CHARTER FRANCHISE SERVICES, LLC  
  
 FRANCHISE AGREEMENT  
  
  
  
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FRANCHISE AGREEMENT  
  
 THIS FRANCHISE AGREEMENT (the "Agreement or the "Franchise Agreement")  
is entered into effective June 17, 1997 (the "Effective Date") by and between  
MAGELLAN HEALTH SERVICES, INC., a Delaware corporation ("Magellan"), and its  
wholly-owned subsidiary, CHARTER FRANCHISE SERVICES, LLC, a Delaware limited  
liability company (together, "Franchisor"), and CHARTER BEHAVIORAL HEALTH SYSTEM  
OF CENTRAL GEORGIA, LLC ("Franchise Owner").  
  
  
 W I T N E S S E T H :  
  
 A. Franchisor owns or has the right to license certain trade names,  
trademarks, service marks and/or indicia of origin identified on Exhibit "1"  
hereto (the "Licensed Marks"), the uniqueness and value of which are  
acknowledged by Franchise Owner. In connection therewith, Franchisor has  
developed a plan for a system for the operation of Hospital/RTC Based Behavioral  
Healthcare Businesses (as hereinafter defined) under the Licensed Marks, which  
system includes the right and license to utilize existing computer software  
owned by Franchisor or, subject to the terms of the respective license  
agreement, licensed to Franchisor, and, immediately prior to the date hereof,  
utilized by the business which is the subject of this Agreement, existing  
treatment protocols, existing treatment, financial, legal and other programs and  
procedures, existing quality standards, existing quality assessment methods,  
existing performance improvement and monitoring programs, advertising and  
marketing assistance, promotional materials, consultation and other matters  
relating to the operation of Hospital/RTC Based Behavioral Healthcare Businesses  
(the "Charter System"), all of which are designed to enhance the reputation and  
goodwill with the public of establishments operated pursuant to the Charter  
System. "Hospital/RTC Based Behavioral Healthcare Business" as used herein shall  
mean the business of the operation of an acute care psychiatric hospital, part  
of an acute care general hospital operating an acute care psychiatric unit,  
department, division or other organizational subdivision, a behavioral  
healthcare residential treatment center, a part of a facility operating a  
behavioral healthcare residential treatment center, or other similar facility  
providing 24-hour behavioral healthcare (together an "In Patient Facility"), and  
the delivery of behavioral healthcare from such facility and other facilities in  
the Territory, including outpatient facilities; such behavioral healthcare to  
include inpatient hospitalization, partial hospitalization programs, outpatient  
therapy, intensive outpatient therapy, ambulatory detoxification, behavioral  
modification programs and related services. As used herein, the term "Behavioral  
Modification Programs and Related Services" shall mean any type of programs or  
services for providing behavioral modification without regard to whether such  
behavioral modification may be provided in an In Patient Facility or other  
affiliated facility and shall include, for example, weight loss, stress  
management, smoking cessation and similar products and programs.  
  
 B. Franchise Owner desires, upon the terms and conditions set forth   
herein, to obtain a license to use the Charter System in the operation of its  
Hospital/RTC Based Healthcare  
  
  
  
  
  
  
Business (the "Franchised Business"). Franchisor is willing, upon the terms and  
conditions set forth herein, to license Franchise Owner to operate the  
Franchised Business.  
  
 C. Franchise Owner is a subsidiary corporation of Charter Behavioral  
Health Systems, LLC ("OpCo") or is otherwise affiliated with OpCo. OpCo and  
Franchisor have entered into a Master Franchise Agreement dated as of the date  
hereof (the "Master Franchise Agreement") pursuant to which, among other  
matters, Franchisor has agreed to grant franchises to certain subsidiaries and  
affiliates of OpCo; a copy of the Master Franchise Agreement is attached hereto  
as Exhibit 2. This Franchise Agreement is one of the franchise agreements  
granted under and pursuant to the Master Franchise Agreement.  
  
 D. Immediately prior hereto Franchisor operated, through a wholly-owned  
subsidiary, the business which is the subject of this agreement. Substantially  
simultaneously herewith, Franchisor is transferring to Franchise Owner's parent,  
OpCo, certain of the business and assets (including personnel) heretofore  
utilized by Franchisor to provide services and support to the business which is  
the subject of this Agreement (the business and assets (including personnel)  
retained by Franchisor heretofore utilized by Franchisor to provide service and  
support to the business which is the subject of this Agreement are herein  
referred to as the "Retained Servicing Business" and the business and assets  
(including personnel) transferred by Franchisor to OpCo heretofore utilized by  
Franchisor to provide service and support to the business which is the subject  
of this Agreement are herein referred to as the "Transferred Servicing  
Business").  
  
  
  
1. GRANT OF FRANCHISE  
  
 1.1. Grant. Subject to all of the terms and conditions herein,  
Franchisor grants to Franchise Owner the right and franchise to use the Charter  
System in the operation of the Franchised Business at any present or future  
facilities located in the geographic area described in Exhibit 3 to this  
Agreement (the "Territory"). Franchise Owner agrees at all times during the  
continuance of this Agreement to use its commercially reasonable best efforts to  
promote and operate the Franchised Business. The Franchised Business shall be  
operated only under the following name: Charter Behavioral Health System of  
Central Georgia, LLC. Subject to all of the terms and conditions herein,  
Franchisor hereby also grants to Franchise Owner the right and license to  
utilize the Charter System in connection with the management and administration  
of the businesses of the any presently existing Joint Ventures, Managed  
Businesses and all New Arrangements in the Hospital/RTC Based Behavioral  
Healthcare Business pursuant to Article 23.  
  
 1.2. Modifications; Amendments to Charter System. Franchisor reserves  
the right from time to time to amend, modify, delete (subject to Article 3) or  
enhance any portion of the Charter System (including any of the Licensed Marks)  
as may be advisable in Franchisor's sole judgment to change, maintain or enhance  
the Charter System trade names or the reputation, efficiency, competitiveness  
and/or quality of the Charter System, or to adapt it to new conditions, laws,  
regulations or technology, or to better serve the public. Franchise Owner shall  
have the right without additional consideration (other than such as results from  
increases in Gross Revenues) to  
  
  
  
  
  
  
  
utilize the amendments, modifications and enhancements; and Franchise Owner, at  
its expense, will fully comply with all such amendments, modifications,  
deletions and enhancements reasonably designated as applicable to then existing  
franchise owners similarly situated. Franchisor shall not be obligated to make  
improvements or develop new software for use of Franchise Owner, but to the  
extent that Franchisor does so Franchise Owner shall have the right and license  
to use such new or improved software without additional consideration (other  
than such as results from increases in Gross Revenues).  
  
 1.3. New Products. Until such time as Franchise Owner ceases to be an  
OpCo Franchisee (as defined in the Master Franchise Agreement), and subject to  
Franchise Owner complying with such reasonable terms and conditions as  
Franchisor shall provide, Franchise Owner shall have the right and option to  
utilize in the Territory in connection with its Franchised Business new products  
and new concepts developed by Franchisor for the delivery of behavioral  
healthcare and Behavioral Modification Programs and Related Services ("New  
Products"), provided the Franchise Owner will not have such right or option with  
respect to any such New Products (i) which deal with the delivery of behavioral  
healthcare incidental to the treatment of a non-behavioral illness or condition,  
(ii) where the behavioral illness (e.g., alcohol or substance abuse) is not the  
primary diagnosis (e.g., behavioral healthcare treatment for depression  
following a diagnosis for cancer (cancer being the primary diagnosis); weight  
loss behavioral healthcare treatment following a heart attack (heart disease  
being the primary diagnosis)), or (iii) that are used by Franchisor or its  
subsidiaries (and not offered to third parties pursuant to any franchise or  
similar arrangement) in connection with its business operations. To the extent  
that Franchise Owner does not have the right to a New Product pursuant to the  
terms of this Section, does not elect to utilize a New Product or elects to  
utilize a New Product but fails or refuses to comply with such reasonable terms  
and conditions as Franchisor shall provide in connection therewith (in which  
event Franchise Owner shall be deemed to have elected not to utilize a New  
Product), then Franchisor may itself operate or franchise others to operate  
businesses utilizing such New Product from facilities in the Territory.  
Franchise Owner shall have the right to utilize a New Product without paying to  
Franchisor any additional fees (other than such as results from increases in  
Gross Revenues).  
  
 1.4. Territory Exclusive. Franchisor agrees that during the term of  
this Agreement, it will not, except as otherwise provided in this Article 1,  
establish or maintain, or franchise any other person or firm to establish or  
maintain, a facility located within the Territory that (i) uses the Charter  
System, (ii) engages, directly or indirectly, in the Hospital/RTC Based  
Healthcare Business, or (iii) subject to Section 1.3 above, provides Behavioral  
Modification Programs and Related Services.  
  
 1.5. Outpatient Providers. Franchisor may not, without the written  
consent of Franchise Owner in each instance, establish or maintain a business,  
or grant franchises or other licenses to individual physicians, psychologists or  
other mental healthcare professionals or to groups thereof or to entities  
employing such, to operate businesses, for the delivery of behavioral healthcare  
at a facility within the Territory that (i) uses the Charter System, (ii)  
engages, directly or indirectly,  
  
  
  
  
  
  
in the Hospital/RTC Based Behavioral Healthcare Business, or (iii) subject to  
Section 1.3 above, provides Behavioral Modification Programs and Related  
Services.  
  
 1.6 Reservation of Rights. Franchise Owner acknowledges and agrees  
that, in addition to the rights contained in other subsections of this Article  
1, Franchisor may grant to another or others the right and franchise to operate,  
at facilities outside the Territory, Hospital/RTC Based Behavioral Healthcare  
Businesses utilizing the Charter System, even if such businesses compete with  
Franchise Owner's Franchised Business, and that Franchisor may otherwise use and  
grant to others the right to use the Licensed Marks, or any other names and  
marks, for other businesses. It is understood that nothing contained in this  
Agreement shall prevent Franchisor (i) from providing behavioral healthcare  
incidental to the managed behavioral healthcare business or incidental to any  
other business the principal purpose of which is not the operation of a  
Hospital/RTC Based Behavioral Healthcare Business, and (ii) from, pursuant to  
contracts with federal, state and local governments and governmental agencies,  
providing health and human services, including behavioral healthcare services,  
to the mentally retarded, the developmentally disabled, the elderly, persons  
under the control or supervision of criminal/juvenile justice systems and other  
designated populations.  
  
