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12 Counsel to Debtors and Debtors in Possession

13 **UNITED STATES BANKRUPTCY COURT**
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

14 In re:
15 BEVERLY COMMUNITY HOSPITAL
16 ASSOCIATION, dba BEVERLY HOSPITAL
(A NONPROFIT PUBLIC BENEFIT
17 CORPORATION), *et al.*¹
18 Debtors,

Lead Case No.: 2:23-bk-12359-SK

Jointly administered with:

Case No: 2:23-bk-12360-SK

Case No: 2:23-bk-12361-SK

Chapter 11 Case

- 19 Affects all Debtors
20 Affects Beverly Community
21 Hospital Association
22 Affects Montebello Community Health
23 Services, Inc.
24 Affects Beverly Hospital Foundation

**DEBTORS' NOTICE OF MOTION AND
MOTION FOR ENTRY OF AN ORDER (I)
AUTHORIZING THE SALE OF
SUBSTANTIALLY ALL OF THE
DEBTORS' ASSETS FREE AND CLEAR
OF ALL LIENS, CLAIMS, AND
ENCUMBRANCES; TO WHITE
MEMORIAL MEDICAL CENTER D/B/A
ADVENTIST HEALTH WHITE
MEMORIAL FREE AND CLEAR;
(II) AUTHORIZING THE ASSUMPTION
AND ASSIGNMENT OF CERTAIN
EXECUTORY CONTRACTS AND**

25 ¹ The Debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification
26 number, are: Beverly Community Hospital Association d/b/a Beverly Hospital (6005), Montebello Community
27 Health Services, Inc. (3550), and Beverly Hospital Foundation (9685). The mailing address for the Debtors is 309
28 W. Beverly Blvd., Montebello, California 90640.



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**UNEXPIRED LEASES; AND (III)
GRANTING RELATED RELIEF;
DECLARATION OF JASON A. COHEN
IN SUPPORT THEREOF**

Date: August 17, 2023
Time: 9:00 a.m.
Judge: Sandra R. Klein
Place: Zoom.Gov – or - Courtroom 1575
255 E. Temple St.
Los Angeles, CA 90012

**TO THE HONORABLE SANDRA R. KLEIN, UNITED STATES BANKRUPTCY
JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE FOR REGION 16, ALL OF
THE DEBTORS’ SECURED CREDITORS, THE DEBTORS’ TOP 30 UNSECURED
CREDITORS, THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, AND ALL
OTHER PARTIES IN INTEREST:**

PLEASE TAKE NOTICE that the above referenced Debtors, the debtors and debtors in possession in the above-captioned chapter 11 bankruptcy cases (collectively, the “Debtors”),² hereby move pursuant to §§ 105(a), 363, and 365 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”),³ Rules 2002, 6004, 6006, 9007, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rules 6004-1(b) and 9013-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California (“LBR”), for the entry of an order approving the Debtors’ expedited bidding and sale procedures. More specifically, the Debtors seek: an order (the “Sale Order”): (i) authorizing the Sale to the White Memorial Medical Center d/b/a/ Adventist Health White Memorial (the “Purchaser” or “AHWM”), free and clear of all claims, liens, and encumbrances; (ii) authorizing the assumption and assignment of executory contracts and unexpired leases in connection with the Sale; and (iii) granting related relief (the “Motion”).

PLEASE TAKE FURTHER NOTICE that this Motion is based on this Notice of Motion and Motion, the Memorandum of Points and authorities attached hereto, the Declaration of Jason

² Capitalized terms used but not defined in this Notice shall have the meaning ascribed to such terms in the Motion.

³ Unless otherwise stated, all section references herein are to the Bankruptcy Code.

1 Cohen in Support of the Motion attached hereto, the First Day Declaration [Docket No. 9],
2 supporting statements, arguments and representations of a counsel who will appear at the Sale
3 Hearing (as defined below), all pleadings and records filed in this case, any other evidence properly
4 brought before the Court, and all other matters of which this Court may properly take judicial notice.

5 **PLEASE TAKE FURTHER NOTICE** that a copy of the Adventist APA is attached to the
6 Motion as **Exhibit B**.

7 **PLEASE TAKE FURTHER NOTICE** that, on August 3, 2023, the Court held a status
8 conference to discuss the Debtors' sale process. During the hearing, the Court amended the filing
9 dates and deadlines contained in the *Scheduling Order Re (I) Continued Hearing on Various Matters*
10 *from August 15, 2023 to August 17, 2023, and (II) Sale Motion Briefing Deadlines* [Docket No. 630]
11 (the "Scheduling Order"). On August 4, 2023, the Debtors' filed their *Debtors' Notice of Amended*
12 *Scheduling Order Re Continued Sale Motion Briefing Deadlines* [Docket No. 635] (the "Notice of
13 Amended Scheduling Order"), and on August 7, 2023, the Court entered its Amended Scheduling
14 Order Re Continued Sale Motion Briefing Deadlines [Docket No. 637] (the "Amended Scheduling
15 Order").

16 **PLEASE TAKE FURTHER NOTICE** that, pursuant to the Amended Scheduling Order
17 and the Court's *Order (I) Approving Asset Purchase Agreement for Stalking Horse Purchaser and*
18 *for Prospective Overbidders, (II) Approving Bid Protections, (III) Approving Bidding Procedures,*
19 *(IV) Scheduling Certain Dates Thereto, (V) Approving Form of Notice and (VI) Scheduling Court*
20 *Hearing to Approve Sale Free and Clear to the Successful Bidder* [Docket No. 378] (the "Bidding
21 Procedures Order") any objections to the Motion (each, a "Sale Objection") must: (a) be in writing;
22 (b) comply with the Bankruptcy Rules and LBRs; (c) set forth the specific basis for such Sale
23 Objection; (d) be filed with the Court, together with proof of service, on or before 12:00 p.m.
24 (prevailing Pacific Time) on **August 10, 2023** (the "Sale Objection Deadline"); and (e) be served,
25 so as to be actually received on or before the Sale Objection Deadline, upon: (i) counsel to the
26 Debtors: Sheppard, Mullin, Richter & Hampton LLP, 321 N. Clark Street, 32nd Floor, Chicago, IL
27 60654 (Attn: Justin R. Bernbrock; Robert B. McLellarn, and Catherine Jun), Emails:
28 jbernbrock@sheppardmullin.com, rmclellarn@sheppardmullin.com, and

1 cjun@sheppardmullin.com; and/or Sheppard, Mullin, Richter & Hampton LLP, Avenue of the
2 Stars, Suite 1600 Los Angeles, CA 90067-6055 (Attn: Jennifer L. Nassiri and Alexandria G.
3 Lattner), Emails: jnassiri@sheppardmullin.com, alattner@sheppardmullin.com; (ii) the Debtors’
4 Investment Banker: Portage Point Partners, 1330 Avenue of the Americas, 22nd Floor, New York,
5 NY 10019 (Attn: Jason Cohen), Email: jcohen@pppllc.com and bev_ppp@pppllc.com; (iii) the
6 Office of the U.S. Trustee: 915 Wilshire Blvd., Suite 1850, Los Angeles, California 90017 (Attn:
7 Kelly L. Morrison), Email: kelly.l.morrison@usdoj.gov; and (iv) counsel to the DIP Lender, HRE
8 Montebello, LLC: Bryan Cave Leighton Paisner, LLP, 161 North Clark Street, Suite 4300, Chicago,
9 Illinois 60201 (Attn: Eric S. Prezant), Email: eric.prezant@bclplaw.com; 120 Broadway, Suite 300,
10 Los Angeles, California 90401 (Attn: Sharon Z. Weiss and Olivia J. Scott);
11 sharon.weiss@bclplaw.com; and olivia.scott3@bclplaw.com; (vi) counsel to the Official
12 Committee: Dentons LLP, 601 S. Figueroa Street Suite 2500, Los Angeles, California 90017-5704,
13 (Attn: Samuel R. Maizel and Tania M. Moyron), Emails: samuel.maizel@dentons.com and
14 tania.moyron@dentons.com, and Sills Cummis & Gross P.C. (Attn: Andrew H. Sherman), Email:
15 asherman@sillscummis.com; and (v) counsel to U.S. Bank Trust Company National Association,
16 as Master Trustee, Greenberg Traurig, LLP, One International Place, Suite 200, Boston MA, 02110
17 (Attn: Colleen A. Murphy, Kevin J. Walsh, and Chris Marks), Emails: colleen.murphy@gtlaw.com,
18 kevin.walsh@gtlaw.com, and chris.marks@gtlaw.com.

19 **PLEASE TAKE FURTHER NOTICE** that pursuant to the Amended Scheduling Order,
20 any party that wishes to make an offer for the Assets that is higher or otherwise better than the
21 consideration provided by the Purchaser in the contemplated transaction, must (a) submit a binding
22 offer in writing to Debtors’ counsel and file such offer with the Court, together with proof of service,
23 no later than **August 8, 2023, at 12:00 p.m. (Pacific Time)** (the “Overbid Deadline”); and (b)
24 include a cash deposit that is actually received by the Debtors no later than August 8, 2023, at 5:00
25 p.m. (Pacific Time) (the “Overbid Deposit Deadline”).

26 **PLEASE TAKE FURTHER NOTICE** that a reply to any opposition to the Motion shall
27 be filed no later than **August 11, 2023, at 12:00 p.m. (Pacific Time)**.

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MEMORANDUM OF POINTS AND AUTHORITIES

I.

RELIEF REQUESTED

The above-captioned debtors and debtors in possession (collectively, the “Debtors”)⁴ hereby move (this “Motion”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Sale Order”): (a) authorizing the sale (the “Sale”) of substantially all of the Debtors’ assets (the “Assets”) to White Memorial Medical Center d/b/a Adventist Health White Memorial (“AHWM” or the “Purchaser”); (b) approving the Asset Purchase Agreement (the “APA”)⁵ attached hereto as **Exhibit C**; (c) authorizing the assumption and assignment of the Assigned Contracts and Assigned Leases (as defined herein, and, collectively, the “Assumed Contracts”) and related Cure Costs (as defined herein) listed on Schedule 1.1(a)(x) of the APA and attached separately hereto as **Exhibit E**; (d) waiving any stay of the effectiveness of the Sale Order; and (e) granting related relief. Attached hereto as **Exhibit D** is a redline of the current APA marked against the Stalking Horse APA that the Debtors attached to the Bidding Procedures Omnibus Reply [Docket No. 354]. For all the reasons set forth in this Motion and the Declaration of Jason Cohen attached hereto as **Exhibit B** in support of the Motion (the “Cohen Declaration”), the Bidding Procedures Reply (as defined herein) and the declarations in support thereof, the First Day Declaration, the Declaration of Jason Cohen, the declaration on behalf of AHWM in support of the Motion that will be filed concurrently herewith, the Debtors respectfully request that the Court enter the Sale Order and grant such other and further relief as is just and appropriate.

II.

INTRODUCTION

⁴ A detailed description of the Debtors and their business, and the facts and circumstances supporting the Debtors’ chapter 11 cases, are set forth in greater detail in the *Declaration of Alice Cheng in Support of the Debtors’ First Day Emergency Motions* (the “First Day Declaration”), filed on April 19, 2023 (the “Petition Date”).

⁵ While this AHWM transaction contemplates a sale of both the hospital assets and Real Estate Assets (as defined below), the Debtors now seek the Court’s approval of the APA only. The Debtors’ and AHWM’s counsel will execute the appropriate real estate deeds to transfer Real Estate Assets after the Sale Order is entered.

1 The Debtors filed these cases to consummate an expedited sale transaction that will keep
2 Beverly Hospital open and available to the City of Montebello and its neighboring communities, all
3 while maximizing the value of the Debtors' estates and providing the greatest possible benefit to all
4 stakeholders in these chapter 11 cases under the circumstances. The Debtors held an Auction on
5 June 27, 2023 for the sale of substantially all their assets. At the conclusion of the Auction, the
6 Debtors named American Healthcare Systems Foundation Inc. ("AHS") and Layton 26, LLC
7 ("Layton") as the Successful Bidders, and the AHS Bid and the Layton Bid, together, the Successful
8 Bid. On July 5, 2023, the Debtors filed their Original Sale Motion [Docket No. 537] seeking the
9 Court's approval of the proposed sale to AHS and Layton pursuant to the terms of the Successful
10 Bid.

11 In the weeks following the Auction, the Debtors, Consultation Parties, Successful Bidders,
12 and other parties in interest engaged in extensive discussions and negotiations regarding the
13 implementation and execution of the transactions contemplated by the Successful Bid. Despite these
14 efforts, the parties were unable to consummate final documentation consistent with the terms agreed
15 at the Auction within the original deadlines set forth by the Court.

16 At the Court's direction, the Debtors provided additional dates and deadlines for the Debtors
17 to propose a sale that took into consideration the Debtors' severe cash constraints and operational
18 considerations for the Hospital. In the renewed, expedited timeline, the Debtors received inbound
19 interest from several parties, including AHS and AHWM, the previous Stalking Horse Purchaser.
20 The Debtors and their advisors, along with the Consultation parties and other parties in interest,
21 worked diligently to identify which proposal constituted the highest and best bid for the Assets.

22 Although AHS provided favorable terms, AHWM was the only party to provide an executed
23 APA and demonstrate its immediate ability to close a viable sale transaction to save the Beverly
24 Hospital. Even setting aside AHS's failure to provide the Debtors' executed transaction documents
25 by this filing deadline, the Debtors and the Consultation Parties learned from HCAI, the department
26 making a determination about whether to lend AB 1112 funds, that neither AHS nor a related entity
27 that AHS was contemplating substituting in as the buying entity, is likely qualified to receive AB
28

1 1112 funds.⁶ In light of this development, the Debtors have concerns regarding AHS’s ability to
2 fund hospital operations during the transition (est. 100 days), without such funds. Thus, the Debtors
3 have chosen the bidder they believe can support the Beverly Hospital’s short and long term
4 operational needs.⁷ Accordingly, the Debtors are pleased to announce that, subject to this Court’s
5 approval, the Beverly Hospital Board has deemed the modified bid submitted by AHWM the
6 Successful Bid for the Assets. The Debtors have heard from counsel to AHWM and AHWM that
7 AHWM has received approval of the proposed Sale from the California Attorney General (the
8 “AG”). In connection with the proposed Sale to AHWM, the Debtors also seek the Court’s approval
9 of the Debtors’ assumption and assignment to the Purchaser of those unexpired leases and executory
10 contracts that the Successful Bidder has designated that they wish for the Debtors to assume (the
11 “Assumed Contracts”). For all the reasons set forth herein and those in the Bidding Procedures
12 Motion and Bidding Procedures Reply (as defined below), the Debtors respectfully request that the
13 Court enter an order approving the Sale of substantially all of the Debtors’ assets.

14 **III.**

15 **STATEMENT OF FACTS**

16 **A. The Assets**

17 On the Petition Date, each of the Debtors filed a voluntary petition for relief under chapter
18 11 of the Bankruptcy Code with the intention of conducting a sale on an expedited path of
19 substantially all of its assets under section 363. The Debtors’ assets consist of the owned hospital
20 real estate, operational, and certain other assets of Beverly Community Hospital (the “Hospital
21 Assets”), a safety net hospital in Montebello that serves low-income patients in the area that is
22 owned and operated by Debtor Beverly Hospital, and 13 parcels of real property that Debtor
23 Montebello Health owns (the “Real Estate Assets,” and together with the Hospital Assets, the
24
25

26 ⁶ HCAI declined to take a definitive position on this issue because it has not reviewed any of the proposed AHS
27 transaction documents.

28 ⁷ The Debtors and Consultation Parties will consider any potential Overbids filed by the Overbid Deadline
provided by the Court.

1 “Assets”).⁸ The Debtors are borrowers under that certain Master Trust Indenture, dated as of
2 December 1, 2015, with U.S. Bank National Association acting as Master Trustee (the “Master
3 Trustee”). Although the full extent of the Master Trustee’s security interest is at issue, *see Official*
4 *Committee of Unsecured Creditors of Beverly Community Hospital Association v. U.S. Bank Trust*
5 *Co., Nat’l Assoc., as Master Trustee*, Adv. Proc. No. 2:23-ap-01289-SK [Docket No. 1] (Bankr.
6 C.D. Cal. 2023), the outstanding amount of the bond facility is approximately \$67,940,098. Due to
7 the Debtors’ dwindling cash position entering these chapter 11 cases, the Debtors entered into a
8 Court-approved, post-petition debtor-in-possession financing facility (“DIP Facility”), which is
9 secured by the Real Estate Assets. *See* Final Order Approving DIP Facility [Docket No. 396]. As
10 of August 4, 2023, the outstanding amount owed on the DIP Facility is approximately
11 \$13,846,137.69.

12 As further explained below, upon closing, the proceeds of the Sale should first pay off the
13 DIP Facility, which is currently in default, and remaining proceeds shall be administered through a
14 chapter 11 liquidating sale. The Sale contemplates a specific amount for the Real Estate Assets that
15 will pay off the DIP Facility in full. As this Sale and these chapter 11 cases are being run for the
16 benefit of the Master Trustee, the additional funds which are subject to the Master Trustee’s pre-
17 petition collateral shall be distributed through a chapter 11 liquidating plan when the Debtors have
18 determined the value of Excluded Assets that are being left behind for the estates after the Sale.
19 This will prevent a *sub rosa* plan and provide a fair and orderly outcome of these chapter 11 cases.⁹

20 **B. The Marketing Process**

21 As more fully described in the Cohen Declaration attached hereto, the Debtors’ proposed
22 investment banking firm, Portage Point, began soliciting bids for the Hospital and reaching out to
23 potential purchasers. Portage Point received inbounds from 99 potential bidders, 19 of which signed
24 non-disclosure agreements (“NDAs”) and were provided access to the Sale Process virtual data

25 _____
26 ⁸ *See Declaration of Ryan Plummer*, ¶ 5, Docket No. 537, filed on July 5, 2023 in support of the Debtors’ first sale
motion (the “Plummer Declaration”) for a full list of the Real Estate Assets properties.

27 ⁹ Any determination to distribute proceeds of the Sale directly to the Master Trustee pursuant to a Sale Order would
28 be premature, run afoul of the *sub rosa* plan doctrine, and effectively strip the Debtors of their ability to seek a
section 506(a) surcharge from the Master Trustee.

1 room (“VDR”) containing significant information about the Debtors, including a Confidential
2 Information Memorandum and the Stalking Horse Asset Purchase Agreement. Cohen Decl. ¶ 8.

3 For parties expressing continued interest after reviewing the Sale Process VDR and
4 requesting to review more competitively sensitive information, Portage Point provided access to the
5 Clean Room VDR upon the potential buyer executing the Clean Team Agreement. Cohen Decl. ¶
6 8. For the potential bidders who signed NDAs, Portage Point engaged in discussions around
7 process, timeline, interest in becoming a stalking horse bidder, diligence requests, submitting an
8 LOI and term sheet to support discussions with the State Attorney General’s Office and the terms
9 of the Stalking Horse APA.

10 As more fully discussed in the Cohen Declarations in support of the Bidding Procedures
11 Motion and Bidding Procedures Omnibus Reply [Docket Nos. 309, 354], the Debtors were able to
12 reach an agreement with AHWM, pursuant to which AHWM agreed to act as the Stalking Horse
13 Purchaser for the Debtors’ assets. This agreement was memorialized on May 23, 2023 by execution
14 of the Stalking Horse APA and the Debtors filing their Bidding Procedures Motion (as defined
15 below). The Court approved AHWM as the Stalking Horse Purchaser and the Stalking Horse APA,
16 as discussed on the record at the hearing on May 31, 2023.

17 After the Court entered the Bidding Procedures Order (as defined below), Portage Point
18 continued to actively market the Debtors’ assets. Based on this outreach process, one additional
19 bidder submitted a bid by the Bid Deadline, which ultimately lead to the Debtors naming AHS and
20 Layton as the Successful Bidders for the Assets at the Auction held on June 27, 2023. When the
21 Debtors and their advisors realized that such deal could not be consummated on the timing required
22 by the Debtors’ limited cash runway, the Debtors and their advisors reached back out to AHWM to
23 reconsider the Sale. The Debtors further engaged in substantial discussions with the Consultation
24 Parties, including daily all-hands conferences, for the purpose of divining a path forward that would
25 salvage the Debtors’ sale process while simultaneously resolving outstanding issues to the extent
26 possible given the truncated timeline. Although the Debtors also engaged in meaningful
27 negotiations with AHS during this time, AHWM was the only party to provide the Debtors with a
28 viable transaction, including a signed APA in time for the Debtors’ deadline to file this Motion.

1 In conjunction with the marketing process of the operating hospital run by Portage Point, the
2 Debtors' real estate broker, Colliers, ran a robust marketing process for the Real Estate Assets. *See*
3 Plummer Decl. ¶ 12. A more detailed description of the marketing process that Colliers undertook
4 to ultimately obtain 12 Qualified Bidders for the Real Estate Assets is contained in the Plummer
5 Declaration, which is attached as Exhibit B to the Debtors' original sale motion [Docket No. 537]
6 (the "Original Sale Motion"). Two of the these bidders submitted Qualified Bids on the full portfolio
7 of Real Estate Assets, one of which was Layton, that combined with AHS at the Auction to present
8 one joint bid for the Assets, with AHS proposing to purchase the Hospital Assets under an APA and
9 ancillary documents, and Layton proposing to purchase the Real Estate Assets.

10 AHWM's offer has always been, since its iteration as the Stalking Horse Bid through its
11 current form as detailed herein, a comprehensive proposal to purchase both the Hospital Assets and
12 the Real Estate Assets.

13 **C. Procedural History and Notice of the Sale**

14 **1. The Bidding Procedures Order and Notice of Sale**

15 On May 23, 2023, the Debtors filed the *Debtors' Notice of Motion and Motion for the Entry*
16 *of an Order (I) Approving Asset Purchase Agreement for Stalking Horse Purchaser and for*
17 *Prospective Overbidders, (II) Approving Bid Protections, (III) Approving Bidding Procedures, (IV)*
18 *Scheduling Certain Dates Thereto, and (V) Approving Form of Notice; and (VI) Scheduling Court*
19 *Hearing to Approve Sale Free and Clear to the Successful Bidder* [Docket No. 308] (the "Bidding
20 Procedures Motion"). In response to multiple objections filed to the Bidding Procedures Motion,
21 the Debtors filed an omnibus reply in support of the Bidding Procedures Motion [Docket No. 354]
22 on May 29, 2023.

23 The Court held a hearing on the Bidding Procedures Motion and thereafter entered an order
24 on June 2, 2023, approving the Bidding Procedures Motion (the "Bidding Procedures Order")¹⁰

25
26 ¹⁰ The Bidding Procedures Order established various deadlines including, June 2, 2023 for the Debtors to provide
27 notice of the Sale Hearing, June 9, 2023 for the Debtors to file and serve its cure notice on executory contract
28 counter parties, to which objections to such cure amounts were due on or before June 24, 2023 at 12:00 p.m. (Pacific
Time). Critically, the deadline for bidders to submit bids for the Debtors' assets was set for June 23, 2023 at 4:00
p.m. (Pacific Time) (the "Bid Deadline"). The Court set an Auction for June 27, 2023 beginning at 10:00 a.m. for
bidders to submit bids for the Assets.

1 [Docket No. 378]. The Bidding Procedures Order also approved the form of the APA for the
2 Stalking Horse Purchaser and prospective overbidders.

3 **2. The Auction and Sale Motion**

4 The Debtors refer to and incorporate herein by reference the *Declaration of Justin R.*
5 *Bernbrock (I) Regarding Results of Auction Held on June 27, 2023, and (II) in Support of Stipulation*
6 *to Continue Sale Hearing Filed Concurrently Herewith* [Docket No. 480], for the background facts
7 regarding the Auction.

8 After the Debtors named AHS and Layton as the successful bidders at the Auction, the
9 parties were unable to consummate final documentation with respect to the terms agreed to at the
10 Auction. The Debtors and their advisors began reaching out to other parties who had been interested
11 in the bidding process before the Auction.

12 On August 2, 2023 and August 3, 2023, the Court held status conferences to discuss next
13 steps. At the hearing on August 2, 2023, the Court provided new filing dates and deadlines related
14 to this Motion. On August 7, 2023, the Court entered its Amended Scheduling Order Re Continued
15 Sale Motion Briefing Deadlines [Docket No. 637] (the “Amended Scheduling Order”) providing
16 notice of the parties of the amended dates related to this Motion.

17 Since those status conferences, the Debtors engaged in meaningful negotiations and
18 discussions with AHS and AHWM and engaged in multiple conversations with the Consultation
19 Parties, which include counsel to Master Trustee, the DIP Lender, The United Nurses Associations
20 of California/Union of Health Care Professionals (“UNAC/UHCP”), California Department of

21

22 On June 2, 2023, the Debtors filed and served the *Debtors’ Notice of Sale Hearing* [Docket No. 376] providing
23 notice of the Sale Hearing and providing all pertinent deadlines approved by the Bidding Procedures Order. This
24 notice was served on, among other parties: (a) the United States Trustee; (b) counsel to the Official Committee of
25 Unsecured Creditors; (c) the Master Trustee and counsel thereto; (d) counsel to the DIP Lender; (e) counsel to the
26 Stalking Horse Purchaser; (f) Hanmi Bank and counsel thereto; (g) all lienholders, (h) the California Attorney
27 General; (i) the Debtor’s Top 30 Unsecured Creditors; (j) the IRS; and (k) all other parties who have filed a request
28 for special notice and service of papers with the Clerk of the Court (the “Service Parties”). On June 5, 2023, in
accordance to LBR 6004-1(f), the Debtors served their *Notice of Sale of Estate Property* [Docket No. 387] (the
“Sale Notice”) using the mandatory form, which was also served on the Service Parties. The Sale Notice was then
posted on the Court’s website. The Sale Notice attached the Bidding Procedures Order, which in turn attached the
Bidding Procedures and relevant objection dates. On June 8, 2023, the Debtors served their *Notice of Filing Final*
Bidding Procedures [Docket No. 402] (the “Bidding Procedures Notice”) on the Service Parties. Portage Point
made the Bidding Procedures Notice and Bidding Procedures available to potential bidders.

1 Health Care Services (the “CDPH”), California Department of Health Care Services (“DHSC”)
2 United States Department of Health and Human Services (“HHS”), acting through its designated
3 component, the Centers for Medicare and Medicaid Services (“CMS”), the AG, and the Official
4 Committee of Unsecured Creditors. While the Debtors received only informal terms from AHS
5 during this period, AHWM provided an executed APA and a tangible transaction for the Debtors to
6 consider. Thus, the Debtors hereby file this Motion seeking approval of the APA with AHWM and
7 argue that AHWM has provided the highest or otherwise best offer to purchase the Assets.

8 **D. Principal Terms of the APA**

9 **Purchase Price.** The AHWM Bid proposes to purchase the Hospital Assets with a purchase
10 price of approximately \$39,091,734 comprised of (i) cash in the amount of \$23,546,000 (the
11 AHWM Expense Reimbursement approved as Stalking Horse Purchaser under the Bidding
12 Procedures Motion of \$346k is to be credited against the purchase price); (ii) up to \$14,240,000 for
13 repayment of the Debtors’ DIP facility; and (iii) up to \$ 1,257,734¹¹ in Cure Costs, inclusive of CBA
14 Cure Cost of approximately \$257,734. The Purchase Price will be increased by \$123,333 for each
15 day that Purchaser does not close the Transaction due to (i) the existence of an uncured breach of
16 the Agreement by Purchaser or (ii) the failure of the condition precedent set forth in APA Sections
17 7.4, 7.7, 7.10, or 7.11, beginning the 31st day following the date of execution of this Agreement, up
18 to a maximum amount of \$3,700,000. The outside date for closing will be 60 days from APA
19 signing. The Debtors value the AHWM Bid at an aggregate value of approximately \$81,613,000.

20 **Excluded Assets.** Excluded assets from the AHWM Bid include, among other things,
21 current cash on hand, patient accounts receivable, Medical Disproportionate Share Hospital
22 payments (“DSH”) owed pursuant to Medicaid payments and Quality Assurance Fees (“QAF”)
23 payments potentially owed to the Debtors by the State of California, rights to settlement or
24 adjustment rights under the Debtors’ Medicare and Medi-Cal agreements, and all claims and
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28 ¹¹ This figure is subject to change based on AHWM’s ultimate election of contracts to assume.

1 counterclaims, and causes of action of each Debtor’s bankruptcy estate for the benefit of the
2 Committee to pursue. *See* APA § 1.1(b).¹²

3 **Assumed Liabilities.** AHWM shall assume certain leases and contracts and pay up to
4 \$1,257,734 in Cure Costs, inclusive of the CBA Cure Cost of approximately \$257,734. AHWM
5 shall assume a settlement with CMS that resolves all liabilities of Beverly to CMS existing prior to
6 closing in an amount up to \$3,200,000. *See* APA § 1.1(c). AHWM will not take a transfer of
7 Beverly’s Medicare or Medi-Cal Provider Agreements.

8 **Hospital Operations.** AHWM will continue to provide emergency medical services and
9 will keep the medical surgery center open, and will gradually increase service lines as practicable.
10 The AG has indicated its support for this proposed level of service continuance.

11 **Assumption of the CBA.** The AHWM Bid seeks to assume Beverly Hospital’s prepetition
12 collective bargaining agreement (“CBA”) with UNAC. *See* APA, Schedule 1.1(a)(x). As further
13 set forth in § 5.4 of the APA, AHWM commits to use commercially reasonable efforts to negotiate
14 certain modifications to the CBA that would lead to its assumption by the Debtors and assignment
15 to AHWM by the Sale Closing. Among AHWM’s sought changes to the CBA include modifications
16 to enable Beverly employees to participate in AHWM’s existing employee benefit plans.

17 The Debtors similarly agree to use commercially reasonable efforts to facilitate discussions
18 between AHWM and UNAC. The Debtors additionally recognize that modifications of the CBA
19 will require UNAC’s consent or affirmative relief pursuant to the procedures of section 1113 of the
20 Bankruptcy Code. The Debtors, therefore, anticipate that upon Court approval of the proposed Sale,
21 it will facilitate the formal section 1113 process, with meetings and negotiations to be had in good
22 faith between AHWM and UNAC and, depending on the outcome, seek formal relief under section

23
24
25

26 ¹² During recent conversations with DHCS, the agency responsible for calculating QAF and DSH
27 reimbursements, the amounts that are owed to the Debtors are still in flux and the Debtors and Consultation
28 Parties are still working with DHCS to reconcile these numbers and reach a settlement agreement regarding
payout to the estates, which is yet another reason why Sale proceeds, after paying off the DIP Facility should be
distributed through a chapter 11 liquidating plan.

1 1113. This district has authorized the sale of health care assets that call for the negotiation of
2 modifications of collective bargaining agreements prior to sale closing.¹³

3 **Employee Retention.** The Parties shall negotiate the terms and conditions of a staffing
4 agreement whereby Seller shall provide the services to Purchaser of all the business employees who
5 are in good standing as of the Closing under Sellers' employment policies to provide services at
6 AHWM's White Memorial campus or at the new Montebello campus on the Hospital Property while
7 Purchaser conducts the interview and evaluation process. As soon as practicable, Purchaser shall
8 interview or otherwise use commercially reasonable efforts to evaluate all Staffing Agreement
9 Employees in compliance with applicable California labor laws. Purchaser (or one of its Affiliates)
10 agrees to offer employment as soon as practicable to all qualified Staffing Agreement Employees
11 who are in good standing under Sellers' employment policies and who meet Purchaser's
12 employment eligibility standards to work at Purchaser's White Memorial campus or at the new
13 Montebello campus on the Hospital. *See* APA § 5.2.

14 **Deposit.** AHWM submitted a deposit equal to \$2,250,000 upon APA signing. *See* APA §
15 1.2(b).

16 **Timeline.** Following APA signing, AHWM requires at least 30 to 60 days to close the
17 transaction, primarily to prepare staffing needs and obtain regulatory approval.

18 **Distribution of Funds.** Following the Sale Order and closing of the Sale, the Debtors
19 propose to pay off the DIP Facility in full immediately upon closing. As mentioned in the Purchase
20 Price section above, AHWM is providing a cash value in the amount of up to \$14,240,582
21 specifically for the Real Estate Assets (the DIP Lender's collateral). The Sale transaction values the
22 hospital assets (the Master Trustee's collateral) at around \$23,546,000 less the AHWM Expense
23

24 _____
25 ¹³ *See, e.g., In re Verity Health Sys., et al.*, Case No. 2:18-bk-20151 (Bankr. C.D. Cal. Apr. 9, 2020)
26 (authorizing assets related to Seton Medical Center to AHMC Healthcare, Inc under asset purchase
27 agreement that required use of commercially reasonable efforts to facilitate the renegotiation of
28 debtor's collective bargaining agreements; *In re Verity Health Sys., et al.*, Case No. 2:18-bk-20151
(Bankr. C.D. Cal. Apr. 23, 2020 [Docket No. 4634] (approving asset sale of Seton Medical Center
to AHMC Healthcare Inc. pursuant to an asset purchase agreement in which AHMC agreed to
participate in negotiations with any collective bargaining agreement).

1 Reimbursement approved as Stalking Horse Purchaser under the Bidding Procedures Motion of
2 \$346k is to be credited against the purchase price. After the DIP Facility is paid off, the Debtors
3 will distribute the remaining proceeds of the Sale to distribute according to a chapter 11 liquidating
4 plan. Distributing the remaining Sale proceeds will avoid treating the Sale as a *sub rosa* plan.

5 **E. Notices and Objections Related to Executory Contracts**

6 On June 9, 2023, the Debtors filed and served their *Notice to Counterparties to Executory*
7 *Contracts and Unexpired Leases of the Debtors That May Be Assumed and Assigned* [Docket No.
8 412] (the “Original Cure Notice”) listing all of the known executory contracts and unexpired leases
9 that could be subject to assumption and assignment to the Purchasers and the related cure amounts.

10 On June 22, 2023, the Debtors filed and served the *Debtors’ Notice of Amended Cure*
11 *Schedule and Amended Notice to Counterparties to Executory Contracts and Unexpired Leases of*
12 *the Debtors That May Be Assumed and Assigned* [Docket No. 450] (the “Amended Cure Notice”)
13 correcting inadvertent errors and revising cure amounts in response to informal objections received
14 from certain counterparties to executory contracts and unexpired leases that could be subject to
15 assumption and assignment to the Purchasers.

16 Since the Debtors filed and served the Amended Cure Notice, certain counterparties to
17 executory contracts and unexpired leases have filed objections regarding cure amounts and/or other
18 issues [Docket Nos. 449, 452, 455, 456, 499, 502, 503, 504, 513, 515, 517, 527, and 532]. On July
19 6, 2023, the Debtors filed the *Debtors’ Omnibus Reply to Cure Objections Relating to Executory*
20 *Contracts and Unexpired Leases Subject to Assumption and Assignment* [Docket No. 548],
21 resolving nearly all objections as moot.

22 On that same date, the Debtors filed and served the *Notice of Executory Contracts and*
23 *Unexpired Leases Designated By American Healthcare Systems Foundation Inc. and Layton 26,*
24 *LLC for Assumption and Assignment* [Docket No. 552].

25 AHWM, as the new Successful Bidder, has identified contracts and leases it seeks to have
26 assumed and assigned pursuant to the Sale Order and the APA in Schedule 1.1(a)(x) of the APA,
27 which is attached hereto as **Exhibit E.** Concurrent with the filing of this Motion then, the Debtors
28 will file and serve the *Notice of Executory Contracts and Unexpired Leases Designated by White*

1 *Memorial Medical Center d/b/a/ Adventist Health White Memorial for Assumption and Assignment*
2 to each counterparty of the Assumed Contracts (the “Assumption Notice”).

3 **IV.**

4 **ARGUMENT**

5 The Debtors’ proposed Sale to AHWM is the highest and best actionable offer that the
6 Debtors have received for the Assets, and the Debtors’ decision to pursue consummation of the Sale
7 therefore represents an exercise of their sound business judgment. Moreover, the APA reflects
8 customary and reasonable market terms, was extensively negotiated at arm’s length in good faith,
9 and has been tailored to incorporate input from the Consultation Parties to the greatest extent
10 possible given the exigency of the Debtors’ present cash position and to the extent acceptable to the
11 purchaser, AHWM.

12 Most critically, if the Debtors are unable to consummate the proposed Sale to AHWM
13 pursuant to the terms set forth herein, the Debtors will be forced to suspend all patient care services
14 and otherwise cease operations at Beverly Hospital. Such a result would be devastating for all
15 stakeholders in the Debtors’ estates and these chapter 11 cases. First, several hundred healthcare
16 workers employed by Beverly Hospital would face the prospect of sudden unemployment. Second,
17 Beverly Hospital’s patients, including 91% who rely on government insurance programs and many
18 others who are either uninsured or underinsured, would be deprived of access to adequate
19 care. Finally, the City of Montebello and its neighboring communities, where nearly 50% of
20 households live under the 200% Federal Poverty Level, would lose the support of Beverly
21 Hospital—the beacon of hope that has served them faithfully for nearly 75 years.

