

TRADEMARK ASSIGNMENT

Electronic Version v1.1
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SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Shadel Hospital, inc.		09/12/2002	CORPORATION: DELAWARE
RECEIVING PARTY DATA			
Name:	Duffy I, L.P.		
Street Address:	5944 Luther Lane, Suite 900		
City:	Dallas		
State/Country:	TEXAS		
Postal Code:	75225		
Entity Type:	LIMITED PARTNERSHIP: DELAWARE		
PROPERTY NUMBERS Total: 4			
Property Type	Number	Word Mark	
Registration Number:	1061426	SCHICK	
Registration Number:	1112508	SCHICK CENTER	
Registration Number:	1163106	SHICK LABORATORIES	
Registration Number:	2649101	SCHICK SHADEL HOSPITAL	
CORRESPONDENCE DATA			
Fax Number:	(206)464-0125		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	206-464-3939		
Email:	jdelo@gsblaw.com		
Correspondent Name:	Julene Delo		
Address Line 1:	Garvey Schubert Barer		
Address Line 2:	1191 2nd Ave., Suite 1800		
Address Line 4:	Seattle, WASHINGTON 98092		
ATTORNEY DOCKET NUMBER:	12622-60107		
NAME OF SUBMITTER:	Julene Delo		

OP \$115.00 1061426

Signature:

/JRD/

Date:

10/14/2008

Total Attachments: 31

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT, dated as of September 17, 2002, by and among DUFFY I, L.P., a Delaware limited partnership ("Purchaser"), TAVERN FINANCIAL, L.P., a Delaware limited partnership ("Tavern Financial"), SCHICK LABORATORIES, INC., a Delaware corporation ("Schick"), SHADEL HOSPITAL, INC., a Delaware corporation ("Seller"); and MICHAEL AND SALLY FRAWLEY, a married couple (together the "Frawleys").

WITNESSETH:

WHEREAS, Seller owns and operates a 63 bed drug and alcohol treatment and rehabilitation facility in Burien, Washington (the "Hospital");

WHEREAS, Seller desires to sell to Purchaser the assets comprising the Hospital and related property, and Purchaser desires to purchase such assets, all on the terms and subject to the conditions set forth herein;

WHEREAS, Schick is the parent corporation of Seller and desires to participate in the transaction in order to enable the sale to Purchaser; and

WHEREAS, the Frawleys and Seller desire to set forth the terms and conditions of the repayment to the Frawleys of advances made to the Seller by the Frawleys pursuant to the terms and conditions of the Revolving Credit Agreement, Revolving Credit Security Agreement and the Frawley Promissory Note (the "Frawley Loan").

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereby agree as follows:

ARTICLE I - DEFINITIONS

1.1 Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth below:

"Accounts Payable" See "Assumed Liabilities."

"Accounts Receivable" See "Current Assets."

"Action" shall mean any action, suit, litigation, complaint, counterclaim, claim, petition, mediation contest, or administrative proceeding, whether at law, in equity, in arbitration or otherwise, and whether conducted by or before any Government or other Person.

"Assets" shall mean the Current Assets, the Fixed Assets and shall not include any asset identified on **Schedule 1.1A**.

"Assumed Liabilities" shall mean all of those liabilities described on the Financial Statements as well as any and all liabilities, obligations, payments, duties or responsibilities of Seller of any nature; including but not limited to those arising under the Tukwila Lease and any liability relating to the accrued sick leave of Seller's employees, except that Assumed Liabilities shall not include (i) liabilities or obligations of Seller that are not disclosed pursuant to the Disclosure Memorandum or Supplemental Disclosure of which Seller has Knowledge arising out of any undisclosed breach by Seller of any of the Contracts; (ii) any federal, state, or local tax liability of Seller except to the extent expressly assumed hereunder; (iii) any contractual claims of Seller that are not disclosed pursuant to the Disclosure Memorandum or Supplemental Disclosure of which Seller has Knowledge that are based on any lease, contract, or agreement other than the Contracts; (iv) any liability, obligation, or responsibility of Seller to Seller's employees with respect to wages, salaries, bonuses, or other compensation or benefits earned or accrued prior to the Closing (other than the accrued sick leave of Seller's employees) including, without limitation, Seller's obligations under any severance obligations or accrued vacation pay arising due to the termination of Seller's employees at Closing; (v) any liability or obligation of Seller arising out of the negotiation, execution, or performance of this Agreement, including fees and expenses of attorneys and accountants, except as otherwise expressly provided herein; and (vi) any Account Payable not (a) disclosed to the Purchaser in the Financial Statements, Disclosure Memorandum or Supplemental Disclosure or other schedule of account prepared by Seller and delivered to Purchaser and (b) incurred in the ordinary course of Seller's business.

"Bill of Sale and Assumption Agreement" shall mean an instrument in substantially the form of **Exhibit A** hereto pursuant to which the Assets will be transferred and assigned to Purchaser at the Closing and pursuant to which Purchaser will assume the Assumed Liabilities.

"Bank Account" shall mean that certain bank account of Seller at the Bank of America, the account number of which shall be provided by Seller to Buyer at Closing.

"Closing" shall have the meaning set forth in **Section 2.7** hereof.

"Closing Date" shall mean the time and date that the Closing occurs.

"COBRA" shall mean the requirements of Part 6 of Subtitle B of Title I of ERISA and Code Section 4980B and of any similar state law.

"Code" shall mean the United States Internal Revenue Code of 1986, as amended, and all regulations thereunder. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future law.

"Consents" shall mean all consents, approvals, and estoppels of others which are required to be obtained in order to effect the valid assignment, transfer, and conveyance to Purchaser of the Material Contracts without resulting in any default thereunder.

"Contracts" shall mean all contracts, agreements, leases of real estate, and leases of equipment or other personal property that relate exclusively to the Hospital.

"Current Assets" shall mean:

- (i) supplies, food and beverage inventory, medical supplies and medications, and advertising and promotional materials;
- (ii) all prepaid items relating exclusively to the Hospital;
- (iii) all accounts receivable, excluding those intercompany receivables listed on **Schedule 1.1B (the "Accounts Receivable")**;
- (iv) any cash payable to Purchaser pursuant to **Section 2.9**; and
- (v) all assignable Permits.

"Default" shall mean an event of default as defined in any contract or other agreement or instrument, or any event which, with the passage of time or giving of notice or both, would constitute an event of default or other breach under such document or instrument.

"Disclosure Memorandum" shall mean the set of numbered schedules referencing Sections of this Agreement delivered by Seller and dated of even date herewith, as supplemented by new or amended schedules delivered by Seller prior to the Closing.

"Effective Time" shall have the meaning set forth in **Section 2.6** hereof.

"Financial Statements" shall have the meaning set forth in **Section 3.7**.

"Financing Facility" means the agreement by and between Tavern Financial and Purchaser to set aside a minimum of \$500,000 of capital to Purchaser, in the form attached as **Exhibit G**.

