

## LIQUID ASSETS TRANSFER AGREEMENT

This Liquid Assets Transfer Agreement ("**Agreement**") is effective January 1, 2013, by and between TETON COUNTY, IDAHO, an Idaho governmental entity ("**Transferor**"), and TETON VALLEY HEALTH CARE, INC., an Idaho corporation ("**Transferee**").

### 1. TRANSFER

Pursuant to Idaho Code § 31-3515A, Transferor has entered into a Hospital Lease Agreement (the "**Lease**") with a Commencement Date of January 1, 2013 wherein Transferor leased and transferred the assets, liabilities and operations of the Teton County, Idaho Hospital commonly known as the Teton Valley Hospital and Surgicenter (the "**TVH&S**") to Transferee. In connection therewith, and for value received, Transferor hereby ASSIGNS, SELLS, CONVEYS and DELIVERS unto Transferee, its legal representatives, successors and assigns, all right, title and interest in and to Transferor's bank accounts, cash and other liquid assets, and securities related to the operation of the TVH&S and as reflected on the Transferee's business records and financial statements relating to the TVH&S, including but not limited to those items listed on Schedule 1 (the "**Cash and Liquid Assets**").

### 2. CONSIDERATION

During the term of this Agreement, the consideration for the transfer of the Cash and Liquid Assets is the yearly payments set forth on Schedule 2. Such payments shall be made in the amount and manner as set forth on Schedule 2, during the term of this Agreement. Upon termination of this Agreement, the obligations of Transferee to pay the consideration set forth on Schedule 2 shall be terminated.

### 3. ASSUMPTION

Transferee shall assume the obligations and liabilities of Transferor related to the Cash and Liquid Assets of the TVH&S and as reflected on Transferor's business records and financial statements.

### 4. TERMINATION OF LIQUID ASSET TRANSFER AGREEMENT

The Cash and Liquid Assets are subject to Lessor's ownership rights which dictate that upon termination of the Lease, Transferee will immediately surrender possession of the Hospital (as that term is described in Paragraph 2.3 of the Lease) and the Cash and Liquid Assets to the Transferor. In such an event, or any other event in which the Transferee ceases to utilize the Cash and Liquid Assets for medical care and services ancillary to medical care, this Agreement shall be terminated. If there is a default under the Lease by Transferee, then Transferor shall have, with regard to this Agreement and the Cash and Liquid Assets, the rights and remedies available to it under the Lease, including the ability to terminate this Agreement and to have ownership of the Cash and Liquid Assets revert or transfer to Transferor.

### 5. INDIGENT CARE PAYMENTS

(a) Indigent Care Payments. TVH&S is currently the recipient of certain indigent care payments made by Transferor pursuant to Idaho Code Section 31-3501, *et. seq.*, as well as by the State of Idaho (through the Idaho Catastrophic Health Care Cost Program (the

“CAT Fund”)). Transferor hereby agrees to timely process all indigent care claims submitted by Transferee pursuant to Idaho law existing as of the time that the claim for payment is submitted to Transferor.

(b) Claims Appeals. All claims submitted by Transferee to Transferor that are denied may be challenged or appealed by Transferee pursuant to the challenge and appeal processes provided for in Idaho law at the time the challenge or appeal is submitted.

## **6. TRANSFEROR'S INVESTMENT IN HOSPITAL**

Transferor may reinvest all or a portion of the payments received as set forth in Schedule 2 to this agreement into the Hospital (as that term is described in Paragraph 2.3 of the Lease). Transferee may make any funding request for improvements to the Hospital in writing during the first month of Transferee's annual budget cycle (currently the month of June).

## **7. GENERAL PROVISIONS**

(a) Dispute Resolution. If the parties disagree regarding the performance of this Agreement, then the parties agree to engage in direct discussions to settle the dispute. If the disagreement cannot be settled by direct discussions, then the parties agree to first endeavor to settle the disagreement in an amicable manner by mediation administered by the American Arbitration Association under its Commercial Mediation Rules. Thereafter, any unresolved disagreement arising from or relating to this Agreement or a breach of this Agreement shall be resolved as provided by law.

(b) Attorney Fees and Costs. If a party is in default under this Agreement, then the defaulting party shall pay to the other party reasonable attorney fees and costs (i) incurred by the other party after default and referral to an attorney and (ii) incurred by the prevailing party in any litigation related to the default.