22 For the following reasons, the Debtors respectfully request that the Court approve the
23 proposed Sale to AHWM to prevent these dire consequences from becoming a reality.

24 **F. The Court Should Authorize the Debtors to Sell the Assets to the Purchaser Pursuant**
25 **to the Debtors’ Business Judgment**

26 Section 363(b) provides that a debtor “after notice and a hearing, may use, sell, or lease,
27 other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b). To
28 approve use, sale or lease of property other than in the ordinary course of business, the Court must

1 find “some articulated business justification.” *See, e.g., In re Catalina Sea Ranch, LLC*, No. 2:19-
2 bk-24467-NB, 2020 Bankr. LEXIS 1083, at *16 (Bankr. C.D. Cal. Apr. 13, 2020); *Comm. of Equity*
3 *SEC Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983); *In re Abbotts*
4 *Dairies of Pa., Inc.*, 788 F.2d 143 (3d Cir. 1986) (implicitly adopting the “sound business judgment”
5 test of *Lionel Corp.* and requiring good faith). Similarly, in the Ninth Circuit, “cause” exists for
6 authorizing a sale of estate assets if it is in the best interest of the estate, and a business justification
7 exists for authorizing the sale. *In re Huntington, Ltd.*, 654 F.2d 578 (9th Cir. 1981); *In re Walter*,
8 83 B.R. 14, 19-20 (B.A.P. 9th Cir. 1988).¹⁴

9 In determining whether a sale satisfies the business judgment standard, courts have held that:
10 (1) there be a sound business reason for the sale; (2) accurate and reasonable notice of the sale be
11 given to interested persons; (3) the sale yield an adequate price (i.e., one that is fair and reasonable);
12 and (4) the parties to the sale have acted in good faith. *Titusville Country Club v. Pennbank (In re*
13 *Titusville Country Club)*, 128 B.R. 396, 399 (Bankr. W.D. Pa. 1991); *see also In re Walter*, 83 B.R.
14 at 19-20.

15 The Debtors submit that their proposed sale of the Assets to AHWM clearly satisfies each
16 of these four criteria and demonstrates that the Debtors’ business judgment to proceed with the Sale
17 in accordance with the terms of the APA is sound.

18 **1. Sound Business Purpose.**

19 There must be some articulated business justification, other than appeasement of major
20 creditors, for using, selling or leasing property out of the ordinary course of business before the
21 bankruptcy court may order such disposition under § 363(b). *See In re Gardens Reg’l Hosp. & Med.*
22

23 ¹⁴ In addition, upon consummation of the Sale and AHWM’s payment of the Purchase Price, the proceeds of the Sale
24 must go to the Debtors’ estates so that they may be distributed in accordance with a liquidating plan. *See Rosenberg*
25 *Real Estate Equity Fund III v. Air Beds, Inc. (In re Air Beds, Inc.)*, 92 B.R. 419, 422 (B.A.P. 9th Cir. 1988) (“The
26 general rule is that a distribution on pre-petition debt in a Chapter 11 case should not take place except pursuant to
27 a confirmed plan of reorganization, absent extraordinary circumstances.”) (citing *In re Conroe Forge &*
28 *Manufacturing Corp.*, 82 B.R. 781, 784-85 (Bankr. W.D. Pa. 1988) (denying the request of a debtor’s secured
creditor for immediate distribution of the proceeds of a preconfirmation sale of equipment on which the secured
creditor had a lien)). Payment of the Purchase Price directly to the Debtors’ secured creditors would represent a
“de facto” or “sub rosa” plan that impermissibly strips the Debtors’ unsecured and other creditors of the ability to
exercise their rights under the Bankruptcy Code with respect to an eventual chapter 11 plan. *See Pension Benefit*
Guar. Corp. v. Braniff Airways, Inc. (In re Braniff Airways, Inc.), 700 F.2d 935, 940 (5th Cir. 1983); *see also In re*
Lionel Corp., 722 F.2d at 1066; *In re Lion Cap. Group*, 49 B.R. 163, 175 (Bankr. S.D.N.Y. 1985).

1 *Ctr., Inc.*, 567 B.R. 820, 825 (Bankr. C.D. Cal. 2017); *Lionel*, 722 F.2d at 1070. The Ninth Circuit
2 BAP established a flexible case-by-case test in *Walter* for determining whether the business purpose
3 for a proposed sale justifies the disposition of estate property under section 363(b):

4 Whether the proffered business justification is sufficient depends on
5 the case. As the Second Circuit held in *Lionel*, the bankruptcy judge
6 should consider all salient factors pertaining to the proceeding and,
7 accordingly, act to further the diverse interests of the Debtor, creditors
8 and equity holders, alike. He might, for example, look to such relevant
9 facts as the proportionate value of the asset to the estate as a whole,
10 the amount of elapsed time since the filing, the likelihood that a plan
11 of reorganization will be proposed and confirmed in the near future,
12 the effect of the proposed disposition on future plans of
13 reorganization, the proceeds to be obtained from the disposition vis-
14 a-vis any appraisals of the property, which of the alternatives of use,
15 sale or lease the proposal envisions and, most importantly perhaps,
16 whether the asset is increasing or decreasing in value. This list is not
17 intended to be exclusive, but merely to provide guidance to the
18 bankruptcy judge.

12 *Walter*, 83 B.R. at 19-20 (quoting *In re Cont'l Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986)
13 (citing *Lionel*, 722 F.2d at 1071)).

14 For years, the Debtors have been in need of a financially stable buyer who can offset the
15 operational losses caused by Medicare and Medi-Cal adjustments not covering the cost to treat
16 patients. The Debtors do not have the cash flow to continue running the Hospital for enough time
17 to establish, solicit, and confirm a chapter 11 plan of reorganization and therefore it is their business
18 judgment that a sale to AHWM is appropriate under the circumstances. Absent a buyer, the Hospital
19 will need to shut its doors and begin a wind down process, leaving the City of Montebello and
20 surrounding cities without the critical health services the residents need. First, and most critically
21 to the Debtor's mission to providing quality healthcare to the city of Montebello and surrounding
22 areas, AHWM, is part of a group of established hospitals in the area with a long track record of
23 providing care to Los Angeles residents in the area. AHWM and its affiliates have access to a deep
24 wallet, which should inspire confidence in its ability to ensure that the Beverly Hospital can continue
25 for the long term. When AHWM takes over operations at the Beverly Hospital, it has committed to
26 maintain the emergency room and medical surgical unit and then gradually restore other service
27 lines of the hospital in a fiscally responsible manner.

28

1 The Debtors' assets have now been fully marketed within these bankruptcy cases since the
2 Petition Date, and were marketed prepetition as well. *See* Cohen Decl. ¶¶ 6-7. Under these
3 circumstances, the Debtors have appropriately tested the market in the time they have available and
4 believe that the AWHM represents the current highest and best actionable bid before them. The
5 Debtors' process first resulted in the selection of AWHM as a Stalking Horse Purchaser, the receipt
6 of an additional potential bid, which was named a Qualified Bidder pursuant to the Bidding
7 Procedures approved by the Court at the Auction, and the ultimate selection of the AHS as the
8 Successful Bidder following the Auction. Even though the sale terms AHS proposed at the Auction
9 were arguably more favorable to the Debtors and parties in interest in these cases because AHS
10 proposed to assume the Debtors' outstanding debts owed under the Master Trustee's bond facilities
11 (the "MTI Debt"), assume the Debtors' CBA in full without modification, and proposed to keep all
12 service lines immediately open to the public, that transaction could not be consummated in the
13 requisite time to save the Beverly Hospital. Due to the procedures that the Court set at the August
14 2 and August 3, 2023 status conferences, AHS can place an Overbid for the Debtors to consider;
15 however, at the time of this filing, the Debtors do not have an executed APA from AHS to present
16 to the Court and parties in interest. Moreover, the AHS process was not all for not because it allowed
17 the Debtors to obtain an improved APA from AHMM that is higher and better than the Stalking
18 Hose APA. Thus, the Debtors' have established a sound business purpose to sell the Assets to
19 AHWB pursuant to the terms of the APA.

20 **2. Accurate and Reasonable Notice.**

21 Bankruptcy Rules 6004(a) and 6004(c) provide that:

22 (a) . . . Notice of a proposed . . . sale . . . of property . . . not in the
23 ordinary course of business shall be given pursuant to Rule
2002(a)(2),(c)(1),(i) and (k)

24 (c) . . . A motion for authority to sell property free and clear of liens
25 or other interests shall be made in accordance with Rule 9014 and
26 shall be served on the parties who have liens or other interests in the
27 property to be sold. The notice required by subdivision (a) of this rule
shall include the date of the hearing on the motion and the time within
which objections may be filed and served on the debtor in possession
. . . .

28 Fed. R. Bankr. P. 6004(a), (c).

1 In connection with a proposed sale under section 363, courts generally hold that “four pieces
2 of information must be presented to the creditors” in order to satisfy the notice requirements of
3 Bankruptcy Rules 6004(a) and 6004(c). *Del. & Hudson Ry.*, 124 B.R. at 180. The notice should:
4 (i) place all parties on notice that the debtor is selling its business; (ii) disclose accurately the full
5 terms of the sale; (iii) explain the effect of the sale as terminating the debtor’s ability to continue in
6 business; and (iv) explain why the proposed price is reasonable and why the sale is in the best
7 interest of the estate. *Id.* In *In re Karpe*, 84 B.R. 926, 930 (Bankr. M.D. Pa. 1988), the court
8 determined that a notice is sufficient if it includes the terms and conditions of the sale and the time
9 for filing objections. It further noted that the purpose of the notice is to provide an opportunity for
10 objections and hearing before the court if there are objections. *Id.*

11 Here, there have been multiple rounds of notice to parties in interest of a potential sale. On
12 June 2, 2023, the Debtors served their *Debtors’ Notice of Sale Hearing* [Docket No. 376] (the
13 “Notice of Sale Hearing”) on the Service Parties. On June 5, 2023, in accordance to LBR 6004-
14 1(f), the Debtors served their *Notice of Sale of Estate Property* [Docket No. 387] (the “Sale Notice”)
15 using the mandatory form on the same parties. The Sale Notice was then posted on the Court’s
16 website. The Sale Notice attached the Bidding Procedures Order, which in turn attached the Bidding
17 Procedures and relevant objection dates. On June 8, 2023, the Debtors served their *Notice of Filing*
18 *Final Bidding Procedures* [Docket No. 402] (the “Bidding Procedures Notice”) on the Service
19 Parties. In each of the Debtors’ notices, the Debtors have pointed out that all filings in these cases
20 are available to anyone free of charge and without the need for a Pacer login, on its claims and
21 noticing agent’s website. In addition to the Notice of Sale Hearing, the Sale Notice, and the Bidding
22 Procedures Notice, Portage Point provided copies of the Bidding Procedures to all parties who had
23 access to the Debtors’ data room to assist potential bidders with conducting due diligence.

24 On June 28, 2023, less than 24 hours after the parties concluded the Auction, the Debtors
25 filed the *Notice of Successful Bidders for Substantially All of the Debtors’ Assets* [Docket No. 481],
26 the *Declaration of Justin R. Bernbrock (I) Regarding Results of Auction Held on June 27, 2023, and*
27 *(II) in Support of Stipulation to Continue Sale Hearing Filed Concurrently Herewith* [Docket No.
28 480], the stipulation referred to therein, which requested a one-week continuance of the Sale Hearing

1 [Docket No. 482] to July 19, 2023 at 10:00 a.m. Once the Court granted the stipulation and set a
2 revised briefing schedule on June 29, 2023, the Debtors filed and served a notice of continued Sale
3 Hearing including the Court-approved dates that same day [Docket No. 494].

4 The Debtors served the Notice Parties with their original sale motion filed on July 5, 2023
5 and will serve the Notice of Motion and Motion which contains all relevant briefing deadlines and
6 Sale Hearing date in advance of the Sale Hearing pursuant to the Notice of Amended Scheduling
7 Order.

8 The Debtors submit that the foregoing constitutes accurate and reasonable notice of the Sale
9 to interested parties in these chapter 11 cases, and thus satisfies the requirements of Bankruptcy
10 Rules 6004(a) and 6004(c) and LBR 6004-1(f). All parties who were interested in purchasing the
11 Assets were given ample notice of the Sale and sale dates and deadlines and had access to all filings
12 in these cases free of charge from the Debtors' claim's agent's website.

13 **3. Fair and Reasonable Price.**

14 In order to be approved under section 363(b), the purchase price must be fair and reasonable.
15 *Coastal Indus., Inc. v. I.R.S. (In re Coastal Indus., Inc.)*, 63 B.R. 361, 368 (Bankr. N.D. Ohio 1986).
16 However, the Debtors also realize that their "main responsibility, and the primary concern of the
17 bankruptcy court, is the maximization of the value of the asset sold." *In re Integrated Res., Inc.*,
18 135 B.R. 746, 750 (Bankr. S.D.N.Y. 1992), *aff'd*, 147 B.R. 650 (S.D.N.Y. 1992). "It is a well-
19 established principle of bankruptcy law that the objective of bankruptcy sales and the [debtor's]
20 duty with respect to such sales is to obtain the highest price or greatest overall benefit possible for
21 the estate." *In re Atlanta Packaging Prods., Inc.*, 99 B.R. 124, 131 (Bankr. N.D. Ga. 1988); *see*
22 *also In re Wilde Horse Enters.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991) ("In any sale of estate
23 assets, the ultimate purpose is to obtain the highest price for the property sold."). As argued in the
24 Bidding Procedures Motion, another factor that the Debtors may consider in the potential sale of
25 their assets is whether the potential seller will continue the Debtors' charitable purpose. *See In re*
26 *United Healthcare Sys., Inc.*, 1997 BL 8656 (D.N.J. Mar. 27, 1997); *In re HHH Choices Health*
27 *Plan LLC*, 554 B.R. 687 (Bankr. S.D.N.Y. 2016).

28

1 The marketing and sale process undertaken by the Debtors and Portage Point was designed
2 to ensure that the highest and best price was obtained for the Assets in order to maintain the Hospital
3 as a going concern. Portage Point has robustly marketed the Hospital Assets since March 2023, and
4 these same assets had been previously marketed at various intervals and times pre-petition.
5 Similarly, Colliers conducted a robust marketing process for the Real Estate Assets since early May
6 2023. When there is competition by an appropriate number of bidders, “[t]he price achieved by an
7 auction is ordinarily assumed to approximate market value.” *See Bank of Am. Nat. Trust and Sav.*
8 *Ass’n v. 203 N. La Salle P’ship*, 526 U.S. 434, 457, 119 S. Ct. 1411, 143 L. Ed. 2d 607 (1999)
9 (acknowledging “the best way to determine value is exposure to a market” rather than a
10 determination by a bankruptcy judge).. Here, between the two asset group bids, there were
11 thousands of parties contacted and over one hundred parties who signed an NDA and conducted due
12 diligence on the assets, which resulted in an Auction with Qualified Bidders. The Debtors received
13 multiple Qualified Bids on the Real Estate Assets and an additional Qualified Bid that far exceeded
14 the value of the Stalking Horse APA. And although the AHS Bid named the highest and best bid at
15 the Auction did not materialize, at a minimum, that bid still allowed the Debtors to better the
16 Stalking Horse Bid.

17 **4. Good Faith.**

18 When a bankruptcy court authorizes a sale of assets pursuant to section 363(b)(1), it is
19 required to make a finding with respect to the “good faith” of the purchaser. *Abbotts Dairies*, 788
20 F.2d at 149. Such a procedure ensures that section 363(b)(1) will not be employed to circumvent
21 the creditor protections of chapter 11, and as such, it mirrors the requirement of section 1129 that
22 the Court independently scrutinizes the debtor’s chapter 11 plan and makes a finding that it has been
23 proposed in good faith. *Id.* at 150.

24 “Good faith” encompasses fair value, and further speaks to the integrity of the transaction.
25 *Wilde Horse Enters.*, 136 B.R. at 842. With respect to the Debtors’ conduct in conjunction with the
26 sale, the good faith requirement “focuses principally on the element of special treatment of the
27 Debtors’ insiders in the sale transaction.” *See In re Indus. Valley Refrig. & Air Cond. Supplies, Inc.*,
28 77 B.R. 15, 17 (Bankr. E.D. Pa. 1987). With respect to the buyer’s conduct, this Court should

1 consider whether there is any evidence of “fraud, collusion between the purchaser and other bidders
2 or the [debtor], or an attempt to take grossly unfair advantage of other bidders.” *Abbotts Dairies*,
3 788 F.2d at 147; *see also In re Rock Indus. Mach. Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978); *Wilde*
4 *Horse Enters.*, 136 B.R. at 842; *In re Alpha Indus., Inc.*, 84 B.R. 703, 706 (Bankr. D. Mont. 1988).
5 In short, “[l]ack of good faith is generally determined by fraudulent conduct during the sale
6 proceedings.” *In re Apex Oil Co.*, 92 B.R. 847, 869 (Bankr. E.D. Mo. 1988) (citing *In re Exennium*,
7 *Inc.*, 715 F.2d 1401, 1404-05 (9th Cir. 1983)); *see also In re M Capital Corp.*, 290 B.R. 743 (B.A.P.
8 9th Cir. 2003).

9 In *Filtercorp*, the Ninth Circuit set forth the following test for determining whether a buyer
10 is a good faith purchaser:

11 A good faith buyer “is one who buys ‘in good faith’ and ‘for value.’”
12 . . . [L]ack of good faith is [typically] shown by “fraud, collusion
13 to take grossly unfair advantage of other bidders.”

14 *In re Filtercorp, Inc.*, 163 F.3d 570, 577 (9th Cir. 1998) (citations omitted).

15 The Ninth Circuit made clear in *Filtercorp* that this standard for determining good faith is
16 applicable even when the buyer is an insider. However, neither the Purchaser nor any of its
17 respective representatives or affiliates are “insiders” of the Debtors. *See* Cohen Decl. ¶ 28.
18 Additionally, the APA was negotiated at arm’s length between the Debtors and AHWM, with all
19 parties involved acting in good faith. *See id.* The Debtors and their advisors are not aware of any
20 fraud or collusion between the Purchaser and any of the other bidders, or any attempt to take unfair
21 advantage of other bidders. *Id.* Based on the foregoing, the Debtors submit that the Court should
22 find that AHWM is a good faith purchaser entitled to all of the protections afforded by section
23 363(m), as discussed further below.

24 **G. The Court Should Authorize the Sale of the Assets Free and Clear of All Liens, Claims,**
25 **and Encumbrances Under Section 363(f).**

26 The Debtors have requested that, under section 363(f), the proposed sale be effected “free
27 and clear” of all encumbrances, interests or liens in the Assets. 11 U.S.C. § 363(f); *see also In re*
28 *Grumman Indus., Inc.*, 467 B.R. 694, 702 (S.D.N.Y. 2012) (discussing generally “free and clear”

1 provision in § 363(f)). Section 363(f) “empowers the trustee to sell the debtor’s assets ‘free and
2 clear of any interest in such property of an entity other than the estate.’” *Id.* While “[t]he
3 Bankruptcy Code does not define the phrase ‘interest in . . . property’ for purposes of § 363(f) . . .
4 [the] trend in caselaw ‘. . . [favors] a broader definition [of the phrase] that encompasses other
5 obligations that may flow from ownership of the property.’” *In re Gardens*, 567 B.R. at 825 (citing
6 3 Alan N. Resnick & Henry J. Sommer, *Collier on Bankruptcy* ¶ 363.06[1] (16th ed. 2017)).
7 Therefore, courts interpret the term “any interest” expansively to effectuate liquidations and
8 reorganizations to include not only in rem interests in property, but also other obligations that are
9 “connected to or arise from the assets sold” or that could “potentially travel with the property being
10 sold.” *In re La Paloma Generating, Co.*, No. 16-12700 (CSS), 2017 WL 5197116, *4, 2017 Bankr.
11 LEXIS 3876, at *10 (Bankr. D. Del. Nov. 9, 2017) (quoting *In re Trans World Airlines, Inc.*, 322
12 F.3d 283, 285, 288 (3d Cir. 2001)); *see also Mass. Dep’t of Unemployment Assistance v. OPK*
13 *Biotech, LLC (In re PBBPC, Inc.)*, 484 B.R. 860 (B.A.P. 1st Cir. 2013) (interests in property include
14 monetary obligations arising from the ownership of property, even when those obligations are
15 imposed by statute).

16 The alternative five conditions spelled out in § 363(f) under which a sale free and clear may
17 be authorized are the following:

18 (1) applicable nonbankruptcy law permits sale of such property free
19 and clear of such interest;
20 (2) such entity [the holder of the interest] consents;
21 (3) such interest is a lien and the price at which such property is to be
22 sold is greater than the aggregate value of all liens on such property;
23 (4) such interest is in bona fide dispute; or
24 (5) such entity could be compelled, in a legal or equitable proceeding,
25 to accept a money satisfaction of such interest.
26 11 U.S.C. § 363(f)(1)-(5); *see In re Shary*, 152 B.R. 724, 725 (Bankr. N.D. Ohio 1993) (stating the
27 five conditions in § 363(f) are disjunctive and sale is proper where trustee can prove existence of
28 any of the five conditions). The Debtors submit that one or more of the tests of § 363(f) are satisfied
here, including, but not limited to, the tests below.

1. The Debtors’ Proposed Sale to AHWM Is Permissible Pursuant to Section 363(f)(1).

a. AHWM Has AG Approval to Operate the Hospital

1 The Debtors recognize that they, as a California nonprofit public benefit corporation, must
2 sell the Assets “in accordance with non-bankruptcy law applicable to the transfer of property by a
3 debtor that is such a corporation,” 11 U.S.C. § 363(d)(1), and the Debtors and AHWM will submit
4 the necessary filings for governmental approvals, as set forth in Section 4.2 of the APA.

5 Because the Debtors are nonprofit organizations, and are selling the hospital assets to another
6 nonprofit organization, the transaction contemplated under the APA is subject to review or waiver
7 by the AG pursuant to California Corporations Code § 5914. During discussions with AHWM, the
8 Consultation Parties and the AG, counsel for the AG and counsel for AHWM have told the Debtors
9 that the AG has approved AHWM to operate the Beverly Hospital.

10 b. AHWM Can Operate the Hospital Without Beverly’s Provider
11 Agreements

12 HHS and the DHCS have raised concerns by filing form objections to the Sale that the
13 departments regularly file in similar chapter 11 cases. They argue that there is uncertainty with
14 respect to the proposed sale to AHWM regarding whether Beverly Hospital’s Medicare Provider
15 Agreement and Medi-Cal Provider Agreement (collectively, the “Provider Agreements”) will be
16 transferred to AHWM and whether AHWM has made arrangement to ensure that it can immediately
17 provide and bill for Medicare and Medi-Cal services upon closing of the Sale.¹⁵

18 First, AHWM is not seeking a transfer of Beverly Hospital’s Provider Agreements.¹⁶
19 AHWM will, however, be able to immediately provide services to Medicare and Medi-Cal patients,

21 ¹⁵ The Debtors have previously briefed their position that the Provider Agreements are not executory contracts. *See*
22 *Bidding Procedures Reply*, at 29:23–31:18 [Docket No. 354]. However, such determination is irrelevant at this
23 time because AHWM is not purchasing such Provider Agreements and believes it can bill MediCal and Medicaid
without such Provider Agreements. To the extent AHWM is not correct, it will bear the burden of not being able
to bill for services provided—not the estates.

24 ¹⁶ In the context of this Sale Motion, the arguments that DHCS and HHS have raised regarding the mechanics of
25 transferring the Provider Agreements to a purchaser are moot because the Sale to AHWM does not contemplate
26 any transfer of the Provider Agreements. The concerns that DHCS and HHS have raised regarding a purchaser’s
27 ability to bill for services provided to Medi-Cal and Medicare beneficiaries absent such transfer are also moot
28 because, as detailed herein, AHWM intends to follow the necessary regulatory processes that will allow it to bill
under its own existing provider agreements immediately upon closing of the transaction. DHCS and HHS have
failed, in any of the papers they have filed with this Court and in any of their discussions with the Debtors and/or
AHWM, to adequately articulate why they believe that AHWM is incorrect in its interpretation of the relevant state
and federal regulations. Any potential objections to this Sale Motion by DHCS or HHS on these bases are not
grounded in the Bankruptcy Code, nor any applicable nonbankruptcy law that would otherwise operate to bar

1 and bill for such services under AHWM’s existing Medicare and Medi-Cal Provider Agreements
2 pursuant to applicable federal and California and regulations. Due to the planned provider-based
3 integration of these sites and the geographical proximity of Beverly Hospital to AHWM, AHWM is
4 able *to extend and add* the Beverly Hospital site to AHWM’s existing hospital license as a provider-
5 based location to its main campus without the need to apply for a change in ownership
6 (“CHOW”). AHWM is permitted to maintain and operate multiple sites under its current license
7 particularly when such locations are no more than 15 miles apart. *See* Cal. Health Safety Code §
8 1250.8(b) (providing that hospital facilities may operate under a single consolidated license if
9 certain conditions are met, including if the physical plants are located within 15 miles of each
10 other). It is undisputed, and this Court can take judicial notice that AHWM’s hospital campus and
11 Beverly are just seven miles apart.

12 Moreover, with respect to Medicare, immediately upon closing of the Sale, AHWM will
13 seek a determination that services provided at the Beverly Hospital location have provider-based
14 status pursuant to 42 C.F.R. § 413.65. Under this provision of the Medicare regulations, a hospital
15 that has active enrollment status in the Medicare program may seek a determination that services
16 provided at one of its remote or satellite facilities are provider-based services under the main hospital
17 provider’s Medicare provider agreement. The requirements for receiving such determination are as
18 follows:

19 If the facility is not located on the campus of the potential main
20 provider, the provider seeking a determination would be required to
21 submit an attestation stating that the facility meets the criteria in
22 paragraphs (d) and (e) of this section If the potential main
23 provider is a hospital, the hospital also would be required to attest that
it will fulfill the obligations of hospital outpatient departments and
hospital-based entities described in paragraph (g) of this section. The
provider would be required to supply documentation of the basis for
its attestations to CMS at the time it submits its attestations.

24 Additionally, pursuant to 42 C.F.R. § 413.65(k):

25 If a provider submits a complete attestation of compliance with the
26 requirements for provider-based status . . . ***the provider may bill and
be paid for services of the facility or organization as provider-based
from the date it submits the attestation*** and any required supporting

27 _____
28 consummation of the Sale. Thus, such objections do not prevent this Court from authorizing the Sale under sections
363 and 365 of the Bankruptcy Code.

1 documentation until the date that CMS determines that the facility or
2 organization does not meet the provider-based rules. If CMS
3 subsequently determines that the requirements for provider-based
4 status are not met, CMS will recover the difference between the
5 amount of payments that actually was made since the date the
complete attestation of compliance with provider-based requirements
was submitted and the amount of payments that CMS estimates
should have been made in the absence of compliance with the
provider-based requirements.

6 (emphasis added).

7 Consistent with the processes to add additional provider-based locations to a main campus
8 license, AHWM will submit a change of information to its Medicare administrative contractor under
9 its existing Medicare provider agreement. Immediately upon closing of the transaction, AHWM
10 will also submit a complete attestation of its compliance with the necessary integration requirements
11 for provider-based status for a facility or organization. Upon submission of this attestation, AHWM
12 will be entitled to bill and be paid for services under AHWM's existing Medicare and Medi-Cal
13 provider agreements for services provided at the Beverly Hospital Campus. *See* 42 C.F.R. §
14 413.65(k); 42 C.F.R. § 424.516 (setting forth certain requirements for enrolling and maintaining
15 active enrollment status in the Medicare program); *Anna Jacques Hosp. v. Burwell*, 797 F.3d 115
16 (DC Cir. 2015). The process that AHWM intends to follow, as outlined above, falls squarely within
17 the exceptions to the need for a CHOW. Thus, AHWM will provide provider-based services at the
18 site formerly operated by Beverly Hospital thereby serving such locations without meaningful
19 interruption or disruption in community access to hospital services.¹⁷

20 Similarly, AHWM is certified to participate in the Medi-Cal program and maintains a
21 provider agreement and provider information number under the Medi-Cal program. AHWM will
22 submit a supplemental application on the closing of the sale to identify the additional location
23 formerly operated by Beverly Community Hospital under AHWM's current Medi-Cal provider

24 _____
25 ¹⁷ The APA provision increasing the Purchase Price by "\$123,333 for each day that Purchaser does not close the
26 Transaction due to (i) the existence of an uncured breach of the Agreement by Purchaser or (ii) the failure of the
27 condition precedent set forth in APA Sections 7.4, 7.7, 7.10, or 7.11, beginning the 31st day following the date of
28 execution of this Agreement, up to a maximum amount of \$3,700,000, mitigates risks to the Debtors' estates in the
event of delays prior to closing. After closing, Beverly Hospital will be in the hands of a capable, well-capitalized
hospital operator with the ability to shoulder the financial burden of billing delays. *See* Heinrich Decl. filed
concurrently herewith. Additionally, the Purchase Price will have already been paid, and creditors of the Debtors'
estates will have a tangible pathway to recovery.

1 enrollment. *See* 22 Cal. Code Regs. § 5100.30. Consistent with Medi-Cal enrollment practices,
2 AHWM may rely on its current certification and provisional enrollment status as to those additional
3 location sites to support continued provision of services to Medi-Cal beneficiaries, pending the
4 Medi-Cal program’s further review of its application and determination of whether such sites require
5 survey. *See* 22 Cal. Code Regs. §§ 5100.30; 5100.50. While the HHS and the DHCS may argue
6 that such a process is uncommon or novel, it is permissible under the California Code of
7 Regulations.

8 Simply stated, these objections should not holdup approval of the Sale because the parties
9 can reach an agreement with respect to what is owed to the agencies by setting off amounts owed to
10 the Debtors with QAF or DSH payments. While the DHCS has been unable to provide the Debtors
11 and Consultation Parties with definite numbers to settle the amounts at this time, the Debtors have
12 been told that the Debtors are owed anywhere from \$12 to \$17 million dollars. Additionally,
13 AHWM’s APA contemplates a proposed settlement in an amount up to \$3.2 million to settle
14 amounts owed to CMS on account of the Medicare Provider Agreement, which the Debtors are
15 hopeful will satisfy HHS.

16 **2. The Debtors’ Proposed Sale Is Permissible Pursuant to Section 363(f)(4).**

17 Under section 363(f)(4), a debtor may sell property free and clear of an alleged interest if
18 “such interest is in bona fide dispute.” 11 U.S.C. § 363(f)(4). “The purpose of § 363(f)(4) is to
19 permit property of the estate to be sold free and clear of interests that are disputed by the
20 representative of the estate so that liquidation of the estate’s assets need not be delayed while such
21 disputes are being litigated.” *Moldo v. Clark (In re Clark)*, 266 B.R. 163, 171 (B.A.P. 9th Cir. 2001)
22 (citations omitted). Courts have held that “a bona fide dispute” exists when “there is an objective
23 basis for a factual or a legal dispute as to the validity of the alleged property interest.” *In re Vortex*
24 *Fishing Sys., Inc.*, 277 F.3d 1057, 1064 (9th Cir. 2002); *see also In re Dewey Ranch Hockey, LLC*,
25 406 B.R. 30, 39 (Bankr. D. Ariz. 2009). Under this standard, a court need not determine the probable
26 outcome of the dispute, but merely whether one exists. *In re Vortex Fishing Sys., Inc.*, 277 F.3d at
27 1064.

28

1 The scope of the Master Trustee’s stated interest in the Assets is subject to a bona fide
2 dispute. As set forth in the adversary complaint, captioned the *Off. Comm. of Unsecured Creditors*
3 *of Beverly Cmty. Hosp. Assoc. v. U.S. Bank, Nat. Assoc.*, No. 2:23-ap-01289-SK [Docket No. 1]
4 (Bankr. C.D. Cal. 2023) (the “Adversary Complaint”), the Committee seeks a determination that the
5 Master Trustee does not have a security interest in the Debtors’ Deposit Accounts, as defined in the
6 Adversary Complaint, and a determination that a UCC-1 filing (the “2022 UCC-1 Financing
7 Statement”) by the Master Trustee on December 12, 2022 asserting an “all asset” lien on the
8 Debtors’ assets (i) was not authorized to be filed by the Master Trustee, (ii) is ineffective and of no
9 legal effect, and (iii) does not expand the security interests granted to the Master Trustee pursuant
10 to the terms of the Deed of Trust and Master Indenture. *See* Adv. Compl. ¶ 3.

11 In support of its claims, the Committee asserts that as of the Petition Date the Debtors had
12 ten inactive zero balance bank accounts with U.S. Bank, and to date the Master Trustee has been
13 unable to demonstrate that it was authorized—through deposit account control agreements or
14 otherwise—to debit payments due on the Secured Obligations, as defined in the Deed of Trust, from
15 any of the Debtors’ bank accounts. Without possession or control of the Deposit Accounts, the
16 Master Trustee could not perfect its security interest in those assets. *See* UCC § 9-203(b)(3)(D).
17 Additionally, the Committee asserts that the 2022 UCC-1 Financing Statement, which purports to
18 perfect a grant of security interest in “[a]ll of the assets of the Debtor [Beverly Community Hospital
19 Association]” in favor of the Master Trustee was never authorized and outside the scope of the grant
20 of security provided for in the Deed of Trust, the Master Indenture or any of its supplements or
21 amendments. *See* Adversary Complaint ¶ 31. Indeed, without a security agreement or the like that
22 provides for a grant of security that encompasses the scope of the 2022 UCC-1 Financing Statement,
23 it is of no force and effect. *See* Cal. UCC § 9-203(b)(3); *In re CFLC, Inc.*, 209 B.R. 508 (B.A.P.
24 9th Cir. 1997) (under the California UCC, there must be binding security agreement in order to make
25 security interest enforceable), *aff’d*, 166 F.3d 1012 (9th Cir. 1999).

26 A this time, the Debtors take no position on the merits of the Committee’s claims asserted
27 against the Master Trustee and acknowledge that the Adversary Complaint does not reach the
28 entirety of the Master Trustee’s stated interest in the Assets. However, if the Committee is

1 successful, their prosecution of the claims may ultimately terminate the Master Trustee’s interest in
2 the Assets to the extent such interest is implicated by the Adversary Complaint. The portions of the
3 Master Trustee’s stated interest in the Assets that are challenged by the Adversary Complaint are
4 therefore “in bona fide dispute” within the meaning of section 363(f)(4). Accordingly, the Court
5 should find that, to the extent they are included as Purchased Assets in the APA, the Deposit
6 Accounts and the assets within the scope of the 2022 UCC-1 Financing Statement may be sold free
7 and clear pursuant to section 363(f)(4).

8 **3. The Debtors’ Proposed Sale Is Permissible Pursuant to Section 363(f)(5)**

9 Under section 363(f)(5), a debtor is authorized to sell property free and clear of a secured
10 creditor’s interest in the property, without such secured creditor’s consent, if such secured creditor
11 “could be compelled, in a legal or equitable proceeding, to accept a monetary satisfaction of such
12 interest.” 11 U.S.C. § 363(f)(5). Specifically, section 363(f)(5) applies where the holder of a
13 secured interest could be compelled to accept a monetary satisfaction “for less than full payment of
14 the debt related to, or secured by, that interest.” *Clear Channel Outdoor, Inc. v. Knupfer (In re PW,*
15 *LLC)*, 391 B.R. 25, 42-43 (B.A.P. 9th Cir. 2008) (citing *In re Terrace Chalet Apartments*, 159 B.R.
16 821, 829 (Bankr. N.D. Ill. 1993) (“By its express terms, Section 363(f)(5) permits lien
17 extinguishment if the [debtor] can demonstrate the existence of another legal mechanism by which
18 a lien could be extinguished without full satisfaction of the secured debt.”); *see also In re Hassen*
19 *Imps. P’ship*, 502 B.R. 851, 859-60 (C.D. Cal. 2013).

20 “Courts generally interpret ‘can be compelled to accept a money satisfaction’ loosely.” *Dam*
21 *v. Waldron*, 2021 WL 6137346, at *4 (E.D. Wash. 2021) (slip op.) (citing *In re MMH Auto Grp.,*
22 *LLC*, 385 B.R. 347, 371 (Bankr. S.D. Fla. 2008) (“The phrase ‘could be compelled’ has been
23 interpreted to mean that, on a hypothetical basis, a creditor could be required to accept money in
24 satisfaction of its interest, not that the condition must actually have occurred.”)). A debtor carries
25 its burden under section 363(f)(5) if it is able to put forth a hypothetical legal or equitable proceeding
26 “that *could* be used to compel acceptance of less than full monetary satisfaction.” *Clear Channel,*
27 391 B.R. at 43 (emphasis added); *see also In re Jolan*, 403 B.R. 866, 869-70 (Bankr. W.D. Wash.
28 2009) (holding that the mere existence of a state law proceeding, whether initiated by the debtor or

1 another party, through which a lienholder could be compelled to accept a money satisfaction for an
2 amount less than what is owed to the lienholder qualifies as a “legal or equitable proceeding” for
3 purposes of section 363(f)(5)). Thus, a debtor need only show plausibility, not likelihood.