"Fixed Assets" shall mean all of Seller's rights and interests in, to, or under the following:

- (i) all tangible personal property of any kind located in the Hospital or on the Real Property not otherwise Current Assets or subject to the Lease, if any, including, but not limited to, equipment, appliances, machinery, beds, tables, chairs, other furniture, cookware, utensils, furnishings, signage, leasehold improvements, fixtures, and uniforms;

(ii) all assignable rights under express or implied warranties of manufacturers, distributors, or retailers relating to the Assets;

(iii) all of Seller's supplier lists, demographic, patient records, statistical, and other information related exclusively to the Hospital;

(iv) copies of Seller's employee records of those current employees of Seller who are employed by Purchaser following the Closing;

(v) the Contracts;

(vi) all intellectual property rights pertaining to the Hospital or the Hospital's treatment programs including trademarks, trade names, domain names, websites, trade dress, and intent to use filings as set forth on **Schedule 1.1E**; and

(vii) all records and files related to the Real Property such as rent calculations, landlord correspondence, purchase agreements, deeds, construction documents, title reports, environmental and engineering reports, appraisals, surveys, etc.

"Forum" shall mean any federal, state, local, municipal, or foreign court, governmental agency, administrative body or agency, tribunal, private alternative dispute resolution system, or arbitration panel.

"Frawley Promissory Note" shall mean that certain promissory note dated March 5, 2002 with the Seller as Maker.

"Government" shall mean any federal, state, local, municipal, or foreign government or any department, commission, board, bureau, agency, instrumentality, unit, or taxing authority thereof.

"Knowledge of Seller" (or words of like effect) when used to qualify a representation, warranty, or other statement shall mean the actual knowledge of Michael C. Frawley, President of Seller and/or Eileen Callahan, Corporate Secretary of Seller.

"Lease" shall mean that certain lease by and between Seller and Washington Burien Property, L.L.C., an Oklahoma limited liability company ("**Landlord**") dated effective as of February 1, 2002, and any and all related agreements, documents and exhibits thereto, as amended pursuant to **Section 7.1(f)**.

"Lease Amendment" means an amendment to the Lease containing such terms and provisions as shall be acceptable to Purchaser and Landlord.

"Management Agreement" shall mean that certain Management Agreement attached hereto as **Exhibit F**.

“Material Contracts” shall mean all Contracts that involve monetary obligations of Seller of more than \$10,000 per year or that are not cancelable by Seller upon thirty days notice or less without penalty, a list of which are set forth on **Schedule 1.1C**.

“Minor Contracts” shall mean all Contracts that are not Material Contracts.

“Orders” shall mean all applicable orders, writs, judgments, decrees, rulings, consent agreements, and awards of or by any Forum or entered by consent of the party to be bound.

“Permits” shall mean all rights and licenses of every kind, certificates of occupancy, health care licenses and permits or approvals of any nature, from any Government which relate exclusively to the Hospital or the Real Property. A listing of all Permits is set forth on **Schedule 1.1D**.

“Personnel” shall mean any employee involved in the operation or supervision of the Hospital on a full time basis.

“Person” shall include an individual, a partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization, a government, and any other legal entity.

“Property Taxes” shall mean all ad valorem, real property, and personal property taxes, all general and special private and public assessments, all other property taxes, and all similar obligations pertaining to the Assets.

“Real Property” shall mean the land and improvements leased by Seller pursuant to the Lease.

“Revolving Credit Agreement” shall mean that certain Revolving Credit Agreement, dated March 5, 2002, by and between the Frawleys and Seller.

Revolving Credit Security Agreement” shall mean that certain Revolving Credit Security Agreement, dated March 5, 2002, by and between the Frawleys and Seller.

“Schedules” shall mean the numbered sections of the Disclosure Memorandum.

“Seller Plans” shall have the meaning set forth on **Schedule 3.14**.

“Supplemental Disclosure” shall mean that certain letter by Seller to Purchaser dated the Closing Date supplementing the disclosure required by the Disclosure Memorandum.

“Tukwila Lease” shall mean that certain lease between Shared Health Services, an unincorporated division of Seller, and L.D. Schneider and Associates for premises located at 14900 Interurban Ave. S., Suite 215, Tukwila, Washington.

ARTICLE II - PURCHASE AND SALE AND REPAYMENT OF FRAWLEY LOAN

2.1 Purchase and Sale. Upon the terms and subject to the conditions set forth in this Agreement, at the Closing Seller shall sell, transfer, and assign to Purchaser all of Seller's right, title, and interest in and to the Assets free and clear of any mortgage, security interest, lien, charge, claim, or other encumbrance of any nature except for any security interest of Landlord and the Frawleys in and to such Assets, and Purchaser shall purchase the Assets from Seller for the Purchase Price set forth in Section 2.3.

2.2 Assumption of Liabilities. As of the Effective Time, Purchaser shall assume all of the Assumed Liabilities. Except for the Assumed Liabilities, Purchaser does not hereby assume or agree to assume or pay any obligations, liabilities, indebtedness, duties, responsibilities, or commitments of Seller or any other Person, of any nature whatsoever, whether known or unknown, absolute or contingent, due or to become due.

2.3 Purchase Price. The purchase price for the Assets (the "Purchase Price") shall be as follows:

(a) The Purchase Price for the Assets shall be the sum of \$300,000 payable \$50,000 at Closing and the balance in the form of Purchaser's Promissory Note attached hereto as **Exhibit B-1** (the "Promissory Note") which requires the payment of interest at the rate of 8% per annum on the unpaid principal balance, and principal payable in five installments of \$50,000 each, payable on the 18th, 24th, 36th, 48th and 60th months of the term of the Promissory Note. The Promissory Note shall be secured by a security interest in the Assets sold hereby pursuant to the Security Agreement attached as **Exhibit B-2** (the "Security Agreement").

(b) In addition, the Purchaser shall issue to Seller or its designee a 5% Class B (non voting) limited partnership interest in the Purchaser.

2.4 Frawley Loan Amendment.

(a) The parties shall enter into and execute that certain Agreement to Cancel and Replace the Revolving Credit Agreement, Security Agreement and Promissory Note attached to this Agreement as **Exhibit B-3** (the "Frawley Loan Amendment"). Pursuant to the Frawley Loan Amendment, the Revolving Credit Agreement, Revolving Credit Security Agreement and the Frawley Promissory Note shall be terminated and cancelled. In replacement and amendment of the Frawley Promissory Note and the Revolving Credit Security Agreement, the Purchaser shall cause the Seller to enter into and execute the promissory note attached to this Agreement as **Exhibit B-4** (the "Amended Frawley Promissory Note") and the Security Agreement attached as **Exhibit B-5** (the "Amended Frawley Security Agreement").

(b) At Closing, the Purchaser shall cause Seller to pay the balance of the Frawley Loan down to \$55,000 in accordance with the terms of the Frawley Loan Amendment (the **Frawley Loan Reduction**); provided that the Frawley Loan Reduction shall not exceed \$50,000.

2.5 Deliveries at the Closing. (a) At the Closing, Seller shall deliver to Purchaser the following:

(i) A certificate of the Secretary or an Assistant Secretary of Seller, dated as of the Closing Date, certifying in such detail as Purchaser may reasonably request (A) that attached thereto is a true and complete copy of resolutions adopted by the Board of Directors and, if required, the Shareholders of Seller and Schick authorizing the execution, delivery, and performance of this Agreement, the Bill of Sale and Assumption Agreement, and that all such resolutions are still in full force and effect and are all the resolutions adopted in connection with the transactions contemplated by this Agreement, (B) that there have been no changes in the representations and warranties set forth in **Article III**, and (C) as to the incumbency and specimen signature of each officer of Seller executing this Agreement, the Bill of Sale and Assumption Agreement, and any certificate or instrument furnished pursuant hereto.