  
  
2. TERM  
  
 This Agreement, unless sooner terminated pursuant to Article 12 hereof,  
shall extend from the Effective Date until the date of expiration or termination  
of the Master Franchise Agreement.  
  
3. OPERATING ASSISTANCE  
  
 Franchisor reserves the right to require Franchise Owner to maintain  
standards of quality, appearance and service at all Franchised Business  
facilities, thereby maintaining the public image and reputation of the Charter  
System and the demand for the services and products provided thereunder, and to  
that end Franchisor shall provide Franchise Owner with the following ongoing  
assistance:  
  
 (a) Advertising and marketing assistance including  
 consultation, access to media buying programs and access to broadcast  
 and other advertising pieces and materials produced by Franchisor from  
 time to time for franchise owners.  
  
 (b) Risk management services, including risk   
 financing planning, loss control and claims management.  
  
 (c) Outcomes monitoring.  
  
 (d) Access to Managed Care Agreements (as   
 hereinafter defined).  
  
  
  
  
  
  
  
  
 (e) Consultation by telephone or at Franchisor's  
 offices with respect to matters relating to the Franchised Business in  
 which Franchisor has expertise, including matters relating to  
 reimbursement, government relations, clinical strategies, regulatory  
 matters, strategic planning and business development.  
  
 Franchisor shall maintain reasonable expertise and provide a  
minimum level and quality of assistance within the scope of the Retained  
Servicing Business, in accordance with commercially reasonable standards  
substantially similar to the level and quality of such assistance provided to  
the business which is the subject of this Agreement immediately prior to the  
date hereof by the Retained Servicing Business. Nothing contained herein shall  
require Franchisor to maintain expertise or provide assistance within the scope  
of the Transferred Servicing Business.  
  
4. FEES  
  
 4.1. Franchise Fee. There is no initial franchise fee for the initial  
term or any renewal term.  
  
 4.2. Annual Continuing Fee. For each "Contract Year" (as hereinafter  
defined), Franchise Owner shall pay to Franchisor, subject to the terms of   
Section 4.5 below, an annual continuing fee (the "Annual Continuing Fee") in the  
amount of the greater of:  
  
 (a) Eight Hundred Sixty-Nine Thousand Dollars ($869,000) plus  
 (i) an amount calculated by multiplying Eight Hundred Sixty-Nine  
 Thousand Dollars ($869,000) by the percentage increase in the Consumer  
 Price Index, United States City Average for All Urban Consumers for All  
 items (as published by the U.S. Department of Labor, Bureau of Labor  
 Statistics) (the "CPI") between the end of the latest period for which  
 said index has been published prior to the date of this Agreement and  
 the end of the latest period for which said index has been published  
 prior to the first day of said Contract Year (the "Minimum Annual  
 Continuing Fee"), except that no adjustment to the Minimum Annual  
 Continuing Fee shall be made for the second Contract Year (Contract  
 Year commencing October 1, 1997) it being understood that the  
 adjustment made for the third Contract Year (Contract Year commencing  
 October 1, 1998) shall take into consideration the change in the CPI  
 between the end of the latest period for which said index has been  
 published prior to the date of this Agreement and the end of the latest  
 period for which said index has been published prior to the first day  
 of the third Contract Year, and (ii) New Arrangement Management Fees  
 (as defined in Article 23); or  
  
 (b) Eight Hundred Sixty-Nine Thousand Dollars ($869,000) plus  
 (i) 3% of Gross Revenues above Ten Million Seven Hundred Twenty-Nine  
 Thousand Dollars ($10,729,000) and less than Twelve Million Eight  
 Hundred Seventy-Five Thousand Dollars ($12,875,000) during said  
 Contract Year, (ii) 5% of Gross Revenues above Twelve Million Eight  
 Hundred Seventy-Five Thousand Dollars ($12,875,000) during said  
 Contract Year, and (iii) New Arrangement Management Fees.  
  
  
  
  
  
  
  
 4.3. Definition of "Contract Year". As used in this Article 4, the term  
"Contract Year" shall refer to any period which begins on the date of this  
Agreement or any succeeding October 1 and ends on the earlier of the following  
September 30 or the effective date of expiration or termination of this  
Agreement.  
  
 4.4. Monthly Installments. During each Contract Year, Franchise Owner  
shall make monthly installments against the Annual Continuing Fee for said  
Contract Year. During each of the first and second Contract Years, each such  
monthly installment shall be equal to 1/12th of the Minimum Annual Continuing  
Fee for said Contract Year. During each subsequent Contract Year, each such  
monthly installment shall be equal to 1/12th of the greater of (a) the Minimum  
Annual Continuing Fee for said Contract Year or (b) the Annual Continuing Fee  
for the preceding Contract Year. The first monthly installment shall be paid on  
the date of this Agreement; and subsequent installments shall be paid on or  
before the first day of each subsequent calendar month during the term of this  
Agreement.  
  
 4.5. Annual Continuing Fee for Short Contract Year. If the term of this  
Agreement includes any Contract Year of less than 365 days (i.e., because the  
date of this Agreement or the effective date of expiration or termination of  
this Agreement is in the middle of a Contract Year), the Annual Continuing Fee  
for such Contract Year shall be the greater of:  
  
 (a) the product of the Minimum Annual Continuing Fee for said  
 Contract Year times a fraction the numerator of which is the number of  
 days that this Agreement was in effect during said Contract Year (the  
 "Effective Days"), and the denominator of which is 365, or  
  
 (b) the product of the amount calculated pursuant to  
 subsection 4.2(b) above (provided, however, that for purposes of said  
 calculation the "Gross Revenues" for said Contract Year shall be "Gross  
 Revenues" as defined in Section 4.10 below for said Contract Year times  
 a fraction the numerator of which is 365 and the denominator of which  
 is the Effective Days), times a fraction the numerator of which is the  
 Effective Days and the denominator of which is 365.  
  
 4.6. Payment Following Contract Year End. If the aggregate dollar  
amount of payments made by Franchise Owner to Franchisor in respect of any  
Contract Year pursuant to Section 4.4 above is different than the Annual  
Continuing Fee for said Contract Year, a payment in the amount of such  
overpayment or underpayment shall be made by the appropriate party within  
seventy-five (75) days after the end of said Contract Year.  
  
 4.7. Taxes. Franchise Owner shall pay to Franchisor the amount of all  
sales taxes, use taxes, and similar taxes imposed upon or required to be  
collected on account of the Annual Continuing Fees and of goods or services  
furnished to Franchise Owner by Franchisor, whether such goods or services are  
furnished by sale, lease or otherwise.  
  
  
  
  
  
  
  
  
 4.8. Advances by Franchisor. Franchise Owner shall pay to Franchisor  
all amounts, if any, advanced by Franchisor or which Franchisor has paid, or for  
which Franchisor has become obligated, on behalf of Franchise Owner.  
  
 4.9. Interest. Franchise Owner shall pay to Franchisor interest on any  
amounts which are past due at the lower of the maximum rate permitted by law or  
the Prime Rate, plus six percent (6%) per annum. The term" Prime Rate" as used  
in this Agreement shall mean the prime rate of interest from time to time as  
published in The Wall Street Journal.  
  
 4.10. Gross Revenues. "Gross Revenues" shall mean the sum of the   
following:  
  
 (a) the aggregate gross patient charges from  
 operation of the Franchised Business at established billing rates, less  
 provision for contractual adjustments and provision for denied claims  
 (where collection is not pursued directly from the patient), determined  
 in accordance with generally accepted accounting principles, and the  
 gross amount of all other revenues from whatever source derived  
 (whether in the form of cash, credit, agreements to pay, or other  
 consideration, and whether or not payment is received at the time of  
 the sale or provision of services) which arise from or are derived by  
 Franchise Owner or any other person affiliated with Franchise Owner,  
 directly or indirectly from products or services sold or provided  
 directly or indirectly by Franchise Owner, or from the sale of services  
 or products associated with the use of the Licensed Marks. Gross  
 Revenues shall not include amounts not actually collected (bad debts)  
 to the extent such have been included in Gross Revenues reported to  
 Franchisor for prior periods.  
  
 Plus,  
  
 (b) for any joint venture ("Joint Venture"), subject  
 to Article 23, or Managed Business (as defined below), the gross  
 revenues ("Business Gross Revenues") of all the businesses which are  
 the subject of Joint Ventures (the "Joint Venture Businesses") and the  
 businesses which are the subject of management agreements and other  
 agreements and arrangements of Franchise Owner pursuant to which  
 Franchise Owner provides management, consulting or other services for  
 so long as any such agreements or arrangements are in effect (the  
 "Managed Businesses"). "Business Gross Revenues" shall mean the  
 aggregate gross patient charges from each of the Joint Venture  
 Businesses and each of the Managed Businesses unless New Arrangement  
 Management Fees are paid pursuant to Article 23 with respect to a  
 Managed Business, at established billing rates, less provision for  
 contractual adjustments and provision for denied claims (where  
 collection is not pursued directly from the patient), determined in  
 accordance with generally accepted accounting principles, and the gross  
 amount of all other revenues from whatever source derived (whether in  
 form of cash, credit, agreements to pay, or other consideration, and  
 whether or not payment is received at the time of the sale or  
 provisions of services) which arise from or are derived by each of the  
 Joint Venture Businesses and each of the Managed  
  
  
  
  
  
  
 Businesses, or any other person affiliated with such business, directly  
 or indirectly from products or services sold or provided directly or  
 indirectly by each of the Joint Venture Businesses and each of the  
 Managed Businesses or from the sale of products or services associated  
 with the use of the Licensed Marks. Business Gross Revenues shall not  
 include amounts not actually collected (bad debts) to the extent that  
 such have been included in Business Gross Revenues reported to  
 Franchisor for prior periods.  
  
 Plus,  
  
 (c) the gross amounts of all Franchise Owner's other  
 revenues from whatever source derived (whether in the form of cash,  
 credit, agreements to pay, or other consideration, and whether or not  
 payment is received at the time of the sale or provision of services),  
 which arise from or are derived by Franchise Owner, or any person  
 affiliated with Franchise Owner, directly or indirectly from products  
 or services sold or provided directly or indirectly by Franchise Owner  
 or from the sale of services or products associated with the use of the  
 Licensed Marks, excluding any amounts received by Franchise Owner from  
 Joint Venture Businesses and Managed Businesses.  
  
