

TRANSFER AGREEMENT

This TRANSFER AGREEMENT, dated as of _____, 2005 (the "Agreement"), between the COUNTY OF CUMBERLAND, a political subdivision of the State of North Carolina (the "County"), acting by and through its Board of County Commissioners (the "County Board"), and CUMBERLAND COUNTY HOSPITAL SYSTEM, INC., a North Carolina nonprofit corporation (the "Corporation"), acting by and through its Board of Directors (the "Hospital Board");

WITNESSETH:

WHEREAS, the County has determined to transfer to the Corporation certain hospital facilities and related property (with and including property acquired after the date hereof as replacements, additions or facilities to be operated with such facilities, the "System") and executed a Bill of Conveyance and General Warranty Deed (the "Deed") conveying the System, as described therein, to the Corporation and such Deed has been recorded in the Office of the Cumberland County Register of Deeds; and

WHEREAS, the consideration to the County for such transfer included agreements and undertakings accepted by the Corporation and the parties hereto desire to set forth such agreements and undertakings as covenants affecting title to the System;

NOW THEREFORE, in consideration of the premises and mutual agreements herein contained, the County and the Corporation hereby agree as follows:

Section 1. Title to System; Assumption of Liabilities; Definitions. This Agreement, with the Deed, constitutes a complete agreement between the parties and, to the extent the terms hereof are in conflict with, supersedes the Agreement in Principle dated August 15, 2005. The provisions of this Agreement constitute covenants and agreements affecting title to the System and are encumbrances thereon and the Deed conveys a fee simple determinable interest and a fee simple subject to condition subsequent to property in which the County retains a right of reversion and transfer.

In connection with the conveyance of the System to the Corporation, the Corporation hereby assumes the future payment and performance of all liabilities of the County with respect to the System.

In addition to the other terms defined herein, the definitions and computation rules set forth on Schedule I shall apply to the terms used herein. Schedule I is hereby incorporated by reference and made a part of this Agreement as if set forth herein.

Section 2. Operation as Community General Hospital. The Corporation agrees that it shall operate the System as a community general hospital, as defined in NCGS Section 131E-6(2) or a successor section, and shall additionally offer other health care services at least substantially comparable to services offered at regionally prominent primary health care facilities

also serving a community role, with the entire System open to the general public, free of discrimination based upon race, creed, color, sex or national origin.

Section 3. Services to Indigent Patients.

(a) The Corporation shall provide community general hospital services to the citizens of Cumberland County without regard to their ability to pay. Moreover, the 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 Cumberland County resident based on his ability to pay.

(b) The parties further acknowledge that circumstances in health care which are beyond the Corporation's control, including but not limited to changes in governmental programs or reimbursement systems which may affect such items as charity care or Medicaid contractual adjustments, or circumstances arising due to improved performance or increased efficiencies on the part of the Corporation which may affect such items as bad debt and physician services, may occur which will reduce the dollar amount that has theretofore previously been expended towards indigent care without any resulting reduction in the nature or scope of services provided.

(c) The Corporation acknowledges that its agreements herein to provide services without regard to ability to pay and to further provide at least a minimum financial commitment for services and resources to indigent patients and the community at large is a significant component of the consideration received by the County for the transfer of the System.

Section 4. Covenant on Liens. The Corporation agrees that there will not be created any lien upon any substantial portion of the System unless the County Board has specifically consented to the creation thereof, provided such restriction shall not apply to liens (a) created in the usual course of business (including pursuant to this Agreement and bonds issued by the North Carolina Medical Care Commission), (b) which are purchase money liens, (c) which secure Indebtedness in an aggregate total of less than 35% of Total Operating Revenues, or (d) which are permitted under any then current North Carolina Medical Care Commission bond document, loan agreement, master trust indenture or similar financing instrument executed by the Corporation..

Section 5. Covenant on Disposition of Assets. In light of the County's reversionary interest in the System, the Corporation agrees that, unless the County Board specifically consents, it will not (a) sell, lease or otherwise dispose of all or a substantial portion of the System, or (b) allow all or a substantial portion of the System to be managed (whether by contract or otherwise) by an entity not controlled by the Corporation. "Substantial portion" for purposes of the prior sentence means 20% (determined by asset value) either at one time or in the aggregate over a 5 year period and provided that transfers of assets for fair market value which are replaced by comparable assets or which are obsolete shall not be so limited or counted for such purpose.

