

**OPERATING**  
**AGREEMENT**

**FOR**

**SOUTH PENINSULA**  
**HOSPITAL**

**Effective January 1, 2020**

**Approved by Kenai Peninsula Borough Assembly**

**December \_\_, 2019 in Ordinance 2019-\_\_\_\_**

**Approved by South Peninsula Hospital, Inc. Board of Directors**

**\_\_\_\_\_, 2019**

**SOUTH PENINSULA HOSPITAL, INC.  
OPERATING AGREEMENT**

**TABLE OF CONTENTS**

1.	PRIOR AGREEMENT SUPERSEDED .....	2
2.	AGREEMENT TO OPERATE AND MANAGE MEDICAL FACILITIES; AUTHORIZATION TO CONTINUE OTHER AGREEMENTS; LEASED FACILITIES .....	2
	a. Agreement to Operate and Manage Medical Facilities	
	b. Authorization to Continue Agreement for Certain Facilities	
	c. Leased Facilities	
3.	PROVISION OF SERVICES .....	3
4.	TERM.....	3
5.	NOTICES .....	3
6.	COMMUNICATIONS WITH BOROUGH.....	4
7.	UTILITIES .....	5
8.	TAXES; COOPERATION ON BOND FINANCING; TAX-EXEMPT STATUS; SAFE HARBOR COMPLIANCE.....	5
	a. Taxes	
	b. Cooperation on Bond Financing	
	c. Tax-Exempt Status	
	d. Safe Harbor Compliance	
9.	SUPPLIES, MATERIALS AND INVENTORY .....	6
	a. Use of Existing Supplies, Materials and Inventory	
	b. Repair or Replacement	
	c. Purchasing Procedures	
	d. Coordination with Borough Purchasing and Contracting	
	e. Group Purchasing Organizations	
	f. Disposal	
10.	ANNUAL LIST REPORTING REQUIREMENTS .....	8
	a. Annual Report Deadline	
	b. Hospital Assets Schedule	
	c. Annual Project List	
	d. Property Lease List	
	e. Purchasing Policies List	
	f. Risk Management Report	
	g. Change in Services	
11.	MAINTENANCE AND REPAIR .....	9
	a. Minor and Major Maintenance Reporting and Communication	
	b. Minor and Major Maintenance Approval and Management	
12.	MAJOR MOVABLE EQUIPMENT PURCHASES.....	10
	a. Major Movable Equipment Reporting and Communication	
	b. Major Movable Equipment Approval and Management	
13.	CAPITAL IMPROVEMENT PROJECTS.....	11
	a. Capital Improvement Projects Reporting, Planning, and Communication	

	i.	DEFINITIONS .....	11
	ii.	PLANNING.....	11
	iii.	PROJECT START AND ONGOING REPORTING.....	11
	b.	Capital Improvement Approval and Management	
14.		REAL PROPERTY ACQUISITIONS AND LEASES.....	13
	a.	Real Property Acquisitions	
	b.	Leases in Which SPHI is Lessee	
15.		SUBLEASES OF MEDICAL FACILITIES TO THIRD PARTIES .....	14
16.		FINANCES.....	15
	a.	Operating Revenue	
	b.	Plant Replacement and Expansion Fund	
	c.	Cash Management	
	d.	Financial Reporting	
	e.	Capital Grants or Gifts	
	f.	Service Area Revenues	
	g.	Medical Service Operating Grants, Gifts and Donations	
	h.	No Debt Authority	
	i.	Bonds	
17.		PERFORMANCE MEASUREMENT .....	17
	a.	Performance Standards	
	b.	SPHI Performance	
	c.	Strategic Plan	
	d.	Certification	
	e.	Staffing	
	f.	Pension Plan Funding	
	g.	Sub-standard Performance	
18.		SERVICE AREA BUDGET .....	20
	a.	SPHI Budget Proposal	
	b.	Service Area Budget Proposal	
	c.	Service Area Final Budget	
19.		ACCOUNTING/AUDIT /REPORTING .....	21
	a.	Accounting	
	b.	Investment of Funds	
	c.	Audit	
	d.	Chief Executive Officer or Management Contract.	
	e.	Hospital Executive Incentive Plan	
20.		RATES .....	22
21.		INSURANCE .....	22
	a.	SPHI Insurance	
	b.	Verification of Coverage	
	c.	Borough Insurance	
	d.	Notice of Claims	
	e.	Extended Reporting Period or Tail Coverage	
22.		DEFENSE AND INDEMNIFICATION .....	23
23.		RISK MANAGEMENT .....	24
24.		EMERGENCY REPAIRS.....	24

25.	LEVEL OF SERVICES AND OTHER BUSINESS ACTIVITIES.....	25
	a. Existing Level of Services	
	b. Expansion of Services/New Services	
	c. Elimination of Services	
	d. Disclosure of Other SPHI Business	
26.	APPOINTMENTS TO THE MEDICAL STAFF .....	26
27.	NONDISCRIMINATION IN ADMISSIONS .....	26
28.	MEDICAL RECORDS .....	26
29.	OTHER GOVERNMENTAL ACCESS TO BOOKS AND RECORDS .....	27
30.	PUBLIC ACCESS.....	27
	a. Privileged or Confidential Information	
	b. Board of Director Meetings	
	c. Public Comment	
	d. Notice of Meetings and Agenda	
	e. Meetings Unrelated to This Agreement	
	f. Records	
31.	EMPLOYEES AND CONTRACTORS .....	29
32.	INSPECTION .....	30
33.	ASSIGNMENT .....	30
34.	AMENDMENT .....	30
35.	GOOD FAITH AND FAIR DEALING .....	30
36.	BREACH AND REMEDIES .....	30
	a. By Borough	
	b. By SPHI	
	c. Cooperation in Transition	
37.	TERMINATION .....	31
38.	SURRENDER ON TERMINATION.....	31
39.	FINAL ACCOUNTING .....	32
40.	SEVERABILITY .....	32
41.	SUCCESSORS AND ASSIGNS BOUND .....	32
42.	TIME OF THE ESSENCE .....	32
43.	FORCE MAJEURE .....	33
44.	WAIVER .....	33
45.	VENUE .....	33
46.	NO RIGHTS CONFERRED .....	33
47.	NON-COMPETITION .....	33
48.	CONTRACT ADMINISTRATION .....	34
49.	INTEGRATION.....	34
50.	RECITALS.....	34

**ATTACHMENTS**

Exhibit A. Description of Medical Facilities

Exhibit B. Example of Operating Statistics

Exhibit C. Memorandum of Agreement dated \_\_\_\_\_

## **OPERATING AGREEMENT**

THIS OPERATING AGREEMENT (“Agreement”) is made and entered into on this \_\_\_ day of \_\_\_\_\_, 2019, between the Kenai Peninsula Borough, an Alaska municipal corporation, hereinafter referred to as “Borough,” “KPB” or “Owner,” 144 N. Binkley Street, Soldotna, Alaska 99669, and South Peninsula Hospital, Inc., an Alaska nonprofit corporation, hereinafter referred to as “SPHI or “Operator,” 4300 Bartlett Street, Homer, Alaska 99603.

WHEREAS, the Borough established and the voters approved the South Kenai Peninsula Hospital Service Area, hereinafter referred to as the “Service Area,” to assure residents that hospital services would be provided within its boundaries; and

WHEREAS, through tax levies and revenues generated within that service area the Borough has leased, constructed and acquired healthcare facilities located in Homer, Alaska to meet the needs of the residents; and

WHEREAS, the Borough provides for the operation of South Peninsula Hospital and other facilities, hereinafter referred to as the “Medical Facilities,” through the authority granted by the voters of the South Kenai Peninsula Hospital Service Area; and

WHEREAS, the Medical Facilities have been administered by SPHI under a series of lease and operating agreements between the Borough and SPHI, the last of which expires on December 31, 2019; and

WHEREAS, the Borough and SPHI desire to enter into a new agreement for the management and operation of the Medical Facilities and for SPHI, operating as a non-profit corporation, to operate the Medical Facilities for nonprofit hospital purposes to ensure continued availability of health care services and facilities for Service Area residents and visitors, as authorized by KPB Ordinance 2019-\_\_\_\_ (approving execution and delivery of this Agreement); and

WHEREAS, the parties agree that SPHI shall endeavor to operate the Medical Facilities on a self-supporting basis while preserving the same or a better level of service as was previously provided to the residents of the Service Area; and

WHEREAS, the parties agree that the Borough shall retain all powers incident to ownership of the Medical Facilities;

NOW THEREFORE, in consideration of mutual covenants contained herein the parties agree as follows:

1. **PRIOR AGREEMENTS SUPERSEDED.** This Operating Agreement (“Agreement”) supersedes and replaces the existing Sublease and Operating Agreement with an effective date of January 1, 2014, and all other prior agreements concerning the use of the real property and improvements thereon described in this Agreement or the operation and management of any or all of the Medical Facilities, except for the Sublease Agreements described in paragraph 2.b and all amendments to those Agreements. In addition to compliance with this Agreement, SPHI covenants to continue to comply with those Agreements, which are integrated into this Agreement.

2. **AGREEMENT TO OPERATE AND MANAGE MEDICAL FACILITIES; AUTHORIZATION TO CONTINUE OTHER AGREEMENTS; LEASED FACILITIES.**

a. Agreement to Operate and Manage Medical Facilities. The Borough hereby contracts with SPHI to operate and manage the property described in attached Exhibit A, including all fixtures and appurtenances thereto (hereinafter referred to collectively as the “Medical Facilities”) for the term of this Agreement and any extension thereof for the Borough consistent with the terms and conditions of this Agreement.

b. Authorization to Continue Agreements for Certain Facilities. SPHI is hereby authorized to continue subleasing, managing and operating facilities under the following agreement subject to approval by the City of Homer:

Sublease Agreement between SPHI and Veteran’s Administration originally dated October 1, 2009 and amended September 27, 2019.

c. Leased Facilities. The Borough leases the property described in attached Exhibit A to SPHI for the term of this Agreement and any extension thereof. SPHI shall pay the Borough a lease payment in the sum of one dollar (\$1.00) per year to lease the property described in this Agreement. Such payment shall be due in full on or before the 1<sup>st</sup> day of January 2020 for the first 10-year period. If the contract is extended, the payment for the extended term shall be due and payable on January 1<sup>st</sup> of the first year of the new term.

The Borough warrants that it has good and marketable title to the Medical Facilities it owns free and clear and leases to SPHI as described in Exhibit A, paragraph a, subject only to encumbrances of record prior to the effective date of this Agreement.

The Parties further acknowledge that the sublease of the portion of property owned by the City of Homer, described in Exhibit A at paragraph a, to SPHI is subject to consent by the City of Homer, which consent may not be unreasonably withheld. The parties agree to cooperate in seeking such consent upon execution of this Agreement.

3. PROVISION OF SERVICES. SPHI agrees to operate and manage for the benefit of the Borough and residents of the Service Area the Medical Facilities described in this Agreement. SPHI agrees that so long as this Agreement is in effect it will continuously operate and manage the Medical Facilities as a duly licensed hospital, skilled nursing facility, or health care facilities, as applicable, under Alaska licensing laws and in accordance with all applicable state and federal laws, regulations and rules governing hospitals, skilled nursing and other facilities as applicable, and in accordance with the terms and conditions of this Agreement. In addition, SPHI may provide any other health service and operate any other health facility for the Service Area, to the extent that such services and/or operations of other health facilities are authorized or otherwise approved as provided in paragraph 25.d of this Agreement.

All services provided by SPHI under the terms of this Agreement, excepting other SPHI business activities described in paragraph 24.d. of this Agreement, shall be limited in scope to the services that the Borough is legally authorized to provide through the Service Area.

If authorized, by the Borough and by law, these services may be provided either directly or by contract, and shall be provided in accordance with this Agreement and all applicable state and federal laws, regulations and rules governing such health services or health facilities. If SPHI enters into a contract with an independent contractor to be the exclusive provider of any program or service, then the contractor shall be required to comply with all applicable terms and conditions of this Agreement.

4. TERM. This Agreement shall be in effect from January 1, 2020, to and including December 31, 2029, unless terminated earlier in accordance with the provisions of this Agreement. By mutual agreement of the parties this Agreement may be extended for an additional period, not to exceed five years. If no notice of termination has been given or no agreement to extend has been signed before December 31, 2028, then a five-year extension of this term shall be deemed to have been agreed upon. The terms of the Agreement for the additional five-year extension period shall be the same as this Agreement, with all amendments, unless the parties negotiate new terms before the effective date of the extension, January 1, 2030, and document those new terms in writing.

5. NOTICES. All notices, reports or documents or other communications required or authorized to be given by one party to the other party to this Agreement shall be in writing and delivered personally or by depositing the same in the United States mail, postage prepaid, certified, return receipt requested, and addressed to the parties as hereinafter provided, or by either email or facsimile transmission (“fax”) with advance telephonic notice and a hard copy sent by first class mail:

FOR THE BOROUGH:  
Mayor  
Kenai Peninsula Borough  
144 N. Binkley Street  
Soldotna, AK 99669  
Email: [cpierce@kpb.us](mailto:cpierce@kpb.us)  
Fax # (907) 714-2377

FOR SPHI  
President, Board of Directors  
SPHI  
4300 Bartlett Street  
Homer, AK 99603  
Email: [dgroesbeck@sphosp.org](mailto:dgroesbeck@sphosp.org)  
Fax # (907) 235-0253

Notice shall be effective upon the date of personal delivery or, if mailed, upon the date of delivery as shown by certified receipt or, if sent via fax or email, upon the date of receipt of the fax or email. The Borough Mayor shall be responsible for forwarding any such notice, report or document to the South Kenai Peninsula Hospital Service Area Board (“SAB”), other interested Borough boards, Borough departments, or any other appropriate individual or agency for consideration or action. The President of SPHI shall be responsible for forwarding any such notice, report or document to the SPHI Board members, chief executive officer, or any other appropriate individual or agency for consideration or action.

6. COMMUNICATIONS WITH BOROUGH. SPHI shall provide the following information and reports to the Borough Contract Administrator, the SAB Chair and the Borough Finance Director:

a. A written monthly financial report which shall include a balance sheet, a statement of cash flow, an income statement, and operating statistics substantially in the form attached hereto as Exhibit B;

b. A written quarterly activity report, which shall include all the items as set forth in the monthly financial report, plus a statement of activities, issues and events, which shall in addition be orally presented by a representative of SPHI to the SAB and then to the Borough Assembly;

c. An Annual List complying with reporting requirements set forth in paragraph 10 of this Agreement; and

d. All other notifications in accordance with this Agreement.

In the event that SPHI is no longer required by the IRS to complete a publicly available Form 990, SPHI shall notify the borough in writing at the time of the change. The borough may then require additional reporting of relevant information previously available on Form 990. SPHI shall clearly identify all such information it considers to be proprietary or privileged or confidential. To the extent allowed by law, the Borough shall treat such information as proprietary, privileged or confidential.

Unless otherwise provided herein, (i) monthly reports shall be delivered within 60 days after the end of the month; (ii) quarterly reports shall be delivered within 60 days after the end of the quarter; and (iii) annual lists shall be delivered on or before March 1<sup>st</sup> of each year. Additionally, SPHI's representatives shall make reasonable efforts to meet at least quarterly with the Borough Contract Administrator to discuss any concerns by either party, the current status of ongoing projects and upcoming plans for the Medical Facilities. The parties recognize that such meetings are subject to the protections for records and information of SPHI's business plans as provided in this Agreement.

