

MANAGEMENT AGREEMENT

This MANAGEMENT AGREEMENT ("Agreement") is entered into and effective as of January 1, 2019 (the "**Effective Date**"), by and between **Phoebe Sumter Medical Center, Inc.** (hereinafter "PSMC") and **Sumter Regional Hospital Foundation, Inc.** (hereinafter "Foundation").

WHEREAS, PSMC is a Georgia nonprofit corporation which is tax exempt pursuant to Section 501(c) (3) of the Internal Revenue Code and which operates a hospital and related hospital based healthcare facilities as the lessee of the Hospital Authority of Americus and Sumter County, Georgia, pursuant to the Georgia Hospital Authorities Act, with the mission of providing comprehensive healthcare to its service area without regard to the ability of patients to pay; and

WHEREAS, Foundation is a tax exempt Georgia nonprofit corporation whose charitable purpose is to support PSMC and the Hospital Authority of Americus and Sumter County in their mission to provide such healthcare and related services; and

WHEREAS, the charitable purposes of each organization are fully aligned; and

WHEREAS, in order to serve the tax exempt purposes of both corporations in the most efficient and cost effective way so as to maximize the charitable work of each, Foundation desires to engage PSMC to provide the day-to-day management and operation of the Foundation, and PSMC desires to accept such engagement, upon the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter set forth, the parties hereby agree as follows:

ARTICLE 1 **SERVICES OF PSMC**

1.1 Engagement and Acceptance. During the Term (as defined herein), Foundation hereby engages PSMC as the manager of the Foundation to provide the day-to-day management and operation of the Foundation, and PSMC hereby accepts such engagement.

1.2 Management Services and Administration. During the Term, PSMC shall provide to Foundation the day to day management services necessary to assist the Foundation in fundraising activities and events, solicitation of donors, marketing, outreach, billing and collection of funds, correspondence with donors, payment of bills incurred in the ordinary course of Foundation activities, and other routine business services as agreed from time to time between the parties ("**Services**"). PSMC shall provide the Services (i) in a professional and competent manner consistent with good business practices and consistent with the tax exempt purposes of both parties, and (ii) in accordance with all applicable laws, rules and regulations, Foundation's written policies and procedures that have been provided to PSMC, all applicable license and accreditation requirements and all lawful directives from Foundation's Board of Directors.

ARTICLE 2
OBLIGATIONS OF FOUNDATION

2.1 Corporate Existence and Tax Exempt Status. Foundation shall be solely responsible for maintaining its tax exempt status and for complying with the Georgia Nonprofit Corporation Code through appropriate corporate governance and will prepare or cause to be prepared by accountants and/or attorneys of its own choosing all required corporate and tax filings and external audits.

2.2 Compensation of Personnel. Foundation shall be solely responsible for selecting, retaining, and compensating all of Foundation's professional advisors, attorneys and accountants.

2.3 Cooperation. Foundation shall cooperate with PSMC in connection with the performance by PSMC of its duties hereunder.

ARTICLE 3
FEES

3.1 Compensation and Expenses.

(a) The Foundation's continued support of the mission of PSMC, including active fundraising and the solicitation of charitable donations and providing financial and other support to PSMC with the approval of PSMC, shall constitute the consideration for the Services.

(b) In addition, Foundation shall reimburse PSMC for out-of-pocket expenses for events and services approved by Foundation's Board of Directors that were actually and reasonably incurred by PSMC in connection with its performance of services on behalf of or for the benefit of Foundation ("**Expenses**") Out-of-pocket expenses shall not include compensation, wages or benefits of PSMC employees or contracted personnel.

(c) Within ten (10) days following the end of each calendar quarter during the Term, PSMC shall submit a statement, with sufficient information to allow Foundation to verify the amounts charged, to Foundation reflecting the Expenses for such month, and Foundation shall pay PSMC the sums due within fifteen (15) days following receipt of such statement, unless disputed by Foundation in good faith in writing, specifying the disputed amounts and the basis therefor.

ARTICLE 4
RECORDS

4.1 Business Records. All records relating to the business or operations of Foundation prepared by or at the direction of PSMC shall be and remain the property of Foundation; provided, however, that PSMC may retain copies of such records as reasonably necessary to document the services provided hereunder and the amounts paid to PSMC hereunder. PSMC shall take commercially reasonable steps to maintain the confidentiality of any such retained records except as otherwise required by law.

4.2 Service Marks, Trade Marks, Logos. During the Term, Foundation is granted a

non-exclusive license to use the name "Phoebe" in a "d/b/a" and to use protected trademarks, service marks, logos or other intellectual property owned by and/or associated with Phoebe Putney Health System, Inc. or its affiliates but only in connection with activities approved by PSMC and with the consent of Phoebe Putney Health System, Inc. Use, or written approval of use, by PSMC as the manager shall be sufficient proof of consent by Phoebe Putney Health System, Inc. This license shall terminate immediately upon termination of this Agreement.