(ii) The opinion of Karr Tuttle Campbell, legal counsel to Seller, in substantially the form of **Exhibit C** hereto;

(iii) The Bill of Sale and Assumption Agreement, duly executed by Seller;

(iv) The Consents;

(v) A Cross-Receipt, duly executed by Seller;

(vi) Evidence of the settlement and release of any litigation to which the Hospital is subject;

(vii) Assignments of the intellectual property rights set forth on **Schedule 1.1E**;

(viii) An Assignment of the Lease duly executed by Seller;

(ix) An Estoppel Certificate from the Landlord under the Lease;

(x) The Lease Amendment;

(xi) The Frawley Promissory Note marked canceled;

(xii) Evidence of cancellation of any intercompany Account Payable other than that Frawley Loan; and

(xiii) Any other documents that Purchaser may reasonably request in order to effectuate the transactions contemplated hereby.

(b) At the Closing Purchaser shall deliver to Seller or the Frawleys, as the case may be, the following:

(i) A certificate of the Secretary or an Assistant Secretary of the general partner of the Purchaser, dated as of the Closing Date, certifying in such detail as Seller may request (A) that attached thereto is a true and complete copy of resolutions adopted by the general partner of the Purchaser authorizing the execution, delivery and performance of this Agreement and the Bill of Sale and Assumption Agreement, and that all such resolutions are still in full force and effect and are all the resolutions adopted in connection with the transactions contemplated by this Agreement; (B) that there have been no changes in the representations and warranties set forth in **Article V**; and (C) as to the incumbency and specimen signature of each officer of Purchaser executing this Agreement, and any certificate or instrument furnished pursuant hereto or to be furnished in connection herewith as of the Closing Date;

(ii) Fifty Thousand Dollars (\$50,000) in cash or other readily available funds shall be delivered to Seller;

(iii) The Promissory Note and the Security Agreement, duly executed by Purchaser;

(iv) The Frawley Loan Amendment, Amended Frawley Promissory Note, and Amended Frawley Security Agreement duly executed;

(v) The Frawley Loan Reduction, if any, in cash or other readily available funds shall be delivered to the Frawleys;

(vi) The Bill of Sale and Assumption Agreement, duly executed by Purchaser;

(vii) The opinion of Glast, Phillips & Murray, P.C., counsel to Purchaser, in substantially the form of **Exhibit D** hereto;

(viii) A Cross-Receipt, duly executed by Purchaser;

(ix) The Financing Facility from Tavern Financial to Purchaser; together with a recent balance sheet and income statement of Tavern Financial demonstrating available cash funds of at least \$500,000;

- (x) A fully executed limited partnership agreement of Purchaser reflecting capital contributions of \$300,000 or more;
- (xi) An Assignment of the Lease duly executed by Purchaser;
- (xii) A fully executed copy of the Management Agreement; and
- (xiii) Any other documents that Seller may reasonably request in order to effectuate the transactions contemplated hereby.

2.6 Transfer of Operations. Purchaser shall be entitled to immediate possession of, and to exercise all rights arising under, the Assets from and after the time that the Hospital opens for normal business hours on the day after the Closing Date, and operation of the Hospital shall transfer at such time (the "Effective Time"), except as otherwise provided herein. The risk of loss or damage by fire, storm, flood, theft, or other casualty or cause shall be in all respects upon Seller prior to the Effective Time and upon the Purchaser thereafter.

2.7 Closing. The closing of the transactions described in this Article II (the "Closing") shall take place at the offices of Karr Tuttle Campbell, 1201 Third Avenue, Suite 2900, Seattle, Washington 98101, as soon as possible after the satisfaction of all conditions precedent, but in no event later than October 1, 2002.

2.8 Allocation of Purchase Price. The Purchase Price shall be allocated among the various Assets as set forth on Exhibit E hereof, which Exhibit shall be prepared by the parties and attached hereto at Closing. Each party hereby agrees that it will not take a position on any income tax return, before any governmental agency charged with the collection of any income tax, or in any judicial proceeding that is inconsistent with the terms of this Section 2.8. The parties shall each complete a Form 8594 as of the Closing based upon Exhibit E.

2.9 Bank Account. Until Closing, Seller shall maintain all right, title and interest to and control over the Bank Account. Seller shall be entitled to write checks on and make deposits to and withdrawals from the Bank Account consistent with the ordinary course of Seller's business and pay all obligations incurred by Seller prior to the close of business on the Closing Date for which Seller remains obligated, including but not limited to any employee severance obligations other than accrued vacation. If, after payment of such obligations, there remains a positive cash balance in the Bank Account, Seller shall pay such cash balance to Buyer.

2.10 Further Assurances. From time to time after the Closing at Purchaser's request and expense, Seller shall execute, acknowledge, and deliver to Purchaser such other instruments of conveyance and transfer and shall take such other actions and execute and deliver such other documents, certifications, and further assurances as Purchaser may reasonably require to vest more effectively in Purchaser, or to put Purchaser more fully in possession of, any of the Assets, or to better enable Purchaser to complete, perform and discharge the Assumed Liabilities. Each party hereto will cooperate with the other and execute and deliver to the other party hereto such

other instruments and documents and take such other actions as may be reasonably requested from time to time by any other party hereto as necessary to carry out, evidence, and confirm the intended purpose of this Agreement.

ARTICLE III - REPRESENTATIONS AND WARRANTIES OF SELLER

Subject to the limitations and exceptions set forth in the Disclosure Memorandum dated of even date hereof, as supplemented or amended from time to time by Seller prior to the Closing Date, regardless of whether any Schedule constituting a part of the Disclosure Memorandum is referenced in any specific provision below, Seller hereby represents and warrants to Purchaser as follows:

3.1 Organization, Qualifications and Corporate Power. Seller is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware. Seller has the power and authority to execute, deliver, and perform this Agreement, the Bill of Sale and Assumption Agreement, and all other agreements, documents, certificates, and other papers contemplated to be delivered by Seller pursuant to this Agreement. The Seller is now, and will be at Closing, duly qualified and/or licensed to transact business and in good standing as a foreign corporation in Washington and each other state in which the character of the property owned or leased by the Seller and the nature of the business conducted by it require such qualification and/or licensing.

3.2 Authorization. The execution, delivery, and performance by Seller of this Agreement, the Bill of Sale and Assumption Agreement, and all other agreements, documents, certificates, and other papers contemplated to be delivered by Seller pursuant to this Agreement have been, or as of the Closing will have been, duly authorized by all required corporate action by Seller.

