RENAISSANCE ZONE DEVELOPMENT AGREEMENT: NEW SUBZONE

This Development Agreement (the "Agreement") is by and among the Michigan Strategic Fund ("MSF"), a Michigan public body corporate and politic, The Detroit Medical Center ("DMC"), a Michigan nonprofit corporation, and VHS of Michigan, Inc., a Delaware corporation ("Vanguard" or "Company"). Collectively, the MSF, DMC, and the Company are referred to in this Agreement as the "Parties."

A) Pursuant to Section 4(4) of the Michigan Renaissance Zone Act (the "Act"), 1996 PA 376, as amended, a qualified local government unit or units in which a renaissance zone was designated under section 8 or 8a(1) or (3) may designate additional distinct geographic areas (also known as "subzones") not to exceed a total of 10 subzones upon application to and approval by the MSF Board if the subzone is located in an eligible distressed area, as defined in MCL 125.1411, or is contiguous to an eligible distressed area, and if the additional subzone will increase capital investment or job creation;

B) On May 2, 2000, the State Administrative Board designated a renaissance zone in Wayne County (the "Wayne County Renaissance Zone");

C) The real property parcels subject to this Agreement are located in the City of Detroit (the "City") and are either owned or controlled by DMC and shall be owned or controlled by the Company or are owned by the other parties listed on the attached Consents (DMC and such other listed parties are collectively referred to as the "Owners").

D) Wayne County (the "County") applied to the MSF (the "Application") for a subzone in the Wayne County Renaissance Zone called the Midtown Hospital Campus Subzone (the "MHC Subzone") for sites owned by the Owners;

E) The County, through its Application, and the Company represent that the MHC Subzone designation will result in an increase in capital investment and job creation within the MHC Subzone;

F) At its April 28, 2010 meeting, the MSF Board approved the MHC Subzone, to be known as the "Midtown Hospital Campus Subzone," as described in the Application, subject to the terms and conditions of this Agreement;

G) DMC and Vanguard have entered into a Letter of Intent (the "LOI") and have represented that they intend to enter into a binding contract under which and pursuant to its terms Vanguard will agree to acquire DMC and maintain operation of DMC hospitals including their core services for at least 10 years; and

H) Under the LOI, Vanguard has committed to $850 million total in routine and major capital investment in properties it will acquire from the DMC.

In consideration of the MSF's approval of the MHC Subzone designation and the mutual covenants in this Agreement, the Parties agree as follows:

1) <u>Size and Location of Property</u>. DMC represents that the site proposed for the MHC Subzone consists of approximately ninety-two and 40/100 (92.4) acres, as more particularly described on **Exhibit** A to this Agreement and depicted on **Exhibit B** (the "Property"). Further, DMC represents that no entities or individuals not a Party to this Agreement or the attached Consents own real property within the Property (except the undivided limited or general common interests of the individual unit owners of the Ellington Condominium in the land covered by the lease to Wayne State University).

2) <u>Duration of Designation</u>. The City and the County consented to, and the MSF Board approved, the MHC Subzone for a fifteen (15) year period. The designation begins on January 1, 2011 and ends on December 31, 2025, for Michigan Business Tax ("MBT") and income tax purposes as set forth in MCL 125.2689. Therefore, the Company may begin to claim the Renaissance Zone credit for all business activity on the Property beginning on January 1, 2011 as set forth in MCL 208.1433(1). For property tax calculation purposes, the designation begins December 31, 2010 and ends December 30, 2025. Together, these time periods are the "Term."

3) <u>Conditions of Subzone Designation</u>. As a condition of obtaining and not forfeiting the MHC Subzone designation for the Property, the Company shall:

a) *Project:* make capital investment within the Property to enhance the provision of health care services such as are described in the Application, but not limited to same (the "Project");

b) *Capital Investment:* invest a minimum of $400 million for building renovations and improvements and new personal property in the Property. Such investment must begin within one year from the Closing Date, and must be completed no later than December 31, 2017;

c) *Other:*

i. maintain the Property which it owns or leases in good condition, including, but not limited to, buildings, equipment, landscaping, yards, fencing, parking lots and all fixtures;

ii. comply with all federal, state and local laws, including, but not limited to, all applicable environmental, zoning and land use laws;

iii. have entered into a binding contract with DMC to acquire the DMC;

iv. on or before December 31, 2010, have closed its acquisition of the DMC. The date such acquisition occurs shall be the "Closing Date";

v. during the Term, DMC and Vanguard shall not consent to termination or surrender of the lease from the Ellington Condominiums to Wayne State University;

vi. a revised **Exhibit A** shall be agreed to among the Parties no later than December 30, 2010, identifying all of the parcels included in the MHC Subzone and legal description now contained on **Exhibit A**, but identifying the parcels by tax parcel number;