4.3 Confidentiality. At all times after the Effective Date, each party agrees that it shall not, without the other party's prior written consent, use or disclose any copyrighted, proprietary, secret or confidential information or products of the other party ("Proprietary Information and Products") except in furtherance of the performance of each party's respective obligations under this Agreement. Such Proprietary Information and Products shall include, but not be limited to, symbols, trademarks, service marks, designs, management information systems, policy and procedure manuals, utilization procedures and protocols, forms and claims processing techniques, utilization review and quality assurance mechanisms and data, agreements with managed care organizations and purchasers of services, any information related to a party's financial affairs, business and marketing plans and strategies, contract negotiations with managed care organizations, fee schedules, vendor and patient lists and records, information that constitutes a trade secret under Georgia law and any other information that a party reasonably considers to be a trade secret or confidential information. This covenant shall not apply to any Proprietary Information and Products now or hereafter voluntarily disseminated by either party to the public, or which otherwise has become part of the public domain through lawful means. Each party's Proprietary Information and Products shall at all times be and remain the property of each respective party. Each party shall cease any and all use of the other party's Proprietary Information and Products and shall return any Proprietary Information and Products in its possession to the other party immediately upon termination this Agreement.

ARTICLE 5 **INSURANCE**

Throughout the Term, each of Foundation and PSMC shall maintain general liability and fidelity insurance in amounts deemed by them, respectively, to be commercially reasonable. In addition, throughout the term of this Agreement, Foundation shall maintain professional liability coverage of not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) annual aggregate, and PSMC shall maintain errors and omissions insurance, including employment practices coverage, in the minimum amount of One Million Dollars (\$1,000,000). Each party shall provide to the other party a certificate of insurance or other reasonably satisfactory documentation that such insurance has been obtained, and neither party shall cancel or materially change, or allow the cancellation of or material change in, the terms of such coverage unless it has given at least ten (10) days' prior written notice thereof to the other party. PSMC will further ensure that all staff are appropriately covered by Workers Compensation insurance in compliance with Georgia Law.

ARTICLE 6 **TERM**

Subject to the provisions of Article 7 below, the term of this Agreement shall commence on the Effective Date, and, unless sooner terminated as hereinafter provided, shall continue until the

first anniversary of the Effective Date ("**Initial Term**"), and shall be automatically renewed for successive additional one-year periods (each an "**Additional Term**"), unless either Party provides written notice to the other Party not less than 90 days prior to the end of the Initial Term or any Additional Term, as the case may be, of its intention not to renew this Agreement at the end of the Initial or such Additional Term. The Initial Term together with any Additional Term (or portion thereof) being referred to collectively herein as the "**Term**."

ARTICLE 7 **TERMINATION**

7.1 Termination. This Agreement shall terminate prior to the end of the then current Term as follows:

(a) Automatically, without further notice or action, if:

(i) either Party applies for or consents to the appointment of a receiver, trustee, custodian or liquidator of it or any of its property, admits in writing its inability to pay its debts as they mature, makes a general assignment for the benefit of creditors, is adjudicated bankrupt or insolvent or is the subject of an order for relief under Title 11 of the United States Code, or files a voluntary petition in bankruptcy;

(ii) an involuntary petition is filed seeking reorganization of either Party, the appointment of a receiver, trustee, custodian or liquidator of such Party, or an involuntary petition under any bankruptcy, reorganization or insolvency law of any applicable jurisdiction, and such involuntary petition shall not have been dismissed within ninety (90) days after the filing of such involuntary petition; or

(iii) either Party loses its tax exempt status.

(b) By a Party (the "non-breaching Party") upon written notice to the other Party (the "breaching Party") of a material breach of its obligations under this Agreement and such breach either cannot be cured or, if the breach can be cured, it is not cured by the breaching Party within thirty (30) days after the breaching Party's receipt of written notice of such breach;

(c) Effect of Termination. Within fifteen (15) days following the effective date of any termination hereunder, PSMC shall submit a final statement reflecting the Expenses due to it pursuant to Article III hereof through the effective date of termination.

Within thirty (30) days following the receipt of such final statement, Foundation shall make the final payment to PSMC of the sums computed in the manner herein provided and reflected on said final statement, containing sufficient information to allow Foundation to verify the amounts charged, as payable by Foundation unless disputed in good faith by Foundation in writing setting forth the specifics of the dispute. Upon the expiration or termination of this Agreement for any reason, all rights and obligations which by their nature should survive shall remain in full force and effect.

ARTICLE 8
RELATIONSHIP OF PARTIES

It is mutually understood and agreed that PSMC is at all times acting and performing as an independent contractor hereunder. Except to the extent required by law or as the parties shall otherwise mutually agree, neither party's employees shall be entitled to participate in any fringe benefits or programs available to the other party's employees, including, without limitation, worker's compensation, unemployment, medical insurance, retirement, bonus, vacation or other benefits.