Section 6. Financial Strength Covenant. The Corporation agrees that (a) if the Long-Term Debt Service Coverage Ratio of the Corporation falls below 1.05 or (b) if the ratio of fund

balances to total assets of the Corporation falls below .10, in either case as of the end of a Fiscal Year, then by the end of the second Fiscal Year thereafter such ratio will be improved to be equal to or better than 1.05 or .10, respectively.

Section 7. Base Payments and Additional Payments. In partial compensation for the System, and additionally in lieu of taxes on certain property, on each July 1 beginning on July 1, 2006, Base Payments and Additional Payments will be payable by the Corporation to the County. Each annual installment of Base Payments and Additional Payments shall be made in full in a single lump sum.

Section 8. Maintenance of 501(c)(3) Status. The Corporation agrees to maintain its status as a nonprofit, tax-exempt charitable organization under the provisions of Section 501(c)(3) of the Internal Revenue Code, as amended (the "Code").

Section 9. Historically Underutilized Businesses. The Corporation agrees to use Good Faith Efforts towards the goal of increasing its utilization and patronage of Historically Underutilized Businesses to levels consistent with the representation of those businesses in the community within which the Corporation does business. The Corporation shall within six months after execution of this Agreement adopt an outreach plan to (i) identify those areas of work in which the Corporation does business for participation by Historically Underutilized Businesses in the community, (ii) encourage them to qualify for, and recruit them to bid on, contracting and subcontracting business with the Corporation in those various areas of work, and (iii) assist them in obtaining contracting and subcontracting business with the Corporation in those various areas of work. The Corporation shall set verifiable percentage goals for participation by Historically Underutilized Businesses in the respective areas of work in which the Corporation does business based on evidence sufficient to justify use of those goals. The Corporation's Board of Trustees shall receive a report annually on the progress made by the Corporation towards participation by Historically Underutilized Businesses in the areas of work for which the Corporation contracts, which report shall be made publicly available. Nothing herein shall restrict or prevent the Corporation from contracting on the basis of price, performance and quality that best meets its needs, including, for instance, participating in group purchasing organizations pursuant to which it obtains substantial economic benefits from volume purchases.

Section 10. Automatic Reversion. If there is (a) a violation of, or default under, the requirements of Sections 2 or 3 by the Corporation or any successor thereto, (b) an Automatic Section 4 Default, (c) a default under the requirements of Section 7 by the Corporation or any successor thereto which continues for a period of 30 days or more, (d) a final determination that the Corporation's Code Section 501(c)(3) tax exempt status has been revoked, (e) any amendment to Articles 4, 5, 6 or 10 of the Restated Articles of Incorporation of the Corporation which has not been specifically approved by the County Board, or (f) dissolution of the Corporation without a successor nonprofit corporation to carry out the terms and conditions of this Agreement, the title and ownership to the System and other property as described in Section 12 shall revert or transfer to the County automatically.

Section 11. Non-automatic Reversion. If there is a Non-Automatic Section 4 Default or a violation of, or default under, the requirements of Sections 5, 6 or 9 by the Corporation or

any successor thereto, during the period between 30 days and 180 days after the County Board becomes aware of such violation, default or finding, the County Board, by resolution, may require that the title and ownership to the System and other property as described in Section 12 revert or transfer to the County.

Section 12. General Reversion Provisions. The property to revert or transfer shall include (a) the property transferred by the Deed, (b) all improvements thereto or replacements thereof, (c) all additions or other facilities essential to the operation of (a) or (b), (d) all other facilities intended to be operated with (a), (b) or (c), and (e) all cash, accounts, equipment, permits, contractual rights and property rights relating to (a), (b), (c), or (d). In connection with a reversion, the Corporation shall execute and deliver any documents requested by the County 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 the Deed.

The Corporation shall, in connection with the creation of any lien on real property which (i) is a part of the System but (ii) is not described in the attachments to the Deed, ensure that the document by which the lien is created (A) states that the title to such real property is held subject to the terms and conditions hereof, and (B) provides such lien is not accelerated upon transfer of such real property pursuant to this section.

