

AGREED SETTLEMENT

IN THE MATTERS OF:

Applicants: **Yale New Haven Health Services Corporation**, 789 Howard Avenue,
New Haven, CT 06519
Prospect CT, Inc., 3415 S. Sepulveda Boulevard, 9th Floor, Los Angeles, CA
90034
Northeast Medical Group, Inc., 99 Hawley Lane, Stratford, CT 06614
Prospect CT Medical Foundation, Inc., 71 Haynes Street, Manchester, CT
06040

Docket Numbers: **22-32594-CON**
22-32606-CON

Project Titles: **(1) Transfer of Ownership of a Health Care Facility (Hospitals) /
Acquisition of Imaging Equipment / Acquisition of Certain Equity
Interests Held in Certain Joint Ventures**
(2) Transfer of Ownership of a Large Group Practice

WHEREAS, Yale New Haven Health Services Corporation (“YNHHS”) is a corporate entity that operates a non-profit health system in Connecticut and Rhode Island;

WHEREAS, YNHHS includes several hospital affiliates including Bridgeport Hospital, Greenwich Hospital, Lawrence + Memorial Hospital, Westerly Hospital, and Yale New Haven Hospital, a medical center that includes Smilow Cancer Hospital, Yale New Haven Children’s Hospital, and Yale New Haven Psychiatric Hospital;

WHEREAS, YNHHS has a primary business and mailing address of 789 Howard Avenue, New Haven, CT 06519;

WHEREAS, Prospect CT, Inc. (“Prospect CT”) is the Connecticut subsidiary of Prospect Medical Holdings, Inc., a for-profit healthcare services company;

WHEREAS, Prospect CT includes two Connecticut-based hospital systems: Prospect ECHN, Inc. d/b/a Eastern Connecticut Health Network (“ECHN”), comprised of Prospect Manchester Hospital, Inc. d/b/a Manchester Memorial Hospital (“MMH”) and Prospect Rockville Hospital,

Inc. d/b/a Rockville General Hospital (“RGH”), as well as Prospect Waterbury, Inc. d/b/a The Waterbury Hospital (“WH”);

WHEREAS, Prospect CT has a primary business and mailing address of 3415 S. Sepulveda Boulevard, 9th Floor, Los Angeles, CA 90034;

WHEREAS, Northeast Medical Group, Inc. (“NEMG”) is the medical foundation associated with YNHHS and is a multispecialty physician group practice located primarily along the coastline in Connecticut, Rhode Island, and Westchester County, New York;

WHEREAS, NEMG has a primary business and mailing address of 99 Hawley Lane, Stratford, CT 06614;

WHEREAS, Prospect CT Medical Foundation, Inc. and its subsidiary Cardiology Associates of Greater Waterbury, LLC (“CAGW”) (collectively, “PCTMF”) is the medical foundation associated with Prospect CT and provides physician services under the names Alliance Medical Group, Eastern CT Medical Professionals, and through CAGW, in central eastern and western Connecticut;

WHEREAS, PCTMF has a primary business and mailing address of 71 Haynes Street, Manchester, CT 06040;

WHEREAS, the proposal to transfer ownership of the large group practice from PCTMF to NEMG (the “Medical Foundation Applicants”) is part of the larger health system transaction from Prospect CT to YNHHS (the “Health Systems Applicants”) (collectively, the “Applicants”);

WHEREAS, the Applicants have entered into certain preliminary agreements that would result in transfers of ownership of substantially all of Prospect CT’s assets to YNHHS through the formation of one or more subsidiaries (“NewCo”);

WHEREAS, at the time of the execution of this Agreed Settlement, the Asset Purchase Agreement (“APA”) dated October 5, 2022 (the “October 5th APA”) remains in effect;

WHEREAS, the following transpired with respect to the proposed transfer of ownership of the health systems:

1. The Health Systems Applicants published notice of their intent to file a Certificate of Need (“CON”) application in The Hartford Courant (Hartford), The New Haven Register (New Haven), and The Journal Inquirer (Manchester), on October 10, 11, and 12, 2022, as well as The Waterbury Republican-American on October 11, 12, and 13, 2022, in which they indicated that they planned to seek authorization for the transfer of ownership of health care facilities (hospitals), acquisition of imaging equipment, and acquisition of certain equity interests held in certain joint ventures pursuant to Connecticut General Statutes (“C.G.S.”) § 19-638(a)(2) and (10) (the “Health Systems Proposal”);
2. On November 22, 2022, the Health Systems Planning unit (“HSP”) of the Connecticut Office of Health Strategy (“OHS”) received the CON application for the Health Systems Proposal;
3. The Health Systems Applicants stated that the expected capital expenditure associated with the Health Systems Proposal is \$435 Million, subject to adjustments and a potential earn-out;
4. On March 14, 2023, OHS deemed the health systems application complete; and
5. OHS conducted a hearing on the Health Systems Proposal pursuant to C.G.S. § 19a-639a(f)(1) on April 26, 2023 and June 1, 2023, the latter consisting mainly of executive session;

WHEREAS, the following transpired with respect to the proposed medical foundations transfer of ownership:

1. The Medical Foundation Applicants published notice of their intent to file a CON application in The Hartford Courant (Hartford), The New Haven Register (New Haven), and The Journal Inquirer (Manchester), on October 10, 11, and 12, 2022, as well as The Waterbury Republican-American on October 11, 12, and 13, 2022, in which they indicated that they planned to seek authorization for the transfer of ownership of a large group practice pursuant to C.G.S. § 19-638(a)(3) (the “Medical Foundations Proposal”);
2. On December 14, 2022, HSP received the CON application for the Medical Foundations Proposal;
3. The Medical Foundations Applicants stated that the expected capital expenditure associated with the Medical Foundations Proposal is \$0.00, but is part of the larger Health Systems Proposal whose expected capital expenditure is \$435 Million, subject to adjustments and a potential earn-out;
4. On March 24, 2023, OHS deemed the medical foundations application complete; and

5. OHS received no hearing requests from the public in accordance with C.G.S. § 19a-639a(e), nor did OHS conduct a hearing pursuant to C.G.S. §§ 19a-639a(f)(1) or 19a-639a(f)(2);

WHEREAS, CON applications are decided on a case-by-case basis and do not lend themselves to general applicability due to the uniqueness of the facts in each case;

WHEREAS, OHS and the Applicants agree that the CON guidelines and principles set forth in C.G.S. §§ 19a-639(a)(1), (2), (3), and (10) are not applicable to the Health Systems Proposal;

WHEREAS, OHS and the Applicants agree that the CON guidelines and principles set forth in C.G.S. §§ 19a-639(a)(6) and (7) and C.G.S. § 19a-639(d)(2)(A) have been met with respect to the Health Systems Proposal;

WHEREAS, OHS has determined that the evidence in the record supports a conclusion that the CON guidelines and principles set forth in C.G.S. §§ 19a-639(a)(4), (5), (8)-(10) and C.G.S. § 19a-639(d)(2)(B) have not been met, but the Applicants disagree with this determination;

WHEREAS, OHS has also determined that the Executive Director would likely deny the Application for the Health Systems Proposal pursuant to either C.G.S. § 19a-639(d)(3) and/or C.G.S. § 19a-639(d)(4) absent the imposition of certain conditions as set forth in this Agreed Settlement;

WHEREAS, the Applicants believe all guidelines and principles have been met and absent this Agreed Settlement, would reserve all rights to contest any adverse findings in connection with the Health Systems Proposal;

WHEREAS, OHS and the Applicants agree that the CON guidelines and principles set forth in C.G.S. §§ 19a-639(a)(1), (2), (3) and (10) are not applicable to the Medical Foundations Proposal;

WHEREAS, OHS and the Applicants agree that CON guidelines and principles set forth in C.G.S. §§ 19a-639(a)(6) and (7) have been met with respect to the Medical Foundations Proposal;

WHEREAS, OHS has determined that the evidence in the record supports a conclusion that the CON guidelines and principles set forth in C.G.S. §§ 19a-639(a)(4), (5), (8)-(10) have not been met, but the Applicants disagree with this determination;

WHEREAS, the Applicants believe all guidelines and principles have been met and absent this Agreed Settlement, would reserve all rights to contest any adverse findings in connection with the Medical Foundations Proposal;

WHEREAS, the Applicants and OHS (the "Parties") desire to fully resolve this matter without further proceedings;

WHEREAS, the Health Systems Applicants, in consideration of this Agreed Settlement, have chosen to forego further proceedings;

WHEREAS, the Medical Foundation Applicants, in consideration of this Agreed Settlement, have chosen to forego further proceedings;

WHEREAS, on or about October 13, 2023, the Parties entered into the Waiver Agreement attached hereto as **Appendix A** which permits Executive Director Deidre S. Gifford, MD, MPH to, *inter alia*, fully participate in all substantive settlement negotiations, view and consider the Cost and Market Impact Review ("CMIR") Information in connection with such settlement, and involve others in the negotiation process including, but not limited to, Hearing Officer Daniel J. Csuka;¹

WHEREAS, this Agreed Settlement is a revocable offer of settlement that may be modified by mutual agreement of all the Parties and/or withdrawn at any time prior to its being signed by the Applicants and the OHS Executive Director or her designee.