 4.11. Subordination and Alternative Performance of Obligations.  
Franchisor's right to receive the payments required to be made by Franchise  
Owner pursuant to this Article 4 is subject to that certain Subordination  
Agreement dated as of the date hereof by and among Franchisor, Crescent Real  
Estate Equities Limited Partnership ("Crescent") and OpCo (the "Subordination  
Agreement"). Franchise Owner shall pay all amounts required to be paid by  
Franchise Owner pursuant to this Article 4 to OpCo, rather than to Franchisor,  
until the earliest of (i) the date on which OpCo ceases to have voting control  
of Franchise Owner through stock ownership, or (ii) the date of the termination  
or expiration of the Master Franchise Agreement, or (iii) the date OpCo shall:  
(i) become insolvent; or (ii) be unable, or admit in writing its inability to  
pay its debts as they mature; or (iii) make a general assignment for the benefit  
of creditors or to an agent authorized to liquidate any substantial amount of  
its property; or (iv) become the subject of an "order for relief" within the  
meaning of the United States Bankruptcy Code; or (v) become the subject of a  
creditor's petition for liquidation, reorganization or to effect a plan or other  
arrangement with creditors; or (vi) apply to a court for the appointment of a  
custodian or receiver for any of its assets; or (vii) have a custodian or  
receiver appointed for any of its assets (with or without its consent); or  
(viii) otherwise become the subject of any insolvency proceedings or propose or  
enter into any formal or informal composition or arrangement with its creditors.  
  
  
  
5. LICENSED MARKS  
  
 5.1. Ownership. Franchise Owner expressly acknowledges Franchisor's  
rights in and to the Licensed Marks and agrees not to represent in any manner  
that Franchise Owner has acquired any ownership rights in the Licensed Marks.  
Franchise Owner further acknowledges and agrees that any and all goodwill  
associated with the Charter System and identified by the Licensed Marks shall  
inure directly and exclusively to the benefit of Franchisor.  
  
  
  
  
  
  
  
 5.2. Authorized Use. Franchise Owner understands and agrees that any  
use of the Licensed Marks other than as expressly authorized by this Agreement,  
without Franchisor's prior written consent, may constitute an infringement of  
Franchisor's rights therein and that the right to use the Licensed Marks granted  
herein does not extend beyond the termination or expiration of this Agreement.  
Franchise Owner expressly covenants that, during the term of this Agreement and  
thereafter, Franchise Owner shall not, directly or indirectly, commit any act of  
infringement or contest or aid others in contesting the validity or registration  
of Franchisor's right to use the Licensed Marks or take any other action in  
derogation thereof.  
  
 5.3. Infringement. Franchise Owner shall promptly notify Franchisor of  
any claim, demand or cause of action that Franchisor may have based upon or  
arising from any unauthorized attempt by any person or legal entity to use the  
Licensed Marks, any colorable variation thereof, or any other xxxx, name or  
indicia in which Franchisor has or claims a proprietary interest (an  
"Unauthorized Third Party Use"). Franchise Owner shall assist Franchisor, upon  
request and at Franchisor's expense, in taking such action, if any, as  
Franchisor may deem appropriate to halt such Unauthorized Third Party Use, but  
shall take no action nor incur any expenses on Franchisor's behalf without  
Franchisor's prior written approval. If Franchisor undertakes the defense or  
prosecution of any litigation relating to the Licensed Marks, Franchise Owner  
agrees to execute any and all documents and to do such acts and things as may,  
in the opinion of Franchisor's legal counsel, be reasonably necessary to carry  
out such defense or prosecution. If Franchisor does not take action to halt any  
Unauthorized Third Party Use, Franchise Owner at its expense may take action as  
it deems appropriate to halt such Unauthorized Third Party Use.  
  
  
 5.4. Operation Under Licensed Marks. Franchise Owner further agrees and  
covenants to operate and advertise only under the names or marks from time to  
time designated by Franchisor for use by similar Charter System franchise  
owners; to adopt and use the Licensed Marks solely in the manner prescribed by  
Franchisor; to refrain from using the Licensed Marks to perform any activity or  
to incur any obligation or indebtedness in such a manner as may, in any way,  
subject Franchisor to liability therefor; to observe all laws with respect to  
the registration of trade names and assumed or fictitious names, to include in  
any application therefor a statement that Franchise Owner's use of the Licensed  
Marks is limited by the terms of this Agreement, and to provide Franchisor with  
a copy of any such application and other registration document(s); to observe  
such requirements with respect to trademark and service xxxx registrations and  
copyright notices as Franchisor may, from time to time, require, including,  
without limitation, affixing "SM", "TM", or (R) adjacent to all such Licensed  
Marks in any and all uses thereof; and to utilize such other appropriate notice  
of ownership, registration and copyright as Franchisor may require.  
  
 5.5. Modification/Replacement of Licensed Marks. Franchisor reserves  
the right, in its sole discretion, to designate one or more new, modified or  
replacement Licensed Marks for use by franchise owners and to require the use by  
Franchise Owner of any such new, modified or replacement Licensed Marks in  
addition to or in lieu of any previously designated Licensed  
  
  
  
  
  
  
  
Marks. Any expenses or costs associated with the use by Franchise Owner of any  
such new, modified or replacement Licensed Marks shall be the sole  
responsibility of Franchise Owner.  
  
6. STANDARDS OF OPERATION  
  
 Franchisor shall establish and Franchise Owner shall maintain standards  
of quality, appearance and operation for the Franchised Business. For the  
purpose of enhancing the public image and reputation of businesses operating  
under the Charter System, protecting the goodwill associated with the Licensed  
Marks, and for the purpose of increasing the demand for services and products  
provided by Franchisor and its franchisees, the parties agree as follows:  
  
 6.1. Compliance with System. Franchise Owner agrees in connection with  
the Franchised Business to utilize and comply with all treatment protocols,  
treatment, financial, legal and other programs and procedures, quality  
standards, quality assessment methods, performance improvement and monitoring  
programs and other matters which now or hereafter comprise the Charter System,  
and to comply with all Charter System rules, regulations, policies and  
standards, including all such contained in the "Confidential Operating Manual"  
(as hereinafter defined).  
  
 6.2. Compliance With Law. Franchise Owner agrees at all times to   
operate the Franchised Business, and to keep all premises at which the   
Franchised Business operates, in compliance with all applicable federal, state   
and local laws, rules and regulations.  
  
 6.3. Joint Commission on Accreditation of Health Care Organizations  
(JCAHO). Franchise Owner agrees to maintain throughout the term of this  
Agreement accreditation by the Joint Commission on Accreditation of Healthcare  
Organizations ("JCAHO"). Franchise Owner also agrees to obtain, within such  
reasonable times as may be specified by Franchisor, and maintain throughout the  
term of this Agreement accreditation by other organizations as required by law  
or reasonably specified by Franchisor. All costs of obtaining and maintaining  
accreditation(s) shall be borne and paid by Franchise Owner.  
  
 6.4. Maintenance of Standards. Franchise Owner agrees to maintain all  
premises from or at which the Franchised Business is conducted, and all  
furnishings and equipment thereon, in conformity with Franchisor's then-current  
standards, at all times during the term of this Agreement, and to make such  
repairs and replacements thereto as Franchisor may require. Without limiting the  
generality of the foregoing, Franchise Owner specifically agrees:  
  
 (a) To keep all such premises at all times in a high  
 degree of sanitation, repair, order and condition, including, without  
 limitation, such periodic repainting of the exterior and interior of  
 the premises, such maintenance and repairs to all fixtures,  
 furnishings, signs and equipment as Franchisor may from time to time  
 reasonably direct; and  
  
  
  
  
  
  
  
  
 (b) To meet and maintain at all times all  
 governmental standards, certifications and ratings applicable to the  
 operation of the premises and the Franchised Business or such higher  
 minimum standards, certifications and ratings as set forth by  
 Franchisor from time to time in its Confidential Operating Manual or  
 otherwise in writing.  
  
 6.5. Operation in Conformity with Prescribed Methods, Standards and  
Specifications. Franchise Owner agrees to operate the Franchised Business in  
conformity with such methods, standards and specifications as Franchisor may  
from time to time prescribe in its Confidential Operating Manual to insure that  
Franchisor's required degree of quality, service and image is maintained; and to  
refrain from deviating therefrom and from otherwise operating in any manner  
which adversely reflects on Franchisor's name and goodwill, or on the Licensed  
Marks.  
  
 6.6. Printed Materials; Marketing. Franchise Owner shall use only  
business stationery, business cards, marketing materials, advertising materials,  
printed materials or forms which have been approved in advance by Franchisor.  
Franchise Owner shall not employ any person to act as a representative of  
Franchise Owner in connection with local promotion of the Franchised Business in  
any public media without the prior written approval of Franchisor. Any and all  
supplies or materials purchased, leased or licensed by Franchise Owner shall  
always meet those standards specified by Franchisor in the Confidential  
Operating Manual or otherwise in writing.  
  
 6.7. Ownership Identification. In all advertising displays and  
materials and at all premises from or at which the Franchised Business is  
conducted, Franchise Owner shall, in such form and manner as may be specified by  
Franchisor in the Confidential Operating Manual, notify the public that  
Franchise Owner is operating the business licensed hereunder as a franchisee of  
Franchisor and shall identify its business location in the manner specified by  
Franchisor in the Confidential Operating Manual.  
  
 6.8. Patient Relations. Franchise Owner shall respond promptly to   
patient complaints and shall take such other steps as may be required to insure   
positive patient relations.  
  
 6.9. Right to Inspect. Franchise Owner hereby grants to Franchisor and  
its agents the right to enter upon any premises from which Franchise Owner  
conducts the Franchised Business, without notice, at any reasonable time for the  
purpose of conducting inspections of the premises and Franchise Owner's books  
and records; and Franchise Owner agrees to render such assistance as may  
reasonably be requested and to take such steps as may be necessary to correct  
any deficiencies upon the request of Franchisor or its agents.  
  
 6.10. Variation of Standards. Because complete and detailed uniformity  
under many varying conditions may not be possible or practical, Franchisor  
specifically reserves the right and privilege, in its sole discretion and as it  
may deem in the best interests of all concerned in any specific instance, to  
vary standards for any of its franchisees based upon the peculiarities of a  
particular circumstance, or any other conditions which Franchisor deems to be of  
importance to the successful operation of the Franchised Business. Franchise  
Owner shall have no recourse  
  
  
  
  
  
  
against Franchisor on account of any variation from standard specifications and  
practices granted to any franchise owner and shall not be entitled to require  
Franchisor to grant Franchise Owner a like or similar variation hereunder.  
  
