

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
NOVEMBER 17, 1997

The Henderson County Board of Commissioners met for a special called meeting at 4:30 p.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Acting Chair Grady Hawkins presiding, and Commissioners Good, Kumor, and Ward.

Absent was: Chairman Robert D. Eklund who was home recuperating from recent surgery.

Also Present were: County Manager David E. Nicholson, Assistant County Manager/Staff Attorney Angela M. Skerrett, Clerk to the Board Elizabeth W. Corn and Wally McBride, Outside Council to the Board of Commissioners regarding Hospital Reorganization.

CALL TO ORDER/WELCOME

Chairman Hawkins called the meeting to order and welcomed all in attendance. The purpose of today's meeting was to review the Hospital Reorganization Documents.

PRESENTATION OF DOCUMENTS TO BOARD

Angela Skerrett presented the following proposed documents with the Board of Commissioners:

1. RESOLUTION PROVIDING FOR CREATION OF HENDERSON COUNTY HOSPITAL CORPORATION AND, UPON CERTAIN CONDITIONS, THE LEASE OF MARGARET R. PARDEE MEMORIAL HOSPITAL TO SUCH CORPORATION.
2. Articles of Incorporation of Henderson County Hospital Corporation.
3. Lease Agreement.

Angela Skerrett introduced Wally McBride who had prepared these documents for the Board of Commissioners and turned the meeting over to him at this time.

BOARD DISCUSSION OF DOCUMENTS

Mr. McBride reviewed the documents with the Board. Mr. McBride stated that the general plan is consensus for the community. He requested the Board adopt the Resolution which provides for the creation of the new corporation.

Mr. McBride reviewed the SUGGESTED PROCEDURE FOR REORGANIZATION OF PARDEE HOSPITAL dated November 17, 1997 until Completion.

November 17, 1997

Page 2

The following resolution was discussed and its title was read:

RESOLUTION PROVIDING FOR CREATION OF HENDERSON COUNTY
HOSPITAL CORPORATION AND, UPON CERTAIN CONDITIONS, THE
LEASE OF MARGARET R. PARDEE MEMORIAL HOSPITAL TO SUCH
CORPORATION

WHEREAS, by a resolution adopted on June 4, 1951, by the Board of Commissioners of Henderson County (the "BOC"), the Board of Trustees (the "Trustees") for Margaret R. Pardee Memorial Hospital (the "Hospital") was created and entrusted with the administration and operation of the public hospital in Henderson County (the "County"); and

WHEREAS, through the intervening years the Trustees have provided admirable administration and operation of the Hospital and all related facilities (together, the "Hospital System") for the provision of health care to the public in the County; and

WHEREAS, current trends in health care practices, Federal laws and regulations, State of North Carolina laws and regulations and competitive prospects indicate, and the Trustees have recommended to the BOC, that the structure for administering and operating the Hospital System should be changed to better facilitate the provision of health care in the County; and

WHEREAS, the North Carolina General Statutes, particularly Chapter 131E thereof provide for a number of different possibilities for different organizations to administer and operate hospital facilities, but the BOC has decided the best entity to administer and operate the Hospital should be a nonprofit corporation created pursuant to Chapter 55A (the "Corporation"), with some modification to, and limitation of, the powers of such corporation; and

WHEREAS, the Trustees and the BOC are in agreement as to such contention and this resolution is intended to memorialize their understanding as to the creation of the Corporation and the subsequent lease of the Hospital System thereto; and

WHEREAS, the lease of the Hospital System will require recognition that property will no longer be owned by the County and used by the Trustees but rather be owned by the County and leased to the Corporation and it is appropriate for both the County and the Trustees to have a property, permit and contract inventory and review (the "Diligence Review") to aid in the transfer; and

November 17, 1997

Page 3

WHEREAS, the BOC desires to establish a policy for the appointment of trustees for the board of directors of the Corporation and such policy may not be complete before the Corporation needs to start activities and the North Carolina nonprofit corporation law provides for such a possibility;

NOW, THEREFORE, the Board of Commissioners of Henderson County, meeting in special session at 100 N. King Street, Hendersonville, North Carolina 28792 on November 17, 1997, do the following:

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR HENDERSON COUNTY:

1. The BOC finds that the formation of the Henderson County Hospital Corporation for the operation of the Hospital is in the best health and welfare interests of the citizens of the County and the future interests of the Hospital because it will enable the Hospital to compete in today's health care market, yet will preserve the community's ownership of this asset for the provision of health care in the County. Upon adoption by the Trustees of a resolution agreeing to the terms hereof for the creation of a nonprofit corporation and the subsequent lease of the Hospital System thereto, the BOC shall create a nonprofit corporation under Chapter 55A of the North Carolina General Statutes to be named the "Henderson County Hospital Corporation."

2. The Articles of Incorporation of such corporation shall be substantially in the form attached hereto as Exhibit A and, once the same are filed with the Secretary of State of North Carolina pursuant to North Carolina General Statutes, then the BOC will enter into a lease of the Hospital System to such corporation in the form attached hereto as Exhibit B.

3. Notwithstanding paragraphs 1 and 2 hereof, (a) the Articles of Incorporation may be changed to reflect that the board of directors thereof may be appointed after such articles have been filed and (b) closing of the lease of the Hospital System to the Corporation will not occur until after the BOC has received the Diligence Review from the Trustees and the BOC has had an opportunity to consider the effects thereof, if any, on the reorganization of the Hospital, and to consider any other proper matters before it.

4. In connection with the lease of the Hospital System to the Corporation, the appropriate officers and employees of the

November 17, 1997

Page 4

County and the BOC are hereby authorized and directed to transfer to the Corporation, upon its formation and after the initial Board of Directors has been named by the incorporators, all personal property, funds, accounts receivable, contracts, permits and other property which will not be a part of the property to be leased to the Corporation but are currently used as a part of the Hospital System, and the BOC hereby makes an appropriation thereof for this purpose to be effective on a date selected by the BOC after the formation of the Corporation and the official designation of the initial Board of Directors by the incorporators.

5. It may be necessary to proceed with the filing of the Articles of Incorporation prior to the closing of the lease to enable the Corporation to secure State and federal provider numbers; therefore, the firm of Hunton & Williams is authorized to file Articles of Incorporation in substantially the form as the attached Exhibit A upon (a) adoption of this resolution by the BOC and (b) adoption of a resolution by the Trustees agreeing to the terms herein and the terms of Exhibits A and B attached. The firm of Hunton & Williams shall report any changes made to Exhibit A to the BOC.

6. All expenses, including attorneys' fees, of the County in connection with the considerations leading up to adoption of this resolution, the creation of the Corporation, the Diligence Review and the lease of the Hospital System pursuant to the proposed lease agreement shall be paid from revenues of the Hospital System.

7. The Chairman shall be authorized to agree to minor changes in the said Exhibits A and B, provided the intent remains the same, in order to facilitate the filing of the Articles of Incorporation and the final closing on the lease.

8. This resolution shall take effect immediately.

Commissioner Good moved the passage of the foregoing resolution and the resolution was seconded by Commissioner Kumor and passed by the following vote:

Ayes: Commissioners Hawkins, Good, Kumor and Ward.

Nays: None

Not voting: Chairman Bob Eklund who was not present.

November 17, 1997

Page 5

STAFF PRESENTATION ON PROPOSED COMPOSITION OF HOSPITAL BOARD AFTER REORGANIZATION

Angela Skerrett made a presentation to the Board, prompted discussion, and made changes to the presentation as directed by the Commissioners as follows:

**Suggested Outline for Appointment to
Henderson County Hospital Corporation
November 17, 1997**

Role - Safe and efficient operation of Margaret R. Pardee Hospital as a community general hospital.

1. Operate community general hospital
2. Provide high quality health care services
3. Community partner - enter community partnerships to facilitate good communication and cooperation among all health care providers in the community including providing training opportunities for local education institutions.
4. Community health care planner - community health plan to address comprehensive range of health care issues in Henderson County - critical advisory to BOC.
5. Educator of the BOC and community on community health issues and health care trends - educate on personal health, preventive training/screening.
6. County's partner - acts as county government's partner in providing those health care services traditionally provided or paid for by county government.