7. UTILITIES. SPHI shall be responsible for and ensure the payment of all the utilities necessary to operate the Medical Facilities, including, but not limited to: electricity, heat, water, sewer service, garbage collection, snow removal and sanding, and telephone/internet service.

8. TAXES; COOPERATION ON BOND FINANCING; TAX-EXEMPT STATUS; SAFE HARBOR COMPLIANCE.

a. Taxes. SPHI shall be responsible for and shall ensure payment before delinquency all governmental taxes, assessments, charges or liens assessed during the term of this Agreement against any leasehold interest or property of any kind or income or sales of any kind by SPHI related to this Agreement.

b. Cooperation on Bond Financing. SPHI acknowledges that the Borough has issued, and may issue bonds during the term of this Agreement (together, the "Municipal Bonds"), the proceeds of which have been, or may be, used to finance component parts of the Medical Facilities. The Borough has, and may in the future, determined to issue such Municipal Bonds on a tax-exempt basis pursuant to the Internal Revenue Code of 1986, as amended from time to time (the "Code"). As a means to ensure Municipal Bonds issued by the Borough on a tax-exempt basis remain tax exempt under the Code, SPHI agrees to cooperate with the Borough to ensure compliance with all rules and regulations applicable to such Municipal Bonds, including the Code, Treasury Regulations, revenue procedures and or other written rulings of the Internal Revenue Service and relating to permitted management contracts, including Rev. Proc. 2017-13 (if applicable), as the same may be modified, amplified, superseded, and interpreted by the courts and Internal Revenue Service. Such cooperation by SPHI may include certifications and opinions related to the management and operation of bond-financed component parts of the Medical Facilities.

c. Tax-Exempt Status. SPHI shall not take any action which would endanger its ability to obtain and maintain its status as an organization exempt from Federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or any successor or similar provision. SPHI covenants that it will not operate

the Medical Facilities in any way or engage in any activity that might reasonably be expected to cause any of the Borough bonds to lose their tax-exempt status, both existing Municipal Bonds and Municipal Bonds that may later be issued during the term of this Agreement.

d. Safe Harbor Compliance. The parties intend this Agreement be construed as a management contract for federal income tax purposes generally, and specifically in relation to any Municipal Bonds issued on a tax-exempt basis under the Code. The parties intend that this Agreement comply, and that in its performance of this Agreement SPHI comply, with all safe harbor conditions established by the Code, Treasury Regulations, revenue procedures or other written rulings of the Internal Revenue Service, including in Rev. Proc. 2017-13 (as applicable), as such conditions now exist or may hereafter be amended, under which an arrangement for services for management and operation of Medical Facilities owned by the Borough is characterized as a management contract for federal income tax purposes. The parties intend that this Agreement, and SPHI's performance under the terms of this Agreement, do not result in private business use of property financed with governmental tax-exempt bonds under § 141(b) of the Internal Revenue Code or cause the modified private business use test for property financed with qualified 501(c)(3) bonds under § 145(a)(2)(B) to be met. The parties agree that this Agreement shall be interpreted and construed in a manner consistent, and comply, with all safe harbor conditions relating to tax-exempt Municipal Bonds issued or to be issued, including Rev. Proc. 2017-13 (as applicable), as such conditions now exist or may hereafter be amended, and the parties agree to take such actions as are necessary to construe and administer this Agreement consistent with such compliance. In the event any federal court or the U.S. Department of the Treasury, Internal Revenue Service determines that any portion of this Agreement is not in compliance with such safe harbor condition or conditions, then the parties immediately agree to take any such actions as are necessary to ensure compliance with the applicable safe harbor condition or conditions. If the parties are unable to reach an agreement on the manner of compliance within thirty (30) days, then such compliance, and the manner of such compliance, shall be in the sole discretion of the Borough.

## 9. SUPPLIES, MATERIALS AND INVENTORY.

a. Use of Existing Supplies, Materials and Inventory. During the term of this Agreement, all supplies, materials, and inventory located in or on the Medical Facilities shall be subject to the control, consumption, disposition and replacement by SPHI for use solely for services provided under this Agreement.

b. Repair or Replacement. Supplies, materials and inventory that need to be repaired or replaced will be repaired or replaced by SPHI if necessary for the operation and management of the Medical Facilities. At the termination of this

Agreement, replacement supplies, materials, and inventory shall remain the sole property of the Borough or its successors or assigns, if any.

c. Purchasing Procedures. All purchases made by SPHI shall be done in accordance with SPHI corporate and operational policies related to purchasing and in coordination with the Borough Purchasing and Contracting Director pursuant to paragraph 9(d). These policies shall establish and follow competitive procedures for purchases above a threshold set by the SPHI board, and these policies shall be available to the public. SPHI shall provide copies of updated policies annually, in accordance with reporting requirements set forth in paragraph 10 of this Agreement.

d. Coordination with Borough Purchasing and Contracting. SPHI shall coordinate its purchases with other borough entities and organizations by communicating regularly with the Borough Purchasing and Contracting Department to develop compatible and standardized supplies and equipment and to save expenses through bulk purchases. Additionally, it shall coordinate with emergency service providers to ensure compatible equipment is acquired to the extent feasible.

e. Group Purchasing Organizations. SPHI is specifically authorized to purchase supplies, materials, equipment and inventory from group purchasing organizations (“GPOs”) such as Intalere, or other GPOs, their successors or assigns, provided such purchases are otherwise authorized by this Agreement. It is understood and agreed that exclusive health care service providers hired or contracted with by SPHI pursuant to this Agreement are not required to comply with this provision unless otherwise stated in the contract between SPHI and the provider. Finally, SPHI, per the existing business practice, agrees to communicate and cooperate with the Borough Purchasing and Contracting Director on all purchases made that will require Borough Assembly approval.

f. Disposal. Disposal of any supplies, materials, inventory, and equipment that are owned by the Borough and that are surplus to the needs of the Medical Facilities shall be made in accordance with the Borough Code requirements for disposal of surplus property. Net proceeds from the sale of surplus property shall be used by SPHI to pay for costs of operating and maintaining the Medical Facilities. Nothing in this provision shall be construed to confer ownership of such assets or funds upon SPHI. All disposals of hazardous substances shall be in accordance with applicable local, state, and federal laws and regulations. Proceeds from the sale of items funded with gifts or grants shall be distributed in accordance with the donor’s intent or grant requirements, as applicable. If the intent of a donor cannot be determined, then proceeds shall be used by SPHI for the operation and maintenance of the Medical Facilities.

10. ANNUAL LIST REPORTING REQUIREMENTS.

a. Annual Report Deadline. On or before March 1 of each year, SPHI shall provide an updated *Hospital Assets Schedule, Annual Projects List, Property Lease List, Purchasing Policies List, the Risk Management Report, and the Changes in Services* to the Borough Contract Administrator and the Borough Purchasing and Contracting Director.

b. Hospital Assets Schedule. The updated *Hospital Assets Schedule* shall include reportable Capital Infrastructure Assets and reportable Major Moveable Equipment Assets as defined in sections 11.a.i and 12.a.i of this Agreement. At a minimum, the updated *Hospital Assets Schedule* shall list the reportable assets, and include the location, and remaining useful life of each asset.

c. Annual Project List. The *Annual Project List* shall include reportable proposed Maintenance Projects, Major Moveable Equipment Purchases, and Capital Improvements as defined in paragraphs 11.a.ii, 12.a.ii, and 13.a.i of this Agreement. At a minimum the *Annual Projects List* shall include a description of each project, the project schedule, and the estimated cost. All projects must be categorized by property and/or building location.

In the event that reportable projects that are not included in the *Annual Projects List* are identified and approved by SPHI's board of directors, SPHI shall provide written notification to the Borough Contract Administrator and the Borough Purchasing and Contracting Director upon SPHI board approval.

d. Property Lease List. The *Property Lease List* shall include a list of all real property leases, regardless of term length or cost, and of all other operating and capital leases with terms greater than one year. This shall apply to all leases entered into by SPHI as lessee or lessor. At a minimum, the list must identify the leased property (including the address or legal property description), lessor/lessee, term, and cost. SPHI shall provide copies of any leases related to the services provided under the terms of this Agreement upon request by the Borough Contract Administrator.

e. Purchasing Policies List. The *Purchasing Policies List* shall include a list of all corporate and operational policies related to purchasing, and shall include copies of all such updated policies.

f. Risk Management Report. SPHI shall provide annual reports to the Borough Administrator and Human Resources Director describing SPHI's Risk Management program as described in paragraph 23.

g. Change in Services. Any change in the level or type of services provided shall be included in the Annual List and as a part of the quarterly report of such changes as required in paragraph 25.b.

11. MAINTENANCE AND REPAIR. SPHI shall perform all work necessary within its authority, and shall advise the Borough Contract Administrator and the Borough Purchasing and Contracting Director as soon as reasonably possible of other projects it deems necessary, to maintain the Medical Facilities in reasonably safe condition and in good repair and operating condition throughout the term of this Agreement, in accordance with the requirements of this paragraph. SPHI shall be responsible for all maintenance and repair of the Medical Facilities, including the upkeep and maintenance of the Medical Facilities and the walkways, roads and grounds of the Medical Facilities subject to the following terms and conditions in this Agreement. For the purposes of identifying and evaluating capital infrastructure assets covered under this Agreement, SPHI shall use the guidelines in the American Hospital Association (“AHA”), Estimated Useful Lives of Depreciable Hospital Assets, Revised 2018 Edition (“AHA Estimated Useful Lives”).

a. Minor and Major Maintenance Reporting and Communication

- i. For the purposes of this Agreement, reportable capital infrastructure assets are defined as all capital infrastructure assets located in the Medical Facilities that are included in Part 1 of the AHA Estimated Useful Lives with a projected useful life in excess of eight (8) years. All such assets must be included on the annual *Hospital Assets Schedule*. The Borough Contract Administrator may choose to waive reporting requirements for any asset or allow identification of reportable components as a composite asset.
- ii. For the purposes of this Agreement, reportable maintenance projects are defined as Minor Maintenance Projects with a cost in excess of \$100,000 and all major maintenance projects.
- iii. Major maintenance is defined as the renovation or replacement of any capital infrastructure asset on the *Hospital Assets Schedule*. Minor Maintenance is defined as the renovation or replacement of assets listed under Part 1 of the AHA Estimated Useful Lives with a projected useful life of eight (8) years or less. Reportable maintenance projects must be included on the *Annual Projects List*.
- iv. SPHI shall notify the Borough Contract Administrator and the Purchasing and Contracting Director in writing prior to commencing any work on any reportable maintenance project, as defined in paragraph 11.a.ii of this Agreement, which is managed by the SPHI.

- b. Minor and Major Maintenance Approval and Management
- i. SPHI must follow all reporting and notification requirements before commencing with a minor or major maintenance project. In the event that maintenance needs are identified and not included on the Annual Project List, any reportable projects as defined in paragraph 11.a.ii of this Agreement must be reported to the Borough Contract Administrator, and SPHI may not commence Major Maintenance Project work unless authorized to do so in writing by the Contract Administrator. The Borough will provide a response to SPHI's requests for approval of Major Maintenance Projects within 14 calendar days of submittal of the Annual Project List or submittal of projects that are identified after the submittal of such list.
  - ii. The Borough may in its sole discretion manage any Major Maintenance Projects or may give written authorization to SPHI to do so. The Borough reserves the right to require SPHI to provide written submittals for approval by the Borough Purchasing and Contracting Department on components, equipment, and material to be used in any Major Maintenance Project. Reportable Minor Maintenance Projects included in the Maintenance Projects List do not require Borough approval.
  - iii. The Borough may require, within one year of notification to SPHI to undertake major maintenance as it deems necessary and appropriate to maintain the Medical Facilities in good condition, subject to the availability and, if necessary, appropriation of funds to finance such major maintenance.

## 12. MAJOR MOVABLE EQUIPMENT PURCHASES

- a. Major Movable Equipment Reporting and Communication
- i. For the purpose of this Agreement reportable Major Movable Equipment Assets include all equipment identified in the AHA Estimated Useful Lives, under Table 8, Diagnostic and Treatment Departments, and exceeding \$250,000 in value. All such assets shall be included on the annual *Hospital Assets Schedule*.
  - ii. For the purpose of this Agreement, reportable Major Movable Equipment Purchases include purchases of all equipment identified in the AHA Estimated Useful Lives, under Table 8, Diagnostic and Treatment Departments, and exceed \$250,000 in value. All such purchases, and associated capital improvement requirements, shall be included on the *Annual Projects List*.
  - iii. SPHI shall promptly notify the Borough Contract Administrator and Borough Purchasing and Contracting Director in writing when

any reportable Major Movable Equipment is purchased.

b. Major Movable Equipment Approval and Management

All Major Movable Equipment purchases including associated capital improvement requirements expected to cost in excess of \$500,000 or requiring an Alaska Certificate of Need (CON) must be approved by the Borough Assembly by ordinance. Major Movable Equipment purchases that do not require appropriation and costing less than or equal to \$500,000 do not require Borough Assembly approval. Purchases requiring Borough Assembly approval may be approved during the annual Borough budgeting process or on an individual basis. The Borough Assembly or Borough Contract Administrator may decline to consider any project during the budgeting process and instead may review it separately as an individual approval.

13. CAPITAL IMPROVEMENT PROJECTS. To the extent approved by the Borough Assembly and the appropriation and availability of funds, the Borough may finance capital improvements for the Medical Facilities as necessary for the provision of services and functions to meet the needs of the residents of the Service Area.

a. Capital Improvement Projects Reporting, Planning, and Communication

i. DEFINITIONS. For the purposes of this Agreement, Capital Improvement Projects include all such projects not identified in this Agreement as Minor or Major Maintenance (Paragraph 11), Major Movable Equipment (Paragraph 12), or Real Property Acquisitions (Paragraph 14).

All projects expected to cost over \$250,000, or requiring a permit through any Authority Having Jurisdiction (“AHJ”) as defined in the International Building Code, such as the 2015 IBC section 105, impacting Life Safety Requirements, and/or decommissioning any asset or part of assets identified on the *Hospital Assets Schedule*, shall be included on the *Annual Projects List*.

ii. PLANNING. For all Capital Improvement Projects expected to cost in excess of \$1,000,000 or expected to require authorization under paragraph 13.b.ii, whether or not included on the *Annual Projects List*, SPHI will notify the Borough Contract Administrator and Borough Purchasing and Contracting Director in writing prior to any design, engineering or procurement efforts or grant application submission. Included with this notification shall be a description of the project concept and the specific needs that justify

the project. To the extent allowed by law, the notice, including the description and other information contained in or submitted with the notice, is confidential and privileged information regarding SPHI's business plans that is protected as provided in this Agreement. Prior written notice is not required for preliminary conceptual designs, diagrams, or schematics, costing less than \$25,000.

The Borough Purchasing and Contracting Department shall be involved in all aspects of the analysis and planning of these projects, unless the Borough notifies SPHI in writing that it will not be involved. Such notice will not preclude the Borough from requiring involvement in the planning process at a later point. The Borough Contract Administrator will notify SPHI's Contract Administrator in writing of the Borough's change of the Borough's decision on involvement. In the case that the Borough is not involved in the planning of a project, SPHI shall immediately notify in writing the Borough Contract Administrator and Purchasing and Contracting Director if a change during planning increases the estimated total project cost by \$100,000 or more.