4 Courts in this and other jurisdictions have found that a variety of proceedings under
5 applicable non-bankruptcy law qualify as “legal or equitable proceeding[s]” that satisfy the standard
6 set forth in section 363(f)(5). Examples include, but are not limited to, receivership and foreclosure
7 sales under applicable state law. *See, e.g., In re Jolan*, 403 B.R. 866, 869-70 (Bankr. W.D. Wash.
8 2009) (finding that section 363(f)(5) can be satisfied where state receivership law authorizes a
9 receiver to sell property “free and clear of even the interests of first lienholders”); *In re Hassen Imps.*
10 *P’ship*, 502 B.R. at 859-60 (acknowledging that, under California law, a hypothetical foreclosure
11 sale can satisfy section 363(f)(5) where the interest in question is a lien, though not where the interest
12 is an equitable servitude); *see also In re Boston Generating, LLC*, 440 B.R. 302, 333 (Bankr.
13 S.D.N.Y. 2010) (“[T]he existence of judicial and nonjudicial foreclosure and enforcement actions
14 under state law can satisfy section 363(f)(5).”) (citing *Jolan*, 403 B.R. at 870). Courts have further
15 recognized that other hypothetical legal or equitable proceedings can satisfy the requirements of
16 section 363(f)(5), such as the liquidation of a probate estate, a personal property tax sale, and a
17 federal tax lien sale. *See, e.g., Jolan*, 403 B.R. 870.

18 Here, the clearest example of a legal or equitable proceeding in which the Debtors’ secured
19 creditors could be compelled to accept a monetary satisfaction of their liens is a receivership sale
20 under California state law. In California, a court has the inherent power to appoint a receiver on its
21 own motion in appropriate cases. *McCarthy v. Poulson*, 173 Cal. App. 3d 1212, 1219 (Ct. App.
22 1985). Moreover, section 564(a) of the California Code of Civil Procedure authorizes the
23 appointment of a receiver “by the court in which an action or proceeding is pending in any case in
24 which the court is empowered by law to appoint a receiver.” Cal. Code Civ. P. § 564(a). Section
25 564(b) complements section 564(a) by providing a non-exhaustive list of both specific and general
26 circumstances in which a court is empowered to appoint a receiver, including:

27 (2) In an action by a secured lender for the foreclosure of a deed of
28 trust or mortgage and sale of property upon which there is a lien under
a deed of trust or mortgage, where it appears that the property is in

1 danger of being lost, removed, or materially injured, or that the
2 condition of the deed of trust or mortgage has not been performed,
and that the property is probably insufficient to discharge the deed of
trust or mortgage debt.

3 . . .
4 (6) Where a corporation is insolvent, or in imminent danger of
insolvency, or has forfeited its corporate rights.

5 . . .
6 (9) In all other cases where necessary to preserve the property rights
of any party

7 Cal. Code Civ. P. § 564(b).

8 Most notably, because the Assets are a California hospital, section 564(b)(10) provides that
9 a receiver may be appointed by the court “[a]t the request of [HCAI], or the Attorney General,
10 pursuant to Section 129173 of the Health and Safety Code.” Cal. Code Civ. P. § 564(b)(10). Section
11 129173(a)(4) of the California Health and Safety Code, in turn, provides the following:

12 (a) . . . [U]pon making a determination that the financial status of a
13 borrower may jeopardize a borrower’s ability to fulfill its obligations
14 under any insured loan transaction so as to . . . *jeopardize the
borrower’s ability to continue to provide needed health care services
in its community* . . . the department may assume or direct managerial
or financial control of the borrower in any or all of the following
ways:

15 . . .
16 (4) The department may institute any action or proceeding, or
17 the department may request the Attorney General to institute
any action or proceeding against any borrower, to obtain
injunctive or other equitable relief, ***including the
appointment of a receiver for the borrower or the borrower’s
assets***, in the superior court in and for the county in which the
18 assets or a substantial portion of the assets are located. . . . In
19 cooperation with the Attorney General, the department shall
develop and maintain a list of receivers who have
20 demonstrated experience both in the health care field and as a
receiver.

21 Cal. Health & Safety Code § 129173(a)(4) (emphasis added).

22 Regardless of the manner by which Beverly Hospital could hypothetically be placed into a
23 receivership, California case law holds that, if Beverly Hospital were to be placed into a
24 receivership, the receiver would at least potentially be able to sell Beverly Hospital free and clear
25 of all liens, absent consent of lienholders, even without full recovery for lienholders. *See, e.g.,*
26 *County of Sonoma v. Quail*, 56 Cal. App. 5th 657 (Ct. App. 2020) (holding that Cal. Civ. Proc. Code
27 § 568 authorized a receiver, subject to court order, to sell real property free and clear of all liens,
28

1 over the senior secured lender’s objection, for less than the value of the senior secured lender’s
2 claim).

3 In addition, courts frequently hold that the Bankruptcy Code itself can be the source of a
4 predicate proceeding that satisfies the requirements of 363(f)(5). For example, a majority of courts
5 hold that a chapter 11 cramdown is a typical “legal proceeding” by which an entity may be
6 compelled to accept less than full money satisfaction and which will permit the sale of creditor’s
7 collateral free and clear of interest under § 363(f)(5). *See, e.g., In re Gulf States Steel, Inc. of Ala.*,
8 285 B.R. 497, 508 (Bankr. N.D. Ala. 2002) (holding that liens or interests identified in a sale motion
9 could be compelled to accept a money satisfaction in a cramdown plan of reorganization in a chapter
10 11 case); *In re Terrace Chalet Apartments*, 159 B.R. 821, 829 (Bankr. N.D. Ill. 1993) (same); *In re*
11 *Perroncello*, 170 B.R. 189 (Bankr. D. Mass. 1994) (same); *see also* Collier, ¶ 363.06[6][a]. Courts
12 have also approved asset sales under section 363(f)(5) citing section 724(b) of the Bankruptcy Code
13 (allowing proceeds that would otherwise be encumbered by a tax lien to be paid first to other priority
14 expenses) as a proceeding where the secured lender could be compelled to accept a money
15 satisfaction for less than its claim. *See In re Grand Slam U.S.A.*, 178 B.R. 460, 464 (E.D. Mich.
16 1995) (noting that section 724(b)(2), just like section 1129(b)(2)(A), is legal proceeding forcing
17 lienholder to accept money satisfaction for less than value of its claim). These courts have used the
18 section 724(b) justification because, in the “appropriate cases,” this section could be used to compel
19 secured creditors to accept payment in satisfaction of their liens. *See id.*; *see also Matter of Stroud*
20 *Wholesale, Inc.*, 47 B.R. 999, 1003 (E.D.N.C. 1985) (finding that section 363(f)(5) applies).

21 Moreover, any reliance on *Clear Channel* for the proposition that the Debtors are not
22 permitted to sell their assets under 365(f) absent consent of secured creditors is misplaced. First,
23 *Clear Channel* does not hold that consent of a secured creditor is required where proceeds from a
24 proposed sale may be insufficient to satisfy the full amount of a lien. Instead, and consistent with
25 the text of the Bankruptcy Code, *Clear Channel* provides that a sale may be authorized over a
26 secured creditor’s objection under 363(f)(5) where such secured creditor “could be compelled to
27 take less than the value of the claim secured by the interest” in a legal or equitable proceeding. *In*
28 *re PW, LLC*, 391 B.R. at 41. Additionally, while the BAP in *Clear Channel* concluded that 363(f)(5)

1 did not authorize a sale free and clear under the facts of that particular case, this was due in large
2 part to the chapter 11 trustee’s failure to suggest “any such proceeding under nonbankruptcy law”
3 that could serve to satisfy 363(f)(5). *Id.* at 46. Importantly, the BAP “exercised its prerogative to
4 limit its ruling to the arguments presented by the parties.” *In re Jolan*, 403 B.R. at 869 (“In fairness,
5 the appellees [in *Clear Channel*] did not even argue that there were any qualifying legal or equitable
6 proceedings beyond cramdown under §1129.”). Unlike *Clear Channel*, here, the Debtors have
7 presented this Court with several examples of legal or equitable proceedings which could be, and
8 have been, drawn on to authorize a sale free and clear under section 363(f)(5).

9 Whether by receivership sale, foreclosure, liquidation in probate, federal or state tax sale, or
10 other applicable proceeding under non-bankruptcy law and/or provided for under the Bankruptcy
11 Code, there are various hypothetical scenarios in the instant case that support the concept that the
12 Debtors’ secured creditors could be compelled, in a legal or equitable proceeding, to accept a
13 monetary satisfaction of their interests. Thus, pursuant to section 363(f)(5) of the Bankruptcy Code,
14 the Debtors do not need the consent of their secured creditors to sell their assets.

15 **H. The Court Should Authorize the Debtors to Assume and Assign to the Purchaser the**
16 **Assumed Contracts and Leases That AHWM Designates**

17 Barring exceptions not herein relevant, sections 365(a) and 1107(a) of the Bankruptcy Code
18 authorize a debtor in possession, “subject to the Court’s approval, . . . [to] assume or reject any
19 executory contract or unexpired lease of the debtor.” A debtor in possession may assume or reject
20 executory contracts for the benefit of the estate. *See, e.g., In re Klein Sleep Prods, Inc.*, 78 F.3d 18,
21 25 (2d. Cir. 1996); *In re Central Fla. Metal Fabrication, Inc.*, 190 B.R. 119, 124 (Bankr. N.D. Fla.
22 1995); *In re Gucci*, 193 B.R. 411, 415 (S.D.N.Y. 1996). In reviewing a debtor in possession’s
23 decision to assume or reject an executory contract, a bankruptcy court should apply the “business
24 judgment test” to determine whether it would be beneficial to the estate to assume it. *In re Cont’l*
25 *Country Club, Inc.*, 114 B.R. 763, 767 (Bankr. M.D. Fla. 1990); *see also In re Gucci*, 193 B.R. at
26 415. The business judgment standard requires that the court follow the business judgment of the
27 debtor unless that judgment is the product of bad faith, whim, or caprice. *In re Prime Motors Inns*,

28

1 124 B.R. 378, 381 (Bankr. S.D. Fla. 1991) (citing *Lubrizol Enterprises v. Richmond Metal Finishers*,
2 756 F.2d 1043, 1047 (4th Cir. 1985), cert. denied, 475 U.S. 1057 (1986)).

3 Pursuant to section 365(f)(2), a debtor may assign its executory contracts and unexpired
4 leases, provided the debtor first assumes such executory contracts and unexpired leases in
5 accordance with section 365(b)(1), and provides adequate assurance of future performance by the
6 assignee. Pursuant to section 365(b)(1), assumption of executory contracts and unexpired leases
7 requires a debtor to: (a) cure any existing defaults under such agreements; (b) compensate all non-
8 debtor parties to such agreements for any actual pecuniary loss resulting from the defaults; and (c)
9 provide adequate assurance of future performance under the contract or lease. 11 U.S.C. §
10 365(b)(1); *see also In re Bowman*, 194 B.R. 227, 230 (Bankr. D. Ariz. 1995); *In re AEG Acquisition*
11 *Corp.*, 127 B.R. 34, 44 (Bankr. C.D. Cal. 1991), *aff'd* 161 B.R. 50 (B.A.P. 9th Cir. 1993). Pursuant
12 to section 365(f)(1), a debtor may assign an executory contract or unexpired lease pursuant to section
13 365(f)(2) notwithstanding any provision in such executory contract or unexpired lease that prohibits,
14 restricts or conditions the assignment of such executory contract or unexpired lease.

15 The assumption and assignment of executory contracts furthers the goals of chapter 11 of
16 promoting reorganization by balancing the debtor's interest in maximizing the value of its estate
17 against the contracting party's interest in receiving the benefit of its bargain and being protected
18 against default by the debtor after assumption has occurred. *In re Embers 86th Street, Inc.*, 184 B.R.
19 892, 896 (Bankr. S.D.N.Y. 1995).

20 The Debtors submit that the assumption and assignment of the Assumed Contracts should
21 be approved as an exercise of their business judgment. First, the Assumed Contracts are important
22 to the operation of the Debtors' hospital and related healthcare businesses and needed to manage
23 the day-to-day operations. Second, assumption and assignment of the Assumed Contracts is integral
24 to, and inextricably integrated in, the Sale. Finally, the Assumed Contracts are being assumed and
25 assigned after following a clear noticing process conducted by the Debtors.

26 Specifically, the contract counterparties have been provided notice of proposed cure costs.
27 A cure notice listing all of the then-known executory contracts and unexpired leases related to
28 Beverly Hospital and Montebello Health (the "Cure Notice"), along with the Debtors' belief as to

1 outstanding prepetition cure amounts owing by the Debtors to the counterparties of those executory
2 contracts and unexpired leases, was filed on June 9, 2023 [Docket No. 412] and served on all such
3 counterparties. Counterparties had sufficient opportunity to file an objection to the proposed cure
4 costs, and the Debtors have worked collaboratively to reconcile discrepancies. As a result of those
5 negotiations, an amended Cure Notice (listing additional executory contracts and leases and revised
6 prepetition cure amounts) was later filed on June 22, 2023 [Docket No. 450] and served on all
7 counterparties to the listed executory contracts and unexpired leases.

8 AHWB has identified for the Debtors which of the executory contracts and unexpired leases
9 that AHWB desires to have assumed and assigned to it (the Assumed Contracts). Pursuant to the
10 Bidding Procedures Order, the Debtors will file and serve concurrent with the Motion the *Notice of*
11 *Executory Contracts and Unexpired Leases Designated by White Memorial Medical Center d/b/a/*
12 *Adventist Health White Memorial for Assumption and Assignment* to each counterparty of the
13 Assumed Contracts (the Assumption Notice).

14 The Debtors are now seeking the Court's authority to assume and assign to AHWB, all of
15 the Assumed Contracts pursuant to section 365(b)(1)(A). To be clear, the cure amounts in the
16 Assumption Notice do not include post-petition amounts, if any, that have come due and are owing
17 *or* may come due and owing prior to the assumption and assignment of any Assumed Contract; the
18 Debtors continue to pay post-petition obligations as they come due in the ordinary course of business
19 and acknowledge that section 365(b)(1)(A) requires that they cure post-petition monetary defaults
20 under an Assumed Contract, if any, prior to assumption of that Assumed Contract.

21 As set forth in the APA, AHWB will pay cure costs related to the Assumed Contracts upon
22 closing of the APA. *See* APA section 1.1(c)(ii).¹⁸ The APA also allows AHWB the ability to
23 amend its list of Assumed Contracts at any time up to the entry of the Sale Order. *See* APA section
24 1.1(a)(x).

25 The Debtors further submit that the requirement of section 365(f)(2)(B) of the Bankruptcy
26 Code—adequate assurance of future performance—is satisfied given the facts. AHWB provided
27

28 ¹⁸ NTD: If an IMA ends up as part of the deal, will add back clarifying language

1 or will provide adequate assurance of future performance of and under the Assumed Contracts as
2 mentioned above.

3 As required by the Bid Procedures, the Debtors, together with their advisors, evaluated the
4 financial wherewithal of AHWM before designating such party's bid a Qualified Bidder (e.g.,
5 financial credibility, willingness, and ability of the interested party to perform under the Assumed
6 Contracts). Additionally, AHWM demonstrated financial wherewithal, willingness, and ability to
7 perform under the Assumed Contracts.

8 Therefore, the Debtors submit that the Successful Purchaser satisfies the statutory
9 requirements of section 365(f)(2)(B) of the Bankruptcy Code.

10 **I. The Successful Bidder Should Be Entitled to the Protections of Section 363(m) of the**
11 **Bankruptcy Code.**

12 Section 363(m) of the Bankruptcy Code is designed to protect the sale of a debtor's assets
13 to a good faith purchaser. Specifically, section 363(m) provides that:

14 The reversal or modification on appeal of an authorization under subsection
15 (b) or (c) of this section of a sale or lease of property does not affect the
16 validity of a sale or lease under such authorization to an entity that
17 purchased or leased such property in good faith, whether or not such entity
knew of the pendency of the appeal, unless such authorization and such sale
. . . were stayed pending appeal.

18 11 U.S.C. § 363(m); *see also Paulman v. Gateway Venture Partners III, LP (In re Filtercorp,*
19 *Inc.)*, 163 F.3d 570, 576 (9th Cir. 1998) (“When a sale of assets is made to a good faith purchaser,
20 it may not be modified or set aside unless the sale was stayed pending appeal.”); *Onouli–Kona Land*
21 *Co. v. Estate of Richards (In re Onouli–Kona Land Co.)*, 846 F.2d 1170, 1172 (9th Cir.1988)
22 (“Finality in bankruptcy has become the dominant rationale for our decisions; the trend is towards
23 an absolute rule that requires appellants to obtain a stay before appealing a sale of assets.”).

24 While the Bankruptcy Code does not define “good faith,” courts in the Ninth Circuit
25 “generally have followed traditional equitable principles inholding that a good faith purchaser is one
26 who buys ‘in good faith’ and ‘for value.’” *In re Ewell*, 958 F.2d 276, 281 (9th Cir. 1992) (citations
27 omitted); *see also T.C. Invs. v. Joseph (In re M Cap. Corp.)*, 290 B.R. 743, 746 (9th Cir. B.A.P.
28 2003) (finding a “good faith purchaser” to be one who buys “in good faith” and “for value”).

1 “Absence of good faith is ‘typically shown by fraud, collusion between the purchaser and other
2 bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.’” *In re*
3 *Berkeley Del. Ct., LLC*, 834 F.3d 1036, 1041 (9th Cir. 2016) (citing *In re Filtercorp, Inc.*, 163 F.3d
4 at 577. The burden of proof to show “good faith” is on the proponent of good faith. *In re M Cap.*
5 *Corp.*, 290 B.R. at 747.

6 As set forth in more detail in the Declarations filed in support hereof, above, the Debtors’
7 proposed Sale to AHWM was negotiated without collusion, in good faith, and through extensive
8 arm’s-length negotiations. To the best of the Debtors’ knowledge, information, and belief, no party
9 has engaged in any conduct that would cause or permit the APA or real estate bid to be set aside
10 under section 363(m) of the Bankruptcy Code. In addition, AHWM is not an “insider” or “affiliate”
11 of any of the Debtors, as those terms are defined in section 101 of the Bankruptcy Code. Cohen
12 Decl. ¶ 28. Accordingly, the Debtors request that the Sale Order include a finding that the
13 Successful Bidder is a “good faith” buyer within the meaning of section 363(m) of the Bankruptcy
14 Code.

15 The Debtors and AHWM has entered into the APA, without collusion, in good faith, and
16 through extensive arm’s-length negotiations.

17 **J. Other Alleged Lienholders**

18 Brascia Builders has filed notices under section 546(b) to perfect mechanics’ liens on certain
19 of the Beverly Hospital Assets in the estimated amount of \$500,000. [Docket Nos. 468, 470].

20 Additionally, Montebello Land and Water Company has also separately filed a notice under
21 section 546(b) to perfect a lien on the Beverly Hospital and Montebello Assets in the amount of
22 \$43,000 [Docket No. 513]. The Debtors have been negotiating with both parties to seek consensual
23 resolutions of their respective issues, and intend to resolve them prior to the Sale Hearing. If the
24 Debtors do not reach an agreement which settle the claims any valid liens these parties have will
25 simply attach to the proceeds of the Sale in accordance to their applicable priority.

26 **K. The Court Should Waive the 14-Day Waiting Periods Set Forth in Bankruptcy Rules**
27 **6004(h) and 6006(d)**

28

1 Bankruptcy Rule 6004(h) provides, among other things, that “[a]n order authorizing the use,
2 sale or lease of property . . . is stayed until the expiration of 14 days after entry of the order, unless
3 the Court orders otherwise.” Fed. R. Bankr. P. 6004(h). Bankruptcy Rule 6006(d) similarly
4 provides that “[a]n order authorizing the trustee to assign an executory contract or unexpired lease
5 under § 365(f) is stayed until the expiration of 14 days after the entry of the order, unless the court
6 orders otherwise.” Fed. R. Bankr. P. 6006(d).

7 For all of the reasons set forth above, the Debtors believe that selling the Assets to AHWM
8 in accordance with the timeline provided in the APA is in the best interests of the Debtors’ estates,
9 their creditors, and other stakeholders in Beverly Hospital. In order to facilitate the most expeditious
10 Closing possible, the Debtors request that the Sale Order be effective immediately upon entry by
11 providing that the fourteen-day waiting periods of Bankruptcy Rule 6004(h) and 6006(d) are
12 waived.

13 **V.**

14 **WAIVER OF BANKRUPTCY RULE 6004(A) AND 6004(H)**

15 To implement the foregoing successfully, the Debtors seek a waiver of the notice
16 requirements under Bankruptcy Rule 6004(a) and the 14-day stay of an order authorizing the use,
17 sale, or lease of property under Bankruptcy Rule 6004(h).

18 **VI.**

19 **CONCLUSION**

20 WHEREFORE, the Debtors respectfully request that the Court grant this Motion and enter
21 the Order in the form attached hereto as **Exhibit A**, granting the relief requested herein and granting
22 such other relief as is just and proper.

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EXHIBIT A

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
JUSTIN R. BERNBROCK (admitted *pro hac vice*)

2 CATHERINE JUN (admitted *pro hac vice*)
3 ROBERT B. McLELLARN (admitted *pro hac vice*)

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12 Counsel to Debtors and Debtors in Possession

13 UNITED STATES BANKRUPTCY COURT
14 CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

15 In re:

Case No.: 2:23-bk-12359-SK

16 BEVERLY COMMUNITY HOSPITAL
17 ASSOCIATION, dba BEVERLY HOSPITAL
18 (A NONPROFIT PUBLIC BENEFIT
CORPORATION), *et al.*¹

Jointly administered with:

Case No: 2:23-bk-12360-SK

Case No: 2:23-bk-12361-SK

19 Debtors,

Hon. Sandra R. Klein

Chapter 11 Case

- 21 Affects all Debtors
- 22 Affects Beverly Community
Hospital Association
- 23 Affects Montebello Community Health
24 Services, Inc.
- 25 Affects Beverly Hospital Foundation

ORDER (A) AUTHORIZING THE SALE OF DEBTORS' ASSETS TO PURCHASER FREE AND CLEAR OF LIENS, CLAIMS INTERESTS, AND OTHER INTERESTS; (B) APPROVING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

26
27 ¹ The Debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification
28 number, are: Beverly Community Hospital Association d/b/a Beverly Hospital (6005), Montebello Community
Health Services, Inc. (3550), and Beverly Hospital Foundation (9685). The mailing address for the Debtors is 309
W. Beverly Blvd., Montebello, California 90640.

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**RELATED THERETO; AND (C)
GRANTING RELATED RELIEF**

Date: August 17, 2023
Time: 9:00 a.m.
Judge: Sandra R. Klein
Place: Zoom.Gov – or - Courtroom 1575
255 E. Temple St.
Los Angeles, CA 90012

This matter came before the Court on the *Debtors’ Notice Of Motion And Motion For Entry Of An Order (I) Authorizing The Sale Of Substantially All Of The Debtors’ Assets Free And Clear Of All Liens, Claims, And Encumbrances; To White Memorial Medical Center D/B/A Adventist Health White Memorial Free And Clear; (II) Authorizing The Assumption And Assignment Of Certain Executory Contracts And Unexpired Leases; And (III) Granting Related Relief; Declaration Of Jason A. Cohen In Support Thereof* (the “Sale Motion”)² on August 17, 2023 at 9:00 a.m. of the above-captioned debtors and debtors in possession (the “Debtors”) for the entry of an Order, as applicable, pursuant to sections 105(a), 363, and 365 of Title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 6004, 6006, 9007, and 9014 of the Federal Rules of Bankruptcy Procedure (as amended from time to time, the “Bankruptcy Rules”), and Rule 6004-1 and 9013-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California (“LBR”) for the entry of an order (a) approving the sale of Debtors’ assets to the White Memorial Medical Center d/b/a Adventist Health White Memorial or its designee (“AHWM” or the “Purchaser”) free and clear of lines, claims, Interests, and other interests; (b) approving the assumption and assignment of executory contracts; and (c) granting related relief; the Court having found that (i) the Court has jurisdiction to consider the Sale Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; (ii) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b); and (iv) notice of the Sale Motion was sufficient under the circumstances and properly given, and it

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Bidding Procedures Motion.

1 appearing that no other or further notice need be provided; and a hearing on the Debtors' proposed
2 bid and sale procedures as detailed in the *Debtors' Motion Notice of Motion and Motion for the*
3 *Entry of an Order (I) Approving Asset Purchase Agreement for Stalking Horse Purchaser and for*
4 *Prospective Overbidders, (II) Approving Bid Protections, (III) Approving Bidding Procedures, (IV)*
5 *Scheduling Certain Dates Thereto, (V) Approving Form of Notice and (VI) Scheduling Court*
6 *Hearing to Approve Sale Free and Clear to the Purchaser* (the "Bidding Procedures Motion") [Dkt.
7 No. 308] having been held and granted pursuant to the *Order Approving Debtors' Motion for the*
8 *Entry of an Order (I) Approving Asset Purchase Agreement for Stalking Horse Purchaser and for*
9 *Prospective Overbidders, (II) Approving Bid Protections, (III) Approving Bidding Procedures, (IV)*
10 *Scheduling Certain Dates Thereto, (V) Approving Form of Notice, and (VI) Scheduling Court*
11 *Hearing to Approve Sale Free and Clear to the Purchaser* [Dkt. No. 378] (the "Bidding Procedures
12 Order"); the Court having reviewed and considered (i) the Sale Motion, (ii) the APA, (iii) the
13 Bidding Procedures, (iv) the Bidding Procedures Order, (v) the record of the Auction, (vi) the
14 *Declaration of Kerry Heinrich in Support of the Sale Motion* [Docket No. [●]] and (vii) the
15 arguments of counsel made, and the evidence proffered or adduced, at the Sale Hearing; and after
16 due deliberation the Court having determined that the relief requested in the Sale Motion is in the
17 best interests of the Debtors, their estates, and their creditors; and good and sufficient cause having
18 been shown;

19 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**³

20 A. Jurisdiction and Venue. This Court has jurisdiction to hear and determine the Motion
21 pursuant to 28 U.S.C. §§ 157 and 1334. This matter relates to the administration of the Debtors'
22 bankruptcy estates and is accordingly a core proceeding pursuant to 28 U.S.C. § 157(b) (2) (A), (M),
23 (N) and (O). Venue of these cases is proper in this District and in this Court pursuant to 28 U.S.C.
24 §§ 1408 and 1409.

25
26
27 ³ The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant
28 to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that
any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any
of the following conclusions of law constitute findings of fact, they are adopted as such.

1 B. Final Order. This Order constitutes a final order within the meaning of 28 U.S.C. §
2 158(a).

3 C. Statutory Predicates. The statutory and legal predicates for the relief requested in the
4 Sale Motion and provided for herein are Sections 105(a), 363, and 365 of Title 11 of the Bankruptcy
5 Code, Bankruptcy Rules 2002, 6004, 6006, 9006, 9007, and 9014, and Local Bankruptcy Rules
6 (“Local Rules”) 6004-1, and 9013-1.

7 D. Notice. The Debtors have provided good and sufficient notice with respect to the
8 following: (i) the Sale Motion and the relief sought therein, including the entry of this Order and the
9 transfer and purchase of the Purchased Assets; (ii) the Auction and the Sale Hearing (*see Debtors’*
10 *Notice of Sale Hearing*, Dkt. No. 376); (iii) the selection of the Purchaser; (iv) the assumption and
11 assignment of executory contracts and unexpired leases and proposed cure amounts owing under
12 such executory contracts and unexpired leases (“Cure Amounts”). No further notice of the Sale
13 Motion, the relief requested therein or the Sale Hearing is required. The Notice of Filing Final
14 Bidding Procedures filed on June 7, 2023 [Dkt. No. 402] (the “Bidding Procedures”), the *Debtors’*
15 *Notice of Sale Hearing*, the Bidding Procedures, and Cure Notice, the Auction, and the hearing to
16 approve the sale of the Purchased Assets were in accordance with the Bid Procedures Order, and
17 were appropriate and reasonable and calculated to provide all interested parties with timely and
18 proper notice and no other or further notice is required. Such notice was proper under the
19 Bankruptcy Code, Bankruptcy Rules and Local Rules. A reasonable opportunity to object and to
20 be heard regarding the relief provided herein has been afforded to all parties-in-interest.

21 E. Sound Business Purpose. The Debtors have demonstrated good, sufficient and sound
22 business purposes and justifications for approval of the Sale Motion and the approval of and entry
23 into the Sale Transaction, the APA and any ancillary agreements thereto (i) are a result of due
24 deliberation by the Debtors and constitute a sound and reasonable exercise of the Debtors’ business
25 judgment consistent with their fiduciary duties; (ii) provide value and are beneficial to the Debtors’
26 estates, and are in the best interests of the Debtors, their estates and their stakeholders; and (iii) are
27 reasonable and appropriate under the circumstances. Business justifications for entry into the Sale
28 Transaction and the Asset Purchase Agreement include, without limitation, the following: (i) the

1 Asset Purchase Agreement constitutes the highest or best offer received for the Purchased Assets;
2 (ii) the Asset Purchase Agreement presents the best opportunity to maximize the value of the
3 Purchased Assets on a going-concern basis and to avoid decline and devaluation as a result of delay
4 or liquidation; (iii) failure to consummate the Sale Transaction expeditiously, as provided under the
5 Asset Purchase Agreement, could materially diminish creditor recoveries; and (iv) the immediate
6 consummation of the Sale Transaction is necessary to maximize the value of the Debtors' estates.

7 F. Highest and Best Bid. The APA and the bid of the Purchaser constitutes the highest
8 or otherwise best offer for the Purchased Assets, and will provide a greater recovery for the Debtors'
9 estates than would be provided by any other available alternative considering all of the facts and
10 circumstances. Importantly, the bid of the Purchaser enables Beverly Hospital to continue to
11 provide critical care services to Montebello and the surrounding communities. The Debtors'
12 determination that the Purchaser made the highest or otherwise best offer for the Purchased Assets
13 constitutes a reasonable, valid and sound exercise of the Debtors' business judgment, and is in the
14 best interests of the Debtors and their estates. The consideration to be paid by the Purchaser for the
15 Purchased Assets is fair and reasonable, is the highest or otherwise best offer therefor, and
16 constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code, the
17 Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act, and the laws of the
18 United States. The Back-Up Bidder made the second highest and best offer for the Purchased
19 Assets.⁴

20 G. Arm's Length Transaction. The sale of the Purchased Assets to the Purchaser (the
21 "Transaction") and the consummation thereof were negotiated and entered into by the Debtors and
22 the Purchaser without collusion, in good faith and through an arms' length bargaining process. None
23 of the Debtors, the Purchaser, or their respective representatives engaged in any conduct that would
24 cause or permit the Transaction to be avoided under section 363(n) of the Bankruptcy Code, or have
25 acted in any improper or collusive manner. The terms and conditions of the Transaction, including,
26 without limitation, the consideration provided in respect thereof, are fair and reasonable, and are not

27 _____
28 ⁴ This Order may be amended by subsequent order if the Back-Up Bidder becomes the ultimate Purchaser pursuant to the Bid Procedures regarding Back-Up Bidders.

1 avoidable and shall not be avoided, and no damages may be assessed against the Purchaser or any
2 other party, as set forth in section 363(n) of the Bankruptcy Code.

3 H. Good Faith Purchaser. The Purchaser has proceeded in good faith and without
4 collusion in all respects in connection with the sale process, and is therefore entitled to all of the
5 benefits and protections provided to a good-faith purchaser under section 363(m) of the Bankruptcy
6 Code. Accordingly, the reversal or modification on appeal of the authorization provided herein to
7 consummate the Transaction shall not affect the validity of the Transaction or the Purchaser's status
8 as a "good faith" purchaser.

9 I. Insider Status. The Purchaser is not an "insider" of any Debtor, as that term is
10 defined in section 101(31) of the Bankruptcy Code. No common identity of directors or controlling
11 stockholders (or the equivalent thereof) exists between the Purchaser and any of the Debtors.

12 J. No Successor Liability. The Purchaser is not a successor to the Debtors or their
13 bankruptcy estates nor shall be deemed to be a mere continuation of any of the Debtors' operations
14 by any reason or theory of law or equity, and the Purchaser shall not be subject to successor liability
15 for any assets sold or claims that arose or could have been asserted prior to the closing of the
16 Transaction (the "Closing").

17 K. Authority to Consummate the Sale of the Purchased Assets. The Debtors have full
18 corporate power and authority to execute the APA (including all ancillary documents executed in
19 connection therewith), and the sale of the Purchased Assets have been duly and validly authorized
20 by all necessary corporate authority by the Debtors to consummate the sale of the Purchased Assets
21 to the Purchaser. No consents or approvals, other than as may be expressly provided for in the APA,
22 are required by the Debtors to consummate such sale of the Purchased Assets.

23 L. Justification for Relief. Good and sufficient reasons for approval of the Transaction
24 have been articulated to the Bankruptcy Court in the Sale Motion and at the Sale Hearing, and the
25 relief requested in the Sale Motion and set forth in this Order is in the best interests of the Debtors
26 and their estates. The Debtors have demonstrated through the Sale Motion and other evidence
27 submitted by the Debtors both (i) good, sufficient and sound business purpose and justification and
28 (ii) compelling circumstances for the transfer and sale of the Purchased Assets outside the ordinary

1 course of business, and such action is an appropriate exercise of the Debtors' business judgment and
2 in the best interests of the Debtors and their estates.

3 M. Free and Clear. In accordance with §§ 363(b) and 363(f), the consummation of the
4 Transaction pursuant to the Transaction Documents will be a legal, valid, and effective transfer and
5 sale of the Purchased Assets and will vest in Purchaser, through the consummation of the
6 Transaction, all of the Debtors' right, title, and interest in and to the Purchased Assets, free and clear
7 of all Interests. Those holders of Interests who did not object, or who withdrew their objections, to
8 the Sale or the Motion are deemed to have consented pursuant to § 363(f)(2). Those holders of
9 Interests who did object fall within one or more of the other subsections of § 363(f). All holders of
10 the Interests in the Purchased Assets are adequately protected by having their respective Interests
11 attach to the Debtors' interests in the proceeds of the sale of the Purchased Assets under the APA,
12 and any related documents or instruments delivered in connection therewith, whenever and
13 wherever received (the "Sale Proceeds") to the extent and manner herein provided.

14 N. Purchaser's Reliance on Free and Clear. The Purchaser would not have entered into
15 the APA and would not consummate the Transaction or the other transactions contemplated thereby
16 if the sale of the Purchased Assets were not free and clear of all Interests, or if the Purchaser would,
17 or in the future could, be liable for any such Interests. A sale of the Purchased Assets other than
18 one free and clear of all Interests would adversely impact the Debtors, their estates and their
19 creditors, and would yield substantially less value for the Purchased Assets and the Debtors' estates,
20 with less certainty than provided by the Transaction. The total consideration to be provided under
21 the APA reflects the Purchaser's reliance on this Order to provide it, pursuant to sections 105(a) and
22 363(f) of the Bankruptcy Code, with title to, and possession of, the Purchased Assets free and clear
23 of all Interests, including, without limitation, any potential derivative, vicarious, transferee or
24 successor liability Interests.

