

**STOCK PURCHASE AGREEMENT****FOR****SCHENECTADY PULMONARY  
& CRITICAL CARE ASSOCIATES, P.C.**

AGREEMENT made on the date last written between the above-referenced professional service corporation (the "Corporation") and the individuals executing the same on the last page hereof.

1. Purpose. The purpose of this Agreement is to provide for the orderly continuation of the affairs of the Corporation in the event of the death, incapacity, disqualification or termination of employment of any of the shareholders of the Corporation. This purpose shall be accomplished by the purchase of the shares of the affected shareholder by the Corporation upon the occurrence of any of the above-referenced events in the absence of a transfer or sale pursuant to this Agreement to another qualified person. This Agreement sets forth the terms and conditions of any such purchase.

2. Events Requiring Repurchase of Shares.

2.1 Purchase by Corporation. The Corporation agrees to purchase and each shareholder, on his own behalf and on behalf of his estate, agrees to sell any shares of the Corporation owned by him upon the death or termination of employment of the shareholder.

2.2 Purchase by Shareholders. Notwithstanding the provisions of subsection 2.1 the remaining shareholders may purchase any shares otherwise required to be purchased by the Corporation under subsection 2.1 if such purchase is approved by a majority of the remaining shareholders. In such event, each shareholder shall be entitled to purchase such shares in the proportion his then shareholdings bear to all remaining shares. In the event any shareholder shall decide not to purchase the proportionate number of shares allotted to him, such shares shall be purchased by the Corporation unless otherwise agreed to by all of the remaining shareholders.

2.3 Date of Sale. The "date of sale" shall mean, for the purpose of this Agreement, the date of death, if that be the event causing the purchase, or the date the Corporation or the remaining shareholders first had the duty or option to purchase outstanding shares, where purchase is made or required for any reason other than death of a shareholder.

3. Other Transfers. No shareholder shall sell or otherwise transfer any shares in the Corporation, except as provided in Section 2 or in this Section. In the event a shareholder intends to sell or transfer any shares of the Corporation, he shall give written notice of such intention to the Corporation. Such notice shall specify the terms of the intended sale or transfer, and the name and residence address of the intended purchaser or transferee. The Corporation shall have an option to purchase the shares which are intended to be sold or transferred for a period of thirty days from the receipt of such notice, at a price and terms determined pursuant to the provisions of Section 4 or at a price and under the terms set forth in the written notice received. In the event the Corporation shall refuse or fail to purchase any or all of such shares, the remaining shareholders shall have an option to purchase such shares, or any remaining shares, for a period of sixty days from receipt of such written notice, under the same terms and at the same purchase price. Upon the expiration of

such sixty-day period, any shares which have not been purchased by the Corporation or the remaining shareholders may be sold or transferred to the purchaser or transferee named in the aforesaid notice, but only at the price and under the terms prescribed in such notice. Nothing herein contained shall be construed as authorizing the sale or transfer of shares to a person who is not qualified to receive such shares under Article 15 of the Business Corporation Law. Any shares purchased by the remaining shareholders pursuant to the provisions of this Section shall be purchased in the proportion their shareholdings bear to all remaining shares. If any shareholder shall decide not to purchase the shares allotted to him, such shares shall be purchased by the Corporation, unless otherwise agreed to by all of the remaining shareholders.

4. Purchase Price.

4.1 Book Value Adjustments. The purchase price of each share of stock shall be determined by the Corporation's regular accountants as of the last day of the month preceding the date of sale, based upon the book value of the Corporation (excluding accounts receivable and work in progress), less any liabilities as of such date not reflected in such book value (excluding the amount of any termination pay provided under any employment agreement with a professional employee, whether or not currently payable), adjusted as follows:

(a) The book value of any real property shall be increased or decreased to fair market value. In the event the Corporation (or the remaining shareholders) and the shareholder or his estate cannot agree upon the fair market value of any such property, then the fair market value of any such property shall be determined as follows:

The Corporation (or the remaining shareholders) and the shareholder, or his estate, shall each hire a qualified appraiser. The two appraisers shall then select a third independent appraiser. The three appraisers shall constitute the appraisal committee which shall determine the fair market value of such property.

