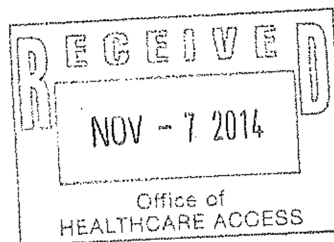
Hartford HealthCare



November 7, 2014

Kimberly Martone
Director of Operations
Office of Health Care Access
Division of the Department of Public Health
410 Capital Avenue, MS#13HCA
Hartford, CT 06106

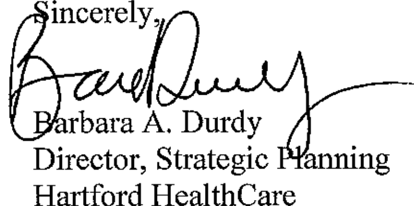
Re: Harford Hospital
Certificate of Need Determination: Change in Equity Interests, Glastonbury Endoscopy Center

Dear Ms. Martone:

Enclosed please find a Certificate of Need Determination for a proposed change in Hartford Hospitals' equity interest in the Glastonbury Endoscopy Center, LLC.

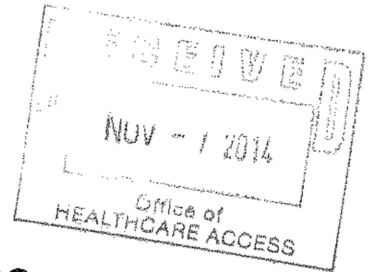
Please do not hesitate to contact me at 860-972-4231 if you have any questions. Thank you for your time and consideration.

Sincerely,



Barbara A. Durdy
Director, Strategic Planning
Hartford HealthCare

Enclosures



State of Connecticut
Office of Health Care Access
CON Determination Form
Form 2020

All persons who are requesting a determination from OHCA as to whether a CON is required for their proposed project must complete this Form 2020. The completed form should be submitted to the Director of the Office of Health Care Access, 410 Capitol Avenue, MS#13HCA, P.O. Box 340308, Hartford, Connecticut 06134-0308.

SECTION I. PETITIONER INFORMATION

If this proposal has more than two Petitioners, please attach a separate sheet, supplying the same information for each Petitioner in the format presented in the following table.

	Petitioner	Petitioner
Full Legal Name	Hartford Hospital	CTGI Glastonbury Endoscopy Center, LLC
Doing Business As	Glastonbury Endoscopy Center, LLC	Glastonbury Endoscopy Center, LLC
Name of Parent Corporation	Hartford HealthCare Corporation	N/A
Petitioner's Mailing Address, if Post Office (PO) Box, include a street mailing address for Certified Mail	80 Seymour Street Hartford , CT 06102	300 Western Boulevard Suite B Glastonbury, CT 06033
What is the Petitioner's Status: P for profit and NP for Nonprofit	NP	P
Contact Person at Facility, including Title/Position: This Individual at the facility will be the Petitioner's Designee to receive all correspondence in this matter.	Barbara A. Durdy Director, Strategic Planning Hartford HealthCare	Jeffry Nestler, MD Medical Director Physician Manager

Contact Person's Mailing Address, if PO Box, include a street mailing address for Certified Mail	181 Patricia Genova Blvd Newington, CT 06111	300 Western Boulevard Suite B Glastonbury, CT 06033
Contact Person's Telephone Number	860-972-4231	860-246-2571
Contact Person's Fax Number	860-972-9025	N/A
Contact Person's e-mail Address	barbara.durdy@hhchealth.org	jnestler@connecticutgi.org

SECTION II. GENERAL PROPOSAL INFORMATION

a. Proposal/Project Title: **Hartford Hospital and CTGI Glastonbury Endoscopy Center, LLC, d/b/a Glastonbury Endoscopy Center, LLC**

b. Estimated Total Project Cost: **None**

c. Location of proposal, identifying Street Address, Town and Zip Code: **Western Boulevard, Glastonbury, CT 06033**

d. List each town this project is intended to serve: **There is no change in the towns currently or projected to be served by this proposal.**

e. Estimated starting date for the project: **Upon approval.**

SECTION IV. PROPOSAL DESCRIPTION

Please provide a description of the proposed project, highlighting each of its important aspects, on at least one, but not more than two separate 8.5" X 11" sheets of paper. At a minimum each of the following elements need to be addressed, if applicable:

1. If applicable, identify the types of services currently provided and provide a copy of each Department of Public Health license held by the Petitioner. **N/A**

2. Identify the types of services that are being proposed and what DPH licensure categories will be sought, if applicable. **N/A**

3. Identify the current population served and the target population to be served. **N/A**

Please see attached Section IV Narrative for the proposal description.

SECTION V. AFFIDAVIT

(Each Petitioner must submit a completed Affidavit.)

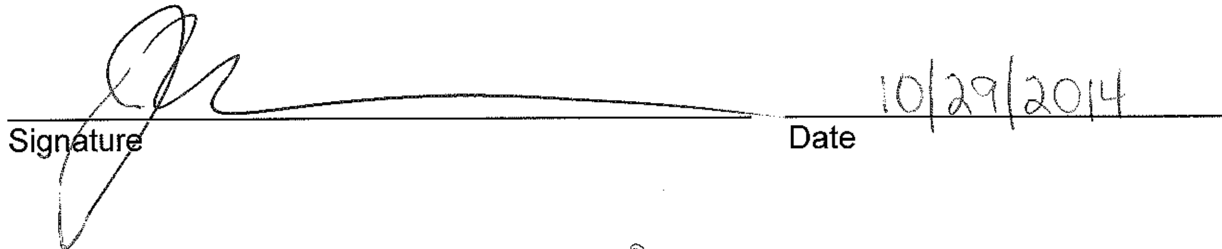
Petitioner: **CTGI Glastonbury Endoscopy Center, LLC**

Project Title:
Hartford Hospital and CTGI Glastonbury Endoscopy Center, LLC, d/b/a Glastonbury Endoscopy Center, LLC

I, Jeffry Nestler, M.D., Medical Director and Physician Manager

of **CTGI Glastonbury Endoscopy Center, LLC,** being duly sworn, depose and state that the
(Organization Name)

information provided in this CON Determination form is true and accurate to the best of my knowledge.



Signature Date 10/29/2014

Subscribed and sworn to before me on October 29, 2014

Notary Public/Commissioner of Superior Court

My commission expires: June 30, 2019

ELIZABETH A. WOJTUSIK
NOTARY PUBLIC
State of Connecticut
My Commission Expires
June 30, 2019

SECTION V. AFFIDAVIT

(Each Petitioner must submit a completed Affidavit.)

Petitioner: Hartford Hospital

Project Title:
Hartford Hospital and CTGI Glastonbury Endoscopy Center, LLC, d/b/a Glastonbury Endoscopy Center, LLC

I, **Gerald Boisvert, Chief Financial Officer** ,

of **Hartford HealthCare,** being duly sworn, depose and state that the
(Organization Name)

information provided in this CON Determination form is true and accurate to the best of my knowledge.

[signature] 11/5/14
Signature Date

Subscribed and sworn to before me on November 5, 2014

[signature]
Notary Public/Commissioner of Superior Court

MARTHA SANT[illegible]
NOTARY PUBLIC OF CONNECTICUT
My Commission Expires 5/31/2019

My commission expires: ______________________

Section IV

Proposal Description

Hartford Hospital and CTGI Glastonbury Endoscopy Center, LLC, d/b/a Glastonbury Endoscopy Center, LLC (the "Petitioners") are requesting clarification as to whether a Certificate of Need is required due to a proposed technical change in equity interests held by the Petitioners. On November 21, 2007, the Office of Health Care Access approved the Petitioners' application to operate, through Glastonbury Endoscopy Center, LLC (the "Operating LLC"), a freestanding endoscopy center to diagnose and treat various diseases of the upper and lower GI tract at the Glastonbury, CT location. See Docket Number 07-30920-CON.

Ownership in the Operating LLC is currently shared equally by the Petitioners (i.e., Hartford Hospital owns 50% and CTGI Glastonbury Endoscopy Center, LLC owns the remaining 50%). The Petitioners now desire to modify their respective percentage ownership interests with Hartford Hospital ultimately owning 51% and CTGI Glastonbury Endoscopy Center, LLC owning 49% of the equity in the Operating LLC. The principal reason for such change relates to Hartford Hospital's desire to include the Operating LLC in its consolidated financial statements for financial reporting purposes. In order for the Operating LLC's operations to be included in Hartford Hospital's financial statements, however, Hartford Hospital must first have a majority equity interest in the Operating LLC.

The Operating LLC's Operating Agreement will be amended to reflect the proposed change in equity interests. See amendment to Operating Agreement attached hereto as Exhibit A. Please note, however, that no changes will occur and no amendments are being made to the Operating LLC's Operating Agreement except for certain limited areas of management of the Operating LLC. The proposed changes will not impact overall governance and control of the Operating LLC.

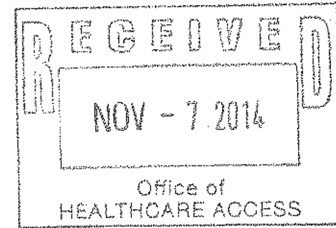
These amendments to the Operating Agreement were made to increase flexibility in day-to-day management and operations. CTGI Glastonbury Endoscopy Center, LLC will be given certain management authority regarding selection of ancillary providers, research, third party payer contracting and physician credentialing. Hartford Hospital will be given certain management authority as it relates to approving the financial policies of the Operating LLC and terminating and selecting the Chief Operating Officer of the Operating LLC.

In sum, Hartford Hospital's control as an owner of the Operating LLC by virtue of this change in equity interest remains consistent with the equity interests being equal. There will be no change in governance or Board structure has a result of the proposed change.

Exhibit A

DRAFT – Amended and Restated Operating Agreement

Glastonbury Endoscopy Center, LLC



AMENDED AND RESTATED OPERATING AGREEMENT

OF

GLASTONBURY ENDOSCOPY CENTER, LLC

A CONNECTICUT LIMITED LIABILITY COMPANY

DATED AS OF ____________________, 2014

OPERATING AGREEMENT
OF
GLASTONBURY ENDOSCOPY SURGERY CENTER, LLC

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AMENDED AND RESTATED
OPERATING AGREEMENT
OF
GLASTONBURY ENDOSCOPY CENTER, LLC

This Amended and Restated Operating Agreement (this "Agreement") is entered into as of this ____ day of________________, 2014, by and among the signatories hereto.

EXPLANATORY STATEMENT

WHEREAS, the parties originally executed an Operating Agreement dated October 1, 2007 to own and operate a limited liability company; and

WHEREAS, the parties have agreed to own and operate a limited liability company pursuant to Internal Revenue Service Revenue Ruling 2004-51, 2004-22 I.R.B. 974, in such a manner as to neither (i) jeopardize the status of the Class A Member as an organization exempt from federal income taxation pursuant to Code Section 501(a) as an organization described in Code Section 501(c)(3), nor (ii) generate any "unrelated business taxable income" for the Class A Member as such term is used in Code Section 512(a);

WHEREAS, the change in the Percentage Interest of the Class A Member to fifty one (51%) percent would require extensive amendments to the Operating Agreement and, accordingly, the Members have determined it is in their best interest to restate the Agreement as set forth herein; and

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties, intending legally to be bound, agree as follows:

ARTICLE I
ORGANIZATION OF THE COMPANY

1.01 Organization.

On October 1, 2007, the Company was organized as a Connecticut limited liability company by the execution and delivery of Articles of Organization to the Connecticut Secretary of the State in accordance with and pursuant to the Act.

1.02 Name of the Company.

The name of the Company is **GLASTONBURY ENDOSCOPY CENTER, LLC.** The Company may do business under that name and under any other name or names that the Management Committee may select. If the Company does business under a name other than that set forth in its Articles of Organization, then the Company shall amend its Articles of Organization or file a trade name certificate as required by Applicable Law. The parties hereby acknowledge and agree that: (a) the Company has the sole and exclusive right, title and interest to the name "Glastonbury Endoscopy Center"; and (b) any party with such name in its name shall amend its organizational documents and change that party's name to another name reasonably satisfactory to the Company within three (3) months of the execution of this Agreement.

1.03 Principal Place of Business.

The principal place of business and the office of the Company initially shall be located at, and the Company's business shall be conducted from, 80 Seymour Street, Hartford, Connecticut 06102. Upon commencement of the Company's endoscopic procedures at the Center on Western Boulevard in Glastonbury, Connecticut, the Company shall move its principal place of business and office to that location. The Company may locate its place of business at any other place or places as the Management Committee may deem advisable.

1.04 Statutory Agent.

The name of the statutory agent of the Company for service of process on the Company in the State of Connecticut shall be Winship Service Corporation, whose address is One Constitution Plaza, Hartford, Connecticut 06103-1919. The Company may change its statutory agent if it is deemed advisable by the Management Committee. If the Company changes its statutory agent, the Company shall file the name and address of the new statutory agent with the Connecticut Secretary of the State as required by the Act.

1.05 Term.

The existence of the Company shall be perpetual and shall continue unless and until the Company is dissolved, wound up and terminated in accordance with this Agreement.

1.06 Purpose.

The purposes to be promoted or carried out by the Company shall be to engage in the following:

(a) To operate a fully licensed, certified and accredited endoscopy center applying best practice principles envisioned by the Class B Member, all in furtherance of the charitable purposes of the Class A Member by promoting health for a broad section of the community as further described in Section 1.07 and including, without limitation, a facility focused on providing services which are high quality, cost efficient, coordinated and collaborative, and patient centric; and

(b) The Members understand that the Company's and the Center's operations are subject to various state and federal laws regulating permissible relationships between the Members and entities such as the Company, including 42 U.S.C. § 1320a-7b(b) (the "Fraud and Abuse Statute"), and 42 U.S.C. § 1395nn (the "Stark Act"). It is the intent of the parties that the Company operate in a manner consistent with the foregoing statutes. The Members also acknowledge that the Stark Act, the regulations promulgated thereunder and similar Connecticut laws and regulations may restrict the Center (as presently formed) from providing "designated health services" (as defined by the Stark Act) or other services to patients referred by the Members or physician with an direct or indirect ownership or financial arrangement with the Company. The Center shall not provide "designated health services." If, in the future, any of the services that the Center provides are deemed to be "designated health services," such services shall be provided by the Center only if such services may be provided in compliance with one or more exceptions to the ban on self-referrals set forth in the Stark Act, the regulations promulgated thereunder, or any successor statutes and/or regulations thereto.

(c) To engage in any other lawful act or activity for which limited liability companies may be formed under the Act consistent with the foregoing.

1.07 Tax-Exempt Organization Limitations; No Referral Obligation.

Notwithstanding any other provision of this Agreement:

(a) Notwithstanding anything to the contrary contained in this Agreement, so long as Hartford Hospital (or an entity owned by Hartford HealthCare Corporation which is exempt from taxation pursuant to Section 501(c)(3) of the Code) remains a Member of the Company, all acts, activities, and business carried on by the Company shall be consistent with, and in furtherance of, the charitable health care and community benefit missions and tax-exempt status under Section 501(c)(3) of the Code, of Hartford HealthCare Corporation, or its tax exempt successor (the "Charitable Purposes"). The Members hereby agree and acknowledge that the foregoing duty of the Company to operate consistent with, and in furtherance of, the Charitable Purposes shall override any duty that the Company or its Member(s) may have to operate the Company for the financial benefit of any individual or for-profit Member. Accordingly, in the event of a conflict between the operation of the Company in accordance with the Charitable Purposes, on the one hand, and any duty to maximize the Company's profits, on the other hand, the Company, its Members and the Management Committee shall satisfy the Charitable Purposes without regard to the consequences for maximizing the Company's profitability.

(b) The Company shall not carry on propaganda or attempt to influence legislation, and shall not participate or intervene in (including the publication or distribution of statements) any political campaign on behalf of (or in opposition to) any candidate for public office.

1.08 Independent Medical Judgment. No provision of this Agreement shall limit the independent medical judgment of any participating physician with Medical Staff privileges at the Center with regard to the providing of patient care.

ARTICLE II
MEMBERS AND MEMBER REPRESENTATIVES

2.01 Members.

The name, present mailing address, Capital Contributions, Class of Membership Interest and Percentage Interest of each Member are set forth on Exhibit A, attached hereto, as such Exhibit may be amended from time to time.

2.02 Membership Classes.

The Company shall have two Classes of Membership Interests: Class A Membership Interests and Class B Membership Interests. The two Classes of Membership Interest shall be identical in all respects except as otherwise provided in this Agreement. Pursuant to Section 11.05, a Class C Membership Interest may be created; provided, however, such membership interest shall not be created in a manner that would jeopardize the Class A Member's status as an organization that is exempt from federal income taxation pursuant to Code section 501(a) as an organization described in Code section 501(c)(3) or that would cause the Company to generate "unrelated business taxable income" for the Class A Member as such term is used in Code section 512(a).

2.03 Member Representations

(a) Each Member represents and warrants that neither it, he or she, nor any owners of the Member (i) has received loans for the purpose of investing in the Company from the Company, a Member or their Affiliates, or from any direct or indirect investor in the Company; (ii) has offered (and will not offer) terms for investment in the Member based upon previous, actual or expected referrals, services furnished or the amount of business otherwise generated from that owner to the Center; (iii) has or will make payment to an owner in return for the owner's investment in the Member that is not directly proportional to the owner's capital investment in the Member; and (iv) has made (and will not make) any other payments, direct or indirect, to an owner that are based, in any manner, upon the volume or value of referrals the owner has made or directed to the Center (or is expected to refer to the Center).

(b) No Person shall be eligible to become a physician owner, directly or indirectly, of the Class B Member (or remain an owner of a Class B Member) (collectively, the "Physician Member") unless the following eligibility requirements are satisfied: (i) each Physician Member shall be a physician, licensed and registered, in good standing, to practice medicine in the State of Connecticut; (ii) each Physician Member has not been barred or suspended from participation in any governmental program, including, but not limited to, Medicare and/or Medicaid programs; (iii) each Physician Member shall derive at least approximately one-third (1/3) of his or her medical practice income from all sources for the

previous fiscal year or previous twelve (12)-month period from his or her own performance of procedures that are ambulatory surgical procedures (or procedures that are required to be provided in an inpatient or outpatient hospital operating room), and, if the Center performs services other than endoscopy procedures, shall directly perform not less than approximately one-third (1/3) of such procedures at the Center; (iv) each Physician Member shall fully inform each patient, prior to referring patients to the Center, of his or her investment interest in the Center; (v) each Physician Member shall treat patients receiving medical benefits or assistance under any federal health care program in a nondiscriminatory manner; (vi) if the Physician Member refers patients to the Center, such Physician Member shall maintain active privileges at the Center (and any physician subject to a Board of Managers action under the Medical Staff Bylaws that results in probation or suspended privileges may be deemed, at the Board of Managers sole discretion, ineligible to remain a Physician Member); and (vii) under Applicable Law, such Physician Member's ownership shall not disqualify (and, without further action, would not disqualify) the Company or the Center from engaging in operations as a Medicare-certified ambulatory surgery center for any reason, or from having such Physician Member perform cases at the Center. A physician who meets such requirements may be referred to herein as an "Eligible Physician Investor".

(c) Except as otherwise provided in Section 13.02, any Person which is an owner of the Class B Member shall either be (i) a "group practice" as defined 42 CFR 1001.952(r)(5) consisting exclusively of Eligible Physician Investors or (ii) a Person established for the sole purposes of investing in the Class A Member and all owners shall be Eligible Physician Investors as defined Section 2.03(b), above. Such Class B Member owners shall also comply with Section 2.03(a) above.

(d) The Class A Member further represents and warrants that it (i) will not require or encourage employed or affiliated physicians to refer patients to the Center or any Physician Member (or physician on staff at the Center); (ii) will not track referrals made by its employed or affiliated physicians to the Center, directly or indirectly; (iii) any compensation paid to employed or affiliated physicians will be at fair market value and will not take into account, in any manner, the volume or value of referrals to the Center or physicians on staff at the Center; (iv) will annually inform its employed and affiliated physicians of these requirements; (v) will treat patients receiving medical benefits or assistance under any federal health care program in a nondiscriminatory manner; and (vi) will not include any payment or cost associated with the Center on its cost report unless such costs are required to be included by a Federal health care program.

2.04 <u>Member Representatives.</u>

Each Member of the Company shall designate in writing one Member Representative who shall be entitled to exercise all of the rights of such Member, including voting rights, set forth in this Agreement. Such Member Representative shall have the authority to act on behalf of such Member unless the Management Committee receives written notice from the applicable Member of the replacement of such Member Representative. The initial Member Representative of each Class A Member and Class B Member is set forth in <u>Exhibit B</u> hereto. A Member Representative may be removed or replaced at any time, with or without cause or notice, by the Member which designated such Member Representative.

ARTICLE III
CONTRIBUTIONS AND CAPITAL ACCOUNTS

3.01 Initial Capital Contributions.

At the time of admission of any new Member to the Company, the new Member shall be required to make a Capital Contribution to the Company in an amount determined by the Members.