25 O. "Interests". As used in this Order, the term "Interest" includes, in each case to the
26 extent against or with respect to any of the Debtors or in, on, or against or with respect to any of the
27 Acquired Assets: Liens, claims (as defined in section 101(5) of the Bankruptcy Code), debts (as
28 defined in section 101(12) of the Bankruptcy Code), encumbrances, obligations, Liabilities,

1 demands, guarantees, actions, suits, defenses, deposits, credits, allowances, options, rights,
2 restrictions, limitations, contractual commitments, rights, or interests of any kind or nature
3 whatsoever, whether known or unknown, inchoate or not, filed or unfiled, scheduled or unscheduled,
4 noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed,
5 contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-
6 material, disputed or undisputed, whether arising prior to or subsequent to the commencement of
7 these Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity, or
8 otherwise, including, but not limited to, (i) mortgages, deeds of trust, pledges, charges, security
9 interests, hypothecations, Interests, easements, servitudes, leases, subleases, rights-of-way,
10 encroachments, restrictive covenants, restrictions on transferability or other similar restrictions,
11 rights of offset or recoupment, rights of use or possession, subleases, leases, condition sale
12 arrangements, or any similar rights, (ii) all claims, including, without limitation, all rights or causes
13 of action (whether in law or equity), proceedings, warranties, guarantees, indemnities, rights of
14 recovery, setoff, recoupment, indemnity or contribution, obligations, demands, restrictions,
15 indemnification claims, or liabilities relating to any act or omission of the Debtors or any other
16 person, consent rights, options, contract rights, covenants, and interests of any kind or nature
17 whatsoever (known or unknown, matured or unmatured, accrued, or contingent and regardless of
18 whether currently exercisable), whether arising prior to or subsequent to the commencement of these
19 Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity or otherwise; (iii)
20 all debts, liabilities, obligations, contractual rights and claims, and labor, employment, and pension
21 claims; (iv) any rights that purport to give any party a right or option to effect any forfeiture,
22 modification, right of first offer or first refusal, or consents, or termination of the Debtors' or the
23 Purchaser's interest in the Purchased Assets, or any similar rights; (v) any rights under labor or
24 employment agreements; (vi) any rights under pension, multiemployer plan (as such term is defined
25 in section 3(37) or section 4001(a)(3) of the Employment Retirement Income Security Act of 1974
26 (as amended, "ERISA"), health or welfare, compensation or other employee benefit plans,
27 agreements, practices, and programs, including, without limitation, any pension plans of the Debtors
28 or any multiemployer plan to which the Debtors have at any time contributed to or had any liability

1 or potential liability; (vii) any other employee claims related to worker's compensation, occupation
2 disease, or unemployment or temporary disability, including, without limitation, claims that might
3 otherwise arise under or pursuant to (a) ERISA, (b) the Fair Labor Standards Act, (c) Title VII of
4 the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the National Labor
5 Relations Act, (f) the Age Discrimination and Employment Act of 1967 and Age Discrimination in
6 Employment Act, each as amended, (g) the Americans with Disabilities Act of 1990, (h) the
7 Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, including, without
8 limitation, the requirements of Part 6 of Subtitle B of Title I of ERISA and Section 4980B of the
9 Internal Revenue Code of any similar state law, (i) state discrimination laws, (j) state unemployment
10 compensation laws or any other similar state laws, (k) any other state or federal benefits or claims
11 relating to any employment with the Debtors or any of their predecessors, or (l) the WARN Act (29
12 U.S.C. §§ 2101, et seq.) or any state or other laws of similar effect; (viii) any bulk sales or similar
13 law; (ix) any tax statutes or ordinances, including, without limitation, the Internal Revenue Code of
14 1986, as amended, and any taxes arising under or out of, in connection with, or in any way relating
15 to the operation of the assets or businesses of the Debtors prior to the Closing; (x) any unexpired
16 and executory contract or unexpired lease to which a Debtor is a party that is not an Assumed
17 Contract; (xi) any other Excluded Liabilities under the APA; and (xii) Interests arising under or in
18 connection with any acts, or failures to act, of any of the Debtors or any of the Debtors'
19 predecessors, Affiliates, or Subsidiaries, including, but not limited to, Interests arising under any
20 doctrines of successor, transferee, or vicarious liability, violation of the Securities Act, the Exchange
21 Act, or other applicable securities laws or regulations, breach of fiduciary duty, or aiding or abetting
22 breach of fiduciary duty, or any similar theories under applicable Law or otherwise.

23 P. Prompt Consummation. The Debtors have demonstrated good and sufficient cause
24 to waive the stay requirement under Bankruptcy Rules 6004(h) and 6006(d). Time is of the essence
25 in consummating the Transaction, and it is in the best interests of the Debtors and their estates to
26 consummate the Transaction within the timeline set forth in the Sale Motion and the Bid Procedures
27 Order. The Closing Date shall occur within sixty days of the signing of the APA, or at a later date
28 as agreed to by the Debtors and the Purchaser.

1 Q. Assumption of Executory Contracts and Unexpired Leases. The Debtors have
2 demonstrated that it is an exercise of their sound business judgment to assume and assign, subject
3 to the provisions hereof, to the Purchaser those executory contracts and unexpired leases designated
4 by the Purchaser either prior to the Closing (the “Assumed Executory Contracts and Leases”) in
5 connection with the consummation of the Transaction, and the Debtors’ assumption and assignment
6 to the Purchaser of the Assumed Executory Contracts and Leases is in the best interests of the
7 Debtors and their estates.

8 R. Cure/Adequate Assurance. The payments to be made by the Purchaser at the Closing,
9 will have cured, or will have provided adequate assurance of cure, of any default existing under any
10 of the Assumed Executory Contracts and Leases, within the meaning of 11 U.S.C. § 365(b)(1)(A),
11 by payment of the amounts and in the manner set forth below. The Purchaser has provided or will
12 provide adequate assurance of future performance of and under the Assumed Executory Contracts
13 and Leases within the meaning of 11 U.S.C. § 365(b)(1)(C). Pursuant to 11 U.S.C. § 365(f), the
14 Assumed Executory Contracts and Leases to be assumed by the Debtors and assigned to the
15 Purchaser under the APA shall be assigned and transferred to, and remain in full force and effect
16 for the benefit of, the Purchaser notwithstanding any provision in any such Assigned Contract
17 prohibiting their assignment or transfer. The Debtors have demonstrated that no other parties to any
18 of the Assumed Executory Contracts and Leases have incurred any actual pecuniary loss resulting
19 from a default prior to the Closing under any of the Assumed Executory Contracts and Leases within
20 the meaning of 11 U.S.C. § 365(b)(1)(B). Pursuant to 11 U.S.C. § 365(f), the Assumed Executory
21 Contracts and Leases to be assumed by the Debtors and assigned to the Purchaser shall be assigned
22 and transferred to, and remain in full force and effect for the benefit of, the Purchaser
23 notwithstanding any provision in such contracts or other restrictions prohibiting their assignment or
24 transfer.

25 S. No De Facto or Sub Rosa Plan of Reorganization. The sale of the Purchased Assets
26 does not constitute a *de facto* or *sub rosa* plan of reorganization or liquidation because it does not
27 propose to (i) impair or restructure existing debt of, or equity or membership interests in, the
28 Debtors, (ii) impair or circumvent voting rights with respect to any plan proposed by the Debtors,

1 (iii) circumvent chapter 11 safeguards, including those set forth in §§ 1125 and 1129, or (iv) classify
2 claims or equity or membership interests.

3 T. Legal and Factual Basis. The legal and factual bases set forth in the Bidding
4 Procedures Motion, the Sale Motion, and at the Sale Hearing establish just cause for the relief
5 granted herein.

6 **NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

7 1. The Sale Motion is **GRANTED** as set forth herein.

8 2. Notice of the Sale Motion, the Auction, the Sale Hearing and the Sale was fair and
9 equitable under the circumstances and complied in all respects with the Bidding Procedures, §§
10 102(1), and 363, and Rules 2002, 6004, 6006, 9006, and 9007.

11 3. The sale of the Purchased Assets to the Purchaser is approved upon the terms and
12 conditions described on the Court's record at the Sale Hearing and as set forth in the APA.

13 4. The Debtors are authorized to enter into the APA and to consummate the sale of the
14 Purchased Assets to the Purchaser in accordance with this Order and to perform the obligations
15 under the APA and enter into any agreements contemplated by the APA without further order of the
16 Court.

17 5. All objections and responses to the Sale Motion that have not previously been
18 overruled, withdrawn, waived, settled or resolved, and all reservations of rights included therein,
19 are hereby overruled and denied.

20 6. The Purchaser's offer for the Purchased Assets is the highest and best offer for the
21 Purchased Assets and is hereby approved.

22 7. Pursuant to sections 105(a), 363(b), 363(f), and 365 of the Bankruptcy Code, the
23 Transaction, including the transfer and sale of the Purchased Assets to the Purchaser is approved in
24 all respects, and the Debtors are authorized and directed to consummate the Transaction and enter
25 into the APA, including, without limitation, by executing any Transaction Documents and taking
26 all actions necessary and appropriate to effectuate and consummate the Transaction (including the
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1 transfer and sale of the Purchased Assets) in consideration of the Purchase Price, including, without
2 limitation, assuming and assigning to the Purchaser the Assumed Executory Contracts and Leases.

3 8. Any person or entity that is currently, or on the Closing Date may be, in possession
4 of some or all of the Purchased Assets is hereby directed to surrender possession of such Purchased
5 Assets either to (a) the Debtors before the Closing or (b) to Purchaser or its designee upon the
6 Closing.

7 9. Pursuant to sections 105, 363(b), 363(f) and 363(m) of the Bankruptcy Code, the
8 Purchased Assets shall be sold and transferred free and clear of all Interests, except as otherwise
9 provided in the APA, with any and all such Interests to attach to proceeds of the sale with the same
10 validity (or invalidity), priority, force and effect such Interests had on the Purchased Assets
11 immediately prior to the Closing and subject to the rights, claims, defenses, and objections, if any,
12 of the Debtors and all interested parties with respect to any such asserted Interests.

13 10. As of the Closing, (i) the Transaction shall effect a legal, valid, enforceable and
14 effective transfer and sale of the Purchased Assets to the Purchaser free and clear of all Interests
15 except as set forth in the APA or this Order; and (ii) the APA, the Transaction and the other
16 Transaction Documents shall be enforceable against and binding upon, and not subject to rejection
17 or avoidance by, any successor thereto including a trustee or estate representative appointed in these
18 cases, and all other persons and entities.

19 11. This Order shall, as of the Closing, be considered and constitute for all purposes a
20 full and complete general assignment, conveyance, and transfer of the Purchased Assets and/or a
21 bill of sale transferring all of the Debtors' rights, title and interest in and to the Purchased Assets to
22 the Purchaser. Consistent with, but not in limitation of the foregoing, each and every federal, state,
23 and local governmental agency or department is hereby authorized and directed to accept all
24 documents and instruments necessary and appropriate to consummate the transactions contemplated
25 by the APA and approved in this Order.

26 12. The Purchaser shall not be deemed, as a result of any action taken in connection with,
27 or as a result of the Transaction (including the transfer and sale of the Purchased Assets), to: (i) be
28 a successor, continuation or alter ego (or other such similarly situated party) to the Debtors or their

1 estates by reason of any theory of law or equity, including, without limitation, any bulk sales law,
2 doctrine or theory of successor liability, or similar theory or basis of liability; or (ii) have, de facto
3 or otherwise, merged with or into the Debtors; or (iii) be a mere continuation, alter ego, or substantial
4 continuation of the Debtors, and other than as expressly set forth in the APA, the Purchaser shall
5 have no liability whatsoever for any conduct, action or inaction of the Debtors or with respect to the
6 Purchased Assets that arose prior to the Closing.

7 13. This Order (i) shall be effective as a determination that, except as expressly set forth
8 in this Order or the APA, effective as of the Closing, all Interests existing against the Purchased
9 Assets before the Closing have been unconditionally released, discharged and terminated, and that
10 the transfers and conveyances described herein have been effected, and (ii) shall be binding upon
11 and shall govern the acts of all persons and entities. If any person or entity that has filed financing
12 statements or other documents or agreements evidencing any Interests against the Purchased Assets
13 shall not have delivered to the Debtors before the closing, in proper form for filing and executed by
14 the appropriate parties, termination statements, instruments of satisfaction, releases of all Interests
15 which the person or entity has with respect to the Purchased Assets, then the Purchaser is hereby
16 authorized to execute and file such statements, instruments, releases and other documents on behalf
17 of the person or entity with respect to such Purchased Assets.

18 14. The sale of the Purchased Assets is not subject to avoidance by any person or for any
19 reason whatsoever, including, without limitation, pursuant to section 363(n) of the Bankruptcy Code
20 and the Purchaser shall not be subject to damages, including any costs, fees, or expenses under
21 section 363(n) of the Bankruptcy Code.

22 15. In accordance with the APA, concurrently with the Closing, the Purchaser shall pay
23 that portion of the Purchase Price due at Closing, by wire transfer of immediately available funds,
24 to an account to be designated by Debtors' counsel. Any direct expenses of the Sale shall be
25 disclosed by Debtors to the DIP Lender, the Master Trustee, and the Committee in advance of the
26 Closing.

27 16. Upon the Closing, the Debtors are authorized and directed to assume, assign and/or
28 transfer each of the Assumed Executory Contracts and Leases to the Purchaser, including the

1 currently designated contracts and any subsequently identified designated contracts (all
2 counterparties to the currently identified designated contracts and any subsequently identified
3 designated contracts collectively, the (“Contract Counter-Parties”). All Contract Counter-Parties to
4 Assumed Executory Contracts and Leases shall cooperate with, and expeditiously execute and
5 deliver upon, any reasonable request of the Purchaser, and shall not charge the Purchaser for, any
6 instruments, applications, consents or other documents that may be required or requested by any
7 governmental unit or other public or quasi-public authority or other party to effectuate the applicable
8 transfers in connection with the Debtors’ assumption and assignment of the Assumed Executory
9 Contracts and Leases to the Purchaser.

10 17. The Transaction contemplated by the APA and other Transaction Documents
11 undertaken without collusion and in “good faith,” as that term is defined in § 363(m) of the
12 Bankruptcy Code. Purchaser is a good faith purchaser within the meaning of § 363(m) and, as such,
13 is entitled to the full protections of § 363(m). Accordingly, the reversal or modification on appeal
14 of the authorization provided herein by this Sale Order to consummate the Transaction shall not
15 affect the validity of the sale of the Purchased Assets to the Purchaser. The APA and the
16 Transactions contemplated thereby cannot be avoided under § 363(n).

17 18. The failure to specifically include any particular provision of the APA or the other
18 Transaction Documents in this Sale Order shall not diminish or impair the effectiveness of such
19 provisions, it being the intent of the Bankruptcy Court that the Transaction, the APA and the other
20 Transaction Documents be authorized and approved in their entirety. Likewise, all of the provisions
21 of this Sale Order are non-severable and mutually dependent.

22 19. This Order constitutes a final and appealable order within the meaning of 28 U.S.C.
23 § 158(a). Notwithstanding Rules 6004(h), 6006(d), 7062, or 9014, if applicable, or any other LBR
24 or otherwise, this Sale Order shall not be stayed for 14-days after the entry hereof, but shall be
25 effective and enforceable immediately upon entry pursuant to Rule 6004(h) and 6006(d). Time is of
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1 the essence in approving the Transaction (including the transfer and the sale of the Purchased
2 Assets).

3 20. The automatic stay in effect pursuant to § 362 is hereby lifted with respect to the
4 Debtors to the extent necessary, without further order of this Court, to (i) allow Purchaser to deliver
5 any notice provided for in the APA and Transaction Documents and (ii) allow Purchaser to take any
6 and all actions permitted under the APA and Transaction Documents in accordance with the terms
7 and conditions thereof.

8 21. Unless otherwise provided in this Sale Order, to the extent any inconsistency exists
9 between the provisions of the APA and this Sale Order, the provisions contained in this Sale Order
10 shall govern.

11 22. This Court shall retain exclusive jurisdiction to interpret, construe, and enforce the
12 provisions of the APA and this Sale Order in all respects, and further, including, without limitation,
13 to (i) hear and determine all disputes between the Debtors and/or Purchaser, as the case may be, and
14 any other non-Debtor party to, among other things, the Assumed Executory Contracts and Leases
15 concerning, among other things, assignment thereof by the Debtors to Purchaser and any dispute
16 between Purchaser and the Debtors as to their respective obligations with respect to any asset,
17 liability, or claim arising hereunder; (ii) compel delivery of the Purchased Assets to Purchaser free
18 and clear of Interests; (iii) compel the delivery of the Purchase Price or performance of other
19 obligations owed to the Debtors; (iv) interpret, implement, and enforce the provisions of this Sale
20 Order; and (v) protect Purchaser against (A) claims made related to any of the Excluded Liabilities
21 (as defined in the APA), (B) any claims of successor or vicarious liability (or similar claims or
22 theories) related to the Purchased Assets or the Assumed Executory Contracts and Leases, or (C)
23 any Interests asserted on or against Purchaser or the Purchased Assets.

24 23. Following the date of entry of this Sale Order, the Debtors and Purchaser are
25 authorized to make changes to the APA without the need for any further order of the Court provided
26 that all such changes have been approved in writing by the Debtors and the Purchaser. Any other
27

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Exhibit A
Sale Order

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
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2 CATHERINE JUN (admitted *pro hac vice*)
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12 Counsel to Debtors and Debtors in Possession

13 UNITED STATES BANKRUPTCY COURT
14 CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

15 In re:

Case No.: 2:23-bk-12359-SK

16 BEVERLY COMMUNITY HOSPITAL
17 ASSOCIATION, dba BEVERLY HOSPITAL
18 (A NONPROFIT PUBLIC BENEFIT
CORPORATION), *et al.*¹

Jointly administered with:

Case No: 2:23-bk-12360-SK

Case No: 2:23-bk-12361-SK

19 Debtors,

Hon. Sandra R. Klein

Chapter 11 Case

- 21 Affects all Debtors
- 22 Affects Beverly Community
Hospital Association
- 23 Affects Montebello Community Health
24 Services, Inc.
- 25 Affects Beverly Hospital Foundation

**ORDER (A) AUTHORIZING THE SALE
OF DEBTORS' ASSETS TO PURCHASER
FREE AND CLEAR OF LIENS, CLAIMS
INTERESTS, AND OTHER INTERESTS;
(B) APPROVING THE ASSUMPTION
AND ASSIGNMENT OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES**

26
27 ¹ The Debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification
28 number, are: Beverly Community Hospital Association d/b/a Beverly Hospital (6005), Montebello Community
Health Services, Inc. (3550), and Beverly Hospital Foundation (9685). The mailing address for the Debtors is 309
W. Beverly Blvd., Montebello, California 90640.

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**RELATED THERETO; AND (C)
GRANTING RELATED RELIEF**

Date: August 17, 2023
Time: 9:00 a.m.
Judge: Sandra R. Klein
Place: Zoom.Gov – or - Courtroom 1575
255 E. Temple St.
Los Angeles, CA 90012

This matter came before the Court on the *Debtors’ Notice Of Motion And Motion For Entry Of An Order (I) Authorizing The Sale Of Substantially All Of The Debtors’ Assets Free And Clear Of All Liens, Claims, And Encumbrances; To White Memorial Medical Center D/B/A Adventist Health White Memorial Free And Clear; (II) Authorizing The Assumption And Assignment Of Certain Executory Contracts And Unexpired Leases; And (III) Granting Related Relief; Declaration Of Jason A. Cohen In Support Thereof* (the “Sale Motion”)² on August 17, 2023 at 9:00 a.m. of the above-captioned debtors and debtors in possession (the “Debtors”) for the entry of an Order, as applicable, pursuant to sections 105(a), 363, and 365 of Title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 6004, 6006, 9007, and 9014 of the Federal Rules of Bankruptcy Procedure (as amended from time to time, the “Bankruptcy Rules”), and Rule 6004-1 and 9013-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California (“LBR”) for the entry of an order (a) approving the sale of Debtors’ assets to the White Memorial Medical Center d/b/a Adventist Health White Memorial or its designee (“AHWM” or the “Purchaser”) free and clear of lines, claims, Interests, and other interests; (b) approving the assumption and assignment of executory contracts; and (c) granting related relief; the Court having found that (i) the Court has jurisdiction to consider the Sale Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; (ii) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b); and (iv) notice of the Sale Motion was sufficient under the circumstances and properly given, and it

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Bidding Procedures Motion.

1 appearing that no other or further notice need be provided; and a hearing on the Debtors' proposed
2 bid and sale procedures as detailed in the *Debtors' Motion Notice of Motion and Motion for the*
3 *Entry of an Order (I) Approving Asset Purchase Agreement for Stalking Horse Purchaser and for*
4 *Prospective Overbidders, (II) Approving Bid Protections, (III) Approving Bidding Procedures, (IV)*
5 *Scheduling Certain Dates Thereto, (V) Approving Form of Notice and (VI) Scheduling Court*
6 *Hearing to Approve Sale Free and Clear to the Purchaser* (the "Bidding Procedures Motion") [Dkt.
7 No. 308] having been held and granted pursuant to the *Order Approving Debtors' Motion for the*
8 *Entry of an Order (I) Approving Asset Purchase Agreement for Stalking Horse Purchaser and for*
9 *Prospective Overbidders, (II) Approving Bid Protections, (III) Approving Bidding Procedures, (IV)*
10 *Scheduling Certain Dates Thereto, (V) Approving Form of Notice, and (VI) Scheduling Court*
11 *Hearing to Approve Sale Free and Clear to the Purchaser* [Dkt. No. 378] (the "Bidding Procedures
12 Order"); the Court having reviewed and considered (i) the Sale Motion, (ii) the APA, (iii) the
13 Bidding Procedures, (iv) the Bidding Procedures Order, (v) the record of the Auction, (vi) the
14 *Declaration of Kerry Heinrich in Support of the Sale Motion* [Docket No. [●]] and (vii) the
15 arguments of counsel made, and the evidence proffered or adduced, at the Sale Hearing; and after
16 due deliberation the Court having determined that the relief requested in the Sale Motion is in the
17 best interests of the Debtors, their estates, and their creditors; and good and sufficient cause having
18 been shown;

19 **THE COURT HEREBY FINDS AND CONCLUDES THAT:**³

20 A. Jurisdiction and Venue. This Court has jurisdiction to hear and determine the Motion
21 pursuant to 28 U.S.C. §§ 157 and 1334. This matter relates to the administration of the Debtors'
22 bankruptcy estates and is accordingly a core proceeding pursuant to 28 U.S.C. § 157(b) (2) (A), (M),
23 (N) and (O). Venue of these cases is proper in this District and in this Court pursuant to 28 U.S.C.
24 §§ 1408 and 1409.

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³ The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

1 B. Final Order. This Order constitutes a final order within the meaning of 28 U.S.C. §
2 158(a).

3 C. Statutory Predicates. The statutory and legal predicates for the relief requested in the
4 Sale Motion and provided for herein are Sections 105(a), 363, and 365 of Title 11 of the Bankruptcy
5 Code, Bankruptcy Rules 2002, 6004, 6006, 9006, 9007, and 9014, and Local Bankruptcy Rules
6 (“Local Rules”) 6004-1, and 9013-1.

7 D. Notice. The Debtors have provided good and sufficient notice with respect to the
8 following: (i) the Sale Motion and the relief sought therein, including the entry of this Order and the
9 transfer and purchase of the Purchased Assets; (ii) the Auction and the Sale Hearing (*see Debtors’*
10 *Notice of Sale Hearing*, Dkt. No. 376); (iii) the selection of the Purchaser; (iv) the assumption and
11 assignment of executory contracts and unexpired leases and proposed cure amounts owing under
12 such executory contracts and unexpired leases (“Cure Amounts”). No further notice of the Sale
13 Motion, the relief requested therein or the Sale Hearing is required. The Notice of Filing Final
14 Bidding Procedures filed on June 7, 2023 [Dkt. No. 402] (the “Bidding Procedures”), the *Debtors’*
15 *Notice of Sale Hearing*, the Bidding Procedures, and Cure Notice, the Auction, and the hearing to
16 approve the sale of the Purchased Assets were in accordance with the Bid Procedures Order, and
17 were appropriate and reasonable and calculated to provide all interested parties with timely and
18 proper notice and no other or further notice is required. Such notice was proper under the
19 Bankruptcy Code, Bankruptcy Rules and Local Rules. A reasonable opportunity to object and to
20 be heard regarding the relief provided herein has been afforded to all parties-in-interest.

21 E. Sound Business Purpose. The Debtors have demonstrated good, sufficient and sound
22 business purposes and justifications for approval of the Sale Motion and the approval of and entry
23 into the Sale Transaction, the APA and any ancillary agreements thereto (i) are a result of due
24 deliberation by the Debtors and constitute a sound and reasonable exercise of the Debtors’ business
25 judgment consistent with their fiduciary duties; (ii) provide value and are beneficial to the Debtors’
26 estates, and are in the best interests of the Debtors, their estates and their stakeholders; and (iii) are
27 reasonable and appropriate under the circumstances. Business justifications for entry into the Sale
28 Transaction and the Asset Purchase Agreement include, without limitation, the following: (i) the

1 Asset Purchase Agreement constitutes the highest or best offer received for the Purchased Assets;
2 (ii) the Asset Purchase Agreement presents the best opportunity to maximize the value of the
3 Purchased Assets on a going-concern basis and to avoid decline and devaluation as a result of delay
4 or liquidation; (iii) failure to consummate the Sale Transaction expeditiously, as provided under the
5 Asset Purchase Agreement, could materially diminish creditor recoveries; and (iv) the immediate
6 consummation of the Sale Transaction is necessary to maximize the value of the Debtors' estates.

7 F. Highest and Best Bid. The APA and the bid of the Purchaser constitutes the highest
8 or otherwise best offer for the Purchased Assets, and will provide a greater recovery for the Debtors'
9 estates than would be provided by any other available alternative considering all of the facts and
10 circumstances. Importantly, the bid of the Purchaser enables Beverly Hospital to continue to
11 provide critical care services to Montebello and the surrounding communities. The Debtors'
12 determination that the Purchaser made the highest or otherwise best offer for the Purchased Assets
13 constitutes a reasonable, valid and sound exercise of the Debtors' business judgment, and is in the
14 best interests of the Debtors and their estates. The consideration to be paid by the Purchaser for the
15 Purchased Assets is fair and reasonable, is the highest or otherwise best offer therefor, and
16 constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code, the
17 Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act, and the laws of the
18 United States. The Back-Up Bidder made the second highest and best offer for the Purchased
19 Assets.⁴

20 G. Arm's Length Transaction. The sale of the Purchased Assets to the Purchaser (the
21 "Transaction") and the consummation thereof were negotiated and entered into by the Debtors and
22 the Purchaser without collusion, in good faith and through an arms' length bargaining process. None
23 of the Debtors, the Purchaser, or their respective representatives engaged in any conduct that would
24 cause or permit the Transaction to be avoided under section 363(n) of the Bankruptcy Code, or have
25 acted in any improper or collusive manner. The terms and conditions of the Transaction, including,
26 without limitation, the consideration provided in respect thereof, are fair and reasonable, and are not

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28 ⁴ This Order may be amended by subsequent order if the Back-Up Bidder becomes the ultimate Purchaser pursuant to the Bid Procedures regarding Back-Up Bidders.

1 avoidable and shall not be avoided, and no damages may be assessed against the Purchaser or any
2 other party, as set forth in section 363(n) of the Bankruptcy Code.

3 H. Good Faith Purchaser. The Purchaser has proceeded in good faith and without
4 collusion in all respects in connection with the sale process, and is therefore entitled to all of the
5 benefits and protections provided to a good-faith purchaser under section 363(m) of the Bankruptcy
6 Code. Accordingly, the reversal or modification on appeal of the authorization provided herein to
7 consummate the Transaction shall not affect the validity of the Transaction or the Purchaser's status
8 as a "good faith" purchaser.

9 I. Insider Status. The Purchaser is not an "insider" of any Debtor, as that term is
10 defined in section 101(31) of the Bankruptcy Code. No common identity of directors or controlling
11 stockholders (or the equivalent thereof) exists between the Purchaser and any of the Debtors.

12 J. No Successor Liability. The Purchaser is not a successor to the Debtors or their
13 bankruptcy estates nor shall be deemed to be a mere continuation of any of the Debtors' operations
14 by any reason or theory of law or equity, and the Purchaser shall not be subject to successor liability
15 for any assets sold or claims that arose or could have been asserted prior to the closing of the
16 Transaction (the "Closing").

17 K. Authority to Consummate the Sale of the Purchased Assets. The Debtors have full
18 corporate power and authority to execute the APA (including all ancillary documents executed in
19 connection therewith), and the sale of the Purchased Assets have been duly and validly authorized
20 by all necessary corporate authority by the Debtors to consummate the sale of the Purchased Assets
21 to the Purchaser. No consents or approvals, other than as may be expressly provided for in the APA,
22 are required by the Debtors to consummate such sale of the Purchased Assets.

23 L. Justification for Relief. Good and sufficient reasons for approval of the Transaction
24 have been articulated to the Bankruptcy Court in the Sale Motion and at the Sale Hearing, and the
25 relief requested in the Sale Motion and set forth in this Order is in the best interests of the Debtors
26 and their estates. The Debtors have demonstrated through the Sale Motion and other evidence
27 submitted by the Debtors both (i) good, sufficient and sound business purpose and justification and
28 (ii) compelling circumstances for the transfer and sale of the Purchased Assets outside the ordinary

1 course of business, and such action is an appropriate exercise of the Debtors' business judgment and
2 in the best interests of the Debtors and their estates.

3 M. Free and Clear. In accordance with §§ 363(b) and 363(f), the consummation of the
4 Transaction pursuant to the Transaction Documents will be a legal, valid, and effective transfer and
5 sale of the Purchased Assets and will vest in Purchaser, through the consummation of the
6 Transaction, all of the Debtors' right, title, and interest in and to the Purchased Assets, free and clear
7 of all Interests. Those holders of Interests who did not object, or who withdrew their objections, to
8 the Sale or the Motion are deemed to have consented pursuant to § 363(f)(2). Those holders of
9 Interests who did object fall within one or more of the other subsections of § 363(f). All holders of
10 the Interests in the Purchased Assets are adequately protected by having their respective Interests
11 attach to the Debtors' interests in the proceeds of the sale of the Purchased Assets under the APA,
12 and any related documents or instruments delivered in connection therewith, whenever and
13 wherever received (the "Sale Proceeds") to the extent and manner herein provided.

14 N. Purchaser's Reliance on Free and Clear. The Purchaser would not have entered into
15 the APA and would not consummate the Transaction or the other transactions contemplated thereby
16 if the sale of the Purchased Assets were not free and clear of all Interests, or if the Purchaser would,
17 or in the future could, be liable for any such Interests. A sale of the Purchased Assets other than
18 one free and clear of all Interests would adversely impact the Debtors, their estates and their
19 creditors, and would yield substantially less value for the Purchased Assets and the Debtors' estates,
20 with less certainty than provided by the Transaction. The total consideration to be provided under
21 the APA reflects the Purchaser's reliance on this Order to provide it, pursuant to sections 105(a) and
22 363(f) of the Bankruptcy Code, with title to, and possession of, the Purchased Assets free and clear
23 of all Interests, including, without limitation, any potential derivative, vicarious, transferee or
24 successor liability Interests.

25 O. "Interests". As used in this Order, the term "Interest" includes, in each case to the
26 extent against or with respect to any of the Debtors or in, on, or against or with respect to any of the
27 Acquired Assets: Liens, claims (as defined in section 101(5) of the Bankruptcy Code), debts (as
28 defined in section 101(12) of the Bankruptcy Code), encumbrances, obligations, Liabilities,

1 demands, guarantees, actions, suits, defenses, deposits, credits, allowances, options, rights,
2 restrictions, limitations, contractual commitments, rights, or interests of any kind or nature
3 whatsoever, whether known or unknown, inchoate or not, filed or unfiled, scheduled or unscheduled,
4 noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed,
5 contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-
6 material, disputed or undisputed, whether arising prior to or subsequent to the commencement of
7 these Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity, or
8 otherwise, including, but not limited to, (i) mortgages, deeds of trust, pledges, charges, security
9 interests, hypothecations, Interests, easements, servitudes, leases, subleases, rights-of-way,
10 encroachments, restrictive covenants, restrictions on transferability or other similar restrictions,
11 rights of offset or recoupment, rights of use or possession, subleases, leases, condition sale
12 arrangements, or any similar rights, (ii) all claims, including, without limitation, all rights or causes
13 of action (whether in law or equity), proceedings, warranties, guarantees, indemnities, rights of
14 recovery, setoff, recoupment, indemnity or contribution, obligations, demands, restrictions,
15 indemnification claims, or liabilities relating to any act or omission of the Debtors or any other
16 person, consent rights, options, contract rights, covenants, and interests of any kind or nature
17 whatsoever (known or unknown, matured or unmatured, accrued, or contingent and regardless of
18 whether currently exercisable), whether arising prior to or subsequent to the commencement of these
19 Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity or otherwise; (iii)
20 all debts, liabilities, obligations, contractual rights and claims, and labor, employment, and pension
21 claims; (iv) any rights that purport to give any party a right or option to effect any forfeiture,
22 modification, right of first offer or first refusal, or consents, or termination of the Debtors' or the
23 Purchaser's interest in the Purchased Assets, or any similar rights; (v) any rights under labor or
24 employment agreements; (vi) any rights under pension, multiemployer plan (as such term is defined
25 in section 3(37) or section 4001(a)(3) of the Employment Retirement Income Security Act of 1974
26 (as amended, "ERISA"), health or welfare, compensation or other employee benefit plans,
27 agreements, practices, and programs, including, without limitation, any pension plans of the Debtors
28 or any multiemployer plan to which the Debtors have at any time contributed to or had any liability

1 or potential liability; (vii) any other employee claims related to worker's compensation, occupation
2 disease, or unemployment or temporary disability, including, without limitation, claims that might
3 otherwise arise under or pursuant to (a) ERISA, (b) the Fair Labor Standards Act, (c) Title VII of
4 the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the National Labor
5 Relations Act, (f) the Age Discrimination and Employment Act of 1967 and Age Discrimination in
6 Employment Act, each as amended, (g) the Americans with Disabilities Act of 1990, (h) the
7 Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, including, without
8 limitation, the requirements of Part 6 of Subtitle B of Title I of ERISA and Section 4980B of the
9 Internal Revenue Code of any similar state law, (i) state discrimination laws, (j) state unemployment
10 compensation laws or any other similar state laws, (k) any other state or federal benefits or claims
11 relating to any employment with the Debtors or any of their predecessors, or (l) the WARN Act (29
12 U.S.C. §§ 2101, et seq.) or any state or other laws of similar effect; (viii) any bulk sales or similar
13 law; (ix) any tax statutes or ordinances, including, without limitation, the Internal Revenue Code of
14 1986, as amended, and any taxes arising under or out of, in connection with, or in any way relating
15 to the operation of the assets or businesses of the Debtors prior to the Closing; (x) any unexpired
16 and executory contract or unexpired lease to which a Debtor is a party that is not an Assumed
17 Contract; (xi) any other Excluded Liabilities under the APA; and (xii) Interests arising under or in
18 connection with any acts, or failures to act, of any of the Debtors or any of the Debtors'
19 predecessors, Affiliates, or Subsidiaries, including, but not limited to, Interests arising under any
20 doctrines of successor, transferee, or vicarious liability, violation of the Securities Act, the Exchange
21 Act, or other applicable securities laws or regulations, breach of fiduciary duty, or aiding or abetting
22 breach of fiduciary duty, or any similar theories under applicable Law or otherwise.

23 P. Prompt Consummation. The Debtors have demonstrated good and sufficient cause
24 to waive the stay requirement under Bankruptcy Rules 6004(h) and 6006(d). Time is of the essence
25 in consummating the Transaction, and it is in the best interests of the Debtors and their estates to
26 consummate the Transaction within the timeline set forth in the Sale Motion and the Bid Procedures
27 Order. The Closing Date shall occur within sixty days of the signing of the APA, or at a later date
28 as agreed to by the Debtors and the Purchaser.

1 Q. Assumption of Executory Contracts and Unexpired Leases. The Debtors have
2 demonstrated that it is an exercise of their sound business judgment to assume and assign, subject
3 to the provisions hereof, to the Purchaser those executory contracts and unexpired leases designated
4 by the Purchaser either prior to the Closing (the “Assumed Executory Contracts and Leases”) in
5 connection with the consummation of the Transaction, and the Debtors’ assumption and assignment
6 to the Purchaser of the Assumed Executory Contracts and Leases is in the best interests of the
7 Debtors and their estates.

8 R. Cure/Adequate Assurance. The payments to be made by the Purchaser at the Closing,
9 will have cured, or will have provided adequate assurance of cure, of any default existing under any
10 of the Assumed Executory Contracts and Leases, within the meaning of 11 U.S.C. § 365(b)(1)(A),
11 by payment of the amounts and in the manner set forth below. The Purchaser has provided or will
12 provide adequate assurance of future performance of and under the Assumed Executory Contracts
13 and Leases within the meaning of 11 U.S.C. § 365(b)(1)(C). Pursuant to 11 U.S.C. § 365(f), the
14 Assumed Executory Contracts and Leases to be assumed by the Debtors and assigned to the
15 Purchaser under the APA shall be assigned and transferred to, and remain in full force and effect
16 for the benefit of, the Purchaser notwithstanding any provision in any such Assigned Contract
17 prohibiting their assignment or transfer. The Debtors have demonstrated that no other parties to any
18 of the Assumed Executory Contracts and Leases have incurred any actual pecuniary loss resulting
19 from a default prior to the Closing under any of the Assumed Executory Contracts and Leases within
20 the meaning of 11 U.S.C. § 365(b)(1)(B). Pursuant to 11 U.S.C. § 365(f), the Assumed Executory
21 Contracts and Leases to be assumed by the Debtors and assigned to the Purchaser shall be assigned
22 and transferred to, and remain in full force and effect for the benefit of, the Purchaser
23 notwithstanding any provision in such contracts or other restrictions prohibiting their assignment or
24 transfer.

25 S. No De Facto or Sub Rosa Plan of Reorganization. The sale of the Purchased Assets
26 does not constitute a *de facto* or *sub rosa* plan of reorganization or liquidation because it does not
27 propose to (i) impair or restructure existing debt of, or equity or membership interests in, the
28 Debtors, (ii) impair or circumvent voting rights with respect to any plan proposed by the Debtors,

1 (iii) circumvent chapter 11 safeguards, including those set forth in §§ 1125 and 1129, or (iv) classify
2 claims or equity or membership interests.

3 T. Legal and Factual Basis. The legal and factual bases set forth in the Bidding
4 Procedures Motion, the Sale Motion, and at the Sale Hearing establish just cause for the relief
5 granted herein.

6 **NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

7 1. The Sale Motion is **GRANTED** as set forth herein.