Positions

- 4 General Public/Customer
 - 3 Business/Professional (lawyer, banker, business mgr./owner, Administrator, finance officer)
 - 3 Governmental agency representatives but no staff members (public health, mental health, schools, DSS, Blue Ridge Community College)
 - 1 Commissioner or their representative
- 11 members total

General Qualifications

1. Henderson County citizen (2 years)
2. Demonstrated civic service in Henderson County
3. Appropriate education/experience for designated position
4. Honesty, integrity, good moral character
5. Time commitment

November 17, 1997

Page 6

There was discussion of requiring that a Conflict of Interest Policy be adopted. The current Pardee Conflict of Interest Policy was handed out for review.

The Board would like to solicit a fair cross section of the community - geographically, racially, socio-economically, as well as disabled.

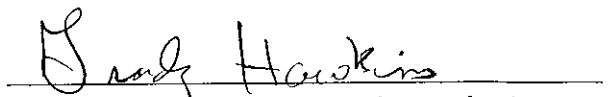
BOARD DIRECTION TO STAFF

Some general Board direction is included in the presentation above. The Board also requested that staff bring the proposed policy back to the Board at the December 1 meeting as well as a proposed application form.

There being no further business to come before the Board, Commissioner Good made the motion to adjourn the meeting at 6:20 p.m. All voted in favor and the motion carried.

Attest:


Elizabeth W. Corn, Clerk


Grady Hawkins, Acting Chairman

**RESOLUTION PROVIDING FOR CREATION OF HENDERSON COUNTY
HOSPITAL CORPORATION AND, UPON CERTAIN CONDITIONS, THE LEASE OF
MARGARET R. PARDEE MEMORIAL HOSPITAL TO SUCH CORPORATION**

WHEREAS, by a resolution adopted on June 4, 1951, by the Board of Commissioners of Henderson County (the "BOC"), the Board of Trustees (the "Trustees") for Margaret R. Pardee Memorial Hospital (the "Hospital") was created and entrusted with the administration and operation of the public hospital in Henderson County (the "County"); and

WHEREAS, through the intervening years the Trustees have provided admirable administration and operation of the Hospital and all related facilities (together, the "Hospital System") for the provision of health care to the public in the County; and

WHEREAS, current trends in health care practices, Federal laws and regulations, State of North Carolina laws and regulations and competitive prospects indicate, and the Trustees have recommended to the BOC, that the structure for administering and operating the Hospital System should be changed to better facilitate the provision of health care in the County; and

WHEREAS, the North Carolina General Statutes, particularly Chapter 131E thereof, provide for a number of different possibilities for different organizations to administer and operate hospital facilities, but the BOC has decided the best entity to administer and operate the Hospital should be a nonprofit corporation created pursuant to Chapter 55A (the "Corporation"), with some modification to, and limitation of, the powers of such corporation; and

WHEREAS, the Trustees and the BOC are in agreement as to such contention and this resolution is intended to memorialize their understanding as to the creation of the Corporation and the subsequent lease of the Hospital System thereto; and

THIS PAGE INTENTIONALLY LEFT BLANK

WHEREAS, the lease of the Hospital System will require recognition that property will no longer be owned by the County and used by the Trustees but rather be owned by the County and leased to the Corporation and it is appropriate for both the County and the Trustees to have a property, permit and contract inventory and review (the "Diligence Review") to aid in the transfer; and

WHEREAS, the BOC desires to establish a policy for the appointment of trustees for the board of directors of the Corporation and such policy may not be complete before the Corporation needs to start activities and the North Carolina nonprofit corporation law provides for such a possibility;

NOW, THEREFORE, the Board of Commissioners of Henderson County, meeting in special session at 100 N. King Street, Hendersonville, North Carolina 28792 on November 17, 1997, do the following:

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR HENDERSON COUNTY:

1. The BOC finds that the formation of the Henderson County Hospital Corporation for the operation of the Hospital is in the best health and welfare interests of the citizens of the County and the future interests of the Hospital because it will enable the Hospital to compete in today's health care market, yet will preserve the community's ownership of this asset for the provision of health care in the County. Upon adoption by the Trustees of a resolution agreeing to the terms hereof for the creation of a nonprofit corporation and the subsequent lease of the Hospital System thereto, the BOC shall create a nonprofit corporation under Chapter 55A of the North Carolina General Statutes to be named the "Henderson County Hospital Corporation."

THIS PAGE INTENTIONALLY LEFT BLANK

2. The Articles of Incorporation of such corporation shall be substantially in the form attached hereto as Exhibit A and, once the same are filed with the Secretary of State of North Carolina pursuant to North Carolina General Statutes, then the BOC will enter into a lease of the Hospital System to such corporation in the form attached hereto as Exhibit B.

3. Notwithstanding paragraphs 1 and 2 hereof, (a) the Articles of Incorporation may be changed to reflect that the board of directors thereof may be appointed after such articles have been filed and (b) closing of the lease of the Hospital System to the Corporation will not occur until after the BOC has received the Diligence Review from the Trustees and the BOC has had an opportunity to consider the effects thereof, if any, on the reorganization of the Hospital, and to consider any other proper matters before it.

4. In connection with the lease of the Hospital System to the Corporation, the appropriate officers and employees of the County and the BOC are hereby authorized and directed to transfer to the Corporation, upon its formation and after the initial Board of Directors has been named by the incorporators, all personal property, funds, accounts receivable, contracts, permits and other property which will not be a part of the property to be leased to the Corporation but are currently used as a part of the Hospital System, and the BOC hereby makes an appropriation thereof for this purpose to be effective on a date selected by the BOC after the formation of the Corporation and the official designation of the initial Board of Directors by the incorporators.

5. It may be necessary to proceed with the filing of the Articles of Incorporation prior to the closing of the lease to enable the Corporation to secure State and federal provider numbers; therefore, the firm of Hunton & Williams is authorized to file Articles of Incorporation in substantially the form as the attached Exhibit A upon (a) adoption of this resolution by the BOC

THIS PAGE INTENTIONALLY LEFT BLANK

and (b) adoption of a resolution by the Trustees agreeing to the terms herein and the terms of Exhibits A and B attached. The firm of Hunton & Williams shall report any changes made to Exhibit A to the BOC.

6. All expenses, including attorneys' fees, of the County in connection with the considerations leading up to adoption of this resolution, the creation of the Corporation, the Diligence Review and the lease of the Hospital System pursuant to the proposed lease agreement shall be paid from revenues of the Hospital System.

7. The Chairman shall be authorized to agree to minor changes in the said Exhibits A and B, provided the intent remains the same, in order to facilitate the filing of the Articles of Incorporation and the final closing on the lease.

8. This resolution shall take effect immediately.

Adopted this the 17th day of November, 1997.

Grady Hawkins
 Acting Chairman
 Henderson County Board of Commissioners

Attest:

Elizabeth W. Corn
 Elizabeth W. Corn
 Clerk to the Board

THIS PAGE INTENTIONALLY LEFT BLANK

Exhibit A to Board of County
Commissioners' Resolution of
November 17, 1997

ARTICLES OF INCORPORATION
OF
HENDERSON COUNTY HOSPITAL CORPORATION.

We, the undersigned, being of full age, do make and acknowledge these Articles of Incorporation for the purpose of forming a nonprofit corporation pursuant to the provisions of Chapter 55A of the General Statutes of the State of North Carolina:

ARTICLE I

The name of the corporation is **HENDERSON COUNTY HOSPITAL CORPORATION.**

ARTICLE II

The period of duration of the corporation shall be perpetual.

ARTICLE III

The corporation is a charitable corporation and the purpose for which the corporation is organized is to promote and advance health care related activities, services and purposes primarily within, and for the benefit of the residents of, the County of Henderson, North Carolina.

THIS PAGE INTENTIONALLY LEFT BLANK

ARTICLE IV

The sole member of the corporation shall be the County of Henderson, North Carolina, acting by and through its Board of County Commissioners, which shall have the rights set forth in these Articles. No other members may be added without approval of the County of Henderson, North Carolina. No rights reserved in these Articles to the member or the County of Henderson, North Carolina may be revised or affected except by amendment of these Articles approved by the County of Henderson, North Carolina. The membership of the County of Henderson, North Carolina is not subject to termination or transfer.