3.02 Additional Capital Contributions.

(a) If the Member Representatives of the Class A Member and the Class B Member at any time, or from time to time, determine by unanimous written consent that the Company requires additional capital, then the Management Committee shall give written notice to each Member of (i) the aggregate amount of additional Capital Contribution required, (ii) the reason the additional Capital Contribution is required, (iii) each Member's proportionate share of the aggregate additional Capital Contribution (determined in accordance with this Section), and (iv) the date each Member's additional Capital Contribution is due and payable, which date shall be no sooner than thirty (30) days after the notice has been given. A Member's proportionate share of the total additional Capital Contribution shall be equal to the product obtained by multiplying the Member's Percentage Interest and the aggregate additional Capital Contribution required. A Member's proportionate share shall be payable in cash, by certified check or by wire transfer.

(b) Except as provided in this Article III, no Member shall be required to contribute any additional capital to the Company, and no Member shall have any personal liability for any obligation of the Company.

3.03 Capital Contribution Defaults.

(a) If a Member (the "Defaulting Member") does not make a Capital Contribution required pursuant to Section 3.01 or Section 3.02(a) on or before the date such Capital Contribution is due, such failure shall be grounds for the removal of such Member from the Company by the Management Committee, acting by majority vote of the disinterested members of the Management Committee within sixty (60) days after such failure. If the Management Committee does not remove the Defaulting Member, (i) the Defaulting Member's Membership Interest shall be converted to an Economic Interest until such time (the "Cure Date") that the Defaulting Member has made the delinquent Capital Contribution, plus interest, at a variable annual rate equal to the Prime Rate as in effect from time to time plus two percent (2%), from the date such Capital Contribution was due to the date of payment, (ii) the Defaulting Member shall automatically forfeit until the Cure Date its voting rights hereunder, if any, and its right, if any, to designate a Member Representative or any representative on the Management Committee, (iii) the Managers designated by the Defaulting Member to the Management

Committee, if any, shall automatically be removed from the Management Committee, and (iv) the Company shall be entitled to set off against any Cash Flow or other amounts due to such Defaulting Member hereunder any amounts due to the Company attributable to such Capital Contribution and the interest thereon.

(b) As used in Section 3.03(a), "Prime Rate" means the Prime Rate as published from time to time in the "Money Rates" section of The Wall Street Journal or any successor publication, or in the event that such rate is no longer published in The Wall Street Journal or such successor journal, a comparable index or reference as may be selected by a majority of the Members which are not at such time Defaulting Members.

3.04 Interest on and Return of Capital Contributions.

No Member shall be entitled to interest on such Member's Capital Contribution or to a return of such Member's Capital Contribution, unless otherwise provided herein.

3.05 Form of Return of Capital Contributions.

If a Member is entitled to receive a return of a Capital Contribution, the Member shall not have the right to receive anything but cash in return of the Member's Capital Contribution.

3.06 Capital Accounts.

A separate Capital Account shall be maintained for each Member and Economic Interest Owner.

3.07 Loans to the Company.

Any Member may at any time, with the consent of the Management Committee, make or cause a loan to be made to the Company in any amount and on those terms upon which: (i) the Company and the Member agree; and (ii) are in compliance with all Applicable Law, including, but not limited to, the Fraud and Abuse Statute and Stark Act.

ARTICLE IV
MEMBER REPRESENTATIVE MEETINGS

4.01 Meetings.

Meetings of the Member Representatives, for any valid purpose or purposes, may be called by the Management Committee or by any Member Representative.

4.02 Place of Meetings.

The Member Representatives may designate any place, either within or outside the State of Connecticut, as the place of meeting for any meeting of the Member Representatives. If no designation is made, the place of meeting shall be the principal place of business of the Company. One or more Member Representatives may participate in a meeting of the Member Representatives by use of a conference telephone or similar communications equipment that allows all persons participating in the meeting to communicate with one another.

4.03 Notice of Meetings.

Except as provided in Section 4.04, written notice stating the place, day and hour of a meeting of the Member Representatives and the purpose or purposes for which the meeting is called shall be delivered not less than five (5) nor more than thirty (30) days before the date of the meeting either personally or by mail, by or at the direction of the Management Committee or Member Representative calling the meeting, to each Member Representative entitled to vote at such meeting.

4.04 Meeting of All Member Representatives.

If all of the Member Representatives shall meet at any time and place, either within or outside of the State of Connecticut, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting lawful action may be taken.

4.05 Record Date.

For the purpose of determining the Member Representatives entitled to notice of or to vote at any meeting of the Member Representatives or any adjournment thereof, the date on which notice of the meeting is mailed shall be the record date for such determination. When a determination of the Member Representatives entitled to vote at any meeting of the Member Representatives has been made as provided in this Section, such determination shall apply to any adjournment thereof.

4.06 Manner of Acting.

(a) The Supermajority Vote of the Member Representatives shall be required to take or approve any matter coming before the Member Representatives, unless the vote of a lesser or greater proportion or number is otherwise required by the Act, by the Articles of Organization, or by this Agreement.

(b) Notwithstanding the foregoing or Section 5.05, the exclusive and unanimous vote of the Member Representative selected by the Class A Member shall be required to take or approve any Exempt Status Matter coming before the Member Representatives. In the exercise of its special powers hereunder, the Class A Member Representative shall act reasonably and on the written advice of counsel, and shall give not less than ten (10) days' prior notice to, and shall, during such ten (10) day period, seek the advice and input of, the other Member Representatives.

4.07 Proxies.

At all meetings of the Member Representatives, a Member Representative may vote in person or by proxy executed in writing by the Member Representative or by a duly authorized attorney-in-fact. Such proxy shall be filed with the Company before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

4.08 Action by Member Representatives Without a Meeting.

Any action required by this Agreement or the Act to be taken at a meeting of the Member Representatives, or any other action that may be taken at a meeting of the Member Representatives, may be taken without a meeting and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by at least the minimum number of Member Representatives who could approve such action at a meeting of the Members.

4.09 Waiver of Notice.

When any notice is required to be given to any Member Representative, a waiver thereof in writing signed by the person entitled to such notice, whether before, at, or after the time stated therein, shall be equivalent to the giving of such notice.

ARTICLE V
RIGHTS, DUTIES AND OBLIGATIONS OF MEMBERS

5.01 Limitation of Liability.

Each Member's liability shall be limited as set forth in this Agreement, the Act and other Applicable Law.

5.02 Liability for Company Debt.

A Member shall not be personally liable for the debts or losses of the Company except as otherwise required by Applicable Law.

5.03 Member Duties.

No Member shall be required to perform services for the Company solely by virtue of being a Member. Unless approved by the Management Committee, no Member shall perform services for the Company or be entitled to compensation for services performed for the Company.

5.04 Limitation on Authority of Members.

The Members shall have no right to take any part in, or interfere in any manner with, the conduct, control or management of the Company's business and shall have no right or authority to act for or bind the Company, said powers being vested solely and exclusively in the Management Committee. Except as otherwise expressly provided herein, the Members shall have only those rights granted exclusively to members pursuant to the Act or under this Agreement. Any Member who takes any action or binds the Company in violation of this Agreement shall be solely responsible for any loss and expense incurred by the Company as a result of the unauthorized action and shall indemnify and hold the Company harmless with respect to the loss or expense.

5.05 Transactions with Members.

Each Member understands and acknowledges that the conduct of the Company's business may involve business dealings and undertakings with Members and their Affiliates. Any business dealings and undertakings between the Company and a Member or one or more of its Affiliates shall be at arm's length, at fair market value and on commercially reasonable terms and approved solely by the disinterested Management Committee members. In addition, any decision to amend, renew or terminate (including, without limitation, asserting without cause termination rights or rights to terminate for breach) such business dealings and undertakings between the Company and a Member or one or more of its Affiliates shall reside solely with the disinterested Management Committee members except as otherwise set forth in Section 4.06(b) or Section 6.09(b).

5.06 Restrictive Covenants.

(a) ***Non-Competition.*** Each Member agrees that while it is a Member or Economic Interest Owner, and for a period of one (1) year after such Member ceases to be a Member or an Economic Interest Owner, it and its Competition Affiliates shall not engage in any Competing Activity (as defined below), whether as an owner, employee, agent, consultant or otherwise, within the "Territory" (as defined below), except as noted in Section 5.06(c).

(i) A "Competing Activity" shall mean the provision of gastrointestinal endoscopy services (which shall not be deemed to include other endoscopy services, including but not limited to pulmonary, cardiac, and/or ear, nose and throat endoscopy services) subject to the following exceptions:

(1) In regard to the Class A Member: (1) any surgical services provided by an entity wholly owned by Hartford Health Care in a licensed hospital inpatient or outpatient department, (2) any Hartford HealthCare surgical joint venture whose revenues from gastrointestinal endoscopy services (which shall not be deemed to include other endoscopy services, including but not limited to pulmonary, cardiac, and/or ear, nose and throat endoscopy services) are less than ten (10%) of total revenues in any given year, or (3) any ambulatory surgery center acquired as part of a merger or acquisition of a hospital or health system by Hartford HealthCare;

(2) In regard to the Class B Member: (a) [NEED LIST OF EXISTING CTGI ASC WITHIN THE "TERRITORY"]; or (b) any ambulatory surgery center acquired as part of a merger or acquisition of a physician group by Connecticut GI, P.C.; or

(3) Any joint venture between the Class B Member and an Affiliate of Hartford HealthCare will not be deemed a Competing Activity.

(ii) "Territory" shall mean the Connecticut municipality of Glastonbury.

(b) **Preferred Partners**. As further defined herein, the Class A Member is designating the Class B Member as its preferred joint venture partner within the Covered Service Area (as hereinafter defined).

(i) If the Class A Member or an Affiliate, directly or indirectly, intends to develop an ambulatory surgery center outside of the Territory but within the Covered Service Area which will primarily provide gastrointestinal endoscopy services (which shall not be deemed to include other endoscopy services, including but not limited to pulmonary, cardiac, and/or ear, nose and

throat endoscopy services), then the Class A Member (or its Affiliate) may first elect to partner with physicians it deems as the market leaders in that area. If some or all of those physicians elect to partner with the Class A Member, the Class A Member shall offer the Class B Member the right of first refusal to be the minority physician partner under terms and conditions substantially similar the terms and conditions set forth in this Operating Agreement. If all of those physicians elect not to partner with the Class A Member, the Class A Member shall offer the Class B Member the right of first refusal to be the exclusive physician partner under terms and conditions identical the terms and conditions set forth in this Operating Agreement; provided, however, the Class A Member may elect to not proceed with the proposed ambulatory surgery center development.

(ii) If the only owners in the ambulatory surgery center covered under this Section 5.06(b) will be the Class A and B Members (or their Affiliates), then the terms of the Operating Agreement shall be identical to the terms of this Agreement other than expanding the definition of "Territory" to include the town in which the ambulatory surgery center is located.

(iii) The parties acknowledge and agree if a Member is offered an opportunity to invest in an existing ambulatory surgery center within the Covered Service Area, such Member is not obligated to include the other Member in such investment opportunity; provided, the party receiving the investment opportunity shall, subject to any contractual confidentiality obligations, notify the other party of the proposed investment opportunity in writing as soon as practical. For purposes of this subsection, an "existing ambulatory surgery center" shall be a surgery center that has been in operation for at least one (1) year.

(iv) If a Member intends to invest in an ambulatory surgery center outside of the Covered Service Area, the Member is not obligated to provide the other Member an opportunity to participate in that investment; provided, however, the Member shall, subject to any contractual confidentiality obligations, provide written notice to the other Member of any contemplated investment as soon as practical.

(v) For purposes of this Section 5.06(b), the following definitions shall apply:

1. "primarily providing gastrointestinal endoscopy services" shall mean either (a) fifty (50%) percent or more of the procedures provided (or anticipated to be provided) at the surgery center will be gastrointestinal endoscopy services (which shall not be deemed to include other endoscopy services, including but not limited to pulmonary, cardiac, and/or ear, nose and throat endoscopy services); or (b) one or more operating or procedure rooms within the surgery center is exclusively (90% or greater) dedicated to the

provision of gastrointestinal endoscopy services (which shall not be deemed to include other endoscopy services, including but not limited to pulmonary, cardiac, and/or ear, nose and throat endoscopy services);

2. "Covered Service Area" shall mean the geographic area set forth on Exhibit C

(c) **Right of First Refusal**. As further described herein, each Member grants the other Member a right of first refusal within the ROFR Service Area (as hereinafter defined) to be the exclusive partner for any new ambulatory surgery center development.

(i) If a Member or an Affiliate, directly or indirectly, intends to develop an ambulatory surgery center outside of the Territory but within the ROFR Service Area ("Offering Member") which will provide Gastrointestinal Endoscopy Services, then the Member (or its Affiliate) shall offer the other Member ("Receiving Member") the right of first refusal to be the exclusive partner under terms and conditions identical the terms and conditions set forth in this Operating Agreement. The Offering Member shall notify the Receiving Member in writing of its intent to develop an ambulatory surgery center including the location and intended size of the ambulatory surgery center. The Receiving Member shall have ninety (90) days to exercise its right to be the exclusive partner for this proposed ambulatory surgery center through a written acknowledgement to the Offering Member. If the Receiving Member does not respond within this ninety (90) day notice period, the Receiving Member will be deemed to have elected not to exercise its right to be the exclusive partner. If the Receiving Member elects not to exercise its rights under this Section 5.06(c), the Offering Member may develop the ambulatory surgery center as a wholly owned operation or partner with other parties provided the location and size of the ambulatory surgery center developed is substantially similar with the location and size offered to the Receiving Member.

(ii) This right of first refusal shall not apply to the following: (i) any Gastrointestinal Endoscopy Services provided in a licensed hospital inpatient or outpatient department by an entity wholly owned by Hartford Health Care, (2) any Hartford HealthCare surgical joint venture whose revenues from Gastrointestinal Endoscopy Services are less than ten (10%) of total revenues in any given year, (3) any ambulatory surgery center acquired as part of a merger or acquisition of a hospital or health system by Hartford HealthCare (or an Affiliate) or any ambulatory surgery center acquired as part of a merger or acquisition of a physician group by Connecticut GI, P.C.; provided, however, the relocation of the Gastrointestinal Endoscopy Services of the acquired entity to a new facility or location shall be subject to the right of first refusal described in Section 5.06(c)(i); and (4) any opportunity a Member has to invest in an existing ambulatory surgery center within the ROFR Service Area; provided, the party receiving the investment opportunity shall, subject to any contractual confidentiality obligations, notify the other party of the proposed investment opportunity in

writing as soon as practical. For purposes of this subsection, an "existing ambulatory surgery center" shall be a surgery center that has been in operation for at least one (1) year.

(iii) If a Member intends to invest in or develop an ambulatory surgery center outside of the ROFR Service Area, the Member is not obligated to provide the other Member an opportunity to participate in that investment or development; provided, however, the Member shall, subject to any contractual confidentiality obligations, provide written notice to the other Member of any contemplated investment or development as soon as practical.

(iv) For purposes of this Section 5.06(c), the following definitions shall apply:

1. "Gastrointestinal Endoscopy Services" shall mean either (a) fifty (50%) percent or more of the procedures provided (or anticipated to be provided) at the surgery center will be gastrointestinal endoscopy services (which shall not be deemed to include other endoscopy services, including but not limited to pulmonary, cardiac, and/or ear, nose and throat endoscopy services); or (b) one or more operating or procedure rooms within the surgery center or hospital facility is exclusively (90% or greater) dedicated to the provision of gastrointestinal endoscopy services (which shall not be deemed to include other endoscopy services, including but not limited to pulmonary, cardiac, and/or ear, nose and throat endoscopy services);

2. "ROFR Service Area" shall mean the geographic area set forth on Exhibit C

(d) **Confidentiality**.

(i) Each Member hereby acknowledges that any disclosure of the Company's or another Member's Confidential Information, as defined below, even inadvertent disclosure, would cause irreparable and material damage to the Company or to the other Member. Each Member hereby agrees that it and each of its Affiliates shall (A) maintain as confidential all of the Company's and the other Members' Confidential Information made known to it; (B) protect the confidentiality thereof in the same manner in which it protects the confidentiality of similar Confidential Information of its own, at all times exercising at least a reasonable degree of care in the protection of the Confidential Information; and (C) not disclose such Confidential Information to any third party without the express written consent of the owner of the Confidential Information. Each Member agrees to transfer to the Company and the other Members, as applicable, upon the termination of its Membership Interest, the Confidential Information made known to it as a result of it being a Member and in its possession upon the

termination and to continue to maintain the confidentiality of the Confidential Information as provided herein. The obligations of each Member under this Section shall survive the termination of the Member's Membership Interest and the termination of this Agreement.

(ii) "Confidential Information" includes, but is not limited to, all: (A) financial information; (B) products, and services and product and service information, including but not limited to product and service costs, prices, profits and sales; (C) new business ideas; (D) business strategies; (E) product and service plans; (F) marketing plans and studies; (G) forecasts and models; (H) all intellectual property, including but not limited to property or information (1) that is protected by copyright or is copyrightable, (2) that is protected by patent or that is patentable, or (3) that is valuable and not generally known in the trade, including trade secrets, financial data, business plans, and data, and any developments relating to foregoing, whether or not patentable or copyrightable; (I) databases (and the documentation and information contained therein); (J) research projects and all information connected with research and development efforts; (K) records (including the records of the Company and the medical records of patients); (L) business relationships, methods and recommendations; (M) patient lists (including the identities of patients and prospective patients); (N) contract termination and renewal dates; (O) personnel files; (P) competitive analyses; (Q) all information relating to the operation of the Company's business; and (R) other confidential, proprietary or trade secret information that has not been made available to the general public by the Company's management.

(e) ***Limitation of Covenants***. The restrictions in this Section 5.06:

(i) shall not prohibit any Member or its Affiliates from taking any action on behalf of the Company;

(ii) shall not apply to the activities of a Member, a former Member or its Affiliates if the Members by Supermajority Vote consent to allow the Member or former Member to undertake the prohibited activity after full disclosure of all the relevant facts; or

(iii) shall not prohibit any Member and its Competition Affiliates from owning, individually or collectively, directly or indirectly, securities of any Person traded in a public market, provided that the Member and its Competition Affiliates do not own more than two percent (2%) of any class of securities of such Person and has no relationship with such Person other than as a stockholder; and shall not prohibit any Member or its Affiliates from using for its own benefit or the benefit of others or to disclose or publish any information that (A) was rightfully in its possession prior to the date of this Agreement, (B) was rightfully obtained from others without violation of its obligations to the Company or the other Members, (C) was independently developed by the Member without the use of the Company's or the other Members' Confidential Information, or (D) is or becomes within the public domain without breach of this Agreement.

(f) ***Injunctive Relief.*** Each Member acknowledges that any violation of any provision of Section 5.06 will cause irreparable harm to the Company and the other Member, that damages for such harm will be incapable of precise measurement and that, as a result, the Company and/or the other Member(s) will not have an adequate remedy at law to redress the harm caused by such violation. Therefore, in the event of such a violation, the parties agree that, in addition to other remedies, the aggrieved party or parties shall be entitled, without the necessity of either proof of actual damage or the posting of a bond, to injunctive relief, including but not limited to an immediate temporary injunction, temporary restraining order and/or preliminary or permanent injunction to restrain or enjoin any such violation, and to reimbursement of any attorneys' fees incurred to enforce the provisions of this Section 5.06. Nothing in this Agreement shall be construed to prohibit the Company and/or an aggrieved Member from pursuing any other remedy, the parties having agreed that all remedies are cumulative and that the Member is liable for any and all acts or omissions of such Member and/or its Competition Affiliates that violate any provision of this Section 5.06. In addition, the Class B Member agrees to obtain an agreement from each Person who is a direct or indirect owner of a beneficial interest in the Class B Member to be bound by the provisions of this Section 5.06 and that the Company and the Class A Member shall be third party beneficiaries to such agreement with independent rights to enforce the non-compete provisions contained in that agreement

(g) ***Acknowledgment.*** Each Member hereby acknowledges the reasonableness of the restrictions contained in this Section 5.06 in view of the purposes of the Company and the relationship of the Members. Each Member acknowledges that the restrictions contained in this Section 5.06 represent mandatory conditions precedent to the execution of this Agreement, and that in the absence of such restrictions, neither Member would have consented to, or entered into, this Agreement.

ARTICLE VI
RIGHTS AND DUTIES OF MANAGEMENT COMMITTEE

6.01 Management Committee.

(a) The management of the Company shall be vested in a Management Committee, which shall consist of six individuals (each individually referred to as a "Manager", and collectively as the "Managers"). The Class A Member shall be responsible for designating three of such six Managers (each of which shall be referred to individually as a "Class A Manager", and collectively as the "Class A Managers") to the Management Committee. The Class B Member shall be responsible for designating three of such six Managers (each of which shall be referred to individually as a "Class B Manager", and collectively as the "Class A Member and Class B Managers") to the Management Committee. The initial Managers designated by each of the Class A Member and the Class B Member are set forth on Exhibit B hereto.