8 2. Notice of the Sale Motion, the Auction, the Sale Hearing and the Sale was fair and
9 equitable under the circumstances and complied in all respects with the Bidding Procedures, §§
10 102(1), and 363, and Rules 2002, 6004, 6006, 9006, and 9007.

11 3. The sale of the Purchased Assets to the Purchaser is approved upon the terms and
12 conditions described on the Court's record at the Sale Hearing and as set forth in the APA.

13 4. The Debtors are authorized to enter into the APA and to consummate the sale of the
14 Purchased Assets to the Purchaser in accordance with this Order and to perform the obligations
15 under the APA and enter into any agreements contemplated by the APA without further order of the
16 Court.

17 5. All objections and responses to the Sale Motion that have not previously been
18 overruled, withdrawn, waived, settled or resolved, and all reservations of rights included therein,
19 are hereby overruled and denied.

20 6. The Purchaser's offer for the Purchased Assets is the highest and best offer for the
21 Purchased Assets and is hereby approved.

22 7. Pursuant to sections 105(a), 363(b), 363(f), and 365 of the Bankruptcy Code, the
23 Transaction, including the transfer and sale of the Purchased Assets to the Purchaser is approved in
24 all respects, and the Debtors are authorized and directed to consummate the Transaction and enter
25 into the APA, including, without limitation, by executing any Transaction Documents and taking
26 all actions necessary and appropriate to effectuate and consummate the Transaction (including the
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1 transfer and sale of the Purchased Assets) in consideration of the Purchase Price, including, without
2 limitation, assuming and assigning to the Purchaser the Assumed Executory Contracts and Leases.

3 8. Any person or entity that is currently, or on the Closing Date may be, in possession
4 of some or all of the Purchased Assets is hereby directed to surrender possession of such Purchased
5 Assets either to (a) the Debtors before the Closing or (b) to Purchaser or its designee upon the
6 Closing.

7 9. Pursuant to sections 105, 363(b), 363(f) and 363(m) of the Bankruptcy Code, the
8 Purchased Assets shall be sold and transferred free and clear of all Interests, except as otherwise
9 provided in the APA, with any and all such Interests to attach to proceeds of the sale with the same
10 validity (or invalidity), priority, force and effect such Interests had on the Purchased Assets
11 immediately prior to the Closing and subject to the rights, claims, defenses, and objections, if any,
12 of the Debtors and all interested parties with respect to any such asserted Interests.

13 10. As of the Closing, (i) the Transaction shall effect a legal, valid, enforceable and
14 effective transfer and sale of the Purchased Assets to the Purchaser free and clear of all Interests
15 except as set forth in the APA or this Order; and (ii) the APA, the Transaction and the other
16 Transaction Documents shall be enforceable against and binding upon, and not subject to rejection
17 or avoidance by, any successor thereto including a trustee or estate representative appointed in these
18 cases, and all other persons and entities.

19 11. This Order shall, as of the Closing, be considered and constitute for all purposes a
20 full and complete general assignment, conveyance, and transfer of the Purchased Assets and/or a
21 bill of sale transferring all of the Debtors' rights, title and interest in and to the Purchased Assets to
22 the Purchaser. Consistent with, but not in limitation of the foregoing, each and every federal, state,
23 and local governmental agency or department is hereby authorized and directed to accept all
24 documents and instruments necessary and appropriate to consummate the transactions contemplated
25 by the APA and approved in this Order.

26 12. The Purchaser shall not be deemed, as a result of any action taken in connection with,
27 or as a result of the Transaction (including the transfer and sale of the Purchased Assets), to: (i) be
28 a successor, continuation or alter ego (or other such similarly situated party) to the Debtors or their

1 estates by reason of any theory of law or equity, including, without limitation, any bulk sales law,
2 doctrine or theory of successor liability, or similar theory or basis of liability; or (ii) have, de facto
3 or otherwise, merged with or into the Debtors; or (iii) be a mere continuation, alter ego, or substantial
4 continuation of the Debtors, and other than as expressly set forth in the APA, the Purchaser shall
5 have no liability whatsoever for any conduct, action or inaction of the Debtors or with respect to the
6 Purchased Assets that arose prior to the Closing.

7 13. This Order (i) shall be effective as a determination that, except as expressly set forth
8 in this Order or the APA, effective as of the Closing, all Interests existing against the Purchased
9 Assets before the Closing have been unconditionally released, discharged and terminated, and that
10 the transfers and conveyances described herein have been effected, and (ii) shall be binding upon
11 and shall govern the acts of all persons and entities. If any person or entity that has filed financing
12 statements or other documents or agreements evidencing any Interests against the Purchased Assets
13 shall not have delivered to the Debtors before the closing, in proper form for filing and executed by
14 the appropriate parties, termination statements, instruments of satisfaction, releases of all Interests
15 which the person or entity has with respect to the Purchased Assets, then the Purchaser is hereby
16 authorized to execute and file such statements, instruments, releases and other documents on behalf
17 of the person or entity with respect to such Purchased Assets.

18 14. The sale of the Purchased Assets is not subject to avoidance by any person or for any
19 reason whatsoever, including, without limitation, pursuant to section 363(n) of the Bankruptcy Code
20 and the Purchaser shall not be subject to damages, including any costs, fees, or expenses under
21 section 363(n) of the Bankruptcy Code.

22 15. In accordance with the APA, concurrently with the Closing, the Purchaser shall pay
23 that portion of the Purchase Price due at Closing, by wire transfer of immediately available funds,
24 to an account to be designated by Debtors' counsel. Any direct expenses of the Sale shall be
25 disclosed by Debtors to the DIP Lender, the Master Trustee, and the Committee in advance of the
26 Closing.

27 16. Upon the Closing, the Debtors are authorized and directed to assume, assign and/or
28 transfer each of the Assumed Executory Contracts and Leases to the Purchaser, including the

1 currently designated contracts and any subsequently identified designated contracts (all
2 counterparties to the currently identified designated contracts and any subsequently identified
3 designated contracts collectively, the (“Contract Counter-Parties”). All Contract Counter-Parties to
4 Assumed Executory Contracts and Leases shall cooperate with, and expeditiously execute and
5 deliver upon, any reasonable request of the Purchaser, and shall not charge the Purchaser for, any
6 instruments, applications, consents or other documents that may be required or requested by any
7 governmental unit or other public or quasi-public authority or other party to effectuate the applicable
8 transfers in connection with the Debtors’ assumption and assignment of the Assumed Executory
9 Contracts and Leases to the Purchaser.

10 17. The Transaction contemplated by the APA and other Transaction Documents
11 undertaken without collusion and in “good faith,” as that term is defined in § 363(m) of the
12 Bankruptcy Code. Purchaser is a good faith purchaser within the meaning of § 363(m) and, as such,
13 is entitled to the full protections of § 363(m). Accordingly, the reversal or modification on appeal
14 of the authorization provided herein by this Sale Order to consummate the Transaction shall not
15 affect the validity of the sale of the Purchased Assets to the Purchaser. The APA and the
16 Transactions contemplated thereby cannot be avoided under § 363(n).

17 18. The failure to specifically include any particular provision of the APA or the other
18 Transaction Documents in this Sale Order shall not diminish or impair the effectiveness of such
19 provisions, it being the intent of the Bankruptcy Court that the Transaction, the APA and the other
20 Transaction Documents be authorized and approved in their entirety. Likewise, all of the provisions
21 of this Sale Order are non-severable and mutually dependent.

22 19. This Order constitutes a final and appealable order within the meaning of 28 U.S.C.
23 § 158(a). Notwithstanding Rules 6004(h), 6006(d), 7062, or 9014, if applicable, or any other LBR
24 or otherwise, this Sale Order shall not be stayed for 14-days after the entry hereof, but shall be
25 effective and enforceable immediately upon entry pursuant to Rule 6004(h) and 6006(d). Time is of
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1 the essence in approving the Transaction (including the transfer and the sale of the Purchased
2 Assets).

3 20. The automatic stay in effect pursuant to § 362 is hereby lifted with respect to the
4 Debtors to the extent necessary, without further order of this Court, to (i) allow Purchaser to deliver
5 any notice provided for in the APA and Transaction Documents and (ii) allow Purchaser to take any
6 and all actions permitted under the APA and Transaction Documents in accordance with the terms
7 and conditions thereof.

8 21. Unless otherwise provided in this Sale Order, to the extent any inconsistency exists
9 between the provisions of the APA and this Sale Order, the provisions contained in this Sale Order
10 shall govern.

11 22. This Court shall retain exclusive jurisdiction to interpret, construe, and enforce the
12 provisions of the APA and this Sale Order in all respects, and further, including, without limitation,
13 to (i) hear and determine all disputes between the Debtors and/or Purchaser, as the case may be, and
14 any other non-Debtor party to, among other things, the Assumed Executory Contracts and Leases
15 concerning, among other things, assignment thereof by the Debtors to Purchaser and any dispute
16 between Purchaser and the Debtors as to their respective obligations with respect to any asset,
17 liability, or claim arising hereunder; (ii) compel delivery of the Purchased Assets to Purchaser free
18 and clear of Interests; (iii) compel the delivery of the Purchase Price or performance of other
19 obligations owed to the Debtors; (iv) interpret, implement, and enforce the provisions of this Sale
20 Order; and (v) protect Purchaser against (A) claims made related to any of the Excluded Liabilities
21 (as defined in the APA), (B) any claims of successor or vicarious liability (or similar claims or
22 theories) related to the Purchased Assets or the Assumed Executory Contracts and Leases, or (C)
23 any Interests asserted on or against Purchaser or the Purchased Assets.

24 23. Following the date of entry of this Sale Order, the Debtors and Purchaser are
25 authorized to make changes to the APA without the need for any further order of the Court provided
26 that all such changes have been approved in writing by the Debtors and the Purchaser. Any other
27

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1 changes to the APA or this Sale Order require a further order of the Court, after reasonable notice
2 under the circumstances and a hearing.

3 24. The terms and provisions of this Sale Order, as well as the rights granted under the
4 Transaction Documents, shall continue in full force and effect and are binding upon any successor,
5 reorganized Debtors, or chapter 7 or chapter 11 trustee applicable to the Debtors, notwithstanding
6 any such conversion, dismissal or order entry. Nothing contained in any chapter 11 plan confirmed
7 in the Debtors' cases or in any order confirming such a plan, nor any order dismissing the cases or
8 converting the cases to a case under chapter 7, shall conflict with or derogate from the provisions of
9 the APA, any documents or instruments executed in connection therewith, or the terms of this Sale
10 Order, provided however, that in the event of a conflict between this Sale Order and an express or
11 implied provision of the APA, this Sale Order shall govern. The provisions of this Sale Order and
12 any actions taken pursuant hereto shall survive any conversion or dismissal of the cases and the
13 entry of any other order that may be entered in the cases, including any order (i) confirming any
14 plan of reorganization; (ii) converting the cases from chapter 11 to chapter 7; (iii) appointing a
15 trustee or examiner in the cases; or (iv) dismissing the cases.

16 25. The failure to specifically include any particular provision of the APA or the other
17 Transaction Documents in this Sale Order shall not diminish or impair the effectiveness of such
18 provisions, it being the intent of the Bankruptcy Court that the Transaction, the APA and the other
19 Transaction Documents be authorized and approved in their entirety. Likewise, all of the provisions
20 of this Sale Order are non-severable and mutually dependent.

21 **IT IS SO ORDERED.**

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EXHIBIT B

DECLARATION OF JASON A. COHEN

I, Jason A. Cohen, hereby state and declare the following:

1. I am the Managing Director and the Head of Investment Banking at Portage Point Partners, LLC ("Portage Point"), which is the Debtors' proposed investment banker and restructuring advisor in these chapter 11 cases.

2. I respectfully submit this declaration (this "Declaration") in support of the Debtors' Notice of Motion and Motion for Entry of an Order (I) Authorizing the Sale of Substantially All of the Debtors' Assets Free and Clear of All Liens, Claims, and Encumbrances to White Memorial Medical Center d/b/a/ Adventist Health White Memorial, (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (III) Granting Related Relief (the "Sale Motion"),¹ and as a supplemental declaration to the (a) Declaration of Jason Cohen in Support of Debtors' Motion for the Entry of an Order (I) Approving Asset Purchase Agreement for Stalking Horse Purchaser and for Prospective Overbidders, (II) Approving Bid Protections, (III) Approving Bidding Protections (IV) Scheduling Certain Dates Thereto, (V) Approving Form of Notice and (VI) Scheduling Court Hearing to Approve Sale Free and Clear to the Successful Bidder [Docket No. 309] (the "Bidding Procedures Declaration") and to the (b) Supplemental Declaration of Jason Cohen (the "Reply Declaration") attached as Exhibit A to the Debtors' Omnibus Reply in Support of the Debtors' Bidding Procedures Motion [Docket No. 354]. I incorporate herein by reference the Bidding Procedures Declaration and the Reply Declaration.

3. I submit this Declaration in support of my belief that the Debtors' proposed Sale to White Memorial Medical Center d/b/a/ Adventist Health White Memorial (the "Purchaser" or "AHWM") is in the best interests of the Debtors' estates and is the result of an arms-length marketing process run by Portage Point and supported by the Debtors and Debtors' counsel.

4. The statements in this Declaration are, except where specifically noted, based on my personal knowledge or opinions, or on information I obtained from the Debtors' employees or

¹ Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Sale Motion.

1 advisors, the Debtors' books and records and/or Portage Point employees working under my
2 supervision, direction or control.

3 5. I am not being specifically compensated for this testimony other than through
4 payments received by Portage Point as a professional proposed to be retained by the Debtors
5 pursuant to the *Debtors' Notice of Application and Application Seeking An Order Authorizing the*
6 *Retention and Employment of Triple P Securities, LLC as Investment Banker for the Debtors and*
7 *Debtors in Possession Pursuant to 11 U.S.C. §§ 372(a) and 328*, filed on May 19, 2023 [Docket
8 No. 280]. I am over the age of 18 years and authorized to submit this Declaration on behalf of the
9 Debtors. If called to testify, I could and would competently testify to the facts set forth herein.

10 **I. Sale Process Background Generally.**

11 6. Portage Point was retained by the Debtors on March 20, 2023, to, among other
12 things, run a marketing process for the Debtors' assets, with the goal of entering into a transaction
13 with one or more third-parties for the sale of all or substantially all of the Debtors' assets in order
14 to meet the Debtors' business, operational and patient care needs. In connection with these efforts,
15 I have personal knowledge of the marketing and sale process and have become familiar with the
16 Debtors' business.

17 7. As more fully discussed in the Bidding Procedures Declaration and the Reply
18 Declaration, the Debtors had previously reached an agreement with AHWM pursuant to which
19 AHWM agreed to act as a stalking horse bidder for the Debtors' assets. This agreement was
20 memorialized on May 23, 2023 by execution of the Stalking Horse APA and the Debtors filing
21 their Bidding Procedures Motion.

22 8. More broadly, as part of the marketing process, Portage Point reached out to the
23 parties who had previously considered an out-of-court transaction, California public institutions
24 and entities, hospital and hospital systems, whether for-profit or not-for-profit, other operators of
25 healthcare facilities and ancillary healthcare services businesses and financially oriented buyers.
26 Additionally, we engaged with any interested parties who contacted us or the Debtors or their other
27 advisors or were suggested by the financial advisor to the Committee in these chapter 11 cases. In

1 total, Portage Point reached out to and/or received inbound interest from 99 potential purchasers,
2 19 of which executed nondisclosure agreements (“NDA”) to gain access to the virtual data room
3 containing significant information about the Debtors, including a Confidential Information
4 Memorandum and the Stalking Horse Asset Purchase Agreement. Of the 19 parties that submitted
5 an NDA, three parties besides AHWM, including American Healthcare Systems Foundation Inc.,
6 a North Carolina not-for-profit corporation (“AHS”), submitted non-binding letters of intent (each,
7 an “LOI”) and all such parties (including AHWM) engaged in discussions with the California
8 Attorney General’s Office, Healthcare Rights and Access Section (the “AG”) regarding conditions
9 under which the AG would agree to the acquisition and operation of the Debtors.

10 9. Pursuant to these efforts, and the Bidding Procedures Order, the Debtors held an
11 Auction on June 27, 2023 for the sale of substantially all their assets. At the conclusion of the
12 Auction, the Debtors named AHS and Layton 26, LLC (“Layton”) as the Successful Bidders, and
13 the AHS Bid and the Layton Bid, together, the Successful Bid. On July 5, 2023, the Debtors filed
14 their Original Sale Motion [Docket No. 537] seeking the Court’s approval of the proposed sale to
15 AHS and Layton pursuant to the terms of the Successful Bid.

16 **II. Sale Process With Respect to AHWM**

17 10. In the weeks following the Auction, the Debtors, Consultation Parties, Successful
18 Bidders, and other parties in interest engaged in extensive discussions and negotiations regarding
19 the implementation and execution of the transactions contemplated by the Successful Bid. Despite
20 these efforts, the parties were unable to reach final agreement with respect to the terms of the
21 proposed sale by the deadlines set forth by the Court. In light of the Debtors’ severe cash
22 constraints and their need to execute a sale transaction on an expedited basis, the Debtors, at the
23 Court’s direction and in consultation with the Consultation Parties, recommenced discussions with
24 AHWM and continued discussions with AHS regarding one or more alternative bids.

25 11. On August 3, 2023, the Debtors’ received an updated bid from AHWM for the
26 purchase of substantially all of the Debtors’ assets.

1 12. After additional negotiations and conversations as further noted below, the Debtors
2 selected AHWM's revised bid (attached to the Sale Motion and as described below) as the current
3 highest and otherwise best offer. It is higher and otherwise better than the Stalking Horse APA,
4 and is currently the highest and best feasible transaction.

5 13. Immediately following receipt of the updated AHWM bid, the Debtors moved to
6 discuss the details with the Consultation Parties in order to determine whether the new AHWM
7 bid was higher or otherwise better than any other bid currently being discussed or negotiated. The
8 Debtors also informed AHS and Layton of the updated bid the Debtors had received and provided
9 them an opportunity to further bid on the Debtors' Assets.

10 14. Following several days of conversations and back and forth between AHWM, AHS,
11 Layton, and the Debtors, along with numerous conversations with the Consultation Parties, the
12 Debtors were able to get further revised bids from both AHS and Layton, as well as a further
13 revised bid from AHWM on even more favorable terms to the Debtors and their stakeholders.

14 15. Finally, on August 7, 2023, after more conversations with the Consultation Parties,
15 the Debtors selected AHWM's revised bid as the highest and otherwise best bid they had received
16 (the "AHWM Bid").

17 16. Upon information and belief, the Debtors and AHWM have also received approval
18 of the AG.

19 17. The Debtors are now seeking a Court Order authorizing the sale of the Assets to
20 AHWM, as such Sale is in the best interests of the Debtors' estates and is the result of an arm's-
21 length marketing process run by Portage Point and supported by the Debtors and Debtors' counsel.

22 **III. The Terms and Conditions of the Proposed Sale Are in the Best Interests of the**
23 **Debtors' Estates.**

24 18. The terms and conditions of the proposed sale under the AHWM Bid, as detailed
25 below, currently represent the highest and otherwise best bid for the Debtors' Assets, serve the
26 best interests of the Debtors' estates, their creditors, and other stakeholders of Beverly Hospital.

1 at the new Montebello campus. AHWM and the Debtors will negotiate the terms and conditions
2 of a staffing agreement whereby the Debtors will provide the services of all employees who are in
3 good standing as of the Closing under Debtors' employment policies to Purchaser in order to
4 provide services at AHWM's White Memorial campus or at the new Montebello campus while
5 Purchaser conducts the aforementioned interview and evaluation process.

6 25. AHWM has, contemporaneously with the filing of the Sale Motion, submitted a
7 deposit equal to \$2,250,000.

8 26. Based on my experience, involvement in the bidding process, and review of
9 available alternatives, there is currently no better or otherwise higher offer available for the
10 Debtors' Assets.

11 **IV. The Proposed Sale Was Negotiated at an Arm's Length.**

12 27. The terms and conditions of the proposed sale under the AHWM Bid are the
13 product of arms-length negotiations between the Debtors, AHWM, and the Consultation Parties,
14 all of whom were represented by counsel throughout the bidding process and at the Auction.

15 28. To my knowledge, AHWM is not affiliated with any of the Debtors nor any of the
16 Debtors' advisors.

17 [Signature Page Follows]
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1 I declare under penalty of perjury that, to the best of my knowledge and after reasonable
2 inquiry, the foregoing is true and correct.

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4 Dated: August 7, 2023

PORTAGE POINT PARTNERS, LLC

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6 By: 
7 Jason A. Cohen
8 Managing Director

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Exhibit C

APA

ASSET PURCHASE AGREEMENT

by and between

BEVERLY COMMUNITY HOSPITAL ASSOCIATION

DBA

BEVERLY HOSPITAL

a California nonprofit public benefit corporation,

MONTEBELLO COMMUNITY HEALTH SERVICES, INC.

a California nonprofit public benefit corporation

(collectively, as “*Sellers*”)

and

WHITE MEMORIAL MEDICAL CENTER

DBA

ADVENTIST HEALTH WHITE MEMORIAL

(as “*Purchaser*”)

Dated: August 7, 2023

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the “Agreement”) is made and entered into as of August 7, 2023, by and among Beverly Community Hospital Association d/b/a Beverly Hospital, a California nonprofit public benefit corporation (“Beverly”), Montebello Community Health Services, Inc., a California nonprofit public benefit corporation (“Montebello” and collectively with Beverly, the “Sellers”), and White Memorial Medical Center d/b/a Adventist Health White Memorial, a California nonprofit religious corporation or its designee (“Purchaser”) (collectively referred to as the “Parties” and each individually a “Party”).

RECITALS

A. Beverly is a California nonprofit public benefit corporation that currently has no corporate member and that owns and operates a licensed acute care hospital located at 309 West Beverly Blvd., Montebello, CA 90640 (“Hospital”), and provides various outpatient services in the area surrounding the Hospital;

B. Montebello is a California nonprofit public benefit corporation organized to support Beverly and its affiliates, including through the provision of administrative and managerial support, operation of medical and public health education programs, and promotion of the efficient delivery and financing of healthcare in Montebello, Pico Rivera, Monterey Park, El Monte, Whittier, East Los Angeles, California and surrounding communities;

C. Beverly owns and operates (i) the Hospital Property and (ii) the MOB Land, each as defined in Section 1.1(a)(iv) below and leases the MOB Land to Montebello pursuant to the Ground Lease, as defined in Section 1.1(a)(v) below. Montebello (i) holds the ground leasehold interest in the Ground Lease, (ii) owns and operates the buildings and improvements on the MOB Land pursuant to the Ground Lease (the “MOB Improvements”), and (iii) owns and operates the Ancillary Property, as defined in Section 1.1(a)(iv) below. The Sellers’ respective ownership and operation of the Hospital, the Hospital Property, the MOB Land, the Ground Lease, the MOB Improvements, and the Ancillary Property may be collectively referred to in this Agreement as, the “Business”;

D. Each Seller is a debtor and debtor-in-possession in those certain bankruptcy cases under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the “Bankruptcy Code”) filed on April 19, 2023 in the United States Bankruptcy Court for the Central District of California (the “Bankruptcy Court”), jointly administered under Case No. 23-12359 (collectively, the “Chapter 11 Case”);

E. In connection with the Chapter 11 Case and subject to the terms and conditions contained herein, at the Closing, upon the entry of the order, in a form acceptable to Purchaser, determining Purchaser to be the highest or otherwise best bidder with respect to the Assets, authorizing the sale of Assets free and clear of interests in the Assets, and subject to the terms and conditions thereof (the “Sale Order”) and the satisfaction of the other conditions to Closing set forth herein, Sellers shall sell, transfer and assign to Purchaser, and Purchaser shall purchase, acquire and accept from Sellers, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, the Assets (as defined in Section 1.1(a) below), and Purchaser shall assume from Sellers the

Assumed Liabilities (as defined in Section 1.1(c) below), all as more specifically set forth herein and in the Sale Order; and

F. The transactions contemplated by this Agreement (the “Transactions”) and the documents related thereto (the “Transaction Documents”) are subject to the approval of the Bankruptcy Court and will be consummated pursuant to the Bid Protections Order and the Sale Order.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and for their mutual reliance and incorporating into this Agreement the above recitals, the Parties hereto hereby agree as follows:

ARTICLE I SALE AND TRANSFER OF ASSETS; CONSIDERATION; CLOSING

1.1 Sale of Assets.

(a) Subject to the terms and conditions set forth herein and in the Bid Protections Order and the Sale Order, at the Closing, each Seller shall sell, assign, assume and assign, transfer, convey and deliver to Purchaser, and Purchaser shall purchase, acquire and accept from each Seller, free and clear of any Encumbrances other than Permitted Exceptions, all of such Seller’s right, title and interest in, to and under all of its assets, properties and rights of every kind and nature, whether real or personal, tangible or intangible, in each case set forth below (collectively, the “Assets,” and, for sake of clarity, not including the Excluded Assets):

(i) all trucks, automobiles, trailers and other titled vehicles identified on Schedule 1.1(a)(i) (the “Titled Vehicles”);

(ii) all of the tangible personal property owned by Sellers, or to the extent assignable or transferable by Sellers, and used by Sellers primarily in the operation of the Business wherever located, including equipment, furniture, fixtures, machinery, office furnishings and leasehold improvements, including, without limitation, the personal property set forth on Schedule 1.1(a)(ii) (together with the Titled Vehicles, the “Personal Property”);

(iii) all of Sellers’ rights, to the extent assignable or transferable, to all licenses, permits, approvals, certificates of exemption, entitlements, conditional use permits, certificates of occupancy, franchises, accreditations and registrations and other governmental licenses, permits or approvals issued to Sellers by any governmental or quasi-governmental authority for use in the operation of the Business (the “Licenses”), as set forth on Schedule 1.1(a)(iii) 1.1(a)(iii);

(iv) all of Sellers’ rights, title and interest in and to the following (collectively, the “Owned Real Property”):

(a) the land and improvements thereon constituting the Hospital and associated structures as described on **Schedule 1.1(a)(iv)(a)** (the “**Hospital Property**”);

(b) the land on which the medical office building located 101 E. Beverly Blvd., Montebello, CA 90640 sits as described on **Schedule 1.1(a)(iv)(b)** (the “**MOB Land**”);

(c) the ancillary properties described on **Schedule 1.1(a)(iv)(c)** (the “**Ancillary Property**”); and

(d) all plants, buildings, structures, installments, improvements, permits, hereditaments, easements, fixtures, and real property licenses, betterments, additions and improvements in the progress of construction and situated or located thereon, minerals, oil, gas and other hydrocarbon substances in, on or under the real property, and all air rights, water and water rights, development agreements, permits, conditional use permits, entitlements and authorizations issued by any governmental or quasi-governmental authority, all plans and specifications relating to the real property including, without limitation any architectural plans and drawings, any prepaid credits, deposits and prepaid fees and applicable to the real property described in this Section.

(v) all of Sellers’ rights, title and interest in and to all of the following (the “**Assigned Leases**”):

(a) the real property leases for all real property pursuant to which Sellers lease space as a tenant, subtenant, lessee or sublessee, including the ground leasehold interest pursuant to that certain Ground Lease Agreement dated April 2, 1979 as amended by that certain Addendum to Lease dated April 2, 1979 (the “**Ground Lease**”) and the leases which are listed on **Schedule 1.1(a)(v)(a)** (the “**Leased Real Property**” and, together with the Owned Real Property, the “**Real Property**”);

(b) the real property leases pursuant to which any Seller is a landlord, sublandlord, lessor or sublessor and that are listed on **Schedule 1.1(a)(v)(b)** (the “**Tenant Leases**”); and

(c) all of the following owned by Sellers and used in connection with the Leased Real Property: all plants, buildings, structures, installments, improvements, permits, hereditaments, easements, fixtures, and real property licenses, betterments, additions and improvements in the progress of construction and situated or located thereon, all air rights, water and water rights, development agreements, permits, conditional use permits, entitlements and authorizations issued by any governmental or quasi-governmental authority, and all plans and specifications including, without limitation any architectural plans and drawings.

(vi) all security deposits related to or arising from the Assets (the “**Security Deposits**”);

(vii) all Intellectual Property used primarily or held for use primarily in, or otherwise primarily relating to, the Business that is owned or purported to be owned or licensed or purported to be licensed, in whole or in part, by or to Sellers;

(viii) all portions of goodwill associated with the Business;

(ix) to the extent transferable or assignable, any easements, hereditaments, appurtenances, entitlements, development rights, mineral rights, oil, gas and other hydrocarbon substance rights, water rights, and air rights, and plans and specifications including, without limitation any architectural plans and drawings that may exist in connection with the Business;

(x) all of Sellers' interest in, and all of Sellers' obligations due under, from and after the Effective Time, all executory contracts and unexpired leases of personal property (including purchase orders) listed on Schedule 1.1(a)(x) (the "***Assigned Contracts***"), provided, however, Purchaser shall have the right to amend Schedule 1.1(a)(x) to either add or remove an Assigned Contract at any time up to the Closing Date;

(xi) to the extent transferable or assignable, all inventories of supplies, drugs, food, janitorial and office supplies and other disposables and consumables (i) located at the Hospital, or (ii) used in the operation of the Hospital (subsections (i) and (ii) together, the "***Inventories***");

(xii) all prepaid rentals, deposits, prepaid fees, and other prepayments and similar amounts relating to the Assigned Contracts and/or the Assigned Leases (the "***Prepays***");

(xiii) consistent with applicable Law, all or any portion of Hospital's medical, clinical, and other records, including images and films, whether in electronic, hard copy, or other format, directly or indirectly associated with services provided to Hospital Patients to the extent set forth on Schedule 1.1(a)(xiii) (the "***Patient Records***");

(xiv) the financial, operating, equipment, construction, medical, administrative and other records and files (including patient billing, other financial and marketing information, whether or not included as part of the Patient Records), including, without limiting the generality of the foregoing, any and all records and lists of the Sellers pertaining to the Assets, the Hospital, customers or suppliers of the Sellers, and all books, ledgers, files, reports, plans, drawings and operating records of every kind, but excluding any Excluded Assets (the "***Books and Records***");

(xv) all rights in all warranties of any manufacturer or vendor in connection with the Personal Property;

(xvi) Sellers' right or interest in the telephone numbers, facsimile numbers, websites held or used with respect to the operation of the Business;

(xvii) All intangible assets, including without limitation the names, logos and symbols used by Sellers, including in connection with the Business;

(xviii) computer software, programs, hardware, data processing equipment, manuals and related documentation;

(xix) all claims, causes of action, choses in action, rights of recovery, rights of set-off and rights of recoupment of Sellers against third parties related to or associated with the physical condition of any of the Assets, the Assigned Contracts, and the Assigned Leases and causes of action under Chapter 5 of the Bankruptcy Code against counterparties to Assumed Contracts and Assumed Leases; and

(xx) any other assets owned by Sellers (which are not otherwise specifically described above in this Section 1.1(a)(xx)) that are used exclusively in the operation of the Hospital.

(b) Excluded Assets. Notwithstanding the foregoing, Purchaser expressly understands and agrees that it is not purchasing or acquiring, and each Sellers is not selling, transferring or assigning, any of the following assets or properties of such Sellers (the “Excluded Assets”):

(i) Cash as of the Closing, other than Security Deposits;

(ii) the Sellers’ rights pursuant to or under this Agreement (including the right to receive and retain the Purchase Price) and any Transaction Document;

(iii) all accounts receivable and interest thereupon, notes and interest thereupon and other receivables of Sellers, including all claims, rights, interests and proceeds related thereto, including all accounts and other receivables, both billed and unbilled, in each case arising from the rendering of services or provision of goods, products or supplies to inpatients and outpatients at the Business provided by Sellers on or prior to the Closing Date;

(iv) all rights to settlements and retroactive adjustments, if any, of payments made to Sellers related to services for Medicare, Medi-Cal and any other cost reports, for claims submitted prior to the Effective Time or for cost reporting periods prior to the Effective Time pursuant to the auditing and settlement of Sellers’ cost reports, appeals and other risk settlements, including Medicare bad debt;

(v) all amounts accrued or paid with respect to Meaningful Use attested to, or for which the requirements for attestation have been met prior to the Effective Time;

(vi) all Medi-Cal Disproportionate Share Hospital Program payments received on or after the Effective Time but calculated based on data from periods prior to the Effective Time (whether received before or after the Effective Time and whether paid to Sellers or Purchaser);

(vii) all payments due to the Sellers under the California Department of Health Care Services Hospital Quality Assurance Fee Program from the State of California or any of its administrative entities or other entities, including without limitation Medi-Cal managed care plans, payments or grants due to the Sellers from the California Health Foundation & Trust, cost report, claims, electronic health records or similar appeals and the Sellers Cost Report settlements in each case arising from the rendering of services and the provision of goods, products or supplies to inpatients and outpatients at the Hospital prior to the Effective Time;

(viii) all Medicare Accelerated and Advance Payments, COVID-19 Funds and any other accelerated payments from third party payors related to time periods prior to the Effective Time;

(ix) all intercompany receivables of the Business or Sellers with any Affiliates;

(x) all Sellers Plans and the assets of all Sellers Plans and any asset that would revert to the employer upon the termination of any Sellers Plans, including any assets representing a surplus or overfunding of any Sellers Plans;

(xi) all of the Hospital's services, participation or provider agreements with private health plans, insurers or other third party payors and any of the Hospital's managed care, prepaid, capitated or other full-risk health plan agreements;

(xii) all unexpired leases of real property that have not been designated as Assigned Leases, and any contracts and unexpired leases of personal property that have not been designated as Assigned Contracts (collectively, the "***Excluded Contracts***") and all rents, deposits, prepayments, and similar amounts relating thereto; and the right to payment of all Unpaid Amounts;

(xiii) the portions of Inventory, Prepaids, and other assets disposed of, expended or canceled, as the case may be, by Sellers prior to the Effective Time in the Ordinary Course of Business;

(xiv) all of Sellers' organizational or corporate record books, minute books and tax records;

(xv) all insurance policies and contracts and coverages obtained by Sellers or listing Sellers as an insured party, a beneficiary or loss payee, including prepaid insurance premiums, and all rights to insurance proceeds under any of the foregoing, and all subrogation proceeds related to any insurance benefits arising from or relating to (i) Assets prior to the Effective Time, or (ii) Excluded Assets;

(xvi) all unclaimed property of any third party as of the Effective Time, including property that is subject to applicable escheat laws;

(xvii) all bank accounts of Sellers;

(xviii) all writings and other items that are protected from discovery by the attorney-client privilege, the attorney work product doctrine or any other cognizable privilege or protection;

(xix) all tax refunds, rights to tax refunds for tax periods (or portions thereof) prior to the Effective Time related to the ownership or operation of the Assets or the Business, and tax assets and copies of tax returns and other tax records of Sellers;

(xx) any rights or documents relating to any other Excluded Assets and/or Excluded Liability;

(xxi) all deposits and investment accounts or other prepaid charges and expenses paid in connection with or relating to any other Excluded Assets and/or Excluded Liabilities;

(xxii) any (1) personnel files for employees of Sellers; (2) all documents, records, correspondence (including with respect to any employees), work papers, or other books and records that Sellers are required by Law to retain; provided that Seller shall make copies of records available to Purchaser in connection with its interview process, evaluation and hiring of Business Employees as provided herein;

(xxiii) all claims, counterclaims, and causes of action of each Seller or each Seller's bankruptcy estate (including parties acting for or on behalf of a Seller's bankruptcy estate, including, but not limited to, The Official Committee of Unsecured Creditors (the "**Committee**") appointed in the Chapter 11 Case) not specifically set forth in Section 1.1(a)(xix) with respect to amounts overpaid by Sellers to any third parties with respect to a period prior to the Effective Time in connection with the operation of the Business (e.g., such overpaid amounts may be determined by billing audits undertaken by Seller or Seller's consultants), causes of action arising out of any claims and causes of action under Chapter 5 of the Bankruptcy Code and any related claims, counterclaims, and causes of action under applicable non-bankruptcy law, and any rights to challenge liens asserted against property of each Seller's bankruptcy estate, including, but not limited to, liens attaching to the payments made to Seller pursuant hereto, and the proceeds from any of the foregoing; and

(xxiv) those assets of Sellers specifically identified on **Schedule 1.1(b)(xxiv)**.

(c) **Assumption of Certain Liabilities**. On and subject to the terms and conditions of this Agreement and the Sale Order, at the Closing, Purchaser shall assume and agree to pay, perform and discharge when due only the following Liabilities (collectively, the "**Assumed Liabilities**"):

(i) all Liabilities arising out of or relating to the ownership of the Assets after the Effective Time;

(ii) all Cure Costs, up to a maximum amount of \$1,257,743.32;

(iii) all Liabilities arising under the Assigned Leases and Assigned Contracts, in each case arising after the Effective Time;

(iv) all Liabilities for Taxes relating to the Assets or the Assumed Liabilities for any taxable period (or portion thereof) after the Effective Time;

(v) all Liabilities of the Sellers with respect to Permitted Exceptions;

(vi) all other Liabilities expressly assumed by Purchaser under this Agreement or any other Transaction Document; and

(vii) any CMS Settlement.