vii. for a minimum of 10 years from the Closing Date of the Vanguard acquisition of the DMC, Vanguard shall maintain a charity care policy at least as favorable as DMC's charity care policy at all hospital facilities;

viii. for the duration of the Zone, for property located within the MHC Subzone, Vanguard shall not enter into a lease for any office space with any non-affiliate office tenant of more than 5,000 square feet that is currently occupying office space in the City without the prior written consent of the City of Detroit's Planning and Development Director, or its successor. Any physician or other person involved in providing medical or support services related to the purposes of Vanguard or the DMC at facilities of, to the patients or employees of, or for the benefit of Vanguard or the DMC, whether as an employee, contractor, member of the medical staff, or in any other capacity shall be considered an affiliate; and

ix. on the Closing Date, Vanguard will assume all DMC's obligations under the 1980 transaction by which DMC acquired Detroit Receiving Hospital, in respect of which, Vanguard will stand in the shoes of DMC and fully assume all obligations, whether contractual or statutory, even if the obligations extend beyond the 10-year mission support period provided in the binding contract between the parties.

4) <u>Reports</u>. The Company shall provide a written report to the MSF, with copies to the City of Detroit and the County of Wayne, by January 31, 2011, and annually each January 31 thereafter through 2026 that includes the following information:

a) A detailed description of the status of the Project;
b) the amount of capital investment described in paragraph 3(b), including, but not limited to, real and personal property investment, in the Property;
c) the number of individuals employed at the Property at the beginning and the end of the reporting period, as well as the number of individuals transferred to the Property from another entity owned by the Company;
d) new jobs, including Full-Time Jobs, created at the Property;
e) the status of the Company's business operations;
f) the most recent State Equalized Value (SEV) and taxable value of the real and personal property within the Subzone, including real and personal property located at the Property that existed prior to the Effective Date;
g) any other information reasonably requested by the MSF regarding the MHC Subzone; and
h) any other information Vanguard chooses to include (e.g., reports on Vanguard's progress on its internal goals regarding contracting with disadvantaged businesses).

5) <u>Subzone Benefits</u>. During the Term, the Company and the Owners in accordance with MCL 125.2689 shall receive the exemptions, deductions, credits and other benefits of the subzone designation described in the Act (together, the "Credits"). The Company and the Owners acknowledge that the benefits provided under the Act do not include relief from the payment of certain property taxes relating to bonds, school sinking fund obligations and special assessments described in MCL 211.7ff, as well as the Michigan Sales or Use Tax.

6) **Event of Default.** Under this Agreement, the following constitute an "Event of Default": (i) the Company's failure to begin the capital investment or job creation described in this Agreement by the one year anniversary of the Closing Date; (ii) the DMC's or Company's failure to materially comply with any other terms or conditions of this Agreement, as determined in the MSF's sole discretion; or (iii) the Company's failure to materially comply with all federal, state and local laws applicable to its obligations hereunder or its real property located in the Subzone. Subject to Section 7, upon the occurrence of an Event of Default by the Company, the MSF may revoke the Zone designation and require the Company to pay the state and local taxing authorities an amount up to the value of Credits received by the Company as of the date of the notice provided under Section 7 of this Agreement, subject to the following:

   a) If the Event of Default occurs on or before the end of the fourth year of the Term of this Agreement, then the MSF may require the Company to repay one hundred (100%) percent of the total amount of the Credits actually received by the Company; and

   b) If the Event of Default occurs after the end of the fourth year of the Term of this Agreement, then the MSF may require the Company to repay up to fifty (50%) percent of the total amount of the Credits actually received by the Company.

This Section shall survive the termination of this Agreement.

7) **Notice of Noncompliance.** Prior to taking any action under Section 6 of this Agreement, the MSF shall provide written notice to the Company upon finding that the Company failed to comply with any provision of this Agreement. The Company shall have 90 days from its receipt of such notice to cure the noncompliance to the MSF's satisfaction.

8) **No Limitations of Remedies.** Nothing in this Agreement shall be construed as a limitation of the remedies available to the MSF at law or in equity.

9) **Notices.** All notices provided in connection with this Agreement shall be in writing and deemed given upon personal delivery, or on the next business day if delivered by a commercial overnight carrier, with written verification of receipt service, or the third business day after mail date if sent postage prepaid by United States mail, return receipt requested. All notices shall be addressed as follows:

To DMC and Company:
Michael Duggan
CEO
VHS of Michigan, Inc.
3990 John R
1 Brush South
Detroit, MI 48201

To MSF:
Michigan Strategic Fund
MEDC Program Administration, Manager
Renaissance Zone Program
300 North Washington Square
Lansing, Michigan 48913

The Parties may change their designated contact by providing notice as described in this Section.