- iii. **PROJECT START AND ONGOING REPORTING.** SPHI shall maintain clear and consistent communication with the Borough Contract Administrator and the Borough Purchasing and Contracting Director regarding ongoing and potential capital projects.

SPHI shall notify the Borough Contract Administrator and Borough Purchasing and Contracting Director in writing at the start of any Capital Improvement Project managed by SPHI.

During the project period, the Borough Contract Administrator or Borough Purchasing and Contracting Director may require periodic project reports from SPHI, which shall provide all requested information as soon as reasonably possible.

Upon the completion of any project managed by SPHI, SPHI shall provide to the Borough Contract Administrator and the Borough Purchasing and Contracting Director a final project report providing details of the final project scope, expenses incurred, as-builts, site surveys, project plans, occupancy permits, AHJ inspection reports, conditional-use permits, utility service agreements, and any further information required by the Borough.

b. Capital Improvement Projects Approval and Management

- i. All Capital Improvement Projects expected to cost in excess of \$1,000,000 must be approved as well as appropriated by the Borough Assembly by ordinance. Unless requiring appropriation or Borough Contract Administrator approval under paragraphs 13.b.ii or 13.b.iii of this Agreement, Capital Improvement Projects costing between \$500,000 and \$1,000,000 must be approved and appropriated by the assembly by ordinance unless the funds have previously been appropriated for that project. If the funds for such projects have been previously appropriated they do not require Borough Assembly approval but must be approved by the Purchasing and Contracting Director. Projects requiring Borough Assembly approval may be approved during the annual Borough budgeting process or on an individual basis. The Borough Assembly or Borough Contract Administrator may decline to consider any project during the budgeting process and instead may review it separately as an individual approval.
- ii. Regardless of estimated cost, any Capital Improvement Project requiring a permit through any AHJ as defined in the International Building Code, such as the 2015 IBC section 105, impacting Life Safety Requirements, and/or decommissioning any asset or part of assets identified on the *Hospital Assets Schedule*, must receive Authorization to Proceed from the Borough Contract Administrator prior to the procurement of any equipment, materials, or services. The Borough will provide a response to SPHI within 14 calendar days of receiving the request.
- iii. Any leasehold improvements on properties not owned by the Borough and costing in excess of \$100,000 require prior approval by the Borough Contract Administrator.
- iv. The Borough may require SPHI to provide submittals for approval on components, equipment, and material to be used in any Capital Improvement Project.
- v. The Borough may in its sole discretion manage any Capital Improvement Project. The Borough shall manage all Capital Improvement Projects expected to cost in excess of \$1,000,000 unless the Borough Contract Administrator provides written authorization to SPHI to manage the project.

14. REAL PROPERTY ACQUISITIONS AND LEASES.

- a. Real Property Acquisitions. For the purposes of this Agreement, a real property acquisition is defined as acquiring any interest in real property that may

obligate the Borough in any way. The acquisition of any interest in real property may not occur without Borough Assembly approval. All such acquisitions shall be conducted by the Borough unless SPHI is given written authorization to do so by the Borough Contract Administrator.

Requests for acquisition of any real property interest shall be conveyed to the Borough Contract Administrator and the Borough Planning Director. SPHI is authorized to conduct operational assessments of a property's ability to meet operational needs, and this assessment may include acquisition of a competent property appraisal. However, SPHI may not initiate negotiations for the acquisition of any such interest unless it has been given written authorization to do so by the Borough Contract Administrator. In any event, all acquisitions of any interest in real property shall only be in furtherance of the purposes of this Agreement and within the authorized powers of the Service Area.

b. Leases in Which SPHI is the Lessee. Leases in the name of SPHI in which SPHI is the Lessee and no obligation whatsoever is imposed upon the Borough, either express or implied, are not subject to the requirements in subparagraph 14.a. of this agreement. Under no circumstances shall such leases obligate the Borough in any way whatsoever without advance Borough Assembly approval. All such leases shall contain a clause stating: "In the event that the Operating Agreement between SPHI and the Kenai Peninsula Borough is terminated and not renewed or extended, and the Kenai Peninsula Borough either assumes operation of the Medical Facilities or contracts with another entity to continue such operation, the continuation of this lease with the Borough or a subsequent operator is subject to Borough Assembly approval and the availability and appropriation of funds." In any event, written approval by the Borough Contract Administrator is required for all such leases costing \$100,000 or more annually. Total cumulative annual costs of such leases shall not exceed \$400,000. Increases to the cumulative annual limitation must be approved by the Borough Assembly by resolution.

15. SUBLEASES OF MEDICAL FACILITIES TO THIRD PARTIES. SPHI is hereby authorized to negotiate the sublease of those Medical Facilities leased to SPHI by the Borough under the following conditions:

(a) Any sublease of the property leased to the Borough by the City of Homer must first be approved by the City of Homer as required in the Consent to Sublease signed by the City of Homer and attached to this agreement;

(b) Such subleases shall be for fair market value and on such terms and conditions that are commercially reasonable in the medical industry;

(c) Such subleases shall be in furtherance of the purposes of this Agreement, in compliance with all applicable laws, within the authorized powers of the Service Area, and comply with all requirements associated with tax-exempt bond financing when applicable;

(d) SPHI's written notices to the Borough Contract Administrator and Borough Finance Director shall include the location leased or proposed to be leased, the sublessee's name, lease terms, and purpose;

(e) The Borough Contract Administrator and Borough Finance Director shall be provided prior written notice of intent to execute each sublease agreement valued at less than \$250,000 per year at least seven (7) business days before execution of the lease; and

(f) All such sublease agreements valued at \$250,000 or more per year must be approved by the Contract Administrator on behalf of the Borough. The Borough Contract Administrator and Borough Finance Director shall be provided written notice of SPHI's intent to enter into such sublease agreement at least twenty-one (21) days prior to executing the lease. The Contract Administrator shall not unreasonably withhold his or her approval. If the Contract Administrator does not respond to SPHI within twenty-one (21) days of SPHI's written notice of intent to enter into such sublease, then the sublease agreement is deemed to be approved by the Contract Administrator provided that the notice to the Contract Administrator includes specific notice of this automatic approval provision.

## 16. FINANCES.

a. Operating Revenue. During the term of this Agreement, all revenue and cash collections from patients, third-party payers, including, but not limited to, Medicaid and Medicare, rents billed and collected by SPHI, and all other sources, arising out of or related to services rendered pursuant to this Agreement, or any renewal or extensions thereto, including but not limited to lease or rental revenues, shall be received and managed by SPHI for the Borough consistent with the terms and conditions of this Agreement. These funds shall first be used by SPHI to pay the usual, customary, and reasonable expenses of operating the Medical Facilities and programs operated by SPHI for the Service Area pursuant to this Agreement, and the reasonable expenses of compliance with the terms and conditions of this Agreement. SPHI shall maintain an operating reserve ("Operating Reserve") of not more than ninety (90) days cash on hand ("the operating reserve amount"). For purposes of the operating reserve amount, "cash on hand" is calculated based on the "days cash on hand ratio" used in the health care industry. On a quarterly basis, SPHI shall transfer all cash on hand in excess of the operating reserve amount to the Borough for deposit into the South Peninsula Hospital Plant Replacement and Expansion Fund ("PREF"), described in paragraph 16(b). If the cash on hand is less than ninety (90) days at any time, then SPHI may request that the Borough authorize the transfer of an amount from the PREF to its operating reserve to maintain the operating reserve amount, by SPHI Board action.

The PREF shall be invested with other Borough funds although the interest earned on that fund will be credited to the PREF. All Borough held funds, including amounts deposited into the PREF, must be appropriated by the Borough Assembly prior to obligation.

b. Plant Replacement and Expansion Fund. The PREF is a fund designated as a source of funding for major repairs and replacement of Medical Facilities; improvements, fixtures, and equipment for Medical Facilities; acquisition of property, improvements, fixtures and equipment related to operation of the Medical Facilities; and to replenish the operating reserves, as provided in paragraph 16.a. above. Amounts held in the PREF are funds of the Borough Service Area. Neither the Borough nor SPHI shall obligate or attempt to spend or transfer funds from the PREF without the prior approval and appropriation by the Borough Assembly. Any transfer into or out of this fund shall first be considered by the SPHI board and its recommendation shall be forwarded to the Assembly. An appropriation is not needed to transfer operating reserve funds into the PREF. Any transfer of funds out of the PREF shall also first be considered by the SPHI board whose recommendation shall be forwarded to the Assembly, which must appropriate the funds prior to any such transfer out of the PREF.

c. Cash Management. All cash reserves in excess of the ninety (90) days cash on hand described in paragraph 16.a. of this Agreement shall be deposited into the Borough's central investment pool within 45 days of the quarter end and managed pursuant to the parties' Memorandum of Agreement dated \_\_\_\_\_, 2019, or successor Agreement, a copy of which is attached hereto as Attachment C and incorporated herein by reference.

d. Financial Reporting. SPHI shall at all times meet all applicable financial reporting requirements and, unless otherwise agreed by the Borough Finance Director, promptly provide all documentation requested as needed to satisfy financial reporting requirements, concerns regarding financial performance, concerns regarding any SPHI receipts and expenditures, and other financial issues that may arise in SPHI's performance of this Agreement.

e. Capital Grants or Gifts. With the assistance of SPHI the Borough may apply to the State of Alaska, U.S. government, nonprofit foundations, or other entities for financial aid or grants to municipalities for hospitals, skilled nursing facilities, other health care facilities, or capital acquisitions for health care programs. Funds received through such application will be spent only for those purposes set forth in the application or a donor-written directive. SPHI agrees to comply with all terms and conditions required by the granting agency or donor directive. All applications for financial assistance or grants shall be subject to review and comment by SPHI before the submission thereof to a government, governmental agency, or other entity.

f. Service Area Revenues. Service Area revenues shall be used to support operations of the Service Area, including operational and capital support of the Medical Facilities and programs operated by SPHI for the Service Area, and other services and projects approved by the Borough Assembly, subject to the appropriation and availability of funds.

g. Medical Service Operating Grants, Gifts and Donations. On behalf of the Service Area, SPHI may apply to the State of Alaska, U.S. government, nonprofit foundations, or other entities for financial aid or grants to support the operation of the Medical Facilities and/or the provision of services or programs pursuant to this agreement. In the event that gifts or donations of money or other property are made to SPHI for the Medical Facilities or the provision of services or programs pursuant to this Agreement, SPHI may accept such gifts, on behalf of the Borough, only if their use is compatible with the operations of the Medical Facilities or the provision of services or programs pursuant to this Agreement. SPHI may accept, on behalf of the Service Area, donations of interest in real property only upon written borough approval, subject to the provisions of Borough Code. The expenditure of funds from such gifts or donations shall be subject to the same restrictions as apply to the expenditure of operating revenues in this Agreement. All gifts or charitable contributions received from South Peninsula Health Foundation are subject to this provision.

h. No Debt Authority. SPHI may not incur debt to finance the acquisition or expansion of the Medical Facilities, equipment, or major or minor maintenance projects without approval by the Borough Assembly.

i. Bonds. All requests for the issuance of bonds to finance the acquisition, expansion, or major or minor maintenance of the Medical Facilities, or the purchase of equipment must be approved by the Borough Assembly.

## 17. PERFORMANCE MEASUREMENT.

a. Performance Standards. SPHI performance under this Agreement shall be measured against objective standards established by one or more organizations such as The Advisory Board Company, The Center for Medicare and Medicaid Services, The Alaska State Hospital and Nursing Home Association, The Alaska Small Hospital Performance Improvement Network, or The American Hospital Association. The performance standards against which SPHI performance will be measured will be set forth in the SPHI Strategic Plan.

b. SPHI Performance. SPHI will:

i. Establish a Board Orientation and Continuing Education Program for all board members and provide an annual report to the Contract Administrator on compliance with the requirements of the program.

ii. Ensure compliance with the Medicare and Medicaid Conditions of Participation as determined through the state's licensing and certification processes.

iii. Ensure that the Hospital complies with all quality measurement reporting requirements necessary to ensure full payment under all applicable Medicare and Medicaid programs.

iv. Establish goals for the Hospital's Performance Improvement Program and metrics to measure progress toward those goals. An annual report on the Performance Improvement Program will be provided to the Contract Administrator.

v. Conduct an annual review of the Hospital's Corporate Compliance Program and include the results of that review in the annual report to the Contract Administrator.

c. Strategic Plan. Within 12 months of the execution of this Agreement, SPHI shall prepare and present to the Borough Administration and SAB, for information purposes, a Strategic Plan containing, at a minimum, the following elements:

- An overview of the Service Area.
- Service area demographics.
- Hospital utilization and market share information and plans.
- Medical staff analysis.
- Hospital analysis.
- Financial results and trends.
- South Peninsula Hospital strategy map.
- South Peninsula Hospital planning calendar.
- Mission, vision, values and competitive position.
- Key strategies.
- Performance measurement.
- Orientation and Training Plan for SPHI Board.

All amendments to the Strategic Plan shall be provided to the SAB and Borough Administration within thirty days of their approval by the SPHI Board. It is agreed and understood that elements of the Strategic Plan may be confidential proprietary information, the public disclosure of which could cause competitive harm to the Medical Facilities. SPHI shall clearly mark all such information as confidential and proprietary. Disclosure of this information to the SAB and Borough Administration shall not be construed to require their disclosure to the general public.

d. Certification. SPHI shall maintain State of Alaska certification of its operation of the Medical Facilities. Due to the critical need for maximum participation in the Medicare/Medicaid programs and the reliance on these programs as a critical source of revenue, SPHI shall maintain Critical Access Hospital status and shall review this status on an annual basis to determine whether this status continues to provide the best revenue structure for the Hospital. SPHI shall notify the Borough

Contract Administrator of any change to this status within 14 days of the decision to change. In addition, SPHI shall strive to attain Joint Commission on Accreditation of Healthcare Organizations (“Joint Commission”) or other similar accreditation status as part of its long-term strategic program, when it becomes financially feasible to do so.

e. Staffing. In order to help ensure fiscal responsibility and that the desired level of services is provided, SPHI shall diligently take all reasonable steps needed to ensure that it has adequate qualified management and staffing in place at all times to, at a minimum, successfully provide the level of services needed to operate a hospital of its capacity in accordance with industry standards. This staffing shall be consistent with the goals and objectives identified in the most recent Strategic Plan. Senior management staff shall consist of the Chief Executive Officer, Chief Financial Officer and Chief Nursing Officer, and SPHI shall notify the Borough within 14 days of any changes in these positions. SPHI shall diligently attempt to fill any vacancies in any of these positions with a regular replacement as soon as possible by using every reasonable process and mechanism available. SPHI shall prepare and maintain a Senior Management Succession Plan and provide a copy of the plan to the Contract Administrator. In the event that SPHI is not successful in recruiting and hiring an appropriately qualified CEO, CFO or Chief Nursing Officer replacement within a commercially reasonable time, SPHI may utilize the services of an interim CEO, CFO or Chief Nursing Officer until an appropriately qualified replacement can be hired. SPHI shall not employ one individual to perform the duties of more than one senior management position. If a vacant senior management position has not been filled within six months, and SPHI has not filled the position with an interim replacement, the Borough Contract Administrator may require that SPHI utilize the services of a management or recruiting company to hire or provide an interim replacement until a regular replacement is hired. SPHI will report to the Borough Contract Administrator, at least monthly, on its progress in recruiting and hiring senior management replacements.

f. Pension Plan Funding. At the time of entering this Agreement SPHI provides a Defined Contribution Pension Plan for its employees. It previously provided a Defined Benefit Pension Plan for its employees which is now only available to employees who are already enrolled. SPHI agrees to annually fund its obligations for the Defined Benefit Pension Plan at least in the amount determined by the Plan Actuary to be the required minimum contribution necessary to adequately fund the plan, including interest on net pension obligation, and to provide to the Borough Finance Director, upon request, reasonable assurances that the Pension Plan is adequately funded and managed. SPHI shall maintain insurance coverage for the Plan through the Pension Benefit Guaranty Corporation. SPHI shall provide to the Borough Finance Director, on an annual basis, a copy of the IRS Form 5500 and associated schedules.

g. Sub-standard Performance. If the Borough Contract Administrator determines that any aspect of actual performance under this Agreement is consistently below standards established under this Agreement, within 60 days of notice from the Borough Contract Administrator the parties shall develop and SPHI shall implement a Specific Performance Improvement Plan approved by the Borough to correct the deficiency. The Specific Performance Improvement Plan shall specify the corrective action(s) to be taken and the time frame within which performance will be returned to established standards. In cases where the parties agree that the operating environment has changed to the point where a performance standard or standards are no longer appropriate, new or revised performance standards may be established. The parties may agree, in writing, to amend any provision of the Specific Performance Improvement Plan.