¹ Pursuant to paragraph 1 of the Waiver Agreement, the Applicants agreed to entry of the preliminary CMIR report, the Applicant's response and the final CMIR report in the record after settlement discussions concluded. As the final CMIR report included new information, the Applicants provided a further response to that document following OHS's referral of the final CMIR report to the Office of the Attorney General, so both OHS's referral letter and YNHHS's final response will also be entered into the record.

NOW, THEREFORE, the Applicants and OHS hereby stipulate and agree to the following:

1. The Applicants' Proposals are approved under C.G.S. §§ 19a-639(a) and (d), as applicable, subject to these enumerated conditions.
2. The consolidation of the MMH and RGH hospital licenses is approved subject to the conditions in this Agreed Settlement. NewCo shall provide notification to OHS of the date on which the MMH and RGH hospital licenses are combined under a single license. NewCo shall provide such notification within thirty (30) days of the completion of such consolidation and shall include a copy of the new license as issued by the Department of Public Health ("DPH").
3. For a period of at least three (3) years following the consolidation of the MMH and RGH hospital licenses, NewCo shall provide notification to OHS of any decision to reallocate inpatient beds or relocate outpatient services between campuses. Such notification shall include the effective date of any reallocation or relocation, along with a detailed explanation for why any transfer is believed to be necessary. NewCo must provide such notification no later than thirty (30) days before any reallocation or relocation.²
4. With the exception of general medical/surgical inpatient and ICU services at the RGH campus, if, at the time of the signing of this Agreed Settlement, either WH, MMH, or RGH has ceased to provide any services that the hospitals are presently required to offer, NewCo shall provide notification to OHS within ninety (90) days following the closing of the transfer of ownership (the "Closing Date" or "Date of Closing") of such cessation. Notification shall include, at a minimum, the following information:
 - a. The most recent date on which such services were last operational;
 - b. The period of time for which they were last in operation; and
 - c. A preliminary, non-binding statement as to whether NewCo will attempt to restart the stopped service.

As used in this agreement, the "services" requiring notification are the high-level categories of care as set forth in the Applicants' responses to Question 4.b.i. and ii. on pages bates numbered 132-139 of Exhibit A (CON Application).³

² It is understood that NewCo will not provide general medical/surgical inpatient services, including ICU services at the RGH campus.

³ This list includes joint ventures interests held by Prospect entities. To the extent that certain joint ventures are not ultimately part of the transaction, those joint ventures are excluded from this

5. With the exception of general medical/surgical inpatient and ICU services at the RGH campus, for each of the services identified in response to Condition 4 above, NewCo shall do one of the following:
 - a. For any service that NewCo preliminarily notifies OHS it intends to restart as indicated in Condition 4 above, NewCo will provide an update on the status of the service one hundred eighty (180) days after that preliminary notification. NewCo will also provide notification to OHS within thirty (30) days following the resumption of those services; or
 - b. For any service that NewCo determines not to restart, NewCo shall submit final notification of its intent not to restart services within ninety (90) days after the preliminary notification. If required by statute with respect to that service, NewCo shall file a determination letter or CON application within one hundred eighty (180) days of the Closing Date seeking to terminate those services.
 - c. The Parties agree that NewCo may request reasonable extensions of these deadlines to the extent necessary based on new information learned post-closing.

6. With respect to the RGH campus, NewCo shall do the following:
 - a. Within thirty (30) days of the Closing Date, (i) publish notice of the termination of general medical/surgical inpatient and ICU services at the RGH campus (A) in a newspaper having a substantial circulation in the primary service area ("PSA"), and (B) on NewCo/RGH's Internet web site in a clear and conspicuous location that is easily accessible by members of the public; (ii) request the publication of notice (A) in at least two sites within the affected community that are commonly accessed by the public, such as a town hall or library, and (B) on any existing Internet web site of the municipality or local health department; and (iii) submit such notice to the unit for posting on such unit's Internet web site.
 - b. Within ninety (90) days of the Closing Date, submit a proposed interim Strategic Plan for acute and ambulatory care at the MMH and RGH campuses, and publish said proposed interim plan on the NewCo/MMH/RGH Internet web site(s) in a clear and conspicuous location that is easily accessible by members of the public.
 - c. Within one hundred eighty (180) days of the Closing Date, hold a community forum hosted both in-person and on a virtual platform, regarding the proposed interim Strategic Plan. NewCo/MMH/RGH shall provide ample opportunity for

condition. YNHHS will provide a list within thirty (30) days after the Closing Date of any joint venture interests that are not acquired as part of the transaction.

members of the public to comment on the proposed interim Strategic Plan. Notice of this community forum shall be posted in the same manner as described above in (a), and shall be posted no later than one-hundred and twenty (120) days following the Closing Date.

- d. Within one (1) year of the Closing Date, NewCo/MMH/RGH shall issue a final Strategic Plan, which takes into account the community feedback received in connection with the community forum.

The interim Strategic Plan shall be provided in a format consistent with, and include all of the same information (with exception of hours of operation) as, the one provided by the Applicants in their responses to Question 4.b.i. and ii. on pages bates numbered 132-139 of Exhibit A (CON Application).

7. NewCo shall file the following documents or information within thirty (30) days of the Closing Date:
 - a. Notice to OHS of the effective date of the transfer of ownership transaction. Such notice shall be accompanied by the Final Execution copies of all agreements related to same including, but not limited to:
 - i. The APA, including any and all amendments, schedules and exhibits;
 - ii. Certificate of Incorporation documents, Bylaws or similar governance documents for each of the hospitals.
8. NewCo shall continue to recognize all collective bargaining units currently organized at WH and MMH/RGH and their affiliates and honor the collective bargaining agreements currently in place.
9. NewCo shall offer to hire substantially all non-management employees in good standing of WH and MMH/RGH and any of their affiliates, into like or similar positions in the new organization. By "substantially all," the Parties recognize NewCo will only not hire non-management employees who (a) appear on the Department of Health and Human Services excluded individuals list; (b) appear on the YNHHS do-not-hire list—for example, individuals who have previously been terminated by YNHHS for cause; and (c) individuals who decline to timely complete paperwork necessary to seek and consent to employment by NewCo. To the extent that any WH and MMH/RGH employees leave their employment at WH and MMH/RGH service sites within ninety (90) days following the Closing Date and obtain employment with a YNHHS affiliate, such employees' seniority shall be preserved (e.g., eligibility for benefits consistent with total years of service) in accordance with YNHHS policy.

10. NewCo and YNHHS shall use their best efforts to achieve efficiencies through the management of vacancies and attrition and to minimize the elimination of individuals' jobs.
11. NewCo and NEMG shall retain existing covenants not to compete for WH/MMH/RGH and PCTMF/CAGW providers. There will be no impact for these providers' refusing to accept a new covenant not to compete in connection with the transition. Upon expiration of existing contracts, NewCo and NEMG shall not seek to impose covenants not to compete beyond those permissible under C.G.S. § 20-14p in connection with the signing of a new contract. In the case of NewCo transitions, for any provider electing not to transition to NewCo from WH/MMH/RGH, NewCo agrees not to enforce the existing Prospect entities' covenants not to compete.
12. For a period of at least five (5) years following the Closing Date, YNHHS/WH shall include at least one (1) community representative and YNHHS/MMH/RGH shall include at least two (2) community representatives (Manchester and Vernon) to serve as voting members on the Board(s) of Directors or equivalent governing body, with rights and obligations consistent with the other voting members on the Board(s). NewCo shall select the community representatives in a manner that ensures the appointment of unbiased individuals who will fairly represent the interests of the communities served by each of the respective hospitals. During this period, for each individual being considered as a community representative for the Board, NewCo shall confidentially notify OHS in writing, either under seal or through private communications, of the individual's name and qualifications. NewCo shall consult with OHS prior to each individual's appointment and OHS shall approve or reject each proposed appointment. OHS agrees to hold this information in strict confidence.

Once an individual is chosen and agrees to join the Board, NewCo shall, for the appointment of each new community representative, provide notification to OHS within thirty (30) days of such appointment that includes:

- a. The name of the community representative;
- b. A resume or curriculum vitae for the appointed representative; and
- c. The rationale for the appointment of the community representative.

YNHHS/WH and YNHHS/MMH/RGH shall each ensure that such Board meetings are held in a manner to allow full participation of the community representatives. Nothing in this condition shall be construed as limiting NewCo from including more than the above

number of community representative on the Board(s), provided that the same requirements of selection are met as stated above.