(b) The annual meeting of the Management Committee shall be held on the second Monday of the month of December each year, or at such other time as is selected

by the Management Committee. Regular meetings of the Management Committee may be held at such times and places as may be determined by the Management Committee, and once such determination has been made and notice given to each Manager, regular meetings may be held without any further notice. Special meetings of the Management Committee may be called by the Chairman, a Member Representative, or by two or more Managers upon at least forty-eight (48) hours' notice. Attendance at a meeting of the Management Committee, in person or as otherwise permitted under this Agreement or the Act, by a majority of the Class A Managers and a majority of the Class B Managers shall constitute a quorum.

(c) Action may be taken by the Management Committee without a meeting by consent, in writing, setting forth the action to be taken, signed by the number of Managers entitled to vote on such action as would be required to approve such action at a meeting at which all the Managers entitled to vote thereon were present. Such consent shall be filed with the records of the meetings of the Management Committee and shall be treated for all purposes as the act of the Management Committee.

(d) Managers may participate in a Management Committee meeting by means of conference telephone or similar communications equipment that enables all persons participating in the meeting to hear each other.

(e) The Management Committee may, from time to time, designate by resolution one or more subcommittees, with such powers and authority as may be prescribed in such resolution, to serve at the request of the Management Committee. Each subcommittee, which shall be comprised of an equal number of representatives of each of the Class A Member and the Class B Member, may determine the procedural rules for its meetings and conducting its business and shall act in accordance therewith. Adequate provision shall be made for notice to subcommittee members of all meetings; a majority of the subcommittee members shall constitute a quorum; and all matters shall be determined by the vote of a majority of the subcommittee members present at a meeting at which a quorum is present.

6.02 Powers of Management Committee.

The Management Committee shall have full, exclusive, and complete discretion, power, and authority (subject in all cases to Section 6.03, Section 6.04, Section 6.09, the other provisions of this Agreement and the requirements of Applicable Law), to manage, control, administer, and operate the business and affairs of the Company so as to further the purpose of the Company as set forth in Sections 1.06 and 1.07, and to make all decisions affecting such business and affairs (subject to Section 5.05 regarding transactions with a Member or an Affiliate of a Member), including without limitation, for Company purposes, the power to:

(a) acquire by purchase, lease, or otherwise any real property or any personal property, tangible or intangible;

(b) construct, operate, maintain, finance, and improve any real property or any personal property;

(c) sell, convey, assign, or lease any real property or any personal property;

(d) open and use bank accounts in the Company's name and to withdraw funds or issue checks, drafts or orders for the payment of money from such accounts;

(e) enter into agreements and contracts and to give receipts, releases, and discharges;

(f) appoint, employ or otherwise contract with any Person to perform services for or on behalf of the Company, and to grant to any such Person such authority to act on behalf of the Company as the Management Committee may from time to time deem appropriate;

(g) purchase liability and other insurance to protect the Company's assets and business;

(h) execute any and all other instruments and documents that may be necessary or in the opinion of the Management Committee desirable to carry out the intent and purpose of this Agreement;

(i) make any and all expenditures that the Management Committee, in its sole discretion, deems necessary or appropriate in connection with the management of the affairs of the Company and the carrying out of its obligations and responsibilities under this Agreement, including, without limitation, all legal, accounting, and other related expenses incurred in connection with the organization, financing, and operation of the Company;

(j) invest and reinvest Company reserves in short-term instruments or money market funds;

(k) adopt and amend Medical Staff Bylaws and Medical Staff Rules and Regulations for the organization and operation of the Center (as provided further in Section 8.02 below);

(l) appoint and credential members of the Medical Staff and delineate their privileges at the Center, and otherwise discharge its responsibilities under the Medical Staff Bylaws and Rules and Regulations in effect from time to time;

(m) oversee quality assurance, quality improvement, and best practices medicine;

(n) arrange for managed care contracting;

(o) control the proper and efficient use of operating room time;

(p) oversee the review peers using the Company's Center pursuant to procedures adopted by the Management Committee from time to time;

(q) take and approve all actions and matters required of a governing authority of an endoscopy center under Applicable Law; and

(r) enter into any activity necessary to, in connection with, or incidental to, the accomplishment of the purposes of the Company.

6.03 Management of Endoscopy Center.

The Management Committee shall arrange for the management and administration of the business affairs of the Company's Center. It shall do so either through the employment or engagement of individuals with the necessary credentials to do so, or through contract with a third party engaged in the business of endoscopy center management. The Medical Director and Associate Medical Director shall have responsibility for the day-to-day operations of the Center as provided in Section 7.07. The Members and the Management Committee hereby adopt and agree to comply with the Charity Care Policy. The Management Committee may amend the Charity Care Policy from time to time and shall enforce the Charity Care Policy in a manner to ensure the compliance of the Company and the Center with the Charity Care Policy and Applicable Law.

6.04 Extraordinary Transactions.

Notwithstanding anything herein to the contrary excepting actions taken pursuant to Section 4.06(b) or Section 6.09(b), the Management Committee may not take action with regards to any of the following matters without the Supermajority Vote of the Member Representatives (subject to Section 5.05 regarding transactions with a Member or an Affiliate of a Member):

(a) sell all or substantially all of the assets of the Company;

(b) merge or consolidate the Company with any other Person;

(c) acquire all or substantially all the assets of, or ownership interests in, another Person;

(d) borrow money or incur any debt for, or on behalf of, the Company in excess of $250,000, other than in the ordinary course of business;

(e) execute for or on behalf of the Company any mortgage or deed of trust or prepay, in whole or in part, refinance, amend, modify, or extend any mortgage or deeds of trust for or on behalf of the Company securing a debt in excess of $250,000;

(f) create a security interest in or cause a lien securing a debt in excess of $250,000 to be placed on any real property of the Company or, other than in the ordinary course of business, any personal property of the Company;

(g) acquire by purchase, lease or otherwise any real property;

(h) admit additional Members to the Company;

(i) enter into any management agreement relating to all or substantially all of the assets and/or operations of the Company, or any other contract or series of related contracts that require aggregate expenditures by the Company, or will result in aggregate gross payments to the Company, in excess of $100,000;

(j) hire or fire key personnel; and

(k) open additional offices.

6.05 Term of Managers.

Each Manager shall hold office until his or her death, resignation, incapacitation or removal as provided herein.

6.06 Resignation of Manager.

Any Manager of the Company may resign at any time by giving written notice to the Company and to the Member who designated such Manager. The resignation of any Manager shall take effect upon receipt by the Member and the Company of the notice thereof or at such later date specified in such notice, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

6.07 Removal of Manager.

A Manager may be removed at any time, with or without cause or notice, by the Member that originally designated such Manager or as described in Section 3.03(a)(iii).

6.08 Vacancies.

Manager vacancies shall be filled by the Member who originally designated such Manager.

6.09 Manner of Acting.

(a) In General. Except as provided in Section 3.01, the affirmative vote of a majority of the Class A Managers and the affirmative vote of a majority of the Class B Managers shall be required to take or approve any action by the Management Committee.

(b) Special Powers of Class A Managers. Notwithstanding anything contained herein to the contrary, the Class A Managers shall have the unilateral and exclusive right to: (i) approve any action by the Management Committee with respect to any Exempt Status Matter; provided, however, that approval of such actions may also be given by the Class A Member Representative pursuant to Section 4.06(b); and (ii) approve the Company's annual capital and operating budgets and any material modifications to such budgets and the appointment and removal of the Medical Director and Associate Medical Director in accordance with Sections 7.01 and 7.04, respectively.

In the exercise of their special powers hereunder, the Class A Managers shall act reasonably and, in regards to subsection (i) upon the written advice of counsel, and shall give not less than ten (10) days' prior written notice to, and shall, during such ten (10) day period, seek the advice and input of, the Class B Managers. Actions taken pursuant to this Section 6.09(b) shall not be subject to Section 5.05

(c) Special Powers of the Class B Managers. In accordance with the approved Capital and Operating Budgets, the Class B Managers shall, after consultation with the Class A Managers, have the unilateral and exclusive right to: (i) select and terminate the anesthesia and pathology providers and the medical equipment and supply vendors for the Company, (ii) approve, revise and amend policies related to research activities conducted in the Center, (iii) approve, amend and terminate the Company's third party payor contracts; and (iv) approve the appointment and/or termination of members of the Company's medical staff. All actions taken by the Class B Managers pursuant to this Section 6.09(c) shall (1) comply with all Applicable Law, (2) be conducted in conformance with the Company's Compliance Plan and Conflict of Interest Policy, (3) remain subject to Section 5.05, and (4) be conducted consistent with the Charitable Purposes and remain subject to the Class A Managers rights related to Exempt Status Matters.

(d) Compliance Plan and Conflict of Interest Policy. The Management Committee shall adopt, and the Company shall operate consistently with, a compliance plan and a conflict of interest policy that is complimentary to the corporate compliance plan of the Class A Member.

(e) Medical Staff Credentialing and Third Party Payer Contracting. Except as otherwise determined by the Management Committee, medical staff credentialing for the Center and the Company's contracting with third party payers shall be conducted using internal staff under the direction of the Company's Medical Director.

6.10 Duties of Managers.

Each Manager shall devote such time to the business and affairs of the Company as is necessary to carry out the duties set forth in this Agreement. The Management Committee shall manage the Company so as to further the purpose of the Company as set forth in Section 1.06 without regard to maximizing profitability.

6.11 Liability of Managers.

In no event will any Manager be personally liable to the Company, the Members or any other Manager for the debts, obligations, or liabilities of the Company whether arising in contract, tort or otherwise, in acting on behalf of the Company or in his or her capacity as a Manager, except as otherwise required by Applicable Law, provided that his or her actions or omissions did not constitute fraud, bad faith, gross negligence, or willful misconduct. No Manager shall be personally liable for failure to perform in accordance with, or to comply with the terms and conditions of, this Agreement or for any other reason unless such failure to

conform or to comply or such other reason constitutes fraud, bad faith, gross negligence, or willful misconduct by such Manager.

6.12 Indemnity of Managers.

The Company shall indemnify and hold harmless each Manager against any and all liability, loss, expense, or damage incurred or sustained by reason of any act or omission in the conduct of the business of the Company, except if such Manager shall have been guilty of fraud, bad faith, gross negligence or willful misconduct. Such indemnification shall include the reasonable expenses (including reasonable attorneys' fees and costs) incurred by a Manager in connection with the defense of any action to which he or she may be made a party by reason of his or her interest in or activities on behalf of the Company. Any indemnity under this Section shall be provided out of and to the extent of Company assets only and no Member shall have any personal liability on account thereof.

6.13 Reliance upon Third Parties.

The Management Committee and each Manager shall be fully protected in relying in good faith upon information, opinions, reports, or statements furnished by any Person as to matters the Management Committee or Manager reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care.

6.14 Compensation.

The salary and/or other compensation of the Managers, if any, shall be fixed from time to time by the Supermajority Vote of the Member Representatives.

ARTICLE VII
OFFICERS OF THE COMPANY

7.01 General.

The Management Committee annually at its annual meeting shall appoint a Chairman, and may elect such other officers of the Company, which may include a Treasurer, a Secretary and other officers and assistant officers, as the Management Committee may deem necessary or advisable for the efficient operation of the Company's affairs. Any two or more offices may be held by the same person. The Class A Managers annually at the Management Committee's annual meeting shall appoint the Medical Director and Associate Medical Director who shall be nominated by the Class B Managers and must at all times be on the active medical staff of Hartford Hospital and a member of Connecticut GI, P.C. The Chairman shall be one of the six Managers, and such position shall be held for alternating one-year terms by a Class A Manager and a Class B Manager, such that the Chairman shall be designated by the Class A Managers during the annual meeting of the Management Committee held during an even-numbered year, and shall be designated by the Class B Managers during the annual meeting of the Management Committee held during an odd-numbered year.

7.02 Authority and Duties.

Officers of the Company, if any, shall have such authority and perform such duties in the management of the Company as may be provided in this Agreement or, to the extent not so provided, by resolution of the Management Committee.

7.03 Election and Term of Office.

Officers of the Company, if any, shall be elected annually by the Management Committee at the annual meeting of the Management Committee. Each officer shall hold office until his or her successor shall have been duly elected or until his or her prior death, resignation or removal.

7.04 Removal.

Any officer of the Company may be removed by the Management Committee whenever in its judgment the best interest of the Company would be served thereby; provided, however, (a) the removal of a Chairman can only be by vote of the Managers who designated such Chairman; and (b) the removal of any officer shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment shall not of itself create contract rights. In addition, the Class A Managers may remove the Medical Director or the Associate Medical Director upon written notice to the Class B Managers; provided, however, prior to removing the Medical Director or the Associate Medical Director pursuant to this Section 7.04, the Class A Managers will consult with the Class B Managers regarding their concerns with the performance of the Medical Director or the Associate Medical Director and potential resolutions to such issues in lieu of removal.

7.05 Resignations.

Any officer of the Company may resign his or her office at any time by giving written notice thereof to the Chairman of the Company, if any, or to the Management Committee. Such resignation shall take effect at the time specified therein, or if no time is specified therein, at the time of the receipt thereof, and the acceptance thereof shall not be necessary to make it effective.

7.06 Vacancies.

A vacancy in any office shall be filled by the Management Committee for the unexpired portion of the term; provided, however, that any vacancy in the position of Chairman shall be filled by the Managers who designated the Chairman at the immediately preceding annual meeting of the Management Committee.

7.07 Medical Director and Associate Medical Director.

The Medical Director shall be the chief operating officer of the Company's Center, with such powers and duties, including without limitation responsibility for the day-to-day operations of the Center, as may be contemplated by Applicable Law, or as may be established by the

Management Committee. The Medical Director shall be responsible for the implementation of the Company's Charity Care Policy. The Associate Medical Director shall perform the duties of the Medical Director in case of the absence, death or inability to act of such officer, with all the powers given to, and responsibilities imposed upon, such officer. The Associate Medical Director shall have such other powers and duties as may be assigned to him or her from time to time by the Medical Director or the Management Committee. The Medical Director and the Associate Medical Director shall be invited to attend all meetings of the Management Committee, except as otherwise directed by the Management Committee; provided, however, that (a) the presence of neither the Medical Director nor the Associate Medical Director shall be required to conduct a meeting of the Management Committee; and (b) each of the Medical Director and the Associate Medical Director shall recuse himself or herself from any deliberations or votes of the Management Committee concerning the evaluation and/or compensation of the Medical Director or the Associate Medical Director. As of the effective date of this Restated Operating Agreement, the Members acknowledge that: (i) the Medical Director shall be Jeffry L. Nestler, M.D.; and (ii) the Associate Medical Director shall be Joseph A. Cappa, M.D.

7.08 Chairman.

The Chairman shall preside at all meetings of the Management Committee and the Members, and shall have such powers and duties as may from time to time be delegated or assigned to the Chairman by the Management Committee. The Chairman shall be required to place on the agenda for a meeting of the Management Committee any agenda item proposed by a Manager at least two (2) business days before such meeting.

7.09 Treasurer.

The Treasurer, if any, shall have charge and custody of and be responsible for all the funds and securities of the Company; he or she shall keep full and accurate accounts of assets, liabilities, receipts and disbursements and other transactions of the Company in books belonging to the Company; and he or she shall deposit all moneys and other valuable effects of the Company in the name of and to the credit of the Company in such banks or other depositories as may be designated by the Management Committee. The Treasurer shall disburse or oversee the disbursement of the funds of the Company as may be ordered by the Management Committee, taking proper vouchers for disbursements, and shall render to the Managers at the meetings of the Management Committee, or whenever they may require it, a statement of all his or her transactions as Treasurer and an account of the financial condition of the Company. In general, he or she shall perform all the duties incident to the office of Treasurer and such other duties as may from time to time be assigned to the Treasurer by the Management Committee.

7.10 Secretary.

The Secretary, if any, shall keep the minutes of the meetings of the Members and the Management Committee in one or more books provided for that purpose. In general, he or she

shall perform all the duties incident to the office of Secretary and such other duties as may from time to time be assigned to the Secretary by the Management Committee.

7.11 Other Assistants and Acting Officers.

The Management Committee may from time to time appoint such other officers as the Management Committee may deem necessary or advisable, each of whom shall hold office for such period, have such authority and perform such duties as the Management Committee may from time to time determine.

ARTICLE VIII
MEDICAL STAFF

8.01 Medical Staff.

The Management Committee shall cause to be created and shall continue to provide for a medical staff organization known as the "Medical Staff of the Glastonbury Endoscopy Center", which shall include all physicians and members of allied professions who are granted by the Management Committee the privilege of caring for or contributing to the care of patients at the Center (the "Medical Staff"). Membership on the Medical Staff shall be a prerequisite to the exercise of clinical privileges at the Center, except as otherwise may be provided in the Medical Staff Bylaws.

8.02 Medical Staff Bylaws.

The Management Committee shall adopt prior to the commencement of medical procedures at the Center, and may amend from time to time, the Medical Staff Bylaws and the Medical Staff Rules and Regulations to govern the organization, appointment and removal of the Medical Staff. The Medical Staff Bylaws shall provide that it shall be the responsibility of any member of the Medical Staff to assist the Company to comply with the Charity Care Policy as established pursuant to this Agreement, amended from time to time and enforced by the Management Committee.

8.03 Staff Status; Privileges; Corrective Action.

The Medical Staff Bylaws shall provide for the procedure to be followed in matters relating to Medical Staff membership status, clinical privileges, and corrective action. Final action on all such matters shall be taken by the Management Committee. The terms and conditions of membership status on the Medical Staff, and of the exercise of clinical privileges, shall be as specified in the Medical Staff Bylaws, the Medical Staff Rules and Regulations, or as more specifically defined in the notice of individual appointment to the Medical Staff.

8.04 Management Committee Exclusive Appointing Authority.

Anything to the contrary herein notwithstanding, the Management Committee shall have the exclusive authority and responsibility to make appointments or reappointments to the Medical Staff, after considering the recommendations and reports of the Medical Staff.

ARTICLE IX
ALLOCATION OF PROFIT AND LOSS AND DISTRIBUTIONS

9.01 Distributions.

(a) ***General.*** Except as otherwise provided in Sections 9.01(b) and 9.06(e), distributions of cash or other assets of the Company shall be made at such times and in such amounts as the Management Committee may determine. Distributions, other than tax distributions made in accordance with Section 9.01(b), Exempt Status Matter Distributions made in accordance with Sections 9.01(c) and 9.06(e), special allocations made in accordance with Section 9.07, and liquidating distributions that shall be made in accordance with Section 15.03, shall be made to the Members and Economic Interest Owners in proportion to their Percentage Interests in the Company.

(b) ***Tax Distributions.*** With respect to each fiscal year of the Company, or part thereof, the Company shall distribute (the "Tax Distribution"), to the extent that it has cash or other liquid investments, to each Member and Economic Interest Owner (who is a Member or Economic Interest Owner as of the date of the distribution) an amount of cash equal to fifty (50%) percent of the net amount of Profit and Loss allocated to such Member or Economic Interest Owner for such year under this Article IX on a cumulative basis. Tax Distributions shall be made to the Members and Economic Interest Owner in proportion to their Percentage Interests on or before those dates upon which federal estimated tax payments or federal tax returns are required to be made or filed by the Members and Economic Interest Owners. The Tax Distributions shall be made without regard to the taxable or tax-exempt status of the Member or Economic Interest Owner.

(c) ***Authority to Withhold; Treatment of Withheld Tax.*** Notwithstanding any other provision of this Agreement, each Member and Economic Interest Owner hereby authorizes the Company to withhold and to pay over, or otherwise to pay, any withholding or other taxes payable by the Company (pursuant to the Code or any provision of United States federal, state or local or foreign law) with respect to such Member or Economic Interest Owner or as a result of such Member's or Economic Interest Owner's participation in the Company; and if and to the extent that the Company shall be required to withhold or pay any such withholding or other taxes, such Member or Economic Interest Owner shall be deemed for all purposes of this Agreement to have received a payment from the Company as of the time such withholding or other tax is required to be paid, which payment shall be deemed to be a distribution with respect to such Member's or Economic Interest Owner's Interest in the Company. To the extent that the aggregate amount of such payments to a Member or

Economic Interest Owner for any fiscal year exceeds the amount of distributions that such Member or Economic Interest Owner would have received for such fiscal year, the Company shall notify such Member or Economic Interest Owner as to the amount of such excess and such Member or Economic Interest Owner shall make a prompt payment to the Company of such amount by wire transfer. The Company shall promptly notify each Member or Economic Interest Owner of any withholding or other taxes payable by the Company with respect to such Member or Economic Interest Owner and, upon the request of such Member or Economic Interest Owner, shall use reasonable efforts to assist such Member or Economic Interest Owner to secure any available tax refunds, credits or exemptions (including exemptions from withholding) with respect to such withholding or other taxes.

9.02 Allocation of Profit and Loss.

After giving effect to the special allocations set forth in Section 9.03, for any taxable year of the Company, Profit or Loss shall be allocated to the Members and the Economic Interest Owners in proportion to their Percentage Interests, subject to any special allocation required by Section 9.06 or 9.07.