## 18. SERVICE AREA BUDGET.

a. SPHI Budget Proposal. SPHI shall prepare and submit a proposal to the SAB containing anticipated funding needs from service area funds for the operations and maintenance of the Medical Facilities and programs operated by SPHI for the Service Area. The Borough Contract Administrator will notify SPHI in advance of the dates when the SPHI budget must be submitted to the Service Area Board and the Administration.

b. Service Area Budget Proposal. The Service Area Board shall prepare and submit a proposal to the Borough administration for the annual Service Area budget, which may include debt service payment for outstanding bonds, property insurance, audit fees, and operating and maintenance expenses of the Medical Facilities. SPHI shall provide assistance in the process, or written documentation, at the request of the SAB or the Borough Assembly. The SAB budget shall give preference to anticipated funding needs for the Medical Facilities and programs operated by SPHI for the Service Area pursuant to this Agreement. This may include repairs, renovations or additions to those facilities. It is recognized by the parties that the Service Area budget proposal may not necessarily include all items recommended by SPHI.

c. Service Area Final Budget. The Borough Administration shall review the Service Area operating and capital budget proposals, and submit the administration's proposed Service Area budget to the Borough Assembly, designating revenues available to fund Service Area capital expenditures and operations and the mill rate necessary to fund the Service Area's portion of the budget. SPHI shall assist, as requested by the Borough Contract Administrator, in presenting the budget to the Borough Assembly. Subject to assembly approval and the availability of funds, funding shall be provided by appropriation with preference for the operational and capital requirements of the Medical Facilities.

19. ACCOUNTING/AUDIT/REPORTING.

a. Accounting. SPHI shall account for all financial transactions involving Service Area funds and all other funds received from the operation of, or to operate, the Medical Facilities and programs operated by SPHI for the Service Area. Both parties shall maintain accounting records involving Service Area operations in a manner that complies with generally accepted accounting principles.

b. Investment of Funds. All cash held and investments of funds by SPHI must meet the requirements established by KPB 5.10, "Investment of Moneys," or other comparable requirements approved by the Borough's Finance Director, and any related policies of the Borough.

c. Audit. The Borough shall be responsible for compliance with any single-audit requirements of the Medical Facilities, or portions thereof. The independent auditing firm selected by the Borough to comply with any such audit requirements shall submit written annual audit reports and shall make verbal presentations to SPHI's board of directors, the SAB, and the Borough Assembly.

d. Chief Executive Officer or Management Contract. SPHI shall hire, for reasonable compensation, a chief executive officer, or shall enter into a contract for the management of the Medical Facilities; provided, however, the term of any such employment or management contract shall not exceed the term of this Agreement, unless the contract contains a clause which terminates the contract if this Agreement is terminated and not extended or renewed. The provisions of the contract concerning compensation upon severance of the employment relationship shall not exceed the reasonable and customary amount paid to similar positions by similar publicly owned hospitals in Alaska and the Pacific Northwest. A copy of the Management Contract or Employment Contract and copies of all contract renewals or amendments shall be provided to the Borough Contract Administrator immediately upon execution.

e. Hospital Executive Incentive Plan. SPHI agrees that no employee incentive plan shall take into account, or be contingent upon, either share of net profits of the Medical Facilities or share of both revenues and expenses of the Medical Facilities for any fiscal period. Incentive compensation plans implemented by SPHI may be based on performance in meeting one or more standards that measure quality of service, performance or productivity, and that are reasonable for services rendered. SPHI agrees to provide, upon request, the Borough with any and all incentive plan agreements of any employees fitting the IRS definition of key employees, as defined in IRS Form 990 reporting requirements. To the extent allowed by law, such information shall be treated as privileged and confidential. It may be required for bond financing purposes and

therefore may be disclosed to professionals associated with approving the issuance of such financing who require such disclosure.

20. RATES. SPHI shall have the exclusive right to establish rates, fees and charges for services provided at the Medical Facilities SPHI, operating as a nonprofit organization, will use its best efforts to ensure that the rates, fees and charges it has established are reasonable and will cover the operating and maintenance expenses of the Medical Facilities and SPHI's other obligations under this Agreement.

21. INSURANCE.

a. SPHI's Insurance. During the term of this Agreement SPHI, at all times, shall maintain industry-specific insurance coverage for the requested types and total limits approved by the Borough Contract Administrator, including but not limited to the following insurance coverage, in amounts approved by the Borough:

- i. Workers' compensation insurance coverage as required by Alaska law;
- ii. Comprehensive general liability insurance for the Medical Facilities and operations provided by SPHI pursuant to this Agreement;
- iii. Cyber liability coverage;
- iv. Auto liability coverage;
- v. Medical malpractice or errors and omissions by SPHI and its employees; and
- vi. Directors' and officers' liability coverage, with employment liability.

SPHI may purchase additional insurance coverage that it deems to be necessary and appropriate to insure the management and operation of the Medical Facilities and other services provided by SPHI pursuant to this Agreement, after receiving written approval from the Borough Contract Administrator, which approval shall not be unreasonably withheld.

Unless otherwise agreed or prohibited, the Borough shall be named as an additional insured on all policies. All coverages shall be written on a primary and non-contributory basis and must contain a waiver of subrogation in favor of the Borough, unless a waiver of subrogation is not available in the market for the type of the required industry-specific insurance coverage.

b. Verification of Coverage. SPHI shall furnish the Borough Administrator with approved certificates of insurance and with certified copies of all endorsements affecting coverage upon request from the Borough Contract

Administrator or when policies are amended or renewed. The certificates and endorsements for each insurance policy are to be on forms which meet industry standard. The Borough reserves the right to require complete, certified copies of all required insurance policies at any time.

In the event of subcontractors contracted with SPHI, SPHI shall ensure that separate certificates and endorsements are received for each subcontractor, including workers' compensation, to the extent required by state law, and other insurance SPHI deems appropriate.

c. Borough Insurance. During the term of this Agreement the Borough shall, at all times, maintain and provide fire and property damage insurance in amounts sufficient to replace the Medical Facilities, including personal property. It is the intent of the Borough to use proceeds received as a result of insurance claims to address the losses of covered facilities and property.

SPHI must provide an updated schedule of all Borough property and contents located in or on the Medical Facilities, upon request by the Borough.

d. Notice of Claims. Each party shall immediately notify the other party to this Agreement of any lawsuits or claims asserted against SPHI, any of the Medical Facilities or the Borough related to operations of SPHI under this Agreement or of any potential claims that may be asserted.

e. Extended Reporting Period or Tail Coverage. Except as otherwise provided below, SPHI shall obtain, carry and maintain tail or extended reporting period coverage for all types of insurance coverage obtained pursuant to paragraph 20.a. of this Agreement, effective as of the date of termination of this Agreement, in the same amounts as or more than existing coverage at the time of termination for the named insureds. SPHI is not required to obtain such tail or extended reporting period coverage for workers' compensation insurance or for other coverage obtained on a per occurrence basis. SPHI and all of its directors who served as directors during the term of this Agreement shall be named insureds.

22. **DEFENSE AND INDEMNIFICATION.** Except as otherwise provided in this paragraph, SPHI shall indemnify, defend, save and hold the Borough, its elected and appointed officers, board members and employees harmless for any and all losses, claims, damages, demands, suits or liability of any nature, kind or character including costs, expenses and attorney's fees resulting from, arising out of, or in any way connected with SPHI's performance or failure to perform under the terms of this Agreement in any way whatsoever. If there is a claim of, or liability for, a joint negligent act or failure to act of SPHI, including its officers, board members and employees, and the Borough, including its elected and appointed officers, board members, and employees, the indemnification, defense and hold harmless obligation of this provision

shall be apportioned on a comparative-fault basis between the Borough and SPHI, provided the borough's obligation is subject to the appropriation and availability of funds. Neither party shall be responsible for any claims arising from the sole negligence or willful misconduct of the other party for damage or loss that has been found to be attributed to an independent contractor directly responsible to the other party under separate written contract.

The defense and indemnification provisions in this paragraph shall only survive the termination of this Agreement to the extent that coverage is available for any claims made under applicable insurance policies.

Nothing in this Agreement may be construed to modify (1) the sovereign immunity afforded the borough in AS 09.65.070 as now enacted or may be hereinafter amended, or as otherwise provided by law, or (2) the limitations of liability for certain directors and officers provided in AS 09.65.170 as now enacted or may be hereinafter amended, or as otherwise provided by law.

23. RISK MANAGEMENT. SPHI shall administer a risk management program with the objective of managing all risks of accidental losses and/or claims. This must include the protection of Kenai Peninsula Borough assets through structured internal procedures and continuous assessment of exposures to losses and/or claims. It should also be an objective of the program, to the extent possible, to create in incident-free facility that fosters a safe and secure environment for SPHI's employees, physicians and other health care providers, contractors, borough personnel, as well as members of the public.

SPHI shall provide annual reports to the Borough Administrator and Human Resources Director describing SPHI's Risk Management program by March 1 of the following year. The report shall include total costs and numbers of all workers' compensation claims, including those classified as no treatment and minor medical, filed in the previous calendar year. SPHI will deliver a list of safety-related training classes provided to employees, and a report describing other efforts taken to develop and implement best practice risk management techniques.

24. EMERGENCY REPAIRS. In the event of damage to, or destruction of all or part of the Medical Facilities in which immediate repairs are necessary to keep the Medical Facilities or portions thereof, including equipment, operational, SPHI may perform such needed repairs and replace equipment to the extent necessary to keep the Medical Facilities or portions thereof, including equipment, operational. In such event, SPHI shall have authority to suspend or reduce services it determines cannot be provided until such time, if any, building, repair or replacement of the Medical Facilities or portions thereof, including equipment, has been completed. SPHI must notify the Borough as soon as reasonably possible of the entire situation and its response thereto

including providing any contracts for reconstruction, equipment or replacement in excess of \$250,000 and information regarding any suspension or reduction in services as a result of damage or destruction.

25. LEVEL OF SERVICES AND OTHER BUSINESS ACTIVITIES.

a. Existing Level of Services. SPHI represents that the existing scope and level of services at the Medical Facilities as of the effective date of this Agreement are within its charitable purpose under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended and are authorized under the terms of this Agreement.

b. Expansion of Services/New Services. The parties agree that SPHI may provide for expanded or new health services pursuant to this Agreement, subject to the provisions of this section and in accordance with powers authorized for the Service Area as described in the Borough's Code of Ordinances as now enacted or as may be amended, including but not limited to joint ventures or ownership participation or management participation in other health care services, and other business arrangements with other health care providers and businesses. All joint ventures or ownership participation or management participation in other health care services require prior approval by the Borough Assembly by ordinance. Prior notice of expansion of services or new services shall be provided in writing to the Borough Contract Administrator. To the extent allowed by law, such notice may be considered privileged or confidential information as defined in this Agreement. Borough Assembly approval shall be required to the extent it would otherwise be required in this Agreement, and for new services that have an expected total capital cost in excess of \$250,000.

Expansion of services or new services do not include changes in the method of delivering existing services or the use of new technology or techniques to provide those services even if this may involve additional personnel or training or enhancement of current capabilities to meet standards for proper patient care, or changes required to meet basic accreditation standards and licensing for the hospital. Any change in the level or type of services provided shall be included in the next quarterly report regardless of the cost as well as the annual report issued pursuant to paragraph 10.

c. Elimination of Services. SPHI may eliminate services or levels of care being provided at the Medical Facilities or otherwise pursuant to this Agreement, but only after 90 days' prior written notice to the Borough Assembly and Borough Contract Administrator. Within that 90-day notice period, the Borough may then direct that SPHI continue to provide such services or level of care, if deemed in the best interest of the residents of the Service Area, even when not economically feasible. However, if the Borough decides to continue an economically unfeasible service or level of care, it shall consider providing an operating subsidy to SPHI equivalent to at least the loss associated with providing such service or level of care. If the Borough decides not to

provide any such operating subsidy, then SPHI is not obligated to provide such services or level of care.

d. Disclosure of Other SPHI Business. In the event that SPHI engages in other business activities unrelated to the activities required or authorized by this Agreement, SPHI shall immediately notify the Borough Contract Administrator of the nature and extent of such other business activities, including upon request a disclosure of financial reports reflecting revenues and expenses, so that the Borough Contract Administrator may determine that such activities do not conflict with this Agreement, or otherwise impair either parties' rights or obligations under this Agreement. To the extent allowed by law, the parties agree that records of such other business activities are not public records. Disclosure to the Borough Contract Administrator of records under this provision shall not be deemed to convert such records to public records, to the extent allowed by law. In no case will the assets generated or provided through this Agreement be used to capitalize or otherwise fund any activities of SPHI conducted outside the scope of this Agreement.

26. APPOINTMENTS TO THE MEDICAL STAFF. SPHI shall establish written policies for granting privileges to practice in the Medical Facilities in cases in which application for privilege to practice is required. These written policies must prohibit discrimination against applicants on the basis of race, religion, color, national origin, age, sex, sexual orientation, gender identity, physical or mental disability, marital status, changes in marital status, pregnancy, or parenthood, or any other classification prohibited by law. The language in this paragraph does not prohibit SPHI from entering into an exclusive contract for the professional services of a specialist, or to require health care providers to be SPHI employees rather than independent contractors, if SPHI deems there to be business justification for the exclusive contract or employment model or relationship.

27. NONDISCRIMINATION IN ADMISSIONS. All persons in need of medical care shall be admitted to the appropriate Medical Facilities without regard to race, religion, color, national origin, age, sex, sexual orientation, gender identity, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, or the financial ability to pay for such medical care to the extent required by law.