3.3 Non-Contravention. Subject to obtaining the consents to assignment of the Material Contracts set forth on **Schedule 3.3**, the execution, delivery and performance of this Agreement will not violate or result in a breach of any term of Seller's Articles of Incorporation or Bylaws, or to the Knowledge of Seller, result in a breach of any agreement to which Seller is a party (except for defaults under Minor Contracts where the consent of the other party or parties to such contract to the assignment thereof will not be obtained) or to Seller's Knowledge violate any law, order, rule or regulation applicable to Seller of any Forum having jurisdiction over Seller; and will not result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever upon any of the Assets. Except as set forth on **Schedule 3.3** and except for consents required under Minor Contracts, the execution, delivery and performance of this Agreement and the other documents executed in connection herewith, and the consummation of the transactions contemplated hereby and thereby do not require any filing with, notice to or consent, waiver or approval of any third party, including but not limited to, any Forum. **Schedule 3.3** identifies separately each notice, consent, waiver, or approval by reference to each Material Contract to which it is applicable.

3.4 Validity. This Agreement has been duly executed and delivered by the Seller and constitutes the legal, valid, and binding obligation of Seller, enforceable in accordance with its terms, subject to general equity principles and to applicable bankruptcy, insolvency, reorganization, moratorium, and similar laws from time to time in effect affecting the enforcement of creditors' rights. When the Bill of Sale and Assumption Agreement has been executed and delivered in accordance with this Agreement, it will constitute the legal, valid, and binding obligation of Seller, enforceable in accordance with its terms, subject to general equity principles and to applicable bankruptcy, insolvency, reorganization, moratorium, and similar laws from time to time in effect affecting the enforcement of creditors' rights.

3.5 Assets. (a) Seller has good and valid title to all of the Assets constituting personal property, free and clear of any and all mortgages, pledges, security interests, liens, charges, conditional sales agreements, and other encumbrances except for (i) the rights of lessors of personal property leased pursuant to a Contract; (ii) the security interest of Landlord in certain Assets pursuant to the terms and conditions of the Lease; and (iii) the security interest of the Frawleys pursuant to the Amended Frawley Security Agreement.

(b) To the Knowledge of Seller, the Assets constitute all tangible personal property required on site to operate the Hospital.

(c) To the Knowledge of Seller, except for a certain HVAC unit servicing the north wing of the Hospital that is need of repair, each Asset constituting tangible personal property having a fair market value of \$5,000 or more is in good operating condition consistent with its age, subject to normal wear and tear.

(d) The Accounts Receivable resulted from bona fide transactions in the ordinary course of business and historically have been subject to an allowance for doubtful accounts of approximately 60%.

3.6 Contracts. (a) Except as provided on **Schedule 1.1C**, each Material Contract is a valid agreement, without any material default of Seller thereunder, and to the Knowledge of Seller, without any Default on the part of any other party thereto. To the Knowledge of Seller, no event or occurrence has transpired which with the passage of time or giving of notice or both will constitute a Default under any Material Contract. A list of each Material Contract and every amendment thereto or other agreement or document relating thereto is set forth as **Schedule 1.1C** to this Agreement. True and correct copies of the Material Contracts (and any amendments thereto) have been or will be provided to Purchaser within five days of the execution hereof but not later than three business days prior to Closing.

(b) No Contract has been assigned by Seller or any interest granted therein by Seller to any third party, or is subject to any mortgage, pledge, hypothecation, security interest, lien, or other encumbrance or claim, that will not be released at or prior to Closing other than the security interests of Landlord and the Frawleys.

(c) The Contracts have been entered into in the ordinary course of Seller's business.

3.7 Financial Statements. Seller has previously delivered to Purchaser for the Hospital unaudited statements of operations as of the end of the 2000 and 2001 fiscal years and as of all fiscal months thereafter for which such statements are available (the "**Financial Statements**"). Except as provided on **Schedule 3.7**, the Financial Statements have been prepared in accordance with Seller's historical practices and fairly present the operations of the Hospital for the periods presented and as of their respective dates.

3.8 Taxes. All Property Taxes relating to the Assets have been fully paid for 2000 and 2001 and all prior tax years and there are no delinquent property tax liens or assessments. Seller has also timely filed (or will timely file) all other tax returns and reports of whatever kind pertaining to the Assets and required to be filed by Seller up to the Closing Date, including all sales and use taxes arising out of the operations of the Hospital. Seller (or its taxpaying parent) has paid (or will timely pay) all taxes of whatever kind, including any interest, penalties, governmental charges, duties, fees, and fines imposed by all governmental entities or taxing authorities, which are due and payable prior to the Closing Date or for which assessments relating to any period prior to the Closing Date have been received, the nonpayment of which would result in a lien on any of the Assets. In addition, except as set forth on **Schedule 3.8**, (i) no audit of any material federal, state or local U.S. return of the Seller (or its taxpaying parent) is currently in progress, nor has the Seller (or the taxpaying parent) been notified that such an audit is contemplated by any taxing authority, (ii) the Seller (or the taxpaying parent) has not extended any statute of limitations with respect to the period for assessment of any federal, state or local U.S. tax, and (iii) the Seller does not contemplate the filing of an amendment to any return, which amendment would have a material adverse effect on the Seller or the Hospital.

3.9 Litigation. Except as set forth on **Schedule 3.9**, there is no material Action or Order pending or, to the Knowledge of Seller, threatened against or affecting Seller that pertains to the Hospital, or any of the Assets before any court or by or before any Forum.

3.10 Permits. Seller has all material Permits as are necessary to operate the Hospital. Seller has fulfilled and performed all of its material obligations with respect to such Permits and, to the Knowledge of Seller, no event has occurred which allows, nor after notice or lapse of time or both would allow, revocation or termination thereof or would result in any other impairment of the rights of the holder of any such Permits.

3.11 Compliance. To the Knowledge of Seller, Seller is in compliance with all laws, governmental standards, rules and regulations applicable to it or to any of the Assets, including without limitation the Americans with Disabilities Act and similar state laws, occupational health and safety laws, Medicare and Medicaid laws and regulations, and all other health care laws and regulations applicable to the Hospital.

3.12 Employment Contracts, Etc. Except as listed on **Schedule 3.12**, Seller is not is a party to any written employment agreements related to the employees at the Hospital (or any oral agreements providing for employment other than employment "at will") or any deferred compensation agreements.

3.13 Labor Matters. Seller is not and never has been a party to any collective bargaining or other labor agreement affecting the Hospital. Except as disclosed in the Disclosure Memorandum or Supplemental Disclosure, to the Knowledge of Seller, there is no pending or threatened labor dispute, strike, work stoppage, union representation, election, negotiation of collective bargaining agreement, or similar labor matter affecting the Hospital. Except as disclosed in the Disclosure Memorandum or Supplemental Disclosure, Seller is not involved in any controversy with any group of its employees or any organization representing any employees involved in the Hospital, and to the Knowledge of Seller, Seller is in compliance with all applicable federal and state laws and regulations concerning the employer/employee relationship, including but not limited to wage/hour laws, laws prohibiting discrimination, and labor laws. Seller is in compliance with all of its agreements relating to the employment of its employees, including, without limitation, provisions thereof relating to wages, bonuses, hours of work and the payment of Social Security taxes, and Seller is not liable for any unpaid wages, bonuses, or commissions or any tax, penalty, assessment, or forfeiture for failure to comply with any of the foregoing.