9.03 Regulatory Allocations.

(a) ***Qualified Income Offset.*** No Member or Economic Interest Owner shall be allocated Loss or deductions if the allocation causes the Member or the Economic Interest Owner to have an Adjusted Capital Account Deficit, after the allocation of all Profit and gains. If a Member or an Economic Interest Owner receives (i) an allocation of Loss or deduction (or item thereof) or (ii) any distribution, that causes the Member or the Economic Interest Owner to have an Adjusted Capital Account Deficit at the end of any taxable year, then all items of income and gain of the Company (consisting of a *pro rata* portion of each item of Company income, including gross income and gain) for that taxable year shall be allocated to that Member or Economic Interest Owner, before any other allocation is made of Company items for that taxable year, in the amount and in proportions required to eliminate the excess as quickly as possible. This Section 9.03(a) is intended to comply with, and shall be interpreted consistently with, the "qualified income offset" provisions of the Regulations promulgated under Code Section 704(b). Any special allocations of items of Profit or Loss pursuant to this Section 9.03(a) shall be taken into account in computing subsequent allocations of Profit and Loss pursuant to this Agreement, so that the net amount of any items so allocated and the Profit, Loss, and other items allocated to each Member and Economic Interest Owner shall, to the extent possible, be equal to the net amount that would have been allocated to each such Member or Economic Interest Owner pursuant to this Agreement if such special allocation had not occurred.

(b) ***Minimum Gain Chargeback.*** Except as set forth in Regulation Sections 1.704-2(f)(2), (3) and (4), if during any taxable year, there is a net decrease in Minimum Gain, each Member and Economic Interest Owner, prior to any other allocation pursuant to this Article IX, shall be specially allocated items of gross income and gain for such taxable year (and if necessary, subsequent taxable years) in an amount equal to that

Member's or Economic Interest Owner's share of the net decrease of Minimum Gain, computed in accordance with Regulation Section 1.704-2(g). Allocations of gross income and gain pursuant to this Section shall be made first from gain recognized from the disposition of Company assets subject to nonrecourse liabilities (within the meaning of the Regulations promulgated under Code Section 752), to the extent of the Minimum Gain attributable to those assets, and thereafter, from a *pro rata* portion of the Company's other items of income and gain for the taxable year. It is the intent of the parties hereto that any allocation pursuant to this Section 9.03(b) shall constitute a "minimum gain chargeback" under Regulation Section 1.704-2(f).

(c) ***Member Nonrecourse Debt Minimum Gain.*** Except as set forth in Regulation Section 1.704-2(i)(4), if during any taxable year, there is a net decrease in Member Nonrecourse Debt Minimum Gain, each Member and Economic Interest Owner, prior to any other allocation pursuant to this Article IX, shall be specially allocated items of gross income and gain for such taxable year (and if necessary, subsequent taxable years) in an amount equal to that Member's or Economic Interest Owner's share of the net decrease of Member Nonrecourse Debt Minimum Gain, computed in accordance with Regulation Section 1.704-2(i)(5). Allocations of gross income and gain pursuant to this Section shall be made first from gain recognized from the disposition of Company assets subject to nonrecourse liabilities (within the meaning of Regulation Section 1.704-2(b)(4)), to the extent of the Member Nonrecourse Debt Minimum Gain attributable to those assets, and thereafter, from a *pro rata* portion of the Company's other items of income and gain for the taxable year. It is the intent of the parties hereto that any allocation pursuant to this Section 9.03(c) shall constitute a "chargeback of partner nonrecourse debt minimum gain" under Regulation Section 1.704-2(i)(4).

(d) ***Code Section 754 Adjustment.*** To the extent an adjustment to the tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulation Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of the adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases basis), and the gain or loss shall be specially allocated to the Members and the Economic Interest Owners in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to that Section of the Regulations.

(e) ***Nonrecourse Deductions.*** Nonrecourse Deductions for a taxable year or other period shall be specially allocated among the Members and the Economic Interest Owners in proportion to their Percentage Interests.

(f) ***Member Nonrecourse Deductions.*** Any Member Nonrecourse Deduction for any taxable year or other period shall be specially allocated to the Member or the Economic Interest Owner who bears the risk of loss with respect to the loan to which the Member Nonrecourse Deduction is attributable in accordance with Regulation Section 1.704-2(i).

(g) ***Fractions Rule Adjustment***. Notwithstanding anything to the contrary in this Agreement, the Company shall (i) make allocations of Profit (or any item thereof) to the Class A Member only to the extent that the Class A Member have actually received a distribution under Section 9.01 attributable to such Profit, and (ii) make such special, curative, and/or offsetting allocations of Profit or Net Loss (or any item thereof) to the extent necessary to cause the allocations of Company income, gain, loss, and deduction to meet the requirements of Code Section 514(c)(9)(E) and the Treasury Regulations thereunder; provided, however, in the event any such allocation made under this subsection (g) would reduce the amounts distributable to any Member under this Agreement, the parties shall in good faith negotiate an amendment to the allocation provisions of this Agreement such that no such reduction occurs (unless the Class A Members waive such right with respect to a reduction in any amount distributable to it).

(h) ***UBTI Limitation***. Notwithstanding anything to the contrary in this Agreement, the Company shall make such special, curative, and/or offsetting allocations of Profit or Loss (or any item thereof) to the extent necessary and to the extent supported by advice of tax counsel, to cause any amounts otherwise allocable to the Class A Member that would constitute unrelated business taxable income to instead be allocated to the other Members; provided, however, in the event any such allocation made under this subsection (h) would reduce the amounts distributable to any Member under this Agreement, the parties shall in good faith negotiate an amendment to the allocation provisions of this Agreement such that no such reduction occurs (unless the Class A Member waive such right with respect to a reduction in any amount distributable to it).

9.04 Contributed Property and Book-ups.

In accordance with Code Section 704(c) and the Regulations thereunder, as well as Regulation Section 1.704-1(b)(2)(iv)(d)(3), income, gain, loss, and deduction with respect to any property contributed (or deemed contributed) to the Company shall, solely for tax purposes, be allocated among the Members and the Economic Interest Owners so as to take account of any variation between the adjusted basis of the property to the Company for federal income tax purposes and its fair market value at the date of contribution (or deemed contribution). If the adjusted book value of any Company asset is adjusted as provided herein, subsequent allocations of income, gain, loss, and deduction with respect to the asset shall take account of any variation between the adjusted basis of the asset for federal income tax purposes and its adjusted book value in the manner required under Code Section 704(c) and the Regulations thereunder. Any elections or decisions relating to such allocations shall be made by the Management Committee in a manner that reasonably reflects the intent of this Agreement. Allocations pursuant to this Section 9.04 are solely for tax purposes and shall not affect any Member's or any Economic Interest Owner's Capital Account.

9.05 General.

(a) ***Distributions of Property.*** If any assets of the Company are distributed in kind to any Member or Economic Interest Owner, those assets shall be valued on the basis of their Agreed Value, and any Member or any Economic Interest Owner entitled to any interest in those assets shall receive that interest as a tenant-in-common with all other Members and Economic Interest Owners so entitled. The Profit or Loss for each distributed asset shall be determined as if the asset had been sold at its Agreed Value, and the Profit or Loss shall be allocated as provided in Section 9.02 and shall be properly credited or charged to the Capital Accounts of the Members and the Economic Interest Owners prior to the distribution of the assets.

(b) ***Members of Record for Allocations.*** All Profit and Loss shall be allocated to the Persons shown on the records of the Company to have been Members or Economic Interest Owners during the year, as of the last day of the taxable year for which the allocation is to be made. Notwithstanding the foregoing, unless the Company elects to separate its taxable year into segments, if there is a Transfer or an Involuntary or Voluntary Withdrawal during the taxable year, the Profit and Loss shall be allocated between the original Member or Economic Interest Owner and his or her successor or, in the case of a Transfer to the Company or a Voluntary Withdrawal, among the remaining Members and Economic Interest Owners, on the basis of the number of days each was a Member or an Economic Interest Owner during the taxable year. However, the Company's taxable year shall be segregated into two or more segments in order to account for Profit, Loss, or proceeds attributable to any extraordinary non-recurring items of the Company.

(c) ***Members of Record for Distributions.*** All *pro rata* distributions shall be made to the Persons shown on the records of the Company to be Members or Economic Interest Owners as of the day of the distribution.

(d) ***Guaranteed Payments***. To the extent any compensation for goods or services, that is paid to a Member or an Economic Interest Owner by the Company, is determined by the Internal Revenue Service not to be a guaranteed payment under Code Section 707(c) or is not paid to the Member or the Economic Interest Owner other than in the Person's capacity as a Member or an Economic Interest Owner within the meaning of Code Section 707(a), the Member or the Economic Interest Owner shall be specially allocated gross income of the Company in an amount equal to the amount of that compensation, and the Member or the Economic Interest Owner's Capital Account shall be adjusted to reflect the payment of that compensation.

(e) ***Amendment of Regulatory Allocations.*** The Management Committee is hereby authorized, upon the advice of the Company's tax counsel, to amend this Article IX to comply with the Code and the Regulations promulgated under Code Section 704(b). However, no amendment shall materially affect distributions to a Member or an Economic Interest Owner without the Member's or Economic Interest Owner's prior written consent.

9.06 Exempt Status Matter Special Allocations and Distributions.

(a) In the event with respect to any taxable year of the Company, an Exempt Status Matter Action is taken, then, upon seven (7) days prior written notice by the Class B Member Representative, the Class A and Class B Member Representatives shall meet within thirty (30) days after the close of such taxable year to determine whether such Exempt Status Matter Action(s) have had a negative impact on the Profit of the Company for such taxable year, and/or are likely to have a negative impact on the Profit of the Company in subsequent taxable years, that would have otherwise have been realized had such Exempt Status Matter Action(s) not been taken. The failure of the Class B Member Representative to give notice of such a meeting within thirty (30) days of the end of a taxable year shall constitute an irrevocable waiver of the rights of the Class B Member to claim an Exempt Status Matter Special Allocation pursuant to this Section 9.06 for such taxable year, except with respect to an Exempt Status Matter Action taken in a prior taxable year with respect to which the Class A Member Representative and the Class B Member Representative, or the Company's independent auditors, determined in accordance with this Section 9.06, was likely to have a negative impact on the Profit of the Company in succeeding taxable years (a "Qualifying Prior Year Exempt Status Matter Action").

(b) In the event that the Class A Member Representative and the Class B Member Representative determine, after the meeting referred to in Section 9.06(a), that any Exempt Status Matter Action(s) taken during the taxable year, or Qualifying Prior Year Exempt Status Matter Action, did not have an adverse effect on the Profit of the Company for such taxable year, then there shall be no Exempt Status Matter Special Allocation to the Class B or C Member for such taxable year. In the event that the Class A Member Representative and the Class B Member Representative determine that there has been an adverse impact on the Profit of the Company for said taxable year (or in the event that the parties are unable to reach agreement as to whether there was an adverse impact on such Profit), the Managers of the Company shall instruct the Company's independent auditors to review the specifics of the Exempt Status Matter Action(s) that occurred during such taxable year, and any Qualifying Prior Year Exempt Status Matter Action, and to render a report, within thirty days after being retained, which will outline in reasonably sufficient detail, the economic impact, or lack thereof, that the Exempt Status Matter Action(s), and any Qualifying Prior Year Exempt Status Matter Action, had on the Company's Profit for such taxable year and/or will likely have on the Company's Profit in succeeding years ("Special Report"). The Special Report will be finalized in all events prior to filing the tax return for the fiscal year in question. For purposes of determining whether and to what extent there has been or will be an economic impact on the Company's Profit, and of preparing said report, (i) the value of additional free or partial pay care required as part of an Exempt Status Matter Action shall be determined on a fee equivalent basis using Medicare rates; (ii) the cost of additional free health educational programs and seminars required as part of an Exempt Status Matter Action shall include only those additional out-of-pocket costs and expenses attributable to the publicity for or operation of such programs and seminars, and shall not include an allocation of the Center's overhead or personnel costs; (iii) opportunity costs (including lost profits) of non-clinical activities approved by the

Management Committee but which have been limited or eliminated as a result of an Exempt Status Matter Action; and (iv) opportunity costs (other than as provided in clause (i) or (iii) above) and consequential and other special damages shall not be included. Each Class A Member and Class B Member shall have ten (10) days after receipt of the auditors' report, to object in writing to such report. Such objection shall state in reasonable detail the basis for the Member's objection to the auditors' report. A failure to object within such ten (10) days will render the auditors' conclusions final and non-appealable for purposes of the special allocation set forth in this Section 9.06. If a Class A Member or Class B Member objects to such report within said ten-day period, the Company's independent auditors shall have one week to rule on such objection and issue their final report, which report shall be conclusive and binding on the parties.

(c) Notwithstanding the provisions of Sections 9.01 and 9.02, for each taxable year of the Company in which the Class A and Class B Members determine, or it is otherwise determined pursuant the provisions of Section 9.06(b), that an Exempt Status Matter Action has had a negative impact on the Profit of the Company, the Class B and C Member shall receive, after giving effect to the special allocations set forth in Section 9.03, a special allocation of Profit as described in Section 9.06(d) equal to the Exempt Status Matter Special Allocation Amount (as defined below), and a corresponding cash distribution as described in Section 9.06(e) equal to the Exempt Status Matter Distribution (as defined below).

(d) The Exempt Status Matter Special Allocation Amount for the Class B and C Member shall be, for each taxable year, the product of (i) the Class B or C Member's respective Percentage Interest for such taxable year, multiplied by (ii) the difference, if positive, of (A) the allocable Profit of the Company for such taxable year determined by the Company's independent auditors as though the Exempt Status Matter Action(s) were never taken (the "Estimated Allocable Net Profit") minus (B) the actual allocable Profit of the Company for such taxable year. If the Class B or C Member's Exempt Status Matter Special Allocation Amount that has accrued for any taxable year of the Company exceeds the Company's total Profit for such taxable year, the difference between such Exempt Status Matter Special Allocation Amount and the Company's total Profit for such taxable year (the "Profit Shortfall") shall be carried forward to successive taxable years and shall be allocated to the Class B and C Member pursuant to the formula set forth in the first sentence of this Section 9.06(d) until such time that the Profit Shortfall is reduced to zero (*i.e.*, until the Class B and C Member has each received a special allocation of Profit that cumulatively totals the aggregate of the Exempt Matter Special Allocation Amounts accrued to such Class B or C Member for all taxable years of the Company).

(e) If, and to the extent applicable, for each taxable year of the Company, the Company shall make a distribution to the Class B and C Member (each an "Exempt Status Matter Distribution") equal to the Class B or C Member's Exempt Status Matter Special Allocation Amount, as further set forth in Section 9.06(d). The Company shall make the Exempt Status Matter Distribution, if applicable, within ninety (90) days of the issuance of the final auditors' report described in Section 9.06(b), except to the extent that the Company has insufficient cash to make such Exempt Status Matter Distributions

(each a "Cash Shortfall"). If the Company experiences a Cash Shortfall and a Class B or C Member's Exempt Status Matter Special Allocation Amount exceeds the Exempt Status Matter Distribution attributable to such Exempt Status Matter Special Allocation for any taxable year (a "Member Distribution Shortfall"), the Company shall carry-forward the Member Distribution Shortfall to the successive taxable year (or taxable years, if necessary) and make a distribution to the Class B or C Member of its Member Distribution Shortfall at such time or times that the Company no longer has a Cash Shortfall.

9.07 **<u>Certain Special Allocations</u>.** Notwithstanding the other provisions of this Article IX, the Management Committee will make special allocations of certain items of gross income and expenses to one or more Members, per the written agreement between the Company and all the Company's Members, provided that such special allocations have "substantial economic effect" for purposes of Treas. Reg. § 1.704-2 or otherwise comply with applicable federal tax laws, rules and regulations including without limitation special allocations required by Section 7.1 of that certain Membership Interest Purchase Agreement between the Class A and B Members dated _____, 2014. By way of example, and not of limitation, the Company and the Members may agree in writing that certain income or expenses incurred by the Company that arose in a period before a certain Member (the "New Member") owned an ownership interest in the Company, be allocated to the Member(s) other than the New Member. To the extent gross income is allocated to a Member, the cash associated therewith shall be distributed to such Member, without regard to any other provisions of this Agreement

ARTICLE X
BOOKS, RECORDS, ACCOUNTING AND TAX ELECTIONS

10.01 **<u>Bank Accounts.</u>**

All funds of the Company shall be deposited in a bank account or accounts maintained in the Company's name. The Management Committee shall determine the institution or institutions at which the accounts will be opened and maintained, the types of accounts, and the Persons who will have authority with respect to the accounts and the funds therein.

10.02 **<u>Books and Records.</u>**

(a) The Management Committee shall keep or cause to be kept complete and accurate books and records of the Company and supporting documentation of the transactions with respect to the conduct of the Company's business. At a minimum, the Company shall keep the following records:

(i) A current list of (1) the full name and last known address of each Member and Economic Interest Owner, Member Representative and Manager, (2) the amount of cash each Member and Economic Interest Owner has contributed, (3) a description and statement of the Agreed Value of the other property each Member and Economic Interest Owner has contributed or has agreed to contribute

in the future, and (4) the date on which each became a Member and Economic Interest Owner;

(ii) A copy of the Articles of Organization of the Company and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any amendment has been executed;

(iii) Copies of the Company's federal, state, and local income tax returns and reports (including information returns), if any, for the three most recent years;

(iv) Copies of the Company's currently effective Operating Agreement;

(v) Copies of the Company's financial statements for the three most recent years;

(vi) Minutes of every meeting of the Members;

(vii) Any written consents obtained from the Members for actions taken by the Members without a meeting;

(viii) A copy of the Company's Charity Care Policy; and

(ix) Copies of the quarterly reports of charity care provided by the Company and the charitable initiatives implemented or to be implemented by the Company (subject to any reasonable record retention policy adopted by the Management Committee).

(b) The books and records shall be maintained in accordance with sound accounting practices and shall be available at the Company's principal office for examination by any Member, or any former Member (but only those books and records pertaining to the period in which he or she was a Member), or the Member's duly authorized representative at any and all reasonable times during normal business hours.

(c) Each Member shall reimburse the Company for all costs and expenses incurred by the Company in connection with the Member's inspection or copying of the Company's books and records.

(d) At the request of any Member, and at the requesting Member's expense, the Management Committee shall cause an audit of the Company's books and records to be prepared by independent accountants for the period requested by that Member.

10.03 Annual Accounting Period.

The annual accounting period and the fiscal year of the Company shall be its taxable year. The Company's taxable year shall be the annual period ending on September 30.

10.04 Accounting.

The Company shall be an accrual basis taxpayer.

10.05 Returns and Other Elections.

The Management Committee shall (a) cause the preparation and timely filing of all tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business; (b) shall send a copy of Schedule K-1 or any successor or replacement form thereof to each Member and Economic Interest Owner as soon as the same is filed; and (c) shall cause the Company to file any other documents from time to time as may be required by any state or any subdivision thereof. All tax elections may be made by the Management Committee in its sole discretion, provided that the Management Committee shall make any tax election authorized by a unanimous vote of all of the Class A and Class B Members. However, the Management Committee may not make an election for the Company (i) to be excluded from the provisions of Subchapter K of the Code or (ii) to be treated as a corporation for federal income tax purposes, without the unanimous written consent of the Class A and Class B Members. The determination by the Management Committee with respect to the treatment of any item or its allocation for Federal, state or local tax purposes shall be binding so long as such determination will not be inconsistent with any provision of this Agreement.

10.06 Tax Matters Partner.

The Class A Member shall be and is designated the "Tax Matters Partner" (as defined in Code Section 6231) and is authorized and required (a) to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by tax authorities, including, without limitation, administrative and judicial proceedings; (b) to expend Company funds for professional services and costs associated therewith; and (c) to keep all Members informed of all notices from government taxing authorities that may come to the attention of the Tax Matters Partner; provided, however, that: (i) upon written request by the Class B Member, the Class B Member and/or its representative may attend any particular examination or administrative or judicial proceeding; and (ii) the Class A Member shall not settle any tax examination or administrative or judicial proceeding without the prior written consent of the Class B Member if such settlement will have an adverse economic impact on the Class B Member. The Members agree to cooperate with each other and to do or refrain from doing any and all things reasonably required to conduct such proceedings. The Company shall indemnify and save harmless the Tax Matters Partner from and against any loss, damage, liability or expense incurred or sustained by it by reason of any act performed by it, or any failure by it to act, as the Tax Matters Partner, provided that any such act or failure to act shall not result from its willful misconduct, gross negligence or fraud.

10.07 Title to Company Property.

Except as provided in this Section, all real and personal property acquired by the Company shall be acquired and held by the Company in its name. The Management Committee may direct that legal title to all or any portion of the Company's property be acquired or held in a name other than the Company's name. Without limiting the foregoing, the Management Committee may cause title to be acquired and held in the names of trustees, nominees, or straw parties for the Company. It is expressly understood and agreed that the manner of holding title to the Company's property (or any part thereof) is solely for the convenience of the Company, and all property shall be treated as Company property.