28. MEDICAL RECORDS. During the term of this Agreement, SPHI shall have the full use and control of all medical records, and shall be responsible for complying with all applicable federal and state laws regarding the maintenance, security and privacy thereof. Medical records shall remain under the supervision and control of SPHI so long as provided for in this Agreement; provided, however, that SPHI may make arrangements for electronic storage and back-up of electronic records. If SPHI ceases at any time to be the Operator as provided for herein, the Borough shall reacquire

the full use and control of such medical records, and shall be required to ensure they are preserved the same for such period of time as is required by Alaska or Federal laws, but, in any event, a minimum of five (5) years following the date on which SPHI ceases to be the Operator. After SPHI ceases to be the Operator and so long as such medical records are preserved by the Borough or its contractor as required above, to the extent allowed by law and for such purposes as are consistent with its prior duties and responsibilities as the Operator and in connection with any investigation or litigation in which SPHI may be involved or may become involved, SPHI shall at all times be provided free and complete access to such medical records and may copy all or any part of the same, and may maintain electronic records.

29. **OTHER GOVERNMENTAL ACCESS TO BOOKS AND RECORDS.** In order to ensure that any expense which might be incurred by or on behalf of the Medical Facilities or other authorized Service Area activity administered by SPHI pursuant to this Agreement is included to the extent appropriate in determining the reasonable costs reimbursed by Medicare and Medicaid programs, or other similar government programs, SPHI shall retain all records which are necessary to audit and certify the nature and extent of the services provided and the cost thereof, for at least the minimum period of time required by applicable state and federal law after the furnishing of such services as are described in this Agreement, and make available all such records upon request by the duly authorized representatives of a federal or state government agency with jurisdiction thereof. SPHI also agrees that if it subcontracts for any of the duties under this Agreement, to the extent required by federal or Alaska law, the subcontract shall contain a clause requiring that the subcontractor organization must also satisfy all applicable record retention and disclosure requirements which are necessary to an audit and certification of the nature and extent of the services provided and the cost thereof.

30. **PUBLIC ACCESS.** Recognizing that SPHI is operating publicly owned facilities under this Agreement, SPHI shall make all meetings of its board of directors open to the public, and copies of non-confidential board materials shall be made available to the public at or before the meeting, unless the subject matter under discussion involves privileged or confidential information as defined in this Agreement. Nothing in this section shall be construed as affecting the status of SPHI as a §501(c)(3) nonprofit, private corporation or bringing SPHI within the scope of the Alaska Open Meetings Act, AS 44.62.310-.312.

a. **Privileged or Confidential Information.** As used herein, the term “privileged or confidential information” means the following records or information in the possession of SPHI:

- i. Medical records, patient information and patient billing files, except patient information that may be disclosed without violating patient privacy rights;
- ii. Medical review organization information and records prepared and retained pursuant to AS 18.23.010 – 18.23.070;
- iii. Employee records and information including but not limited to background and reference checks, substance abuse tests, employee credit checks, employee grievances, employee disciplinary actions and workplace investigations;
- iv. Physician and other health-care provider records and information including but not limited to credentials and disciplinary files;
- v. Director records and information except the name, mailing address, and term of office of each director;
- vi. Records and information regarding pending or threatened litigation by or against SPHI or the Borough, the disclosure of which could adversely affect the finances or litigation strategy of SPHI, the Borough, or the Medical Facilities operated pursuant to this Agreement;
- vii. Records and information regarding the business plans of SPHI, the disclosure of which could be used by competitors or others to the detriment of SPHI, the Borough, or the Medical Facilities;
- viii. Information and records that pertain exclusively to SPHI and not to activities performed pursuant to this Agreement; and
- ix. All other records and information that SPHI is required or permitted by applicable federal, state or local law to keep confidential.

Privileged or confidential information and records may be discussed by the SPHI board of directors privately, in executive session. Nothing herein shall be deemed as precluding the SPHI board of directors from holding private work sessions, training sessions and informational meetings at which no board action is taken.

b. Board of Director Meetings. It is agreed and understood that prior to final board action on any matter referred to a board committee, the SPHI board will fully disclose the substance of committee consideration of the matter, except for any of

the above-referenced confidential matters. Disclosure may occur either verbally or in the text of a resolution, at the discretion of the board. The parties further agree that the board's executive committee has authority to take action on behalf of SPHI in between regular board meetings to the extent allowed by law and SPHI's Bylaws. All such final actions that are not required or permitted to be kept confidential shall be disclosed to the board in a public meeting of the board.

c. Public Comment. Members of the public who wish to comment upon policies or proposed actions of the SPHI board of directors shall be given a reasonable opportunity to do so during the "Public Comment" section of the regular Board meeting open to the public, before final action is taken and after applicable information concerning the matter, if any, has been made available to the public.

d. Notice of Meetings and Agenda. The proposed agenda of all regular and special meetings of the SPHI board of directors, including the date, time, place and proposed agenda of the meeting, shall be posted online and on the public bulletin board of the South Peninsula Hospital, and a copy made available for posting by the Borough Clerk at least five days prior to the date and time set for the meeting. Should an emergency or other bona fide issue requiring immediate attention arise, a special meeting may be held with notice posted for less than the five days otherwise required by this section.

e. Meetings Unrelated to This Agreement. Nothing in this provision shall be construed to require meetings of the SPHI Board of Directors to be open to the public or to the Borough Contract Administrator when the subject matter discussed is not related to this Agreement.

f. Records. It is further agreed and understood that records of the Medical Facilities managed and operated by SPHI pursuant to this Agreement are subject to the Public Records Act, AS 40.25.100 – 40.25.220 and to KPB 2.54.010 – 2.54.070, including all requirements and exceptions contained therein or listed above, because of its status as an independent contractor of the Borough. Nothing in this section shall be construed to compel public disclosure of internal SPHI documents not related to the management and operation of the Medical Facilities, nor shall SPHI be deemed a public entity or quasi-public corporation unless required by law.

31. **EMPLOYEES AND CONTRACTORS.** SPHI is an independent business and is not an employee or agent of the Borough, either by virtue of this Agreement or otherwise. SPHI's activities conducted under this Agreement are the activities of SPHI as an independent contractor, and not that of the Borough or the Service Area. SPHI has the exclusive authority to hire and fire employees of the Medical Facilities administered by SPHI, and such employees are the employees of SPHI and not the Borough or Service Area. SPHI shall in no transaction or endeavor make any

representation that it has authority to act for the Borough in any capacity or that it has authority to bind the Borough in any manner through its actions. SPHI shall not advertise or hold out its activities under this Agreement as being an operation of the Borough. The decisions and actions permitted and authorized under this Agreement are those of SPHI acting in its capacity as an operator on behalf of the Borough or Service Area and not those of the Borough or the Service Area. The restrictions in this Agreement on SPHI's activities are imposed for the protection of the public funds and assets that the Borough authorized SPHI to utilize as provided in this Agreement.

32. INSPECTION. The Borough reserves the right to enter and inspect the books and records of the Medical Facilities and any other Service Area activity or facility operated by SPHI at any reasonable time during normal business hours for administrative personnel, for the purpose of ensuring compliance with this Agreement and determining the adequacy of the operations, maintenance, upkeep and repair of the Borough's property, and any other matters relating to this Agreement. This does not authorize the Borough to inspect medical, personnel or other records legally considered confidential without other authorization.

33. ASSIGNMENT. SPHI shall not have any power to assign its rights or interests under this Agreement without the prior approval of the Borough Assembly.

34. AMENDMENT. The parties may amend any term in this Agreement by written agreement signed by both parties, subject to approval by the Borough Assembly by resolution.

35. GOOD FAITH AND FAIR DEALING. The respective contract administrators for the parties will interpret the provisions of this Agreement in good faith. The parties will act in accordance with good faith and fair dealing in carrying out their obligations under this Agreement.

36. BREACH AND REMEDIES.

a. By Borough. If the Borough breaches this Agreement by failing to comply with any of the terms and conditions herein and has not cured the breach within sixty (60) days of receipt of written notice thereof from SPHI, SPHI may terminate this Agreement.

b. By SPHI. If SPHI breaches this Agreement by failing to comply with any of the terms and conditions herein, and has not cured the breach within sixty (60) days of receipt of written notice thereof from the Borough, the Borough may terminate this Agreement.

c. Cooperation in Transition. SPHI and Borough agree that if this Agreement is terminated, the parties will cooperate and assist in a smooth transition to another operator of the Medical Facilities.

37. TERMINATION. Either of the parties hereto may for the reasons hereinafter set forth in this paragraph terminate this Agreement by giving the other party ninety (90) days' prior notice in writing, sent by certified mail, return receipt requested, or personally delivered. Assembly approval by resolution shall be required for the Borough to terminate this Agreement. Grounds for such termination are:

a. A breach of any of the terms and conditions herein contained when such breach is not remedied as herein provided; or

b. When and if either party, because of conditions beyond its control, is unable to obtain or retain medical doctors to adequately staff the Medical Facilities managed and operated by SPHI either directly or through a contract; or

c. When either party requests a modification of the terms hereof necessary to relieve it from financial loss in the proper conduct, operation and management of the Medical Facilities, and is unable to obtain the consent of the other party to a reasonable change or modification sufficient to alleviate such condition; or

d. If the Borough has received or makes application for and receives financial assistance or grants of operating and capital funds from any government agency, nonprofit foundation, or other entity for Service Area activities administered by SPHI, and SPHI materially breaches the terms of such grant Agreement, the Borough in its sole discretion may determine such breach to be a material breach of this Agreement; or

e. If the Borough Contract Administrator becomes dissatisfied with the performance or results of SPHI's operation and maintenance of any of the Medical Facilities or services provided pursuant to this contract, the Borough Contract Administrator may issue a written notice describing the problem and requesting it be remedied. If the Borough Contract Administrator determines that SPHI has failed to take reasonable action to remedy the problem within sixty (60) days of the written notice, this failure constitutes cause and the Borough may terminate this Agreement.

38. SURRENDER ON TERMINATION. SPHI, upon termination of this Agreement pursuant to the provisions hereof, or any extension thereof, and in the event there is no successor agreement between the parties, shall work cooperatively with the Borough and subsequent operator to facilitate a smooth transition of the operation and management of the Medical Facilities. SPHI shall promptly quit, surrender and reconvey to the Borough and shall surrender its possession and control of all tangible and

intangible assets including without limitation all real and personal property covered by this Agreement in as good a state and condition that such property was in on the effective date of this Agreement, normal wear excepted. That property includes, but is not limited to, all rental and leasehold interests of SPHI in all the Medical Facilities, all improvements, capital improvements, fixtures, equipment, materials, supplies, inventory, medical records, business records, revenues, cash, cash equivalents, accounts receivable, trust accounts and other property necessary for or associated with the operation of the Medical Facilities.

Notwithstanding the foregoing, SPHI shall not be required to convey to the Borough such cash, income or other assets, if any, as are received by SPHI from sources independent of and unrelated to this Agreement that were previously disclosed to the Borough as required by this agreement.

SPHI shall give to the Borough, or such other person identified by the Borough, all records required for continued operations of the Medical Facilities.

The parties shall cooperate so that all licenses and permits incident to operation of the Medical Facilities can be transferred or changed to either the Borough or an operator identified by the Borough. SPHI shall file a final cost report with the Borough within 45 days after termination.

39. FINAL ACCOUNTING. Upon termination of this Agreement for any reason there shall be complete accounting and final payment and settlement of accounts within ninety (90) days following the submission of the accounting report covering the period of time from the end of the last fiscal year audit through the end of operation by SPHI.

40. SEVERABILITY. No provision of this Operating Agreement shall be effective which is in violation of any state or federal law or regulation or agreement heretofore entered into between the Borough and any state or federal agency, relating to the use or operation of the Medical Facilities administered by SPHI; provided, however, if one or more provisions of this Agreement are hereinafter determined to be invalid and unenforceable, this shall not operate to defeat or invalidate the remainder of this Agreement unless the lack of enforceability or invalidity has the effect of substantially changing the terms and conditions of this Agreement or operates in such a manner as to invalidate or defeat the primary purpose or objectives of this Agreement.

41. SUCCESSORS AND ASSIGNS BOUND. The covenants and conditions herein contained shall apply to bind the successors and assigns of the parties hereto.

42. TIME OF THE ESSENCE. Time is declared to be of the essence in this Agreement and each and every term and provision hereof.

43. **FORCE MAJEURE.** Neither party to this Agreement shall be liable for delays in performance or for non-performance directly occasioned or caused by Force Majeure. Force Majeure means any event beyond the reasonable control of the party claiming to be affected thereby including without limitation acts of God, storms, war, fire, strikes of general application, acts of a public enemy, insurrections, riots, or rules or regulations of any governmental authority asserting jurisdiction or control, compliance with which makes continuance of operations impossible. Strikes, lockouts or differences with workers which are limited to SPHI's personnel or those of SPHI's Subcontractors and inability of either party to secure funds shall not be regarded as Force Majeure. Upon the occurrence of Force Majeure, the party affected shall give prompt notice thereof to the other party and shall do all things reasonably necessary to remove or mitigate its effects.

44. **WAIVER.** The waiver by a party hereto of any term covenant or condition herein contained shall not be deemed to be a waiver of such term, condition, covenant, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

45. **VENUE.** Any suit regarding enforcement or application of this Agreement shall be filed and prosecuted in the Kenai Venue District, Third Judicial District, State of Alaska.

46. **NO RIGHTS CONFERRED.** Nothing in this Agreement shall be construed to confer any right or cause of action or suit, either at law or in equity, upon any person, group of persons, firm, corporation or public officer, other than the parties signing this contract, and SPHI shall have no authority to bind the Borough or create any liability on the Borough's part, unless expressly authorized in this Agreement.

47. **NON-COMPETITION.** The parties understand and agree that, except as authorized by the Borough Assembly, SPHI shall not engage in any activities that compete with hospital service area activities within the boundaries of the Service Area during the term of this Agreement, any extension thereof, and for a period of two years from the date this Agreement is terminated. Borough Assembly authorization of such activities may be in the form of a resolution unless an ordinance is otherwise required by law, and may be considered granted if the Borough Assembly appropriates funds for such an activity.

Nothing herein shall be deemed as precluding any person who serves or served as an officer or director of SPHI from engaging in the practice of medicine or other health care-related endeavors. However, no such person may use any "privileged or confidential information" whatsoever gained from their involvement with SPHI as an officer or director, to compete with SPHI or Service Area activities while serving as an

officer or director, or for a period of two years thereafter, unless a longer period is required by law, from the date the person ends their service as an officer or director of SPHI, within the boundaries of the Service Area. "Privileged or confidential information" has the meaning defined in paragraph 29.a above. Any information in the public domain or that becomes part of the public domain as a public record, pursuant to paragraph 29.f, above, is not "privileged or confidential information."

48. CONTRACT ADMINISTRATION. The Borough Mayor is the Borough Contract Administrator under this Agreement. The President of SPHI is the administrator of this Agreement on behalf of SPHI.

49. INTEGRATION. This Agreement, the Agreements described in section 2, all amendments to those Agreements, and all attachments to this agreement which are integrated herein, constitute the entire agreement between the parties. This Agreement supersedes all previous communications, memoranda, correspondence, proposals, understandings, agreements and contracts, both verbal and written, between these parties. Both parties specifically acknowledge that, in entering into and executing this Agreement, they rely solely upon the representations and agreements contained in this Agreement and no others. No oral statements or prior written material not specifically incorporated herein shall be recognized by either party or bind either party unless incorporated herein by amendment, such amendment to become effective on the date stipulated in such amendment. Further, this Agreement may not be enlarged, modified, amended, supplemented, or altered except by amendment pursuant to this Agreement.