13. For a period of at least five (5) years following the Closing Date, YNHHS/WH and YNHHS/MMH/RGH shall each hold two (2) semi-annual community meetings, two (2) for YNHHS/WH and two (2) for YNHHS/MMH/RGH. If the Independent Monitor ("IM") requirement is extended under C.G.S. § 19a-639(e)(2), additional meetings may be held for the duration of the extension at the discretion of OHS and in consultation with YNHHS/WH and YNHHS/MMH/RGH. Each of the hospitals shall provide at least two (2) weeks' advance notice to the public of the date and time for each meeting. The hospitals shall post such notices on each of their websites as well as in hard copy near the entrance to each such hospital in clear and conspicuous locations that are easily accessible by members of the public. Additionally, NewCo shall schedule each meeting at a convenient time and location for the public and shall also simultaneously host and record the meeting via electronic means. During these meetings, each of the hospitals shall inform the public of YNHHS/WH's and YNHHS/MMH/RGH's activities, as applicable, and the public shall be afforded an opportunity to ask questions and make comments regarding those activities. Each of the hospitals shall provide members of the public the same opportunities regardless of whether they are attending in-person or remotely via electronic means. Within one (1) week of each such meeting, each hospital shall make the videorecording of the meeting available to the public via its website by either posting the videos themselves or links to the videos if hosted on a different site (e.g., YouTube).
14. NewCo shall adopt the YNHHS financial assistance (charity and free care) policies or, alternatively, shall adopt other policies that are at least as generous and benevolent to the community, and are consistent with state and federal law. These policies shall be prominently posted on each of the hospitals' websites and as additionally required by applicable law.
15. For a period of at least five (5) years following the Closing Date, YNHHS or NewCo shall not make any significant modification, amendment, or revision to the YNHHS charity care and indigent care policies at YNHHS/WH and/or YNHHS/MMH/RGH that result in changes in eligibility for charity/indigent care or the benefit levels described in Exhibit 6(A) to the CON application, Bates No. 591, including any changes to the benefits at each designated percentage of the federal poverty level. Eligibility may be affected by annual updates to the federal poverty level.

16. Consistent with all YNHHS hospitals, YNHHS/MMH/RGH shall participate with key community stakeholders, health organizations and local health departments in its service area in conducting a Community Health Needs Assessment (“CHNA”) to be performed in FY2025. YNHHS/MMH/RGH shall submit its CHNA, as well as the CHNA’s Implementation Strategies, to OHS within thirty (30) days of completion.

YNHHS/MMH/RGH and the participants shall utilize Healthy Connecticut State Health Improvement Plan⁴ data and priorities as the starting point for the new CHNA, as well as any applicable community health improvement plan issued by any local health department in YNHHS/MMH/RGH’s service area.⁵ The Implementation Strategy shall also adopt interventions that address the social determinants of health that are driving the health needs found in the most recent CHNA.⁶ YNHHS/MMH/RGH shall provide information on how the Implementation Strategy will measure patient outcomes and be measured and reported to the community. The CHNA and the Implementation Strategies shall be published on YNHHS/MMH/RGH’s website in a clear and conspicuous location that is easily assessable by members of the public.

In advance of the full CHNA process, YNHHS/MMH/RGH will develop an interim Community Profile to understand community needs. The Community Profile will be created from discussions with community stakeholders and supplemented with information from publicly available data sources, and which focus on social drivers of health, education, community wellbeing, health indicators, priority areas and other demographic information about the community.

Prior to conducting its own CHNA process, YNHHS/WH shall also adopt the existing CHNA that the Greater Waterbury Health Partnership conducted in 2022, applicable 2023 – 2026, as well as its corresponding Implementation Strategy, as supplemented by Community Profile discussed above.

⁴ Connecticut State Department of Public Health, Healthy Connecticut 2020, State Health Improvement Plan, <https://portal.ct.gov/dph/State-Health-Planning/Healthy-Connecticut/Healthy-Connecticut-2020>, last accessed on October 15, 2023.

⁵ Other tools and resources that MMH/RGH is encouraged to consider include County Health Rankings and CDC Community Health Improvement Navigator in order to assist with the study process in terms of an understanding of social, behavioral, and environmental conditions that affect health, identifying priorities, and the use of evidence-based interventions.

⁶ Centers for Disease Control and Prevention, CDC’s 6/18 Initiative, <https://www.cdc.gov/sixeighteen/>, last accessed on October 15, 2023.

17. YNHHS shall enhance community benefit services and activities at YNHHS/WH and YNHHS/MMH/RGH. Specifically, YNHHS shall increase the aggregate community benefit expenditures across these hospitals by, on average, one percent (1%) per year for the five (5) years following the Closing Date.⁷ Community benefit services and activities shall include those expenditures reported in Schedule H of IRS Form 990, except that Medicaid expenditures reported at Schedule H Part I line 7b shall be excluded from the aggregate required increase and the baseline against which that required increase is measured. The baseline shall be the data provided by Prospect for FY 2023, attached as **Appendix B** hereto. In the event that there is a significant change in Medicaid or Medicare eligibility, the Parties agree to revisit this condition. YNHHS will direct community benefits and community building activities to address the health needs identified by the applicable CHNA or Community Profile in effect at the time and the population health management objectives, including social determinants of health, contained in the related Implementation Strategies. No later than thirty (30) days after the filing of each fiscal year (“FY”) Schedule H, Form 990, each of the hospitals shall provide OHS with documentation detailing how its community benefit and community building activity expenditures addressed the relevant elements identified in the applicable CHNA/Community Profile, with brief narrative explanations of relevant activity for that element, measures, and a breakdown of the dollars spent.
18. YNHHS/WH and YNHHS/MMH/RGH shall each report annually for three (3) years after the Closing Date the number of individuals against whom they have taken extraordinary collection actions (“ECAs”) (as defined in 26 C.F.R. § 1.501(r)-6) over the previous FY. YNHHS/WH and YNHHS/MMH/RGH shall include with each report an attestation that the system-wide YNHHS financial assistance policy was applied in each case before any ECA was undertaken.
19. The IM shall be responsible for monitoring NewCo’s compliance with all of the conditions set forth in this Agreed Settlement and shall produce a schedule of required reports and data to be shared with OHS during the performance period. The IM shall be retained at the sole expense of NewCo, not to exceed the statutory cap.⁸ The IM shall be engaged

⁷ It is understood that community benefit changes may fluctuate year to year for reasons outside of the Applicant’s control. Accordingly, it is agreed that an *average* of 1% per year over five (5) years, measured in aggregate across categories at the end of the period, is required to account for these ordinary fluctuations. The increase shall be measured separately for YNHHS/MMH/RGH and YNHHS/WH.

⁸ For avoidance of any confusion, there will be one annual statutory cap of \$200,000 that applies to the acquisition of WH and a separate annual statutory cap of \$200,000 that applies to the

for a period of five (5) years following the Closing Date. NewCo shall provide the IM with appropriate access to YNHHS/WH and YNHHS/MMH/RGH (both campuses), and any applicable data, documents or records requested – including, but not limited to, confidential and commercially sensitive information to the extent relevant and necessary to complete the IM's tasks such as information necessary to confirm the rates applicable in the payer contracts – in order to enable the IM to fulfill its functions hereunder. The IM shall consider all available information in assessing compliance with the conditions set forth in this agreement.

NewCo shall coordinate with the IM in good faith to resolve any disagreements as to whether data, documents, or records requested are relevant and necessary for the IM to complete its monitoring tasks in light of any information already provided. If NewCo and the IM do not reach an agreement, within thirty (30) days of the IM's initial request, NewCo shall file a request for determination from OHS as to whether the materials must be submitted. The IM shall have fourteen (14) days from the request to respond. OHS will endeavor to reach a determination as to whether YNHHS shall be required to provide the requested material within fourteen (14) days of receiving the IM's response. Reasonable extensions of these deadlines may be permitted.

20. The IM shall report directly to OHS. The IM shall collect data and conduct on-site visits of YNHHS/WH and YNHHS/MMH/RGH (both campuses) on no less than a semi-annual basis to assess adherence to this Agreed Settlement. These on-site visits shall include meetings with both the individual hospitals (or hospital campuses) and YNHHS. The IM shall furnish written reports of his or her assessments to OHS within thirty (30) days of the completion of each semi-annual on-site review. Such reports shall be comprehensive and shall include a discussion of NewCo's ongoing compliance with all aspects of this Agreed Settlement, including on an annual basis, the level of community benefits and uncompensated care provided by YNHHS/WH and YNHHS/MMH/RGH during the most recently available prior year. Each individual hospital and YNHHS shall have the opportunity to review and provide written responses to the report within sixty (60) days of the issuance of each IM report, which also must be filed with OHS. As OHS deems necessary, the IM shall meet with OHS personnel to discuss the written report as well as any responses received and shall perform additional periodic reviews as directed by OHS.

acquisition of MMH and RGH, for an annual total of \$400,000 to be divided equally between the hospitals. Had OHS not acquiesced to the consolidation of the MMH and RGH licenses as part of this settlement, the statutory cap would have been \$600,000.