(d) Excluded Liabilities. Purchaser shall have those duties, obligations and liabilities set forth in this Agreement, the Bill of Sale, the Transfer Agreement, the Medical Records Custodial Agreement, and the Real Estate Assignments and shall be responsible for the Assumed Liabilities. However, except as expressly set forth herein, Purchaser is not assuming any other liabilities of Sellers, including, without limitation, liabilities related to the Excluded Assets, Excluded Contracts, or Sellers' employees (including any obligations under any employee benefit plan or WARN) or the Business, and is purchasing the Assets free and clear of the Encumbrances except the Permitted Exceptions and shall not be deemed a successor to Sellers by reason of any theory of law or equity with respect to any claims or liens against Sellers or the Assets (the "Excluded Liabilities"). For the avoidance of doubt, the Excluded Liabilities specifically include liabilities arising under or in connection with the following contracts: (i) that certain Credit Agreement, dated February 1, 2023, between Beverly and AHMC Healthcare, Inc.; (ii) the Master Indenture; and (iii) that certain Revolving Loan Agreement, dated August 1, 2019, by and between Beverly and Hanmi Bank.

1.2 Purchase Price; Deposit; Closing Statement.

(a) The aggregate consideration (collectively, the "Purchase Price") to be paid by Purchaser for the Assets acquired by Purchaser hereunder shall consist of:

(i) \$23,546,000 in cash provided that the following shall be credited to the cash purchase price: (1) \$346,000, which shall applied to Purchaser's Expense Reimbursement allowed under the Bidding Procedures Order; *plus*

(ii) The amount of cash required to repay, in full, the outstanding obligations as of Closing under that certain Senior Secured Superpriority Debtor-in-Possession Credit Agreement (the "DIP Facility Credit Agreement") provided by HRE Montebello, LLC (the "DIP Lender") not to exceed \$14,240,000 (the "DIP Facility Repayment Amount"); *plus*

(iii) the Assumed Liabilities; *plus*

(iv) \$123,333 for each day that Purchaser does not close the Transaction due to (i) the existence of an uncured breach of the Agreement by Purchaser or (ii) the failure of the condition precedent set forth in Sections 7.4, 7.7, 7.10, or 7.11, beginning the 31st day following the date of execution of this Agreement, up to a maximum amount of \$3,700,000.

(b) Purchaser Deposit. Purchaser and Sellers will enter into an escrow agreement (as amended, supplemented, amended and restated or otherwise modified from time to time, the "Escrow Agreement"), with First American Title Insurance Company (the "Escrow Holder"). Concurrently with the execution and delivery of the Escrow Agreement, Purchaser shall deposit \$2,250,000 (the "Purchaser Deposit") with the Escrow Holder by wire transfer of immediately available funds. The Escrow Holder will hold the Purchaser Deposit until the Closing or earlier termination of this Agreement in a segregated account (the "Escrow Account") pursuant

to the terms below and otherwise in accordance with the terms of the Escrow Agreement. Purchaser, on the one hand, and Sellers, on the other hand, shall share equally all costs under the Escrow Agreement, including any fee of the Escrow Holder. The Purchaser Deposit shall become payable, and shall be paid, to the Sellers at the Closing. At the Closing, Purchaser and Sellers shall instruct the Escrow Holder to deliver the Purchaser Deposit to Sellers by wire transfer of immediately available funds into an account designated by Sellers pursuant to the terms and conditions of the Escrow Agreement. If this Agreement is validly terminated prior to the Closing, the Purchaser Deposit shall be released and distributed to Purchaser or Sellers, as applicable, in accordance with the terms of the Escrow Agreement and Section 8.2 of this Agreement. If there is a dispute concerning the reason for termination of this Agreement, the disputing party shall provide notice to same to Escrow Holder and the Purchaser's Deposit shall be handled and distributed in accordance with the provisions of Escrow Agreement pertaining to such dispute. In the event of any termination of this Agreement then each party covenants and agrees that such party shall promptly provide Escrow Holder with such instructions as may be reasonable and necessary to cause Escrow Holder to release the Purchaser's Deposit to the party entitled thereto. In the event of any termination of this Agreement due to an uncured default of a party, then the defaulting party shall pay all cancellation costs imposed by the Escrow Holder. In the event of termination of this Agreement for any other reason, the cancellation costs imposed by Escrow Holder shall be split equally by Purchaser and Sellers. If there is a conflict between the Escrow Agreement and this Agreement, the terms of this Agreement shall prevail.

(c) No later than three (3) business days prior to the Closing, Sellers shall deliver to Purchaser a closing statement (the "**Closing Statement**") setting forth a statement of the recipient and amount of all disbursements to be made pursuant to Section 1.2(a). The Closing Statement sets forth the wire transfer instructions of a payment to Sellers of the Purchase Price less the Purchaser Deposit, the Prorated Charges applicable to Sellers, and the other amounts due and payable pursuant to Section 1.6, by wire transfer of immediately available funds.

(d) Notwithstanding any other provision in this Agreement, the Parties may deduct and withhold any withholding taxes required under the Code to be deducted and withheld from any payments to be made pursuant to this Agreement upon advice of such party's legal counsel or Tax advisor; provided, however, that at least five (5) days prior to deducting or withholding from any such amounts, Purchaser shall provide Sellers with an opportunity for legal counsel or Tax advisors of Sellers to discuss the same with Purchaser's advisors, and that Parties shall otherwise reasonably cooperate to obtain reduction of or relief from such deduction or withholding to the extent permitted by applicable Law. To the extent that any such amounts are so withheld and timely paid to the appropriate Tax authority, such withheld amounts will be treated for all purposes of this Agreement as having been delivered and paid to the Person in respect of which such deduction and withholding was made

1.3 Closing Date; Proceedings at Closing.

(a) The consummation of the Transactions contemplated by this Agreement (the "**Closing**") shall take place remotely via the exchange of documents, signature pages and payments, and the day on which the Closing actually occurs shall be referred to as the "**Closing Date**." The Closing shall occur within three (3) business days following the satisfaction or waiver of the conditions as set forth in Article VI and Article VII. The Closing shall be deemed to occur

and to be effective as of 12:01 a.m. Pacific Time on the day immediately after the Closing Date (the “***Effective Time***”).

(b) All proceedings to be taken and all documents to be executed and delivered by all Parties at the Closing will be deemed to have been taken, executed and delivered simultaneously, and no proceedings will be deemed taken nor any documents executed or delivered until all have been taken, executed and delivered. At the conclusion of the Closing, the Sellers shall deliver (or cause to be delivered) to the Purchaser possession and control of all of the Assets.

1.4 Items to be Delivered by Sellers at Closing. At or before the Closing, Sellers shall deliver to Purchaser and/or to Escrow Holder for recordation or delivery at Closing, as applicable, if and to the extent required by the Title Company for issuance of the Title Policy at Closing the following:

(a) bills of sale substantially in the form of **Exhibit 1.4(a)** attached hereto (the “***Bills of Sale***”), duly executed by Sellers;

(b) Real estate assignment agreements (the “***Real Estate Assignments***”) substantially in the form of **Exhibit 1.4(b)** attached hereto with respect to the Assigned Leases, each duly executed by the applicable Sellers;

(c) Limited warranty deeds, with respect to the Owned Real Property, in a form mutually agreed to by the Parties, duly executed by Sellers;

(d) assigned contract transfer agreements (the “***Transfer Agreements***”) substantially in the form of **Exhibit 1.4(d)** attached hereto, duly executed by the applicable Sellers;

(e) a Medical Records Custodial Agreement, substantially in the form of **Exhibit 1.4(e)** attached hereto (the “***Medical Records Custodial Agreement***”), duly executed by Sellers;

(f) the Staffing Agreement (as defined below), duly executed by Sellers;

(g) Real estate general assignment agreements (the “***General Assignments***”), as applicable, substantially in the form of **Exhibit 1.4(f)** attached hereto with respect to the Real Property, each duly executed by the applicable Sellers;

(h) an IRS Form W-9, duly executed by each Seller;

(i) the Closing Statement, duly executed by Sellers;

(j) a certificate of the corporate secretary of each Seller certifying to (A) such entity’s articles of incorporation and bylaws (or similar governing documents), (B) the adoption of resolutions of such entity approving the Transactions contemplated hereby, and (C) the incumbency of the officer signing this Agreement and other Transaction Documents on behalf of such entity (together with specimen signatures) (the “***Sellers’ Secretary Certificates***”);

(k) a certificate of the president of each Seller certifying to (A) all of the representations and warranties by each Seller contained in this Agreement are true and correct, (B) each and every covenant and agreement of each Seller to be performed prior to and at the Closing has been duly performed in all material respects, and (C) the incumbency of the corporate secretary (together with specimen signatures) (the “**Sellers’ Officer Certificates**”);

(l) a limited power of attorney for use of DEA and Other Registration Numbers, and DEA Order Forms, or other certificates, permits, licenses or accreditations, as necessary, in the form of **Exhibit 1.4(k)** attached hereto (the “**Power of Attorney**”), duly executed by each applicable Seller and any necessary individuals; and

(m) any such other instruments, certificates, consents or other documents which the Parties and/or Escrow Holder and/or Title Company deem reasonably necessary to carry out the Transactions contemplated by this Agreement and to comply with the terms hereof.

1.5 **Items to be Delivered by Purchaser at Closing.** At or before the Closing, Purchaser shall deliver or cause to be delivered to Sellers and/or to Escrow Holder for recordation or delivery at Closing, as applicable, if and to the extent required by the Title Company for issuance of the Title Policy at Closing the following:

(a) payment of the cash portion of the Purchase Price, less the Purchaser Deposit and any other adjustments reflected on the Closing Statement, by wire transfer of immediately available funds to the account(s) specified in writing by Sellers and/or Escrow Holder;

(b) a certificate of the corporate secretary of Purchaser certifying to (A) Purchaser’s certificate of incorporation and bylaws (or similar governing documents), (B) the adoption of resolutions of Purchaser approving the Transactions contemplated hereby, and (C) the incumbency of the officer signing this Agreement and other Transaction Documents on behalf of Purchaser (together with their specimen signatures) (the “**Purchaser’s Secretary Certificate**”);

(c) a certificate of the president of Purchaser certifying to (A) all of the representations and warranties by Purchaser contained in this Agreement are true and correct, (B) each and every covenant and agreement of Purchaser to be performed prior to and at the Closing has been duly performed in all material respects, and (C) the incumbency of the corporate secretary (together with a specimen signature) (the “**Purchaser’s Officer Certificate**”);

(d) the Closing Statement, duly executed by Purchaser;

(e) the Bills of Sale, duly executed by Purchaser;

(f) the Real Estate Assignments, duly executed by Purchaser;

(g) the General Assignments, as applicable, duly executed by the Purchaser;

(h) the Medical Records Custodial Agreement, duly executed by Purchaser;

(i) the Staffing Agreement, duly executed by Purchaser;

- (j) the Transfer Agreements, duly executed by Purchaser;
- (k) the Power of Attorney, duly executed by Purchaser;
- (l) Preliminary Change of Ownership Report, duly executed by Purchaser; and
- (m) any such other instruments, certificates, consents or other documents which Purchaser and Sellers and/or Escrow Holder and/or Title Company mutually deem reasonably necessary to carry out the Transactions contemplated by this Agreement and to comply with the terms hereof.

1.6 Prorations and Utilities. All items of income and expense listed below with respect to the Assets shall be prorated in accordance with the principles and the rules for the specific items set forth hereafter:

(a) All transfer, conveyance, sales, use, stamp, recording, license, documentary, registration, excise and similar state and local taxes and fees arising from the Transactions contemplated under this Agreement and not exempted under the Sale Order, by Section 1146(c) of the Bankruptcy Code (collectively, “***Transfer Taxes***”) hereunder shall be the responsibility of, and allocated to, Purchaser.

(b) The following costs and expenses for a payment or assessment period (*i.e.*, calendar or other year or period) that includes, but does not end on, the Closing Date shall be prorated on a daily basis: (i) all real estate and personal property lease payments, real estate, personal property and ad valorem taxes (“***Property Taxes***”); (ii) all real estate assessments and other similar charges against real estate, (iii) utility charges, (iv) Prepays, and (v) other similar costs for, items or services to be assumed by Purchaser that continue past the Effective Time (collectively, the “***Prorated Charges***”). Sellers shall bear and be responsible for the Prorated Charges that are allocable to the portion of the applicable payment or assessment period prior to the Effective Time, and Purchaser shall bear and be responsible for the Prorated Charges that are allocable to the portion of the applicable payment or assessment period from and after the Effective Time. Sellers shall pay at or prior to the Closing (or Purchaser shall receive credit for) any unpaid Prorated Charges attributable to periods or portions thereof occurring on or prior to the Closing Date, and Purchaser shall be responsible for or, to the extent previously paid by Sellers, pay to Sellers at the Closing all Prorated Charges attributable to periods or portions thereof occurring from and after the Effective Time. If as of the Closing Date the actual Property Tax bills for the tax period, year or years in question are not available and the amount of Property Taxes to be prorated cannot be ascertained with certainty, then rates, mileages and assessed valuation of the previous year or period, with known changes, shall be used. As to power and utility charges, “final readings” as of the Closing Date shall be ordered from the utilities if the same are available. If such readings are not available, then the parties shall estimate prorated utilities based on the most recently available billing information, as applied to the billing cycle during which the Closing Date occurs, and once such final billing information for such billing cycle becomes available, the parties shall, at either Party’s written request, re-prorate in accordance with this Section 1.6(b) and the actual billed amount.

(c) Sellers shall be entitled to all rents and other payments under Tenant Leases owing or accruing for or with respect to the period prior to the Effective Time ("**Pre Effective Time Lease Amounts**"), and Purchaser shall be entitled to all rents and other payments under Tenant Leases owing or accruing for or with respect to the period on and after the Effective Time ("**Post Effective Time Lease Amounts**" and together with the Pre Effective Time Lease Amounts, the "**Lease Amounts**"). All Lease Amounts that are collected prior to the Closing shall be prorated as of the Closing in accordance with the immediately preceding sentence, including all rents and other tenant reimbursements relating to the property or building containing the leased premises, including, without limitation, parking revenues, additional rent, common area maintenance charges, contributions and reimbursements from tenants for operating expenses. To the extent the amount of any portion of such Lease Amounts have accrued prior to the Effective Time but are subject to adjustment between landlord and tenant (e.g., tenant's reimbursements for operating expenses), such Lease Amounts shall nevertheless be prorated at Closing based on such estimates, and such prorations shall be final at Closing and not subject to post-Closing adjustment or reconciliation between Sellers and Purchaser. All Lease Amounts that are accrued or owing with respect to the period prior to the Effective Time, but unpaid as of the Closing (including rents and other payments accrued prior to the Closing but payable in arrears after the Closing) (collectively, the "**Unpaid Amounts**"), shall not be prorated at Closing and belong to Sellers, and Purchaser shall, upon receipt of said rents and other payments, receive the same in trust for Sellers, and shall promptly remit any of such amounts to Sellers within ten (10) days after Purchaser's determination that such amount constitutes an Unpaid Amount. Purchaser shall collect any Unpaid Amounts; provided, however, that Purchaser shall not be required to evict any tenant or commence litigation or other proceedings against any tenant. As to any Unpaid Amounts that are not collected and paid to Sellers within ninety (90) days after the Closing Date, Sellers may pursue all lawful collection efforts against the delinquent tenant; provided, however, that Sellers shall not have any right to commence dispossessory proceedings or otherwise evict any tenant from its premises.

(d) This Section 1.6 shall survive Closing.

1.7 Risk of Loss. The risk of loss or damage to any of the Assets, Owned Real Property, the Business and all other property, transfer of which is contemplated by this Agreement, shall remain with Sellers until the Effective Time, and Sellers shall maintain such insurance policies of Sellers as are in effect on the date of the execution of this Agreement, or comparable policies of insurance covering the Assets, Owned Real Property, the Business and all other property until the Effective Time.

(a) With respect to the Real Property, if prior to the Closing, all or any material part of the Real Property is destroyed or materially damaged by fire or the elements or by any other cause (any such damage or destruction, a "**Casualty**") or is made subject to an eminent domain proceeding ("**Condemnation**"), Sellers shall promptly (but not less than five (5) days after obtaining actual knowledge of such destruction, damage, or condemnation) deliver written notice of such destruction, damage or condemnation to Purchaser, which notice shall describe such destruction or damage or proceeding in reasonable detail.

(b) With respect to any Assets other than the Real Property that are destroyed or materially damaged by a Casualty prior to the Closing, Sellers shall assign, transfer and set over to Purchaser all of Sellers' right, title and interest to any insurance proceeds on account of such

damage or destruction, and shall reimburse Purchaser for any deductible Purchaser is required to pay in connection with the receipt of such insurance proceeds.

ARTICLE II REPRESENTATIONS AND WARRANTIES OF SELLERS

As an inducement to Purchaser to enter into this Agreement and to consummate the Transactions, Sellers hereby represent and warrant to Purchaser, as to the matters set forth in this Article as of the date of this Agreement and the Closing Date, subject to the disclosure set forth in the disclosure schedule provided by Sellers to Purchaser, as may be amended pursuant to the terms of this Agreement (the “Disclosure Schedules”).

With respect to each Seller, the term “Material Adverse Effect” means any event, change or occurrence that, individually or in the aggregate with other events, changes or occurrences, has had or would reasonably be expected to have, a material adverse effect on such Seller’s financial condition, the Business or the Assets; provided, however, that a Material Adverse Effect shall not include any event, change or occurrence, directly or indirectly, arising out of, or attributable to: (a) general economic or political conditions, (b) conditions generally affecting the industries in which the Business operates, (c) any changes in financial, banking or securities markets in general, including any disruption thereof and any decline in the price of any security or any market index or any change in prevailing interest rates, (d) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof, any action required or permitted by this Agreement or any action taken (or omitted to be taken) with the written consent of or at the written request of Purchaser, (e) any changes in applicable Laws or accounting rules (including United States generally accepted accounting principles), (f) the announcement, pendency or completion of the Transactions contemplated by this Agreement, including losses or threatened losses of employees, customers, suppliers, distributors, or others having relationships with Sellers and the Business, (g) any natural or man-made disaster or acts of God, (h) any epidemic, pandemic or disease outbreak (including COVID-19), or (i) any failure by the Business to meet any internal or published projections, forecasts or revenue or earnings predictions (provided that the underlying causes of such failures (subject to the other provisions of this definition) shall not be excluded).

2.1 Authorization. Each of the Sellers has all necessary corporate power and authority to enter into this Agreement and to carry out the Transactions contemplated hereby. No other action on the part of either of the Sellers is necessary to authorize the execution, delivery and performance of this Agreement.

2.2 Binding Agreement. This Agreement has been duly and validly executed and delivered by each of the Sellers and, assuming due and valid execution by Purchaser, this Agreement constitutes a valid and binding obligation of each of the Sellers enforceable in accordance with its terms subject to (a) applicable bankruptcy, reorganization, insolvency, moratorium and other Law affecting creditors’ rights generally from time to time in effect, and (b) limitations on the enforcement of equitable remedies

2.3 Organization and Good Standing.

(a) Each Seller is duly organized, validly existing and in good standing under the Laws of the State of California. Subject to entry of the Sale Order, each of the Sellers has the requisite corporate power and authority to own, lease and operate its properties and to carry on its business as presently conducted.

(b) Each of the Sellers is duly qualified or licensed to do business and is in good standing (or the equivalent thereof) in each jurisdiction in which the property owned, leased or operated by it, or the nature of the business conducted by it, makes such qualification or licensing necessary.

2.4 Authority and Enforceability. Subject to the entry of the Sale Order,

(a) Each of the Sellers has all requisite corporate power and authority to execute and deliver this Agreement and each of the Transaction Documents to which such Sellers is or will be a party, and to consummate the Transactions contemplated hereby; and

(b) This Agreement and each of the Transaction Documents to which each of the Sellers is a party have been (or, in the case of each Transaction Document to which a Seller will be a party, will be) (i) are duly and validly executed and delivered by such Seller and (ii) constitute a valid, legal and binding agreement of such Seller, enforceable against such Seller in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws affecting creditors' rights and remedies generally and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding at Law or in equity).

2.5 Consents and Approvals; No Violations; No Conflicts.

(a) Except (i) as set forth in Section 2.5(a) of the Disclosure Schedules, and assuming the accuracy of the representations and warranties set forth in Section 3.3, (ii) as may be necessary as a result of any facts or circumstances relating solely to Purchaser or any of its Affiliates, (iii) approval of the California Attorney General, and (iv) as may be required pursuant to the Bankruptcy Code, the Bid Protections Order or the Sale Order, and after taking into account the effect of the Sale Order under the Bankruptcy Code, no material filing with or material notice to, and no material permit, authorization, consent or approval of, or material Order of, any court or tribunal or administrative, governmental or regulatory body or agency (a "Governmental Entity") or any other Person is necessary for the execution and delivery by such Sellers of this Agreement or the consummation by such Sellers of the Transactions contemplated hereby.

(b) Subject to the entry of the Sale Order and any other order(s) necessary to consummate the Transactions contemplated by this Agreement, neither the execution, delivery or performance of this Agreement by either Seller nor the consummation by such Seller of the Transactions contemplated hereby will:

(i) conflict with or result in any breach of any provision of the articles of incorporation or bylaws, of either of the Sellers or any Affiliate thereof, respectively;

(ii) except as set forth in Section 2.5(b) of the Disclosure Schedules, result in a material violation or material breach of, or cause acceleration, or constitute (with or

without due notice or lapse of time or both) a material default (or give rise to any material right of termination, modification, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, lease, license, contract, agreement or other instrument or obligation to which either of the Sellers or any Affiliate thereof, respectively, is a party or by which such Seller or any Affiliate thereof or any of such Seller's or any Affiliate of such Seller's properties or assets may be bound;

(iii) violate any Order or Law applicable to either of the Sellers or any Affiliate thereof, respectively, or any of such Seller's or any Affiliate of such Seller's properties or assets; or

(iv) result in the creation or imposition of any Encumbrance on any of the Assets, except for Permitted Exceptions.

2.6 Brokers. Except as set forth in Section 2.6 of the Disclosure Schedules, no broker, finder or investment banker is entitled to any broker's, finder's or investment banker's fee or commission in connection with the Transactions contemplated by this Agreement based upon arrangements made by and on behalf of either of the Sellers.

2.7 Real and Personal Property.

(a) Each of the Sellers has delivered the preliminary reports of title, including copies of or access to all material underlying title documents listed thereon for all Owned Real Property;

(b) There are no eminent domain proceedings or zoning or other public land use proceedings pending and served upon Sellers, or, to the Knowledge of Sellers, threatened in writing by a governmental authority against the Owned Real Property.

(c) To the Knowledge of Sellers, copies of all material documents in its possession comprising the Lessor Lease and the Tenant Leases have been provided to Purchaser in Seller's electronic data room. To the Knowledge of Sellers, there is no Person in possession of any portion of the premises leased under the Lessor Lease or any Tenant Leases, other than as permitted pursuant to the terms of respective lease agreements. Except as disclosed in Section 2.7(c) of the Disclosure Schedules, no party to any Lessor Lease or Tenant Leases has delivered any notices of default.

(d) Except as disclosed in Section 2.7(c) of the Disclosure Schedules, with respect to the Real Property:

(i) Except for this Agreement, there is no option or purchase right which grants any party the right to acquire the Real Property or any portion thereof and which remains pending; and

(d) to the Knowledge of Sellers there are no violations of any applicable Law or requirement of any governmental agency, body or subdivision affecting or relating to the Real Property, including, without limitation, any environmental law, ordinance, rule, requirement or regulation.

2.8 Certain Other Representations with Respect to the Business.

(a) Except as set forth in Section 2.8(a) of the Disclosure Schedules, during the three (3) years prior to the Closing Date all activities of each of the Sellers with respect to the Business have been, and are currently being, conducted in compliance in all material respects with all Healthcare Laws. Except as set forth in Section 2.8(a) of the Disclosure Schedules, during the three (3) years prior to the Closing Date, neither of the Sellers nor, to the Knowledge of Sellers, any of their respective employees, officers, directors and managers (each in their respective capacity as an employee, officer, director or manager of a Seller with respect to the Business) has received any written notice of any pending or threatened investigation from any Governmental Entity with respect to an alleged material violation of any Healthcare Law in the conduct of the Business.

For purposes of this Agreement, “Healthcare Laws” means Laws relating to the licensure, certification, qualification or authority to transact business relating to the provision of, or payment for, or both the provision of and payment for, health benefits, healthcare or insurance coverage, including ERISA, COBRA, the State Children’s Health Insurance Program, Medicare, Medicaid, TRICARE, and Laws relating to the regulation of fraud and abuse, false claims and patient referrals; Laws governing the federal Medicare (including Medicare Part D and Medicare Advantage), Medicaid, Medicaid-waiver, and CHAMPUS/TRICARE programs, any federal healthcare program as defined in 42 U.S.C. § 1320a-7b(f), and any state healthcare program as defined in 42 U.S.C. § 1320a-7(h) or as otherwise set forth under applicable state Law (“Healthcare Programs”) and the delivery and payment of healthcare services; Laws governing billing and submission of a claim to a Healthcare Program or other payor, including reimbursement, payments, and cost reporting and other Healthcare Program or healthcare services reimbursement requirements; the federal Anti-kickback Statute (42 U.S.C. § 1320a-7b(b)) and the regulations promulgated thereunder, and its state law counterparts; the Federal Civil Monetary Penalty Provisions (collectively, 42 U.S.C. § 1320a-7a and 31 U.S.C. § 3801 *et seq.*); the federal False Claims Act, and its state law counterparts; the Stark Law, and its state law counterparts; survey, certification and standards as each relates to the eligibility of Sellers for obtaining governmental authorizations required in any state where they conduct business or required for Sellers to participate in any Healthcare Program; medical records and patient medical information privacy and security Laws, including the requirements of HIPAA and its state law counterparts; Laws governing treatment and reporting by Sellers relating to infectious diseases or other public health reporting; corporate practice of medicine doctrines and similar restrictions on ownership of any Person and the performance of professional medical services by any Person.

(b) Each of the Sellers has all material licenses, permits, certificates and other authorizations, consents and approvals of any Governmental Entity that are required to operate the Business as currently operated in the ordinary course under any Laws, including provider agreements with the Medicare and Medi-Cal programs (including their respective administrative contractors) and TRICARE, except where the failure to have such licenses, permits, certificates or other authorizations, consents, or approvals would not and would not reasonably be expected to interfere, in any material respect, with the operation of the Business.

(c) The Hospital is duly accredited by the NIAHO Hospital Accreditation Program.

(d) The Hospital is certified for participation in the Medicare, Medi-Cal and TRICARE programs, and has current and valid provider contracts with each of such programs, and is in compliance in all material respects with the conditions of participation of such programs.

(e) No current employee at the Hospital has been excluded from participating in any federal healthcare program (as defined in 42 U.S.C. §1320a-7b(f)). None of Sellers or the Hospital's current officers, directors or employees (as such term is defined in 42 U.S.C. §1320a-5(b)), has been excluded from Medicare, any federal healthcare program (as defined in 42 U.S.C. §1320a-7b(f)) or Medicaid or been subject to sanction pursuant to 42 U.S.C. §1320a-7a or 1320a-8 or been convicted of a crime described at 42 U.S.C. §1320a-7b. To the Knowledge of Sellers, no individual providing services to the Hospital has failed to maintain such individual's current license to provide the services required to be provided by it to or on behalf of the Hospital. Except as set forth in Section 2.8(e) of the Disclosure Schedule, there are no material pending or, to the Knowledge of Sellers, threatened disciplinary or corrective actions or appeals with respect to the medical or other staff members of the Hospital.

(f) Except as set forth in Section 2.8(f) of the Disclosure Schedules:

(i) Sellers are, and for the past three (3) years have been in compliance in all material respects with the Health Insurance Portability and Accountability Act of 1996, as amended by and supplemented by the Health Information Technology for Clinical Health Act of the American Recovery and Reinvestment Act of 2009, and their implementing regulations (collectively referred to herein as "**HIPAA**") and applicable state laws regulating the privacy and/or security of individually identifiable information (collectively referred to herein as the "**Information Privacy and Security Laws**").

(ii) no Seller is under audit or investigation by any Governmental Entity for a violation of HIPAA or any applicable Information Privacy or Security Law and has not received any written notices from the United States Department of Health and Human Services Office for Civil Rights or the Attorney General of any state or territory of the United States relating to any such violations, which written notice has not been resolved.

2.9 Medical Staff Matters. Sellers have made available to Purchaser a list of all current members of such medical staff. Except as set forth on Section 2.9 of the Disclosure Schedules, there are no (a) pending or, to the Knowledge of Sellers, threatened adverse actions with respect to any medical staff member of the Hospital or any applicant thereto, including any adverse actions for which a medical staff member or applicant has requested a judicial review hearing that has not been scheduled or that has been scheduled but has not been completed, or (b) pending or, To the Knowledge of Sellers, threatened disputes with applicants, medical staff members or health professional affiliates, and all appeal periods in respect of any medical staff member or applicant against whom an adverse action has been taken have expired.

2.10 Title to Assets.

(a) As of the date of this Agreement and subject to the entry of the Sale Order, the Sellers are the sole and lawful owners of, and have good title to, or a valid leasehold interest in, all of the Assets, free and clear of all Encumbrances other than the Permitted Exceptions.

(b) As of immediately prior to the Closing and subject to the entry of the Sale Order, Sellers are the sole and lawful owners of, and have good title to, or a valid leasehold interest in, and the power to sell, assign or transfer to Purchaser, all of the Assets free and clear of all Encumbrances other than the Permitted Exceptions.

2.11 Assigned Contracts. Sellers have delivered to Purchaser a complete copy of each Assigned Contract, in each case, as amended or otherwise modified and in effect as of the date hereof.

2.12 Labor Matters. Section 2.12 of the Disclosure Schedules sets forth a complete and accurate list of all Business Employees as of the execution date of this Agreement, along with the position, status as full-time or part-time, date of hire, union affiliation, base compensation, any other regular compensation (such as bonuses or commissions), status as active or on leave (and if on leave, the nature of the leave and the anticipated date of return), and status as exempt or non-exempt for purposes of federal and state overtime pay requirements.

2.13 No Other Representations and Warranties. Except for the representations and warranties contained in this Article II (including the related portions of the Disclosure Schedules), neither Sellers nor any other Person makes (and Purchaser is not relying upon) any other express or implied representation or warranty with respect to Sellers, the Business, the Assets (including the value, condition, or use of any Asset), the Assumed Liabilities or the Transactions contemplated by this Agreement, and Sellers disclaim any other representations or warranties, whether made by any Sellers, any Affiliate of Sellers or any of their respective representatives. Except for the representations and warranties contained in this Article II (including the related portions of the Disclosure Schedule), Sellers expressly (i) disclaim and negate any representation or warranty, express or implied, at common law, by statute or otherwise, relating to the condition of the Assets (including any implied or expressed warranty of title, merchantability or fitness for a particular purpose, or of the probable success or profitability of the ownership, use or operation of the Business or the Assets by Purchaser after the Closing), and (ii) disclaim all liability and responsibility for any representation, warranty, projection, forecast, statement, or information made, communicated, or furnished (orally or in writing) to Purchaser or its Affiliates or representatives (including any opinion, information, projection or advice that may have been or may be provided to Purchaser by any representative of any Sellers).

2.14 AS IS, WHERE IS. THE ASSETS ARE BEING CONVEYED “AS IS”, “WHERE IS”, AND “WITH ALL FAULTS”, WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER AS TO ITS CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED OTHER THAN AS SET FORTH IN THIS AGREEMENT. SELLERS SPECIFICALLY DISCLAIM ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, THERETO EXCEPT AS OTHERWISE SET FORTH IN THE AGREEMENT. PURCHASER IS HEREBY THUS ACQUIRING THE ASSETS BASED SOLELY UPON PURCHASER’S OWN INDEPENDENT INVESTIGATIONS AND INSPECTION OF THAT PROPERTY AND NOT IN RELIANCE UPON ANY INFORMATION PROVIDED BY SELLERS OR SELLERS’ AGENTS OR CONTRACTORS EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT.

2.15 Sellers' Knowledge. References in this Agreement to "Sellers' Knowledge" or "the Knowledge of Sellers" means the knowledge of Chief Executive Officer, Chief Operating Officer, and Secretary of Sellers, after reasonably inquiry within the organization of Sellers, in each case as of the date of this Agreement and the Closing Date, respectively.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF PURCHASER

As an inducement to Sellers to enter into this Agreement and to consummate the Transactions contemplated by this Agreement, Purchaser hereby represents and warrants to Sellers as to the following matters as of the date of this Agreement and as of the Closing Date:

3.1 Authorization. Purchaser has all necessary corporate power and authority to enter into this Agreement and has full power and authority to carry out the Transactions contemplated hereby. No other action on the part of Purchaser is necessary to authorize the execution, delivery or performance of this Agreement.

3.2 Binding Agreement. This Agreement has been duly and validly executed and delivered by Purchaser and, assuming due and valid execution by Sellers, this Agreement constitutes a valid and binding obligation of Purchaser enforceable in accordance with its terms subject to (a) applicable bankruptcy, reorganization, insolvency, moratorium and other laws affecting creditors' rights generally from time to time in effect, and (b) limitations on the enforcement of equitable remedies.

3.3 Organization and Good Standing. Purchaser is duly organized, validly existing and in good standing under the Laws of the State of California. Purchaser has the requisite power and authority to own, operate and lease its properties and to carry on its business as now conducted.

3.4 No Violation. Neither the execution and delivery by Purchaser of this Agreement nor the consummation of the Transactions contemplated hereby nor compliance with any of the material provisions hereof by Purchaser will violate, conflict with or result in a breach of any material provision of the Articles of Incorporation, Bylaws or other organizational documents of Purchaser or any contract, lease or other instrument by which Purchaser is bound.

3.5 Brokers and Finders. Neither Purchaser nor any Affiliate thereof nor any officer or director thereof has engaged any finder or broker in connection with the Transactions contemplated hereunder.

3.6 Legal Proceedings. There are no claims, proceedings or investigations pending or, to the Knowledge of Purchaser, threatened relating to or affecting Purchaser or any affiliate of Purchaser before any court or Governmental Entity in which an adverse determination would adversely affect Purchaser's ability to consummate the Transactions contemplated hereby. Neither Purchaser nor any affiliate of Purchaser is subject to any judgment, order, decree or other governmental restriction specifically (as distinct from generically) applicable to Purchaser or any affiliate of Purchaser that would adversely affect Purchaser's ability to consummate the Transactions contemplated hereby.

3.7 Ability to Perform. Purchaser has the ability to obtain funds, including from an Affiliate, and, at the Closing, shall have cash in amounts necessary to consummate the Transactions contemplated by this Agreement.

3.8 Purchaser Knowledge. References in this Agreement to “***Purchaser’s Knowledge***” or “***the Knowledge of Purchaser***” means the knowledge of Chair of the Board, President, Finance Officer, and Secretary of Purchaser, after reasonable inquiry within the organization of Purchasers, in each case as of the date of this Agreement and the Closing Date, respectfully.

3.9 Independent Investigation. Purchaser has conducted its own independent investigation, review and analysis of the Business and the Assets, and acknowledges that it has been provided such access to the personnel, properties, assets, premises, books and records, and other documents and data of Sellers as has been requested by Purchaser for such purpose. Purchaser acknowledges and agrees that: (a) in making its decision to enter into this Agreement and to consummate the Transactions contemplated hereby, Purchaser has relied solely upon its own investigation and the express representations and warranties of Sellers set forth in Article II of this Agreement (including related portions of the Disclosure Schedules); and (b) neither Sellers nor any other Person has made any representation or warranty as to Sellers, the Business, the Assets or this Agreement, except as expressly set forth in Article II of this Agreement (including the related portions of the Disclosure Schedules).

ARTICLE IV PRE-CLOSING COVENANTS OF SELLERS

4.1 Access and Information; Inspections. Upon reasonable advance notice to Sellers, Sellers shall afford to the officers and agents of Purchaser (which shall include accountants, attorneys, bankers and other consultants and authorized agents of Purchaser) reasonable access during normal business hours, the right to inspect, the books, accounts, records and other relevant documents and information related to the Business as Purchaser may reasonably request, and (ii) Sellers shall furnish Purchaser with copies of such additional financial and operating data and other information in Sellers’ possession related to the Business as Purchaser or its representatives may from time to time reasonably request; provided, however, that Sellers is not obligated to disclose information that (a) is proprietary to Sellers, (b) would, in Sellers’ sole discretion, cause significant competitive harm to Sellers or the Business if the Transactions contemplated by this Agreement are not consummated, or (c) contravene any applicable Law, fiduciary duty or binding agreement entered into prior to the date of this Agreement; provided, further, that all disclosures of information shall be consistent with the confidentiality agreements and any other non-disclosure agreements entered into among Purchaser, its representatives and Sellers or their representatives. Purchaser’s right of access and inspection shall be exercised in such a manner as not to interfere with the operations of Sellers or the Business. Sellers shall promptly provide Purchaser with copies of all reports and information provided to the DIP Lender under the DIP Credit Agreement, other than reports and information concerning other offers to purchase the Sellers’ assets and the process related thereto. Sellers shall provide updated lists of Business Employees as reasonably requested by Purchaser.

