

Draft
August 24, 2012

SEPTEMBER 2012 AMENDMENT TO THE
LEASE AGREEMENT

BY AND BETWEEN

NUECES COUNTY HOSPITAL DISTRICT,
A POLITICAL SUBDIVISION OF THE STATE OF TEXAS

AND

CHRISTUS SPOHN HEALTH SYSTEM,
A TEXAS NON-PROFIT CORPORATION

**SEPTEMBER 2012 AMENDMENT TO THE
LEASE AGREEMENT**

This September 2012 Amendment to the Lease Agreement (the "September 2012 Amendment"), effective as of September 30, 2012 ("Effective Date"), amends that certain Lease Agreement between the Nueces County Hospital District ("Landlord") and CHRISTUS Spohn Health System, formerly known as Spohn Health System Corporation ("Tenant"), dated September 6, 1996, as amended through May 25, 2007 (the "Lease"). Unless otherwise indicated herein, all capitalized terms shall have the same meaning attributed to such terms in the Lease.

RECITALS

WHEREAS, the parties have entered into that certain Lease; and

WHEREAS, the parties desire to amend the Lease as provided herein.

NOW, THEREFORE, in consideration of the premises, mutual benefits to be derived from this September 2012 Amendment, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE I.

1.1 **Section 1.1** of the Lease is amended to add the following definition:

"**Material Alteration to the Main Campus**" shall mean any material alterations performed by Tenant during the Initial Term or any Renewal Term at Tenant's sole cost and expense to the Real Property, including the Improvements, comprising the Main Campus located at 2606 Hospital Boulevard, Corpus Christi, Texas, as described in Exhibit B, pursuant to which the altered Real Estate will continue to be occupied and used by Tenant in conformity with the Permitted Uses under Article 6.1. Such Material Alteration to the Main Campus may include re-designing all or any portion of the Improvements comprising the Main Campus, renovating existing Improvements on the Real Property comprising the Main Campus, or demolishing and constructing any replacement Improvements on the Real Property comprising the Main Campus.

1.2 **Section 4.1** of the Lease is amended in its entirety to read as follows:

4.1 **Base Rent**. Commencing as of October 1, 2012 ("Rent Adjustment Effective Date") and continuing thereafter throughout the remainder of the Initial Term, Tenant shall pay to Landlord an annual base rent of Six Million Two Hundred Fifty Three Thousand Eight Hundred Sixty Five Dollars (\$6,253,865.00) (the "**Base Rent**"). The Base Rent shall be due and payable in advance in equal semi-annual installments commencing on the Rent Adjustment Effective Date and on the first day of each six (6) month anniversary of the Rent Adjustment Effective Date during the remainder of the Initial Term and any Renewal Term. If the Rent Adjustment Effective Date shall commence on other than the first day of a month, then the Rent for such month and for the last month of this Lease shall be prorated based on the number of days in each such month that the Lease shall have been in force. Base Rent shall be paid by

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Tenant to Landlord by ACH or wire transfer. Whenever any payment (including Rent) to be made under this Lease would be due on a day which is not a Business Day, the due date therefor shall be deemed to be the immediately following Business Day.

1.3 The first paragraph of **Section 6.8(b)** of the Lease is amended in its entirety to read as follows:

(b) Tenant, at its sole cost and expense (except as expressly provided herein for Landlord payments), shall keep the Real Property in a commercially reasonable state of repair, causing all necessary maintenance, repairs, renewals, replacements, additions and improvements to be promptly made, and will not allow any of the Real Property to be misused, abused or wasted or to deteriorate, subject in all events to (a) the provisions of Sections 7.1, 7.2 and 7.3 and (b) ordinary wear and tear, provided, however, that, in any event, Tenant shall be required to make such capital improvements and repairs as necessary to maintain the Real Property in a commercially reasonable condition for use for one or more, as applicable, of the purposes permitted by this Lease. Notwithstanding anything contained in this Lease or any Related Agreement to the contrary, Tenant shall not, except in the case of an emergency or as may be otherwise necessary to fulfill its obligations under this Lease or the Master Agreement, without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed, make any structural or other alteration in the Real Property, the cost of which exceeds, in the case of each parcel of property comprising the Real Property, One Million Dollars (\$1,000,000), which amount shall be adjusted annually on the anniversary date of Lease during each year of this Lease by the increase in the Consumer Price Index from the Closing Date to the applicable year. The term "Consumer Price Index" shall mean the Consumer Price Index for All Items, as published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index prepared or published by the United States government. Landlord acknowledges and agrees that its prior consent shall not be required for structural or other alterations to the Real Property the cost of which, in the case of each parcel of property comprising the Real Property, is equal to or less than One Million Dollars (\$1,000,000), as adjusted in accordance with the immediately preceding sentence. Any construction of improvements or alterations by Tenant shall be prosecuted with diligence and continuity, in a good and workmanlike manner and in accordance with sound building and engineering practices, and all applicable Legal Requirements and free of any and all Liens.