(b) The book value of tangible personal property in active use shall be increased by 50% of the accumulated depreciation and 50% of the Internal Revenue Code §179 deductions taken with respect to such property. The book value of any stock or securities held by the Corporation, if listed in the Wall Street Journal, or similar publication, shall be adjusted to the closing bid price on such stock or securities on the day preceding the date of sale.

(c) An adjustment shall not be made for corporate income or franchise taxes for the year to which the valuation pertains, but provision shall be made for any prepaid expenses and for any unfunded pension and/or profit sharing contributions accrued as of the date of valuation and other accrued liabilities. Provided that no accrual of pension or profit sharing expense shall be made for any shareholder employee in excess of the accrual for the selling shareholder.

4.2 Adjusted Book Value. The book value of the Corporation based upon the balance sheet as adjusted under subsection 4.1 (a), (b) and (c) shall be determined.

4.3 Purchase Price. The book value determined in subsection 4.2 shall be divided by the number of shares of the Corporation issued and outstanding, and the quotient shall be the purchase price for each share to be purchased. In the event such price is a negative amount, the price for all shares to be purchased shall be one dollar. In such event, however, the negative amount shall be offset against any termination pay due the selling shareholder. If such negative amount cannot be offset (or offset completely) against termination pay, the selling shareholder shall immediately pay the Corporation such amount (or amount remaining).

4.4 No Good Will. The parties agree that the Corporation does not have any good will, and no value shall be included for good will.

5. Method of Payment.

5.1 Payment Method. The purchase price shall be paid to the shareholder or his estate in cash or by certified check:

(a) Within sixty (60) days of appointment of an administrator or executor in the event of death of the shareholder, if death shall be the event causing purchase.

(b) Within sixty (60) days of the date of sale where purchase is made for any other reason specified in this Agreement.

5.2 Alternative Payment Method. Notwithstanding the provisions of subsection 5.1, the Corporation or remaining shareholders, as the case may be, may pay for any shares purchased pursuant to this Agreement by delivering a promissory note to the shareholder or his estate within the time limits for the making of cash payments as specified in subsection 5.1. Said note shall bear interest at a fixed rate equal to the prime rate of the Corporation's bank (as of thirty (30) days prior to sale), and shall be payable in equal monthly installments, including interest, over a period not to exceed three years, with the right of the Corporation or shareholders to prepay at any time without premium or penalty. Interest shall commence to run from the date a cash payment otherwise would be due, and the initial monthly installment shall be due within thirty (30) days of such date. Such note, if given by the Corporation, shall be personally endorsed or guaranteed in writing by the remaining shareholders of the Corporation, unless waived by the seller.

5.3 Insurance Proceeds Applied. In the event the Corporation shall own insurance obtained for the purpose of providing funds for the purchase of shares of a deceased or disabled shareholder, the proceeds of such insurance shall be applied, not later than the date a cash payment would be due, to the payment of the purchase price up to the full amount of such proceeds (or purchase price, if less).

6. New Shareholders. The Corporation hereby represents and warrants to the shareholders that it will require all persons who become shareholders of the Corporation after the date hereof to become parties to this Stock Purchase Agreement. Such new shareholders shall become parties by executing an Addendum, similar to the "New Shareholder Addendum" attached hereto, which acknowledges receipt of a copy of this Agreement and any amendments thereto.

7. Termination of Agreement. This Agreement shall terminate:

- (a) Upon the written agreement of all shareholders of the Corporation;
- (b) Upon the dissolution or bankruptcy of the Corporation;
- (c) At such time as there is only one remaining shareholder of the Corporation;

or

(d) As to a particular shareholder, when such shareholder sells or transfers all of his interest in the shares of this Corporation in accordance with the provisions of this Agreement, the By-Laws, and the applicable provisions of the Business Corporation Law.