THIS PAGE INTENTIONALLY LEFT BLANK

ARTICLE V

The corporation shall be governed by a Board of Directors who shall be known as "Trustees." There shall be eleven (11) voting Trustees, ten (10) Trustees who are not Henderson County Commissioners ("non-BOC Trustees"), and one (1) Trustee who may be a Henderson County Commissioner ("BOC Trustee"). The initial Trustees, both BOC and non-BOC, shall be appointed by the incorporators; thereafter, the Trustees shall be appointed by the Henderson County Board of Commissioners. The terms of office of the initial non-BOC Trustee shall be staggered, with three (3) expiring December 31, 1998, three (3) expiring December 31, 1999, and four (4) expiring December 31, 2000. The BOC Trustee has no specific expiration date of term. Each Trustee shall serve until their successor is appointed. After the initial non-BOC Trustees have been appointed, the non-BOC Trustees shall be appointed for three (3) year terms. No non-BOC Trustee may serve for more than three (3) consecutive terms, but may be reappointed for one or more additional terms after at least one year not a Trustee. All Trustees serve at the pleasure of the Board of County Commissioners of the County of Henderson, North Carolina (the "County Board") and may be removed by the County Board at any time with or without cause. No Trustee shall receive pay for service as a Trustee except reimbursement for expenses or as may be approved by the County Board.

Upon appointment by the incorporators of the initial Board of Trustees, the initial Trustees shall hold an organization meeting of the corporation, elect officers and adopt Bylaws. Actions may be taken by the Trustees upon the vote of a majority of a quorum. Officers of the corporation shall be elected annually by the Trustees and have such responsibilities as shall be set forth in the Bylaws of the corporation (the "Bylaws") which shall also set forth matters relating to meetings of the

THIS PAGE INTENTIONALLY LEFT BLANK

Trustees. The corporation may not adopt or amend any Bylaws if any portion, phrase, section or sentence is or will be in any way in conflict with the terms of these Articles, the law and any lease, contract or operating agreement entered between the County of Henderson, North Carolina, and the corporation.

ARTICLE VI

The address of the initial registered office of the corporation is _____,
_____, _____, Henderson County, North Carolina _____, and the name of
the initial registered agent of the corporation at such address is _____.

THIS PAGE INTENTIONALLY LEFT BLANK

ARTICLE VII

No part of the net earnings of the corporation shall inure to the benefit of or be distributable to its trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article III above. No substantial part of the activities of the corporation shall be the carrying on of propaganda and the corporation shall not participate in, or otherwise intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provisions of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States internal revenue law) (the "Code"), (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Code, or (c) by a governmental entity described under Section 115 of the Code.

THIS PAGE INTENTIONALLY LEFT BLANK

ARTICLE VIII

Except as limited by the next sentence of this Article VIII, the corporation shall have all powers for a nonprofit corporation under Section 55A of the General Statutes of North Carolina.

Unless otherwise agreed to by the County Board, the corporation may not:

(a) sell, lease or otherwise dispose of all or a substantial portion of its assets to an entity not controlled by the corporation or the County Board;

(b) allow all or a substantial portion of the health care related facilities owned or leased by it to be managed (by contract or otherwise) by an entity not controlled by the corporation or the County Board;

(c) create or cause to be created, or enter into an agreement with, a wholly-owned subsidiary of the corporation whose articles of incorporation or other controlling document does not require that upon dissolution thereof all assets revert to the corporation or the County Board; or create or cause to be created a partially-owned subsidiary of the corporation or other controlling document for non-incorporated entities does not require that upon dissolution thereof, assets will revert or be transferred to the corporation or the County Board in an amount proportional to the corporation's ownership interest in the subsidiary;

(d) hold title to real property other than as a lessee from the County or for a period of time reasonably necessary to consummate a like kind exchange for the benefit of an unrelated entity with whom there is a contract for purchase of such property; or

(e) make any investment of its funds in any investments or securities not permitted for the investment of funds of the County.

THIS PAGE INTENTIONALLY LEFT BLANK

ARTICLE IX

In the event of the dissolution or liquidation of the corporation, after paying or adequately providing for the debts and obligations of the corporation, the Trustees shall donate, transfer, deliver and convey all of its moneys, properties, and other assets: (a) to any successor organization having purposes which are similar to the existing corporation's purposes, provided that the successor organization is exempt from taxation under Section 501(c)(3) of the Code and the successor corporation and the donation, transfer, delivery and conveyance to it are approved in writing by the County Board; or (b) if there is no successor corporation, then to the County of Henderson or a governmental entity described under Section 115 of the Code created by the County of Henderson for exclusively public purposes.

ARTICLE X

The address of the principal office of the corporation is:

 Henderson County
 Henderson, North Carolina _____

(need both street and mailing address)

THIS PAGE INTENTIONALLY LEFT BLANK

ARTICLE XI

The names and addresses of the incorporators are:

<u>NAME</u>	<u>ADDRESS</u>
-------------	----------------

ARTICLE XII

The Trustees of the corporation shall have the power to alter, amend and rescind any provision contained in these Articles in the manner now or hereafter prescribed by statute only upon the prior, written consent of the County Board.

ARTICLE XIII

Except to the extent that the North Carolina General Statutes prohibit such limitation or elimination of liability of Trustees for breaches of duty, no Trustee of the corporation shall have any personal liability arising out of an action whether by or in the right of the corporation or otherwise for monetary damages for breach of any duty as a Trustee. No amendment to or repeal of this Article XIII shall apply to or have any effect on the liability or alleged liability of any Trustee of the corporation for or with respect to any acts or omissions of such Trustee occurring prior to such amendment or repeal. The provisions of this Article XIII shall not be deemed to limit or preclude indemnification of a Trustee by the corporation for any liability that has not been eliminated by the provisions of this article.

THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, we have hereunto set our hands and seals this the _____ day of

_____, 19_____.

_____(SEAL)

_____(SEAL)

_____(SEAL)

_____(SEAL)

_____(SEAL)

THIS PAGE INTENTIONALLY LEFT BLANK

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

I, _____, a Notary Public for said County and State, do hereby certify that _____, _____, _____, _____, and _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal, this the ____ day of _____, 19__.

Notary Public

My Commission Expires:

[SEAL]

THIS PAGE INTENTIONALLY LEFT BLANK

5th Draft: 11/14/97

Exhibit B to Board of County
Commissioners' Resolution adopted
November 17, 1997

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

LEASE AGREEMENT

THIS LEASE AGREEMENT is dated as of _____ 1, 1997, and is entered into by and between the **COUNTY OF HENDERSON, NORTH CAROLINA**, a public body politic and a political subdivision of the State of North Carolina, as lessor (the "County"), and the **HENDERSON COUNTY HOSPITAL CORPORATION**, a nonprofit corporation organized under the provisions of Chapter 55A of the North Carolina General Statutes, as amended (the "Hospital Corporation");

WITNESSETH:

WHEREAS, the County and the Hospital Corporation have determined to formally transfer control and operation, but not ownership, of Margaret R. Pardee Memorial Hospital (the "Hospital Facility") from the County to the Hospital Corporation; and

WHEREAS, the Hospital Facility is located on the real property described on Schedule 1 attached hereto and incorporated herein by reference (the "Site") (the portion of the Hospital Facility constituting real property and improvements and the Site are collectively referred to as the "Leased Property"); and

WHEREAS, as part of such plan of transfer, the County proposes to lease the Leased Property to the Hospital Corporation, and the Hospital Corporation has determined to accept such lease; and

WHEREAS, the remaining portion of the Hospital Facility and all other assets, including personal property, funds, accounts receivable, contracts, permits, etc., which are used as a part of the County's health care system at the Hospital Facility but are not a part of the Leased Property (the "Transferred Property"), are being transferred and assigned to the Hospital Corporation; and

WHEREAS, the County desires to set forth certain restrictions and conditions on the use of the Leased Property, the Transferred Property and other assets by the Hospital Corporation;

THIS PAGE INTENTIONALLY LEFT BLANK

NOW THEREFORE, for and in consideration of the mutual promises herein contained, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS; RULES OF CONSTRUCTION

The following terms will have the meanings specified below, unless the context clearly requires otherwise:

"Accounts" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance.