3.14 Employee Benefits. (a) **Schedule 3.14** hereto contains a true and complete list of all the following agreements or plans of Seller which are in effect and which pertain to any of the Personnel:

(i) "employee welfare benefit plans" and "employee pension benefit plans," as defined in Sections 3(1) and 3(2), respectively, of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**");

(ii) any other pension, profit sharing, retirement, deferred compensation, stock purchase, stock option, incentive, bonus, vacation, severance, disability, health, hospitalization, medical, life insurance, vision, dental, prescription drug, supplemental unemployment, layoff, automobile, apprenticeship and training, day care, scholarship, group legal benefits, fringe benefits, or other employee benefit plan, program, policy, or arrangement, whether written or unwritten, formal or informal, which Seller maintains or to which Seller has any outstanding, present, or future obligation to contribute to or make payments under, whether voluntary, contingent, or otherwise (the plans, programs, policies, or arrangements described in clauses (i) or (ii) are herein collectively referred to as the "**Seller Plans**").

(b) Seller does not presently contribute and/or has never contributed or been obligated to contribute to a multiemployer plan as defined in section 3(37)(A) of ERISA.

(c) No Seller Plan is subject to Title IV of ERISA.

(d) No Seller Plan has been terminated nor has any accumulated funding deficiency (as defined in Code Section 412(a)) been incurred, nor has any waiver from the Internal Revenue Service been received or requested.

3.15 Accuracy of Schedules, Certificates and Documents. All information concerning Seller contained in any certificate furnished to Purchaser pursuant to this Agreement or in the Disclosure Memorandum is or will be when furnished both complete and accurate in all material respects; and all documents furnished to Purchaser pursuant to this Agreement which are documents described in this Agreement or in the Disclosure Memorandum are true and correct copies of the documents which they purport to represent.

3.16 Employees. **Schedule 3.16** sets forth a list of the Seller's Personnel stating with respect to each the name, date of hire and rate of compensation. Except as described in **Schedule 3.16** or **Schedule 3.9**, to the Knowledge of Seller, there are no claims or disputes pending with any employee constituting Personnel regarding workers' compensation, unemployment benefits, discrimination (including discrimination based on any disability), or compensation.

ARTICLE IV – COVENANTS OF SELLER

4.1 Agreements Respecting Employees of Seller. Prior to the Effective Time without the prior written approval of Purchaser, Seller shall not transfer or reassign to operations outside the Hospital any employee exclusively involved in the operation or supervision of the Hospital ("Personnel"). At the Effective Time, Seller shall terminate the employment of all Personnel.

4.2 Conduct of Business. (a) From the date hereof until Closing, Seller shall operate the Hospital as it is currently being operated and in the ordinary course of business and in compliance with all terms and conditions of the Contracts, the Permits and applicable law, using commercially reasonable efforts in keeping with Seller's historical practices to preserve and maintain the services of its employees and its relationships with suppliers and patients, consult in advance with Purchaser on all decisions outside the ordinary course of business relating to the Assets or the Hospital, and to the extent of available funds pay all bills, rents and debts incurred by it relating to the Hospital as they become due and payable in the ordinary course of business.

(b) In particular, and without limiting the foregoing, with respect to the Hospital, Seller shall:

- (i) maintain the Assets consistent with past practices;
- (ii) continue to purchase and maintain supplies and pharmaceuticals for the Hospital in such quantities and quality as necessary to operate the Hospital; and

(iii) continue to operate the Hospital in accordance with all material applicable local, state, and federal laws and regulations.

(c) Further, with respect to the Hospital, Seller shall not, without the express prior written approval of Purchaser:

- (i) change in any material manner the ownership of the Assets;
- (ii) increase the rate of compensation to Personnel beyond the usual and customary merit increases or bonuses;
- (iii) mortgage, pledge, or subject to lien any of the Assets;
- (iv) sell or otherwise dispose of any Asset except in the ordinary course of business; or
- (v) enter into, terminate, or modify any Material Contract except in the ordinary course of business.

4.3 Access to Information. Seller shall afford Purchaser, its counsel, financial advisors, auditors, lenders, investors and other authorized representatives reasonable access for any purpose consistent with this Agreement from the date hereof until the Closing, during normal business hours, to the offices, properties, books, and records of Seller with respect to the Assets and the Hospital and shall furnish to Purchaser such additional financial and operating data and other information as Seller may possess and as Purchaser may reasonably request, subject to Seller's obligations regarding the confidentiality of such information as set forth in **Section 6.3** hereof; provided, however, that such access shall be arranged in advance by Purchaser with Seller and will be scheduled in a manner and with a frequency calculated to cause the minimum disruption of the business of Seller.

4.4 Cooperation. Insofar as such conditions are within its reasonable control or influence, Seller will use commercially reasonable efforts to cause the conditions set forth in **Article VII** to be satisfied and to facilitate and cause the consummation of the transactions contemplated hereby, including obtaining the Consents. The parties acknowledge that no consents will be sought with respect to any Minor Contract even if the failure to so obtain a consent to assignment may result in a default or termination thereunder.

ARTICLE V - REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to Seller as follows:

5.1 Organization, Corporate Power, Authorization. Purchaser is a limited partnership duly organized, validly existing, and in good standing under the laws of the State of Delaware

and in each other Jurisdiction in which it is lawfully required to qualify to conduct business. Purchaser has the power and authority to execute and deliver this Agreement and the Bill of Sale and Assumption Agreement, and to consummate the transactions contemplated hereby. All action on the part of Purchaser necessary for the authorization, execution, and delivery of this Agreement and the Bill of Sale and Assumption Agreement, and performance of all obligations of Purchaser thereunder have been duly taken.

5.2 Non-Contravention. The execution and delivery of this Agreement and the Bill of Sale and Assumption Agreement by Purchaser do not and the consummation by Purchaser of the transactions contemplated hereby and thereby will not violate any provision of its Certificate of Limited Partnership or Limited Partnership Agreement.

5.3 Validity. This Agreement has been duly executed and delivered by Purchaser, and constitutes the legal, valid, and binding obligation of Purchaser, enforceable against it in accordance with its terms, subject to general equity principles and to applicable bankruptcy, insolvency, reorganization, moratorium, and similar laws from time to time in effect affecting the enforcement of creditors' rights. When the Bill of Sale and Assumption Agreement has been executed and delivered in accordance with this Agreement, it will constitute the legal, valid, and binding obligation of Purchaser, enforceable in accordance with its terms, subject to general equity principles and to applicable bankruptcy, insolvency, reorganization, moratorium, and similar laws from time to time in effect affecting the enforcement of creditors' rights.

5.4 Litigation Relating to the Agreement. Purchaser is not a party to, or subject to any judgment, decree, or order entered in any lawsuit or proceeding brought by any governmental agency or instrumentality or other party seeking to prevent the execution of this Agreement or the consummation of the transactions contemplated hereby.

5.5 Receipt of Financial Statements and Material Contacts. Purchaser has received the Financial Statements and a copy of each of those contracts described on **Schedule 1.1C** from the Seller.

ARTICLE VI - COVENANTS OF PURCHASER

6.1 Purchaser Performance. After the Closing Date, Purchaser shall promptly pay as they become due and otherwise perform all obligations of Seller under the Assumed Liabilities and otherwise perform and fulfill all other obligations with respect to the Assets pertaining to the period after the Closing Date.