 6.11. Accounting Equipment and Software. Franchise Owner agrees  
to maintain, develop, update and replace any equipment and software as   
reasonably necessary for the purpose of recording, collecting or otherwise  
supporting revenues.  
  
 6.12. Discoveries and Ideas. Franchise Owner agrees to disclose  
promptly to Franchisor all discoveries made or ideas conceived by Franchise  
Owner or a person affiliated with Franchise Owner that pertain to the Charter  
System. Franchise Owner hereby grants to Franchisor all right, title and  
interest to such discoveries and ideas, and agrees to cooperate with Franchisor  
in securing Franchisor's rights to such discoveries and ideas. "Discoveries" and  
"ideas" shall be interpreted broadly and shall not be limited to those  
discoveries or ideas which are potentially patentable or copyrightable.  
Franchisor shall not be obligated to compensate Franchise Owner for any such  
discoveries or ideas and Franchise Owner has no expectation of any such  
compensation.  
  
  
  
7. CONFIDENTIAL OPERATING MANUAL  
  
 7.1. Compliance with Confidential Operating Manual. In order to protect  
the reputation and goodwill of the businesses operating under the Charter System  
and to maintain standards of operation under the Licensed Marks, Franchise Owner  
shall conduct the Franchised Business operated under the Charter System in  
accordance with various written instructions and confidential manuals  
(hereinafter and previously referred to as the "Confidential Operating Manual"),  
including such amendments thereto as Franchisor may publish from time to time,  
all of which Franchise Owner acknowledges belong solely to Franchisor and shall  
be on loan from Franchisor during the term of this Agreement. When any provision  
in this Agreement requires that Franchise Owner comply with any standard,  
specification or requirement of Franchisor, unless otherwise indicated such  
standard, specification or requirement shall be such as is set forth in this  
Agreement or as may, from time to time, be set forth by Franchisor in the  
Confidential Operating Manual.  
  
 7.2. Revisions. Franchise Owner understands and acknowledges that  
Franchisor may, from time to time, revise the contents of the Confidential  
Operating Manual to implement new or different requirements for the operation of  
the Franchised Business, and Franchise Owner expressly agrees to comply at its  
expense with all such reasonably changed requirements which are by their terms  
mandatory; provided that such requirements shall also be applied in a reasonably  
nondiscriminatory manner to comparable businesses operated under the Charter  
System by other of Franchisor's franchisees.  
  
  
  
  
  
  
  
  
8. ADVERTISING AND MARKETING  
  
 Recognizing the value of standardized advertising and marketing  
programs to the furtherance of the goodwill and public image of the Charter  
System, the parties agree as follows:  
  
 8.1. Local Advertising. At its expense, Franchise Owner agrees to  
conduct on an annual basis continuing local advertising in form, content and  
media approved by Franchisor, in an amount equal to three percent (3%) of Gross  
Revenues. Franchise Owner shall submit evidence of any such expenditures to  
Franchisor on an annual basis not later than sixty (60) days after the close of  
each fiscal year for the preceding fiscal year. In the event that Franchise  
Owner shall fail to expend such sums on local advertising during any fiscal  
year, the difference between the amount expended and the amount required to be  
expended shall be paid to Franchisor, in addition to other amounts payable  
pursuant to this Agreement.  
  
 8.2. Approval of Advertising. All advertising by Franchise Owner shall  
be in such media, and of such type and format as Franchisor may approve; shall  
be conducted in a dignified manner and shall conform to such standards and  
requirements as Franchisor may specify. Advertising approved by Franchisor as  
meeting the requirements of the preceding sentence shall continue to be deemed  
approved unless and until Franchisor shall notify OpCo otherwise. Franchise  
Owner shall not use any advertising or promotional plans or materials not  
prepared by Franchisor unless and until Franchise Owner has received written  
approval from Franchisor following the submission of samples thereof to  
Franchisor. If written approval is not received by Franchise Owner from  
Franchisor or its designee within fifteen (15) days of the date of receipt by  
Franchisor of such samples, Franchisor shall be deemed to have disapproved such  
advertising or promotional plans or materials.  
  
 8.3. Participation in Cooperative Advertising and/or Marketing  
Programs. Franchise Owner shall participate in all cooperative advertising  
and/or marketing programs as are from time to time prescribed by Franchisor,  
provided however, that no such cooperative advertising and/or marketing programs  
shall require Franchise Owner to adhere to any specific price(s). The terms and  
conditions required for participation in any such cooperative advertising  
program or programs shall be as specified in the Confidential Operations Manual.  
  
 8.4. Operation of Call Center. Franchisor agrees to operate or will  
provide a toll free "800 telephone number" and related call center (the "800  
Call Center") to provide substantially the same services to Franchise Owner as  
those provided by the 800 Call Center operating immediately prior to the  
execution of this Agreement, subject to such modification as Franchisor deems  
advisable from time to time to comply with applicable law or subject to such  
restructuring as Franchisor shall reasonably require to comply with applicable  
law. Franchise Owner agrees to advertise the "800 telephone number" and  
otherwise cooperate with Franchisor to use the 800 Call Center as a means of  
assisting customers to locate the places of business of franchisees of  
Franchisor.  
  
  
  
  
  
  
  
  
 8.5. Subordination and Alternative Performance of Obligations.  
Franchise Owner shall make all payments required to be made by Franchise Owner  
pursuant to this Article 8 to OpCo, rather than to Franchisor, until the earlier  
of (i) the date on which OpCo ceases to have voting control of Franchise Owner  
through stock ownership, or (ii) the date of the termination or expiration of  
the Master Franchise Agreement, or (iii) in the event OpCo shall: (i) become  
insolvent; or (ii) be unable, or admit in writing its inability to pay its debts  
as they mature; or (iii) make a general assignment for the benefit of creditors  
or to an agent authorized to liquidate any substantial amount of its property;  
or (iv) become the subject of an "order for relief" within the meaning of the  
United States Bankruptcy Code; or (v) become the subject of a creditor's  
petition for liquidation, reorganization or to effect a plan or other  
arrangement with creditors; or (vi) apply to a court for the appointment of a  
custodian or receiver for any of its assets; or (vii) have a custodian or  
receiver appointed for any of its assets (with or without its consent); or  
(viii) otherwise become the subject of any insolvency proceedings or propose or  
enter into any formal or informal composition or arrangement with its creditors.  
  
9. STATEMENTS, RECORDS AND FEE PAYMENTS  
  
 9.1. Maintenance of Records; Audit Rights. Franchise Owner shall, in a  
manner reasonably satisfactory to Franchisor, maintain original, full and  
complete records, accounts, books, data, licenses, contracts and invoices which  
shall accurately reflect all particulars relating to Franchised Business and  
such statistical and other information or records as Franchisor may require, and  
shall keep all such information for not less than three (3) years, even if this  
Agreement is no longer in effect. Franchise Owner shall compile and provide to  
Franchisor any statistical or financial information regarding the operation of  
the Franchised Business, the services and products sold by it, or data of a  
similar nature as Franchisor may reasonably request. Franchisor and its  
designated agents shall have the right to examine and audit such records,  
accounts, books and data at all reasonable times to insure that Franchise Owner  
is complying with the terms of this Agreement. In connection with any such  
examination or audit, Franchisor shall not be entitled to any adjustment to the  
extent that Gross Revenues have been computed in accordance with Section 4.10  
and in accordance with generally accepted accounting principles consistently  
applied. If such inspection discloses and it is ultimately determined that the  
Gross Revenues during any scheduled reporting period actually exceeded the  
amount reported by Franchise Owner as its Gross Revenues by an amount equal to  
two percent (2%) or more of the Gross Revenues originally reported to  
Franchisor, Franchise Owner shall bear the cost of such inspection and audit  
(not including any premium or contingent fee arrangement) and shall pay any such  
deficiency with interest from the date due until paid at the lesser of the Prime  
Rate, plus six percent (6%) per annum or the highest rate permitted by  
applicable law, immediately upon the request of Franchisor.  
  
 9.2. Reports. Upon Franchisor's request, Franchise Owner shall furnish  
Franchisor with a copy of each of Franchise Owner's reports required under  
applicable federal and state laws, rules and regulations, including but not  
limited to all such reports required under "Medicare" and "Medicaid" laws, rules  
and regulations.  
  
  
  
  
  
  
  
 9.3. Tax Reports. Upon Franchisor's request, Franchise Owner shall   
furnish Franchisor with a copy of each of its reports and returns of sales, use   
and gross receipt taxes and complete copies of any state or federal income tax   
returns covering the operation of the Franchised Business.  
  
 9.4. Unaudited Periodic Statements. Franchise Owner shall prepare and  
deliver to Franchisor on a quarterly basis, no later than twenty-five (25) days  
following the close of each fiscal quarter, an unaudited profit and loss  
statement in a form reasonably satisfactory to Franchisor covering Franchise  
Owner's business for the prior fiscal quarter and showing Gross Revenues for the  
prior fiscal quarter and fiscal year to date, all of which shall be certified by  
Franchise Owner to present fairly in all material respects such matters.  
Franchise Owner shall also submit to Franchisor no later than twenty-five (25)  
days following the close of each fiscal quarter, an unaudited balance sheet  
reflecting the financial position of the Franchised Business as of the preceding  
fiscal quarter end.  
  
 9.5. Annual Statement. In addition to the foregoing unaudited  
statements, within 75 days after the close of each fiscal year of Franchise  
Owner, Franchise Owner shall furnish to Franchisor, at Franchise Owner's  
expense, an unaudited statement of income and retained earnings of Franchise  
Owner for such fiscal year and an unaudited balance sheet of Franchise Owner as  
of the end of such fiscal year, all prepared in accordance with generally  
accepted accounting principles and certified to by a Franchise Owner as true and  
correct. If audited statements are prepared by or for Franchise Owner for any  
fiscal year, such shall be provided to Franchisor in lieu of the unaudited  
statements required pursuant to this Section 9.5. Such financial statements  
shall be accompanied by a certificate certifying Franchise Owner's Gross  
Revenues for the prior year.  
  
10. ADDITIONAL COVENANTS  
  
 10.1. Covenant During Term. During the term of this Agreement,  
Franchise Owner covenants not to engage in the United States as an owner,  
operator, or in any managerial capacity in any Hospital/RTC Based Behavioral  
Healthcare Business, other than as a franchisee of the Charter System pursuant  
to this Agreement; provided, however, that Franchise Owner shall not be  
prohibited hereby from owning equity securities of any Hospital/RTC Based  
Behavioral Healthcare Business whose shares are traded on a stock exchange or on  
the over-the-counter market so long as said ownership interest represents five  
percent (5%) or less of the total number of outstanding shares of such business.  
  