10) **Jurisdiction.** This Agreement shall be governed by the laws of the State of Michigan. The Parties shall make a good faith effort to resolve any controversies that arise regarding this Agreement. If a controversy cannot be resolved, the Parties agree that any legal actions concerning this Agreement shall be brought in the Michigan Court of Claims or, as appropriate, Ingham County Circuit Court in Ingham County, Michigan.

11) **Severability.** If any clause, provision or section of this Agreement is held illegal or invalid by any court, to the extent permitted by court order, decree or judgment, the invalidity of such clause, provision or section shall not affect any other clause, provision or section of this Agreement and this Agreement shall be construed as if the illegal or invalid clause, provision or section had not been contained in this Agreement.

12) **Captions.** The captions or headings in this Agreement are for convenience only and in no way define or limit the scope or intent of any provisions or sections of this Agreement.

13) **Amendments.** No amendment to this Agreement shall be effective unless it is in writing and signed by the Parties.

14) **Effective Date.** This Agreement is effective April 28, 2010 (the "Effective Date"). However, if the conditions set forth in Sections 3(c)(iv) and (vi) or the Resolution approved by the MSF Board have not been timely satisfied, then this Agreement shall terminate and be rendered null and void with no party having any obligations hereunder.

15) **Transfer of Ownership/Termination of Operation.** *Provision excised, because the incorporation of the Consents under Section 16 render this paragraph inapplicable to any party.*

16) **Consent of Owners**. The Owners (other than DMC, who is signing below, and the owners of the Ellington Condominium property leased to Wayne State University, who have provided a separate consent in the applicable lease) have signed Consents attached hereto, which Consents are incorporated into and made a part of this Agreement.

17) **Transfer of Renaissance Zone Status**

a) ***Transfers by DMC or Vanguard.*** Except as provided in the next sentence, a transfer or assignment by the DMC or the Company of any of their respective real property within the MHC Subzone during the Term of this Agreement shall require notice to the MSF 10 days prior to the closing of any such transaction, and the transferee or assignee of the real property shall not be entitled to any benefits referenced in the Act or in Section 5 of this Agreement unless the transferee or assignee is approved by the MSF Board and such party assumes all obligations of the Company under this Agreement, or the Company affirmatively agrees to retain those obligations not assumed. Notwithstanding the foregoing, so long as the Company remains liable under this Agreement, the requirements of the foregoing sentence shall not apply and any transferee or assignee of DMC's or the Company's respective real property in the MHC Subzone shall be eligible for benefits referenced in the Act and in Section 5 of this Agreement pursuant to their terms, with respect to:

i. transfers or assignments pursuant to the DMC/Vanguard transaction described in Section 3(c)(iv);
ii. transfers or assignments required by federal law;
iii. transfers or assignments due to the foreclosure or enforcement of a mortgage or other security interest on DMC's or the Company's real property in the Subzone;
iv. transfers or assignments for development and/or financing purposes (including, without limit, sale-leaseback transactions, ground leases, options, rights of first refusals, or outright conveyances) so long as DMC or the Company, as applicable, continues to either (x) have a direct or indirect ownership interest in the applicable property, or (y) leases (or will lease upon completion of a building) at least 25% of the rentable square footage of any building located on (or to be constructed upon) such property.

For clarification purposes, as used herein "transfer" or "assignment" shall not include the granting of a mortgage, lien, security interest, lease, license, option, right of first offer, right of first refusal, adding or removing joint tenants or tenant in common, or any other similar transactions not causing a complete change in the holder of title (i.e., so long as DMC or the Company remains on the title) to the real property in the Subzone.

b) ***Transfers by non-DMC/Vanguard Owners.*** A transfer or assignment by the Owners other than DMC and Vanguard of any real property within the MHC Subzone during the Term of this Agreement to a subsequent entity other than DMC or Vanguard that is required to pay any of the taxes identified in MCL 125.2689(1)(a)-(c) and (2) shall not result in a transfer of the enjoyment of the benefits under the Act or Section 5 of this Agreement to such subsequent owner unless:

i. such subsequent owner executes an assignment and assumption agreement satisfactory to the MSF Board,
ii. such subsequent owner specifically agrees to be subject to the provisions of Section 6; and
iii. the transfer of such benefits is approved by the MSF Board.

18) <u>**Counterparts.**</u> This Agreement may be executed in one or more counterparts and by facsimile or email, each of which shall constitute an original, and all of which together shall constitute one and the same instrument.

Signature Page
Renaissance Zone Development Agreement: New Subzone

VHS of Michigan, Inc.

Harold H. Pilgrim, III
Senior Vice President
and Chief Development Officer

THE DETROIT MEDICAL CENTER

Michael Duggan
CEO

MICHIGAN STRATEGIC FUND

Michael Pohnl
Fund Manager