50. RECITALS. The Recitals to this Agreement are hereby incorporated into this Agreement as if fully set forth herein.

KENAI PENINSULA BOROUGH

SOUTH PENINSULA HOSPITAL,  
INC.

By: \_\_\_\_\_  
Honorable Charlie Pierce  
Its: Mayor

By: \_\_\_\_\_  
David Groesbeck  
Its: President, Board of Directors

Approved by KPB Ord. 2019-\_\_\_\_\_  
Date: \_\_\_\_\_

Approved by SPHI Motion \_\_\_\_\_  
Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: \_\_\_\_\_  
Johni Blankenship, Borough Clerk

By: \_\_\_\_\_  
Colette Thompson, Borough Attorney

ACKNOWLEDGMENTS

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

\_\_\_\_\_  
Notary Public for State of Alaska  
My Commission Expires: \_\_\_\_\_

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by David Groesbeck, the President of South Peninsula Hospital, Inc., a non-profit corporation, for and on behalf of the corporation.

\_\_\_\_\_  
Notary Public for State of Alaska  
My Commission Expires: \_\_\_\_\_

## EXHIBIT A

### DESCRIPTION OF MEDICAL FACILITIES

The Borough leases the following described property to SPHI (hereinafter the “Medical Facilities”) for the term of this Agreement and any extension thereof:

a. The South Peninsula Hospital and its grounds, located at 4300 Bartlett Street, Homer, Alaska, owned by the City of Homer, more particularly described as:

Tract A-2, South Peninsula Hospital Subdivision 2008 Addition, filed under Plat No. 2008-92, Homer Recording District, Third Judicial District, State of Alaska.

b. The hospital parking lot property and buildings owned by the Borough, more particularly described as:

Lots 3, 4, 5 and 6, Block 7; Lot 4, Block 8, Lot 6, Block 9, Fairview Subdivision Plat No. HM 56-2936 Volume 8, Page 196, Homer Recording District, Third Judicial District, State of Alaska.

c. The following leased property located at 4251 Bartlett Street, Homer, Alaska, owned by Mark Halpin and B. Isabel Halpin subject to the terms and conditions of the lease, more particularly described as:

L2-A Block 8 Fairview Subdivision Halpin Addition, according to Plat No. 2009-43, Homer Recording District, Third Judicial District, State of Alaska,

d. 4,904 sq. ft. of office space located at 4136 Bartlett Street, Homer, Alaska 99603 subject to the terms and conditions of the lease, more particularly described as:

Lot 2-A, Block 5, Fairview Subdivision No. 11, as shown on Plat No. 85-28, Homer Recording District, Third Judicial District, State of Alaska.

e. Approximately 1,500 square feet of the office space owned by Westwing LLC located at 4117 Bartlett Street, Homer, Alaska 99603

subject to the terms and conditions of the lease, more particularly described as:

Lot 4, Block 10, Fairview Subdivision, as shown on Plat No. 56-2936, Homer Recording District, Third Judicial District, State of Alaska.

f. 3,780 square feet of office space and 3,225 square feet of basement office space both within the Kachemak Bay Professional Building, 4201 Bartlett Street, Homer, Alaska 99603 subject to the terms and conditions of the lease more particularly described as:

Lot 1-A Block 9, Fairview Subdivision 2003 Addition, as shown on Plat No. 2004-101, Homer Recording District, Third Judicial District, State of Alaska.

g. The following leased property owned by Jonas Ridge, LLC located at 203 Pioneer Avenue, Suite 1, Homer, Alaska 99603, subject to the terms and conditions of the lease, more particularly described as:

Tract A, Chamberlain & Watson Sub Plat of Tract A, Section 19, T6S, R13W, S.M., Plat 075063, Homer Recording District, Third Judicial District, State of Alaska.

h. Office space owned by the Kenai Peninsula Borough located at 348 Cityview Avenue, Homer, Alaska 99603, more particularly described as:

Lot 4, Block 8, Fairview Sub., Section 18, T6N, R13W, Seward Meridian, Plat 1956-2936, Homer Recording District, Third Judicial District, State of Alaska.

i. Office space owned by the Kenai Peninsula Borough located at 347 Cityview Avenue, Homer, Alaska 99603, more particularly described as:

Lot 6, Block 9, Fairview Sub., Section 18, T6N, R13W, Seward Meridian, Plat 1956-2936, Homer Recording District, Third Judicial District, State of Alaska.

j. Such other Borough-owned or leased facilities, if any, as are authorized by the Borough pursuant to this Agreement for SPHI to sublease and operate pursuant to this Agreement.

# EXHIBIT B



## October 2017 Financial Performance Report

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## South Peninsula Hospital

### CFO Report FY 2018 Overview of October Financials

#### Income Statement-

##### Patient Service Revenue (PSR)

Inpatient PSR of \$2.2M is down \$478K from September and budget by \$308K, this is attributed to an increase in Medicare/Medicaid, almost half patient days were swing days (110/267=42%) as reflected in the elevated LOS. We experienced a slight increase in Medicare payer mix to 39% from 35% in September and drop in Commercial to 28% from 34% which negatively impacts our contractual deductions. LTC was slightly ahead of September and budget, currently census is at 100% ahead of budget by 4% YTD. Outpatient Ancillary at \$6.5M is down from Sept by \$673K of most attributed to less lab and ER charges offset by increases in surgery charges.

##### Deductions for Contractual and Bad Debt

Contractual discounts were down in October which averaged 35% from September's 38% due to the shift from inpatient to outpatient revenue and a positive adjustment of \$167K to Medicare contractual from a more favorable settlement payment on the FY 2016 Cost Report than estimated. Additionally, we had a substantial drop in bad debt as the Aging continues to improve for the hospital AR and we have flushed out most of the old clinic and LTC AR from Evident. Since our bad debt reserve % is higher for the older aging buckets so our reserve against AR is dropping each month. Back in January we had \$6.6M in over 120 days old and at the end of October we have less than \$5M. Charity care had trended down as we have processed all approved applications but we had several large applications approved for high dollar surgeries for several Medicare age patients who can't afford the co-pays and deductibles. It's rewarding to assist many of the families or couples from our community who have applied recently they are truly deserving of the assistance.

##### Volumes for October

Acute care occupancy down at 41% (PY October also 41%) compared to 568 in September. Our LOS is running high at 4.3 but down from 5.8 in September, YTD is 4.3 still high for a CAH and acute/swing days were 267, YTD we are above prior year with an average of 300 days compared to 294 days for the first 4 months of the fiscal year. October's ADC (average daily census) of 8.6 is well below avg of 11.3 in September as reflected in our patient days.

October surgical volumes picked up slightly to 15 inpatient surgeries and 117 O/P surgeries from 84 in September;

contributing to improved revenues for surgery (Dr. [redacted] had 29 surgeries

[redacted]). So far this year we are trending down 11%, 390 surgeries YTD versus 453 YTD in FY2017. [redacted] (30), [redacted] -E (16) and [redacted] E (14) and [redacted] -E (9) comprise 58% of Surgeries in October. E=Employed

The remainder of the outpatient departments had solid volumes in October, with total lab tests at 11,002 (health fair month) compared to 9,042 last October (drop from 12,071 in September-employee and health fair labs) and Radiology had 1,334 procedures compared to 1,380 last October but in line with September's 1,422. ER was down in October at 353 visits versus September at 449 but up from 404 visits last October. Even with less ER visits we had 35 inpatient admissions to Acute/ICU compared to 39 last month.

**LTC occupancy was at 98%.** AR at 10/31/17 was little over \$950K with AR over 120 less than \$25K. We have 2 residents with \$250K of outstanding AR going back to July and August due to the State requesting reapplication for services, the new LTC Director and I met this week and she is investigating the status.

##### Operating Expenses

Overall, expenses of **\$5.9M were within \$200K of September** and were 2% or \$120K below budget of \$6M due to favorable budget variances in most expense categories except supplies and professional fees. YTD total expenses are at \$22,683K compared to a budget of \$23,994K, a favorable variance of 5.5% and we are only trending up slightly from the PY YTD of \$22,065 which is less than 3% increase.

Overall most categories are below budget YTD except for contract staffing some of which is due to prior year invoices submitted in FY18. We are down to 6 travelers this year from a high of 17 in the prior year and are our cap for FY 18. Software maintenance was budgeted in R&M but netted against the favorable variance we are still over due to timing and unbudgeted expenditures.

#### Overall Results and Non-Recurring Expense

**Operations resulted in a surplus of 3.2%** or \$194K above budget for October which was anticipated to be break even. The total surplus for October was \$552K or 9.0% compared to \$279K budgeted or 4.6% putting us at 12.7%. **YTD we are at \$3.4M thru first 4 months of FY18; this is compared to 8.4% and \$2.1M in the budget a favorable variance of \$1.3M or 60%.** In prior year the total surplus YTD was \$668K so we are ahead of prior year by \$2.7M.

It is essential that we stay focused on cost reductions as our Commercial volume is highly concentrated with few payers (Blue Cross, Triwest and Aetna) and unreliable month to month and government changes will most likely continue to erode our reimbursement and it comprised **Medicare/Medicaid represent 68%** of our revenues for the past 12 months.

#### BALANCE SHEET

Cash is up from September at \$13.7M versus \$11.7M and day's cash on hand for operations is at 75 days. The Cash collections report highlights where our collections spiked in October as the revenue cycle team continues to improve in all areas. Net Accounts Receivable is down slightly from September at \$10.5M compared to \$10.9M and I anticipate this will be predictable level for FY18. **October collections were \$6.3M from operations and we received \$680K for cost reports settlements from Medicare boosting total cash collections to \$7M our highest month in history.**

South Peninsula Hospital  
BALANCE SHEET  
FOR THE MONTH ENDING: 10/31/17

	This Year 10/31/17	Last Year 10/31/16	Last Month 09/30/17
ASSETS			
CURRENT ASSETS			
CASH AND CASH EQUIVALENTS	13,612,930	7,134,664	13,741,431
EQUITY IN CENTRAL TREAS-KPB	7,173,824	3,655,499	7,173,999
	-----	-----	-----
TOTAL CASH AND CASH EQUIVALENTS	20,786,754	10,790,164	20,915,430
PATIENT RECEIVABLES	19,541,786	19,138,895	18,627,400
LESS ESTIMATED UNCOLLECTIBLES	(8,350,406)	(7,222,585)	(8,108,286)
	-----	-----	-----
NET PATIENT ACCT RECEIVABLE	11,191,379	11,916,309	10,519,113
PROPERTY TAXES RECV - KPB	163,250	144,246	163,250
LESS: ALLOW PROP TAX - KPB	(3,842)	(3,598)	(3,842)
	-----	-----	-----
NET PROPERTY TAX RECV - KPB	159,407	140,647	159,407
OTHER RECEIVABLES	276,231	116,843	238,149
INVENTORIES	1,801,285	1,888,789	1,813,691
PREPAID EXPENSES	753,302	661,536	714,045
	-----	-----	-----
TOTAL CURRENT ASSETS	34,968,362	25,514,291	34,359,839
ASSETS WHOSE USE IS LIMITED			
EMPLOYEE HEALTH RESERVE	108,697	108,396	108,697
MALPRACTICE RESERVE	85,000	85,000	85,000
STUDENT LOAN PROGRAM		3,584	
OTHER RESTRICTED FUNDS	18,364	18,364	18,364
	-----	-----	-----
TOTAL ASSETS WHOSE USE IS LIMITED	212,062	215,346	212,062
CAPITAL ASSETS			
LAND AND LAND IMPROVEMENTS	3,816,772	3,816,772	3,816,772
BUILDING	56,585,542	56,333,204	56,459,983
EQUIPMENT	23,309,382	22,233,546	23,309,382
IMPROVEMENTS OTHER THAN BUILDINGS	140,474	140,474	140,474
CONSTRUCTION IN PROGRESS	4,159,008	526,753	4,124,059
LESS: ACCUMULATED DEPRECIATION	(45,710,704)	(42,816,789)	(45,467,021)
	-----	-----	-----
NET CAPITAL ASSETS	42,300,476	40,233,961	42,383,651
	-----	-----	-----
TOTAL ASSETS	77,480,901	65,963,599	76,955,553
DEFERRED OUTFLOWS OF RESOURCES			
PENSION RELATED	1,361,341	1,523,460	1,361,341
UNAMORTIZED DEFERRED CHARGE ON REFUNDI	818,347	921,256	818,347
	-----	-----	-----
TOTAL DEFERRED OUTFLOWS OF RESOURCES	2,179,688	2,444,716	2,179,688
	-----	-----	-----
TOTAL ASSETS AND DEFERRED OUTFLOWS O	79,660,589	68,408,316	79,135,241

	=====	=====	=====
LIABILITIES			
CURRENT LIABILITIES:			
ACCOUNTS AND CONTRACTS PAYABLE	2,427,040	1,003,332	2,687,367
ACCRUED LIABILITIES	6,691,358	4,544,502	6,001,817
DEFERRED CREDITS	128,363	104,535	138,745
CURRENT PORTION OF NOTE DUE KP			
CURRENT PORTION OF BONDS PAYABLE	1,440,000	1,195,000	1,440,000
BOND INTEREST PAYABLE	211,924	199,675	211,924
ADVANCES FROM MEDICAID	265,659	1,000,444	395,774
CURRENT PORTION OF CAPITAL LEASE	(42,366)	41,153	(27,939)
	-----	-----	-----
TOTAL CURRENT LIABILITIES	11,121,979	8,088,642	10,847,690
LONG-TERM LIABILITIES			
BONDS PAYABLE NET OF CURRENT PORTION	16,645,000	13,890,000	16,645,000
PREMIUM ON BONDS PAYABLE	1,869,660	1,457,160	1,869,660
CAPITAL LEASE, NET OF CURRENT PORTION	215,221	215,221	215,221
NET PENSION LIABILITY	1,954,217	2,203,993	1,954,217
	-----	-----	-----
TOTAL NONCURRENT LIABILITIES	20,684,098	17,766,375	20,684,098
TOTAL LIABILITIES	31,806,077	25,855,017	31,531,789
DEFERRED INFLOW OF RESOURCES			
PROPERTY TAXES RECEIVED IN ADVANCE	716,695	524,705	716,695
NET POSITION			
INVESTED IN CAPITAL ASSETS	5,731,962	5,731,962	5,731,962
CONTRIBUTED CAPITAL - KP			
RESTRICTED	25,286	25,286	25,286
UNRESTRICTED FUND BALANCE - SPH	42,119,532	37,027,118	41,566,960
UNRESTRICTED FUND BALANCE - KP	(738,964)	(755,774)	(437,451)
	-----	-----	-----
TOTAL NET POSITION	47,854,512	42,553,298	47,603,452
TOTAL LIAB , DEFERRED INFLOW & NET P	79,660,589	68,408,316	79,135,241
	=====	=====	=====