"Adjusted Value," means (a) the greater of either the value of the Property, Plant and Equipment, net of accumulated depreciation, as it is carried on the books of the owner thereof in conformity with generally accepted accounting principles for hospitals consistently applied, or the market value of such Property determined by an appraisal as described in Section 2.13, plus (b) the value, if any, ascribed to goodwill or other intangible assets of the Hospital Corporation in an appraisal as described in Section 2.13, if any.

"County Board" means the Board of Commissioners of the County.

"County Representative" shall mean the County Manager of the County.

"Event of Default" means one or more events of default as defined in Section 7.1.

"Fiscal Year" means the period beginning on October 1 of each calendar year and extending through September of the succeeding calendar year or such other fiscal year used with respect to the Hospital System from time to time.

"Hazardous Material" shall mean any chemical, material or substance defined as of included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous waste", "restricted hazardous waste", or "toxic substances" or words of similar import under any applicable local, state or federal law or under the regulations adopted or publications promulgated pursuant thereto.

"Hazardous Materials Claims" shall mean any enforcement, cleanup, removal, remedial or other governmental or regulatory actions, agreements or orders instituted pursuant to any Hazardous Materials Laws; and any claims made by any third party against the County or the Hospital Corporation relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, release or discharge of any Hazardous Materials.

THIS PAGE INTENTIONALLY LEFT BLANK

"Hazardous Materials Laws" shall mean any federal, state or local laws, ordinances, regulations or policies relating to the environment, health and safety, Hazardous Materials (including, without limitation, the use, handling, transportation, production, disposal, discharge or storage thereof).

"Hospital Corporation" means the Henderson County Hospital Corporation and its successors and assigns as permitted hereby. For all purposes of any covenants, provisions and the definitions herein (except Sections 3.2(c)(3) and 7.1(c)), "Hospital Corporation" includes all subsidiaries or affiliates thereof whose (a) financials are permitted or required to be reported on a consolidated basis with those of the Henderson County Hospital Corporation or (b) inclusion in such term for such purposes has been specifically approved in writing by the County Board.

"Hospital Corporation Representative" means any of the person or persons at the time designated, by a written certificate furnished to the County and signed on the Hospital Corporation's behalf by its Chairman, to act on the Hospital Corporation's behalf for the purpose of performing any act under this Lease.

"Hospital Facility" means Margaret R. Pardee Memorial Hospital as it exists on the date of this Lease.

"Hospital System" means the Leased Property, the Transferred Property and other assets of the Hospital Corporation or the County used in connection with the health care services provided at the Hospital Facility or elsewhere by the Hospital Corporation.

"Indebtedness" means (a) all indebtedness of the Hospital Corporation with respect to the Hospital System for borrowed money, (b) all installment sales and capital lease obligations incurred or assumed by the Hospital Corporation with respect to the Hospital System, and (c) all guaranties of the obligation of any Person by the Hospital Corporation. Indebtedness shall not include (1) obligations for which there is on deposit with a third party escrow agent, cash or government obligations registered in the name of such third party escrow agent that are irrevocably pledged to payment of either or both principal of and interest on the Indebtedness and that are sufficient, together with investment earnings thereon, to provide for payment of that portion of the Indebtedness for which they are pledged, (2) obligations under a line of credit, letter of credit, standby bond purchase agreement or similar liquidity facility established in connection with the issuance of any Indebtedness to the extent that such liquidity facilities have not been used or drawn upon, or (3) purchase money debt non-recourse to the Hospital Corporation and secured only by the Property purchased therewith. If the liquidity facility described in (2) is used or drawn upon to retire or purchase Indebtedness then the liability incurred by such use or draw shall be included in Indebtedness.

"Joint Venture" means as defined in Section 2.11.

"JV Risk" means the Hospital Corporation's total exposure, at any given time, in a Joint

THIS PAGE INTENTIONALLY LEFT BLANK

Venture, determined as (a) the total investment therein, whether as cash or property (determined by the aggregate basis therein), without regard to dividends, if any, plus (b) the financial risk assumed by the Hospital Corporation outside of (a), such as through a guaranty, provided any risks covered by insurance maintained either by the Hospital Corporation or the Joint Venture shall not be taken in account in such determination and regardless of the return from a Joint Venture the JV Risk for such Joint Venture may never be less than zero.

"Lease" means this Lease Agreement, as it may be from time to time amended.

"Lease Term" means the term of this Lease as determined pursuant to Section 3.2.

"Lease Year" means, initially, from the date hereof through June 30, 1998, and thereafter, means the twelve-month period of each year commencing on July 1 and ending on the next June 30.

"Leased Property" means all of the real property described on Schedule 1, the portion of the Hospital Facility constituting real property and all real property hereafter acquired and added to the Hospital System and leased to the Hospital Corporation pursuant to Section 2.8 hereof or otherwise.

"Lien" means any mortgage, deed of trust or pledge of, security interest in or encumbrance or other lien on any Property of any Person that secures any Indebtedness.

"Long Term Indebtedness" means all Indebtedness, including Indebtedness as to which there is a commitment by a financial lender to provide financing to retire such Indebtedness and such commitment provides for the repayment of principal on terms that would be, described as:

(a) money borrowed for an original term, or renewable at the option of the borrower for a period from the date originally incurred, longer than one year; or

(b) leases required to be capitalized in accordance with generally accepted accounting principles that have an original term, or are renewable at the option of the lessee for a period from the date originally incurred, longer than one year; or

(c) installment sale or conditional sale contracts having an original term in excess of one year.

"Permitted Dispositions" means any dispositions or transfers:

(a) To any Person if, prior to the sale, lease or other disposition, there is delivered to the County a certificate stating that, in the judgment of the signer, such Property, Plant and Equipment (including complete operating facilities not in operation for at least six months) have become inadequate, obsolete, worn out, unsuitable, unprofitable, undesirable or unnecessary, and the sale, lease, removal or other disposition thereof will not impair the structural soundness, efficiency or economic value of the remaining Property, Plant and Equipment; provided, however, that Property,

THIS PAGE INTENTIONALLY LEFT BLANK

Plant and Equipment with an Adjusted Value aggregating not more than 2% (for each Fiscal Year) of the Adjusted Value of the Property, Plant and Equipment of the Hospital System may be transferred at any time without the delivery of such certificate.

(b) To any Person, if there are substituted or installed other items of Property free and clear of all liens and encumbrances except Permitted Liens, of at least equal market value though not necessarily of like kind or having the same function.

(c) To a successor entity of the Hospital Corporation pursuant to a merger or consolidation approved by the County Board.

(d) To any Person personal property as an investment or contribution to a Joint Venture permitted by Section 2.11.

(e) To any Person of real or personal property received through gifts, grants or bequests and not used in the provision of health care services.

(f) To the County.

"Permitted Liens" means the following:

(a) Any encumbrance on title to any Property created by this Lease.

(b) Liens arising by reason of good faith deposits in connection with leases of real estate, bids or contracts (other than contracts for the payment of money), deposits to secure public or statutory obligations, Liens to secure, or in lieu of, surety, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or other similar charges.

(c) Any Lien arising by reason of deposits with, or the giving of any form of security to, any governmental agency or any body created or approved by law or governmental regulation for any purpose at any time as required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable the maintenance of self-insurance or participation in any funds established to cover any insurance risks or in connection with workers compensation, unemployment insurance, pension or profit sharing plans or other social security, or to share in the privileges or benefits required for companies participating in such arrangements.

(d) Any judgment lien so long as such judgment is being contested in good faith and execution thereon is stayed, or provision for payment of the judgment has been made in accordance with applicable law or by the deposit with a trustee of cash, security or other property.

