, Inc. ("NCH"), Androscoggin Valley Hospital ("AVH"), Upper Connecticut Valley Hospital Association ("UCVH") Weeks Medical Center ("WMC") and North Country Home Health & Hospice Association, Inc. ("NCHHHA").

Summary Description and Recommendation

Summary of Coordinated Activity:

RHC in Colebrook: UCVH & WMC are partnering to establish a Rural Health Clinic ("RHC") in Colebrook which will be owned and operated by WMC under its current N. Stratford RHC license and operated d/b/a Colebrook Medical Practice of UCVH. This practice will offer primary care, specialty care, behavioral health and medication assisted treatment or M.A.T.

Current Situation:

Primary Care and Substance Use Disorder in Colebrook: Over the past several years, ISHC has realized significant provider and management disruption and as a consequence has seen its patient panel, visit volume and financial situation deteriorate. The NCH, UCVH and WMC Boards of Directors have been kept apprised of the serious situation relating to primary care access in Colebrook.

At the same time, Colebrook, like most small towns, has seen an epidemic of substance use disorder patients with little to no clinical services to address their needs.

In 2019, UCVH granted ISHC \$300,000 in an effort to stabilize ISHC's financial situation. On the heels of that grant, ISHC was forced to convert its electronic health record ("EHR") (its vendor pulled out of the market) and without any access to capital (due to poor credit), was unable to secure a loan for the EHR.

UCVH extended another \$50,000 grant and a \$172,000 zero interest, 24-month, deferred loan for ISHC to buy into Meditech and create a unified EHR for the patients of the North Country. Additionally, AVH, UCVH and WMC all provided (and continue to do so) significant technical support to ISHC for IT conversion services and post conversion support and maintenance.

Since January 2020, ISHC has realized over 100% provider turnover, is attempting to run primary care utilizing locum tenens providers and is now on its third CEO. ISHC lost over \$500,000 in 2020 and as of January 31st (its first month of its 2021 fiscal year), lost over \$100,000.

ISHC has laid off 7 employees with additional job losses being imminent.

The UCVH and ISHC Board have voted to enter into negotiations for a Definitive Agreement merge ISHC into UCVH and for UCVH to convert it to an RHC either under UCVH's own RHC license or through agreement with another NCH Affiliate (WMC).

UCVH has ordered a 2,500 sq/ft modular office building as it intends to open an RHC in May in partnership with WMC, regardless of whether the merger with ISHC is successful. WMC has a \$112,000 grant to help fund this modular building. That grant is for M.A.T. services and it may be determined that ownership of the modular office building should fall under WMC.

Reasons Supporting Coordinated Activity:

NCH has an obligation to ensure access to quality, reliable primary care throughout its service area and currently in the Colebrook area, primary care is at risk due to the challenges ISHC is having which are mentioned above.

Additionally, WMC has significant experience with primary care and the management expertise to effectively run primary care in Colebrook. Also, due to changes in reimbursement for RHC's at the Federal level, the most financially viable option is for WMC to transfer its N. Stratford RHC license to Colebrook

Summary of Benefits and Costs:

The benefits are significant:

- Improved access to quality primary care in Colebrook
- Establishment of an M.A.T. program in Colebrook, a community which has been plagued by SUD
- Ensure access to mental health services in the Colebrook service area

Costs:

- The potential for ongoing losses/required subsidies for primary care in Colebrook – See attached PowerPoint pro forma
- Cost of modular office space <\$375,000
- Additional construction or renovation of ISHC or new stand-alone location – TBD, but expected to be significant
- NOTE: 340B savings through an NCH retail pharmacy will help keep the Colebrook Medical Practice viable in the long run – please refer to the NCH Retail Pharmacy Coordinated Activity Plan

5 Year Pro Forma:

- Attached (PowerPoint) is the 5 year pro forma which shows:

Year 1:	-\$344,592
Year 2:	92,503
Year 3:	170,951
Year 4:	93,060
Year 5:	<u>97,626</u>
Total:	\$109,548

Given that the 5 year cumulative projection is a slight operating gain, the recommendation is that a subsidy or surplus share between WMC and UCVH is unnecessary. Should the actual performance vary significantly from this pro form, WMC and UCVH will re-visit the possibility of subsidy or sharing in surplus.

<p>Request for Approval:</p>	<ul style="list-style-type: none"> • UCVH and WMC formation of an RHC in Colebrook, owned and under WMC's license and branded as UCVH's primary care/behavioral health
<p>Attachments:</p>	<ul style="list-style-type: none"> • PowerPoint Primary Care and Behavioral Health Financial Pro Forma – prepared by WMC – 5 year projection showing break even in year 2

Coordinated Activity Guidelines

FIRST AMENDED EXHIBIT B
TO
LEASE AGREEMENT

Description of Leased Premises

Lease Period

Description/Location

May 15, 2021 to May 14, 2024

Modular medical office building (2,500 sq/ft in size) located at 181 Corliss Lane, Colebrook, NH.

[MONTH DD, 2021 to May 14, 2024]

Medical office building ([XX,XXX] sq/ft in size) located at 141 Corliss Lane, Colebrook, NH.

FIRST AMENDED EXHIBIT C
TO
LEASE AGREEMENT

Description of Leased Equipment

Lease Period

[MONTH DD, 2021 to May 14, 2024]

Description/Location

[Itemized list of equipment and supplies to be inserted]

FIRST AMENDED EXHIBIT D
TO
LEASE AGREEMENT

Base Rent

During the Original Term, the Tenant covenants and agrees to pay the Landlord, as "Base Rent", without prior notice or demand, the total sum of _____ Dollars (\$_____) per year, payable in advance in equal monthly installments of _____ (\$_____). Such Base Rent amount has been determined by the parties to be fair market value and has not been determined in a manner that takes into account the volume of value of any referrals or other business generated between the parties.