ARTICLE XI
ASSIGNMENTS

11.01 Transfers.

Except as otherwise provided in this Agreement, no Member may Transfer all, or any portion of, or any interest or rights in, its Membership Interest or Economic Interest, and no Economic Interest Owner may Transfer all, or any portion of, or any interest or rights in, its Economic Interest, including the assignment of the right to receive distributions. An Involuntary Withdrawal shall be governed by Article XIV of this Agreement.

11.02 Transfers to Affiliates.

Notwithstanding Section 11.01, either the Class A Member or the Class B Member may transfer, without recourse, all of its Membership Interest to an Affiliate of the transferor. If the

Class A Member or the Class B Member transfers its Membership Interest hereunder, the transferee shall be admitted as an additional or substitute Member upon such Affiliate's written acceptance and adoption of all of the terms and provisions of this Agreement.

11.03 Transfers to Third Parties.

(a) Notwithstanding Section 11.01, commencing____________, 2016, a Member or Economic Interest Owner (the "Transferor") may Transfer to a transferee (the "Transferee") all (but not less than all) of its Membership Interest or Economic Interest (the "Transferred Interest") in the Company upon receiving from the Transferor a bona fide, written, all-cash offer, if the following conditions are, or have been, satisfied:

(i) The Transferee delivers to the Company a written instrument, in a form reasonably satisfactory to Company's counsel, agreeing to be bound by the terms of this Agreement;

(ii) The Transfer will not result in the termination of the Company pursuant to Code Section 708;

(iii) The Transfer will not require registration of the Transferred Interest under any federal or state securities laws;

(iv) The Transferor or the Transferee delivers the following information to the Company: (A) the Transferee's taxpayer identification number and (B) the Transferee's initial tax basis in the Transferred Interest; and

(v) The Transferor complies with the provisions set forth in Section 11.04 (relating to the Right of First Offer) and in Section 11.05 (relating to Tag-Along Rights).

(b) If a Member transfers only its Economic Interest hereunder, the Transferee shall succeed to the Transferor's rights in the Transferred Interest, including the right to receive distributions, except that the Transferee shall not become a Member, and shall not be entitled to vote on any matter coming before the Members, unless the Members approve the admission of the Transferee as a substitute Member by a Supermajority Vote.

11.04 Right of First Offer.

Commencing after ___________, 2016, except with respect to any Transfer completed in accordance with Section 11.02, if a Transferor desires to Transfer all (and not less than all) of the Transferor's Membership Interest or Economic Interest (the "Interest to be Transferred"), the Transferor shall notify the Company and each Member of that desire (the "Transfer Notice") and as provided in Section 11.04(c). The Transfer Notice shall describe the Interest to be Transferred, the proposed Transferee, the cash and/or other consideration to be paid for the Interest to be Transferred (the "Purchase Price"), and all other material terms of the Transfer.

(a) ***Order of Purchase Option.***

(i) In the event that the Class A Member is the Transferor, the Class B Member shall have the initial option to purchase the entire, and not less than the entire, Interest to be Transferred (the "Initial Purchase Option"). If the Class B Member fails to exercise the Initial Purchase Option and purchase the entire Interest to be Transferred, then the Company shall have the option (the "Second Purchase Option") to purchase the entire, and not less than the entire, Interest to be Transferred.

(ii) In the event that the Class B Member is the Transferor, the Class A Member shall have the initial option to purchase the entire, and not less than entire, Interest to be Transferred (the "Initial Purchase Option"). If the Class A Member fails to exercise the Initial Purchase Option and purchase the entire Interest to be Transferred, then the Company shall have the option (the "Second Purchase Option") to purchase the entire, and not less than the entire, Interest to be Transferred.

(iii) Each of the Initial Purchase Option and the Second Purchase Option, as the case may be, shall be for the Purchase Price and on the Payment Terms as set forth herein.

(iv) Upon the delivery of the first Transfer Notice, the Transferor shall be and remain obligated to sell the Interest to be Transferred under this Section 11.04 until the end of the Company Transfer Period (as defined below), and, if a Purchase Option is exercised, until the Transfer Closing Date (as defined below).

(b) ***Purchaser***. The Transferor shall offer the Initial Purchase Option and, if applicable, the Second Purchase Option to the respective option holder identified in Sections 11.04(a)(i)-(ii), as required, which such option holder shall have a right, but not the obligation, to purchase the entire Interest to be Transferred. With respect to the Second Purchase Option, the Company shall purchase the Interest to be Transferred if a majority of Member Representatives (excluding the Transferor's Member Representative from both the numerator and denominator of such percentage calculation) approve the Company's purchase of the Interest to be Transferred.

(c) ***Manner of Election***. The holder of the Initial Purchase Option (the "Initial Option Holder") may elect to exercise the Purchase Option at any time prior to the thirtieth (30th) calendar day following its receipt of the Transfer Notice (the "Initial Option Transfer Period"), by giving written notice of its election to the Transferor. If, after the expiration of the Initial Option Transfer Period, the Initial Option Holder has not elected to purchase the entire Interest to be Transferred, the Transferror shall send a notice to the Company of such failure (the "Company Notice"), and the Company shall, at any time prior to the thirtieth (30th) calendar day following the day it received the Company Notice (the "Company Transfer Period"), have the right, but not the obligation, to purchase the entire Interest to be Transferred pursuant to the Second Purchase Option.

(d) ***Transfer Closing Date***. If the Class A Member, the Class B Member or the Company elect to exercise the Purchase Option, the notice of its election shall fix a closing date (the "Transfer Closing Date") for the purchase, which shall not be earlier than five (5) calendar days, nor more than thirty (30) calendar days, after the expiration of the Initial Option Transfer Period, or the Company Transfer Period, as the case may be. The Transferor shall be obligated to transfer on the Transfer Closing Date the Interest to be Transferred to the Class A Member, the Class B Member or, the Company, as the case may be.

(e) ***Purchase Price***. The Person exercising a Purchase Option (the "Purchaser"), as applicable, shall have the right to purchase the Interest to be Transferred for the Purchase Price.

(f) ***Payment Terms***. In the event that the Purchaser exercises its right to purchase the Interest to be Transferred, the Purchaser may elect to pay the Purchase Price on the Transfer Closing Date (i) in cash, (ii) in five equal annual installments, with the first installment to be paid on the Transfer Closing Date, together with interest calculated at a minimum rate per annum at which no interest will be imputed for federal income tax purposes; or (iii) on any other terms mutually agreed to by the Transferor and the Purchaser.

(g) ***Closing.*** On the Transfer Closing Date, the Transferor shall convey and assign to the Purchaser, by assignment with warranty of title, free and clear of all liens, claims, and encumbrances arising through the assignor, the Interest to be Transferred (or if there is more than one Purchaser, the portion purchased by that Purchaser) and shall execute and deliver to the Purchaser all documents that are reasonably required by the Purchaser to give effect to the sale and acquisition of the Interest to be Transferred, provided that the Transferor may retain a security interest in the Interest to be Transferred if the Purchaser elects to pay the Purchase Price as set forth in Section 11.04(f)(ii) above. The Transferor and the Purchaser shall take such other actions and execute such other documents as may be necessary or appropriate to give effect to any transaction contemplated by this Section.

(h) ***No Election***. If the parties who have a Purchase Option under this Section 11.04 each fail to exercise timely the Purchase Option, the Transferor shall be permitted to transfer the Interest to be Transferred to the proposed Transferee at the Purchase Price and on the other terms set forth in the Transfer Notice for a period of ninety (90) days (the "Free Transfer Period") after the expiration of the Company Transfer Period. If the Transferor does not Transfer the Interest to be Transferred within the Free Transfer Period, the Transferor's right to Transfer the Interest to be Transferred pursuant to this Section shall cease and terminate. Any Transfer of the Interest to be Transferred made after the last day of the Free Transfer Period without strict compliance with the terms, provisions, and conditions of this Section 11.04 and the other terms, provisions, and conditions of this Agreement, shall be null, void, and of no force or effect. If a Member transfers only its Economic Interest hereunder, the Transferee shall succeed to the Transferor's rights in the Transferred Interest, including the right to receive distributions, except that the Transferee shall not become a Member, and shall not be

entitled to vote on any matter coming before the Members, unless the Members approve the admission of the Transferee as a substitute Member by a Supermajority Vote.

11.05 Limited Class B Transfer Right.

(a) ***Partial Interest Transfer.*** Subject to the terms of this Section 11.05, commencing _____________, 2016, the Class B Member shall have the one-time right, upon at least thirty (30) days' prior written notice to the Class A Member, to Transfer a portion of its Membership Interest ("Transferred Interest") to a Person ("Transferee") so long as the collective indirect Membership Interest of the Eligible Physician Investors of the Class B Member in the Company is at least twenty five (25%) percent as of the date of the Transfer (e.g., if the Eligible Physician Investors own 75% of the Class B Member and the Class B Member owns 40% of the Company, the Eligible Physician Investors' indirect ownership would be 30%).

(b) ***Prohibited Owner.*** The Class B Member shall not Transfer the Transferred Interest to a Transferee who is (1) a Person who, directly or indirectly, owns a licensed acute care hospital or any Person which controls, is controlled by, or is under common control with a Person that, directly or indirectly, operates a licensed hospital, (2) a physician who is not an Eligible Physician Investor or (3) any Person in a position to generate referrals to the Company or any physician who is on the medical staff of the Center and not an Eligible Physician Investor (collectively, "Prohibited Owner"). If the Transferee subsequently becomes a Prohibited Owner, the Class B Member shall redeem the Transferee's Economic Interest or Membership Interest in the Company within thirty (30) days of the Transferee becoming a Prohibited Owner.

(c) ***Admittance.*** If the Class B Member transfers only an Economic Interest hereunder, the Transferee shall succeed to the Class B's rights in the Transferred Interest, including the right to receive distributions, except that the Transferee shall not become a Member, and shall not be entitled to vote on any matter coming before the Members, unless the Members approve the admission of the Transferee as a substitute Member by a Supermajority Vote. If admitted as a substitute Member, the Transferee shall be a Class C Member. The Class C Member shall, except as otherwise specifically provided in this Agreement, have (based on Percentage Interest held) the same economic rights as the other Members but shall only have those voting rights as set required by Applicable Law or set forth in this Agreement. The Class C Member shall be entitled to appoint its Member Representative. No Class C Member shall be appointed as a Manager, nor shall the Class C Member have any the right to designate a Manager for the Company.

11.06 Tag-Along Rights.

(a) Except with respect to any Transfer completed in accordance with Section 11.02 or Section 11.04, each Member agrees that it shall not Transfer its Membership Interest or Economic Interest (the "Interest to be Transferred") unless the terms and conditions of such Transfer shall include an offer by the proposed transferee (the "Third Party") to purchase the Membership Interest or Economic Interest, as applicable, of each

other Member ("Tag-Along Member"), at such Tag-Along Member's option and at the same price and on the same terms and conditions as apply to the selling Member (for purposes of this Section 11.05, the "Selling Member").

(b) The Selling Member shall notify the Company and each Tag-Along Member of any proposed Transfer to which the provisions of this Section 11.05 apply. Each such notice shall set forth: (i) the name of the Third Party; (ii) the address of the Third Party; (iii) the proposed amount and form of consideration and terms and conditions of payment offered by the Third Party, and any other material terms pertaining to the Transfer (the "Third Party Terms"); and (iv) that the Third Party has been informed of the "Tag-Along Rights" provided for in this Section 11.05 and has agreed to purchase the Tag-Along Member's Membership Interest or Economic Interest in accordance with the terms hereof.

(c) The Tag-Along Rights set forth above in this Section 11.05 may be exercised by each Tag-Along Member by delivery of a written notice to the Company and the Selling Member (the "Tag-Along Notice") within ten (10) business days following receipt of the notice specified in the preceding paragraph. The Tag-Along Notice shall state that the Tag-Along Member wishes to be included in the Transfer to the Third Party.

(d) Upon the giving of a Tag-Along Notice, the Tag-Along Member shall be entitled and obligated to sell its Membership Interest or Economic Interest, as applicable, to the Third Party on the Third Party Terms. After expiration of the ten (10) business day period referred to in Section 11.05(c) above, if the provisions of this Section have been complied with in all material respects, the Selling Member shall have the right for a one hundred twenty (120) day period (the "Tag-Along Free Period") to Transfer its Interest to be Transferred to the Third Party on the Third Party Terms (or on other terms no more favorable to the Selling Member) without further notice to any Tag-Along Member who has not given a Tag-Along Notice, but after such Tag-Along Free Period no such Transfer may be made without again giving notice to all Tag-Along Members of the proposed Transfer and complying with the requirements of this Section 11.05. Any Transfer of the Interest to be Transferred made after the last day of the Tag-Along Free Period without strict compliance with the terms, provisions, and conditions of this Section 11.05 and the other terms, provisions, and conditions of this Agreement, shall be null, void, and of no force or effect.

(e) At the closing of the Transfer to any Third Party (of which the Selling Member shall give each Tag-Along Member who has elected to exercise the Tag-Along Right provided by this Section 11.05 at least ten (10) Business Days' prior written notice), the Third Party shall remit to each Member the consideration for the total sales price of the Membership Interest or Economic Interest of such Member sold pursuant thereto, upon compliance by such Member with any conditions to closing generally applicable to the Selling Member and the Tag-Along Member selling its Membership Interest or Economic Interest in the transaction.

11.07 <u>Reasonableness of Restrictions.</u>

Each Member hereby acknowledges the reasonableness of the restrictions contained in this Article in view of the purposes of the Company, the tax-exempt status of the Class A Member and the relationship of the Members. The Transfer of any Membership Interest or Economic Interest in violation of the restrictions contained in this Article shall be deemed invalid, null and void, and of no force or effect. Any Person to whom a Membership Interest or Economic Interest, or any portion thereof, is attempted to be transferred in violation of this Article shall not be entitled to vote on matters coming before the Members, participate in the management of the Company, act as an agent of the Company, receive distributions from the Company or have any other rights in or with respect to the Membership Interest or Economic Interest, or portion thereof.

ARTICLE XII
RIGHT TO BUY OR SELL

12.01 <u>General</u>

(a) Within ninety (90) days of the occurrence of a Shotgun Event, (i) the Class B Member (the "Purchasing Member") may offer to buy all, but not less than all, of the Class A Membership Interest of the Class A Member (the "Selling Member"), and (ii) the Class A Member (also, the "Purchasing Member") may offer to buy all, but not less than all, of the Class B Membership of the Class B Member (also, the "Selling Member"). The Purchasing Member, in either event, shall exercise its rights hereunder by giving the Shotgun Notice (defined below), which shall set forth the terms and conditions of such purchase.

(b) Upon receipt of the Shotgun Notice, the Selling Member shall be obligated to (i) sell its Membership Interest to the Purchasing Member for the Shotgun Value (as determined pursuant to Section 12.04 below) or (ii) elect to buy the Purchasing Member's Membership Interest for the Shotgun Value (as determined pursuant to Section 12.04 below). If the Selling Member elects to buy the Purchasing Member's Membership Interest, the Purchasing Member shall be obligated to sell its Membership Interest to the Selling Member for the Shotgun Value (as determined pursuant to Section 12.04 below), and on the terms and conditions set forth in the Shotgun Notice. Notwithstanding the foregoing, other than with respect to a Change in Control, the right to sell or buy a Member's Membership Interest as set forth in this Section shall not be exercisable until (i) one year after the commencement of medical procedures at the Center; and (ii) ninety (90) days after the Purchasing Member has provided notice to the Selling Member of its intention to exercise its rights hereunder, during which time the Purchasing Member and the Selling Member shall make a reasonable best effort to come to an amicable settlement of their differences or the amicable sale of either or both parties' Membership Interest.

12.02 Shotgun Notice.

The Shotgun Notice shall: (a) be in writing signed by the Purchasing Member; (b) include the closing date ("Closing Date") for such sale, which Closing Date shall be no fewer than ninety (90) calendar days after the date of the Selling Member's receipt of the Shotgun Notice; (c) include the Deposit required pursuant to Section 12.05 below; (d) include the terms and conditions of the offer (other than the purchase price, which shall be the Shotgun Value determined pursuant to Section 12.04 below); and (e) include the adjustments to be made to the purchase price on the Closing Date, if any.

12.03 Response.

The Selling Member shall have a period of forty-five (45) days after receipt of the Shotgun Notice (the "Response Period") within which to notify the Purchasing Member in writing (the "Answer") whether the Selling Member elects to sell its Membership Interest, or to buy the Purchasing Member's Membership Interest, together with the Deposit required pursuant to Section 12.05 hereof. If the Selling Member does not deliver the Answer within the foregoing forty-five (45) day period, then the Selling Member shall be deemed to have conclusively elected to sell its Membership Interest to the Purchasing Member for the Shotgun Value. In the event the Selling Member elects to purchase the Purchasing Member's Membership Interest as set forth in the Answer, then the "Purchasing Member" shall thereafter be deemed the "Selling Member" and the "Selling Member" shall thereafter be deemed the "Purchasing Member" for purposes of Sections 12.04, 12.06 and 12.07 of this Article XII. The Membership Interest to be sold and purchased shall be referred to as the "Shotgun Membership Interest." Notwithstanding any provision in this Article XII to the contrary, the Purchasing Member and the Selling Member (if the Selling Member had elected to purchase the Purchasing Member's Membership Interest) may, within ten (10) days of the final determination of the Shotgun Value pursuant to Section 12.04, elect to rescind its offer to purchase the Membership Interest of the other without liability to the other (except the payment of its portion of the costs of a third appraiser, if any, as provided in Section 12.04) and any deposit paid by such rescinding Member pursuant to Section 12.05 shall be returned to that Member; provided, however, that if the Selling Member timely rescinds its election to purchase the Purchasing Member's Membership Interest, and the Purchasing Member does not timely rescind its Shotgun Notice, the Purchasing Member shall make the deposit required by Section 12.05 and the parties shall proceed with the purchase by the Purchasing Member of the Selling Member's Membership Interest as contemplated by, and in accordance with, this Article XII.

12.04 Shotgun Value.

(a) The term "Shotgun Value" means the appraised fair market value of the Shotgun Membership Interest in the Company as hereinafter provided. The Purchasing Member and the Selling Member, under Section 12.03, shall each appoint, by written notice to the other within ten days after the end of the Response Period, an appraiser to determine the fair market value of the Shotgun Membership Interest (without any discount for lack of voting rights, marketability or control) being sold as of the last day of the month immediately preceding the month in which the Shotgun Notice was delivered. If the two appraisers agree upon the value of

the Shotgun Membership Interest, they shall jointly render a single written report stating that value. If the two appraisers cannot agree upon the value of the Shotgun Membership Interest, they shall each render a separate written report and shall appoint a third appraiser within thirty (30) days of their appointment. The third appraiser shall determine the value of the Shotgun Membership Interest being sold and shall render a written report of his or her opinion thereon. The value contained in the aforesaid joint written report or written report of the third appraiser, as the case may be, shall be the Shotgun Value. However, if the value of the Shotgun Membership Interest contained in the appraisal report of the third appraiser is more than the higher of the first two appraisals, the higher of the first two appraisals shall be the Shotgun Value and if the value of the Shotgun Membership Interest contained in the appraisal report of the third appraiser is less than the lower of the first two appraisals, the lower of the first two appraisals shall be the Shotgun Value. (If either party fails to timely appoint an appraiser, or either appraiser fails to timely render a report, the value contained in the timely-rendered report of the timely-appointed appraiser shall be the Shotgun Value and there shall be no need to appoint a third appraiser.) Each party shall pay the fees and costs of the appraiser appointed by that party, and the fees and other costs of the third appraiser shall be shared equally by both parties.

12.05 Deposit.

The Shotgun Notice shall be accompanied by a deposit in the amount of two hundred fifty thousand dollars ($250,000) (the "Deposit"), in the form of a certified or cashier's check made payable to a nationally recognized title insurance company, as escrow agent (the "Escrow Agent"). The Selling Member shall hold the check in trust for the benefit of the Purchasing Member, and shall not deposit the check with the national office (not an agent) of the Escrow Agent located within Connecticut until the earlier to occur of (a) the expiration of the Response Period, (b) the giving of a written waiver of the Response Period by the Selling Member, or (c) the Selling Member's transmittal of its Answer electing to sell its Membership Interest. If the Selling Member elects to purchase the Purchasing Member's Membership Interest, then the Selling Member shall return the Purchasing Member's Deposit with its Answer and shall promptly deposit a certified or cashier's check made payable to, or send a wire transfer of immediately available federal funds to, the Escrow Agent in an amount equal to two hundred fifty thousand dollars ($250,000) (also, the "Deposit") with the national office (not an agent) of the Escrow Agent located within Connecticut. Concurrently with depositing a check or making the wire transfer, the applicable Member shall provide to the Escrow Agent a duly-completed IRS Form W-9 with the Member's employer identification number for the Escrow Agent's use in depositing the check or federal funds in an interest-bearing account. The costs for the services of the Escrow Agent shall be paid at Closing, one-half by the Selling Member and one-half by the Purchasing Member.