(e) (1) Rights reserved to or vested in any municipality or public authority by the terms of any right, power, franchise, grant, license, permit or provision of zoning or other law, affecting any

THIS PAGE INTENTIONALLY LEFT BLANK

Property; (2) any liens on any Property for taxes, assessments, levies, fees, water and sewer rents, and other governmental and similar charges and any liens of mechanics, materialmen, laborers, suppliers or vendors for work or services performed or materials furnished in connection with such Property, that are not due and payable or that are not delinquent, the amount or validity of which are being contested and execution thereon is stayed or, with respect to liens of mechanics, materialmen, laborers, suppliers or vendors that have been due for less than 90 days; and (3) easements, rights-of-way, servitudes, restrictions, oil, gas or other mineral reservations and other minor defects, encumbrances, and irregularities in the title to any Property as normally exist on Property of a character of the Leased Property and either are shown on title policies obtained contemporaneously with the purchase of such Property or that do not materially impair the use of such Property for the purposes intended.

(f) Any Lien existing on November 1, 1997 [title insurance policy?] [Diligence Review?], provided that no such Lien may be increased, extended, renewed or modified to apply to any Property not subject to such Lien on such date or to secure Indebtedness not outstanding on such date, unless such Lien as extended, renewed or modified otherwise qualifies as a Permitted Lien.

(g) Any Lien, including a mortgage, in favor of a creditor or a trustee on the proceeds of Indebtedness and any earnings thereon prior to the application of such proceeds and such earnings.

(h) Liens on moneys deposited by patients or others as security for or as prepayment for the cost of patient care.

(i) Liens on Property received through gifts, grants or bequests, such Liens being due to restrictions on such gifts, grants or bequests of Property or the income thereon.

(j) Liens on Property due to rights of third party payors for recoupment of amounts paid.

(k) Rights of the United States of America under Title 42, United States Code Section 291.

(l) Any Lien arising by reason of any escrow established to pay debt service with respect to Indebtedness.

(m) Any purchase money Lien on personal property.

"Person" means an individual, partnership, corporation, trust, unincorporated organization, association, joint venture or a government or agency or political subdivision thereof.

"Property" means any and all rights, titles and interests in and to any and all property whether real or personal, tangible or intangible and wherever situated.

"Property, Plant and Equipment" means all Property in the Hospital System that is property,

THIS PAGE INTENTIONALLY LEFT BLANK

plant and equipment under generally accepted accounting principles, including cash, accounts receivable and investments; provided (a) the Leased Property, and (b) Property subject to purchase money non-recourse debt of the Hospital Corporation, shall not be included in such term.

“Public Purpose” means any public purpose permitted for the County to undertake in the general health care service area by the North Carolina Constitution.

“Revenues” means all revenues, income, receipts and money (other than proceeds of borrowings) received in any period with respect to the Hospital System by or on behalf of the Hospital Corporation, including without limitation (a) revenues derived from its operations, (b) gifts, grants, bequests, donations and contributions and the income therefrom, exclusive of any gifts, grants, bequests, donations and contributions to the extent specifically restricted by the donor to a particular purpose inconsistent with their use for the payment of obligations, (c) proceeds derived from (1) business interruption or similar insurance, (2) Accounts, (3) securities and other investments, (4) inventory and other tangible and intangible property, (5) medical or hospital insurance, indemnity or reimbursement programs or agreements, and (6) contract rights and other rights and assets now or hereafter owned, held or possessed, and (d) rentals received from the leasing of real or tangible personal property; provided revenues, income, receipts and money to which the Hospital Corporation is not entitled and as to which it is obligated to make reimbursement, forwarding payments or other remittances of such amounts to other parties shall not constitute Revenues.

“Site” means the real property described on Schedule 1 attached hereto.

“Transferred Property” means the portion of the Hospital Facility which is not real property and all other assets, including personal property, funds, amounts receivable, contracts, permits, etc., which are used as a part of the County’s health care system at the Hospital Facility, which are not a part of the Leased Property.

All references to articles or sections are references to articles or sections of this Lease, unless the context clearly indicates otherwise.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

2.1 General. The County and the Hospital Corporation each represent, covenant and warrant for the other's benefit as follows:

(1) Neither the execution and delivery of this Lease, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated hereby, results in a breach of the terms, conditions and provisions of any agreement or instrument to which either is now a party or by which either is bound, or constitutes a default under any of the foregoing.

THIS PAGE INTENTIONALLY LEFT BLANK

(2) To the knowledge of each party, there is no litigation or proceeding pending or threatened against such party (or against any other person) affecting the rights of such party to execute or deliver this Lease or to comply with its obligations under this Lease. Neither the execution and delivery of this Lease by such party, nor compliance by such party with its obligations under this Lease, requires the approval of any regulatory body or any other entity the approval of which has not been obtained.

2.2 Operation as Community General Hospital. The Hospital Corporation agrees that it shall operate the Hospital System as a community general hospital system, as defined in NCGS Section 131E-6(2) or a successor section, open to the general public, free of discrimination based upon race, creed, color, sex or national origin, and offering health care services at least substantially similar to services offered at comparable health care facilities primarily serving a community role; provided neither this Section 2.2 nor Section 2.3 prohibits the Hospital Corporation from undertaking appropriate collection efforts for any service. The Hospital Corporation's activities are subject to NCGS Section 131E-14.1 or a successor section and the Hospital Corporation agrees it and its assets shall be subject to the rules for open meetings, public records and property dispositions as if the Hospital System were owned and operated by a North Carolina county.

2.3 Services to Indigent Patients and Additional Consideration. The Hospital Corporation shall provide community general hospital services to the citizens of Henderson County without regard to their ability to pay. Moreover, the Hospital Corporation shall ensure that the types and levels of any other service it may from time to time provide, whether inpatient or outpatient, is in no way discriminatorily limited or restricted to any Henderson County resident based on his ability to pay.

2.4 Covenant on Liens. The Hospital Corporation covenants that there will not be created any Lien upon Property now or hereafter a part of the Leased Property other than Permitted Liens unless the County Board has specifically consented to the creation thereof.

2.5 Covenants on Indebtedness. The Hospital Corporation covenants it will not incur Long Term Indebtedness if the incurrence thereof would cause a violation of the covenant in Section 2.12; provided if the County Board has agreed in writing to particular Long Term Indebtedness such covenant shall not prevent its incurrence but the outstanding principal amount thereof shall be included for purposes of the covenant thereafter. No Indebtedness which will be a "bank eligible" obligation under Section 253 of the Internal Revenue Code of 1986, as amended, may be incurred without the prior written consent of the County Board. No Indebtedness may be incurred unless the payment thereof (or the payment of the current portion thereof if such Indebtedness is Long Term Indebtedness) is provided for in the Hospital Corporation's budget, either as initially adopted or as revised, for the Fiscal Year of such incurrence.

2.6. Covenants on Disposition or Management of Assets. The Hospital Corporation covenants that (a) it will not sell, lease or otherwise dispose of all or a substantial portion of the Leased Property without the consent of the County Board, (b) it will not allow all or a substantial

THIS PAGE INTENTIONALLY LEFT BLANK

portion of the Hospital System to be managed (whether by contract or otherwise) by an entity not controlled by the Hospital Corporation, and (c) there will not be any sale or other disposition of Property, Plant and Equipment or transfer or disposition of cash or investments unless specifically approved by the County Board except for dispositions or transfers which are Permitted Dispositions. A transfer of assets to a subsidiary or affiliate which is included within the definition of "Hospital Corporation" shall not be deemed a disposition for the purposes of this Section 2.6.

Nothing herein shall be construed as prohibiting or limiting the ability of the Hospital Corporation to (1) purchase or sell Property in the ordinary course of business or to transfer cash, securities and other investment properties in connection with ordinary investment transactions where such purchases, sales or transfers are for substantially equivalent value, including without limitation, the making of loans to affiliates or to other persons pursuant to a legally binding obligation for such loan to be repaid or the capitalization of a stock corporation through the purchase of newly issued or treasury stock thereof or of a non-stock corporation through a capital contribution thereto, or (2) use Revenues in the ordinary course of business. However, the forgiveness of such loan, the writing off on a balance sheet of such stock as worthless, or such time as the "non-stock corporation capital" is deemed worthless, as hereinafter described, such shall be considered to be a disposition of Property, Plant and Equipment in the Fiscal Year of such loan, purchase of stock or capital contribution. For purposes of this paragraph, a contribution to a non-stock corporation to capitalize the same shall be treated as a loan to such non-stock corporation and, upon the occurrence of such conditions as would require the writing off of such a loan, then the "non-stock corporation capital" shall be deemed worthless.