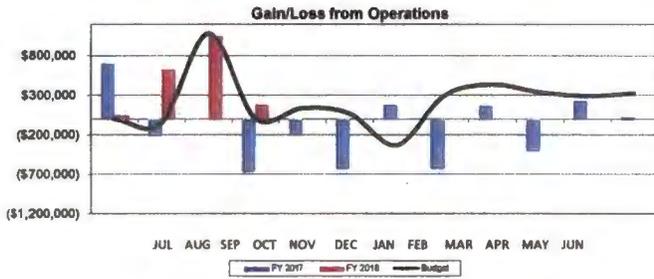
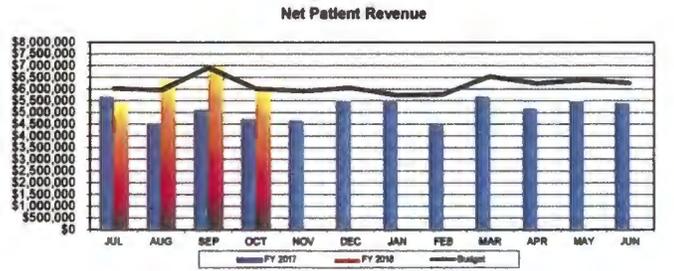
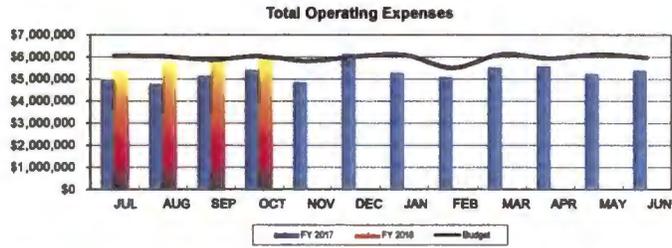
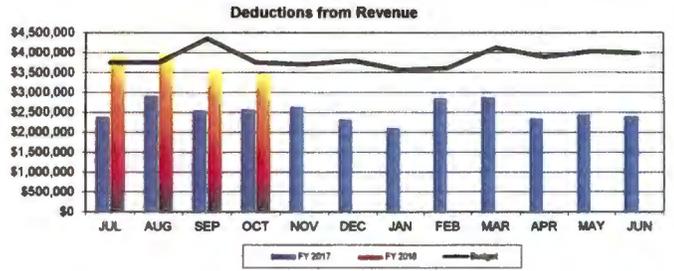
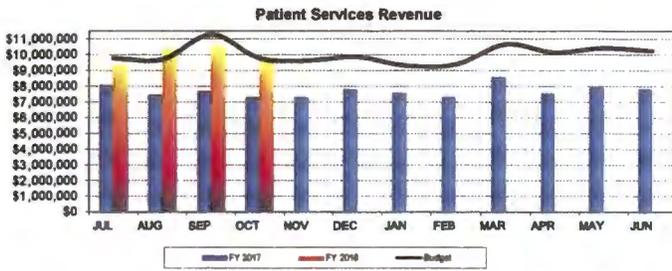
SOUTH PENINSULA HOSPITAL  
Summary Income Statement  
FOR THE 4 MONTHS ENDING 10/31/17

	----- S I N G L E M O N T H -----				----- Y E A R T O D A T E -----			
	ACTUAL	BUDGET	\$ VARIANCE	% VAR	ACTUAL	BUDGET	\$ VARIANCE	% VAR
<b>REVENUES</b>								
<b>PATIENT SERVICE REVENUE</b>								
INPATIENT	2,178,209	2,485,995	(307,785)	(12)	9,893,774	10,971,524	(1,077,749)	(9)
OUTPATIENT	6,510,143	6,484,480	25,663	0	26,563,099	26,352,615	210,483	0
LONG TERM CARE	838,524	804,452	34,071	4	3,361,501	3,217,810	143,691	4
<b>TOTAL PATIENT</b>	<b>9,526,877</b>	<b>9,774,927</b>	<b>(248,050)</b>	<b>(2)</b>	<b>39,818,376</b>	<b>40,541,950</b>	<b>(723,574)</b>	<b>(1)</b>
<b>DEDUCTIONS FROM REVENUE</b>								
MEDICARE	1,596,914	1,580,480	(16,434)	(1)	7,491,891	6,575,577	(916,313)	(13)
MEDICAID	718,133	1,170,725	452,592	38	4,225,548	4,870,795	645,247	13
CHARITY CARE	185,082	141,361	(43,721)	(30)	543,402	588,132	44,729	7
OTHER ADJUSTMENT	867,639	628,422	(239,216)	(38)	2,488,164	2,614,547	126,382	4
BAD DEBT	95,268	231,012	135,743	58	396,201	961,124	564,922	58
<b>TOTAL DEDUCTIO</b>	<b>3,463,038</b>	<b>3,752,001</b>	<b>288,962</b>	<b>7</b>	<b>15,145,209</b>	<b>15,610,177</b>	<b>464,967</b>	<b>2</b>
<b>NET PATIENT SE</b>	<b>6,063,838</b>	<b>6,022,926</b>	<b>40,911</b>	<b>0</b>	<b>24,673,167</b>	<b>24,931,773</b>	<b>(258,606)</b>	<b>(1)</b>
OTHER REVENUE	52,634	27,242	25,391	93	146,374	108,008	38,365	35
<b>TOTAL OPERATIN</b>	<b>6,116,472</b>	<b>6,050,169</b>	<b>66,303</b>	<b>1</b>	<b>24,819,541</b>	<b>25,039,782</b>	<b>(220,240)</b>	<b>(0)</b>
<b>OPERATING EXPENSES</b>								
SALARIES & WAGES	2,674,439	2,739,871	65,431	2	10,741,095	10,861,632	120,536	1
EMPLOYEE BENEFIT	1,192,862	1,274,854	81,992	6	4,357,947	5,053,999	696,052	13
SUPPLIES DRUGS &	661,778	619,877	(41,901)	(6)	2,325,333	2,502,100	176,767	7
CONTRACT STAFFIN	82,363	75,267	(7,096)	(9)	493,721	335,013	(158,708)	(47)
PROFESSIONAL FEE	589,473	542,818	(46,655)	(8)	1,923,287	2,152,132	228,844	10
UTILITIES & TELE	109,250	113,296	4,045	3	414,851	449,187	34,336	7
INSURANCE	39,249	44,402	5,152	11	169,457	176,023	6,565	3
DUES BOOKS SUBSC	20,267	24,744	4,476	18	90,227	98,130	7,903	8
SOFTWARE MAINT/S	83,028	0	(83,028)	(0)	206,254	0	(206,254)	(0)
TRAVEL MEETINGS	22,045	52,746	30,700	58	94,957	183,489	88,531	48
REPAIRS & MAINT	97,174	125,859	28,685	22	403,550	498,995	95,445	19
LEASES & RENTALS	41,036	48,441	7,404	15	201,279	192,056	(9,222)	(4)
OTHER OP EXPENSE	65,442	131,836	66,394	50	286,830	520,208	233,377	44
DEPRECIATION	243,683	244,851	1,168	0	973,841	970,661	(3,179)	(0)
<b>TOTAL OPERATIN</b>	<b>5,922,096</b>	<b>6,038,867</b>	<b>116,770</b>	<b>1</b>	<b>22,682,635</b>	<b>23,993,631</b>	<b>1,310,995</b>	<b>5</b>
<b>GAIN (LOSS) FR</b>	<b>194,376</b>	<b>11,302</b>	<b>183,074</b>	<b>1619</b>	<b>2,136,905</b>	<b>1,046,151</b>	<b>1,090,754</b>	<b>104</b>

SOUTH PENINSULA HOSPITAL  
Summary Income Statement  
FOR THE 4 MONTHS ENDING 10/31/17

	----- S I N G L E M O N T H -----				----- Y E A R T O D A T E -----			
	ACTUAL	BUDGET	\$ VARIANCE	% VAR	ACTUAL	BUDGET	\$ VARIANCE	% VAR
NON-OPERATING REVENUES:								
GENERAL PROPERTY	377,173	344,998	32,175	9	1,508,692	1,367,815	140,876	10
GAIN (LOSS) ON D	(2,306)	0	(2,306)	(0)	(2,306)	0	(2,306)	(0)
TOTAL NON-OPER	374,866	344,998	29,868	8	1,506,386	1,367,815	138,570	10
NON-OPERATING EXPENSES:								
SERVICE AREA BOA	(35,616)	13,769	49,385	358	32,371	54,585	22,214	40
ADMINISTRATION N	0	0	0	0	3,664	0	(3,664)	(0)
INTEREST EXPENSE	65,660	63,428	(2,231)	(3)	262,640	251,448	(11,192)	(4)
TOTAL NON-OPER	30,044	77,197	47,153	61	298,675	306,034	7,358	2
GRANTS:								
GRANT REVENUE	10,233	0	10,233	0	10,318	0	10,318	0
TOTAL GRANT RE	10,233	0	10,233	0	10,318	0	10,318	0
INCOME (LOSS)	549,432	279,102	270,329	96	3,354,934	2,107,932	1,247,002	59
OPERATING TRANSF	3,140	0	3,140	0	3,140	0	3,140	0
NET INCOME	552,572	279,102	273,469	97	3,358,074	2,107,932	1,250,142	59

Executive Summary



6

**PERFORMANCE INDICATORS REPORT FY2017**

Indicator	YTD			
	Oct-17	Prior Year	Target	Variance
Gross Patient Revenue	\$39,818,374	32,288,110	\$40,541,951	-\$723,576
Deductions From Revenue	\$14,945,208	10,748,535	\$15,610,177	\$664,969
Net Patient Revenue	\$24,873,166	21,539,574	\$24,931,774	-\$58,607
Acute Care Occupancy including Observation	47%	48%	50%	-3.0%
Average Length of Stay	4.30	2.97	4.00	0.3
Total Surgeries	453	520	500	(47)
Emergency Room Visits	1,805	1,997	2,000	(195)
Average Daily Revenue	\$436,366	1,997	\$444,295	-\$7,930
Inpatient Charge per Patient Day	\$80,437	\$87,438	\$89,199	(8,762)
Outpatient Charge per visit *		1,071		0
<b>Total Operating Expense</b>	<b>\$23,065,043</b>	<b>\$22,064,600</b>	<b>\$23,993,631</b>	<b>\$928,588</b>
<b>Gain/Loss from Operations</b>	<b>\$1,954,496</b>	<b>-\$426,864</b>	<b>\$1,046,151</b>	<b>\$908,345</b>
<b>EBITDA</b>	<b>\$2,928,337</b>	<b>\$543,349</b>	<b>\$2,016,813</b>	<b>\$911,524</b>
<b>Net Income</b>	<b>\$2,909,361</b>	<b>\$668,961</b>	<b>\$3,358,075</b>	<b>-\$448,714</b>
<b>Average Daily Expense</b>	<b>\$187,521</b>	<b>\$179,276</b>	<b>\$195,070</b>	<b>\$7,549</b>
<b>Cash on Hand - Bank</b>	<b>\$13,612,930</b>	<b>7,134,665</b>	<b>\$17,556,315</b>	<b>3,230,440</b>
<b>Cash on Hand - KPBI Investment</b>	<b>\$7,173,825</b>	<b>\$189,523</b>		
<b>Days of Cash on Hand without Investment</b>	<b>73</b>	<b>42</b>	<b>60</b>	<b>13</b>
<b>Net Accounts Receivable Days</b>	<b>55</b>	<b>72</b>	<b>45</b>	<b>(10)</b>
<b>Gross Accounts Receivable Days</b>	<b>45</b>	<b>71</b>	<b>45</b>	<b>0</b>
<b>Payer Mix</b>				
<b>Medicare</b>	<b>38.72%</b>	<b>35.35%</b>	<b>40.0%</b>	<b>-1.3%</b>
<b>Medicaid</b>	<b>29.65%</b>	<b>35.97%</b>	<b>25.0%</b>	<b>4.7%</b>
<b>Commercial</b>	<b>28.05%</b>	<b>20.30%</b>	<b>35.0%</b>	<b>-7.0%</b>
<b>Self-Pay</b>	<b>3.58%</b>	<b>8.38%</b>	<b>5.0%</b>	<b>-1.4%</b>
<b>Contractual % by Payer</b>				
<b>Medicare</b>	<b>49.7%</b>	<b>36.0%</b>	<b>45.0%</b>	<b>-4.7%</b>
<b>Medicaid</b>	<b>38.2%</b>	<b>23.6%</b>	<b>30.0%</b>	<b>-8.2%</b>
<b>Commercial</b>	<b>20.7%</b>	<b>30.3%</b>	<b>20.0%</b>	<b>-0.7%</b>
<b>Self-Pay</b>	<b>58.9%</b>	<b>70.8%</b>	<b>10.0%</b>	<b>-48.9%</b>

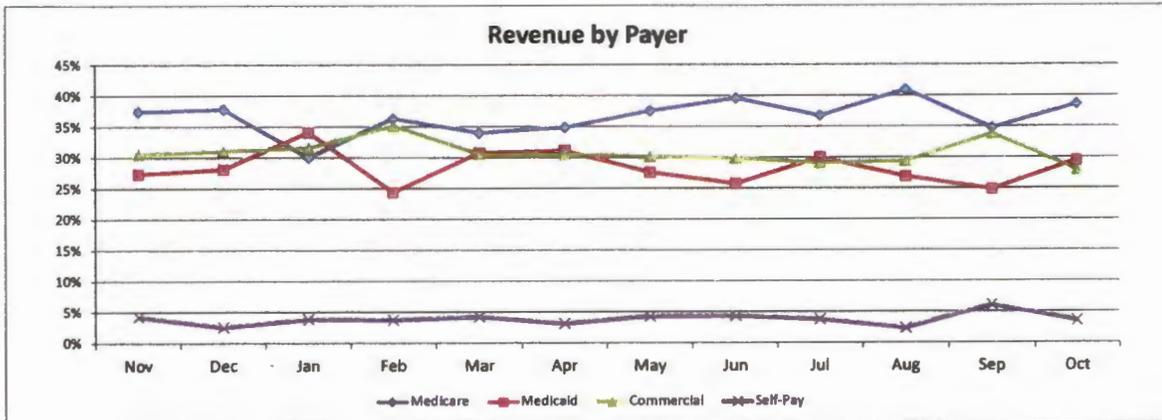
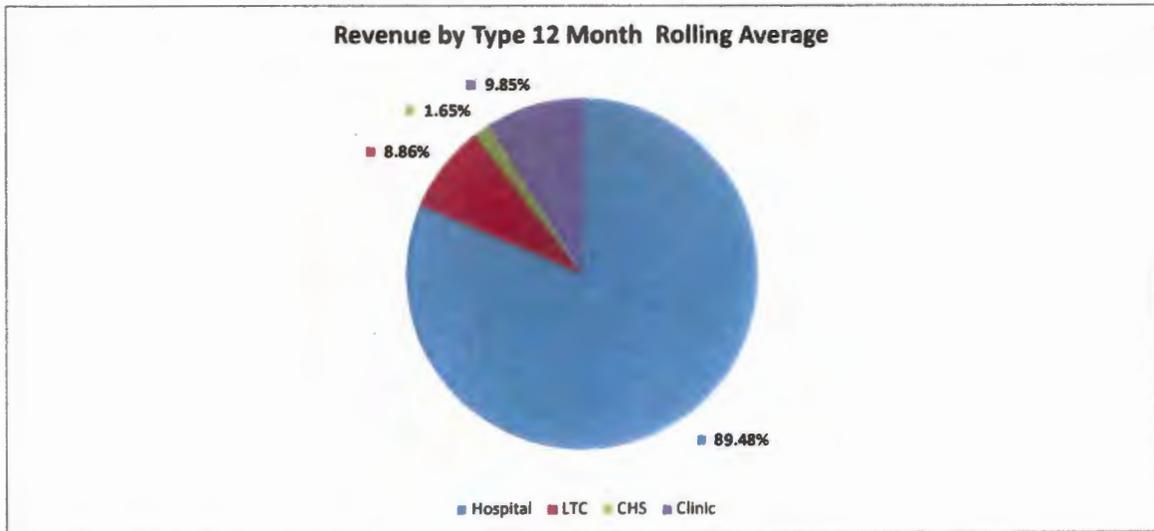
SPH Revenue by Type Table FY2018