(c) Interpretation. Idaho law shall govern this Agreement and Idaho courts shall have exclusive jurisdiction over matters arising under or related to this Agreement. The invalidity of any portion of this Agreement shall not affect the validity of any other portion of this Agreement. This Agreement constitutes the entire, completely integrated agreement among the parties and supersedes all prior memoranda, correspondence, conversations and negotiations. Whenever the consent of either party is required to an action under this Agreement, consent shall not be unreasonably withheld or delayed.

(d) Notices. All notices under this Agreement shall be in writing and shall be deemed to be delivered on the date of delivery if delivered in person, by fax or by e-mail, or on the date of receipt if delivered by U.S. Postal Service or express courier. Proof of delivery shall be by affidavit of personal delivery, machine generated confirmation of fax transmission, e-mail confirmation, or return receipt issued by U.S. Postal Service or express courier. Notices shall be addressed to Transferor and Transferee at the addresses set forth in ARTICLE 1 of the Lease (or at the other addresses one party may give to another party by written notice). Any party delivering notice by fax or e-mail shall simultaneously provide notice by U.S. Postal Service, return receipt requested, with the effective date of the notice to be the date of the fax or e-mail transmission.

(e) Interest on Past Due Amounts. All payments becoming due under this Agreement shall bear interest at the rate of one-half of one percent (0.50%) per month (annual

percentage rate of 6%) compounded monthly, or the highest rate permitted by law, whichever is less. Interest shall be calculated from the due date or the date of expense, whichever is earlier, until paid.

(f) Time of the Essence. Time is of the essence with respect to the obligations to be performed under this Agreement.

(g) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

(h) Force Majeure. The Transferee shall not be deemed to be in violation of its obligations set forth herein if it is prevented from performing such obligations by reason of any acts of God, floods, drought, strikes, labor difficulties, materials shortages, delays in permitting or inspections or zoning disputes, or similar events beyond its control (each a "**Force Majeure**").

(i) Access to Records and Information. To the extent applicable to this Agreement and to any agreement contemplated hereunder or entered into pursuant hereto between or among the Parties, the Parties agree to comply with the requirement of Public Law 96-4999, Section 952 (Section 1861(v)(1)(I) of the Social Security Act) and regulations promulgated thereunder. After the Commencement Date, Transferor and Transferee shall make available such books, records and data as may be reasonably necessary for concluding the transactions herein contemplated, audits, compliance with governmental requirements and regulations, and the prosecution of defense of third-party claims.

Dated: September \_\_\_\_, 2012

TETON COUNTY, IDAHO

By: \_\_\_\_\_  
Kathryn Rinaldi,  
Its: Chairman of Board of County Commissioners

Dated: September \_\_\_\_, 2012

Teton Valley Health Care, Inc.

By: \_\_\_\_\_  
Steven Dietrich  
Its: Chairman of the Board



## **SCHEDULE 2**

### **PAYMENT CALCULATIONS**

For each year that the Agreement remains in effect, two separate payments shall be made by the Transferee in consideration for the transfer of the Cash and Liquid Assets in the following amounts and manner. These annual payments will be in lieu of a rate of return on the Cash and Liquid Assets invested by Transferor in Transferee.

Payment 1. On April 1, 2013 and on the first business day of April thereafter, a payment of \$70,000 will be due to Transferor. The first of such payments shall be prorated for the period of time from the Commencement Date to the date of such payment. Transferor may designate this amount as a payment in lieu of other obligations that a for-profit entity might be obligated to pay, or such other designation as Transferor and Transferee may jointly choose, and Transferor may reasonably direct the method and timing of each such payment. Money received from this payment shall be received into a special fund set up by the Transferor to provide for Hospital needs as described in Paragraph 6 of this Liquid Asset Transfer Agreement.

Payment 2. Within 150 days after the close of the Transferee's fiscal year or as soon thereafter as Transferee's Audited Financial Statements are complete, and within 150 days of the close of each fiscal year thereafter, an amount equal to five percent (5%) of the amount categorized as "Excess of Operating Revenues over Expenses" or a similar characterization of the Transferee's earnings pursuant to their Audited Financial Statements for each such fiscal year shall be paid to Transferor. This payment shall be received into a special fund set up by the Transferor to provide for Hospital needs as described in Paragraph 6 of this Liquid Asset Transfer Agreement.