8. Immediate Transfer of Shares. If a Shareholder dies, or if a committee of his person or estate, or a conservator, or a receiver, or a trustee in bankruptcy is appointed for him, or if he makes an assignment for the benefit of creditors or if, either by his own act or by operation of law, he shall cease to have complete dominion and control over his shares of the Corporation, the legal title to and beneficial ownership of all the shares of the Corporation registered in his name or belonging to him, whatever the form of registration, shall immediately vest in the Corporation, and the Corporation shall thereupon become indebted to the Shareholder or his successor in interest for the purchase price of said shares as determined by this Agreement.

9. Miscellaneous.

9.1 Amendment. No alteration or modification of this Agreement, including Schedules hereto, shall be valid unless made in writing and executed by each of the parties hereto.

9.2 Assignment. No party may assign this Agreement without written consent of the other, provided that the Corporation may assign this Agreement to any entity controlled by, under common control with, or which is otherwise affiliated with the Corporation without consent of the Employee.

9.3 Counterparts. This Agreement may be executed in more than one counterpart, and each executed counterpart shall be considered as the original.

9.4 Further Actions. Each of the parties agrees that it shall hereafter execute and deliver such further instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement and as are consistent with the terms hereof.

9.5 Governing Law. This Agreement shall be governed and interpreted in accordance with, and the rights of the parties shall be determined by, the laws of the State of New York.

9.6 Legend on Stock. Each share of stock owned by the shareholders whether now owned or hereafter acquired shall be subject hereto and shall be legended to reflect it is subject to this Agreement. The Corporation shall place a stop transfer instruction against its share transfer records to require compliance herewith and any transfer or attempted transfer not in accord herewith shall be void.

9.7 **Notices.** Any notice or other communication by one party to the other shall be in writing and shall be given, and be deemed to have been given, if either hand delivered or mailed, postage prepaid, certified mail (return receipt requested), addressed as set forth in Schedule A. Any party may change the address for notice by notifying the other party, in writing, of the new address.

9.8 **Prior Agreements.** This Agreement supersedes all prior agreements of the parties regarding its subject matter. It may be amended at any time by the written agreement of the Corporation and all of its then shareholders.

9.9 **Severability.** If any provision of this Agreement shall be declared invalid or illegal for any reason whatsoever, then notwithstanding such invalidity or illegality, the remaining terms and provisions of this Agreement shall remain in full force and effect in the same manner as if the invalid or illegal provision had not been contained herein.

9.10 **Singular Gender.** Whenever the singular number is used in this agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

9.11 **Successors.** This Agreement shall be binding upon and shall insure to the benefit of the parties hereto and their respective successors and representatives.

9.12 **Survival.** The provisions of this Agreement which require action or the refraining from certain actions shall survive termination or expiration of this Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on or as of the 1<sup>st</sup> day of January, 2003.

SCHENECTADY PULMONARY  
& CRITICAL CARE ASSOCIATES, P.C.

By: S. M. Patel  
As its: President

Michele Gorla  
Michele Gorla, M.D.

Saeed U. Kahn  
Saeed U. Kahn, M.D.

Shailish R. Patel  
Shailish R. Patel, M.D.

Peter F. Weinberg  
Peter F. Weinberg, M.D.

Thomas S. Yannos  
Thomas S. Yannos, M.D.

**SCHEDULE A  
TO  
STOCK PURCHASE AGREEMENT  
FOR  
  
SCHENECTADY PULMONARY  
& CRITICAL CARE ASSOCIATES, P.C.**

1. Notification Address:

Notices required by this Agreement shall be sent to the parties at the following addresses:

If to the P.C.

Schenectady Pulmonary  
& Critical Care Associates, P.C.  
1201 Nott Street  
Suite 101  
Schenectady, New York 12308

If to the Employee

Michele Gorla, M.D.  
2525 Antonia Dr.  
Niskayuna, NY 12309

Saeed U. Khan, M.D.  
32 Oakmont Street  
Niskayuna, NY 12309

Shailesh R. Patel, M.D.  
28 Oaktree Lane  
Niskayuna, NY 12309

Peter F. Weinberg, M.D.  
2287 Pine Ridge Road  
Schenectady, NY 12309

Thomas S. Yannios, M.D.  
43 Hill Road  
Stillwater, NY 12170