Upon a reversion and transfer hereunder, Indebtedness of the Corporation will be assumed by the County (solely as a limited obligation payable only from revenues of the System) if (1) the Indebtedness is secured by a lien on property reverting or being transferred to the County and (2) the County receives the benefit of, or has assigned to it, all security for the Indebtedness, including any third party guaranties, assets, contract rights or letters of credit that secure such Indebtedness.

Section 13. Open Meetings. The Corporation shall operate in accordance with the Open Meetings Act, as set forth in NCGS Section 143.318-10 on the date hereof, for meetings of its governing board.

Votes by the Corporation's governing board on the salary and incentive bonus of the chief executive officer of the Corporation shall be taken in open session.

Section 14. Reports. The 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 Corporation with the provisions hereof. The annual audit 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 Corporation and the System.

Section 15. Indemnification by Corporation. The Corporation shall at all times protect, indemnify and save harmless the County from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, interest paid on and all counsel fees and expenses) imposed upon or incurred by or asserted against the County on account of (a) any failure of the Corporation to comply with any of the

terms of this Agreement, or (b) any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the System or the use thereof, or (c) any action, suit, claim, proceeding or investigation of a judicial, legislative, administrative or regulatory nature arising from or in connection with the financing, acquisition, ownership, operation, occupation or use of the System, or (d) any suit, whether based on a contractual claim, a tort claim or otherwise, or private action of any kind whatsoever commenced against the County relating to the System or its operation.

If any action, suit or proceeding is brought or threatened against the County for any loss or damage for which the Corporation is required to provide indemnification under this section, the County shall promptly notify the Corporation and the Corporation shall at its expense resist and defend such action, suit or proceeding, or cause the same to be resisted and defended by counsel designated by the Corporation. The Corporation shall have full control of such defense and proceedings, including any compromise or settlement thereof; provided the Corporation may not expressly admit liability or culpability on the part of the County without its consent. The obligations of the Corporation under this section are with respect to the period during which the System is operated or owned by the Corporation, shall be unaffected by when the failure, loss or damage occurred, whether before or after the date hereof, and shall survive any reversion or transfer of the System.

Section 16. Essentiality; Severability. The provisions of Section 2, 3, 7, 8 and 10 are hereby deemed essential and if, for any reason, any of such provisions are found to be void or unenforceable, this Agreement shall be deemed entirely void and the Corporation shall transfer to the County all property which would revert under Section 12. If any other provision of this Agreement 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.

Section 17. Fees and Expenses. The Corporation shall pay all costs, fees and expenses of the County, including counsel fees and the fees of any independent professional financial advisor, in connection with any action or review by it under this Agreement or as a result of any consent or waiver requested by the Corporation.

Section 18. Notices; Communications. Any notice or communication required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent by certified or registered mail, return receipt requested, postage prepaid or by hand delivery to the parties at:

if to County: County of Cumberland
 117 Dick Street
 Fayetteville, North Carolina 28301
 Attention: County Manager

if to Corporation: Cumberland County Hospital System, Inc.
1638 Owen Drive
Fayetteville, North Carolina 28302
Attention: Administrator

Section 19. Relationship of Parties. The relationship between the County and the Corporation is that of independent contractors, and neither shall be considered an agent or representative of the other for any purpose.

Section 20. Gender. The use of the masculine, feminine or neuter gender and the use of the singular and plural shall not be given the effect of any exclusion or limitation herein.

Section 21. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute a single instrument.

Section 22. Governing Law. This Agreement shall be construed in accordance with the laws of the State of North Carolina and the venue for any litigation related hereto shall be Cumberland County.

Section 23. 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.

Section 24. Third Party Beneficiary. This Agreement 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.

Section 25. Binding Agreement; Amendments. This Agreement shall be binding upon the successors or assigns of the parties hereto. This Agreement may be amended only with the agreement of both parties hereto.