21. In addition to the above, NewCo will make the following commitment for a period of five (5) years post-Closing Date:
- a. The IM shall, at a minimum, meet with representatives of the YNHHS/WH and YNHHS/MMH/RGH community service areas at six (6) months after the Date of Closing and annually, thereafter.
 - b. YNHHS/WH and YNHHS/MMH/RGH shall each hold a public forum in their respective communities, within sixty (60) days following the receipt of the IM's report, to provide public review and comment on the monitor's reports and findings as provided to OHS. These public forums may serve as one (1) of the two (2) semi-annual community meetings required to take place in each community by Condition 13 (for a total of four meetings annually between the two communities).

If the IM determines that YNHHS/WH and/or YNHHS/MMH/RGH is or are substantially out of compliance with any of these conditions, the IM shall notify OHS and the relevant entity or entities in writing via email regarding the perceived deficiency. Within two (2) weeks of such notice, the IM shall convene a meeting with representatives from OHS, as well as YNHHS/WH and/or YNHHS/MMH/RGH, as applicable, for the purpose of determining compliance and appropriateness of implementing a performance improvement plan ("PIP"). If OHS issues a PIP, the IM shall conduct on-site visits of the affected hospital(s) at thirty (30) day intervals until it is satisfied that the affected hospital(s) are no longer out of compliance with these conditions. If, after ninety (90) days from the date of the issuance of the PIP, the IM believes the hospital(s) remains out of compliance, it shall report this in writing to OHS. Thereafter, OHS shall determine whether such non-compliance has had a negative material impact and what remedy is reasonably necessary to bring YNHHS/WH and/or YNHHS/MMH/RGH into compliance, and shall have the right to enforce these conditions by all means and remedies available to it under law and equity including, but not limited to, C.G.S. § 19a-642 and the right to impose and collect a civil penalty under C.G.S. § 19a-653.

In the event that the monitoring period is scheduled to end after the IM has determined that there is substantial non-compliance but before such non-compliance has been resolved to the satisfaction of OHS, the monitoring period for the non-compliant condition may be extended in OHS's discretion for up to one year after any non-compliance is resolved.

23. YNHHS/WH and YNHHS/MMH/RGH shall each, for a period of five (5) years from the Date of Closing, comply with the terms and price constraints specified in **Attachment A**.

24. YNHHS/WH and YNHHS/MMH/RGH shall, in accordance with the terms in Attachment A, use reasonable efforts to promote ongoing, annual increases of the number of unduplicated patients attributed to an Advanced Alternative Payment Model (“APM”) in which employed physicians participating in the YNHHS network are accountable for quality and total cost of care during the specified calendar years. In addition, they will pursue or continue APMs with public and private payers to improve population health, reduce the rate of unnecessary cost or utilization growth, improve access to primary care, address social determinants of health and to help the state achieve its vision of overall cost containment, and improved quality and access to affordable health care. Such relationships may include value-based purchasing and alternative payment methods that account for total cost of care and quality and address social determinants of health and needs identified in the most recent CHNA or Community Profile conducted for the applicable hospital. The parties acknowledge that plan benefit determinations and attribution methodology definitions are established by Payers, and such payer related changes shall not be a basis for determining that NewCo has not made reasonable efforts to increase participation in APMs.
25. All PCTMF/CAGW practices, once integrated with NEMG, will participate in the Medicare Shared Savings Program applicable for such practices, and consistent with the terms included in Attachment A, following the Closing Date. NEMG (including PCTMF/CAGW) shall continue to participate in the Medicare Shared Savings Program for the duration of the Price Constraint absent material changes to the program.
26. YNHHS/WH and YNHHS/MMH/RGH shall each, for a period of five (5) years, separately submit an annual report demonstrating compliance with Conditions 23, 24 and 25. The initial report shall be due with the first semi-annual filing, and then annually thereafter.
27. In addition, as a supplement to the annual reporting and IM oversight, YNHHS/WH and YNHHS/MMH/RGH understand that OHS may use the All-Payer Claims Database (“APCD”) to monitor claims for inpatient and outpatient services provided to consumers at YNHHS/WH and YNHHS/MMH/RGH, including the average Commercial Unit Price Rate for services delivered at YNHHS/WH and YNHHS/MMH/RGH by Covered YNHHS/MMH/RGH Providers and Covered YNHHS/WH Providers, during a given Fiscal Year (the “Rates”). If the information cannot be sufficiently separated out by campus, OHS reserves the right to request additional information be provided, such as national provider identifier (NPI) numbers, tax identification numbers (TINs), current procedural terminology (CPT) codes, and diagnosis-related group (DRG) codes, for purposes of conducting more granular

monitoring and analyses. OHS shall collaborate with YNHHS/WH and YNHHS/MMH/RGH to reasonably and most accurately compare said Rates with those Rates for the immediately preceding Fiscal Year. OHS acknowledges that the data available through the APCD is limited to Medicare, Medicaid, Medicare Advantage, fully insured and State Employee/Partnership plan members, and that this should be considered in any use of the APCD for monitoring purposes.

Each year, the IM will determine whether there is substantial evidence (based on NewCo annual reporting and the IM's own review of all relevant information including, but not limited to, APCD data supplied by OHS⁹), of a year-to-year increase in the Commercial Unit Price Rates in excess of the Price Constraint described in Attachment A.

The IM shall determine whether there has been an increase of more than half a percentage point in excess of the Price Constraint in two (2) or more Fiscal Years in any rolling three (3) fiscal year period.¹⁰ If the IM determines that there has been an increase of more than half a percentage point in excess of the Price Constraint in two (2) or more Fiscal Years in any rolling three (3) fiscal year period, OHS may:

- (1) extend the Price Constraint and associated reporting period by up to one (1) year; and/or
- (2) require YNHHS/WH and/or YNHHS/MMH/RGH, as appropriate, to explain (i) the reason(s) for such increases, and (ii) the impact of such increases on consumers in the pertinent Primary Service Area(s).

If OHS requires an explanation (or explanations) under (2) above, the IM will review the explanation(s) provided and issue a report to OHS regarding same. Thereafter, OHS will make a determination as to whether such increases were justified. If OHS determines that they are not justified, it may elect to require NewCo to produce a PIP to address the excessive price growth.

The IM shall be selected in the manner described in Condition 43 of this Agreed Settlement. NewCo shall contract with the IM and be responsible for any and all fees incurred.

⁹ Data from the APCD may be provided by OHS to the Independent Monitor for purposes of suggesting additional investigation relating to pricing, but as this data is incomplete and conclusions drawn from it may be inconsistent with the results that would be obtained from applying the price constraint formula in Attachment A, may not serve as the sole basis for a finding of noncompliance.

¹⁰ That is, Fiscal Years 1 through 3, 2 through 4, or 3 through 5.

28. NewCo shall not convert any existing WH/MMH/RGH outpatient, non-hospital physician offices (including those that will be merged into NEMG) to hospital-based status. For any future acquisition of an outpatient, non-hospital physician office, NewCo shall not convert those to hospital-based status. The intent of this condition is to ensure that new and existing non-hospital providers continue to bill as non-hospital entities.
29. For each hospital (YNHHS/WH and YNHHS/MMH/RGH), NewCo agrees to separately file the following documents and information on a semi-annual basis. For purposes of this Agreed Settlement, semi-annual periods are October 1st-March 31st and April 1st-September 30th. The required information is due no later than two (2) months after the end of each semi-annual period and due dates are May 31st and November 30th. The first semi-annual filing will be due no sooner than six (6) months from the Closing Date. These semi-annual filings should be submitted to OHS in Excel and PDF format.
- a. Separate reports detailing the actual cost savings achieved. This report (or these reports) shall be required for five (5) years following the Closing Date and include, at a minimum:
 - i. The cost saving totals achieved in the following operating expense categories for YNHHS/WH and YNHHS/MMH/RGH: Salaries and Wages, Fringe Benefits, Contractual Labor Fees, Medical Supplies and Pharmaceutical Costs, Depreciation and Amortization, Interest Expense, Malpractice Expense, Utilities, Business Expenses and Other Operating Expenses. The categories shall be consistent with the major operating expense categories (Categories A, B, C, D, E, and F) which are in use at the time of reporting in the OHS Hospital Reporting System ("HRS") Report 175 or successor report.
 - ii. Each semi-annual submission shall also contain narratives describing:
 1. the major cost savings achieved for each expense category for the semi-annual period; and
 2. a consolidated Balance Sheet, Statement of Operations, and Statement of Cash Flows for the Hospital and its immediate parent corporation. The format shall be consistent with that which is in use at the time of reporting in OHS's HRS Reports 100/300 (balance sheets), 125/325 (statement of cash flows), 150/350 (statement of operations), or successor reports.
 - b. A report of financial measurements. This report shall be required for five (5) years following the Closing Date and shall be filed with OHS for YNHHS/WH, YNHHS/MMH/RGH, and YNHHS. This report shall show current year-to-date data

and comparable prior year period data. The following financial measurements/ indicators should be addressed in the report:

Financial Measurement/Indicators
A. Operating Performance
1. Operating Margin
2. Non-Operating Margin
3. Total Margin
B. Liquidity
1. Current Ratio
2. Days Cash on Hand
3. Days in Net Accounts Receivables
4. Average Payment Period
C. Leverage and Capital Structure
1. Long-term Debt to Equity
2. Long-term Debt to Capitalization
3. Unrestricted Cash to Debt
4. Times Interest Earned Ratio
5. Debt Service Coverage Ratio
6. Equity Financing Ratio
D. Additional Statistics
1. Income from Operations
2. Revenue Over/(Under) Expense
3. Cash from Operations
4. Cash and Cash Equivalents
5. Net Working Capital
6. Free Cash Flow (and the elements used in the calculation)
7. Unrestricted Net Assets/Retained Earnings
8. Bad Debt as % of Gross Revenue ¹¹
9. Credit Ratings (S&P, FITCH or Moody's)

¹¹ This measure shall only be reported annually.