 10.2. Covenant Not to Compete Post-Term. Following the termination or  
expiration of this Agreement and for a period expiring on the earlier of three  
(3) years following the expiration or termination of this Agreement or the  
thirty-second anniversary of the date of this Agreement, Franchise Owner  
covenants not to engage in the Territory as an owner, operator, or in any  
managerial capacity in any Hospital/RTC Based Behavioral Healthcare Business,  
other than as a franchisee of the Charter System pursuant to this Agreement;  
provided, however, that Franchise  
  
  
  
  
  
  
  
Owner shall not be prohibited hereby from owning equity securities of any  
Hospital/RTC Based Behavioral Healthcare Business whose shares are traded on a  
stock exchange or on the over-the-counter market so long as said ownership  
interest represents five percent (5%) or less of the total number of outstanding  
shares of such business.  
  
 10.3. Acknowledgment of Reasonableness. The parties hereto acknowledge  
that the provisions of Sections 10.1 and 10.2 have been negotiated fully and  
fairly by the parties, each being represented and advised by counsel. Franchise  
Owner acknowledges that it is willingly and freely agreeing to the provisions of  
Sections 10.1 and 10.2 as reasonable and necessary under the circumstances. One  
of the acknowledged reasonable business purposes of Franchisor is to protect  
Franchisor's goodwill and proprietary rights. Franchise Owner further  
acknowledges that Franchisor would not enter into this Agreement without the  
covenants of Sections 10.1 and 10.2 and that it is fair and reasonable to  
Franchise Owner that Franchise Owner be subject to such covenants.  
  
 10.4. Confidential Information. During the term of this Agreement and  
following the expiration or termination of this Agreement, Franchise Owner  
covenants not to communicate directly or indirectly, nor to divulge to or use  
for its benefit or the benefit of any other person or legal entity, any trade  
secrets which are proprietary to Franchisor or any information, knowledge or  
know-how identified to Franchise Owner by Franchisor in writing as confidential  
(including but not limited to the Confidential Operating Manual), except as  
permitted by Franchisor. Notwithstanding the foregoing, this obligation shall  
not apply to information: (a) which at the time of disclosure is readily  
available to the trade or public; (b) which after disclosure becomes readily  
available to the trade or public, other than through breach of this Agreement;  
(c) which is subsequently lawfully and in good faith obtained by such party from  
an independent third party without breach of this Agreement; (d) which was in  
possession of such party prior to the date of disclosure; or (e) which is  
disclosed to others in accordance with the terms of a prior written  
authorization between the parties to this Agreement. In the event of any  
termination, expiration or non-renewal of this Agreement, Franchise Owner agrees  
that it will never use Franchisor's confidential information, trade secrets,  
methods of operation or any proprietary components of the Charter System in the  
design, development or operation of any behavioral healthcare business,  
including, without limitation, any Hospital/RTC Based Behavioral Healthcare  
Business. The protection granted hereunder shall be in addition to and not in  
lieu of all other protections for such trade secrets and confidential  
information as may otherwise be afforded in law or in equity.  
  
 10.5. Confidential Agreements with Certain Employees. Consistent with  
Franchisor's existing practices with respect to employee non-disclosure  
agreements, Franchise Owner agrees to maintain and cause new employees of  
Franchise Owner to execute employee non-disclosure agreements in the form  
employed by Franchisor as of the date hereof (or such other form as reasonably  
requested by Franchisor), with its managers, which shall prohibit disclosure by  
such parties to any other person or legal entity of any trade secrets or any  
other information, knowledge or know-how identified as confidential by  
Franchisor in writing to Franchise Owner concerning the operation of the  
Franchised Business. Franchisor shall be a third party beneficiary of such  
  
  
  
  
  
  
  
agreements and Franchise Owner shall not amend, modify or terminate any such  
agreement without Franchisor's prior written consent.  
  
 10.6. Severability. The parties agree that each of the foregoing  
covenants shall be construed as independent of any other covenant or provision  
of this Agreement. Should any part of one or more of these restrictions be found  
to be unenforceable by virtue of its scope in terms of area, business activity  
prohibited or length of time, and should such part be capable of being made  
enforceable by reduction of any or all thereof, Franchise Owner and Franchisor  
agree that the same shall be enforced to the fullest extent permissible under  
the law. In addition, Franchisor may, unilaterally, at any time, in its sole  
discretion, revise any of the covenants in this Article 10 so as to reduce the  
obligations of Franchise Owner hereunder. The running of any period of time  
specified in this Article 10 shall be tolled and suspended for any period of  
time in which the Franchise Owner is found by a court of competent jurisdiction  
to have been in violation of any restrictive covenant. Franchise Owner further  
expressly agrees that the existence of any claim it may have against Franchisor  
whether or not arising from this Agreement, shall not constitute a defense to  
the enforcement by Franchisor of the covenants in this Article 10.  
  
 10.7. Waiver of Surety Defenses by Franchisor and Nature of  
Obligations. The obligations of Franchisor under this Agreement are joint and  
several and include any and all debts, obligations, whether of payment or  
performance, and liabilities arising out of or relating to this Agreement,  
whether such debts, obligations and liabilities are heretofore, now, or  
hereafter made, incurred, or created, whether such debts, obligations and  
liabilities are voluntary or involuntary, liquidated or unliquidated, secured or  
unsecured, and including but not limited to contingent debts, obligations and  
liabilities, and whether or not any or all such debts, obligations and  
liabilities are or become unenforceable against either Franchisor as a result of  
the operation of bankruptcy or insolvency laws.  
  
 With respect to any debt, liability or obligation with respect  
to which one Franchisor is deemed to be a surety or guarantor of the other  
Franchisor, such Franchisor deemed to be a surety or guarantor hereby  
unconditionally and irrevocably waives (a) (i) any right to require that any  
action be brought against the other Franchisor without regard to whether the  
other Franchisor, or both, were directly responsible for any breach of this  
Agreement; (ii) presentment, notice of dishonor, protest, diligence, demand for  
payment, performance or enforcement, and all notices of any kind, including  
without limitation: notice of acceptance hereof, notice of the creation of any  
obligations of Franchisor hereunder (except as otherwise expressly required in  
this Agreement), notice of nonpayment, nonperformance or other default, and  
notice of any action taken to collect upon any of the obligations of Franchisor  
hereunder or enforce any of the provisions hereof against Franchisor; and (iii)  
any claim for contribution from any other person, including the other  
Franchisor; and (b) except to the extent that Franchise Owner would not have had  
the benefit of such protections had the Franchisor not been deemed to be a  
surety or guarantor (i) any failure of Franchise Owner to take any steps to  
preserve its rights hereunder; (ii) any setoffs against Franchise Owner which  
would otherwise impair Franchise Owner's rights against  
  
  
  
  
  
  
either Franchisor hereunder; and (iii) any requirement to mitigate damages. Each  
Franchisor also expressly waives the provisions of Sections 49-25 and 49-26 of  
the Code of Virginia.  
  
  
  
11. TRANSFER AND ASSIGNMENT  
  
 11.1. Assignment by Franchisor. This Agreement and all rights and  
duties hereunder may not be assigned or transferred by Franchisor except (i)  
with the prior written consent of Franchise Owner and Crescent, in its capacity  
as lessor under the Facilities Lease (as defined in Section 1.21 of the Master  
Franchise Agreement), which consent shall not be unreasonably withheld,  
conditioned or delayed, or (ii) to an entity which simultaneously therewith  
acquires all or substantially all of Franchisor's business and assets.  
Franchisor may grant a security interest in Franchisor's rights and interest in  
(but not its obligations under) this Agreement to any of Franchisor's lenders by  
means of an assignment for collateral purposes.  
  
 11.2. Assignment by Franchise Owner.. This Agreement and any rights and  
duties hereunder may not be assigned or transferred by Franchise Owner except  
(i) with the prior written consent of Franchisor, which consent shall not be  
unreasonably withheld, conditioned or delayed, to any entity which  
simultaneously therewith acquires all or substantially all of Franchise Owner's  
business and assets (including the assignment of Franchise Owners's rights and  
obligations as lessee under the lease with Crescent), or (ii) if the Facilities  
Lease is terminated prior to the end of the Initial Term or any Extended term as  
a result of an Event of Default under the Facilities Lease, and if Crescent  
exercises its election under the Facilities Lease to assume all (but not less  
than all) of the Obligations of Franchise Owner under this Agreement and all  
other agreements specified in the Facilities Lease from the date of such  
assumption, to Crescent or its designee. A transaction or transactions pursuant  
to which OpCo no longer has voting control of Franchise Owner through stock  
ownership shall be deemed an assignment or transfer of this Agreement.  
  
 11.3. Conditions of Any Approval. Franchise Owner understands and  
acknowledges the vital importance of the performance of Franchise Owner to the  
market position and overall image of Franchisor. The consent of Franchisor to an  
assignment or transfer by Franchise Owner shall be subject, but not be limited  
to, the following conditions:  
  
 (a) The proposed transferee is a person or entity  
 which meets the Franchisor's standards of qualification then applicable  
 with respect to all new applicants for similar Charter System  
 franchisees;  
  
 (b) The proposed transfer is upon reasonable   
 terms and conditions;  
  
 (c) As of the effective date of the proposed  
 transfer, all obligations of Franchise Owner hereunder and under any  
 other agreements between Franchise Owner and Franchisor are satisfied  
 in all material respects;  
  
  
  
  
  
  
  
  
 (d) As of the effective date of the proposed  
 transfer, all obligations of the proposed transferee to the Franchisor  
 under all other agreements of any kind between the proposed transferee  
 and Franchisor are satisfied in all material respects;  
  
 (e) Franchise Owner must request that Franchisor  
 provide the prospective transferee with the Franchisor's current form  
 of disclosure document required by the Federal Trade Commission's Trade  
 Regulation Rule on Franchising and/or other applicable state franchise  
 registration/disclosure laws, and a receipt for such document shall be  
 delivered to Franchisor, acknowledging that Franchisor shall not be  
 liable for any representations other than those contained in such  
 disclosure document;  
  
 (f) The proposed transferee must execute a new  
 franchise agreement, namely, Franchisor's then-current form of facility  
 franchise agreement, which may contain terms and conditions  
 substantially different from those in this Agreement, for an initial  
 term equal to the time remaining in the term of this Agreement, unless  
 the proposed transferee would be or is an OpCo Franchisee;  
  
 (g) The transferor and the transferee shall have  
 executed a general release under seal where required, in a form  
 reasonably satisfactory to Franchisor, of any and all claims  
 (including, without limitation, claims arising under federal, state,  
 and local laws, rules, and ordinances) against Franchisor, its parent,  
 subsidiaries, affiliates and their officers, directors, attorneys,  
 shareholders, and employees, in their corporate and individual  
 capacities, arising out of, or connected with, the performance of this  
 Agreement or any other agreement; and  
  
 (h) The transferee shall demonstrate to Franchisor's  
 reasonable satisfaction that (i) it meets all of Franchisor's  
 requirements for becoming one of its franchisees, including, without  
 limitation, that it meets Franchisor's managerial and business  
 standards then in effect for similarly situated franchise owners; (ii)  
 possesses a good moral character, business reputation, and satisfactory  
 credit rating; and (iii) is not a competitor of Franchisor, will comply  
 with all instruction and training requirements of Franchisor and has  
 the aptitude and ability to operate the Franchised Business (as may be  
 evidenced by prior related business experience or otherwise).  
  