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

CUMBERLAND COUNTY

By: _____
Chairman, Board of County Commissioners

ATTEST:

Clerk

(SEAL)

**CUMBERLAND COUNTY HOSPITAL
SYSTEM, INC.**

By: _____
President

ATTEST:

Secretary

(SEAL)

[illegible]

I, the undersigned Notary Public for the aforesaid jurisdiction, certify that _____ personally came before me this day and acknowledged that she is the Clerk of the Board of County Commissioners of the County of Cumberland, North Carolina, a political subdivision of the State of North Carolina, and that by authority duly given and as the act of said County, the foregoing Transfer Agreement was signed in its name by the Chairman of the Board of County Commissioners, sealed with its seal, and attested by her as the Clerk of the Board of County Commissioners.

Witness my hand and official seal, this the ____ day of _____, 2005.

(Official Seal)

Notary Public

My commission expires: _____

[illegible]

I, the undersigned Notary Public for the aforesaid jurisdiction, certify that _____ personally came before me this day and acknowledged that he is Secretary of Cumberland County Hospital System Inc., a North Carolina nonprofit corporation, and that by authority duly given and as the act of the corporation, the foregoing Transfer Agreement was signed in its name by its President, sealed with its corporate seal, and attested by him as its Secretary.

Witness my hand and official seal, this the day of , 2005.

(Official Seal)

Notary Public

My commission expires:

DEFINED TERMS

The following definitions and computation rules shall apply to the terms used in the attached Transfer Agreement dated as of _____, 2005, between the County of Cumberland and Cumberland County Hospital System, Inc., and this Schedule I is a part of that agreement.

Definitions

“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.

“Additional Payments” means additional payments in lieu of taxes on any interest in real property which becomes owned by the Corporation on or after August 15, 2005. Each Additional Payment shall be in an amount equal to the ad valorem taxes that would have been received by the County on such interest in real property but for such acquisition. Additional Payments will be based on the tax value of the property as of January 1st of each year according to standard County tax valuation methods and the Cumberland County county-wide tax rate, plus any applicable tax rates for fire tax districts, recreation tax districts, or other county service tax districts where the property may be located.

“Automatic Section 4 Default” means the creation of a lien which secures Indebtedness in an aggregate total of more than 35% of Total Operating Revenues and is not otherwise permitted under Section 4.

“Base Payments” means base payments payable annually by the Corporation to the County. The Base Payments due on July 1, 2006, 2008 and 2009 shall each be in the amount of \$3,065,000 and the Base Payment due on July 1, 2007, shall be in the amount of \$4,065,000. Base Payments due on July 1, 2010 and thereafter shall each be in the amount of the Base Payment due on the previous July 1 plus the percentage increase or decrease in the then most recently published Consumer Price Index for south urban size C communities, not seasonally adjusted, as published by the United States Department of Labor, Bureau of Labor Statistics (or if such index is not longer published, an equivalent index mutually agreed to by the parties) (the “CPI”) with the adjustment occurring on July 1 and being included in the annual payment for the applicable year, using the previous year as the base year from which each annual adjustment in the Base Payment is made.

“Fiscal Year” means the period beginning on October 1 of each calendar year and extending through September 30 of the succeeding calendar year or such other fiscal year used with respect to the System from time to time.

“Good Faith Efforts” means generally but without limitation: contacting Historically Underutilized Businesses that reasonably could be expected to submit a bid or quote and notifying them of the nature or scope of work; making construction plans, specifications and requirements available for review by them reasonably prior to the date that proposals or bids are

due; working with minority trade, community, or contractor organizations that provide assistance in the recruitment of Historically Underutilized Businesses; negotiating as appropriate with interested Historically Underutilized Businesses in good faith and not rejecting them as unqualified without sound reason based on their capabilities; providing coaching or consultation to otherwise qualified minority businesses about securing equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit; providing coaching or assistance in identifying opportunities for Historically Underutilized Businesses to negotiate joint venture or partnership arrangements in order to increase opportunities for Historically Underutilized Business participation on construction or repair projects when feasible and practical; actively considering quick pay agreements and policies to enable Historically Underutilized Business contractors and suppliers to meet cash-flow demands; and such other activities as the Corporation's Board of Trustees may approve from time to time.

"Historically Underutilized Businesses" means minority businesses in which at least fifty-one percent (51%) is owned by one or more minority persons or socially and economically disadvantaged individuals and whose management and daily business operations are controlled by one or more such persons.