- c. To the extent that YNHHS has made representations with respect to certain capital expenses it plans to make,¹² a report on the capital investments (“Capital Investment Report”) YNHHS and/or NewCo has made in YNHHS/WH and YNHHS/MMH/RGH, and their affiliates, separated by hospital. The Capital Investment Report shall include the following in a format to be agreed upon:
 - i. A list of the capital expenditures that have been made in the prior one hundred and eighty (180) days with descriptions of each associated project;
 - ii. An explanation of why each expenditure was made and a timeframe for the roll out of the associated capital project (including estimated beginning, ending and startup/operation dates); and
 - iii. The funding source of the capital investment indicating whether it was drawn from operating revenue, capital contributions from YNHHS or another source and, if funding was drawn from another source, indicating the source.
 - d. The reports shall be signed by YNHHS’s, NewCo’s, or YNHHS/WH’s and YNHHS/MMH/RGH’s Chief Financial Officer(s).
30. Within one (1) year of the Closing Date, NewCo shall file a complete copy of its Strategic Plan for acute and ambulatory care in the hospitals’ respective service areas; YNHHS/MMH/RGH shall file one (1) specific to the YNHHS/MMH/RGH service area and YNHHS/WH shall file one (1) specific to the YNHHS/WH service area. Such Strategic Plans shall be filed within one (1) month of their completion and shall include any and all exhibits, schedules and/or attachments.
31. NewCo agrees to separately file, for each hospital (YNHHS/MMH/RGH and YNHHS/WH), the following documents and information on an annual basis:
- a. A written report describing the achievement of the Strategic Plan components to retain and enhance healthcare services in each of the hospitals’ respective service areas, including with respect to physician recruitment and resource commitments for clinical service programming.
 - b. An updated plan demonstrating how health care services are currently provided and will be provided by YNHHS/WH and YNHHS/MMH/RGH for the first three (3) years following submission of the Strategic Plans, including any consolidation, reduction or elimination of existing services/group practices or introduction of

¹² Exhibit F – Response to CL#1, pp. 1043-1044 (IT/Epic) and 1050 (facilities and infrastructure [e.g., nurse call system, replacement of fire alarm systems]), normal and emergency power systems, and systems for pressurization to key clinical areas).

new services/group practices (the "Services Plan"). The Services Plan shall be provided in a format consistent with that provided by YNHHS/WH and YNHHS/MMH/RGH to OHS in their responses to Question 4.b.i. and ii on pages bates numbered 132-139 of Exhibit A (CON Application).

- c. An affirmation document attesting to the following:
 - i. That YNHHS/WH and YNHHS/MMH/RGH are each meeting the obligations of Conditions 9 and 10;
 - ii. That no former Prospect CT Medical Foundation physician office has been converted to hospital-based status;
 - iii. That any new contracts are consistent with the commitments of Conditions 23 – 27;
 - iv. That the updated Services Plan submitted in response to Condition 30 accurately reflects all changes, any consolidation, reduction, or elimination of existing services or introduction of new services in the annual period ending September 30th; and
 - v. The YNHHS/WH and YNHHS/MMH/RGH are each meeting the obligations of Condition 42.

These filings are due no later than two (2) months after the end of the period ending September 30th, or by November 30th, for a period of three (3) years beginning on the date(s) on which NewCo submits the Strategic Plans.

32. All Prospect CT entities that are participating in Medicaid as of the Date of Closing shall maintain their participation in Medicaid.
33. All health care providers employed by Prospect CT who participate in Medicaid as of the Date of Closing shall continue to participate in Medicaid so long as they are qualified to do so.
34. For all medical providers employed by Prospect CT on the Date of Closing, and for any medical providers hired at any point thereafter, NewCo shall make good faith efforts to have them apply to the Connecticut Department of Social Services ("DSS") to be credentialed as a Medicaid provider (if they are eligible for such participation) within three (3) months of the Date of Closing or date of hire, as applicable. If not credentialed to become a Medicaid provider, NewCo shall have such providers reapply annually to DSS. During any period in which a provider is not credentialed to be a Medicaid provider, NewCo shall negotiate single case agreements for such provider with DSS to provide services to Medicaid clients.

35. For a period of five (5) years, NEMG will measure and provide semi-annual reports regarding Medicaid patients' access to the following medical and surgical specialty services for its employed physician practices within the respective NewCo hospital PSAs: psychiatry, medication assisted treatment for substance misuse, dermatology, otorhinolaryngology (ENT), neurology, orthopedics, and pain management. At a minimum, such reports shall include payer mix information¹³ for each of the individual specialties listed above as well as average wait time for a new patient appointment, by payer type. Reports should be in aggregate, by specialty, for NEMG locations in each of the two (2) NewCo hospital PSAs (one [1] report for the WH/YNHHS PSA and one [1] report for the MMH/RGH/YNHHS PSA). The reports shall be filed no later than two (2) months after the end of each semi-annual period ending March 31st and September 30th, with the first report being due no sooner than six (6) months from the Closing Date.

Following the submission of each report, the Connecticut DSS will work with the IM to review these reports, along with any other applicable data and information that DSS and OHS are able to make available. For each filing, DSS and the IM shall seek to understand whether Medicaid patients are experiencing unique issues accessing the identified specialty services at NEMG's physician practices providing the specialty services within the respective NewCo hospital PSAs. If DSS and the IM find that there are unique concerns regarding Medicaid patients' access, the IM shall provide written notification of its finding to NEMG within thirty (30) days of the semi-annual report. Within thirty (30) days of receiving any such notification, NEMG shall review the IM's notification and provide a written response, which may include additional information that supports a different conclusion than that reached by DSS and the IM. If DSS and the IM continue to find that there are access barriers that impact Medicaid recipients after reviewing any additional information submitted, then NEMG shall submit a written plan to improve access in any of the specialty areas noted above in which opportunities for increased access have been found. DSS and the IM shall review and either approve the plan as is, or work with NEMG to revise its plan to ensure the best possible chance of improving access. Any revised plan shall be in writing and submitted to OHS within thirty (30) days of the preliminary plan.¹⁴

¹³ The Parties recognize that payer mix can be driven by many factors, including different utilization of different services by different populations (e.g., orthopedic services may be used by the elderly at higher rates and thus may show a disproportionate share of Medicare patients). Accordingly, payer mix alone shall not be the basis for a determination that an access barrier exists.

¹⁴ Any plan shall not require NEMG to discriminate against any patient based on payer type. The Parties acknowledge that access challenges can affect commercial and Medicare as well as

NEMG shall comply with all terms and conditions of the final plan. Every six (6) months, NEMG, DSS and the IM shall evaluate whether the plan results in improved access for Medicaid recipients. In the event there is no improvement, NEMG, DSS and the IM shall reassess the plan and make reasonable modifications. The plan shall only be reassessed once.

In the event that the reporting period is scheduled to end after the IM has determined that there is substantial non-compliance with the plan but before such non-compliance has been resolved to the satisfaction of DSS and the IM, the reporting period for this condition may be extended in OHS's discretion for up to one year after any noncompliance is resolved. It is understood that OHS reserves the right to pursue civil penalties pursuant to C.G.S. § 19a-653, as recently amended by Section 14 of Public Act No. 23-171, if NEMG either refuses to produce or otherwise engage with DSS or the IM in the written plan or the revision process, or if the terms of such written plan are negligently or willfully not met.¹⁵

36. YNHHS/NewCo shall invest a minimum of \$6 Million over three (3) years in behavioral health services to enhance access to mental health and substance use disorder treatment for patients in central western and central eastern Connecticut. Services identified in the Community Health profile will be prioritized, with specific consideration for integrated behavioral health primary care, inpatient behavioral health bed management, and timely medication assisted treatment (MAT). YNHHS shall report annually on the cumulative amount and type of expenditure made to meet this condition.
37. Within three (3) years of the Closing Date, YNHHS shall extend the YNHHS Y-Access platform to the NewCo hospitals for centralized bed management and patient transfer of all patients, including inpatient behavioral health treatment.
38. NewCo shall make culturally and linguistically appropriate services available and integrated throughout its respective operations. Specifically, each hospital shall take necessary steps to provide meaningful access to each individual with limited English proficiency eligible to be served or likely to be encountered in its health programs and

Medicaid populations, and agree to focus any remediation plans on issues identified during the access evaluation that significantly and uniquely impact the Medicaid population.