 11.4. Consent Not a Waiver. Franchisor's consent to an assignment by  
the Franchise Owner granted herein shall not constitute a waiver of any claims  
it may have against the transferring party, nor shall it be deemed a waiver of  
Franchisor's right to demand exact compliance with any of the terms of this  
Agreement by the transferee.  
  
 11.5. Parties Bound and Benefitted. This Agreement shall be binding  
on the parties and their respective successors and assigns. This Agreement shall  
inure to the benefit of the parties and their respective permitted successors  
and assigns.  
  
  
  
  
  
  
  
  
12. DEFAULT AND TERMINATION  
  
 12.1. Franchisor's Right to Terminate. Franchisor may not terminate  
this Agreement prior to the expiration of its term except for "good cause,"  
which shall mean the occurrence of any event of default described in (a) and (f)  
below, but shall specifically not include the failure to pay Franchisor any  
amount due to Franchisor under and pursuant to Articles 4 or 8 hereof, which  
Franchisor agrees will not be an event of default giving rise to a right to  
terminate this Agreement. Upon the occurrence of any such event of default,  
Franchisor may, at its option, and without waiving its rights hereunder or any  
other rights available at law or in equity, including its rights to damages,  
terminate this Agreement and all of Franchise Owner's rights hereunder effective  
immediately upon the date Franchisor gives written notice of termination, upon  
such other date as may be set forth in such notice of termination, or in those  
instances enumerated below in paragraph (a), automatically upon the occurrence  
of an event of default. The occurrence of any one or more of the following  
events shall constitute an event of default and grounds for termination of this  
Agreement by Franchisor:  
  
 (a) Automatically, without notice or action required  
 by Franchisor, if Franchise Owner becomes insolvent or makes a general  
 assignment for the benefit of creditors, or, unless otherwise  
 prohibited by law, if a petition in bankruptcy is filed by Franchise  
 Owner, or such a petition is filed against and consented to by  
 Franchise Owner or not dismissed within thirty (30) days, or if a xxxx  
 in equity or other proceeding for the appointment of a receiver of  
 Franchise Owner or other custodian for Franchise Owner's business or  
 assets is filed and consented to by Franchise Owner, or if a receiver  
 or other custodian (permanent or temporary) of Franchise Owner's assets  
 or property, or any part thereof, is appointed;  
  
 (b) If there is any violation of any transfer and   
 assignment provision contained in Article 11 of this Agreement;  
  
 (c) If Franchise Owner fails, for a period of fifteen  
 (15) days after notification of non-compliance by appropriate authority  
 to comply with any law, rule or regulation applicable to the operation  
 of the Franchised Business; provided, however, that if such  
 non-compliance is susceptible to cure but such cure cannot be  
 accomplished with due diligence within such period of time, and if, in  
 addition, Franchise Owner commences to cure such non-compliance within  
 15 days after notification of non-compliance and thereafter prosecutes  
 the curing of such non-compliance with due diligence, such period of  
 time shall be extended to such period of time (not to exceed an  
 additional ninety (90) days in the aggregate) as may be necessary to  
 cure such non-compliance with due diligence;  
  
 (d) If Franchise Owner, other than in an immaterial   
 respect, violates, any covenant of confidentiality or non-disclosure  
 contained in Article 10 of this Agreement;  
  
  
  
  
  
  
  
  
 (e) If Franchise Owner fails to perform or breaches  
 any covenant, obligation, term, condition, warranty or certification  
 herein or fails to operate the Franchised Business as specified by  
 Franchisor herein or in the Confidential Operating Manual and fails to  
 cure such noncompliance or deficiency within thirty (30) days after  
 Franchisor's written notice thereof; provided, however, that if such  
 non-compliance or deficiency is susceptible to cure but such cure  
 cannot be accomplished with due diligence within such period of time,  
 and if, in addition, Franchise Owner commences to cure such  
 non-compliance or deficiency within 30 days after notification of  
 non-compliance or deficiency and thereafter prosecutes the curing of  
 such non-compliance or deficiency with due diligence, such period of  
 time shall be extended to such period of time (not to exceed an  
 additional one hundred eighty (180) days in the aggregate) as may be  
 necessary to cure such non-compliance or deficiency with due diligence;  
  
 (f) If Franchise Owner abandons the operation of all  
 or any substantial part of the Franchised Business conducted under this  
 Agreement for twenty-four (24) hours or longer (except as otherwise  
 provided herein or agreed to by Franchisor) or defaults under any  
 mortgage, deed of trust or lease with Franchisor or any third party  
 covering the Franchised Business or of any premises from or at which  
 the Franchised Business is operated and Franchisor or such third party  
 treats such act or omission as a default, and Franchise Owner fails to  
 cure such default to the satisfaction of Franchisor or such third party  
 within any applicable cure period granted Franchise Owner by Franchisor  
 or such third party;  
  
 12.2. Franchise Owner's Right to Terminate. Franchise Owner may not  
terminate this Agreement prior to the expiration of its term (whether because of  
Franchisor's breach, material or otherwise) except with the prior written   
consent of Franchisor.  
  
13. POST TERM OBLIGATIONS  
  
 Upon the expiration or termination of this Agreement, Franchise Owner  
shall immediately:  
  
 13.1. Cease Operations. Cease to be a franchisee of Franchisor under  
this Agreement and cease to operate the former Franchised Business under the  
Charter System. Franchise Owner shall not thereafter, directly or indirectly,  
represent to the public that the former Franchised Business is or was operated  
or in any way connected with the Charter System or hold itself out as a present  
(or, publicly, as a former) franchisee of Franchisor at or with respect to any  
premises from or at which the Franchised Business operated;  
  
 13.2. Pay All Sums Outstanding. Pay all sums owing to Franchisor   
subject to the Subordination Agreement.  
  
  
  
  
  
  
  
  
 13.3. Return Confidential Operating Manual. Return to Franchisor the  
Confidential Operating Manual and all trade secret and other confidential  
materials, equipment and other property owned by Franchisor, and all copies  
thereof, including all such provided to any third party by Franchise Owner.  
(Franchisor shall not provide any such to any third parties without the written  
consent of Franchisor in each instance.) Franchise Owner shall retain no copy or  
record of any of the foregoing; provided Franchise Owner may retain its copy of  
this Agreement, any correspondence between the parties, and any other document  
which Franchise Owner reasonably needs for compliance with any applicable  
provision of law.  
  
 13.4. Cease Use of System. Cease to use in advertising, or in any  
manner whatsoever, any methods, procedures, protocols, programs, procedures or  
techniques associated with the Charter System in which Franchisor has a  
proprietary right, title or interest; cease to use the Licensed Marks and any  
other marks and indicia of operation associated with the Charter System and  
remove all trade dress, physical characteristics, color combinations and other  
indications of operation under the Charter System from any premises from or at  
which the Franchised Business operated. Without limiting the generality of the  
foregoing, Franchise Owner agrees that in the event of any termination or  
expiration of this Agreement, it will remove all signage bearing the Licensed  
Marks, and, upon Franchisor's request, deliver the facia for such signs to  
Franchisor, and will remove any items which are characteristic of the Charter  
System "trade dress" from any premises from or at which the Franchised Business  
operated. Franchise Owner agrees that Franchisor or a designated agent may enter  
upon any premises from or at which the Franchised Business operated at any time  
in a reasonable manner to make such changes at Franchise Owner's sole risk and  
expense and without liability for trespass.  
  
14. INSURANCE  
  
 14.1. Maintenance of Insurance. Throughout the term of this Agreement,  
Franchise Owner shall maintain in effect at all times a policy or policies of  
insurance, designating Franchisor as an additional insured at Franchise Owner's  
sole cost and expense as described on Exhibit 4 hereto.  
  
 14.2. Notices of Claims. Franchise Owner shall promptly notify  
Franchisor of any and all claims against Franchise Owner and/or Franchisor under  
said policies of insurance and shall deliver to Franchisor certificates  
evidencing that the insurance required by Section 14.1 is in full force and  
effect within thirty (30) days after signing this Agreement and each year  
thereafter. Such insurance certificates shall contain a statement that the  
insurance shall not be canceled without thirty (30) days' prior written notice  
to Franchise Owner and to Franchisor.  
  
 14.3. Notices of Other Claims/Events. Franchise Owner shall provide to  
Franchisor notice of any and all demands, claims, suits, actions, causes of  
action, proceedings and assessments (together "Claims") brought, made or  
threatened in writing against Franchise Owner, and of the occurrence of any  
events which might result in such a Claim, in each case within five (5) business  
days after Franchise Owner becomes aware thereof, and will provide to Franchisor  
  
  
  
  
  
  
information concerning such Claims or events as Franchisor may from time to time  
reasonably request.  
  
15. TAXES, PERMITS AND INDEBTEDNESS  
  
 15.1. Payment. Franchise Owner shall promptly pay when due any and all  
federal, state and local taxes, including without limitation unemployment and  
sales taxes, levied or assessed with respect to any services or products  
furnished, used or licensed pursuant to this Agreement and all accounts or other  
indebtedness of every kind incurred by Franchise Owner in the operation of the  
Franchised Business.  
  