6.2 Seller Employees. At the Effective Date, Purchaser shall offer employment to substantially all Personnel upon terms and conditions substantially similar to those provided by Seller; however, Purchaser shall not be required to provide any employee benefit provided by Seller and shall be free to initiate its own program of employee benefits; provided that Purchaser shall offer such Personnel health insurance pursuant to a Purchaser health insurance plan.

Purchaser shall offer COBRA continuation coverage to all employees terminated by Seller electing such COBRA continuation coverage.

6.3 Records. Purchaser shall maintain all business, medical and employee records transferred to Purchaser hereunder for a period of not less than four years and during that period will afford Seller reasonable access to such records during Purchaser's normal business hours. Purchaser shall maintain the confidentiality of such records and limit access thereto in a manner consistent with Purchaser's treatment of its employee records.

ARTICLE VII – CONDITIONS PRECEDENT TO THE CLOSING

7.1 Purchaser's Conditions to Closing. The obligations of Purchaser hereunder are subject to satisfaction of each of the following conditions at or before Closing, the occurrence of which may, at the option of Purchaser, be waived:

(a) Subject to the matters disclosed in the Disclosure Memorandum as supplemented by Seller from time to time, all representations and warranties of Seller in this Agreement shall be true in all material respects on and as of the Closing.

(b) Any supplement to the Disclosure Memorandum delivered by Seller shall not reflect in Purchaser's reasonable judgment any material adverse change in the Assets or the Business.

(c) Seller shall have performed and complied in all material respects with all of its obligations under this Agreement which are to be performed or complied with by Seller prior to or on the Closing Date.

(d) Seller shall have obtained and delivered to Purchaser all Consents necessary to transfer and assign the Assets to Purchaser.

(e) Purchaser shall have obtained all Permits, licenses, and approvals of all governmental and quasi-governmental authorities necessary for the operation of the Hospitals in accordance with legal requirements; provided, however, that if Purchaser is unable to obtain any required Permit, Closing of the transactions contemplated hereunder will not be delayed and the parties shall enter into the Management Agreement.

(f) The Lease shall have been amended on terms satisfactory to Purchaser.

(g) There shall be no Material Adverse Change in the financial condition of the Hospital.

(h) Seller shall have delivered the items required by Section 2.5(a).

(i) Purchaser shall have obtained a satisfactory commitment for leasehold title insurance, which Purchaser may obtain at its expense.

(j) Purchaser and Seller shall have obtained the same or similar insurance coverages now held by Seller at rates and on terms acceptable to Purchaser.

7.2 Seller's Conditions to Closing. The obligations of Seller hereunder are subject to satisfaction of each of the following conditions at or before Closing, the occurrence of which may, at the option of Seller, be waived:

(a) All representations and warranties of Purchaser in this Agreement shall be true on and as of the Closing, and Purchaser shall have delivered to Seller a certificate to such effect dated as of the Closing Date.

(b) Purchaser shall have performed and complied in all material respects with all of its obligations under this Agreement which are to be performed or complied with by Purchaser prior to or on the Closing Date.

(c) Purchaser shall have delivered the items required by **Section 2.5(b)**.

ARTICLE VIII - INDEMNIFICATION

8.1 Purchaser Claims. (a) Seller shall indemnify and hold harmless Purchaser, its successors and assigns, against, and in respect of:

(i) Any and all damages, losses, liabilities, costs, and expenses incurred or suffered by Purchaser that result from, relate to, or arise out of:

(A) any failure by Seller to carry out any covenant or agreement contained in this Agreement;

(C) any material misrepresentation or breach of warranty by Seller contained in this Agreement, the Disclosure Memorandum, or any certificate, furnished to Purchaser by Seller pursuant hereto; or

(D) any claim by any Person for any brokerage or finder's fee or commission in respect of the transactions contemplated hereby as a result of Seller's dealings, agreement, or arrangement with such Person.

(ii) Any and all actions, suits, claims, proceedings, investigations, demands, assessments, audits, fines, judgments, costs, and other expenses (including, without limitation, reasonable legal fees and expenses) incident to any of the foregoing

including all such expenses reasonably incurred in mitigating any damages resulting to Purchaser from any matter set forth in subsection (i) above.

(b) The amount of any liability of Seller under this **Section 8.1** shall be computed net of any tax benefit to Purchaser from the matter giving rise to the claim for indemnification hereunder and net of any insurance proceeds received by Purchaser with respect to the matter out of which such liability arose.

(c) The representations and warranties of Seller contained in this Agreement, the Disclosure Memorandum, or any certificate delivered by or on behalf of Seller pursuant to this Agreement or in connection with the transactions contemplated herein shall survive the consummation of the transactions contemplated herein and shall continue in full force and effect for the periods specified below ("**Survival Period**"):

(i) the representations and warranties contained in **Sections 3.1** through **3.4**, and **3.8** shall survive until the expiration of any applicable statutes of limitation provided by law; and

(ii) all other representations and warranties of Seller shall be of no further force and effect after twenty-four months from the date of the Closing.

Anything to the contrary notwithstanding, the Survival Period shall be extended automatically to include any time period necessary to resolve a written claim for indemnification which was made in reasonable detail before expiration of the Survival Period but not resolved prior to its expiration, and any such extension shall apply only as to the claims so asserted and not so resolved within the Survival Period. Liability for any such item shall continue until such claim shall have been finally settled, decided, or adjudicated.

(d) Purchaser shall provide written notice to Seller of any claim for indemnification under this Article as soon as practicable; provided, however, that failure to provide such notice on a timely basis shall not bar Purchaser's ability to assert any such claim except to the extent that Seller is actually prejudiced thereby, provided that such notice is received by Seller during the applicable Survival Period. Purchaser shall make commercially reasonable efforts to mitigate any damages, expenses, etc. resulting from any matter giving rise to liability of Seller under this Article.

(e) Notwithstanding anything in this Agreement to the contrary (A) the Seller shall not have any obligation to indemnify the Purchaser from any damages, claims, losses, liabilities, and expenses described in **Section 8.1(a)** above ("**Purchaser Losses**") unless and until the Purchaser has suffered Purchaser Losses in excess of a \$5,000 aggregate deductible (after which point the Seller will be obligated only to indemnify the Purchaser from and against any further such Purchaser Losses and (B) there will be a \$300,000 aggregate ceiling on the obligation of the Seller to indemnify the Purchaser under the terms of this **Section 8.1**.

(f) Notwithstanding anything in this Agreement to the contrary, the Purchaser's sole and exclusive remedy under this **Section 8.1** shall be an offset right whereby Purchaser shall be entitled to offset any amounts then owing under the terms of the Promissory Note by the positive result (if any) of (i) the cumulative amount of any un-reimbursed Purchaser Losses owed by Seller to Purchaser pursuant to **Section 8.1(e)** minus (ii) the cumulative amount of any un-reimbursed Seller Losses owed by Purchaser to Seller pursuant to **Section 8.3(b)**. In no event shall the offset right in this **Section 8.1(f)** exceed the aggregate ceiling on the obligation of the Seller to indemnify the Purchaser under **Section 8.1(e)**.