12.06 Escrow Agreement.

By execution of this Agreement, the Members agree that the Escrow Agent shall hold the Deposit and any and all interest accrued thereon (collectively, also the "Deposit") in escrow and shall dispose of the Deposit only in accordance with the following provisions:

(a) The Escrow Agent shall deliver the Deposit, or such portion thereof as is required to be delivered hereunder, to the Selling Member or to the Purchasing Member, as the case may be, as follows:

(i) to the Selling Member, or otherwise at the direction of the Selling Member, upon completion of the Closing Date, in which case the Deposit shall be applied toward the Shotgun Value; or

(ii) to the Selling Member, after receipt of the Selling Member's demand in which the Selling Member certifies that the Purchasing Member has defaulted under this Article, and the Selling Member is thereby entitled to receive the Deposit; but the Escrow Agent shall not honor the Selling Member's demand until more than ten (10) days after the Escrow Agent has transmitted a copy of the Selling Member's demand to the Purchasing Member, nor thereafter if the Escrow Agent receives a Notice of Objection (hereinafter defined) from the Purchasing Member within such ten (10) day period; or

(iii) to the Purchasing Member, after receipt of the Purchasing Member's demand in which the Purchasing Member certifies that the Selling Member has defaulted under this Article, and the Purchasing Member is thereby entitled to receive the Deposit; but the Escrow Agent shall not honor the Purchasing Member's demand until more than ten (10) days after the Escrow Agent has transmitted a copy of the Purchasing Member's demand to the Selling Member, nor thereafter if Escrow Agent receives a Notice of Objection (hereinafter defined) from the Selling Member within such ten (10) day period; or

(iv) to any party, at the direction of both the Selling Member and the Purchasing Member.

Upon delivery of the Deposit in accordance with the terms and conditions herein, the Escrow Agent shall be relieved of all liability hereunder and with respect to the Deposit. The Escrow Agent shall deliver the Deposit, at the election of the party or parties entitled to receive the same, by (i) a good, unendorsed certified check or checks of the Escrow Agent payable to the order of such party or parties, (ii) an unendorsed official bank or cashier's check or checks payable to the order of such party or parties, or (iii) a bank wire transfer or transfers of immediately available funds to an account designated by such party or parties.

(b) Upon receipt of a written demand under Subsection 12.06(a)(ii) or under Section 12.06(a)(iii) above, the Escrow Agent shall promptly transmit a copy of such demand to the other Member. Within ten (10) days after the date of transmitting the same, but not thereafter, the other Member may object to the delivery of the Deposit to the Member requesting the Deposit by transmitting a notice of objection (a "Notice of Objection") to the Escrow Agent. After receiving a Notice of Objection, the Escrow Agent shall promptly transmit a copy of such Notice of Objection to the Member requesting the Deposit; and thereafter, the Escrow Agent shall continue to hold the Deposit until the Escrow Agent receives a written agreement of the Selling Member and

the Purchasing Member directing the disbursement of the Deposit, in which event the Escrow Agent shall disburse the applicable Deposit in accordance with such agreement. In the event of any litigation between the Selling Member and the Purchasing Member relating to the Deposit, the Escrow Agent will deposit the Deposit with the clerk of the court in which such litigation is pending. In the event the Deposit is deposited in court by the Escrow Agent pursuant to the foregoing sentence, the Escrow Agent shall be entitled to rely upon the judgment of such court.

(c) The Escrow Agent may rely on the foregoing provisions in lieu of an escrow agreement with the Members. Notwithstanding the foregoing, in the event that the Escrow Agent requests a commercially reasonable written agreement embodying the foregoing provisions, each Member shall promptly execute such an agreement. If either Member shall fail to execute such agreement within five (5) days after transmittal thereof, or if the agreement materially differs from the terms hereof, upon such determination of either Member, then either Member may direct the Escrow Agent to transfer the check to another Escrow Agent who will not require a separate written escrow agreement.

(d) When the Deposit check is deposited with the Escrow Agent, the Escrow Agent shall be instructed in writing that the Escrow Agent's acceptance of the check as a Deposit will constitute acceptance by the Escrow Agent of the terms and conditions set forth herein, and the Escrow Agent shall be provided with a copy of this Article with such Deposit.

12.07 Closing Date.

(a) The sale and acquisition of the Shotgun Membership Interest (the "Closing") shall occur on the Closing Date through the offices of the Escrow Agent, in escrow. At such Closing, the Selling Member shall convey and assign to the Purchasing Member by assignment with warranty of title, free and clear of all liens, claims, and encumbrances arising through the assignor, the Shotgun Membership Interest of the Selling Member and shall execute and deliver to the Purchasing Member all documents that are reasonably required to give effect to the sale and acquisition of such Shotgun Membership Interest. The Selling Member's obligation to transfer its Shotgun Membership Interest shall be conditioned upon the Purchasing Member's payment of the Shotgun Value. The Members shall take such other actions and execute such other documents as may be necessary or appropriate to give effect to any transaction contemplated by this Article.

(b) All loans made or deemed made by or to the Selling Member shall be repaid in full (including all accrued but unpaid interest thereon) at the Closing. No transaction pursuant to this Section shall relieve the Selling Member from any duty or obligation owed to the Company or to the other Members to the extent such obligation accrued and is properly attributable to the period prior to the Closing Date, nor shall it constitute a waiver or release of claims with respect thereto. The Purchasing Member shall defend, indemnify and hold harmless the Selling Member from all obligations and liabilities arising from the Shotgun Membership Interest accruing and properly

attributable to the period beginning on the Closing Date, and the Selling Member shall defend, indemnify and hold harmless the Purchasing Member from all obligations and liabilities arising from the Shotgun Membership Interest accruing and properly attributable to the period prior to the Closing Date. The foregoing sentence shall survive the Closing and shall not require further documentation to take effect, but, if requested by either Member, both Members will execute a reasonable confirming document that is consistent with the foregoing provisions.

(c) If at the Closing Date, the Selling Member or such Member's Affiliates or related entities, shall have any guarantees, collateral or covenants lodged with third parties to secure any indebtedness, liability or obligation of the Company, including any liability under nonrecourse carveouts, or shall have outstanding any commitment to give such guarantees, collateral or covenants ("Personal Liability"), the Purchasing Member shall deliver or cause to be delivered to the Selling Member, no later than the Closing Date, a cancellation of such Personal Liability. As an alternative to the foregoing, the Selling Member, at its election, may accept the Purchasing Member's indemnity for all manner of loss, claims and damages that could arise as a result of any Personal Liability, so long as (i) such indemnity is supported by an irrevocable clean letter of credit in an amount equal to the maximum potential Personal Liability (as reasonably determined by the Selling Member) and (ii) such letter of credit is payable at sight, renewable annually, issued by a nationally recognized United States banking institution and is otherwise reasonably acceptable to the Selling Member. The foregoing letter of credit shall remain in full force and effect until the Personal Liability is released.

(d) In the event that the Selling Member shall be prohibited under the terms of any debt or other obligation of the Company from selling its Membership Interest to the Purchasing Member without the consent of or payment to a third party, or otherwise is prohibited from consummating this transaction without the consent of or payment to a third party to whom a debt or other obligation of the Company is owed, then in such event, such debt or other obligation of the Company giving rise to such prohibition, as the case may be, shall be fully discharged by the Purchasing Member on the Closing Date and any prepayment fee, premium or cost shall be paid by the Purchasing Member, unless the appropriate mortgagee or other creditor or obligee shall permit such transfer to be made, in which case the Purchasing Member shall pay all costs and fees related to obtaining such consent to the transfer.

12.08 <u>Default</u>.

(a) In the event of a default by any Member under this Article (the "Defaulting Member"), the Member that is ready, willing and able to close the transaction (the "Non-defaulting Member") shall have the right to purchase the Defaulting Member's Interest at a price equal to 75% of the purchase price that would have been payable on the Closing Date.

(b) Because a Membership Interest in the Company is a unique asset, the Non-defaulting Member shall have all remedies available at law and equity with respect to any failure by a Defaulting Member to perform, including, without limitation the right

to specific performance and to recover attorneys' fees and litigation costs. In lieu of the foregoing and all other remedies, at the election of the Non-defaulting Member, if the Defaulting Member fails to close on the purchase of the Membership Interest in accordance with the terms of this Article, then the Non-defaulting Member shall retain the Deposit, as complete and liquidated damages and not as a penalty.

ARTICLE XIII
ADDITIONAL MEMBERS

13.01 Additional Members.

The Members, by Supermajority Vote, shall have the right to admit additional Members upon such terms and conditions, at such time or times, and for such contributions as shall be determined by such Members, and in connection with any such admission, the Management Committee shall have the right to amend Exhibit A to reflect the name, address, contribution, taxpayer identification number and Percentage Interest of the admitted Member; provided, however, that the terms and conditions of any such admission and their impact on the Membership Interests of other Members must comply with the provisions of this Agreement. The admission of any Person as a substitute or additional Member shall be conditioned upon such Person's written acceptance and adoption of all the terms and provisions of this Agreement. Within a reasonable time period following the addition of a new Member(s), the Class A Member shall make such capital contributions as necessary, to maintain its Percentage Interest at fifty one (51%) percent. The Class A Member must notify the Management Committee of its intent to exercise its purchase option within ten (10) business days following the admission of a new Member. The Members otherwise specifically waive any preemptive rights.

13.02 Additional Owners of the Class B Member.

The Class B Member may add a new owner of the Class B Member who is either (a) providing substantially all of his/her/its professional services through Connecticut GI, P.C. or (b) is a physician, excluding physicians specializing in orthopedics, who is both (i) on the medical staff of a hospital owned and operated by Hartford Healthcare and (ii) is a Eligible Physician Investor as defined in Section 2.03(b) (collectively, "New Physician Owners") subject to providing the Class A Member thirty (30) days' prior written notice of the New Physician Owner. Except as otherwise provided herein, the Class B Member may, upon at least thirty (30) days' prior written notice to the Class A Member, add non-New Physician Owners so long as the collective indirect ownership of the Eligible Physician Investors in the Company is at least twenty five (25%) percent (e.g., if the Eligible Physician Investors own 75% of the Class B Member and the Class B Member owns 40% of the Company, the Eligible Physician Investors' indirect ownership would be 30%) and the Eligible Physician Investors maintain control over the governance and management of the Class B Member.

At no time shall any Person, directly or indirectly, hold an ownership interest in or otherwise have any right to the profits or losses of the Class B Member who is (a) a Person who owns or operates a licensed acute care hospital or any Person which controls, is controlled by, or is under common control with a Person that owns or operates a licensed acute care hospital (collectively, "Prohibited Health System"); (b) a physician who is employed by or provides

substantially all of his/her professional services, directly or indirectly, on behalf of a Prohibited Health System; or (c) any physician who is not an Eligible Physician Investor or any other Person in a position to generate referrals to either the Company or any physician who is on the medical staff of the Center (collectively, "Prohibited Owners"). If a Person who, directly or indirectly, holds an ownership interest in or otherwise has any rights to the profits or losses of the Class B Member becomes a Prohibited Owner ("Converted Owner"), the Class B Member shall redeem the Converted Owner's membership in, or rights to profits and losses of, the Class B Member within thirty (30) days of the Person becoming a Converted Owner.

ARTICLE XIV
WITHDRAWALS OF MEMBERS

14.01 Voluntary Withdrawal.

Except as otherwise provided herein, no Member or Economic Interest Owner shall have the right or power to Voluntarily Withdraw from the Company, except as otherwise provided by this Agreement.

The parties acknowledge and agree that in order for the Company to achieve its goal of creating a high quality, low cost provider for the community served by the Class A Member, the Center must have a critical mass of physicians actively engaged in the continuous improvement and provision of quality and efficient care at the Center including physician participation on the Board of Managers, Credentialing Committees and Quality Improvement Committees. Accordingly, if the Company has eleven (11) or fewer Eligible Physician Investors who are either direct or indirect owners in the Company, the Class A Member upon thirty (30) days' prior written notice to the Class B Member shall be entitled to withdraw and redeem its Class A Membership Interest in accordance with the terms of this Section 14.01 ("Withdrawal Notice Period"). Upon the withdrawal of the Class A Member pursuant to this Section 14.01, the Company shall purchase all, but not less than all, of the Class A Member's Membership Interest for the purchase price and on the payment terms as set forth herein.

(a) **Transfer Closing Date**. The Company shall fix a closing date (the "Transfer Closing Date") for the purchase, which shall not be more than thirty (30) days after the expiration of the Withdrawal Notice Period.

(b) **Purchase Price**. The Purchase Price for the Class A Member's Membership Interest shall be the Appraised Value as determined under Section 14.05.

(c) **Payments Terms**. The Company may elect to pay the purchase price on the Transfer Closing Date (i) in cash, (ii) in five equal annual installments, with the first installment to be paid on the Transfer Closing Date, together with interest calculated at a minimum rate per annum at which no interest will be imputed for federal income tax purposes, or (iii) upon any other terms mutually agreed to by the Class A and B Members.

(d) **Closing**. The sale and acquisition of the Class A Member's Membership Interest (the "Closing") shall occur on the Transfer Closing Date. At such Closing, the Class A Member shall convey and assign to the Company by assignment with warranty of title, free and clear of all liens, claims, and encumbrances arising through the assignor, the Class A Member's Membership Interest and shall execute and deliver to the Company all documents that are reasonably required to give effect to the sale and acquisition of such Membership Interest, provided that the Class A Member may retain a security interest in the Economic Interest of the Class A Member's Membership Interest if the Company elects to pay the Purchase Price in five equal annual installments as set forth in Section 14.01(c)(ii). The Class A Member and the Company shall take such other actions and execute such other documents as may be necessary or appropriate to give effect to any transaction contemplated by this Section 14.01.

14.02 Involuntary Withdrawal.

Immediately upon the occurrence of an Involuntary Withdrawal, the successor of the withdrawn Member or Economic Interest Owner shall thereupon become an Economic Interest Owner but shall not become a Member without the Supermajority Vote of the remaining Members. The successor Economic Interest Owner shall have all the rights of an Economic Interest Owner, subject to the provisions of this Agreement, including the obligation to sell its Economic Interest under Section 14.03. However, neither the withdrawn Member or Economic Interest Owner nor the successor Economic Interest Owner shall be entitled to receive, in liquidation of the withdrawn Member's Membership Interest or Economic Interest Owner's Economic Interest, the fair market value of the withdrawn Member's Membership Interest or Economic Interest Owner's Economic Interest as of the date the Member or Economic Interest Owner Involuntarily Withdrew from the Company, except as otherwise provided by this Agreement.

14.03 Right to Buy Interest.

Upon the Involuntary Withdrawal of a Member or an Economic Interest Owner, the Company and the Class A and Class B Members (the "Purchasing Members"), other than the Withdrawn Member (as defined below), shall have the right to purchase all, but not less than all, of a Withdrawn Member's Economic Interest, who shall be obligated to sell, upon the receipt of an Election Notice and for the Purchase Price and on the Payment Terms as set forth herein.

(a) ***"Withdrawn Member"*** means a Member or an Economic Interest Owner who has suffered an Involuntary Withdrawal and its successors or assigns.

(b) ***Transfer Period.*** Upon the occurrence of the Involuntary Withdrawal, the Withdrawn Member shall be and remain obligated to sell its Economic Interest for a period (the "Transfer Period") ending at 11:59 p.m. local time at the Company's principal office on the sixtieth (60th) day following the day the Members, other than the Withdrawn Member, receive actual written notice of the Involuntary Withdrawal.

(c) ***Purchaser***. The Withdrawn Member's Economic Interest shall be purchased by the Company if the Management Committee consents to the purchase of the Economic Interest by the Company. Otherwise, the Purchasing Members shall have the right to purchase the Withdrawn Member's Economic Interest. In the event that more than one Member elects to purchase the Withdrawn Member's Economic Interest, each Member shall have the right to purchase the Withdrawn Member's Economic Interest in the same proportion as that Member's Percentage Interest bears to the total Percentage Interest of all Members who have elected to purchase the Withdrawn Member's Economic Interest.

(d) ***Manner of Election***. At any time during the Transfer Period, the Company or a Class A or Class B Member may elect to purchase the Withdrawn Member's Economic Interest by giving written notice of its election to the Withdrawn Member (the "Election Notice"). If such election is not made within the Transfer Period, any right to purchase the Withdrawn Member's Economic Interest shall be waived except as provided in any other Section of this Agreement.

(e) ***Transfer Closing Date.*** If the Company or a Class A or Class B Member elects to purchase the Withdrawn Member's Economic Interest, the Company's or the Class A or Class B Member's notice shall fix a closing date (the "Transfer Closing Date") for the purchase, which shall not be earlier than five (5) days after the expiration of the Transfer Period, nor more than sixty (60) days after the expiration of the Transfer Period.

(f) ***Purchase Price***. The Purchase Price for the Withdrawn Member's Economic Interest shall be the Appraised Value of the Withdrawn Member's Economic Interest, as determined under Section 14.05.

(g) ***Payments Terms.*** In the event that a Class A or Class B Member or the Company (the "Purchaser") exercises its right to purchase the Withdrawn Member's Economic Interest, the Purchaser may elect to pay the purchase price on the Transfer Closing Date (i) in cash, (ii) in five equal annual installments, with the first installment to be paid on the Transfer Closing Date, together with interest calculated at a minimum rate per annum at which no interest will be imputed for federal income tax purposes, or (iii) on any other terms mutually agreed to by the Withdrawn Member and the Purchaser.

(h) ***Closing.*** The sale and acquisition of the Withdrawn Member's Economic Interest (the "Closing") shall occur on the Transfer Closing Date. At such Closing, the Withdrawn Member shall convey and assign to the Purchaser by assignment with warranty of title, free and clear of all liens, claims, and encumbrances arising through the assignor, the Economic Interest of the Withdrawn Member and shall execute and deliver to the Purchaser all documents that are reasonably required to give effect to the sale and acquisition of such Economic Interest, provided that the Withdrawn Member may retain a security interest in the Economic Interest if the Purchaser elects to pay the Purchase Price in five equal annual installments as set forth in Section 14.03(g)(ii). The Withdrawn Member and the Purchaser shall take such other actions and execute such

other documents as may be necessary or appropriate to give effect to any transaction contemplated by this Section.

14.04 Dissolution Upon Involuntary Withdrawal.

Unless the Company and the Members, other than the Withdrawn Member, unanimously agree otherwise, if both the Company and the remaining Members fail to exercise their option to buy the Withdrawn Member's Economic Interest under Section 14.03, the Company shall be dissolved and liquidated pursuant to Article XV of this Agreement.

14.05 Appraised Value.

(a) The term "Appraised Value" means the appraised fair market value of an Economic Interest in the Company as hereinafter provided. The Company and the Withdrawn Member, under Section 14.03, shall each appoint, by written notice to the other within ten days of the date of the Election Notice, an appraiser to determine the fair market value of the Economic Interest (without any discount for lack of voting rights, marketability or control) being sold as of the date of the Involuntary Withdrawal. If the two appraisers agree upon the value of the Economic Interest, they shall jointly render a single written report stating that value. If the two appraisers cannot agree upon the value of the Economic Interest, they shall each render a separate written report and shall appoint a third appraiser within thirty (30) days of their appointment. The third appraiser shall determine the value of the Economic Interest being sold and shall render a written report of his or her opinion thereon. The value contained in the aforesaid joint written report or written report of the third appraiser, as the case may be, shall be the Appraised Value. However, if the value of the Economic Interest contained in the appraisal report of the third appraiser is more than the higher of the first two appraisals, the higher of the first two appraisals shall be the Appraised Value and if the value of the Economic Interest contained in the appraisal report of the third appraiser is less than the lower of the first two appraisals, the lower of the first two appraisals shall be the Appraised Value. (If either party fails to timely appoint an appraiser, or either appraiser fails to timely render a report, the value contained in the timely-rendered report of the timely-appointed appraiser shall be the Appraised Value and there shall be no need to appoint a third appraiser.) Each party shall pay the fees and costs of the appraiser appointed by that party, and the fees and other costs of the third appraiser shall be shared equally by both parties.

ARTICLE XV
DISSOLUTION AND TERMINATION

15.01 Dissolution.

The Company shall be dissolved and subsequently terminated upon:

(a) the unanimous vote or written consent of the Class A Member and the Class B Member to dissolve the Company, or as set forth in Section 14.04; or

(b) the written consent of the Class A Member to dissolve the Company, provided that: (i) the Class A Member has determined that that the continued existence and/or operation of the Company could jeopardize the status of the Class A Member as a tax-exempt organization under Code Section 501(a) as an organization described in Code section 501(c)(3); or (ii) the Company has been sanctioned or excluded from participation in any federal health care program; provided, however, that the Class B Member shall have the right to continue the business by purchasing the Class A Member's Membership Interest, within ninety (90) days of the date of the written consent, for an amount equal to the greater of the amount which the Class A Member would otherwise have received for such Membership Interest under Section 14.03 or Section 15.03.

15.02 Winding Up and Liquidation.

When the Company is dissolved, the business and property of the Company shall be wound up and liquidated by the Management Committee or a liquidator designated by the Members (the "Liquidating Trustee"). The Management Committee or the Liquidating Trustee shall use his or her or its best efforts to reduce to cash and cash equivalent items, such assets of the Company as the Management Committee or the Liquidating Trustee shall deem it advisable to sell, with consideration to obtaining fair value for such assets, and any tax or other legal considerations.