¹⁵ No penalties may be imposed to the extent that barriers continue to exist despite NEMG's implementation of any plan.

activities, in accordance with the implementing regulations of Section 1557 of the Patient Protection and Affordable Care Act (42 U.S.C. § 18116). In complying with this condition, the hospitals shall be guided by the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care published by the U.S. Department of Health and Human Services' Office of Minority Health.¹⁶ In the event that NewCo plans to revise its policies that pertain to adherence to the national CLAS standards, the affected hospital(s) shall submit the new policies to OHS no later than thirty (30) days prior to implementation.

39. Following the Closing Date, NewCo shall contact the Facilities Licensing and Investigations Section (FLIS) of DPH for purposes of having established Pre-Licensing Consent Orders at each hospital. NewCo agrees to make best efforts to satisfy any and all conditions as ultimately set forth in the Consent Orders.
40. YNHHS/WH and YNHHS/MMH/RGH shall measure and report to the IM and/or OHS annual quality measures in critical areas of inpatient and outpatient hospital performance. YNHHS/WH and YNHHS/MMH/RGH shall work with the IM to establish a baseline measurement year for each measure, which shall be the first full year after EPIC implementation. Thereafter, YNHHS/WH and YNHHS/MMH/EGH shall report annually, on a mutually agreed upon schedule, for a period of five (5) years on the following quality measures:
- a. From the AHRQ Quality Indicators:
 - IQI 90 – Mortality for Selected Procedures
 - IQI 91 – Mortality for Selected Conditions
 - PSI 90 – Patient Safety and Adverse Events Composite
 - IQI 21 – Cesarean Delivery Rate, Uncomplicated
 - b. From HEDIS:
 - 30-day All Cause Readmission (HEDIS)
 - c. From NHSN (no measure numbers are associated with the below):
 - Cauti
 - CLABSI
 - C.diff
 - MRSA
 - SSI

¹⁶ U.S. Department of Health and Human Services, Office of Minority Health. National standards for culturally and linguistically appropriate services in health and health care: a blueprint for advancing and sustaining CLAS policy and practice; 2013. Available from <https://thinkculturalhealth.hhs.gov/clas/blueprint>, last accessed on October 15, 2023.

d. Excess Days in Acute Care

The reports shall provide detailed explanations for any negative changes in rates or scores from the previous year and shall include a plan of action that details how it will address them.

41. YNHHS/NewCo shall, within one (1) year of the Closing Date, provide a written report (or reports) detailing the implementation and dates of completion of the following initiatives for each of the hospitals:
- a. Integration of each hospital into YNHHS's quality improvement platform, including participation in clinical quality councils;
 - b. The installation and implementation of YNHHS's Electronic Health Record ("EHR") and other IT systems, including Epic and access to Helix; and
 - c. Progress toward migration of the hospitals' existing and available EHR data into EPIC.

If the aforementioned initiatives have not been implemented when the initial annual report is due to OHS, NewCo shall disclose the reasons for the delay and shall include a projected date for the completion of any outstanding initiatives. NewCo shall continue to update OHS regarding the status of any outstanding initiatives in a written report every six (6) months following the initial annual report.

42. With respect to the proposed merger of PCTMF/CAGW and NEMG:
- a. PCTMF/CAGW and NEMG will integrate as of the Closing Date and shall implement the statutory merger contemplated in the Application.
 - b. Physicians who are hired, recruited or contracted by a YNHHS affiliate after the Closing Date to provide professional services in the PSAs of PCTMF/CAGW shall be credentialed and contracted with payers in accordance with the commercial health plan contracts applicable to the PSAs. Current PCTMF/CAGW physicians providing services in the PSAs as of the Date of Closing will, as applicable, remain credentialed and contracted with commercial health plans in accordance with the commercial health plan contracts applicable to the PSAs.

43. In order to monitor compliance with this Agreed Settlement, as well as to ensure objective and accurate assessments of financial data critical to the implementation and oversight of this agreement, the Parties have identified areas where an independent third-party will have a role in the administration of this Agreed Settlement. Those areas are:

- a. An IM to track and ensure overall compliance with the terms of this settlement including any determination of whether the Price Constraints have been met and/or evaluation of any explanation for failure to comply with the Price Constraints set forth in Conditions 23 – 27 and Attachment A; and
- b. An independent third-party consultant to determine how the baseline unit prices at the NewCo hospitals compare to the Connecticut Statewide Median unit prices as required in Attachment A, Subsections (e) and (l).

The Parties acknowledge the importance of impartiality, expertise and independence of each of these entities, and therefore agree to the following process for identifying and contracting with them:

- One (1) or more contractors may fulfill these roles as dictated by their experience and expertise.
- NewCo agrees to provide funding for and contract with these contractors, as required by C.G.S. § 19a-639(e)(3) and as further explained below, and as agreed to in Condition 27 and Attachment A, Subsection (l).
- Within sixty (60) days of the Closing Date, OHS and NewCo will each use reasonable efforts to identify five (5) candidates¹⁷ each determines to be qualified to fulfill the above functions, and it is possible for one candidate to fulfill all functions. OHS and NewCo will include each candidate's qualifications and experience, and an attestation that said candidate has no existing or expected contractual or employment relationship with any party to the Asset Purchase Agreement or with OHS.
- OHS and NewCo will each independently rank the candidates on each of the above functions from most to least qualified to fulfill said functions. OHS and NewCo may each disqualify one (1) candidate proposed by the other party.
- OHS and NewCo will use best efforts to achieve consensus on the selected contractors.
- If consensus cannot be reached, contractors will be selected based on the best combined ranking given by OHS and NewCo. The candidate with the "best" ranking shall be the candidate with the lowest combined ranking after each party ranks all candidates from first to last (e.g., 1 to 8). In the event that there is a tie for the best ranking, OHS and NewCo agree to consult each other to first try to reach agreement, but if agreement cannot promptly be reached, OHS may break the tie.

¹⁷ The Parties may agree to an alternate equal number if they believe they cannot identify five (5) acceptable candidates.

NewCo will contract with the selected vendor(s). The Scope of Work shall be reviewed and approved by OHS and will provide sufficient detail to ensure that the monitoring will be appropriately conducted. Any work performed in connection with subsection (a) of this Paragraph 43 shall be subject to the financial constraints placed on the payment of the contractor performing the functions of an IM. If one candidate is selected to fulfill both the IM functions in subsection (a) and the market survey work in subsection (b), it shall enter into separate contracts with NewCo for each of its respective functions and shall track its time spent performing its separate functions.

44. If the Applicants believe in good faith that certain information required to be submitted under any condition of this Agreed Settlement should be exempt from public disclosure, they shall follow the procedure set forth in OHS's Policies and Procedures Relating to the Submission and Treatment of Confidential Information (Jan. 19, 2024) for the submission of the documentation, which can be found on the OHS website.
45. It is understood and acknowledged by the Applicants that OHS's agreement to enter into this Agreed Settlement assumes that the October 5th APA remains in effect at the time of the execution of this Agreed Settlement. If the October 5th APA does not control at any time on or before the Closing Date, or if any of the terms or conditions of the October 5th APA have been renegotiated on or before the Closing Date, in ways that OHS determines would have materially affected OHS's review of the underlying Health Systems Proposal under the applicable CON criteria, OHS shall have the option of renegotiating pertinent conditions of this settlement or unilaterally terminating the Agreed Settlement. Any newly proposed or modified conditions shall be subject to the Applicants' agreement in any modified Agreed Settlement. The Applicants agree to provide to OHS any new agreement, as well as any supplement or amendment to the October 5th APA, within ten (10) business days of the Applicants' execution of such document and in any event no later than twenty (20) business days before the transaction is scheduled to close. OHS shall not unreasonably withhold its review and approval, and shall respond no later than ten (10) days after receipt.
46. No payment shall be made by YNHHS or any representative thereof with respect to the sale of the assets of WH, MMH, and RGH (the "Taxpayers"), to any entity or person from the proceeds of said sale until such time as the Connecticut Department of Revenue Services ("DRS") has confirmed that it has received Fifty-Five Million Dollars (\$55,000,000.00) from Taxpayers, Prospect CT, or Prospect Medical Holdings, Inc., under the Closing Agreement entered into with the DRS. Written confirmation shall be issued by DRS to YNHHS.