4.2 Cooperation and Consents.

(a) The Parties shall reasonably cooperate with each other and their respective authorized representatives and attorneys in: (i) all efforts to obtain all consents, approvals, authorizations, clearances and licenses required to carry out the Transactions contemplated by this Agreement (including those of governmental and regulatory authorities), and (ii) the preparation of any document or other material which may be required by any Governmental Entity as a predicate to or result of the Transactions contemplated in this Agreement. Upon reasonable request of Purchaser, Sellers shall promptly provide Sellers specific information that is necessary for Purchaser to obtain all governmental consents, approvals, assignments, authorizations, clearances, permits and licenses necessary to consummate the Transactions contemplated by this Agreement.

(b) Sellers will use its commercially reasonable efforts to obtain, prior to the Closing Date, any consents required or requested by Purchaser for any Assigned Contracts and Assigned Leases; provided, however, that Sellers shall not be required to expend funds or incur additional liability as a condition or requirement to obtaining consent for any Assigned Contract or Assigned Lease (other than as may be expressly provided in an Assigned Contract or Assigned Lease and payable to the contract party or landlord in connection with providing such a consent or such ordinary legal and similar 3rd party advisory costs associated with seeking and obtaining such consents).

(c) Sellers shall provide Purchaser with advance copies of material pleadings in the Chapter 11 Case reasonably in advance of filing the same with the Bankruptcy Court.

4.3 Sellers' Efforts to Close. Sellers shall use their reasonable commercial efforts to satisfy all of the conditions precedent set forth in Article VI and Article VII to its or Purchaser's obligations under this Agreement to the extent that Sellers' action or inaction can control or materially influence the satisfaction of such conditions; provided, however, that Sellers shall not be required to pay or commit to pay any amount to (or incur any obligation in favor of) any Person.

4.4 Termination Cost Reports. Sellers shall file all Medicare, Medicaid and any other termination cost reports required to be filed as a result of the consummation of (a) the transfer of the Assets to Purchaser, and (b) the Transactions contemplated by this Agreement. Purchaser shall permit Sellers reasonable access to all Business books and records to prepare such reports. All such termination cost reports shall be filed by Sellers in a manner that is in compliance with current Laws. Sellers shall be responsible for filing governmental cost reports relating to its operation of the Business and any follow up requests, audits, or reconciliations with CMS or its designee related to such cost reports. Purchaser shall be responsible for its own cost report filings beginning as of the Effective Time.

4.5 Employee Liabilities. Prior to the Effective Time, Sellers shall be solely responsible for complying with WARN and all other obligations under applicable Law requiring notice of plant closings, relocations, mass layoffs, reductions in force or similar actions (and for any failures to so comply), in any case applicable to Business Employees as a result of any action by Sellers or any Seller's Affiliate prior to the Effective Time or following the Effective Time for any reason.

4.6 Business Operations. Prior to the Effective Time, Sellers shall use commercially reasonable efforts, subject to Sellers possessing required funding, to continue to operate at least

the Hospital's emergency room department and at least one medical/surgery unit as is being operated on the date hereof. With respect to the operations of the Business, Sellers shall:

(a) use commercially reasonable efforts to carry on the Business and use commercially reasonable efforts to maintain personnel, operations, real or personal property, finance or accounting policies in all material respects, provided that after entry of the Sale Order and prior to the Effective Time, Beverly shall reduce services to the Effective Time Service Lines;

(b) use commercially reasonable efforts to maintain the Business and the Assets in operating condition in a manner consistent with past practices, casualty, condemnation and ordinary wear and tear excepted, and inclusive of substitutions and retirements;

(c) maintain in effect the insurance coverages with respect to the Assets;

(d) perform Sellers' material obligations under all Assigned Leases and Assigned Contracts, and with respect to the Assets;

(e) permit and allow reasonable access by Purchaser and its representatives to make offers of post-Closing employment to any of Sellers' personnel and to establish relationships with physicians, medical staff and others having business relations with Sellers, provided, that such actions by Purchaser do not unreasonably interfere with Sellers' operation of the Business;

(f) timely file or cause to be filed all material reports, notices and tax returns required to be filed;

(g) maintain all existing material approvals, permits and environmental permits relating to the Hospital; and

(h) use commercially reasonable efforts (i) to facilitate the transfer of Patient Records from Beverly's EMR system to Purchaser's EMR system and (ii) any other actions that may be required to facilitate the transfer of Beverly's EMR system to Purchaser's EMR system.

4.7 Negative Covenants. Until the Effective Time, with respect to the operations of the Business, Sellers shall use commercially reasonable efforts not to, without the prior written consent of Purchaser (which shall not be unreasonably withheld) or except as may be required by Laws:

(a) except in the Ordinary Course of Business (which shall include renewals or extensions of the term of any contract) amend or terminate any of the Assigned Contracts or Assigned Leases; or, incur or agree to incur any material liability;

(b) with respect to the Ancillary Property and the MOB Improvements, negotiate or enter into any lease or other agreement to use, occupy, or change the occupancy of all or any portion of any of the properties constituting the Ancillary Property or the MOB Improvements;

(c) create, assume or permit to exist any new material debt or other Encumbrance upon any of the Assets (other than Permitted Exceptions and other than any debt created in accordance with California Assembly Bill AB112, provided, that the lender of such debt

consents to the Transactions at the time such debt is incurred or is not granted a lien against the Assets to secure such debt), provided that with respect to the Leased Real Property, this covenant shall apply only to Sellers' leasehold interest therein;

(d) acquire (whether by purchase or lease) or sell, assign, lease, or otherwise transfer or dispose of any material Asset, except in the Ordinary Course of Business with comparable replacement thereof;

(e) except with respect to previously budgeted (or in the Ordinary Course of Business) expenditures, purchase capital assets or incur material costs in respect of construction in progress;

(f) agree or commit to take any of the actions set forth in this Section 4.7;

(g) allow any breach, default, termination or cancellation of such insurance policies or agreements to occur or exist with respect to the Real Property, the Assigned Leases, or the Assigned Contracts; or

(h) cause any Material Adverse Effect to occur with respect to any of the Assets.

(i) For purposes of this Section 4.7, Sellers shall be deemed to have obtained Purchaser's prior written consent to undertake the actions otherwise prohibited by this Section 4.7 if Sellers give Purchaser written notice of a proposed action and Sellers do not receive from Purchaser a written notice of objection to such action within seven (7) days after Purchaser receives Sellers' written notice. Notwithstanding any provision to the contrary contained in this Agreement, neither Section 4.6 nor this Section 4.7 shall be construed to prohibit Sellers from engaging in any act which Sellers reasonably believes is necessary (i) to preserve and protect the condition or continued operations of the Business, (ii) for patient safety needs, or (iii) to comply with the requirements of any Laws. Sellers shall give Purchaser prompt written notice subsequent to taking any act described in the immediately preceding sentence.

4.8 Title Matters. At any time prior to the Closing Date, Purchaser may cause to be delivered to Sellers (a) a preliminary binder or title commitment(s) (the "Title Commitment") sufficient for the issuance of a standard coverage Owner's Title Insurance Policy in form and with such ALTA extended coverages and all endorsements thereto as Purchaser may have reasonably requested and that the Title Company shall have agreed to, insuring fee title in Purchaser (or its designated vestee pursuant hereto) in the full insurable value of the Owned Real Property, free and clear of all Encumbrances, subject only to the non-monetary Schedule B exceptions set forth therein with respect to the Owned Real Property (the "Owner's Title Policy") and, a standard coverage Leasehold Title Policy in a form approved for issuance in California with respect to any Leased Real Property (the "Leasehold Title Policy") in form and with such ALTA extended coverages and all endorsements thereto as Purchaser may have reasonably requested and that the Title Company shall have agreed to, insuring a leasehold interest in Purchaser (or its designated vestee pursuant hereto) in the full insurable value of the Leased Real Property, free and clear of all Encumbrances, subject only to the non-monetary Schedule B exceptions set forth therein (the Owner's Title Policy and the Leasehold Title Policy are collectively referred to in this Agreement

as the “**Title Policy**”), issued by First American Title Insurance Company (the “**Title Company**”), together with true, correct and legible (or, if not legible, the best available) copies of all instruments referred to therein as conditions or exceptions to title (the “**Title Instruments**”), and (b) if and to the extent Purchaser so elects in its sole discretion, an ALTA survey or surveys of the Owned Real Property complying with the Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys for the Owned Real Property in a form reasonably acceptable to Purchaser and the Title Company (the “**Surveys**”). The costs and expenses of the Title Commitment, the Title Policy and the Surveys shall be borne by Purchaser. Prior to the Closing, Sellers shall deliver to the Escrow Holder for delivery to the Title Company at Closing (i) an owner’s affidavit of title (the “**Owner’s Affidavit**”) substantially in the form attached as Exhibit 4.8, or such other form reasonably requested by the Title Company and adequate to cause Title Company to delete the standard pre-printed exceptions in the Title Commitment (provided that such deletion does not require the delivery to Title Company of an ALTA survey approved by Title Company as Sellers shall have no duty to provide such a survey) and (ii) such other documentation as Title Company may reasonably require from Sellers to issue the Title Policy to Purchaser at Closing.

ARTICLE V COVENANTS OF THE PARTIES PRIOR TO CLOSING

5.1 **Purchaser’s Efforts to Close.** Purchaser shall use its reasonable commercial efforts to satisfy all of the conditions precedent set forth in Article VI and Article VII to its or Sellers’ obligations under this Agreement to the extent that Purchaser’s action or inaction can control or materially influence the satisfaction of such conditions.

5.2 **Certain Employee Matters.**

(a) The Parties shall negotiate the terms and conditions of a staffing agreement whereby Seller shall provide the services to Purchaser of all the Business Employees who are in good standing as of the Closing under Sellers’ employment policies (the “**Staffing Agreement Employees**”) to provide services at Purchaser’s White Memorial campus or at the new Montebello campus on the Hospital Property (the “**Staffing Agreement**”) while Purchaser conducts the interview and evaluation process set forth in Section 5.2(b) below. The Staffing Agreement shall provide for Purchaser’s reimbursement to Seller for the full salary and benefit expense of each Staffing Agreement Employee incurred or accrued during the Staffing Period.

(b) As soon as practicable, Purchaser shall interview or otherwise use commercially reasonable efforts to evaluate all Staffing Agreement Employees in compliance with applicable federal and California labor laws, rules and regulations, including compliance with rules regarding employee use of cannabis. Purchaser (or one of its Affiliates) agrees to offer employment as soon as practicable to all qualified Staffing Agreement Employees who are in good standing under Sellers’ employment policies and who meet Purchaser’s employment eligibility standards to work at Purchaser’s White Memorial campus or at the new Montebello campus on the Hospital Property, subject to Purchaser’s standard hiring practices.

(c) The Sellers shall use commercially reasonable efforts (i) to facilitate Purchaser's interview/ evaluation process, (ii) to facilitate the transition of Business Employees hired by Purchaser as reasonably requested by Purchaser, and (iii) to take other actions reasonably necessary for a smooth transition of operations immediately following the Closing.

(d) Sellers shall remain responsible for severance or termination payments or obligations to all Business Employees related to employment by Sellers, including under Sellers' Plans. The provisions of this Section 5.2 are solely for the benefit of the Parties, and no employee or former employee or any other individual associated therewith or any employee benefit plan or trustee thereof shall be regarded for any purpose as a third-party beneficiary of this Agreement, and nothing herein shall be construed as an amendment to any employee benefit plan for any purpose.

5.3 Governmental Approvals. Purchaser (i) shall use its reasonable commercial efforts to secure, as promptly as possible, all consents, approvals (or exemptions therefrom), authorizations, clearances and licenses required to be obtained from any Governmental Entity in order to carry out the Transactions contemplated by this Agreement and to cause all of its covenants and agreements to be performed, satisfied and fulfilled, and (ii) will provide such other information and communications to all Governmental Entities as Sellers or such authorities may reasonably request. Purchaser is responsible for all filings with and requests to Governmental Entity necessary to enable Purchaser to operate the Business at and after the Closing Date.

5.4 Collective Bargaining Agreement. Purchaser shall use commercially reasonable efforts to negotiate amendments to the CBA with the Union, on terms and conditions acceptable to it in its sole and absolute discretion, including, without limitation as follows: (a) the CBA is modified to provide for relief from all Beverly benefit plans and instead reflects that employees will participate in Purchaser's existing employee benefit plans, including but not limited to health insurance and prescription plans, 401(k)/403(b) plans, dental plans, vision plans, life insurance plans, AD&D plans, LTD plans, and EAP plans; (b) bargaining unit members will participate in Purchaser's benefit plans on the same terms as other non-exempt employees; (c) any recognition of the Union, and coverage of the CBA, is limited to the Beverly addresses as set forth in the CBA, and no other sites, and the union agrees to any limits on recognition; (d) any terms of the CBA inconsistent with the foregoing are abrogated, as are any maintenance of benefits provisions, language about services performed at Beverly hospital, language about wellness programs, and any other limitations or restrictions on Adventist Health White Memorial's ability to administer benefit plans in which employees participate (the "Amended CBA").

ARTICLE VI CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLERS

Sellers' obligation to sell the Assets and to close the Transactions as contemplated by this Agreement shall be subject to the satisfaction of each of the following conditions on or prior to the Closing Date unless specifically waived in writing by Sellers in whole or in part at or prior to the Closing:

6.1 Signing and Delivery of Instruments. Purchaser shall have executed and delivered all documents, instruments and certificates required to be executed and delivered pursuant to the provisions of this Agreement.

6.2 No Restraints. No temporary restraining order, preliminary or permanent injunction or other order preventing the consummation of the Transactions contemplated in this Agreement shall have been issued by any court of competent jurisdiction or any other Governmental Entity and remain in effect on the Closing Date.

6.3 Representations and Warranties; Performance of Covenants. The representations and warranties of Purchaser contained in this Agreement shall be true and correct in all material respects when made. Each and all of the terms, covenants, and agreements in this Agreement to be complied with or performed by Purchaser on or before the Closing Date shall have been complied with and performed by Purchaser in all material respects.

6.4 Sale Order. The Bankruptcy Court shall have entered the Sale Order.

6.5 Schedules. The provisions of the schedules attached to this Agreement that were updated by Purchaser after the execution of this Agreement, if any, shall be acceptable to Sellers in its reasonable discretion.

6.6 Required Consents. All Governmental Entities set forth on Schedule 6.6 whose approval is required for Purchaser or Sellers to consummate the Transactions contemplated by this Agreement have given (or will give) such approval ("Required Governmental Entity Consents") effective as of the Effective Time.

6.7 Staffing Agreement. The Staffing Agreement shall have been negotiated and executed by the parties thereto.

ARTICLE VII CONDITIONS PRECEDENT TO OBLIGATIONS OF PURCHASER

Purchaser's obligation to purchase the Assets and to close the Transactions contemplated by this Agreement shall be subject to the satisfaction of each of the following conditions on or prior to the Closing Date unless specifically waived in writing by Purchaser in whole or in part at or prior to the Closing.

7.1 Signing and Delivery of Instruments. Sellers shall have executed and delivered all documents, instruments and certificates required to be executed and delivered pursuant to the provisions of this Agreement.

7.2 No Restraints. No temporary restraining order, preliminary or permanent injunction or other order preventing the consummation of the Transactions contemplated in this Agreement shall have been issued by any court of competent jurisdiction or any other Governmental Entity and remain in effect on the Closing Date.

7.3 Representations and Warranties; Performance of Covenants. The representations and warranties of Sellers contained in this Agreement shall be true and correct in all material respects when made (except to the extent limited or qualified by materiality or Material Adverse Effect, in which event, such applicable representation and warranty shall be true and accurate in all respects in accordance with the terms of the applicable representation and warranty as set forth in this Agreement). Each and all of the terms, covenants, and agreements in this Agreement to be complied with or performed by Sellers on or before the Closing Date shall have been complied with and performed by Sellers in all material respects.

7.4 Title Insurance Policy. The Title Company shall be irrevocably committed, subject only to payment of premiums, to issue to Purchaser on and effective as of the Closing Date the Title Policy.

7.5 No Material Adverse Effect. Since the date hereof, there will not have been any Material Adverse Effect with respect to the Business or any of the Assets, including without limitation the Real Property.

7.6 Schedules. The provisions of the schedules attached to this Agreement or any Disclosure Schedule that were updated by Seller after the execution of this Agreement, if any, shall be acceptable to Purchaser in its reasonable discretion.

7.7 Required Consents.

(a) All Required Governmental Entity Consents shall have been obtained by Sellers and are satisfactory to Purchaser in its sole and absolute discretion.

(b) Purchaser shall have received all Governmental Entity consents necessary for Purchaser to operate a multi-campus general acute care hospital under a consolidated license as set forth on **Schedule 7.7(b)** (“**Purchaser Governmental Entity Consents**”).

(c) Sellers have taken the steps (including with respect to required notifications with respect to changes to licensure or service lines) necessary so that as of the Effective Time, the Hospital (i) has not taken any action to suspend its general acute care hospital license with the California Department of Public Health and (ii) is only operating the Effective Time Service Lines.

7.8 Bankruptcy Court Orders. The Bid Protections Order shall be in full force and effect, and not subject to any stay. The Sale Order shall be entered and shall be a Final Order, be in full force and effect, and not subject to any stay.

7.9 Surrender of License. Immediately prior to the Effective Time, Beverly shall have surrendered its general acute care hospital license to the California Department of Public Health.

7.10 CBA. The Amended CBA shall have been executed by the parties thereto.

7.11 Staffing Agreement. The Staffing Agreement shall have been negotiated and executed by the parties thereto.

ARTICLE VIII
TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to Closing:

(a) by the mutual written consent of the Parties; or

(b) by either Purchaser or Sellers if the Closing has not occurred (other than through the failure of any Party seeking to terminate this Agreement to comply fully with its obligations under this Agreement) on or before sixty (60) days after the date of execution of this Agreement (the “Termination Date”).

(c) by Sellers:

(i) if a material breach of this Agreement has been committed by Purchaser and such breach has not been (i) waived in writing by Sellers, or (ii) cured by Purchaser to the reasonable satisfaction of Sellers within three (3) business days after Sellers provide Purchaser a written notice that describes the nature of such breach; provided, however, that Sellers shall not be permitted to terminate this Agreement pursuant to this Section 8.1(c)(i) if Sellers are also in material breach of this Agreement; or

(ii) if satisfaction of any such condition in Article VI is or becomes impossible and Sellers have not waived such condition in writing (provided that the failure to satisfy the applicable condition or conditions has occurred by reason other than (i) through the failure of Sellers to comply with its obligations under this Agreement, or (ii) Purchaser’s failure to provide its closing deliveries on the Closing Date as a result of Sellers not being ready, willing and able to close the transaction on the Closing Date)

(d) by Purchaser:

(i) if a material breach of this Agreement has been committed by Sellers, which material breach has resulted, and such breach has not been (i) waived in writing by Purchaser, or (ii) cured by Sellers to the reasonable satisfaction of Purchaser within three (3) business days after Purchaser provides Sellers a written notice which describes the nature of such breach; provided, however, that Purchaser shall not be permitted to terminate this Agreement pursuant to this Section 8.1(d)(i) if Purchaser is also in material breach of this Agreement;

(ii) if satisfaction of any condition in Article VII is or becomes impossible and Purchaser has not waived such condition in writing (provided that the failure to satisfy the applicable condition or conditions has occurred by reason other than (i) through the failure of Purchaser to comply with its obligations under this Agreement, or (ii) Sellers’ failure to provide its closing deliveries on the Closing Date as a result of Purchaser not being ready, willing and able to close the transaction on the Closing Date);

(iii) if any conditions are imposed by the California Attorney General other than those acceptable to the Purchaser in its sole and absolute discretion;

(iv) if the Chapter 11 Case of any Seller or any of its affiliated debtors is converted to a case under Chapter 7 of the Bankruptcy Code or is dismissed or if the a Chapter 11 trustee or an examiner with expanded powers occurs is appointed;

(v) if Purchaser is not selected as the winning bidder or Back-Up Bidder at any auction for the Assets; or

(vi) upon a notice of a Casualty or Condemnation pursuant to Section 1.7(a) of this Agreement.

8.2 Termination Consequences.

(a) If this Agreement is terminated pursuant to Section 8.1: (a) all further obligations of the Parties under this Agreement shall terminate, except that the obligations in Sections 8.2, 11.4, 11.9 and 11.12 shall survive, and (b) each Party shall pay the costs and expenses incurred by it in connection with this Agreement, except as provided in the Bid Protections Order and Section 11.12. Each Party acknowledges that the agreements contained in this Section 8.2 are an integral part of the Transactions contemplated by this Agreement and that without these agreements such Party would not have entered into this Agreement.

(b) If this Agreement is terminated pursuant to Section 8.1(a), Section 8.1(b), Section 8.1(c)(ii), or Section 8.1(d)(i), 8.1(d)(ii), 8.1(d)(iii), 8.1(d)(iv), 8.1(d)(v), 8.1(d)(vi), or 8.1(d)(vii), Purchaser shall be entitled to disbursement of the Purchaser Deposit (including, for the avoidance of doubt) from the Escrow Account and the payment of the all amounts owed to Purchaser under the Bid Protections Order. In the event of a termination of this Agreement pursuant to Section 8.1(c)(i), Sellers shall be entitled to disbursement of the Purchaser Deposit from the Escrow Account. If this Agreement is terminated, then promptly following the effective date of any such termination either (i) Sellers and Purchaser will deliver joint written instructions to the Escrow Holder or (ii) the Bankruptcy Court shall issue an order, to pay Sellers or Purchaser, as applicable, the Purchaser Deposit from the Escrow Account, subject to the terms of the Escrow Agreement.

ARTICLE IX

POST-CLOSING MATTERS AND ADDITIONAL AGREEMENTS OF PURCHASER

9.1 Excluded Assets. Subject to Section 1.1(b) hereof, any Excluded Asset (or proceeds thereof) pursuant to the terms of this Agreement or as otherwise determined by the Parties' mutual written agreement, which comes into the possession, custody or control of Purchaser (or its respective successors-in-interest, assigns or affiliates) shall, within twenty (20) business days following receipt, be transferred, assigned or conveyed by Purchaser (and its respective successors-in-interest, assigns and affiliates) to Sellers without imposing any charge to Sellers for Purchaser's transfer, storage, handling or holding of same on and after the Effective Time.

9.2 Preservation and Access to Records After the Closing.

(a) After the Closing, Purchaser shall maintain all the Books and Records that are in the control or the possession of Purchaser or any of its Affiliates or their respective agents

or representatives with respect to time periods prior to the Closing Date that are among the Assets as of the Effective Time, but excluding any records that are among the Excluded Assets (collectively, “**Business Records**”) for a period of seven (7) years after the Closing Date or such longer period as required by Law (the “**Document Retention Period**”). After the Closing, Purchaser shall provide the Sellers, any direct or indirect successor to the Sellers and their respective professionals, and the Committee, the Committee’s successors, any estate representative, any liquidating trust relating to the Sellers and each of their respective professionals (collectively, the “**Permitted Parties**”) reasonable access during normal business hours to the Business Records for the purposes of (i) pursuing, assessing, settling, or otherwise dealing with any Excluded Assets; (ii) pursuing, assessing, defending, settling, or otherwise dealing with (including, without limitation, exercising rights and remedies with respect to) any claim or cause of action, including, without limitation, any objection or motion, that any Permitted Party has the right to pursue; (iii) performing and/or otherwise dealing with any obligations of the Sellers pursuant to this Agreement, including the Excluded Liabilities; (iv) assisting any one or more of the Permitted Parties in connection with or otherwise relating to the claims reconciliation process relating to Sellers, including, without limitation, with respect to claims against any Person, including, without limitation, assessing, resolving, settling, and/or otherwise dealing with priority and administrative claims and any other general unsecured claims that accrue prior to the Closing Date; and (v) without limiting the generality of the immediately preceding clauses (i) through (iv), otherwise administering Sellers’ estates including, without limitation, the preparation and confirmation of a plan relating to Sellers and the preparation of a disclosure statement relating to Sellers, and compliance with any subpoena, document request, or order of any court compelling any Permitted Party to produce documents to third parties, winding down Sellers’ estates, preparing or filing tax returns and causing audits to be performed and/or for any other reasonable purpose.

(b) In complying with Section 9.2, Purchaser shall not incur any out-of-pocket costs and shall be reimbursed for expenses for material time expended by employees of Purchaser. The right of reasonable access for the Permitted Parties shall include, without limitation, (i) the right of such Permitted Party to copy at its expense at Purchaser’s location, during regular business hours and upon reasonable notice (not less than 5 business days), such Business Records as they may reasonably request, and (ii) Purchaser’s copying (at the Permitted Party’s expense) and delivering to such Permitted Party such Business Records as may be reasonably requested in writing with reasonable written descriptions of the materials.¹

(c) Purchaser acknowledges that, as a result of entering into this Agreement, it will gain access to Patient Records and other information which are subject to rules and regulations concerning confidentiality. Purchaser shall maintain the Patient Records in accordance with applicable Laws. Notwithstanding any other provision of this Agreement, from the Closing Date, Purchaser shall keep and preserve all Patient Records that are among the Assets as of the Effective Time for so long as and as required by Law.

(d) Upon Purchaser’s reasonable request, Purchaser and its representatives shall be given access by Sellers during normal business hours to the extent needed by Purchaser for business purposes to all documents, records, correspondence, work papers and other documents

¹ **NTD:** To confirm whether Seller will pay for Purchaser’s provisions of records.

retained by Sellers pertaining to any of the Assets prior to the Effective Time (excluding confidential employee information, privileged materials and patient records), all in such manner as to not interfere unreasonably with Sellers. Such documents and other materials shall be, at Sellers' option, either (i) copied by Sellers for Purchaser at Purchaser's expense, or (ii) removed by Purchaser from the premises, copied by Purchaser and promptly returned to Sellers.

(e) Purchaser shall cooperate with Sellers, on a timely basis and as reasonably requested by Sellers, in connection with the provision of all data of the Hospital and other information required by Sellers for reporting purposes, to the extent such information is included in the Assets.

(f) To the maximum extent permitted by Law, if any Person other than the Permitted Parties, requests or demands, by subpoena or otherwise, any documents consisting of Assets, but relating to the Excluded Liabilities or Excluded Assets, including documents relating to the operations of the Business or any of the Hospital's committees prior to the Closing Date, Purchaser shall use reasonable efforts to notify Sellers and provide Sellers with the opportunity to object to, and otherwise coordinate with respect to, such request or demand, to the extent such documents are included in the Assets.

9.3 General Cooperation and Turnover Obligations. The Parties shall cooperate to ensure that any and all payments that constitute Excluded Assets shall be paid to and received by Sellers, and any and all payments that constitute Assets transferred to Purchaser pursuant to Section 1.1(a) or that otherwise arise from services rendered by Purchaser on or after the Closing Date shall be paid to and received by Purchaser. In this regard, for a period of one (1) year after the Closing Date ("Turnover Period"), the Parties shall, within twenty (20) business days of receipt, copy and send to the other Party copies (either in hard copy or via electronic file) of all remittance advices for all deposits to all bank accounts for such receivables, from whatever payor or source of funds, that are received on and after the Effective Time. If payments that constitute a transferred Asset are deposited to a bank account of Sellers that is not automatically swept or transferred to Purchaser, then Sellers, within five (5) business days of notice of the receipt of such payments, shall turn over and pay Purchaser said funds. If a deposit representing payment of any Excluded Assets is received by Purchaser, then Purchaser, within five (5) business days of discovery that such funds constitute Excluded Assets, shall turn over and pay Sellers such funds. Each Party shall have the right, within three (3) months after the expiration of the Turnover Period, to audit by an independent and competent auditor, at the requesting Party's sole expense, of the bank records and remittance advices of the other Party. Thereafter, upon the findings of the auditor that there has either been an overpayment or an underpayment of funds due, the Party owning funds shall, within twenty (20) business days, make a payment of such funds to whom they are owed.

ARTICLE X TAXES AND COST REPORTS

10.1 Tax Matters; Allocation of Purchase Price.

(a) After the Closing Date, the Parties shall reasonably cooperate with each other and shall make available to each other, as reasonably requested, all information, records or

documents relating to tax liabilities or potential tax liabilities attributable to Sellers with respect to the operation of the Business for all periods prior to the Closing Date and shall preserve all such information, records and documents at least until the expiration of any applicable statute of limitations or extensions thereof. The Parties shall also make available to each other to the extent reasonably required, and at the reasonable cost of the requesting Party (for out-of-pocket costs and expenses only), personnel responsible for preparing or maintaining information, records and documents in connection with tax matters and as Sellers reasonably may request in connection with the completion of any post-Closing audits of the Business.

(b) The Purchase Price (including any liabilities that are considered to be an increase to the Purchase Price for United States federal income tax purposes) shall be allocated first among the Sellers, and such amounts shall be further allocated among the Assets in accordance with **Schedule 10.1(b)** and Section 1060 of the Code and the Treasury Regulations promulgated thereunder (the “**Allocation Schedule**”). Purchaser shall provide to Sellers the Allocation Schedule no later than sixty (60) days after the Closing Date for Sellers’ review and comment. Purchaser shall consider in good faith any revisions as are reasonably requested by Seller no later than fifteen (15) days after the receipt by Seller of such Allocation Schedule. The Parties shall prepare and file all Tax returns and otherwise take all Tax actions consistent with the Allocation Schedule.

10.2 **Cost Report Matters.** Consistent with **Section 4.4**, Sellers shall prepare and timely file all cost reports relating to the periods ending prior to the Closing Date or required as a result of the consummation of the Transactions described in this Agreement, including those relating to Medicare, Medicaid, and other third party payors which settle on a cost report basis (the “**Sellers Cost Reports**”).

ARTICLE XI MISCELLANEOUS PROVISIONS

11.1 **Defined Terms.** As used in this Agreement and unless otherwise defined in this Agreement, capitalized terms shall have the meanings described in **Appendix I**.

11.2 **Further Assurances and Cooperation.** Each Party shall execute, acknowledge and deliver to the other Parties any and all other assignments, consents, approvals, conveyances, assurances, documents and instruments reasonably requested by such Party at any time and shall take any and all other actions reasonably requested by such Party at any time for the purpose of consummating the Transactions hereunder and fulfilling such Party’s obligations hereunder. After consummation of the Transactions, the Parties agree to cooperate with each other and take such further actions as may be necessary or appropriate to effectuate, carry out and comply with all of the terms of this Agreement, the documents referred to in this Agreement and the Transactions.

11.3 **Successors and Assigns.** All of the terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of and be enforceable by the respective successors and assigns of the Parties hereto; **provided, however**, that no Party hereto may assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other Parties which consent shall not be unreasonably withheld or delayed.

11.4 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the internal Laws of the State of California (without giving effect to the principles of conflict of Laws thereof), except to the extent that the Laws of such state are superseded by the Bankruptcy Code. Without limiting any Party's right to appeal any order of the Bankruptcy Court, the Parties agree that if any dispute arises out of or in connection with this Agreement or any of the documents executed hereunder or in connection herewith, the Bankruptcy Court shall have exclusive personal and subject matter jurisdiction and shall be the exclusive venue to resolve any and all disputes relating to the Transactions contemplated hereby and any of the documents executed hereunder or in connection herewith. Such court shall have sole jurisdiction over such matters and the Parties affected thereby and Purchaser and each Seller each hereby consent and submit to such jurisdiction; provided, however, that if the Chapter 11 Case shall have closed and cannot be reopened, the Parties agree to unconditionally and irrevocably submit to the exclusive jurisdiction of the United States District Court for the Central District of California and any appellate court thereof, for the resolution of any such claim or dispute. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable Law, any objection which they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties hereto agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. In the event any such action, suit or proceeding is commenced, the Parties hereby agree and consent that service of process may be made, and personal jurisdiction over any Party hereto in any such action, suit or proceeding may be obtained, by service of a copy of the summons, complaint and other pleadings required to commence such action, suit or proceeding upon the Party at the address of such Party set forth in Section 11.7, unless another address has been designated by such Party in a notice given to the other Parties in accordance with the provisions of Section 11.7.

11.5 Amendments. This Agreement may not be amended other than by written instrument signed by the Parties.

11.6 Exhibits, Schedules and Disclosure Schedule. The Disclosure Schedules and all exhibits and schedules referred to in this Agreement shall be attached hereto and are incorporated by reference herein. From the date of the execution of this Agreement until the Closing, the Parties agree that Sellers may update the Disclosure Schedules and either Party may update the schedules as necessary, subject to the terms of Sections 6.5 or Section 7.6, as applicable, of this Agreement.

11.7 Notices. Any notice, demand, letter or other communication required, permitted, or desired to be given hereunder shall be deemed effectively given when either personally delivered, or when received by electronic means (including email) or overnight courier, addressed as follows:

If to Sellers: Montebello Community Health Services, Inc.
309 W. Beverly Blvd.
Montebello, California 90640
Attn: Alice Cheng, President and Chief Executive Officer

With a copy to: Sheppard Mullin
333 South Hope Street
Forty-Third Floor
Los Angeles, California 90071
Attention: Jennifer L. Nassiri

If to Purchaser: Adventist Health
1 Adventist Health Way
Roseville, California 95661
Attention: Kerry Heinrich, Chair of the Board

With a copy to: Adventist Health System
1 Adventist Health Way
Roseville, California 95661
Attn: Meredith Jobe, Vice President, General Counsel

Jones Day
555 S. Flower Street
50th Floor
Los Angeles, California 90071
Attention: Catherine A. Ehrgott
Joshua M. Mester

or at such other address as one Party may designate by notice hereunder to the other Parties.

11.8 Headings. The section and other headings contained in this Agreement and in the Disclosure Schedule, exhibits and schedules to this Agreement are included for the purpose of convenient reference only and shall not restrict, amplify, modify or otherwise affect in any way the meaning or interpretation of this Agreement or the Disclosure Schedules, exhibits and schedules hereto.

11.9 Confidentiality and Publicity. The Parties acknowledge and agree that the Nondisclosure Agreement, dated as of July 16, 2021, between an affiliate of Purchaser and Sellers (the “***Confidentiality Agreement***”) remains in full force and effect. Prior to the Closing Date, Sellers and Purchaser shall consult with each other as to the form and substance of any press release or other public disclosure materially related to this Agreement or any other transaction contemplated hereby and each shall have the right to review and comment on the other’s press releases at least forty-eight (48) hours prior to issuance; provided, however, that nothing in this Section 11.9 shall be deemed to prohibit either Sellers or Purchaser from making any disclosure that its counsel deems necessary or advisable in order to satisfy either Party’s disclosure obligations imposed by law subject to reasonable prior notice to the other Parties thereof.

11.10 Gender and Number; Construction; Affiliates. All references to the neuter gender shall include the feminine or masculine gender and vice versa, where applicable, and all references to the singular shall include the plural and vice versa, where applicable. Unless otherwise expressly provided, the word “including” followed by a listing does not limit the preceding words or terms and shall mean “including, without limitation.” Any reference in this Agreement to an “Affiliate” shall mean any Person directly or indirectly controlling, controlled by or under common control with a second Person. The term “control” (including the terms “controlled by” and “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

11.11 Third Party Beneficiary. The provisions contained in this Agreement are not intended by the Parties, nor shall they be deemed, to confer any benefit on any Person not a Party to this Agreement, except for the Parties’ successors and permitted assigns.

11.12 Expenses and Attorneys’ Fees. Except as otherwise provided in this Agreement or the Bid Protections Order, each Party shall bear and pay its own costs and expenses relating to the preparation of this Agreement and to the Transactions contemplated hereby, or the performance of or compliance with any condition or covenant set forth in, this Agreement, including the disbursements and fees of their respective attorneys, accountants, advisors, agents and other representatives, incidental to the preparation and carrying out of this Agreement, whether or not the Transactions contemplated hereby are consummated.

11.13 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement, binding on all of the Parties hereto. The Parties agree that .PDF copies of signatures shall be deemed originals for all purposes hereof and that a Party may produce such copies, without the need to produce original signatures, to prove the existence of this Agreement in any proceeding brought hereunder. Signatures sent by facsimile or electronic transmission shall be deemed to be originals for all purposes of this Agreement.

11.14 Entire Agreement. This Agreement, the Disclosure Schedules, the exhibits and schedules, and the Transaction Documents contain the entire understanding between the Parties with respect to the Transactions contemplated hereby and supersede all prior or contemporaneous agreements, understandings, representations and statements, oral or written, between the Parties on the subject matter hereof.

11.15 No Waiver. Any term, covenant or condition of this Agreement may be waived at any time by the Party which is entitled to the benefit thereof but only by a written notice signed by the Party expressly waiving such term or condition. The subsequent acceptance of performance hereunder by a Party shall not be deemed to be a waiver of any preceding breach by any other Party of any term, covenant or condition of this Agreement, other than the failure of such other Party to perform the particular duties so accepted, regardless of the accepting Party’s knowledge of such preceding breach at the time of acceptance of such performance. The waiver of any term, covenant or condition shall not be construed as a waiver of any other term, covenant or condition of this Agreement.