 15.2. Compliance with all Laws and Regulations. Franchise Owner shall  
comply with all federal, state and local laws, rules and regulations and timely  
obtain any and all permits, certificates and licenses for the full and proper  
conduct of the Franchised Business.  
  
 15.3. Full Responsibility. Franchise Owner hereby expressly   
covenants and agrees to accept full and sole responsibility for any and all   
debts and obligations incurred in the operation  
of the Franchised Business.  
  
16. INDEMNIFICATION AND INDEPENDENT CONTRACTOR  
  
 16.1. Indemnification and Hold Harmless. Franchise Owner agrees to  
protect, defend, indemnify, and hold Franchisor, and its respective directors,  
officers, agents, attorneys and shareholders, jointly and severally, harmless  
from and against all claims, actions, proceedings, damages, costs, expenses and  
other losses and liabilities, directly or indirectly incurred (including without  
limitation reasonable attorneys' and accountants' fees) as a result of, arising  
out of, or connected with the operation of the Franchised Business, except those  
directly arising from Franchisor's willful misconduct or fraud. Franchisor  
agrees to protect, defend, indemnify and hold Franchise Owner, and its  
respective directors, officers, agents, attorneys and shareholders, jointly and  
severally, harmless from and against all claims, actions, proceedings, damages,  
costs, expenses and other losses and liabilities, directly or indirectly arising  
out of or connected with the operation of the Franchised Business arising  
directly from Franchisor's willful misconduct or fraud.  
  
 16.2. Independent Contractor. In all dealings with third parties  
including, without limitation, employees, suppliers and patients, Franchise  
Owner shall disclose in an appropriate manner reasonably acceptable to  
Franchisor that it is an independent entity licensed by Franchisor. Nothing in  
this Agreement is intended by the parties hereto to create a fiduciary  
relationship between them nor to constitute either party an agent, legal  
representative, subsidiary, joint venturer, partner, employee or servant of the  
other for any purpose whatsoever. It is understood and agreed that Franchise  
Owner is an independent contractor and is in no way authorized to make any  
contract, warranty or representation or to create any obligation on behalf of  
Franchisor.  
  
  
17. WRITTEN APPROVALS, WAIVERS, FORMS OF AGREEMENT AND  
 AMENDMENT  
  
 17.1. Prior Approvals. Whenever this Agreement requires Franchisor's  
prior approval, Franchise Owner shall make a timely written request. Unless a  
different time period is specified in this Agreement, Franchisor shall respond  
with its approval or disapproval within fifteen (15) days of receipt of such  
request. If Franchisor has not specifically approved a request within such  
fifteen (15) day period, such failure to respond shall be deemed disapproval of  
any such request.  
  
 17.2. No Waiver. No failure of Franchisor to exercise any power  
reserved to it by this Agreement and no custom or practice of the parties at  
variance with the terms hereof shall constitute a waiver of Franchisor's right  
to demand exact compliance with any of the terms herein. No waiver or approval  
by Franchisor of any particular breach or default by Franchise Owner, nor any  
delay, forbearance or omission by Franchisor to act or give notice of default or  
to exercise any power or right arising by reason of such default hereunder, nor  
acceptance by Franchisor of any payments due hereunder shall be considered a  
waiver or approval by Franchisor of any preceding or subsequent breach or  
default by Franchise Owner of any term, covenant or condition of this Agreement.  
  
 17.3. Form of Agreements. No warranty or representation is made by  
Franchisor that all Charter System franchise agreements heretofore or hereafter  
issued by Franchisor do or will contain terms substantially similar to those  
contained in this Agreement. Further, Franchise Owner recognizes and agrees that  
Franchisor may, in its reasonable business judgment, due to local business  
conditions or otherwise, waive or modify comparable provisions of other  
franchise agreements heretofore or hereafter granted to other Charter System  
franchise owners in a non-uniform manner, subject, however, to those provisions  
of this Agreement which require Franchisor to act toward its Franchise Owners on  
a reasonably nondiscriminatory basis.  
  
 17.4. Written Amendments. Except as otherwise specifically provided in  
this Agreement, no amendment, change or variance from this Agreement shall be  
binding upon either Franchisor or Franchise Owner except by mutual written  
agreement or in accordance with Section 3.10 of the Subordination Agreement. If  
an amendment of this Agreement is executed at Franchise Owner's request, any  
legal fees or costs of preparation in connection therewith shall, at the option  
of Franchisor, be paid by Franchise Owner.  
  
18. ENFORCEMENT  
  
 18.1. Inspections. In order to ensure compliance with this Agreement  
and to enable Franchisor to carry out its obligation under this Agreement,  
Franchise Owner agrees that Franchisor and its designated agents shall be  
permitted, with or without notice, full and complete access during business  
hours to inspect all premises from or at which the Franchised Business is  
conducted and all records thereof, including, but not limited to, records  
relating to Franchise  
  
  
  
  
  
  
  
Owner's patients, suppliers, employees and agents. Franchise Owner shall  
cooperate fully with Franchisor and its designated agents requesting such  
access.  
  
 18.2. Injunctive Relief. Franchisor or its designee shall be entitled  
to obtain, without bond, declaratory judgments, temporary and permanent  
injunctions, and orders of specific performance, in order to enforce the  
provisions of this Agreement relating to Franchise Owner's use of the Licensed  
Marks, the obligations of Franchise Owner upon termination or expiration of this  
Agreement, and assignment of this Agreement and/or ownership interests in  
Franchise Owner or to prohibit any act or omission by Franchise Owner or its  
employees which constitutes a violation of any applicable law or regulation,  
which is dishonest or misleading to prospective or current customers of  
businesses operated under the Charter System, which constitutes a danger to  
other franchise owners, employees, patients or the public, or which may impair  
the goodwill associated with the Licensed Marks.  
  
 18.3. Costs and Expenses. If Franchisor secures any declaratory  
judgment, injunction or order of specific performance pursuant to this Article  
18, or otherwise, if any provision of this Agreement is enforced at any time by  
Franchisor or if any amounts due from Franchise Owner to Franchisor are, at any  
time, collected by or through an attorney at law or collection agency, Franchise  
Owner shall be liable to Franchisor for all costs and expenses of enforcement  
and collection including, but not limited to, court costs and reasonable  
attorneys' fees.  
  
 18.4. No Right to Offset. Franchise Owner will not, for any reason,  
withhold payment of any monthly payment, fee or any other fees or payments due  
to the Franchisor under this Agreement or pursuant to any other contract,  
agreement or obligation to the Franchisor. Franchise Owner shall not have the  
right to "offset" any liquidated or unliquidated amounts, damages or other funds  
allegedly due to the Franchise Owner from the Franchisor against any monthly  
payment, fee or any other fees or payments due to the Franchisor under this  
Agreement or otherwise.  
  
19. ENTIRE AGREEMENT  
  
 THIS AGREEMENT INCLUDING THE EXHIBITS REFERRED TO HEREIN AND THE  
TRANSACTION DOCUMENTS (AS DEFINED IN THE MASTER FRANCHISE AGREEMENT) CONTAIN THE  
ENTIRE AGREEMENT OF THE PARTIES. NO OTHER AGREEMENTS, WRITTEN OR ORAL, SHALL BE  
DEEMED TO EXIST, AND ALL PRIOR AGREEMENTS AND UNDERSTANDINGS ARE SUPERSEDED  
HEREBY. THERE ARE NO CONDITIONS TO THIS AGREEMENT WHICH ARE NOT EXPRESSED HEREIN  
OR IN THE TRANSACTION DOCUMENTS. NO OFFICER, EMPLOYEE OR AGENT OF FRANCHISOR HAS  
ANY AUTHORITY TO MAKE ANY REPRESENTATION OR PROMISE NOT CONTAINED IN THIS  
AGREEMENT OR IN THE TRANSACTION DOCUMENTS, AND FRANCHISE OWNER AGREES THAT IT  
HAS EXECUTED THIS AGREEMENT WITHOUT RELIANCE UPON ANY SUCH REPRESENTATION OR  
PROMISE. THIS  
  
  
  
  
  
  
  
AGREEMENT SHALL NOT BE BINDING UPON FRANCHISOR UNTIL EXECUTED BY AN AUTHORIZED  
OFFICER THEREOF.  
  
20. NOTICES  
  
 Any notice required to be given hereunder shall be in writing and shall  
be either mailed by certified mail, return receipt requested or delivered by a  
recognized courier service, receipt acknowledged. Notices to Franchise Owner  
shall be addressed to it at the address listed in Article 1 of this Agreement.  
Notices to Franchisor shall be addressed to it at the address listed in Article  
1 of this Agreement. Attention: President. Any notice complying with the  
provisions hereof shall be deemed to be given three (3) days after mailing, or  
on the date of receipt, whichever is earlier. Each party shall have the right to  
designate any other address for such notices by giving notice thereof in the  
foregoing manner, and in such event all notices to be mailed after receipt of  
such notice shall be sent to such other address.  
  
21. GOVERNING LAW AND DISPUTE RESOLUTION  
  
 21.1. Governing Law. This Agreement shall be interpreted, construed,  
applied and enforced in accordance with the laws of the State of Delaware  
applicable to contacts among residents of Delaware which are to be performed  
entirely within Delaware, regardless of (i) where this Agreement is executed or  
delivered; or (ii) where any payment or other performance required to be made;  
or (iii) where any breach of any provision of this Agreement occurs, or any  
cause of action otherwise accrues; or (iv) where any action or other proceeding  
is instituted or pending; or (v) the nationality, citizenship, domicile,  
principal place of business or jurisdiction of organization or domestication of  
any party; or (vi) whether the laws of the forum jurisdiction otherwise would  
apply the laws of a jurisdiction other than the State of Delaware; or (vii) any  
combination of the foregoing.  
  
 Subject to Section 21.2 below, to the maximum extent permitted by  
applicable law, any action to enforce, arising out of, or relating in any way  
to, any of the provisions of this Agreement may be brought and prosecuted in  
such court or courts located in the State of Delaware as is provided by law; and  
the parties consent to the jurisdiction of said court or courts located in the  
State of Delaware and to service of process by registered mail, return receipt  
requested, or by any other manner provided by law.  
  