If accounts are sold in any Fiscal Year and (i) fair market value is received and (ii) there is an independent certified public accountants' statement that such sale is a "sale" under generally accepted accounting principles, then such sale shall not be deemed a disposition for the purposes of this Section 2.6.

2.7 Reports; Budget; Annual Meeting. (a) The Hospital Corporation shall have an annual financial audit performed by a nationally recognized firm of independent auditing and accounting consultants of favorable repute for skill and expertise. Such audit shall include a review of compliance by the Hospital Corporation with the provisions hereof. The annual audit and any appraisals performed to determine Adjusted Value shall be provided to the County within 30 days of availability. The County shall have the right, upon reasonable notice, to review other financial information with respect to the Hospital Corporation and the Hospital System.

(b) The Hospital Corporation shall annually make available to the County and the public a summary of its proposed budget for the next Fiscal Year prior to its adoption and inform the County Board of any revisions thereto after its adoption. The Hospital Corporation's budget, whether as proposed, adopted or revised, shall be such as to result in either an excess of revenues over expenditures and expenses or a deficiency which does not result in 50% of the Adjusted Value of Property, Plant and Equipment being less than the sum of Long Term Indebtedness and JV Risk at the beginning of the immediately succeeding Fiscal Year.

THIS PAGE INTENTIONALLY LEFT BLANK

(c) The County and the Hospital Corporation shall have an annual meeting to discuss matters relating to this Lease and the community health care needs and the plans therefor.

2.8 After-acquired Property. Subject to the provisions of this paragraph, all real property acquired or received through donation by the Hospital Corporation shall be titled in the name of the County and become subject to the terms of this Lease; provided the Hospital Corporation may hold the title to real property for any period of time that is reasonably necessary to consummate a like kind exchange for the benefit of a third-party with whom the Hospital Corporation has contracted for the purchase of real property. Further, the Hospital Corporation may obtain and hold title in its name with the consent of the County Board. The Hospital Corporation may lease property in its own name.

2.9 Subsidiaries. Without the prior approval of the County Board, the Hospital Corporation shall not create or cause to be created any corporation to serve as a subsidiary of the Hospital Corporation unless such corporation is a nonprofit corporation whose Articles of Incorporation require that upon dissolution all assets of the corporation revert or must be transferred to the Hospital Corporation or the County if wholly owned, or if partially owned whose Articles of Incorporation require reversion of assets to the Hospital Corporation or to the County at least proportional to the Hospital Corporation's investment interest; provided a limited liability company or for-profit corporation may also be created as a subsidiary entity if the Hospital Corporation is and will be the sole equity investor, participant and owner in such entity.

2.10 Investments. The Hospital Corporation may invest any of its funds only in (a) investments permitted (1) for the County or (2) for funds held by the State Treasurer (other than the Escheat Fund), or (b) in health care service ventures permitted under Sections 2.2 and 2.11.

2.11 Joint Ventures. The Hospital Corporation may enter into a contract, lease, sublease, arrangement or other venture, by itself or through a corporation permitted under Section 2.9, with any unrelated party for health care services or related endeavors (a "Joint Venture"), provided:

(a) Prior to entry into the Joint Venture, the Hospital Corporation must receive (as evidenced in the minutes of a board meeting):

(1) An opinion of counsel to the Hospital Corporation that the Joint Venture is for a Public Purpose and not prohibited by this Lease.

(2) Specific findings to support a general finding that the undertaking of such Public Purpose through the Joint Venture is in the best interests of community health care for the County.

(3) An analysis of the risks of the Joint Venture upon the assets of the Hospital System with the identification of the initial "JV Risk" associated with such joint venture.

THIS PAGE INTENTIONALLY LEFT BLANK

(b) The JV Risk to the Hospital Corporation in such Joint Venture may not cause a violation of the covenant in Section 2.12.

(c) The Hospital Corporation must have an investment and equity interest in the Joint Venture, and upon its dissolution ownership of its assets, which bears a proportionate relationship to the amount invested considering the terms and conditions of the Joint Venture as well as the risks thereof.

(d) Except as otherwise required by law, information with respect to the Joint Venture shall be made publicly available.

Neither a traditional managed care contract with the Hospital Corporation as the health care provider nor membership in an association with other nonprofit corporations where the association does not undertake direct health care services shall be deemed a Joint Venture.

2.12 Financial Covenant: Annual Calculation. The Hospital Corporation may not incur Long Term Indebtedness, enter into a Joint Venture or otherwise put the assets of the Hospital Corporation at risk unless the Long Term Indebtedness to be incurred, the JV Risk to be assumed or the other risk to be assumed will not cause the total of all Long Term Indebtedness, JV Risk or other risk to exceed 50% of the Adjusted Value of the Property, Plant and Equipment. For purposes of this covenant, 50% of the Adjusted Value shall be determined at the end of each Fiscal Year (including with use of an appraisal as described in Section 2.13 completed and dated within sixty (60) days of the end of the Fiscal Year) and be applicable for the following Fiscal Year as a limitation, after deduction of outstanding Long Term Indebtedness, JV Risk and other risk, on further incurrence of Long Term Indebtedness, entry into a Joint Venture or assumption of other risk.

2.13 Appraisals. The market value of Property and the value, if any, of goodwill or other intangible assets of the Hospital Corporation may be determined on the basis of an appraisal of an independent party qualified by reputation and experience. Any such appraisal must be completed and dated within sixty (60) days of the end of a Fiscal Year.

ARTICLE III

DEMISE; LEASE TERM; QUIET ENJOYMENT

3.1 Demise. The County hereby leases the Leased Property to the Hospital Corporation, and the Hospital Corporation hereby accepts such lease from the County on the date of commencement of the Lease Term, in accordance with the provisions of this Lease, to have and to hold for the Lease Term.

THIS PAGE INTENTIONALLY LEFT BLANK

3.2 Lease Term. The Lease Term shall commence on the date both parties execute and record this Lease or a memorandum thereof. The Lease Term shall terminate upon the earliest of the following:

(a) The occurrence of an Event of Default and subsequent termination by the County pursuant to Article VII; or

(b) June 30, 2007 (provided such date shall be automatically extended to June 30, 2012, unless written notice of non-extension is given by either party hereto to the other prior to January 1, 2006); or

(c) If there is (1) any amendment to the Articles of Incorporation of the Hospital Corporation which has not been specifically approved by the County, (2) any determination by a court that any provision of the Articles of Incorporation of the Hospital Corporation is void or unenforceable, or (3) dissolution of the Hospital Corporation without a successor nonprofit corporation to carry out the terms and conditions of this Lease, this Lease shall terminate immediately.

Upon termination, the property to revert or transfer shall be the entire Hospital System, including but not limited to (i) the Leased Property, (ii) all improvements thereto or replacements thereof, (iii) all additions or other facilities essential to the operation of (i) or (ii), (iv) all other facilities intended to be operated with (i), (ii) or (iii), (v) all Property, Plant and Equipment owned by the Hospital Corporation on the date of reversion or transfer, and (vi) all cash, accounts, equipment, permits, contractual rights and property rights relating to (i), (ii), (iii), (iv) or (v). In connection with a reversion, the Hospital Corporation shall execute and deliver any documents requested by the County Board to evidence or effectuate the transfer of all such property including property, whether real or personal and whether a part of a facility which could be operated on its own or not, which is acquired after recordation of this Lease. The County shall receive all property transferred subject to any and all Permitted Liens.

Termination of the Lease Term shall terminate all the County's obligations under this Lease, and shall terminate the Hospital Corporation's rights of possession under this Lease; but the Hospital Corporation's obligations under Sections 6.3 and 6.4 shall continue.