ARTICLE 9
GENERAL PROVISIONS

9.1 Indemnification.

(a) *Indemnification by Foundation.* Foundation shall indemnify, defend and hold harmless PSMC, its members, directors, managers, officers, and employees against all actions, claims, demands, liabilities, losses, damages, costs, and expenses (including reasonable attorneys' fees) (collectively, "**Losses**") to the extent resulting, directly or indirectly, out of (i) an actual or alleged injury to a person or to property as a result of a negligent or intentional act or omission of Foundation; or (ii) a breach by Foundation of any of its obligations under this Agreement; provided, however, that such indemnification shall be provided only to the extent the liability exceeds the limits or scope of any applicable insurance, or is uninsured. Notwithstanding the foregoing, Foundation shall have no obligation to indemnify PSMC pursuant to this Section to the extent the Losses were caused by the negligence or willful misconduct of PSMC. PSMC shall give Foundation prompt notice of any claim for indemnification hereunder and shall allow Foundation to control the defense or settlement of such claim and cooperate with Foundation in all matters related thereto. Foundation may settle such claims only for monetary consideration and without an admission of liability on the part of PSMC unless PSMC agrees in writing to permit other terms of settlement.

(b) *Indemnification by PSMC.* PSMC shall indemnify, defend and hold harmless Foundation, its members (other than members affiliated with PSMC), directors, officers, employees and agents against all Losses to the extent resulting, directly or indirectly, out of (i) an actual or alleged injury to a person or to property as a result of a negligent or intentional act or omission of PSMC; or (ii) a breach by PSMC of any of its representations, warranties or obligations under this Agreement; provided, however, that such indemnification shall be provided only to the extent the liability exceeds the limits or scope of any applicable insurance, or is uninsured. Notwithstanding the foregoing, PSMC shall have no obligation to indemnify Foundation pursuant to this Section to the extent the Losses were caused by the negligence or willful misconduct of Foundation. Foundation shall give PSMC prompt notice of any claim for indemnification hereunder and shall allow PSMC to control the defense or settlement of such claim and cooperate with PSMC in all matters related thereto. PSMC may settle such claims only for monetary compensation and without an admission of liability on the part of Foundation unless Foundation agrees in writing to permit other terms of settlement.

9.2 Assignment. Neither party may assign or delegate this Agreement, or its obligations hereunder, without the prior written consent of the other party.

9.3 Amendment and Modification. This Agreement may not be modified or amended except by a written document executed by both parties to this Agreement.

9.4 Notices. All notices to any party to this Agreement shall be deemed sufficient if in writing and sent to the parties by hand delivery, overnight courier, or registered or certified United States Mail, postage prepaid and return receipt requested, to the CEO of PSMC at the PSMC main campus address or to the current Board Chair of the Foundation at the address provided to PSMC by the Chair or Foundation in writing, or to such other addresses as the parties may notify each other in writing from time to time:

All such notices shall be deemed to be effective on the date of actual receipt or documented refusal.

9.5 Binding on Successors. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

9.6 Waiver of Provisions. Any waiver of any terms and conditions hereof must be in writing and signed by the parties hereto. The waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms and conditions hereof or a waiver of any preceding or succeeding breach of this Agreement.

9.7 Governing Law. The validity, interpretation and performance of this Agreement shall be governed by and construed in accordance with the internal laws of the State of Georgia.

9.8 Severability. The provisions of this Agreement shall be deemed severable, and if any portion shall be held invalid, illegal or unenforceable for any reason, the remainder of this Agreement shall be effective and binding upon the parties.

9.9 Additional Documents. Each of the parties hereto agrees to execute any document or documents that may be requested from time to time by the other party to implement or complete such party's obligations pursuant to this Agreement.

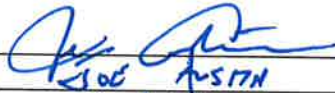
9.10 Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to the subject matter hereof, and there are no agreements, understandings, warranties or representations between the parties hereto other than those set forth herein.

9.11 Change of Circumstances. If: (a) any federal, state or local law, rule, regulation or interpretation or third-party payor requirement at any time during the term of this Agreement prohibits, restricts or in any way materially and adversely affects the arrangement contemplated in this Agreement, (b) there is any change in any federal, state, or local law, rule, regulation or interpretation which materially and adversely affects either party, including, without limitation, a material and adverse change in the economic benefit to be received pursuant to this Agreement, or (c) any court of competent jurisdiction determines that any material provision of this Agreement is invalid, void, or unenforceable in whole or in part ((a) (b), (c) separately and in the aggregate a "Material Change"), then the parties shall use their good faith best efforts to amend this Agreement in a manner which is consistent with any such Material Change and which substantially preserves for the parties the relative economic benefit of this Agreement. If the parties cannot reach

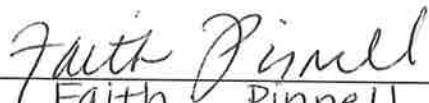
agreement on such amendment within thirty (30) days after notice from one party to the other of such Material Change, such notice to be accompanied by an opinion of counsel opining as to the Material Change, this Agreement shall automatically terminate.

IN WITNESS WHEREOF, the parties hereto have executed this Management Agreement as of the date first written above.

Phoebe Sumter Medical Center, Inc.
a Georgia nonprofit corporation

By: 
Name: SOE PUSIYN
Title: EXP/COO 3/18/19

Sumter Regional Hospital Foundation, Inc.
a Georgia nonprofit corporation

By: 
Name: Faith Pinnell
Title: Phoebe Sumter Foundation Board Chair