47. This Agreed Settlement fully and completely resolves the CON applications bearing Docket Nos. 22-32594-CON and 22-32606-CON without any further proceedings.
48. This Agreed Settlement embodies the full and entire agreement between the Parties with respect to the subject matter involved herein. All previous communications and agreements, written or oral, between the Parties with regard to the subject matter of this Agreed Settlement, are superseded unless expressly incorporated herein or made a part hereof.
49. This Agreed Settlement may be considered as evidence in any subsequent proceeding or determination before OHS in which (1) the Applicants' compliance with this Agreed Settlement and/or any related Agreed Settlement is at issue, or (2) the Applicants' compliance with any state statute and/or regulation is at issue.
50. The Applicants waive any right they may have to further hearing and/or appeal on the merits of these matters.
51. This Agreed Settlement and terms set forth herein are not subject to reconsideration, collateral attack, or judicial review under any form or in any forum, including any right of review under the Uniform Administrative Procedure Act, Chapter 368z of the Connecticut General Statutes, or Regulations that exist at the time the Agreed Settlement is executed or may become available in the future, provided that this stipulation shall not deprive the Applicants of any other rights that it may have under the laws of the State of Connecticut or of the United States. The Applicants waive any right to seek reconsideration of this Agreed Settlement pursuant to C.G.S. § 4-181a without the express consent and agreement of OHS.
52. This Agreed Settlement is a matter of public record and will be reported in accordance with state and federal laws and/or regulations and OHS policy. This Agreed Settlement may be posted on OHS's website including, but not limited to, the electronic CON portal and/or any successor thereto.
53. Any extension of time, grace period, and/or modification granted by OHS in its discretion for any condition of this Agreed Settlement shall not constitute a waiver or preclude OHS's right to take action at a later time. OHS shall not be required to grant future extensions of time, grace periods, and/or modifications.

54. All references to days in these conditions shall mean calendar days and OHS shall mean the Office of Health Strategy or its successor.
55. This Agreed Settlement represents a final agreement between OHS and the Applicants with respect to OHS Docket Nos. 22-32594-CON and 22-32606-CON. The execution of this Agreed Settlement resolves all objections, claims, and disputes, which were either raised or could have been raised by the Applicants, about OHS Docket Nos. 22-32594-CON and 22-32606-CON.
56. Legal notice of any action shall be deemed sufficient if sent to the Applicants' last addresses of record, as reported by the Applicants to OHS in OHS Docket Nos. 22-32594-CON and 22-32606-CON.
57. This Agreed Settlement is effective upon the signature of the OHS Executive Director or her designee, at which time it shall become final and an Order of the OHS Executive Director with all the rights and obligations attendant thereto. OHS may enforce this Agreed Settlement pursuant to the provisions of C.G.S. §§ 19a-642 and 19a-653, as amended by Public Act No. 23-171, Section 14, if the Applicants fail to comply with its terms.
58. This Agreed Settlement shall be binding upon and enforceable against the Applicants and their successors and assigns.
59. The Applicants had the opportunity to consult with an attorney prior to signing this Agreed Settlement.
60. _____ represents that she is authorized to sign this Agreed Settlement on behalf of the Applicant, Yale New Haven Health Services Corporation, and to bind it to the applicable terms and conditions contained in this Agreed Settlement.
61. _____ represents that she is authorized to sign this Agreed Settlement on behalf of the Applicant, Prospect CT, Inc., and to bind it to the applicable terms and conditions contained in this Agreed Settlement.
62. _____ represents that she is authorized to sign this Agreed Settlement on behalf of the Applicant, Northeast Medical Group, Inc., and to bind it to the applicable terms and conditions contained in this Agreed Settlement.

63. _____ represents that she is authorized to sign this Agreed Settlement on behalf of the Applicant, Prospect CT Medical Foundation, Inc., and to bind it to the applicable terms and conditions contained in this Agreed Settlement.



IN WITNESS WHEREOF, the Parties hereto, which have caused this Agreed Settlement to be executed by their respective officers and officials, declare the execution of this Agreed Settlement to be their free act and deed.

Date

Authorized Agent for
Yale New Haven Health Services Corporation
Title

Date

Authorized Agent for
Prospect CT, Inc.
Title

Date

Authorized Agent for
Northeast Medical Group, Inc.
Title

Date

Authorized Agent for
Prospect CT Medical Foundation, Inc.
Title

Date

Name
Executive Director
Office of Health Strategy

Attachment A

1. The following terms shall have the following meanings:
 - a. “Alternative Payment Methods” means any transfer of funds from a Payer to YNHHS/WH and/or YNHHS/MMH/RGH pursuant to a contract for a commercial health insurance product that is not captured by Commercial Unit Price payments, including but not limited to care coordination and other incentive-based payments (e.g., per member-per-month reimbursement), quality payments, and infrastructure payments.
 - b. “Baseline Set of Services” shall be the volume of each billable and payable inpatient and outpatient hospital based health care service provided at YNHHS/WH or YNHHS/MMH/RGH, including by Covered YNHHS/MMH/RGH Providers or Covered YNHHS/WH Providers at the hospitals, to a commercial Payer’s enrollees (excluding enrollees in a commercial Payer’s Managed Medicare plans) in the most recently completed Contract Year, including both professional and facility fees payable under the applicable commercial Payer Contracts.
 - c. “Contract Year” shall mean the twelve (12) month period beginning on the date the rate schedule in a commercial health plan contract takes effect.
 - d. “Commercial Unit Price” shall mean the aggregate negotiated reimbursement to be paid to YNHHS/WH, YNHHS/MMH/RGH, Covered YNHHS/MMH/RGH Providers, or Covered YNHHS/WH Providers for inpatient and outpatient hospital based health care services, including professional and facility fees payable under commercial Payer Contracts, in exchange for providing health care services to enrollees in Connecticut, as is paid in one of the commercial health plan’s “fee-for-service” commercial health insurance products, including but not limited to rates of reimbursement for physician fees, professional fees and/or facility fees.
 - e. “Connecticut Statewide Median” shall mean the calculated median of Commercial Unit Price for hospital based inpatient and outpatient health care services provided by each reporting entity, calculated as a percentage of then current Medicare reimbursement, as is customary for aggregate indexing of Commercial Unit Price. To calculate the most accurate Commercial Unit Price as a percentage of Medicare for each hospital, a three (3) year weighted average of

Medicare and Commercial prices for the most recently available three Fiscal Years prior to closing will be used.

f. “Covered YNHHS/WH Providers” shall mean physicians employed by YNHHS/WH or NEMG providing inpatient and/or outpatient services at YNHHS/WH, including but not limited to emergency and urgent care services.

g. “Covered YNHHS/MMH/RGH Providers” shall mean physicians employed by YNHHS/MMH/RGH or NEMG providing inpatient and/or outpatient services at YNHHS/MMH/RGH, including but not limited to emergency and urgent care services.

h. “Health Care Cost Growth Benchmark Target” shall mean the applicable calendar year’s health care cost growth benchmark authorized under C.G.S. § 19a-754g, prorated for each Fiscal Year of the Price Constraint Period.

i. “Payer” means any organization or entity, other than a governmental health care program, that contracts with health care providers and other health care organizations to provide or arrange for the provision of health care services to any person or group of persons and that is responsible for payment to such providers and other health care organizations of all or part of any expense for such health care services, including but not limited to commercial insurance companies, health maintenance organizations, preferred provider organizations, union trust funds, multiple employer trusts and self-insured health plans.

j. “Payer Contract” means a contract between YNHHS/WH and/or YNHHS/MMH/RGH and a Payer pursuant to which YNHHS/WH and/or YNHHS/MMH/RGH agree to provide or arrange for the provision of health care services to enrollees of the Payer’s commercial health insurance products.

k. “Price Constraint Period” shall mean the years following the Date of Closing.

l. “Price Constraint” for any Fiscal Year beginning within the Price Constraint Period, shall mean the Health Care Cost Growth Benchmark Target and as modified from time-to-time. Notwithstanding the foregoing, YNHHS/WH, YNHHS/MMH/RGH, Covered YNHHS/WH Providers and Covered YNHHS/MMH/RGH Providers are each allowed an adjustment up to the Connecticut Statewide Median for hospital and/or physician services provided at the hospitals, that will not be

included in the Price Constraint limit or calculation applicable to the particular entity. Such adjustment will be determined by the comprehensive benchmark study of these hospitals' Commercial Unit Prices (including facility and professional fees billed under the hospitals' contracts) and of PCTMF's Commercial Unit Prices for services provided at the hospitals, in comparison to the applicable Connecticut Statewide Median Commercial Unit Prices for the most complete Fiscal Year immediately prior to closing. The study shall be conducted by an independent, third-party consultant, which shall be selected in the manner described in Condition 43 of this Agreed Settlement. NewCo shall contract with the consultant and be responsible for any and all fees incurred, and OHS will review and approve the contract and Scope of Work in the same manner as for the Independent Monitor as described in Condition 19.

m. "Total Projected Revenue" shall, for each Hospitals' Fiscal Year, mean the amount calculated in accordance with subsections (3), (4) and (5) of this Attachment A.