3.3 Quiet Enjoyment. The County hereby covenants that the Hospital Corporation shall, during the Lease Term, peaceably and quietly have and hold and enjoy the Leased Property without suit, trouble or hindrance from the County, except as expressly required or permitted by this Lease. The County shall not interfere with the quiet use and enjoyment of the Leased Property during the Lease Term. The County shall, at the Hospital Corporation's request and cost, join and cooperate fully in any legal action in which the Hospital Corporation asserts its right to such possession and enjoyment, or which involves the imposition of any taxes or other governmental charges on or in connection with the Leased Property. In addition, the Hospital Corporation may at its own expense

THIS PAGE INTENTIONALLY LEFT BLANK

join in any legal action affecting its possession and enjoyment of the Leased Property, and shall be joined (to the extent legally possible, and at the Hospital Corporation's expense) in any action affecting its liabilities hereunder.

ARTICLE IV

CONSIDERATION FOR LEASE

4.1 Use as Hospital. In partial consideration for its acquisition of rights to use the Leased Property during the Lease Term, the Hospital Corporation hereby agrees to use the Leased Property as set forth in Section 2.2. The Hospital Corporation may adopt regulations concerning such use and the utilization of the Hospital System by all Persons.

4.2 Payments. In partial consideration for its acquisition of rights to use the Leased Property during the Lease Term, the Hospital Corporation hereby agrees to pay to the County annual rent in the amount of \$10.00 payable in advance on the date hereof (receipt of which is hereby acknowledged) and on the first day of each Lease Year thereafter.

4.3 Maintenance and Repair. The Hospital Corporation acknowledges that it has received the Leased Property in good order and repair. The Hospital Corporation, at its own expense, will maintain all parts of the Leased Property in good repair and condition and will take all action and will make all structural and nonstructural, foreseen and unforeseen and ordinary and extraordinary changes and repairs which may be required to keep all parts of the Leased Property in good repair and condition (including, but not limited to, all painting, glass, utilities, conduits, fixtures and equipment, foundation, roof, exterior walls, heating and air conditioning systems, wiring, plumbing, sprinkler systems and other utilities, and all paving, sidewalks, roads, parking areas, drainage, curbs and gutters and fences). The County shall not be required to maintain, repair or rebuild all or any part of the Leased Property. The Hospital Corporation waives the right to require the County to maintain, repair or rebuild all or any part of the Leased Property or make repairs at the expense of the County pursuant to any legal requirement, agreement, contract, covenant, condition or restrictions at any time.

THIS PAGE INTENTIONALLY LEFT BLANK

4.4 County's Cooperation. The County shall cooperate fully with the Hospital Corporation in filing any proof of loss or taking any other action under this Lease. In no event shall the County or the Hospital Corporation voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim with respect to the Leased Property without the other's written consent.

4.5 Advances; Performances of Obligations. If the Hospital Corporation shall fail to pay any amount required to be paid by it under this Lease, or fails to take any other action required of it under this Lease, the County may (but shall be under no obligation to) pay such amounts or perform such other obligations. The Hospital Corporation agrees to reimburse the County for any such payments or for its costs incurred in connection with performing such other obligations, together with interest thereon at the annual rate of 8%.

ARTICLE V

DISCLAIMER OF WARRANTIES; OTHER COVENANTS

5.1 Disclaimer of Warranties. THE COUNTY MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR A PARTICULAR USE OF THE LEASED PROPERTY OR ANY PART THEREOF OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY OR ANY PART THEREOF. In no event shall the County be liable for any direct or indirect, incidental, special or consequential damage in connection with or arising out of this Lease or the existence, furnishing, functioning or use by any of them of any item, product or service provided for herein.

5.2 Further Assurances; Corrective Instruments. The Hospital Corporation and the County agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property hereby leased or intended so to be, or for otherwise carrying out the intention of this Lease.

5.3 Hospital Corporation and County Representatives. Whenever under the provisions hereof the approval of the Hospital Corporation or the County is required to take some action at the request of the other, unless otherwise provided, such approval or such request shall be given for the Hospital Corporation by the Hospital Corporation Representative and for the County by either the County Representative or a resolution of the County Board, and the Hospital Corporation and the County shall be authorized to act on any such approval or request.

5.4 Compliance with Requirements. During the Lease Term, the Hospital Corporation and the County shall observe and comply promptly with all current and future orders of all courts having jurisdiction over the Leased Property or any portion thereof (or be diligently and in good faith

THIS PAGE INTENTIONALLY LEFT BLANK

contesting such orders), and all current and future requirements of all insurance companies writing policies covering the Leased Property or any portion thereof.

5.5 Compliance With Hazardous Materials Laws. The Hospital Corporation shall comply with all Hazardous Materials Laws. The Hospital Corporation shall promptly cure and satisfy all Hazardous Materials Claims arising out of or by reason of the activities or businesses of the Hospital Corporation, its subtenants, or the agents, contractors, businesses or employees of the Hospital Corporation.

ARTICLE VI

TITLE TO LEASED PROPERTY; SUBLEASING, ASSIGNMENT, INDEMNIFICATION AND INSURANCE

6.1 Title to Leased Property. Title to the Leased Property and any and all additions and modifications to or replacements of any portion of the Leased Property shall be held in the County's name. The Hospital Corporation shall have no right, title or interest in the Leased Property or any additions and modifications to or replacements of any portion of the Leased Property, except as expressly set forth in this Lease.

6.2 Hospital Corporation's Subleasing and Assignment. The Hospital Corporation may not sublease the Leased Property, in whole or in part, or assign any of its rights or obligations under this Lease, without (a) the prior written consent of the County and (b) a written opinion or opinions of nationally recognized bond counsel acceptable to the County, to the effect that the exclusion from gross income for federal income tax purposes of the interest on any obligations issued with respect to the Hospital Facility will not be adversely affected by the sublease of the Leased Property; provided (1) the Hospital Corporation may enter into agreements for the temporary use of portions of the Leased Property, and (2) subleases for space not aggregating in excess of 20% of the total usable square footage of facilities which are Leased Property may be entered into if such temporary uses and subleases do not purport to assign or otherwise relieve the Hospital Corporation from any of its obligations hereunder and not more than 25% of the space to be so subleased is to be used for non-medical purposes.

6.3 General Indemnification. The Hospital Corporation shall and hereby agrees to indemnify and save the County harmless against and from all claims, by or on behalf of any person, firm, corporation or other legal entity, arising from (a) the reorganization of the County's health care services at the Hospital Facility including but not limited to the lease of the Leased Property and other transfers to the Hospital Corporation, all employee contracts, pensions and other personnel matters, all arrangements with physicians and other practitioners and rearrangements, if any, of other contracts and permits, and (b) the operation or management of the Leased Property during the Lease Term, including any arising from: (1) any condition of the Leased Property or (2) any act of negligence of the Hospital Corporation or of any of its agents, contractors or employees or any violation of law by the Hospital Corporation or breach of any covenant or warranty by the Hospital Corporation

THIS PAGE INTENTIONALLY LEFT BLANK

hereunder. The Hospital Corporation shall, upon notice from the County, defend or pay the cost of defending the County, in any action or proceeding brought in connection with any claims arising out of circumstances described in (a) or (b) above. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

6.4 Environmental Indemnification. The Hospital Corporation shall not knowingly or negligently cause or permit any Hazardous Material to be brought upon, kept or used in or about the Leased Property or otherwise at the Hospital System by the Hospital Corporation, its agents, employees, contractors or invitees without the prior written consent of the County, other than those used for any medical purpose, body substances and substances resulting from medical procedures, office supplies and similar substances commonly found in office buildings, hospitals, medical offices and other medical care facilities in quantities or concentrations that do not violate any Hazardous Materials Laws. If such events occur with or without the knowledge of the Hospital Corporation or if contamination of the Leased Property or the Hospital System by Hazardous Material occurs and is caused by the acts, omissions or activities of its contractors, agents, invitees or employees, then to the extent permitted by law, the Hospital Corporation shall indemnify, defend, protect and hold the County harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Leased Property, damages for the loss or restriction on use of space or of any amenity of the Leased Property, damages arising from any adverse impact on the space, sums paid in settlement of claims, and reasonable attorneys', consultants' and experts' fees) which arise during or after the Lease Term as a result of such contamination. This indemnification of the County by the Hospital Corporation includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any federal, state or local government agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Leased Property. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

6.5 Insurance. The Hospital Corporation shall obtain and maintain comprehensive general casualty and liability insurance with a reputable insurance company licensed to do business in the State of North Carolina covering the Leased Property and its employees and naming the County as an additional insured in amounts of at least _____ Million Dollars (\$_____) per occurrence and _____ Million Dollars (\$_____) in the aggregate. The Hospital Corporation shall provide certificates or other evidence of such insurance upon the request of the County.