8.2 Defense of Third Party Claims. With respect to any claim by Purchaser under **Section 8.1**, relating to a third party claim or demand, Purchaser shall provide Seller with prompt written notice thereof in accordance with **Section 10.4** and Seller may defend, in good faith and at its expense, by legal counsel chosen by it and reasonably acceptable to Purchaser any such claim or demand, and Purchaser, at its expense, shall have the right to participate in the defense of any such third party claim. So long as Seller is defending in good faith any such third party claim, Purchaser shall not settle or compromise such third party claim. In any event Purchaser shall cooperate in the settlement or compromise of, or defense against, any such asserted claim.

8.3 Seller Claims. (a) Purchaser shall indemnify and hold harmless Seller against, and in respect of, any and all damages, claims, losses, liabilities, and expenses, including without limitation, legal, accounting and other expenses, which may arise out of: (i) any material breach or violation by Purchaser of any covenant set forth herein or any failure to fulfill any obligation set forth herein, including, but not limited to, the obligation to satisfy the Assumed Liabilities; (ii) any material breach of any of the representations or warranties made in this Agreement by Purchaser; or (iii) any claim by any Person for any brokerage or finder's fee or commission in respect of the transactions contemplated hereby as a result of Purchaser's dealings, agreement, or arrangement with such Person.

(b) Notwithstanding anything in this Agreement to the contrary (A) the Purchaser shall not have any obligation to indemnify the Seller from any damages, claims, losses, liabilities, and expenses described in **Section 8.3(a)** above ("Seller Losses") unless and until the Seller has suffered Seller Losses in excess of a \$5,000 aggregate deductible (after which point the Purchaser will be obligated only to indemnify the Seller from and against any further such Seller Losses and (B) there will be a \$300,000 aggregate ceiling on the obligation of the Purchaser to indemnify the Seller under the terms of this **Section 8.3**.

8.4 Exclusive Remedies. The rights and remedies of the parties under this **Article VIII** shall be the sole and exclusive rights and remedies that either party may seek for any misrepresentation, breach of warranty, or failure to fulfill any covenant or agreement under this Agreement, except that either party may seek specific performance or injunctive relief

8.5 Settlement of Disputes. (a) **Arbitration.** All disputes with respect to any claim for indemnification under this **Article VIII** and all other disputes and controversies of every kind

and nature between the parties hereto arising out of or in connection with this Agreement shall be submitted to arbitration pursuant to the following procedures:

(i) After a dispute or controversy arises, either party may, in a written notice delivered to the other party, demand such arbitration. Such notice shall designate the name of the arbitrator appointed by such party demanding arbitration, together with a statement of the matter in controversy;

(ii) Within 30 days after receipt of such demand, the other party shall, in a written notice delivered to the other party, name such party's arbitrator. If such party fails to name an arbitrator, then the second arbitrator shall be named by the American Arbitration Association ("AAA"). The two arbitrators so selected shall name a third arbitrator within 30 days, or in lieu of such agreement on a third arbitrator by the two arbitrators so appointed, the third arbitrator shall be appointed by the AAA;

(iii) The arbitration hearing shall be held in Dallas, Texas if initiated by Seller, or in Seattle, Washington if initiated by Purchaser, at a location designated by a majority of the arbitrators. The Commercial Arbitration Rules of the AAA shall be used and the substantive laws of the State of Washington (excluding conflict of laws provisions) shall apply;

(iv) An award rendered by a majority of the arbitrators appointed pursuant to this Agreement shall be final and binding on all parties to the proceeding, shall deal with the question of costs of the arbitration and all related matters, shall not award punitive damages, and judgment on such award may be entered by either party in a court of competent Jurisdiction; and

(v) Except as set forth in subsection (b) below, the parties stipulate that the provisions of this **Section 8.5** shall be a complete defense to any suit, action or proceeding instituted in any federal, state, or local court or before any administrative tribunal with respect to any controversy or dispute arising out of this Agreement. The arbitration provisions hereof shall, with respect to such controversy or dispute, survive the termination or expiration of this Agreement.

(b) Emergency Relief. Notwithstanding anything in this **Section 8.5** to the contrary, either party may seek from a court any provisional remedy that may be necessary to protect any rights or property of such party pending the establishment of the arbitral tribunal or its determination of the merits of the controversy.

ARTICLE IX – MISCELLANEOUS

9.1 Expenses. (a) Each party hereto shall pay its own legal, accounting, and similar expenses incidental to the preparation of this Agreement, the carrying out of the provisions of this Agreement, and the consummation of the transactions contemplated hereby.

(b) Purchaser shall pay any costs associated with the transfer or obtaining of any Permit.

(c) The parties shall split equally the cost of any sales taxes, transfer taxes, documentary stamp taxes, or other taxes imposed with respect to the transfer of any Assets constituting personal property.

9.2 Contents of Agreement, Parties in Interest, etc. This Agreement sets forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby and constitutes a complete statement of the terms of such transaction. This Agreement shall not be amended or modified except by written instrument duly executed by each of the parties hereto. Any and all previous agreements and understandings between the parties regarding the subject matter hereof, whether written or oral, are superseded by this Agreement. Neither party has been induced to enter into this Agreement in reliance on, and has not relied upon, any statement, representation, or warranty of the other party not set forth in this Agreement, the Disclosure Memorandum, or any certificate delivered pursuant to this Agreement.

9.3 Assignment and Binding Effect. Purchaser may assign the right to receive any of the Assets at Closing to any affiliate or other third party reasonably acceptable to Seller, provided that no such assignment shall affect Purchaser's liability hereunder. Subject to the foregoing, all of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the successors and assigns of Seller and Purchaser.

9.4 Notices. Any notice, request, demand, waiver, consent, approval, or other communication which is required or permitted hereunder shall be in writing and shall be deemed given only if delivered personally or sent by telecopy with verified receipt or by national recognized courier, as follows:

If to Seller, to:

Michael Frawley
28756 Pisces St.
Agoura Hills, CA 91301

With a required copy to:

Paul M. Silver, Esq.
Karr Tuttle Campbell
1201 Third Avenue, Suite 2900
Seattle, WA 98101

If to Purchaser, to:

Duffy I, L.P.
5944 Luther Lane, Suite 900
Dallas, Texas 75225
Attention: James P. Graham
Fax: (214) 691-8785

With a required copy to:

Glast, Phillips & Murray
2200 One Galleria Tower
Dallas, Texas 75240-6657
Attention: Sam Glast
Fax: (972) 419-8329

or to such other address or person as the addressee may have specified in a notice duly given to the sender as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the date actually delivered, or if mailed, four days after deposit in the U. S. Mail properly addressed with adequate postage affixed.

9.5 WASHINGTON LAW TO GOVERN. THIS AGREEMENT SHALL BE GOVERNED BY AND INTERPRETED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF WASHINGTON WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES.

9.6 Headings. All section headings contained in this Agreement are for convenience of reference only, do not form a part of this Agreement, and shall not affect in any way the meaning or interpretation of this Agreement.

9.7 Schedules and Exhibits. All Exhibits and Schedules referred to herein are intended to be and hereby are specifically made a part of this Agreement.