2. During the Price Constraint Period, YNHHS/WH and YNHHS/MMH/RGH shall not negotiate: 1) commercial health plan contracts with rates first going into effect within the Price Constraint Period, or 2) an existing commercial health plan contract that is extended or renewed during the Price Constraint Period, that result in a Commercial Unit Price Rate Increase ("CUPI") (as defined below) for YNHHS/WH and/or YNHHS/MMH/RGH that is greater than the Health Care Cost Growth Benchmark Target. The Commercial Unit Price Rate Increases shall be the percentage changes in Total Projected Revenue that would be paid to each of YNHHS/WH, YNHHS/MMH/RGH, Covered YNHHS/WH Providers, or Covered YNHHS/MMH/RGH Providers, as applicable, from one Fiscal Year to the immediately following Fiscal Year.

YNHHS/WH and/or YNHHS/MMH/RGH shall not contract with any commercial health plan to impose a single system-wide rate schedule.

3. To calculate the Projected Revenue for a given Contract Year, the negotiated Commercial Unit Price for each YNHHS/WH and/or YNHHS/MMH/RGH service in that Contract Year is applied to the volume of that service in the Baseline Set of Services for each Payer.¹⁸

¹⁸ For a multi-year contract, it is agreed that the Baseline Set of Services shall be reset for each Contract Year. As an example, if YNHHS were negotiating a new contract in 2024 that would apply to 2025, 2026 and 2027, assuming that the initial Baseline Set of Services was determined from the 2023

a. If the Baseline Set of Services were those provided in the 2022 Contract Year, to calculate the Projected Revenue for a given service for the 2024 Contract Year, the negotiated Commercial Unit Price for that service for 2024 would be applied to the volume of that service provided in the 2022 Contract Year; if the Baseline Set of Services were those provided in a recent trailing twelve-month period, to calculate the Projected Revenue for a given service for the 2024 Contract Year, the negotiated Commercial Unit Price for that service for 2024 would be applied to the volume of that service provided in that twelve-month period.

b. For example, to calculate the weighted Projected Revenue for multiple commercial payers:

i. Assume total hospital volume of 10,000 for Services during the prior, completed Contract Year;

ii. Of the 10,000, 6,000 were attributed to Payer X, 1,250 to Payer Y, 750 to Payer Z and 2,000 to Payer Q.

Payer	2023 Aggregate Services rates	Baseline Payer volume	2023 Projected Revenue	Negotiated 2024 Aggregate Services rates	2024 Projected Revenue	CUPI % Change for Aggregate Services per Payer
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Contract Year, the Price Constraint for 2025, the first year of the new contract, would be measured by (1) applying the rates applicable in 2024 to the volumes of the services performed in that 2023 Baseline Set of Services to generate the Total Projected Revenue for 2024; (2) applying the rates applicable in 2025 to the volumes of the services performed in that 2023 Baseline Set of Services to generate the Total Projected Revenue for 2025; and (3) calculating the percentage increase in Total Projected Revenue from 2024 to 2025. Thereafter, for each subsequent Contract Year, a new Baseline Set of Services would apply, with 2024 serving as the Baseline Set of Services for the 2026 Contract Year (which would compare the Total Projected Revenue from 2025 to 2026) and 2025 serving as the Baseline Set of Services for the 2027 Contract Year (which would compare the Total Projected Revenue from 2026 to 2027).

(See **Appendix C** for a compilation of correspondence memorializing the parties' agreement regarding this issue.)

			=Rate volume	*	=Rate volume	*(2024 2023/2023)*100
Payer X	\$350	6,000	\$2,100,000	\$370	\$2,220,000	5.7%
Payer Y	\$315	1,250	\$393,750	\$319	\$398,750	1.3%
Payer Z	\$295	750	\$221,250	\$301	\$225,750	2.0%
Payer Q	\$343	2,000	\$686,000	\$333	\$666,000	-2.9%
Total		10,000	\$3,401,000		\$3,510,500	3.22%

Using the data in the Table above, the Projected Commercial Unit Price Rate Increase percentage would be:

$$(\$3,510,500 - \$3,401,000 / \$3,401,000) * 100 = 3.22\%$$

4. The Total Projected Revenue for each Contract Year shall be the sum of the YNHHS/WH and/or YNHHS/MMH/RGH Projected Revenue amounts for all services included in the Baseline Set of Services for that Contract Year.

5. To calculate the Commercial Unit Price Rate of Increase for YNHHS/WH's and/or YNHHS/MMH/RGH's Fiscal Year, the Total Projected Revenue for that Fiscal Year is compared to the Total Projected Revenue for the immediately-preceding Fiscal Year.

6. Alternative Payment Models

a. For any Contract Year of a Payer contract executed on or after the Closing Date, with rates first going into effect within the Price Constraint Period, YNHHS/WH and/or YNHHS/MMH/RGH and a commercial health plan are free to enter into an agreement that provides payment for a commercial health insurance product to YNHHS/WH and/or YNHHS/MMH/RGH or a Covered YNHHS/WH Provider and/or a Covered YNHHS/MMH/RGH Provider through one or more Alternative Payment Methods provided that:

i. Any Commercial Unit Price rates used in the calculation of payments to YNHHS/WH and/or YNHHS/MMH/RGH shall be subject to the YNHHS/WH Price Constraint and/or YNHHS/MMH/RGH Price Constraint.

ii. YNHHS/WH and/or YNHHS/MMH/RGH, throughout any negotiation with a commercial Payer, shall make available the option for any or all lives and/or services covered by said Payer under a commercial health insurance product to be

paid pursuant to a Commercial Unit Price agreement at a rate of increase no-greater-than the YNHHS/WH and/or YNHHS/MMH/RGH Price Constraint.

1. YNHHS/WH and/or YNHHS/MMH/RGH and the commercial health plan are in no way constrained in negotiating Alternative Payment Methods for commercial health insurance products and may agree to any Alternative Payment Method for any or all lives and/or services that both parties find mutually preferable to a price constrained Commercial Unit Price arrangement for such lives and/or services.
2. If YNHHS/WH and/or YNHHS/MMH/RGH and a commercial health plan are unable to negotiate an Alternative Payment Method for a commercial health insurance product which YNHHS/WH and/or YNHHS/MMH/RGH and the Payer find acceptable, YNHHS/WH and/or YNHHS/MMH/RGH and the Payer may choose to implement a Commercial Unit Price arrangement covering such lives and/or services.
3. The options described herein preserve the ability of YNHHS/WH and/or YNHHS/MMH/RGH and a commercial health plan to innovate and develop mutually advantageous arrangements that improve quality and reduce healthcare spending in the State while ensuring that Commercial Unit Price arrangements are constrained by the WH and MMH/RGH Price Constraints.

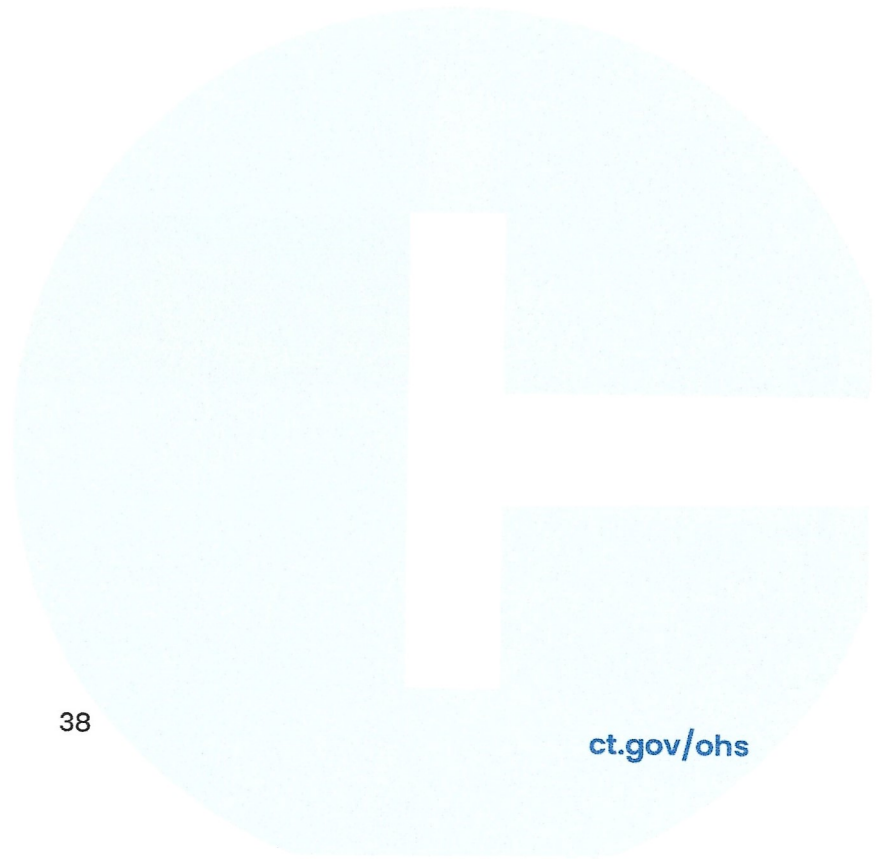


Appendix A

Waiver Agreement dated October 13, 2023

Appendix B

Prospect FY 2023 Data for
Community Benefit Services Baseline



Appendix C

March 2024 Email Correspondence re: Price Constraint