ARTICLE VII

EVENTS OF DEFAULT

7.1 Events of Default. The following shall be "Events of Default" under this Lease and the term "Default" shall mean, whenever it is used in this Lease, any one or more of the following events.

THIS PAGE INTENTIONALLY LEFT BLANK

(a) The Hospital Corporation's failure to make any payments hereunder when due.

(b) The Hospital Corporation's failure to observe and perform any covenant, condition or agreement on its part to be observed or performed (other than as described in (a) above) for a period of 30 days after written notice specifying such failure and requesting that it be remedied shall have been given to the Hospital Corporation by the County, unless the County Board shall consent in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the County Board shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Hospital Corporation within the applicable period and diligently pursued until such failure is corrected; and further provided, that if by reason of *force majeure* the Hospital Corporation is unable in whole or in part to carry out any of its agreements contained herein (other than its obligations contained in Section 4.2 hereof), the Hospital Corporation shall not be deemed in default during the continuance of such event or occurrence.

(c) The dissolution or liquidation of the Hospital Corporation or the voluntary initiation by the Hospital Corporation of any proceeding under any federal or State law relating to bankruptcy, insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the initiation against the Hospital Corporation of any such proceeding which shall remain undismissed for sixty days, or the entry by the Hospital Corporation into an agreement of composition with creditors or the Hospital Corporation's failure generally to pay its debts as they become due.

7.2 Remedies on Default. Whenever any Event of Default shall have happened and be continuing, the County may take one or any combination of the following remedial steps:

(a) Terminate this Lease and cause reversion and transfer pursuant to Section 3.2;

(b) Have reasonable access to and inspect, examine and make copies of the Hospital Corporation's books and records and accounts during the Hospital Corporation's regular business hours, if reasonably necessary in the County's opinion; or

(c) Take whatever action at law or in equity may appear necessary or desirable to collect any amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Hospital Corporation under this Lease.

7.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to the County is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder and every remedy now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, and any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the County to exercise any remedy reserved in this Article VII, it shall not be necessary to give any notice, other than such notice as may be required in this

THIS PAGE INTENTIONALLY LEFT BLANK

Article VII.

7.4 Waivers. If any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

7.5 Agreement To Pay Attorneys' Fees and Expenses. If either party to this Lease shall default under any Lease provision and the nondefaulting party shall employ attorneys or incur other expenses for the collection of any payments due hereunder, or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall pay on demand therefor to the nondefaulting party the fees of such attorneys and such other expenses so incurred by the non-defaulting party, to the extent that such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction.

7.6 Waiver of Appraisal, Valuation, Stay, Extension and Redemption Laws. The Hospital Corporation and the County agree, to the extent permitted by law, that upon a termination of the Lease Term by reason of an Event of Default, neither the Hospital Corporation nor the County nor any one claiming through or under either of them shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereafter in force in order to prevent or hinder the enforcement of any security document relating to obligations financing the Hospital System or of any remedy provided hereunder or thereunder; and the Hospital Corporation and the County, for themselves and all who may at any time claim through or under either of them, each hereby waives, to the full extent that it may lawfully do so, the benefit of such laws.

ARTICLE VIII

MISCELLANEOUS

8.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, addressed as follows:

- (a) If intended for the County, addressed as follows:

County of Henderson, North Carolina
100 N. King Street
Hendersonville, North Carolina 28792-5092
Attention: County Manager

THIS PAGE INTENTIONALLY LEFT BLANK

- (b) If intended for the Hospital Corporation, addressed as follows:

Henderson County Hospital Corporation

Hendersonville, North Carolina 28792

Attention: Chairman

8.2 Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Hospital Corporation and the County, and their respective successors and assigns, subject, however, to the limitations contained in Article VI.

8.3 Consent of County Board. Whenever this Lease requires, or the Hospital Corporation desires to receive, consent of the County Board with respect to any matter, a written proposal therefor must be submitted to the County Board. If specific consent to such proposal is not received by the sixth regular meeting of the County Board following such proposal, consent to such proposal shall be deemed refused.

8.4 Net Lease. This Lease shall be deemed and construed to be a "net lease," and the Hospital Corporation shall pay absolutely all costs with respect to the Leased Property during the Lease Term as well as all other payments required hereunder, free of any deductions, and without abatement or set-off.

8.5 Payments Due on Holidays. If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Lease, shall not be a business day, such payment shall be made or act performed or right exercised on the next preceding day that is a business day.

8.6 Essentiality; Severability. The provisions of Sections 2.2, 2.4, 2.5, 2.6, 2.12 and 3.2 are hereby deemed essential and if, for any reason, any of such provisions are found to be void or unenforceable, this Lease shall be deemed entirely void and the Hospital Corporation shall transfer to the County all property which would revert and be transferred under Section 3.2. If any other provision of this Lease shall, for any reason, be invalid or unenforceable, such provision shall be ineffective only to the extent of such invalidity or unenforceability and the remaining provisions hereof shall nevertheless be valid, enforceable and in full force and effect.

8.7 Fees and Expenses. The Hospital Corporation shall pay all costs, fees and expenses of the County, including counsel fees and the fees of any consultant, in connection with any action or review by it under this Lease or as a result of any consent or waiver requested by the Hospital Corporation.

8.8 Compliance with Terms. Failure to insist upon strict compliance with any of the terms herein (by way of waiver or breach) by either party hereto shall not be deemed to be a continuous waiver in the event of any future breach or waiver of any condition hereunder.

THIS PAGE INTENTIONALLY LEFT BLANK

8.9 Third Party Beneficiary. This Lease shall not create nor be construed to create any rights in any manner whatsoever in any other person or entity as a third-party beneficiary, including holders or a trustee for holders of Indebtedness.

8.10 Execution in Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

8.11 Applicable Law. The parties intend that this Lease shall be governed by and construed in accordance with North Carolina law.

8.12 Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

8.13 Memorandum of Lease. At the request of either party, the County and the Hospital Corporation shall, on or after the date hereof, execute a memorandum of this sublease legally sufficient to comply with the relevant provisions of the North Carolina General Statutes.

THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as a document under seal, by their duly authorized officers, all as of the date first above written.

COUNTY OF HENDERSON, NORTH CAROLINA

[SEAL]

By: _____
Title: Chairman, Board of Commissioners

ATTEST:

By: _____
Title: Clerk, Board of Commissioners

**HENDERSON COUNTY HOSPITAL
CORPORATION**

[SEAL]

By: _____
Title: Chairman

ATTEST:

By: _____
Title: Secretary

THIS PAGE INTENTIONALLY LEFT BLANK

STATE OF NORTH CAROLINA

HENDERSON COUNTY

I, _____, a Notary Public of said State and County, do hereby certify that _____ and _____ personally came before me this day and acknowledged that they are the Chairman and Clerk, respectively, of the Board of County Commissioners of the County of Henderson, North Carolina, and that by authority duly given and as the act of the County of Henderson, North Carolina, the foregoing instrument was signed in the County's name by the Chairman of its Board of Commissioners, sealed with its corporate seal and attested by the Clerk of such Board.

Witness my hand and official seal, this the ____ day of _____, 1997.

Notary Public

My commission expires:

STATE OF NORTH CAROLINA

HENDERSON COUNTY

I, _____, a Notary Public of said State and County, do hereby certify that _____ and _____ personally came before me this day and acknowledged that they are the Chairman and _____, respectively, of the Henderson County Hospital Corporation and that by authority duly given and as the act of such Board, the foregoing instrument was signed in its name by its Chairman, sealed with its corporate seal and attested by its Clerk.

Witness my hand and official seal, this the ____ day of _____, 1997.

Notary Public

My commission expires:

THIS PAGE INTENTIONALLY LEFT BLANK

SCHEDULE 1

THIS PAGE INTENTIONALLY LEFT BLANK