"Income Available for Debt Service" means the excess of Revenues over Operating Expenses for each Fiscal Year before depreciation, amortization and interest, as determined in accordance with generally accepted accounting principles for hospitals consistently applied; provided, however, that no determination thereof shall take into account any gain or loss resulting from either the extinguishment of Indebtedness or the sale, exchange or other disposition of capital assets not made in the ordinary course of business.

"Indebtedness" means (a) all indebtedness of the Corporation with respect to the System for borrowed money, (b) all installment sales and capital lease obligations incurred or assumed by the Corporation with respect to the System, and (c) all guaranties of the obligation of any Person by the Corporation, whether constituting Long-Term Indebtedness or Short-Term Indebtedness. 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, or (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. If such liquidity facility is used or drawn upon to retire or purchase Indebtedness then the liability incurred by such use or draw shall be included in Indebtedness.

"Long-Term Debt Service Coverage Ratio" means, for any period of time, the ratio determined by dividing the Income Available for Debt Service by the Long-Term Debt Service Requirement.

"Long-Term Debt Service Requirement" means, for any Fiscal Year for which such determination is made, the aggregate of the payments to be made in respect of principal and interest on outstanding Long-Term Indebtedness during such period; provided, however, that

interest shall be excluded from determination of Long-Term Debt Service Requirement to the extent the same is provided from the proceeds of the Long-Term Indebtedness or otherwise provided so as to be available for deposit into an account for capitalized interest not later than the date of delivery of and payment for such Long-Term Indebtedness.

“Long-Term Indebtedness” means all Indebtedness, including Short-Term Indebtedness if a commitment by a financial lender exists to provide financing to retire such Short-Term Indebtedness and such commitment provides for the repayment of principal on terms that would, if such commitment were implemented, constitute Long-Term Indebtedness, and the current portion of Long-Term Indebtedness, for any of the following:

(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;

(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; and

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

“Net Revenues,” when used with respect to any period, means the excess, if any, of the Revenues for such period, over the Operating Expenses for such period.

“Non-Automatic Section 4 Default” means a default under Section 4 other than an Automatic Section 4 Default.

“Operating Expenses” means the reasonable and necessary current expenses of maintaining, repairing and operating the System, including, without limiting the generality of the foregoing, all administrative, general and commercial expenses, insurance and surety bond premiums, payments for the billing and collection of rents, rates, fees or other charges imposed or charged by the System or the income or operations thereof or the property forming a part thereof, rentals of equipment or other property, usual expenses of maintenance and repair, and any other current expenses required to be paid by the Corporation by law, all to the extent properly and directly attributable to the System; provided “Operating Expenses” shall not include (a) any payments on leases other than leases which are operating leases under generally accepted accounting principles for hospitals consistently applied, (b) any depreciation or amortization, or (c) any interest other than interest on Indebtedness which is within the limitations hereof and specifically designated as such in writing by the Corporation.

“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.

“Revenues” means all revenues, income, receipts and money (other than proceeds of borrowings) received in any period with respect to the System by or on behalf of the Corporation and all controlled affiliates which are providing patient care, 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 System 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.

“Short-Term Indebtedness” means all obligations, other than the current portion of Long-Term Indebtedness, incurred or assumed for any of the following:

(a) payments of principal and interest with respect to money borrowed for an original term, or renewable at the option of the borrower for a period from the date originally incurred, of one year or less;

(b) payments under leases that are capitalized in accordance with generally accepted accounting principles having an original term, or renewable at the option of the lessee for a period from the date originally incurred, of one year or less; and

(c) payments under installment purchase or conditional sale contracts having an original term of one year or less.

“System” means the hospital facilities and related property noted in the Deed and all additions thereto, replacements thereof and after-acquired facilities to be operated therewith, including all real and personal property related thereto, as such may now or hereafter exist.

“Total Operating Revenues” means total operating revenues, being the sum of gross patient service revenue *less* contractual allowances and provisions for uncollectible accounts, free care and discounted care *plus* other operating revenues, as determined in accordance with generally accepted accounting principles for hospitals consistently applied, for the most recent complete Fiscal Year for which audited numbers are available.

END OF SCHEDULE I to Transfer Agreement dated as of _____, 20__, between the County of Cumberland and Cumberland County Hospital System, Inc.