15.03 Distributions.

On winding up of the Company, the assets of the Company shall be distributed, first to creditors of the Company, including Members and Economic Interest Owners who are creditors, in satisfaction of the liabilities of the Company, and then to the Members and Economic Interest Owners in accordance with the balances in their respective Capital Accounts, after taking into account all contributions, distributions, and allocations for all periods.

15.04 Negative Capital Accounts.

Except as otherwise provided in this Agreement, no Member or Economic Interest Owner shall be obligated to restore a Negative Capital Account to the Company, and such deficit shall not be considered a debt owed to the Company or any other person for any purpose whatsoever.

ARTICLE XVI
DEFINITIONS

The following capitalized terms shall have the meanings specified in this Article XVI. Other terms are defined in the text of this Agreement, and throughout this Agreement, those terms shall have the meanings respectively ascribed to them.

Act.

"Act" shall mean the Connecticut Limited Liability Company Act, as amended from time to time.

Adjusted Capital Account Deficit.

"Adjusted Capital Account Deficit" means, with respect to any Member or Economic Interest Owner, the deficit balance, if any, in the Member's or Economic Interest Owner's Capital Account as of the end of the relevant taxable year, after giving effect to the following adjustments:

(i) the Member's or Economic Interest Owner's Capital Account shall be increased by the amount that the Member or the Economic Interest Owner is obligated to restore, or is deemed obligated to restore pursuant to Regulation Section 1.704-1(b)(2)(ii)(c) and the penultimate sentences of Regulation Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(ii) the Member's or Economic Interest Owner's Capital Account shall be decreased by the items described in Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5), and (6).

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

Affiliate.

"Affiliate" shall mean, with respect to a Member, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the Member. For purpose of Article XI only, "Affiliate", in the case of the Class B Member, shall additionally mean any other Person that directly, or indirectly through one or more intermediaries, is controlled by physicians on the active medical staff of Hartford Hospital. ("Control," for purposes of this definition, shall mean having the ability to elect a minimum of 75% of the governing body of such Person.)

Agreed Value.

"Agreed Value" shall mean the fair market value of an asset as of the date of valuation, which shall be determined by the Supermajority Vote of the Members or, if they cannot so agree, by an independent appraiser selected by the Management Committee.

Applicable Law.

"Applicable Law" shall mean each and every applicable federal, state or local law, statute, charter, ordinance, rule, regulation, order, license certification and accreditation standard of any governmental, regulatory or administrative agency or authority or court or other tribunal,

including but not limited to the Connecticut Public Health Code and any decision issued by the Connecticut Office of Health Care Access with regard to the application for a certificate of need to be filed with respect to the Center.

Arbitrable Issue.

"Arbitrable Issue" shall mean any one or more of the following: (i) an alleged breach of this Agreement; (ii) a dispute regarding the interpretation or implementation of this Agreement, including without limitation the Company's Charity Care Policy; (iii) any matter arising out of an Exempt Status Matter Action as defined in Section 9.06, including, without limitation, whether an Exempt Status Matter Action has a Material Adverse Effect.

Articles of Organization.

"Articles of Organization" shall mean the Articles of Organization of the Company as filed with the Connecticut Secretary of the State, as amended from time to time.

Capital Account.

"Capital Account" shall mean the account maintained by the Company for each Member and Economic Interest Owner in accordance with the following provisions:

(iii) a Member's or Economic Interest Owner's Capital Account shall be credited with the Member's or Economic Interest Owner's Capital Contributions, the amount of any Company liabilities assumed by the Member or the Economic Interest Owner (or that are secured by Company property distributed to the Member or the Economic Interest Owner), the Member's or Economic Interest Owner's distributive share of Profit, and any item in the nature of income or gain specially allocated to such Member or Economic Interest Owner pursuant to the provisions of Article IX (other than Section 9.04); and

(iv) a Member's or Economic Interest Owner's Capital Account shall be debited with the amount of money and the fair market value of any Company property distributed to the Member or the Economic Interest Owner, the amount of any liabilities of the Member or the Economic Interest Owner assumed by the Company (or that are secured by property contributed by the Member or the Economic Interest Owner to the Company), the Member's or Economic Interest Owner's distributive share of Loss, and any item in the nature of expenses or loss specially allocated to the Member or the Economic Interest Owner pursuant to the provisions of Article IX (other than Section 9.04).

If any Economic Interest is transferred pursuant to the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent the Capital Account is attributable to the transferred Economic Interest. If the book value of Company property is adjusted pursuant to Section 9.03(d), the Capital Account of each Member and Economic Interest Owner shall be adjusted to reflect the aggregate adjustment in the same manner as if the Company had recognized gain or loss equal to the amount of such aggregate adjustment.

In connection with a Capital Contribution of money or other property (other than a de minimis amount) by a new or existing Member or Economic Interest Owner as consideration for an Economic Interest or Membership Interest, or in connection with the liquidation of the Company or a distribution of money or other property (other than a de minimis amount) by the Company to a retiring Member or Economic Interest Owner (as consideration for an Economic Interest or Membership Interest), the Capital Accounts of the Members shall be adjusted to reflect a revaluation of Company property (including intangible assets) to its Agreed Value in accordance with Regulation Section 1.704-l(b)(2)(iv)(f). Any differences in the adjusted tax basis of Company property and the Agreed Value hereunder shall be accounted for under the principles set forth in Section 9.04.

It is intended that the Capital Accounts of all Members and Economic Interest Owners shall be maintained in compliance with the provisions of Regulation Section 1.704-1(b), and all provisions of this Agreement relating to the maintenance of Capital Accounts shall be interpreted and applied in a manner consistent with that Regulation.

Capital Contribution.

"Capital Contribution" shall mean any contribution to the capital of the Company in cash or property by a Member or Economic Interest Owner whenever made.

Center.

"Center" shall mean the endoscopy center to be operated by the Company in Glastonbury, Connecticut.

CGI.

"CGI" shall mean CTGI Glastonbury Endoscopy Center, LLC (and as subsequently renamed ______________________ as required by Section 1.02 hereof), a Connecticut limited liability company, all of the beneficial interests of which are owned by stockholders of Connecticut GI, P.C., with an address at 85 Seymour Street, #1000, Hartford, Connecticut 06106, or any Affiliate of CGI to which CGI has assigned its Membership Interest pursuant to Section 11.02 hereof.

Change in Control.

"Change in Control" means:

(b) With respect to the Class B Member, less than fifty percent (50%) of the ownership interests in the Class B Member that are owned by physicians on the active medical staff of a hospital are owned by licensed gastroenterologists who are then on the active medical staff of Hartford Hospital; and

(c) With respect to the Class A Member, if, within one year after a merger or other reorganization involving Persons other than only then Affiliates of the Class A

Member, more than fifty percent (50%) of the Persons electing the Board of Directors of the Class A Member are different than the Persons electing the Board of Directors of the Class A Member immediately prior to such reorganization.

Charity Care Policy.

"Charity Care Policy" shall mean the charity care policy attached as Exhibit E to this Agreement, as amended from time to time by the Management Committee or as provided in this Agreement.

Claim.

"Claim" shall mean an action, suit, audit, proceeding, hearing, investigation, litigation, charge, complaint, claim, assessment or demand.

Class A Managers.

"Class A Managers" shall mean the individual Managers designated by the Class A Member pursuant to Section 6.01(a) hereof.

Class A Member.

"Class A Member" means Hartford Hospital and its successors and assigns to the Class A Membership Interest and has been duly admitted as a Class A Member of the Company in accordance with the terms and conditions of this Agreement.

Class A Membership Interest.

"Class A Membership Interest" means a Membership Interest in the Company described in Section 2.02 hereof that is not a Class B Membership Interest. Each Member's Percentage Interest in the Class A Membership Interests are initially set forth in Section 2.02 and on Exhibit A.

Class B Managers.

"Class B Managers" shall mean the individual Managers designated by the Class B Member pursuant to Section 6.01(a) hereof.

Class B Member.

"Class B Member" means CGI and its successors and assigns to the Class B Membership Interest and has been duly admitted as a Class B Member of the Company in accordance with the terms and conditions of this Agreement.

Class B Membership Interest.

"Class B Membership Interest" means a Membership Interest in the Company described in Section 2.02 hereof that is not a Class A Membership Interest. Each Member's Percentage Interest in the Class B Membership Interests are set forth on Exhibit A.

Class C Member.

"Class C Member" means a Membership Interest in the Company described in Section 13.02.

Code.

"Code" shall mean the Internal Revenue Code of 1986, as amended, or the corresponding provisions of subsequent and superseding federal revenue laws.

Company.

"Company" shall mean Glastonbury Endoscopy Center, LLC.

Competition Affiliate.

"Competition Affiliate" shall mean, with respect to a Member or Economic Interest Owner, any other Person that directly, or indirectly through one or more intermediaries, controls is controlled by, or is under common control with such Member or Economic Interest Owner. "Competition Affiliate" shall additionally mean, with respect to the Class B Member, Connecticut GI, P.C. and any Person who is the direct or indirect owner of a beneficial interest in, or a direct or indirect stockholder of, the Class B Member or Connecticut GI, P.C.

Connecticut GI, P.C.

"Connecticut GI, P.C." shall mean Connecticut GI, P.C., a Connecticut professional service corporation, with an address at 85 Seymour Street, #1000, Hartford, Connecticut 06106, and its successors.

Costs.

"Costs" shall mean any and all liabilities, losses, damages, Claims, sanctions, exclusions, taxes, interest, penalties, fines, costs and expenses (including without limitation, reasonable expenses of investigation and court costs, reasonable attorneys' fees and disbursements and the reasonable fees and disbursements of other professionals).

Economic Interest.

"Economic Interest" shall mean a Member's or Economic Interest Owner's share of the Profit and Loss of and the right to receive distributions from the Company pursuant to this Agreement and the Act, but shall not include any right to participate in the management or

affairs of the Company, including the right to vote on, consent to, or otherwise participate in any decision of the Members.

Economic Interest Owner.

"Economic Interest Owner" shall mean the owner of an Economic Interest who is not a Member.

Exempt Status Matter.

"Exempt Status Matter" is any matter that the Class A Member, acting through its Member Representative or the Class A Managers, in its sole, but reasonable, discretion believes involves one or more of the following areas:

(i) the amendment of the Charity Care Policy, which policy has been adopted by the Company in furtherance of the Class A Member's charitable purposes including, but not limited to, promoting health for a broad section of the community;

(ii) the initiation and implementation of charitable initiatives in furtherance of the Class A Member's charitable purposes (in addition to that provided for in the Charity Care Policy) including, but not limited to, promoting health for a broad section of the community;

(iii) ensuring that the Company's policies and/or operations neither jeopardize the tax-exempt status of the Class A Member nor generate any "unrelated business taxable income" for the Class A Member as such term is used in Code section 512(a);

(iv) ensuring that the Company satisfies its obligation to further the charitable purpose of promoting health for a broad section of the community;

(v) ensuring that any Person contracted with, employed or retained to manage any part of the activities or operations of the Company is legally obligated, in performing its duties to the Company, to further the Class A Member's charitable purposes, including but not limited to, requiring the preparation and submission to the Management Committee of quarterly reports on the charity care provided, and charitable care initiatives implemented or to be implemented, by the Company;

(vi) the termination of any management agreement or other arrangement entered into with any Person to manage any part of the activities or operations of the Company if the Class A Managers determine, in their sole, but reasonable, discretion, that such Person is not acting to further (or is acting contrary to) the Class A Member's charitable purposes; and

(vii) the removal of any officer of the Company if the Class A Managers determine, in their sole, but reasonable, good faith discretion, that such

officer is not acting to further (or is acting contrary to) the Class A Member's charitable purposes, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Exempt Status Matter Action.

"Exempt Status Matter Action" shall mean that the Class A Member, or its Member Representative or the Class A Managers, have exercised its or their rights under Section 4.06(b), Section 6.09(b)(i) or Section 17.05(b) unilaterally to cause the Company to take action, without the consent of the Class B Member or its Member Representative or the Class B Managers; provided, however, that an Exempt Status Matter Action shall not include any action to enforce Applicable Law, this Agreement or the Company's Charity Care Policy.

Exempt Status Matter Allocation.

"Exempt Status Matter Allocation" shall mean a special allocation of Profit as required and calculated pursuant to Section 9.06 hereof.

Hartford Hospital.

"Hartford Hospital" shall mean Hartford Hospital or any Affiliate of Hartford Hospital to which Hartford Hospital has assigned its Membership Interest pursuant to Section 11.02 hereof.

Involuntary Withdrawal.

"Involuntary Withdrawal" means:

(a) With respect to any Member or Economic Interest Owner, the death, incapacitation, bankruptcy or dissolution of the Member or Economic Interest Owner or any other event of disassociation as provided in Section 34-180(4)-(10) of the Act;

(b) The conviction of any felony by a Member;

(c) Any breach of this Agreement by a Member which is not cured within thirty (30) days of notice of such breach;

(d) The exclusion, suspension or debarment from participation in any governmental program, including, but not limited to, Medicare or Medicaid programs of a Member or any Affiliate of a Member;

(d) With respect to the Class B Member, (i) the Class B Member has fewer than ten (10) physician/members licensed to render, and actively rendering, gastroenterology professional services in Connecticut, or (ii) any member of the Medical Staff is sanctioned or excluded from participation in any federal health care program and, despite the objection of the Class A Member, such Medical Staff member is not suspended for any period during which such sanction or exclusion may be or is contested, and/or is not removed from the Medical Staff after such sanction or exclusion is final; or

(e) With respect to the Class A Member, any member of the Medical Staff is sanctioned or excluded from participation in any federal health care program and, despite the objection of the Class B Member, such Medical Staff member is not suspended for any period during which such sanction or exclusion may be or is contested, and/or is not removed from the Medical Staff after such sanction or exclusion is final.

Majority in Interest.

"Majority in Interest" means the Members holding a majority of the Percentage Interests then held by the Members.

Manager.

"Manager" shall mean the Person or Persons designated to manage the business and affairs of the Company pursuant to Article VI hereof.

Management Committee.

"Management Committee" shall mean the Managers designated to manage the business and affairs of the Company pursuant to Article VI hereof.

Material Adverse Effect.

"Material Adverse Effect" shall mean, when referring to the impact of an Exempt Status Matter Action, an Exempt Status Matter Action that materially and adversely affects the business or prospects of the Company, or the investment of the Class B Member in the Company, and that would not be substantially redressed if CGI timely and properly exercises, and/or the Class B Member had timely and properly exercised, its right to an Exempt Status Matter Special Allocation pursuant to Section 9.06 hereof.

Medical Staff.

"Medical Staff" shall have the meaning set forth in Section 8.01 hereof.

Member.

"Member" shall mean each of the parties who executes a counterpart of this Agreement as a Member and each of the parties who may hereafter become a Member in accordance with the terms hereof. If a Person is a Member immediately prior to the purchase or other acquisition by such Person of a Membership Interest or an Economic Interest, such Person shall have all the rights of a Member with respect to such purchased or otherwise acquired Membership Interest or Economic Interest, as the case may be. A Member shall cease to be a Member upon the sale or other transfer of his or her entire Economic Interest in the Company and shall not be deemed a Member with respect to any Percentage Interest in which he or she has sold or otherwise transferred his or her entire Economic Interest.

Member Nonrecourse Debt Minimum Gain.

"Member Nonrecourse Debt Minimum Gain" has the meaning set forth in Regulation Section 1.704-2(i)(3). Member Nonrecourse Debt Minimum Gain shall be computed separately for each Member and Economic Interest Owner in a manner consistent with the Regulations under Code Section 704(b).

Member Nonrecourse Deductions.

"Member Nonrecourse Deductions" means any Company deductions that would be Nonrecourse Deductions, if they were not attributable to a loan made or guaranteed by a Member or Economic Interest Owner within the meaning of Regulation Section 1.704-2(b)(4).

Member Representatives.

"Member Representatives" shall mean those individuals designated by the Members pursuant to Article II hereof.

Membership Interest.

"Membership Interest" shall mean a Member's entire interest in the Company including such Member's Economic Interest and the right to participate in the management of the business and affairs of the Company, including the right to vote on, consent to, or otherwise participate in any decision or action of or by the Members granted pursuant to this Agreement and the Act.

Minimum Gain.

"Minimum Gain" has the meaning set forth in Regulation Sections 1.704-2(b)(2) and 1.704-2(d). Minimum Gain shall be computed separately for each Member and Economic Interest Owner in a manner consistent with the Regulations under Code Section 704(b).

Negative Capital Account.

"Negative Capital Account" means a Capital Account with a balance of less than zero.

Nonrecourse Deductions.

"Nonrecourse Deductions" has the meaning set forth in Regulation Section 1.704-2(b)(1). The amount of Nonrecourse Deductions for a taxable year of the Company equals the net increase, if any, in the amount of Minimum Gain during that taxable year, determined according to the provisions of Regulation Section 1.704-2(c).

Nonrecourse Liability.

"Nonrecourse Liability" means any liability of the Company with respect to which no Member or Economic Interest Owner has personal liability determined in accordance with Regulation Section 1.752-1(a)(2).

Percentage Interest.

"Percentage Interest" shall mean, as to a Member, the percentage set forth after the Member's name on Exhibit A, as amended from time to time, and as to an Economic Interest Owner who is not a Member, the Percentage Interest of the Member whose Economic Interest has been acquired by such Economic Interest Owner, to the extent the Economic Interest Owner has succeeded to that Member's Economic Interest.

Person.

"Person" shall mean any individual, general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, foreign trust or foreign business organization and the heirs, executors, administrators, legal representatives, successors, and assigns of such "Person" where the context so permits.

Profit and Loss.

"Profit" and "Loss" shall mean, for each taxable year of the Company (or other period for which Profit or Loss must be computed) the Company's taxable income or loss determined in accordance with Code Section 703(a), with the following adjustments:

(i) all items of income, gain, loss, deduction, or credit required to be stated separately pursuant to Code Section 703(a)(1) shall be included in computing taxable income or loss;

(ii) any tax-exempt income of the Company, not otherwise taken into account in computing taxable income or loss, shall be included in computing Profit or Loss;

(iii) any expenditures of the Company described in Code Section 705(a)(2)(B) (or treated as such pursuant to Regulation Section 1.704-1(b)(2)(iv)(i)) and not otherwise taken into account in computing taxable income or loss, shall be subtracted from Profit or Loss;

(iv) gain or loss resulting from any taxable disposition of Company property shall be computed by reference to the adjusted book value of the property disposed of, notwithstanding the fact that the adjusted book value differs from the adjusted basis of the property for federal income tax purposes; and

(v) in lieu of the depreciation, amortization, or cost recovery deductions allowable in computing taxable income or loss, there shall be taken into account the depreciation computed based upon the adjusted book value of the asset.

Regulation(s).

"Regulation" or "Regulations" shall mean the income tax regulations promulgated under the Code by the United States Department of the Treasury, including proposed, temporary and final regulations.

Shotgun Event.

"Shotgun Event" shall mean any of the following: (a) (i) it has been determined that an Exempt Status Matter Action has had and/or shall have a Material Adverse Effect either by mutual written agreement of the Class A Member and the Class B Member, or by a written finding made reasonably and in good faith by the Class B Member, based upon the written advice of the professional advisors of the Class B Member (and after having sought the advice and input of the Class A Member Representative), and (ii) within forty-five (45) days of such mutual written agreement, or receipt of such written finding from the Class B Member, the Class A Member has not either (A) revoked such Exempt Status Matter Action or (B) assigned its Membership Interest to a for-profit Affiliate of the Class A Member, revoked such Exempt Status Matter Action, and agreed in writing to amend this Agreement to delete Sections 4.06(b), 6.09(b)(i) and 17.05(b) hereof; (b) a Member learns or receives written notification that the other Member has experienced a Change in Control; or (c) there exists a bona fide dispute between the Class A Member and the Class B Member regarding one or more of the matters below, that has not been resolved after a good faith attempt by the Class A Member and the Class B Member to resolve such dispute pursuant to the dispute resolution procedures described in Section 17.15(a) of this Agreement:

i. a proposed capital expenditure, or series of capital expenditures over a continuous three-year period in the aggregate, of $1,000,000.00 or more (not including the capital expenditures to be financed pursuant to the plan of capitalization outlined in Exhibit A);

ii. the proposed merger or consolidation of the Company with or into another Person;

iii. the proposed sale of all or substantially all of the assets of the Company;

iv. the proposed borrowing of money, or incurring a debt, for or on behalf of the Company in excess of $500,000.00 (not including the debt commitment described in the plan of capitalization outlined in Exhibit A); or

v. the proposed dissolution of the Company.

Supermajority Vote.

"Supermajority Vote" means (a) the vote of the Members holding at least seventy six (76%) percent of the Percentage Interests of the Company or (b) the vote of Member Representatives whose Member's hold at least seventy six (76%) percent of the Percentage Interests in the Company.

Transfer.