9.8 Severability. Any provision of this Agreement which is invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

9.9 Public Announcements. Purchaser and Seller will coordinate with each other all press releases relating to the transactions contemplated by this Agreement and, except to the extent required by law, refrain from issuing any press release, publicity statement, or other public notice relating to this Agreement or the transactions contemplated hereby without providing the other party reasonable opportunity to review and comment thereon.

9.10 Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event that any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party hereto by virtue of the authorship of any of the provisions of this Agreement.


9.11 Time. Time is and shall be of the essence of this Agreement.

9.12 Fax Signatures. This Agreement and any agreement or document contemplated hereby may be signed and delivered by a party by facsimile, such facsimile shall be deemed to be an original signature.

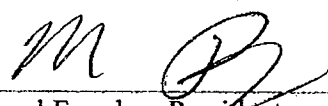
[SIGNATURES FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement the date first above written.

SHADEL HOSPITAL, INC.

By: 
Michael Frawley, President

SCHICK LABORATORIES, INC.

By: 
Michael Frawley, President

DUFFY I, L.P.

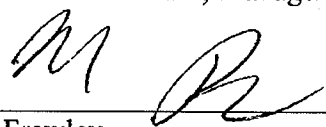
By: Duffy Management, LLC, General Partner

By: _____
James P. Graham, Manager


TAVERN FINANCIAL, L.P.

By: Tavern Management, LLC, General Partner

By: _____
James P. Graham, Manager



Michael Frawley



Sally Frawley

IN WITNESS WHEREOF, the parties have executed this Agreement the date first above written.

SHADEL HOSPITAL, INC.

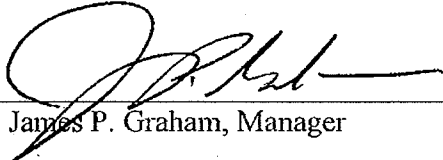
By: _____
Michael Frawley, President

SCHICK LABORATORIES, INC.

By: _____
Michael Frawley, President

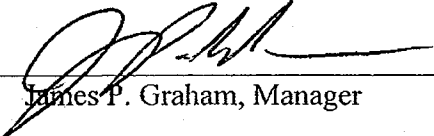
DUFFY I, L.P.

By: Duffy Management, LLC, General Partner

By: 
James P. Graham, Manager

TAVERN FINANCIAL, L.P.

By: Tavern Management, LLC, General Partner

By: 
James P. Graham, Manager

Michael Frawley

Sally Frawley

SELLER
DISCLOSURE MEMORANDUM
TO
ASSET PURCHASE AGREEMENT

by and among

DUFFY LTD.
TAVERN FINANCIAL, LTD.

AND

SCHICK LABORATORIES, INC.
SHADEL HOSPITAL, INC.
MICHAEL AND SALLY FRAWLEY

Disclosure Memorandum

- 1 -

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TRADEMARK
REEL: 003870 FRAME: 0487

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SCHEDULE 1.1.E

Intellectual Property Rights

USA Trademarks

SCHICK SHADEL HOSPITAL, Pending Application No. 76333507

Status: PENDING

Class: 42

Goods/Services: COUNSELING AND REHABILITATIVE SERVICES FOR ALCOHOL AND OTHER DRUG DEPENDENT PATIENTS

SHICK LABORATORIES, Registration No. 1163106

Status: RENEWED

Class: 41

Goods/Services: EDUCATIONAL SERVICES-NAMELY, CONDUCTING THERAPY SESSIONS IN THE CONTROL OF WEIGHT, SMOKING, AND ALCOHOLISM

SCHICK CENTER, Registration No. 1112508

Status: RENEWED

Class: 42

Goods/Services: CONDUCTING CLINICS AND TREATMENT PROGRAMS FOR THE CONTROL OF WEIGHT, SMOKING, AND ALCOHOL ADDICTION

SCHICK, Registration No. 1061426

Status: RENEWED

Class: 42

Goods/Services: CONDUCTING CLINICS AND TREATMENT PROGRAMS FOR THE CONTROL OF SMOKING, WEIGHT, AND ALCOHOLISM

Canada Trademark

SCHICK, Registration No. TMA226484

Status: RENEWED

Goods/Services: CONDUCTING CLINICS AND TREATMENT PROGRAMS FOR THE CONTROL OF SMOKING, WEIGHT, AND ALCOHOLISM

Other

That certain web site at the domain name www.schick-shadel.com related to the Hospital.

Disclosure Memorandum

EXHIBIT A

BILL OF SALE AND ASSUMPTION AGREEMENT

FOR VALUE RECEIVED, SHADEL HOSPITAL, INC., a Delaware corporation ("Seller"), pursuant to that certain Asset Purchase Agreement dated the date hereof (the "Asset Purchase Agreement"), between Seller and DUFFY I, L.P., a Delaware limited partnership ("Purchaser"), hereby bargains, sells, transfers, assigns, conveys, and delivers to Purchaser and its successors and assigns, all of Seller's right, title, and interest in, to, and under the Assets (as defined in Section 1.1 of the Asset Purchase Agreement, including without limitation all of Seller's rights under the Contracts (as defined in Section 1.1 of the Asset Purchase Agreement) but excluding such Assets as constitute Real Property).


TO HAVE AND TO HOLD, all and singular, the Assets forever.

Purchaser hereby assumes and agrees in due course to pay and fully satisfy and perform all of Seller's obligations under the Assumed Liabilities (as defined in Section 1.1 of the Asset Purchase Agreement) when the same shall become due and payable.

IN WITNESS WHEREOF, the Seller and Purchaser have caused this Bill of Sale and Assumption Agreement to be duly executed and delivered as of this ___ day of _____, 2002.

SELLER:

SHADEL HOSPITAL, INC.

By: 
Michael Frawley, President

PURCHASER:

DUFFY I, L.P.

By: Duffy Management, LLC, General Partner

By: _____
James P. Graham, Manager

BILL OF SALE AND ASSUMPTION AGREEMENT

FOR VALUE RECEIVED, SHADEL HOSPITAL, INC., a Delaware corporation ("Seller"), pursuant to that certain Asset Purchase Agreement dated the date hereof (the "Asset Purchase Agreement"), between Seller and DUFFY I, L.P., a Delaware limited partnership ("Purchaser"), hereby bargains, sells, transfers, assigns, conveys, and delivers to Purchaser and its successors and assigns, all of Seller's right, title, and interest in, to, and under the Assets (as defined in Section 1.1 of the Asset Purchase Agreement, including without limitation all of Seller's rights under the Contracts (as defined in Section 1.1 of the Asset Purchase Agreement) but excluding such Assets as constitute Real Property).

TO HAVE AND TO HOLD, all and singular, the Assets forever.

Purchaser hereby assumes and agrees in due course to pay and fully satisfy and perform all of Seller's obligations under the Assumed Liabilities (as defined in Section 1.1 of the Asset Purchase Agreement) when the same shall become due and payable.

IN WITNESS WHEREOF, the Seller and Purchaser have caused this Bill of Sale and Assumption Agreement to be duly executed and delivered as of this ___ day of October, 2002.

SELLER:

SHADEL HOSPITAL, INC.

By: _____
Michael Frawley, President

PURCHASER:

DUFFY I, L.P.

By: Duffy Management, LLC, General Partner

By:  _____
James P. Graham, Manager