	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Average
Hospital	\$ 7,724,270	\$ 8,403,831	\$ 8,859,563	\$ 9,232,427	\$ 9,135,857	\$ 8,794,639	\$ 9,517,579	\$ 9,303,211	\$ 8,871,422	\$ 8,369,867	\$ 8,731,288	\$ 7,909,668	\$ 8,470,506
LTC	\$ 761,545	\$ 804,533	\$ 747,734	\$ 695,988	\$ 777,303	\$ 732,186	\$ 754,585	\$ 770,849	\$ 755,588	\$ 838,152	\$ 793,578	\$ 968,562	\$ 838,970
CHS	\$ 120,024	\$ 116,040	\$ 114,482	\$ 71,180	\$ 137,259	\$ 60,569	\$ 52,496	\$ 46,754	\$ 86,850	\$ 110,754	\$ 114,132	\$ 310,822	\$ 156,389
Clinic									\$ 801,955	\$ 964,078	\$ 944,134	\$ 1,020,929	\$ 932,774
<b>Total</b>	<b>\$ 8,605,838</b>	<b>\$ 9,324,404</b>	<b>\$ 9,721,779</b>	<b>\$ 9,999,575</b>	<b>\$ 10,050,418</b>	<b>\$ 9,587,394</b>	<b>\$ 10,324,659</b>	<b>\$ 10,120,815</b>	<b>\$ 10,518,815</b>	<b>\$ 10,282,650</b>	<b>\$ 10,583,110</b>	<b>\$ 10,209,981</b>	<b>\$ 9,485,865</b>

Medicare	\$ 3,234,896	\$ 3,540,893	\$ 2,928,463	\$ 3,647,963	\$ 3,432,053	\$ 3,355,082	\$ 3,889,680	\$ 4,020,845	\$ 3,213,491	\$ 4,225,632	\$ 3,693,934	\$ 3,953,702	\$ 3,771,680
Medicaid	\$ 2,363,455	\$ 2,635,035	\$ 3,330,716	\$ 2,452,022	\$ 3,107,385	\$ 2,995,573	\$ 2,863,387	\$ 2,622,757	\$ 2,622,408	\$ 2,777,375	\$ 2,645,240	\$ 3,026,900	\$ 2,767,981
Commercial	\$ 2,639,739	\$ 2,904,229	\$ 3,082,481	\$ 3,524,050	\$ 3,084,394	\$ 2,936,819	\$ 3,126,431	\$ 3,033,100	\$ 2,544,727	\$ 3,034,377	\$ 3,592,345	\$ 2,864,244	\$ 3,008,923
Self-Pay	\$ 367,748	\$ 244,248	\$ 380,138	\$ 375,540	\$ 426,805	\$ 299,920	\$ 445,162	\$ 444,113	\$ 333,349	\$ 245,266	\$ 651,591	\$ 365,134	\$ 388,835
<b>Total</b>	<b>\$ 8,605,838</b>	<b>\$ 9,324,404</b>	<b>\$ 9,721,779</b>	<b>\$ 9,999,575</b>	<b>\$ 10,050,418</b>	<b>\$ 9,587,394</b>	<b>\$ 10,324,659</b>	<b>\$ 10,120,815</b>	<b>\$ 8,713,975</b>	<b>\$ 10,282,650</b>	<b>\$ 10,583,110</b>	<b>\$ 10,209,981</b>	<b>\$ 9,947,429</b>

Hospital	89.76%	90.13%	91.13%	92.33%	90.90%	91.73%	92.18%	91.92%	84.34%	81.40%	82.50%	77.47%	89.48%
LTC	8.85%	8.63%	7.69%	6.96%	7.73%	7.64%	7.31%	7.62%	7.18%	8.15%	7.50%	9.49%	8.86%
CHS	1.39%	1.24%	1.18%	0.71%	1.37%	0.63%	0.51%	0.46%	0.85%	1.08%	1.08%	3.04%	1.65%
Clinic	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	7.62%	9.38%	8.92%	10.00%	9.85%
<b>Total</b>	<b>100.00%</b>												

Medicare	37.59%	37.97%	30.12%	36.48%	34.15%	34.99%	37.67%	39.73%	36.88%	41.09%	34.90%	38.72%	37.82%
Medicaid	27.46%	28.26%	34.26%	24.52%	30.92%	31.24%	27.73%	25.91%	30.09%	27.01%	24.99%	29.65%	27.83%
Commercial	30.67%	31.15%	31.71%	35.24%	30.69%	30.63%	30.28%	29.97%	29.20%	29.51%	33.94%	28.05%	30.25%
Self-Pay	4.27%	2.62%	3.91%	3.76%	4.24%	3.13%	4.31%	4.39%	3.83%	2.39%	6.16%	3.58%	4.01%
<b>Total</b>	<b>100.00%</b>												



**ACUTE CARE INCLUDING SWING BED**

PATIENT DAYS	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	Totals	Monthly Average	Percent Change
TOTAL FY 18	236	346	352	267	0	0	0	0	0	0	0	0	1,201	300.3	1.8%
TOTAL FY 17	294	335	341	269	302	280	211	314	314	346	317	216	3,539	294.9	-4.6%
TOTAL FY 16	308	282	292	325	356	329	299	234	332	352	332	270	3,711	309.3	6.3%

FY 17 ADMISSION	71	80	68	62	0	0	0	0	0	0	0	0	281	70.3	
FY17 AVERAGE LOS	3.3	4.3	5.2	4.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	17.1	4.3	

ACUTE CARE OCCUP	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
% OCC FOR MONTH	36%	53%	56%	41%	0%	0%	0%	0%	0%	0%	0%	0%
% OCC YEAR TO DATE	36%	45%	48%	47%	0%	0%	0%	0%	0%	0%	0%	0%

**LTC**

PATIENT DAYS	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	Totals	Monthly Average	Percent Change
LTC 18	868	868	840	850	0	0	0	0	0	0	0	0	3,426	856.5	7.6%
LTC 17	830	850	804	825	795	811	779	728	796	755	783	795	9,551	795.9	-1.3%
LTC 16	843	864	822	834	780	836	811	776	785	754	792	779	9,676	806.3	-4.6%

**LTC OCCUPANCY**

% OCC FOR MONTH	100%	100%	100%	98%	0%	0%	0%	0%	0%	0%	0%	0%
% OCC YEAR TO DATE	100%	100%	100%	99%	0%	0%	0%	0%	0%	0%	0%	0%

**NEWBORN**

# OF BIRTHS	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	Totals	Monthly Average	Percent Change
NEWBORN 18	10	0	0	0	0	0	0	0	0	0	0	0	10	10	-22.6%
NEWBORN 17	13	21	9	15	10	12	10	9	10	13	14	19	155	13	6.2%
NEWBORN 16	12	14	13	15	10	5	14	11	10	15	14	13	146	12	6.6%

**EMERGENCY**

VISITS - ER & OP	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	Totals	Monthly Average	Percent Change
VISITS 18	616	0	0	0	0	0	0	0	0	0	0	0	616	616.0	19.1%
VISITS 17	712	595	491	502	496	490	535	449	477	457	568	557	6,206	517.2	-6.4%
VISITS 16	661	639	550	479	472	482	552	436	616	619	547	577	6,630	552.5	4.7%

**HOME HEALTH**

CLIENTS	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	Totals	Monthly Average	Percent Change
FY 18	0	0	0	63	0	0	0	0	0	0	0	0	63	0.0	0.0%
FY 17	44	45	41	49	52	55	57	57	57	51	53	51	612	51.0	24.1%
FY 16	41	38	39	45	39	39	42	40	39	38	44	49	493	41.1	22.6%

**SURGERY**

PROCEDURES	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	Totals	Monthly Average	Percent Change
I/P 18	18	15	15	15	0	0	0	0	0	0	0	0	63	15.8	-19.6%
I/P 17	18	17	15	22	23	24	27	23	19	13	16	18	235	19.6	-7.1%
I/P 16	16	14	9	23	19	16	22	27	30	29	24	24	253	21.1	36.0%
O/P 18	94	89	90	117	0	0	0	0	0	0	0	0	390	97.5	-9.0%
O/P 17	100	113	105	130	98	100	99	96	118	94	127	106	1,286	107.2	3.7%
O/P 16	104	97	93	110	85	140	89	88	110	126	97	101	1,240	103.3	-10.1%
TOTAL FY 18	112	104	105	132	0	0	0	0	0	0	0	0	453	113.3	-10.7%
TOTAL FY 17	118	130	120	152	121	124	126	119	137	107	143	124	1,521	126.8	1.9%
TOTAL FY 16	120	111	102	133	104	156	111	115	140	155	121	125	1,493	124.4	3.5%

**OTHER OUT PATIENT** \* Observation, Lab, Radiology, Rehabilitation

VISITS *	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	Totals	Monthly Average	Percent Change
VISITS 18	3239	3379	3954	4172	0	0	0	0	0	0	0	0	14,744	3,686.0	64.0%
VISITS 17	1964	2171	2778	1997	2196	2106	2066	2086	2415	2210	2538	2438	26,965	2,247.1	9.0%
VISITS 16	2096	1984	2619	2089	1786	2033	1960	1919	2147	1924	2012	2160	24,729	2,060.8	9.2%

South Peninsula Hospital  
 Summary Aging by Financial Class-including Athena and LTC (PCC)and HH (Kinser)

	10/31/17	9/30/17	8/31/17	7/31/17	6/30/17	5/31/17	4/30/17
Long Term Care	968,562	948,128	1,482,088	1,487,196	1,671,522	1,611,839	1,476,141
Medicare	6,557,924	6,255,332	6,002,287	4,724,828	5,968,222	5,131,460	4,842,117
Medicaid	2,800,729	1,954,274	2,553,184	2,324,681	2,459,804	3,142,926	3,357,633
Private Insurance	6,123,148	6,606,331	5,553,561	5,527,323	5,713,826	5,928,949	6,171,623
Self-Pay	3,098,416	2,945,987	2,961,313	3,161,685	3,221,792	3,378,886	3,734,052
Home Health	310,822	330,730	326,602	332,706	326,980	412,995	453,269
Month End Accrual	56,115	452,880	670,019	502,200	698,454	644,318	537,601

Totals	19,915,714	19,493,662	19,549,054	18,060,619	20,060,601	20,251,373	20,572,436
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Aged Over 120 Days

Long Term Care	24,303	37,775	323,654	549,571	211,524	228,408	293,861
Medicare	658,590	554,267	353,425	287,050	239,175	550,376	506,081
Medicaid	413,752	418,863	572,487	477,369	519,256	591,176	685,314
Private Insurance	969,786	846,379	950,417	1,210,707	1,068,534	782,987	907,473
Self-Pay	2,606,775	2,618,155	2,613,430	2,456,959	2,651,904	2,635,422	3,120,807
Home Health	93,401	130,431					

Totals	4,766,607	4,605,870	4,813,413	4,981,656	4,690,393	4,788,369	5,513,536
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Percentage over 120 days

Long Term Care	3%	4%	22%	37%	13%	14%	20%
Medicare	10%	9%	6%	6%	4%	11%	10%
Medicaid	15%	21%	22%	21%	21%	19%	20%
Private Insurance	16%	13%	17%	22%	19%	13%	15%
Self-Pay	84%	89%	88%	78%	82%	78%	84%

Totals	24%	24%	25%	28%	23%	24%	27%
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**EXHIBIT C**

**MEMORANDUM OF AGREEMENT**

This Memorandum of Agreement is made between South Peninsula Hospital, Inc. ("SPHI") and the Kenai Peninsula Borough ("Borough"), to set forth the terms and conditions for the transfer of funds between SPHI's Plant, Replacement and Expansion Fund and the Borough's central investment pool, as follows:

1. When SPHI determines that a deposit or withdrawal should be made to or from the PREF, SPHI shall notify the Borough Finance Director or designee of the amount, date, method and other necessary information to effectuate the deposit or withdrawal. Except under emergency circumstances, SPHI shall give advance notice of at least one day for deposits. For withdrawals from the PREF, SPHI shall make reasonable efforts to provide at least two days' notice before the next assembly meeting packet deadline of the requested withdrawal amount and date. Upon receipt of notice from SPHI, the Finance Director or designee shall take action to accept the deposit on the date requested by SPHI or, for withdrawals, make reasonable efforts to submit an ordinance to the assembly for introduction at the next regular assembly meeting, appropriating the designated PREF funds.
2. The Borough shall separately account to SPHI for PREF deposits, withdrawals and investment earnings each calendar quarter. PREF funds on deposit in the Borough central investment pool, and earnings thereon, shall be managed according to Borough ordinances and resolutions governing investment of funds, and allocation of earnings on investments, in the central investment pool. All earnings allocated to the SPHI PREF funds on deposit in the central investment pool are deemed to be reinvested to the PREF and their use also is restricted to investment for the PREF.
3. It is the parties' intent that all promises, covenants, agreements, terms and conditions of the Operating Agreement between SPHI and the Borough shall remain in full force and effect and this Memorandum of Agreement is not intended to vary the terms of the Operating Agreement.

KENAI PENINSULA BOROUGH

SOUTH PENINSULA HOSPITAL,  
INC.

\_\_\_\_\_  
Charlie Pierce  
Borough Mayor  
Dated: \_\_\_\_\_

\_\_\_\_\_  
David Groesbeck  
SPHI Board President  
Dated: \_\_\_\_\_

Approved by KPB Ord. 2019-\_\_\_\_  
Dated: \_\_\_\_\_

Approved by Board Res. \_\_\_\_\_  
Dated: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

\_\_\_\_\_  
Borough Clerk

\_\_\_\_\_  
Borough Attorney

ACKNOWLEDGMENTS

STATE OF ALASKA                    )  
  )     ss.  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by Charlie Pierce, Mayor of Kenai Peninsula Borough, an Alaska municipal corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires: \_\_\_\_\_

STATE OF ALASKA                    )  
  )     ss.  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by David Groesbeck, President, South Peninsula Hospital, Inc., an Alaska nonprofit corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires: \_\_\_\_\_

**CONSENT TO SUBLEASE**

The City of Homer, Alaska, as Lessor under that certain Lease of Homer Hospital entered into on the 10<sup>th</sup> day of November, 1969, and amended March 17, 1999, October 31, 2005, and June 22, 2006, between the City of Homer and the Kenai Peninsula Borough (the "Lease"), hereby consents to the Operating Agreement for South Peninsula Hospital set forth above and entered into on \_\_\_\_\_, 2019, between the Kenai Peninsula Borough and South Peninsula Hospital, Inc., upon the express conditions that (a) this Consent shall not be deemed a waiver or relinquishment of the covenant against assignment or subletting set forth in Section 14 of the Lease; and (b) the City of Homer does not hereby consent to any further assignment or subletting of the premises; and (c) this Consent shall not release the Kenai Peninsula Borough from the full performance of the provisions of the Lease, as now existing or as may hereafter be amended.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2019.

CITY OF HOMER ALASKA

By: \_\_\_\_\_  
Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City of Homer – City Clerk