"Transfer" means, when used as a noun, any sale, hypothecation, pledge, assignment, attachment, gift, bequest, exchange, conveyance, encumbrance or any other form of disposition, whether voluntary or involuntary, by direct or indirect means, or by merger, consolidation or otherwise, and, when used as a verb, means, to sell, hypothecate, pledge, assign, gift, bequeath, exchange, convey, encumber or otherwise dispose of, whether voluntary or involuntary, by direct or indirect means, or by merger, consolidation or otherwise; provided, however, that "Transfer" shall not include a Transfer by the Class A Member or the Class B Member to an Affiliate of the transferor.

Voluntary Withdrawal.

"Voluntary Withdrawal" means the disassociation of a Member or an Economic Interest Owner from the Company by means other than by a Transfer or an Involuntary Withdrawal.

ARTICLE XVII
MISCELLANEOUS PROVISIONS

17.01 Power of Attorney.

(a) Each Member constitutes and appoints each Manager as the Member's true and lawful attorney-in-fact ("Attorney-In-Fact"), and in the Member's name, place and stead, to make, execute, sign, acknowledge, and file or cause to be made, executed, signed, acknowledged and filed:

(i) all documents (including amendments to the Articles of Organization) that the Attorney-In-Fact deems appropriate to reflect any amendment, change, or modification of this Agreement;

(ii) any and all other certificates or other instruments required to be filed by the Company under the laws of the State of Connecticut or of any other state or jurisdiction, including, without limitation, any certificate or other instruments necessary in order for the Company to continue to qualify as a limited liability company under the laws of the State of Connecticut;

(iii) one or more applications to use an assumed name; and

(iv) all documents that may be required to dissolve and terminate the Company and to cancel its Articles of Organization.

(b) The foregoing power of attorney is irrevocable and is coupled with an interest, and to the extent permitted by Applicable Law, shall survive the death, disability or dissolution of a Member. It also shall survive the transfer of a Membership Interest or an Economic Interest, except that if the transferee is approved for admission as a Member, this power of attorney shall survive the delivery of the assignment for the sole purpose of enabling the Attorney-in-Fact to execute, acknowledge, and file any documents needed to effectuate the substitution. Each Member shall be bound by any

representations made by the Attorney-in-Fact acting in good faith pursuant to this power of attorney, and each Member hereby waives any and all defenses that may be available to contest, negate, or disaffirm the action of the Attorney-in-Fact taken in good faith under this power of attorney.

17.02 Notices.

Any notice, demand, consent, approval, communication or other document required or permitted to be given hereunder shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid, or a nationally recognized overnight delivery service (receipt requested), to the Member's or the Company's address, as appropriate, which is set forth in this Agreement, or to such other address for the party as shall be specified by like notice. Any notice that is delivered personally in the manner provided herein shall be deemed to have been duly given to the party to whom it is directed upon actual receipt by such party. Any notice that is addressed and mailed or delivered overnight in the manner herein provided shall be duly given when received by the addressee.

17.03 Application of Connecticut Law.

This Agreement and its interpretation shall be governed exclusively by its terms and by the laws of the State of Connecticut (without regard to principles of conflicts of law), and specifically the Act.

17.04 Jurisdiction and Venue.

Any suit involving any dispute or matter arising under this Agreement may only be brought in the United States District Court for the District of Connecticut or any Connecticut State Court having jurisdiction over the subject matter of the dispute or matter. All Members and Economic Interest Owners hereby consent to the exercise of personal jurisdiction by any such court with respect to any such proceeding.

17.05 Amendments.

(a) This Agreement and the Articles of Organization may be amended upon a Supermajority Vote of the Member Representatives or by a written consent signed by all the Member Representatives.

(b) This Agreement and the Articles of Organization may be amended upon a unanimous vote of the Class A Managers, provided that the Class A Managers have reasonably determined, based on the written advice of counsel, that such amendment or amendments are necessary to prevent the Class A Member from losing its status as a tax-exempt organization under Code Section 501(a) as an organization described in Code Section 501(c)(3).

17.06 Execution of Additional Instruments.

Each Member hereby agrees to execute such other and further statements of interest and holdings, designations and other instruments necessary to comply with any Applicable Law, rules or regulations.

17.07 Construction.

When required by the context, the singular number whenever used in this Agreement shall include the plural and vice-versa, and the masculine gender whenever used in this Agreement shall include the feminine and neuter genders and vice-versa.

17.08 Headings.

The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provision hereof.

17.09 Waivers.

The failure of any party to seek redress for default of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act, that would have originally constituted a default, from having the effect of an original default.

17.10 Rights and Remedies Cumulative.

The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any other remedy. The rights and remedies provided by this Agreement are given in addition to any other legal rights the parties may have.

17.11 Severability.

If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

17.12 Specific Performance.

The parties recognize that irreparable injury will result from a breach of any provision of this Agreement and that money damages will be inadequate to fully remedy the injury. Accordingly, in the event of a breach or threatened breach of one or more of the provisions of this Agreement, any party who may be injured (in addition to any other remedies that may be available to that party) shall be entitled to one or more preliminary or permanent orders (i) restraining and enjoining any act that would constitute a breach or (ii) compelling the performance of any obligation that, if not performed, would constitute a breach.

17.13 Successors and Assigns.

The covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and to the extent permitted by this Agreement, their respective successors and assigns.

17.14 Creditors.

None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company.

17.15 Dispute Resolution.

(a) Except for actions taken pursuant to Section 4.06(b) or 6.09(b) or 6.09(c), all disputes, claims, controversies and differences arising out of or relating to this Agreement, or the termination, invalidity or breach hereof, including without limitation any deadlock in a vote of the Member Representatives, shall first be submitted by a party by written notice to, and for resolution by, the Management Committee. Within ten (10) days of receipt of such notice, the Management Committee shall meet and attempt to resolve such matter. If the Management Committee is unable to resolve the matter within such ten day-period (or the dispute originated with the Management Committee), the party may refer the matter by written notice to, and for resolution by, the chief executive officers of the Class A and Class B Members. Such chief executive officers shall meet at the principal office of the Company, or at such other location as they may agree, within fourteen (14) days of the notice from the party to negotiate in good faith a resolution of the matter. If within twenty-one (21) days of the written notice from the party the mater still has not been resolved, and such matter involves an Arbitrable Issue, the party may submit the dispute to arbitration pursuant to Section 17.15(b) of this Agreement.

(b)

(i) If an Arbitrable Issue has not been resolved pursuant to the procedures provided for in Section 17.15(a), a party may, by written notice to the other Members, submit the Arbitrable Issue to be determined by arbitration in the City of Hartford, Connecticut, in accordance with the Commercial Arbitration Rules of the American Arbitration Association (except as otherwise specified in this Section 17.15). The dispute shall be determined by one (1) arbitrator acceptable to both parties who shall be selected within fourteen (14) days of receipt of notice of intention to arbitrate by the party receiving that notice. If the receiving party fails to respond to said notice in writing within said fourteen (14) days, then the party providing said notice shall select the arbitrator and the arbitrator selected by the party providing said notice shall be deemed to have been selected by the receiving party. If, by the end of said fourteen (14) day period the parties have not agreed upon one (1) arbitrator as acceptable, then the dispute shall be determined by a panel of three (3) arbitrators selected as follows: Within an additional seven (7) days, each party will appoint one (1) arbitrator. These two

(2) arbitrators will then, within an additional seven (7) days, name a third arbitrator. If the two (2) arbitrators are unable to agree upon the choice of a third arbitrator within seven (7) days, either party may request the person or entity administering the arbitration, or, if none, the American Arbitration Association or any other arbitration administering person or entity, to appoint the necessary arbitrator pursuant to the Commercial Arbitration Rules.

(ii) As soon as the arbitrator has been chosen or if three are utilized, the panel has been convened, a hearing date shall be set within thirty (30) days thereafter. Such hearing date shall be subject to the mutual agreement of the parties and the arbitrator(s), but if such agreement cannot be reached, the arbitrator(s) shall have authority to establish such times for hearings as he, she or they deem appropriate. Written submissions shall be presented and exchanged by both parties fifteen (15) days before the hearing date, including reports prepared by any expert upon whom either party intends to rely. At such time the parties shall also exchange copies of all documentary evidence upon which they will rely at the arbitration hearing and a list of the witnesses whom they intend to call to testify at the hearing. Each party shall also make its respective experts available for deposition by the other party prior to the hearing date. The arbitrator(s) shall make his or her award as promptly as practicable after conclusion of the hearing. Arbitrators shall be compensated for their services at the standard hourly rate charged in their private professional activities.

(iii) The parties acknowledge that the United States District Court for the District of Connecticut has jurisdiction over the parties for the purpose of enforcing this Section 17.15. Connecticut rules of civil procedure and evidence shall apply with respect to any arbitration hereunder, including all rules pertaining to discovery and inspection. The award may be made solely on the default of a party. The arbitrator(s) shall follow substantive rules of law. The arbitrator(s) shall make the award in strict conformity with this Agreement and shall have no power to depart from or change any of the provisions hereof. If three arbitrators are used, a decision of any two of them shall be binding. At the request of either party at the start of the arbitration, the award of the arbitrator(s) shall be accompanied by findings of fact and a written statement of reasons for the decision. The arbitrator(s) shall have the discretion to award the costs of arbitration, arbitrators' fees and the respective attorneys' fees of each party between the parties as they see fit. All parties agree to be bound by the results of this arbitration; judgment upon the award so rendered may be entered and enforced in any court of competent jurisdiction, including the power to require specific performance. To the extent reasonably practicable, both parties agree to continue performing their respective obligations under this Agreement while the dispute is being resolved. All matters relating to any arbitration hereunder shall be maintained in confidence.

(iv) Nothing contained in this Section 17.15 shall prohibit either party from seeking equitable relief without first resorting to arbitration under such

circumstances as that party's interests hereunder and in its property will be otherwise compromised.

17.16 Indemnification.

(a) Each Member and Economic Interest Owner (each, an "Indemnitor") shall indemnify, hold harmless and defend the Company and each other Member, Economic Interest Owner and their respective directors, officers, owners, employees, representatives and agents (each an "Indemnitee" and collectively, the "Indemnitees") from and against any Costs incurred by the Indemnitees that arise from or are related to: (i) a violation of the anti-kickback provisions of Applicable Law by the Indemnitor or any of its directors, officers, owners, employees, representatives or agents relating to the Company and/or the Center, and such violation of Applicable Law is not cured by the Indemnitor at its sole cost and expense within sixty (60) days of the notice provided for in the first sentence of Section 17.16(b); and/or (ii) the enforcement of this indemnity.

(b) If there occurs an event which a party asserts is an indemnifiable event pursuant to this Section 17.16, the parties seeking indemnification shall promptly notify the other parties obligated to provide indemnification (collectively, the "Indemnifying Party"). If such event involves (i) any Claim or (ii) the commencement of any action, suit or proceeding by a third person, the party seeking indemnification will give such Indemnifying Party prompt written notice of such Claim or the commencement of such action, suit or proceeding, provided, however, that the failure to provide prompt notice as provided herein will relieve the Indemnifying Party of its obligations hereunder only to the extent that such failure prejudices the Indemnifying Party hereunder. In case any such action, suit or proceeding shall be brought against any party seeking indemnification and it shall notify the Indemnifying Party of the commencement thereof, the Indemnifying Party shall be entitled to participate therein and, to the extent that it desires to do so, to assume the defense thereof, with counsel reasonably satisfactory to such party seeking indemnification and, after notice from the Indemnifying Party to such party seeking indemnification of such election so to assume the defense thereof, the Indemnifying Party shall not be liable to the party seeking indemnification hereunder for any attorneys' fees or any other expenses, in each case subsequently incurred by such party, in connection with the defense of such action, suit or proceeding. The party seeking indemnification agrees to cooperate fully with the Indemnifying Party and its counsel in the defense against any such action, suit or proceeding. In any event, the party seeking indemnification shall have the right to participate at its own expense in the defense of such action, suit or proceeding. In no event shall an Indemnifying Party be liable for any settlement or compromise effected without its prior consent. If, however, the party seeking indemnification refuses its consent to a bona fide offer of settlement which the Indemnifying Party wishes to accept (which must include the unconditional release of the parties seeking indemnification from all liability with respect to the Claim at issue), the party seeking indemnification may continue to pursue such matter, free of any participation by the Indemnifying Party, at the sole expense of the party seeking indemnification. In such event, the obligation of the Indemnifying Party to the party seeking indemnification shall be equal to the lesser of (i) the amount of the offer or settlement which the party seeking indemnification refused to accept plus the costs and

expenses of such party prior to the date the Indemnifying Party notifies the party seeking indemnification of the offer of settlement and (ii) the actual out-of-pocket amount the party seeking indemnification is obligated to pay as a result of such party's continuing to pursue such matter.

(c) The amount which an Indemnifying Party is required to pay to, for or on behalf of any other party (hereinafter referred to as an "Indemnitee") pursuant to this Section 17.16 shall be adjusted (including, without limitation, retroactively) by any insurance proceeds actually recovered by or on behalf of such Indemnitee in reduction of the related indemnifiable loss (the "Indemnifiable Loss"). Amounts required to be paid, as so reduced, are hereafter sometimes called an "Indemnity Payment." If an Indemnitee shall have received or shall have had paid on its behalf an Indemnity Payment in respect of an Indemnifiable Loss and shall subsequently receive insurance proceeds in respect of such Indemnifiable Loss, then the Indemnitee shall pay to the Indemnifying Party the amount of such insurance proceeds or, if less, the amount of the Indemnity Payment.

17.17 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

[The rest of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused their signatures, or the signatures of their duly authorized representatives, to be set forth below on the day and year first above written.

MEMBERS:

Hartford Hospital (Class A Member)

By :______________________________________
Jeffrey A. Flaks
Its Executive Vice President and Chief
Operating Officer

CTGI Glastonbury Endoscopy Center, LLC
(Class B Member)

By :______________________________________
Jeffry L. Nestler, M.D.
A Manager

MANAGERS:

Hartford Hospital (Class A) Managers

____
Jeffrey A. Flaks

____
Richard G. Stys

CTGI Glastonbury Endoscopy Center, LLC (Class B)
Managers

____
Jeffry L. Nestler, M.D.

____
Joseph A. Cappa, M.D.

____
Jeffrey S. Gelwan, M.D.

As to Section 5.6 only:

Connecticut GI, P.C.

By:___________________________________

Its:___________________________________

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EXHIBIT A

MEMBERS, MEMBER PERCENTAGE INTEREST AND CLASS OF MEMBERSHIP INTEREST

Name and Address	Percentage Interest	Class of Member-ship Interest
Hartford Hospital 80 Seymour Street P.O. Box 5037 Hartford, Connecticut 06102-5037	51%	A
CTGI Glastonbury Endoscopy Center, LLC 85 Seymour Street, #1000 Hartford, Connecticut 06106	49%	B

EXHIBIT B

MEMBER REPRESENTATIVES
AND
MANAGEMENT COMMITTEE MEMBERS

MEMBER REPRESENTATIVES

Hartford Hospital Representative:

Jeffrey A. Flaks
Executive Vice President and Chief Operating Officer
Hartford Hospital
80 Seymour Street
Hartford, Connecticut 06102

CTGI Glastonbury Endoscopy Center, LLC Representative:

Jeffry L. Nestler, M.D.
CTGI Glastonbury Endoscopy Center, LLC
85 Seymour Street, Suite 1000
Hartford, Connecticut 06106

MANAGEMENT COMMITTEE MEMBERS

Hartford Hospital (Class A) Managers:

Jeffrey A. Flaks
Executive Vice President and Chief Operating Officer
Hartford Hospital
80 Seymour Street
Hartford, Connecticut 06102

Richard G. Stys
Treasurer
Hartford HealthCare Corporation
80 Seymour Street
Hartford, Connecticut 06102

Michael C. Lindberg, M.D.
Acting Director, Department of Medicine
Hartford Hospital
80 Seymour Street
Hartford, Connecticut 06102

CTGI Glastonbury Endoscopy Center, LLC (Class B) Managers:

Jeffry L. Nestler, M.D.
CTGI Glastonbury Endoscopy Center, LLC
85 Seymour Street, Suite 1000
Hartford, Connecticut 06106

Joseph A. Cappa, Esq.
CTGI Glastonbury Endoscopy Center, LLC
85 Seymour Street, Suite 1000
Hartford, Connecticut 06106

Jeffrey S. Gelwan, M.D.
CTGI Glastonbury Endoscopy Center, LLC
85 Seymour Street, Suite 1000
Hartford, Connecticut 06106

EXHIBIT C

COVERED SERVICE AREA

EXHIBIT D

ROFR SERVICE AREA

EXHIBIT E

CHARITY CARE POLICY

This policy, as amended from time to time, shall apply to the Company's Glastonbury Endoscopy Center (the "Center") and shall be enforced by the Management Committee.

1. Promotion of Health in the Community – The Center shall be responsible for the holding annually of free health educational programs and seminars as determined by the Management Committee, and will otherwise promote the health of the community served by the Center.

2. Medicare and Medicaid Patients – The Center shall accept patients covered by Medicare and Medicaid.

3. Charity Care – In accordance with a policy adopted by both the Class A Managers and the Class B Managers on the Company's Management Committee, the Center shall provide free or reduced charge health care services to the poor or indigent, based on ability to pay. Charity care for this purpose shall not include contractual allowances. Ability to pay shall be determined on the basis of the patient's income relative to the federal poverty level, his or her net assets, and any other hardship factors.

4. Debt Collection – While the Center may institute collection proceedings against those who appear able to pay, it shall not be the primary moving party to foreclose a security interest in a patient's primary residence in collection of the debt.

5. Administration – The Center shall assure that there are adequate notices on premises about the availability of charity care. Billing and admissions staff shall be trained in the application process and in the overall Charity Care Policy.

6. Reports – The Medical Director shall cause a report detailing compliance with this Charity Care Policy to be prepared and submitted for the review of the Management Committee of the Company each calendar quarter during the term of this Operating Agreement. The Management Committee shall cause the Medical Director to take prompt action to require compliance with this Charity Care Policy should the aforementioned reports evidence noncompliance, in whole or in part, with this policy.

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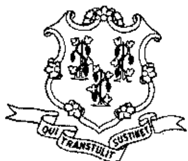

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

Office of Health Care Access

November 14, 2014

VIA FACSIMILE ONLY

Barbara A. Durdy
Director, Strategic Planning
Hartford Healthcare Corporation
80 Seymour Street
Hartford, CT 06102

Jeffry Nestler, MD
CTGI Glastonbury Endoscopy Center, LLC
300 Western Boulevard
Suite B
Glastonbury, CT 06033

RE: Certificate of Need Determination Report Number 14-31963-DTR
Hartford Hospital/Glastonbury Endoscopy Center, LLC

Dear Ms. Durdy and Dr. Nestler:

On November 12, 2014, the Office of Health Care Access ("OHCA") received your Certificate of Need ("CON") Determination request on behalf of Hartford Hospital and CTGI Glastonbury Endoscopy Center, LLC d/b/a Glastonbury Endoscopy Center, LLC("CTGI") (Hartford Hospital and CTGI are here collectively referred to as "Petitioners") with respect to the establishment of the Newport Academy in Darien, Connecticut.

Glastonbury Endoscopy Center, LLC (the "Center") is a freestanding endoscopy center located in Glastobury, Connecticut. Hartford Hospital and CTGI each own a 50% interest in the Center. The Petitioners wish to modify their respective percentage ownership interests to reflect a 51% ownership by Hartford Hospital and a 49% ownership interest by CTGI. The proposed changes will not impact overall governance and control of the Center since there will be no change in the governance or the Board structure of the Center.

Connecticut General Statutes § 19a-638(a)(2) requires CON authorization for the "transfer of ownership of a health care facility". Connecticut General Statutes §19a-630(14) defines a "transfer of ownership" as "a transfer that impacts or changes the governance or controlling body of a health care facility..." Since the Petitioners have represented that there will be no impact or change to the governance or controlling body of the Center, OHCA hereby determines that a ***CON is not required*** for the proposal.

Sincerely,

Kimberly R. Martone
Director of Operations

C: Rose McLellan, License and Applications Supervisor, DPH, DHSR

* * * COMMUNICATION RESULT REPORT (NOV. 14. 2014 11:13AM) * * *

FAX HEADER:

TRANSMITTED/STORED : NOV. 14. 2014 11:13AM

FILE	MODE	OPTION	ADDRESS	RESULT	PAGE
748	MEMORY TX		98609729025	OK	2/2

REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
E-2) BUSY
E-3) NO ANSWER
E-4) NO FACSIMILE CONNECTION

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
OFFICE OF HEALTH CARE ACCESS

FAX SHEET

TO: BARBARA DURDY

FAX: 860 972-9025

AGENCY: HARTFORD HEALTHCARE

FROM: OHCA

DATE: 11/14/14 **Time:**

NUMBER OF PAGES:
(including transmittal sheet

Comments:

Determination for DN: 14-31963-DTR regarding percentage of ownership in Glastonbury Endoscopy Center, LLC.

PLEASE PHONE Barbara K. Olejarz IF THERE ARE ANY TRANSMISSION PROBLEMS.

Phone: (860) 418-7001 ***Fax: (860) 418-7053***

410 Capitol Ave., MS#13HCA
P.O.Box 340308
Hartford, CT 06134