 21.2. Arbitration Litigation. (a) Any dispute, controversy or claim  
arising out of or relating to this Agreement or any contract or agreement  
entered into pursuant hereto or the performance by the parties of its or their  
terms shall be settled by binding arbitration held in Wilmington, Delaware, in  
accordance with the Commercial Arbitration Rules of the American Arbitration  
Association then in effect. Judgment upon the award rendered by the  
arbitrator(s) may be entered in any court having in personam and subject matter  
jurisdiction. The parties hereby submit to the in personam jurisdiction of the  
federal and state courts in Delaware, for the purpose of confirming any such  
award and entering judgment thereon; and  
  
  
  
  
  
  
  
 (b) Notwithstanding the foregoing, Franchisor may, in its  
discretion, apply to a court of competent jurisdiction for equitable relief from  
any violation or threatened violation of the covenants of Franchise Owner in  
this Agreement, including but not limited to, as provided in Section 18.2.  
Franchise Owner acknowledges that its violation or threatened violation of the  
provisions of Article 10 would cause irreparable injury and, in addition to any  
other remedies to which Franchisor may be entitled, that Franchisor shall be  
entitled to injunctive relief.  
  
22. SEVERABILITY, CONSTRUCTION AND OTHER MATTERS  
  
 22.1. Severability. Should any provision of this Agreement be for any  
reason held invalid, illegal or unenforceable by a court of competent  
jurisdiction, such provision shall be deemed restricted in application to the  
extent required to render it valid; and the remainder of this Agreement shall in  
no way be affected and shall remain valid and enforceable for all purposes. In  
the event that any provision of this Agreement should be for any reason held  
invalid, illegal or unenforceable by a court of competent jurisdiction, or in  
the event the performance or compliance by any party with any provision of this  
Agreement shall result in such party being in violation of any law, rule or  
regulation of any governmental authority, then in any of such events the parties  
agree to use commercially reasonable best efforts to amend in a manner  
reasonably consistent with each party's economic interests the obligations of  
the parties under and pursuant to this Agreement so as to cause the parties'  
obligations hereunder to be enforceable and not in violation of any law, rule or  
regulation of any governmental authority. In the event such total or partial  
invalidity or unenforceability of any provision of this Agreement exists only  
with respect to the laws of a particular jurisdiction, this paragraph shall  
operate upon such provision only to the extent that the laws of such  
jurisdiction are applicable to such provision. Each party agrees to execute and  
deliver to the other any further documents which may be reasonably required to  
effectuate fully the provisions hereof. Franchise Owner understands and  
acknowledges that Franchisor shall have the right, in its sole discretion, on a  
temporary or permanent basis, to reduce the scope of any covenant or provision  
of this Agreement binding upon Franchise Owner, or any portion hereof, without  
Franchise Owner's consent, effective immediately upon receipt by Franchise Owner  
of written notice thereof, and Franchise Owner agrees that it will comply  
forthwith with any covenant as so modified, which shall be fully enforceable.  
  
 22.2. Regulatory Reports. Each party agrees to reasonably cooperate  
with the other in providing on a timely basis all documents and information in  
its possession or reasonably available to it, reasonably required by the other  
for reports or filings required by any governmental or other regulatory  
authority.  
  
 22.3. Counterparts. This Agreement may be executed in any number of   
counterparts, each of which when so executed and delivered shall be deemed an   
original, but such counterparts together shall constitute one and the same   
instrument.  
  
 22.4. Table of Contents, Headings and Captions. The table of contents,  
headings and captions contained herein are for the purposes of convenience and   
reference only and are not to  
  
  
  
  
  
  
  
be construed as a part of this Agreement. All terms and words used herein shall  
be construed to include the number and gender as the context of this Agreement  
may require. The parties agree that each section of this Agreement shall be  
construed independently of any other section or provision of this Agreement.  
  
23. MANAGEMENT CONTRACTS/JOINT VENTURES/CONSULTING  
 AGREEMENTS  
  
 Franchise Owner agrees during the continuance of this Agreement that it  
will not enter into any new management agreements, Joint Ventures or consulting  
or other agreements relating to a Hospital/RTC Based Behavioral Healthcare  
Business ("New Arrangements") except (i) in the event a Franchise Agreement is  
entered into by Franchisor with respect to such business, or (ii) with the  
written consent of Franchisor in each instance. In each instance of a Joint  
Venture in which Franchisor shall have provided such written consent, Franchisor  
and Franchise Owner, prior thereto, shall have agreed with respect to the Joint  
Venture (i) to the payment to Franchisor, in addition to all other amounts  
payable pursuant to this Agreement, of a percentage of Franchise Owner's gross  
receipts from such New Arrangement agreeable to Franchise Owner and Franchisor  
or (ii) to the inclusion in Gross Revenues of the Business Gross Revenues of any  
such Joint Venture. For each Managed Business that is the subject of a New  
Arrangement, Franchise Owner shall pay to Franchisor (i) with respect to any  
such services provided to Managed Businesses within the Territory, 15% of (a)  
the total fees received by Franchise Owner, less (b) Franchise Owner's direct  
costs (not including overhead) of providing such services, or (ii) unless  
otherwise agreed by Franchisee or Franchise Owner, with respect to any such  
services provided to Managed Businesses outside the Territory, 30% of (a) the  
total fees received by Franchise Owner, less (b) Franchise Owner's direct costs  
(not including overhead) of providing such services (the amounts received by  
Franchisor pursuant to (i) or (ii) above are herein referred to as "New  
Arrangement Management Fees").  
  
24. MANAGED CARE AGREEMENTS/PREFERRED PROVIDER STATUS  
  
 The parties agree that during the continuance of this Agreement, all  
existing and future Managed Care Agreements, as defined below, shall be held in  
the name of Franchisor or a subsidiary of Franchisor. Franchise Owner agrees  
during the continuance of this Agreement that neither it nor any subsidiary or  
affiliate will enter into any Managed Care Agreements. For the purposes of this  
Agreement, "Managed Care Agreements" means any and all contracts, agreements,  
letters of agreement, memoranda of understanding, or any like written or oral  
agreement (hereinafter referred to as "Managed Care Agreement"), with any  
insurer, managed care company or any other third-party payor (hereinafter  
collectively referred to as "Payor") which is obligated to pay for behavioral  
health care benefits for any person pursuant to a Payor benefit contract with  
such person, and under which such Managed Care Agreements such behavioral health  
services are provided for a negotiated reimbursement rate. The parties agree  
that for the purposes of this Agreement, Managed Care Agreements shall not  
include any  
  
  
  
  
  
  
  
agreement for the provision of behavioral health care services solely with a  
county or a local employee assistance program with services provided solely by  
Franchise Owner.  
  
 The parties acknowledge that Franchisor or a subsidiary of Franchisor  
shall subcontract with OpCo to provide staffing to service and negotiate such  
Managed Care Agreements; provided, however, that Franchisor shall retain the  
right to determine which, if any, Managed Care Agreement shall be entered into  
in Franchisor's name. Franchisor shall use commercially reasonable best efforts,  
subject to applicable law, to cause Franchise Owner to have "preferred provider"  
status in connection with Franchisor's managed behavioral healthcare business on  
a basis substantially consistent with existing covenants, terms and conditions,  
unless the customer directs otherwise.  
  
25. ACKNOWLEDGMENTS  
  
 25.1. FRANCHISE OWNER ACKNOWLEDGES THAT FRANCHISOR OR ITS AGENT HAS  
PROVIDED FRANCHISE OWNER WITH A FRANCHISE OFFERING CIRCULAR NOT LATER THAN THE  
EARLIER OF THE FIRST PERSONAL MEETING HELD TO DISCUSS THE SALE OF A FRANCHISE,  
TEN (10) BUSINESS DAYS BEFORE THE EXECUTION OF THIS AGREEMENT, OR TEN (10)  
BUSINESS DAYS BEFORE ANY PAYMENT OF ANY CONSIDERATION. FRANCHISE OWNER FURTHER  
ACKNOWLEDGES THAT FRANCHISE OWNER HAS READ SUCH FRANCHISE OFFERING CIRCULAR AND  
UNDERSTANDS ITS CONTENTS.  
  
 25.2. FRANCHISE OWNER ACKNOWLEDGES THAT FRANCHISOR HAS PROVIDED FRANCHISE  
OWNER WITH A COPY OF THIS AGREEMENT AND ALL RELATED DOCUMENTS, FULLY COMPLETED,  
AT LEAST FIVE (5) BUSINESS DAYS PRIOR TO FRANCHISE OWNER'S EXECUTION HEREOF.  
  
 25.3. FRANCHISE OWNER IS AWARE OF THE FACT THAT OTHER PRESENT OR FUTURE  
FRANCHISE OWNERS OF FRANCHISOR MAY OPERATE UNDER DIFFERENT FORMS OF  
AGREEMENT(S), AND CONSEQUENTLY THAT FRANCHISOR'S OBLIGATIONS AND RIGHTS WITH  
RESPECT TO ITS VARIOUS DEVELOPERS AND FRANCHISE OWNERS MAY DIFFER MATERIALLY IN  
CERTAIN CIRCUMSTANCES.  
  
 25.4. FRANCHISE OWNER ACKNOWLEDGES THAT THIS INSTRUMENT AND THE TRANSACTION  
DOCUMENTS CONSTITUTE THE ENTIRE AGREEMENT OF THE PARTIES. EXCEPT AS SET FORTH IN  
THE TRANSACTION DOCUMENTS, THIS AGREEMENT TERMINATES AND SUPERSEDES ANY PRIOR  
AGREEMENT BETWEEN THE PARTIES CONCERNING THE SAME SUBJECT MATTER.  
  
 25.5. FRANCHISE OWNER ACKNOWLEDGES THAT COMPUTER SOFTWARE LICENSED  
HEREUNDER IS FURNISHED "AS IS". FRANCHISOR MAKES NO WARRANTIES, WHETHER EXPRESS  
OR IMPLIED WITH RESPECT TO SUCH  
  
  
  
  
  
  
SOFTWARE AND DOCUMENTATION DESCRIBING SUCH SOFTWARE, ITS QUALITY, ITS  
PERFORMANCE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. THE ENTIRE  
RISK AS TO THE QUALITY AND PERFORMANCE OF SOFTWARE AND DOCUMENTATION DESCRIBING  
SUCH SOFTWARE IS WITH FRANCHISE OWNER.  
  
 IN WITNESS WHEREOF, the parties hereto have duly executed this  
Agreement under seal on the date first written above.  
  
 MAGELLAN HEALTH SERVICES, INC.  
  
  
  
 By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
 Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
  
  
 CHARTER FRANCHISE SERVICES, LLC  
  
  
  
 By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
 Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
  
  
 CHARTER BEHAVIORAL HEALTH  
 SYSTEM OF CENTRAL GEORGIA,  
 LLC  
  
  
  
 By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
 Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_