1.4 **Section 6.8** of the Lease is amended to add the following new subsection (e).

(e) Prior to commencing any Material Alteration to the Main Campus, Tenant shall deliver to Landlord a notice describing the proposed Material Alteration to the Main Campus (the "Material Alteration Notice") and request Landlord's prior written consent for such Material Alteration to the Main Campus, which consent shall not be unreasonably withheld or delayed. Following delivery of such Material Alteration Notice, Landlord and Tenant shall promptly discuss and negotiate in good faith regarding the proposed Material Alteration to the Main Campus considering third party needs assessments, feasibility analyzes, community input, and other relevant information. Within ninety (90) days after delivering such Material Alteration Notice to Landlord, either Landlord or Tenant may also deliver to the other party a request to renegotiate and adjust the Base Rent to reflect the fair market value of the altered Real Estate as described in the Material Alteration Notice. Following delivery of such request, Landlord and Tenant shall negotiate in good faith regarding the proposed Base Rent adjustment considering

the scope of such proposed Material Alteration to the Main Campus, Tenant's projected capital investment in such proposed Material Alteration to the Main Campus, appropriate credit, if any, to be given to Tenant against future Base Rent payable over the remaining Term the Lease after completion of such proposed Material Alteration to the Main Campus, and the diminished need for continuing annual Capital Expenditures under Section 6.8(d) after completion of such proposed Material Alteration to the Main Campus. If the Landlord consents to such proposed Material Alteration to the Main Campus and the parties agree to an adjustment to the Base Rent and/or a modification to the Tenant's annual Capital Expenditure obligations under Section 6.8(d), this Lease will be amended to memorialize such agreement(s).

1.5 Section 10.2 of the Lease is amended in its entirety to read as follows:

10.2 Notices.

Any notice, request, instruction, demand or other communication to be given hereunder by either party hereto to the other shall be given in writing and shall be delivered either by hand, by telecopy or similar facsimile means, or by certified mail, postage prepaid, return receipt requested, as follows:

(a) If to Landlord, addressed to:

Nueces County Hospital District
555 N. Carancahua St., Suite 950
Corpus Christi, Texas 78401
Attention: Administrator/CEO
Telecopy No.: (361) 808-3274
Telephone No.: (361) 808-3300

with a copy to:

William Dewitt Alsup
Alsup and Alsup
555 N. Carancahua St., Suite 1560
Corpus Christi, TX 78401
Telecopy No.: (361) 884-6000
Telephone No.: (361) 884-6321

and

Gary W. Eiland
King & Spalding L.L.P.
1100 Louisiana, Suite 4000
Houston, Texas 77002
Telecopy No.: (713) 751-3207
Telephone No.: (713) 751-3290

(b) If to Tenant, addressed to:

CHRISTUS Spohn Health System Corporation
1702 Santa Fe St.
Corpus Christi, Texas 78404
Attention: President/CEO
Telecopy No.: (361) 855-0566
Telephone No.: (361) 881-3405

with a copy to:

CHRISTUS Health
919 Hidden Ridge
Irving, Texas 75038
Attention: President
Telecopy No.: (214) 492-8518
Telephone No.: (214) 492-8500

and

Gjerset & Lorenz, LLP
2801 Via Fortuna, Suite 500
Austin, Texas 78746
Attention: Lance J. Ramsey
Telecopy No.: (512) 899-3939
Telephone No.: (512) 899-3995

or to such other address or number as either party shall have previously designated by written notice given to the other party in the manner hereinabove set forth. Notices shall be deemed given when received, if sent by telecopy or similar facsimile means, and when delivered and receipted for, if mailed or hand-delivered.

ARTICLE II. **SAVINGS CLAUSE**

Section 10.26 of the Lease is amended in its entirety to read as follows:

10.26 Savings Clause.

Except as expressly modified by the September 2012 Amendment, the terms and conditions of the Lease shall remain in full force and effect subsequent to the effective date of the September 2012 Amendment. In the event that any provisions of the September 2012 Amendment irreconcilably conflict in a material manner with provisions in the Lease, or other relevant agreement(s) between the parties, that are not amended by the September 2012 Amendment, the provisions of the September 2012 Amendment shall control on or after the effective date of the applicable provision of the September 2012 Amendment. Should issues arise concerning the parties rights, obligations, and responsibilities under the Lease for periods prior to the effective date of the September

2012 Amendment, such rights, obligations, and responsibilities shall be governed by the provisions of the Lease as it existed prior to the September 2012 Amendment.

IN WITNESS HEREOF, the parties by their duly authorized representatives have executed duplicate originals of this September 2012 Amendment on September ____, 2012, to be effective as of the date and year first set forth above.

NUECES COUNTY HOSPITAL DISTRICT,
a political subdivision of the State of Texas

By: _____
Jonny F. Hipp, Administrator/CEO

CHRISTUS SPOHN HEALTH SYSTEM,
a Texas non-profit corporation

By: _____

**APPROVED BY THE NUECES COUNTY
COMMISSIONERS COURT**

By: _____