11.16 Severability. If any one or more of the provisions contained in this Agreement or in the Transaction Documents, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by Law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or the Transaction Documents.

11.17 Time is of the Essence. Time is of the essence for all dates and time periods set forth in this Agreement and each performance called for in this Agreement.

11.18 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION (I) ARISING UNDER THIS AGREEMENT OR (II) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES IN RESPECT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY, OR OTHERWISE. EACH OF THE PARTIES EACH HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY OF THE PARTIES MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

11.19 Non-Recourse. All claims or causes of action (whether in contract or in tort, in law or in equity, by statute or otherwise) that may be based upon, arise out of or relate to this Agreement or the other Transaction Documents, or the negotiation, execution or performance of this Agreement or the other Transaction Documents (including any representation or warranty made in or in connection with this Agreement or the other Transaction Documents or as an inducement to enter into this Agreement or the other Transaction Documents), may be made only against the Persons that are expressly identified as parties hereto and thereto. No Person who is not a named party to this Agreement or the other Transaction Documents, including any past, present or future director, officer, employee, incorporator, member, partner, stockholder, equityholder, controlling person, Affiliate, agent, attorney or representative of any named party to this Agreement or the other Transaction Documents (the "Non-Party Affiliates") shall have any liability (whether in contract or in tort, in law or in equity, by statute or otherwise, or based upon any theory that seeks to impose liability of an entity party against its owners or Affiliates, including by or through theories of equity, agency, control, instrumentality, single business enterprise, piercing the veil or undercapitalization) for any obligations or liabilities arising under, in connection with or related to this Agreement or the other Transaction Documents (as the case may be) or for any claim based on, in respect of, or by reason of this Agreement or the other Transaction Documents (as the case may be) or the negotiation or execution hereof or thereof; and each Party waives and releases all such liabilities, claims and obligations against any such Non-Party Affiliates.

11.20 Survival. The representations and warranties of each Seller and of Purchaser contained in this Agreement or in any certificate delivered pursuant hereto (whether or not contained in Article II or Article III) shall not survive, and shall terminate at, the Closing, and none of the Sellers nor Purchaser shall have liability after the Closing for any breach of any of its

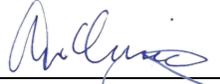
representations or warranties contained in this Agreement or in any certificate delivered pursuant hereto. The covenants or other agreements of each Seller and of Purchaser contained in this Agreement or in any certificate delivered pursuant hereto which are to be performed prior to Closing shall not survive, and shall terminate at, the Closing, and none of the Sellers nor Purchaser shall have liability after the Closing for any breach of any such covenant or other agreement contained in this Agreement or in any certificate delivered pursuant hereto. The covenants and other agreements of each Seller and of Purchaser contained in this Agreement or in any certificate delivered pursuant hereto which are to be performed after the Closing shall survive the Closing for the period contemplated by their terms (or if no such survival period is contemplated, then indefinitely).

11.21 Bankruptcy Court Approval. The Parties acknowledge that this Agreement shall not become effective until it has been approved by the Bankruptcy Court pursuant to the Sale Order.

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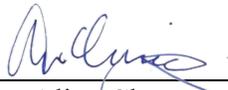
SELLER:

**Beverly Community Hospital Association
d/b/a Beverly Hospital**

Signature:  _____
Print Name: Alice Cheng _____
Title: President and CEO _____

SELLER:

**Montebello Community Health Services,
Inc.**

Signature: 
Print Name: Alice Cheng
Title: President and CEO

IN WITNESS WHEREOF, this Asset Purchase Agreement has been entered by each Party's duly authorized officer effective as of the date first written above.

PURCHASER:

**White Memorial Medical Center d/b/a
Adventist Health White Memorial**

Signature: 
Print Name: Kerry Heinrich
Title: Chair of the Board

Appendix I
Defined Terms Glossary

Terms defined within the Agreement and their applicable section references are set forth below.

Defined Term	Section Reference
Affiliate	Section 11.10
Allocation Schedule	Section 10.1(b)
Amended CBA	Section 5.4
Ancillary Property	Section 1.1(a)(iv)(c)
Agreement	Preamble
Assets	Section 1.1(a)
Assigned Contracts	Section 1.1(a)(x)
Assigned Leases	Section 1.1(a)(v)
Assumed Liabilities	Section 1.1(c)
Bid Protections Order	Section 4.9
Bill of Sale	Section 1.4(a)
Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Beverly	Preamble
Business	Recitals
Casualty	Section 1.7(a)
Chapter 11 Case	Recitals
Closing	Section 1.3(a)
Closing Date	Section 1.3(a)
Closing Statement	Section 1.2(c)
Condemnation	Section 1.7(a)
Confidentiality Agreement	Section 11.9
Disclosure Schedule	Article II
DIP Facility Credit Agreement	Section 1.2(a)
DIP Facility Repayment Amount	Section 1.2(a)
DIP Lender	Section 1.2(a)
Document Retention Period	Section 9.2(a)
Effective Time	Section 1.3(a)
Escrow Account	Section 1.2(b)
Escrow Agreement	Section 1.2(b)
Escrow Holder	Section 1.2(b)
Excluded Assets	Section 1.1(b)
Excluded Contracts	Section 1.1(b)(xii)
Excluded Liability	Section 1.1(d)
Foundation	Preamble
Governmental Entity	Section 2.5(a)
Ground Lease	Section 1.1(a)(v)(a)
Healthcare Laws	Section 2.8(a)
Healthcare Programs	Section 2.8(a)

HIPAA	Section 2.8(f)(i)
Hospital	Recitals
Hospital Property	Section 1.1(a)(iv)(a)
Information Privacy and Security Laws	Section 2.8(f)(i)
Inventory	Section 1.1(a)(xi)
Lease Amounts	Section 1.6(c)
Leased Real Property	Section 1.1(a)(v)(a)
Leasehold Title Policy	Section 4.8
Licenses	Section 1.1(a)(iii)
Material Adverse Effect	Article II
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Transaction Documents	Recitals
Transfer Agreement	Section 1.4(d)
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Unpaid Amounts	Section 1.6(c)

Terms not otherwise defined in the Defined Terms table above but otherwise referenced in the Agreement herein shall have the meanings set forth below.

“Bid Protections Order” means that certain *Order Approving Debtors' Motion for the Entry of an Order (I) Approving Asset Purchase Agreement for Stalking Horse Purchaser and for Prospective Overbidders, (II) Approving Bid Protections, (III) Approving Bidding Procedures, (IV) Scheduling Certain Dates Thereto, (V) Approving Form of Notice, and (VI) Scheduling Court Hearing to Approve Sale Free and Clear to the Successful Bidder* entered as Docket No. 378.

“Business Employee” means any employee of the Business (whether salaried or hourly, and full-time or part-time), whether or not actively employed on the date hereof, *e.g.*, including employees on vacation and leave of absence, including maternity, family, sick, military or disability leave.

“Cash” means as of the applicable time, including all cash, commercial paper, certificates of deposit and other bank deposits, treasury bills, and all other cash equivalents in the Sellers’ accounts, and third party checks deposited or held in such the Sellers’ accounts that have not yet cleared.

“CBA” the Collective Bargaining Agreement between Beverly and the Union dated February 4, 2022, as amended.

“CMS Settlement” means a settlement among the Sellers, Purchaser and CMS regarding the resolution of claims asserted by CMS and the Purchaser’s process for amending its Medicare provider agreement to include Beverly as an additional site which shall be in a form acceptable to the Purchaser and include funding from the Purchaser of no more than \$3.2 million.

“Code” means the Internal Revenue Code of 1986, as amended.

“COVID-19” means the novel coronavirus disease, COVID-19 virus (SARS-COV-2 and all related strains and sequences) or mutations (or antigenic shifts or drifts) thereof or a disease or public health emergency resulting therefrom.

“COVID-19 Funds” means all grants, payments, distributions, loans, funds or other relief provided under the CARES Act, the Paycheck Protection Program Act, or any other program authorized by any Governmental Entity or government program in response to COVID-19 (as defined herein), including, but not limited to, the Paycheck Protection Program, Main Street Loan Program, Provider Relief Fund, Small Rural Hospital Improvement Program, Assistant Secretary

for Preparedness and Response or Hospital Preparedness Program Grants, Federal Emergency Management Agency, or any other law or program enacted, adopted or authorized in response to or in connection with COVID-19; provided that COVID-19 Funds do not include any Medicare Accelerated Advance Payments.

“Cure Costs” means the payment of Cash or the distribution of other property (as the parties may agree or the Bankruptcy Court may order) as necessary to (a) cure a monetary default, as required by section 365(a) of the Bankruptcy Code by the Debtors in accordance with the terms of an executory contract or unexpired lease of the Debtors, and (b) permit the Sellers to assume or assume and assign such executory contract or unexpired lease under section 365(a) of the Bankruptcy Code.

“Effective Time Service Lines” mean the operation of only basic general acute care hospital services as defined in 22 CCR § 70005 and the operation of an emergency department as defined in 22 CCR § 70411.

“Encumbrance” means with respect to any property or asset, any charge, claim, condition, covenants, defect in title, easement, encroachment, encumbrance, equities, escrow, lease, license, lien, mortgage, option, pledge, proxy, security interest, right of way, right of first refusal or first offer or other third-party right, title defect or restriction, including any restriction on use, voting, transfer, receipt of income or exercise of any other attributable of ownership.

“Expense Reimbursement” shall have the meaning set forth in the Bidding Procedures Order.

“Final Order” means an order or judgment of the Bankruptcy Court entered by the clerk of the Bankruptcy Court on the docket in the Chapter 11 Cases which has not been reversed, vacated, or stayed and as to which (a) the time to appeal, petition for certiorari, or move for a new trial, reargument, or rehearing has expired and as to which no appeal, petition for certiorari, or other proceeding for a new trial, reargument, or rehearing shall then be pending, or (b) if an appeal, writ of certiorari, new trial, reargument, or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari, or move for a new trial, reargument, or rehearing shall have expired; provided, that no order or judgment shall fail to be a Final Order solely because of the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure has been or may be filed with respect to such order or judgment.

“Intellectual Property” means collectively, (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all letters patent and pending applications for patents of the United States and all countries foreign thereto and all reissues, reexaminations, divisions, continuations, continuations-in-part and extensions thereof; (b) all trademarks, service marks, trade names, Internet domain names, social media handles, and other similar designations of source, association or origin, and all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith; (c) all published and unpublished works of authorship, and all applications, registrations and renewals in connection therewith; (d) all mask works and all applications, registrations, and renewals in connection

therewith; (e) all trade secrets and confidential business information (including confidential ideas, research and development, know how, methods, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals); (f) all software (including in source code, executable code, and object code form), data, data bases, and collections of data; (g) rights of publicity and likeness; (h) all other intellectual property rights of any type in any jurisdiction; and (i) all copies and tangible embodiments of the foregoing (in whatever form or medium).

“**Law**” means any statute, law, ordinance, code, act, rule, regulation, treaty, Order or other requirement having the force of law of any Governmental Entity (including common law).

“**Liabilities**” means all liabilities, indebtedness, obligations, damages, fines, fees, penalties and other liabilities (or contingencies that have not yet become liabilities) of any kind, character or description, whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, secured or unsecured, fixed or otherwise, or whether due or to become due, including, without limitation, any fines, penalties, judgments, awards or settlements respecting any judicial, administrative or arbitration proceedings or any damages, losses, claims or demands with respect to any Laws.

“**Master Indenture**” means that certain Master Trust Indenture, dated December 1, 2015, by and between the Sellers and U.S. Bank National Association, including without limitation, all supplements and documents related thereto.

“**Meaningful Use**” means the Medicare and Medicaid Electronic Health Record Incentive Programs and any successor program.

“**Medicare Accelerated Advance Payments**” means the accelerated and advance payments received by Sellers prior to the Effective Time pursuant to the Accelerated Payment Program or the Advance Payment Program implemented by the Centers for Medicare & Medicaid Services to increase cash flow to healthcare providers as a result of COVID-19.

“**Order**” means any award, writ, sentence, injunction, judgment, decree, order, ruling, subpoena or verdict or other decision issued, promulgated or entered by any Governmental Entity.

“**Ordinary Course of Business**” means, with respect to any Person, the ordinary course of business of such Person.

“**Permitted Exceptions**” means all real estate tax and assessment liens for the Real Property due but not yet payable appearing on the Title Commitment and all easements, rights-of-way, zoning ordinances and other Encumbrances of record appearing on Schedule B of the Title Commitment.

“**Person**” means an individual, a corporation, a partnership, a limited liability company, a trust, an unincorporated association, a Governmental Entity, or any other entity or body.

“**Sellers’ Plans**” means (a) each “employee benefit plan,” as defined in Section 3(3) of ERISA whether or not subject to ERISA; and (b) each other pension, retirement, profit-sharing, savings, deferred compensation, bonus, incentive, performance award, equity or equity-based

compensation, change in control, retention, separation, employment, consulting, severance, welfare, health, dental, vision, life insurance, disability, vacation, paid time off or fringe-benefit and each other benefit or compensation plan, policy, program, contract, agreement or arrangement, that, in each case, is maintained, sponsored or contributed to or required to be contributed to by any Seller for the benefit of any current or former directors, officers, or employees, or with respect to which any Seller has or may have any liability.

“**Tax**” or “**Taxes**” means any and all U.S. federal, state, local and foreign income, profits, franchise, gross receipts, stamp, payroll, sales, employment, unemployment, disability, use, personal and real property, withholding, excise, value added, and any other taxes, charges, fees, duties, levies or similar assessments or liabilities in the nature of a tax, whether computed on a separate, consolidated, unitary or combined basis or in any other manner, and includes any interest, fines, penalties, assessments, deficiencies or additions thereto.

“**Union**” means the United Nurses Association of California/Union of Health Care Professionals /NUHHCE/AFSCME/AFL-CIO.

“**WARN**” means the Worker Adjustment and Retraining Notification Act and California Assembly Bill AB 2957, as codified at California Labor Code Sections 1400 to 1408.

EXHIBIT D

ASSET PURCHASE AGREEMENT

by and between

BEVERLY COMMUNITY HOSPITAL ASSOCIATION

DBA

BEVERLY HOSPITAL

a California nonprofit public benefit corporation,

MONTEBELLO COMMUNITY HEALTH SERVICES, INC.

a California nonprofit public benefit corporation

(collectively, as “*Sellers*”)

and

WHITE MEMORIAL MEDICAL CENTER

DBA

ADVENTIST HEALTH WHITE MEMORIAL

(as “*Purchaser*”)

Dated: ~~May 23~~ August 7, 2023

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the “Agreement”) is made and entered into as of ~~May~~ 23 August 7, 2023, by and among Beverly Community Hospital Association d/b/a Beverly Hospital, a California nonprofit public benefit corporation (“Beverly”), Montebello Community Health Services, Inc., a California nonprofit public benefit corporation (“Montebello” and collectively with Beverly, the “Sellers”), and White Memorial Medical Center d/b/a Adventist Health White Memorial, a California nonprofit religious corporation or its designee (“Purchaser”) (collectively referred to as the “Parties” and each individually a “Party”).

RECITALS

A. Beverly is a California nonprofit public benefit corporation that currently has no corporate member and that owns and operates a licensed acute care hospital located at 309 West Beverly Blvd., Montebello, CA 90640 (“Hospital”), and provides various outpatient services in the area surrounding the Hospital;

B. Montebello is a California nonprofit public benefit corporation organized to support Beverly and its affiliates, including through the provision of administrative and managerial support, operation of medical and public health education programs, and promotion of the efficient delivery and financing of healthcare in Montebello, Pico Rivera, Monterey Park, El Monte, Whittier, East Los Angeles, California and surrounding communities;

C. Beverly owns and operates (i) the Hospital Property and (ii) the MOB Land, each as defined in Section 1.1(a)(iv) below and leases the MOB Land to Montebello pursuant to the Ground Lease, as defined in Section 1.1(a)(v) below. Montebello (i) holds the ground leasehold interest in the Ground Lease, (ii) owns and operates the buildings and improvements on the MOB Land pursuant to the Ground Lease (the “MOB Improvements”), and (iii) owns and operates the Ancillary Property, as defined in Section 1.1(a)(iv) below. The Sellers’ respective ownership and operation of the Hospital, the Hospital Property, the MOB Land, the Ground Lease, the MOB Improvements, and the Ancillary Property may be collectively referred to in this Agreement as, the “Business”;

D. Each Seller is a debtor and debtor-in-possession in those certain bankruptcy cases under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the “Bankruptcy Code”) filed on April 19, 2023 in the United States Bankruptcy Court for the Central District of ~~Delaware~~California (the “Bankruptcy Court”), jointly administered under Case No. 23-12359 (collectively, the “Chapter 11 Case”);

E. In connection with the Chapter 11 Case and subject to the terms and conditions contained herein, at the Closing, upon the entry of the order, in a form acceptable to Purchaser, determining Purchaser to be the highest or otherwise best bidder with respect to the Assets, authorizing the sale of Assets free and clear of interests in the Assets, and subject to the terms and conditions thereof (the “Sale Order”) and the satisfaction of the other conditions to Closing set forth herein, Sellers shall sell, transfer and assign to Purchaser, and Purchaser shall purchase, acquire and accept from Sellers, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, the Assets (as defined in Section 1.1(a) below), and Purchaser shall assume from Sellers the

Assumed Liabilities (as defined in Section 1.1(c) below), all as more specifically set forth herein and in the Sale Order; and

F. The transactions contemplated by this Agreement (the “*Transactions*”) and the documents related thereto (the “*Transaction Documents*”) are subject to the approval of the Bankruptcy Court and will be consummated pursuant to the Bid Protections Order and the Sale Order.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and for their mutual reliance and incorporating into this Agreement the above recitals, the Parties hereto hereby agree as follows:

ARTICLE I SALE AND TRANSFER OF ASSETS; CONSIDERATION; CLOSING

1.1 Sale of Assets.

(a) Subject to the terms and conditions set forth herein and in the Bid Protections Order and the Sale Order, at the Closing, each Seller shall sell, assign, assume and assign, transfer, convey and deliver to Purchaser, and Purchaser shall purchase, acquire and accept from each Seller, free and clear of any Encumbrances other than Permitted Exceptions, all of such Seller’s right, title and interest in, to and under all of its assets, properties and rights of every kind and nature, whether real or personal, tangible or intangible, in each case set forth below (collectively, the “*Assets*,” and, for sake of clarity, not including the Excluded Assets):

(i) all trucks, automobiles, trailers and other titled vehicles identified on Schedule 1.1(a)(i) (the “*Titled Vehicles*”);

(ii) all of the tangible personal property owned by Sellers, or to the extent assignable or transferable by Sellers, and used by Sellers primarily in the operation of the Business wherever located, including equipment, furniture, fixtures, machinery, office furnishings and leasehold improvements, including, without limitation, the personal property set forth on Schedule 1.1(a)(ii) (together with the Titled Vehicles, the “*Personal Property*”);

(iii) all of Sellers’ rights, to the extent assignable or transferable, to all licenses, permits, approvals, certificates of exemption, entitlements, conditional use permits, certificates of occupancy, franchises, accreditations and registrations and other governmental licenses, permits or approvals issued to Sellers by any governmental or quasi-governmental authority for use in the operation of the Business (the “*Licenses*”), as set forth on Schedule 1.1(a)(iii) 1.1(a)(iii);

(iv) all of Sellers’ rights, title and interest in and to the following (collectively, the “*Owned Real Property*”):

(a) the land and improvements thereon constituting the Hospital and associated structures as described on **Schedule 1.1(a)(iv)(a)** (the “**Hospital Property**”);

(b) the land on which the medical office building located 101 E. Beverly Blvd., Montebello, CA 90640 sits as described on **Schedule 1.1(a)(iv)(b)** (the “**MOB Land**”);

(c) the ancillary properties described on **Schedule 1.1(a)(iv)(c)** (the “**Ancillary Property**”); and

(d) all plants, buildings, structures, installments, improvements, permits, hereditaments, easements, fixtures, and real property licenses, betterments, additions and improvements in the progress of construction and situated or located thereon, minerals, oil, gas and other hydrocarbon substances in, on or under the real property, and all air rights, water and water rights, development agreements, permits, conditional use permits, entitlements and authorizations issued by any governmental or quasi-governmental authority, all plans and specifications relating to the real property including, without limitation any architectural plans and drawings, any prepaid credits, deposits and prepaid fees and applicable to the real property described in this Section.

(v) all of Sellers’ rights, title and interest in and to all of the following (the “**Assigned Leases**”):

(a) the real property leases for all real property pursuant to which Sellers lease space as a tenant, subtenant, lessee or sublessee, including the ground leasehold interest pursuant to that certain Ground Lease Agreement dated April 2, 1979 as amended by that certain Addendum to Lease dated April 2, 1979 (the “**Ground Lease**”) and the leases which are listed on **Schedule 1.1(a)(v)(a)** (the “**Leased Real Property**” and, together with the Owned Real Property, the “**Real Property**”);

(b) the real property leases pursuant to which any Seller is a landlord, sublandlord, lessor or sublessor and that are listed on **Schedule 1.1(a)(v)(b)** (the “**Tenant Leases**”); and

(c) all of the following owned by Sellers and used in connection with the Leased Real Property: all plants, buildings, structures, installments, improvements, permits, hereditaments, easements, fixtures, and real property licenses, betterments, additions and improvements in the progress of construction and situated or located thereon, all air rights, water and water rights, development agreements, permits, conditional use permits, entitlements and authorizations issued by any governmental or quasi-governmental authority, and all plans and specifications including, without limitation any architectural plans and drawings.

(vi) all security deposits related to or arising from the Assets (the “**Security Deposits**”);

(vii) all Intellectual Property used primarily or held for use primarily in, or otherwise primarily relating to, the Business that is owned or purported to be owned or licensed or purported to be licensed, in whole or in part, by or to Sellers;

(viii) all portions of goodwill associated with the Business;

(ix) to the extent transferable or assignable, any easements, hereditaments, appurtenances, entitlements, development rights, mineral rights, oil, gas and other hydrocarbon substance rights, water rights, and air rights, and plans and specifications including, without limitation any architectural plans and drawings that may exist in connection with the Business;

(x) all of Sellers' interest in, and all of Sellers' obligations due under, from and after the Effective Time, all executory contracts and unexpired leases of personal property (including purchase orders) listed on **Schedule 1.1(a)(x)** (the "**Assigned Contracts**"), provided, however, Purchaser shall have the right to amend **Schedule 1.1(a)(x)** to either add or remove an Assigned Contract at any time up to the ~~entry of the Sale Order~~ [Closing Date](#);

(xi) to the extent transferable or assignable, all inventories of supplies, drugs, food, janitorial and office supplies and other disposables and consumables (i) located at the Hospital, or (ii) used in the operation of the Hospital (subsections (i) and (ii) together, the "**Inventory**");

(xii) all prepaid rentals, deposits, prepaid fees, and other prepayments and similar amounts relating to the Assigned Contracts and/or the Assigned Leases (the "**Prepays**");

(xiii) consistent with applicable Law, all or any portion of Hospital's medical, clinical, and other records, including images and films, whether in electronic, hard copy, or other format, directly or indirectly associated with services provided to Hospital Patients to the extent set forth on **Schedule 1.1(a)(xiii)** (the "**Patient Records**");

(xiv) the financial, operating, equipment, construction, medical, administrative and other records and files (including patient billing, other financial and marketing information, whether or not included as part of the Patient Records), including, without limiting the generality of the foregoing, any and all records and lists of the Sellers pertaining to the Assets, the Hospital, customers or suppliers of the Sellers, and all books, ledgers, files, reports, plans, drawings and operating records of every kind, but excluding any Excluded Assets (the "**Books and Records**");

(xv) all rights in all warranties of any manufacturer or vendor in connection with the Personal Property;

(xvi) Sellers' right or interest in the telephone numbers, facsimile numbers, websites held or used with respect to the operation of the Business;

(xvii) All intangible assets, including without limitation the names, logos and symbols used by Sellers, including in connection with the Business;

(xviii) computer software, programs, hardware, data processing equipment, manuals and related documentation;

(xix) all claims, causes of action, choses in action, rights of recovery, rights of set-off and rights of recoupment of Sellers against third parties related to or associated with the physical condition of any of the Assets, the Assigned Contracts, and the Assigned Leases and causes of action under Chapter 5 of the Bankruptcy Code against counterparties to Assumed Contracts and Assumed Leases; and

(xx) any other assets owned by Sellers (which are not otherwise specifically described above in this Section 1.1(a)(xx)) that are used exclusively in the operation of the Hospital.

(b) Excluded Assets. Notwithstanding the foregoing, Purchaser expressly understands and agrees that it is not purchasing or acquiring, and each Sellers is not selling, transferring or assigning, any of the following assets or properties of such Sellers (the “Excluded Assets”):

(i) Cash as of the Closing, other than Security Deposits;

(ii) the Sellers’ rights pursuant to or under this Agreement (including the right to receive and retain the Purchase Price) and any Transaction Document;

(iii) all accounts receivable and interest thereupon, notes and interest thereupon and other receivables of Sellers, including all claims, rights, interests and proceeds related thereto, including all accounts and other receivables, both billed and unbilled, in each case arising from the rendering of services or provision of goods, products or supplies to inpatients and outpatients at the Business provided by Sellers on or prior to the Closing Date;

(iv) all rights to settlements and retroactive adjustments, if any, of payments made to Sellers related to services for Medicare, Medi-Cal and any other cost reports, for claims submitted prior to the Effective Time or for cost reporting periods prior to the Effective Time pursuant to the auditing and settlement of Sellers’ cost reports, appeals and other risk settlements, including Medicare bad debt;

(v) all amounts accrued or paid with respect to Meaningful Use attested to, or for which the requirements for attestation have been met prior to the Effective Time;

(vi) all ~~disproportionate—share—hospital~~ Medi-Cal Disproportionate Share Hospital Program payments received on or after the Effective Time but calculated based on data from periods prior to the Effective Time (whether received before or after the Effective Time and whether paid to Sellers or Purchaser);

(vii) all payments due to the Sellers under the California Department of Health Care Services Hospital Quality Assurance Fee Program from the State of California or any of its administrative entities or other entities, including without limitation Medi-Cal managed care plans, payments or grants due to the Sellers from the California Health Foundation & Trust, cost report, claims, electronic health records or similar appeals and the Sellers Cost Report settlements in each case arising from the rendering of services and the provision of goods, products or supplies to inpatients and outpatients at the Hospital prior to the Effective Time;

(viii) all Medicare Accelerated and Advance Payments, COVID-19 Funds and any other accelerated payments from third party payors related to time periods prior to the Effective Time;

(ix) all intercompany receivables of the Business or Sellers with any Affiliates;

(x) all Sellers Plans and the assets of all Sellers Plans and any asset that would revert to the employer upon the termination of any Sellers Plans, including any assets representing a surplus or overfunding of any Sellers Plans;

(xi) all of the Hospital's services, participation or provider agreements with private health plans, insurers or other third party payors and any of the Hospital's managed care, prepaid, capitated or other full-risk health plan agreements;

(xii) all unexpired leases of real property that have not been designated as Assigned Leases, and any contracts and unexpired leases of personal property that have not been designated as Assigned Contracts (collectively, the "***Excluded Contracts***") and all rents, deposits, prepayments, and similar amounts relating thereto; and the right to payment of all Unpaid Amounts;

(xiii) the portions of Inventory, Prepaids, and other assets disposed of, expended or canceled, as the case may be, by Sellers prior to the Effective Time in the Ordinary Course of Business;

(xiv) all of Sellers' organizational or corporate record books, minute books and tax records;

(xv) all insurance policies and contracts and coverages obtained by Sellers or listing Sellers as an insured party, a beneficiary or loss payee, including prepaid insurance premiums, and all rights to insurance proceeds under any of the foregoing, and all subrogation proceeds related to any insurance benefits arising from or relating to (i) Assets prior to the Effective Time, or (ii) Excluded Assets;

(xvi) all unclaimed property of any third party as of the Effective Time, including property that is subject to applicable escheat laws;

(xvii) all bank accounts of Sellers;

(xviii) all writings and other items that are protected from discovery by the attorney-client privilege, the attorney work product doctrine or any other cognizable privilege or protection;

(xix) all tax refunds, rights to tax refunds for tax periods (or portions thereof) prior to the Effective Time related to the ownership or operation of the Assets or the Business, and tax assets and copies of tax returns and other tax records of Sellers;

(xx) any rights or documents relating to any other Excluded Assets and/or Excluded Liability;

(xxi) all deposits and investment accounts or other prepaid charges and expenses paid in connection with or relating to any other Excluded Assets and/or Excluded Liabilities;

(xxii) any (1) personnel files for employees of Sellers; (2) all documents, records, correspondence (including with respect to any employees), work papers, or other books and records that Sellers are required by Law to retain; provided that Seller shall make copies of records available to Purchaser in connection with its interview process, evaluation and hiring of Business Employees as provided herein;

~~(xxiii) causes of action of the Sellers arising under sections 544, 547, 548, 5549, and 550 of the Bankruptcy Code; and~~

(xxiii) all claims, counterclaims, and causes of action of each Seller or each Seller's bankruptcy estate (including parties acting for or on behalf of a Seller's bankruptcy estate, including, but not limited to, The Official Committee of Unsecured Creditors (the "Committee") appointed in the Chapter 11 Case) not specifically set forth in Section 1.1(a)(xix) with respect to amounts overpaid by Sellers to any third parties with respect to a period prior to the Effective Time in connection with the operation of the Business (e.g., such overpaid amounts may be determined by billing audits undertaken by Seller or Seller's consultants), causes of action arising out of any claims and causes of action under Chapter 5 of the Bankruptcy Code and any related claims, counterclaims, and causes of action under applicable non-bankruptcy law, and any rights to challenge liens asserted against property of each Seller's bankruptcy estate, including, but not limited to, liens attaching to the payments made to Seller pursuant hereto, and the proceeds from any of the foregoing; and

(xxiv) those assets of Sellers specifically identified on **Schedule 1.1(b)(xxiv)**.

(c) Assumption of Certain Liabilities. On and subject to the terms and conditions of this Agreement and the Sale Order, at the Closing, Purchaser shall assume and agree to pay, perform and discharge when due only the following Liabilities (collectively, the "Assumed Liabilities"):

(i) all Liabilities arising out of or relating to the ownership of the Assets after the Effective Time;

(ii) all Cure Costs, up to a maximum amount of ~~Five Hundred Thousand Dollars (\$500,000)~~ 1,257,743.32;

(iii) all Liabilities arising under the Assigned Leases and Assigned Contracts, in each case arising after the Effective Time;

(iv) all Liabilities for Taxes relating to the Assets or the Assumed Liabilities for any taxable period (or portion thereof) after the Effective Time;

(v) all Liabilities of the Sellers with respect to Permitted Exceptions;
~~and~~

(vi) all other Liabilities expressly assumed by Purchaser under this Agreement or any other Transaction Document; and

(vii) any CMS Settlement.

(d) Excluded Liabilities. Purchaser shall have those duties, obligations and liabilities set forth in this Agreement, the Bill of Sale, the Transfer Agreement, the Medical Records Custodial Agreement, and the Real Estate Assignments and shall be responsible for the Assumed Liabilities. However, except as expressly set forth herein, Purchaser is not assuming any other liabilities of Sellers, including, without limitation, liabilities related to the Excluded Assets, Excluded Contracts, or Sellers' employees (including any obligations under any employee benefit plan or WARN) or the Business, and is purchasing the Assets free and clear of the Encumbrances except the Permitted Exceptions and shall not be deemed a successor to Sellers by reason of any theory of law or equity with respect to any claims or liens against Sellers or the Assets (the "Excluded Liabilities"). For the avoidance of doubt, the Excluded Liabilities specifically include liabilities arising under or in connection with the following contracts: (i) that certain Credit Agreement, dated February 1, 2023, between Beverly and AHMC Healthcare, Inc.; (ii) the Master Indenture; and (iii) that certain Revolving Loan Agreement, dated August 1, 2019, by and between Beverly and Hanmi Bank.

1.2 Purchase Price; Deposit; Closing Statement.

(a) The aggregate consideration (collectively, the "Purchase Price") to be paid by Purchaser for the Assets acquired by Purchaser hereunder shall consist of:

(i) ~~\$20,000,000 in cash~~ 23,546,000 in cash provided that the following shall be credited to the cash purchase price: (1) \$346,000, which shall applied to Purchaser's Expense Reimbursement allowed under the Bidding Procedures Order; plus

(ii) The amount of cash required to repay, in full, the outstanding obligations as of Closing under that certain Senior Secured Superpriority Debtor-in-Possession Credit Agreement (the "DIP Facility Credit Agreement") provided by HRE Montebello, LLC (the "DIP Lender") not to exceed ~~\$14,100,000~~ 14,240,000 (the "DIP Facility Repayment Amount"); *plus*

(iii) the Assumed Liabilities; plus

(iv) \$123,333 for each day that Purchaser does not close the Transaction due to (i) the existence of an uncured breach of the Agreement by Purchaser or (ii) the failure of the condition precedent set forth in Sections 7.4, 7.7, 7.10, or 7.11, beginning the 31st day following the date of execution of this Agreement, up to a maximum amount of \$3,700,000.

(b) Purchaser Deposit. ~~In accordance with the Bid Protections Order,~~ Purchaser and Sellers will enter into an escrow agreement (as amended, supplemented, amended and restated or otherwise modified from time to time, the “Escrow Agreement”), with First American Title Insurance Company (the “Escrow Holder”). Concurrently with the execution and delivery of the Escrow Agreement, Purchaser shall deposit \$2,250,000 (the “Purchaser Deposit”) with the Escrow Holder by wire transfer of immediately available funds. The Escrow Holder will hold the Purchaser Deposit until the Closing or earlier termination of this Agreement in a segregated account (the “Escrow Account”) pursuant to the terms below and otherwise in accordance with the terms of the Escrow Agreement. Purchaser, on the one hand, and Sellers, on the other hand, shall share equally all costs under the Escrow Agreement, including any fee of the Escrow Holder. The Purchaser Deposit shall become payable, and shall be paid, to the Sellers at the Closing. At the Closing, Purchaser and Sellers shall instruct the Escrow Holder to deliver the Purchaser Deposit to Sellers by wire transfer of immediately available funds into an account designated by Sellers pursuant to the terms and conditions of the Escrow Agreement. If this Agreement is validly terminated prior to the Closing, the Purchaser Deposit shall be released and distributed to Purchaser or Sellers, as applicable, in accordance with the terms of the Escrow Agreement and Section 8.2 of this Agreement. If there is a dispute concerning the reason for termination of this Agreement, the disputing party shall provide notice to same to Escrow Holder and the Purchaser’s Deposit shall be handled and distributed in accordance with the provisions of Escrow Agreement pertaining to such dispute. In the event of any termination of this Agreement then each party covenants and agrees that such party shall promptly provide Escrow Holder with such instructions as may be reasonable and necessary to cause Escrow Holder to release the Purchaser’s Deposit to the party entitled thereto. In the event of any termination of this Agreement due to an uncured default of a party, then the defaulting party shall pay all cancellation costs imposed by the Escrow Holder. In the event of termination of this Agreement for any other reason, the cancellation costs imposed by Escrow Holder shall be split equally by Purchaser and Sellers. If there is a conflict between the Escrow Agreement and this Agreement, the terms of this Agreement shall prevail.

(c) No later than three (3) business days prior to the Closing, Sellers shall deliver to Purchaser a closing statement (the “Closing Statement”) setting forth a statement of the recipient and amount of all disbursements to be made pursuant to Section 1.2(a). The Closing Statement sets forth the wire transfer instructions of a payment to Sellers of the Purchase Price less the Purchaser Deposit, the Prorated Charges applicable to Sellers, and the other amounts due and payable pursuant to Section 1.6, by wire transfer of immediately available funds.

(d) Notwithstanding any other provision in this Agreement, the Parties may deduct and withhold any withholding taxes required under the Code to be deducted and withheld

from any payments to be made pursuant to this Agreement upon advice of such party's legal counsel or ~~tax~~Tax advisor; provided, however, that at least five (5) days prior to deducting or withholding from any such amounts, Purchaser shall provide Sellers with an opportunity for legal counsel or Tax advisors of Sellers to discuss the same with Purchaser's advisors, and that Parties shall otherwise reasonably cooperate to obtain reduction of or relief from such deduction or withholding to the extent permitted by applicable Law. To the extent that any such amounts are so withheld and timely paid to the appropriate Tax authority, such withheld amounts will be treated for all purposes of this Agreement as having been delivered and paid to the Person in respect of which such deduction and withholding was made

1.3 Closing Date; Proceedings at Closing.

(a) The consummation of the Transactions contemplated by this Agreement (the "**Closing**") shall take place remotely via the exchange of documents, signature pages and payments, and the day on which the Closing actually occurs shall be referred to as the "**Closing Date**." The Closing shall occur within three (3) business days following the satisfaction or waiver of the conditions as set forth in Article VI and Article VII. The Closing shall be deemed to occur and to be effective as of 12:01 a.m. Pacific Time on the day immediately after the Closing Date (the "**Effective Time**").

(b) All proceedings to be taken and all documents to be executed and delivered by all Parties at the Closing will be deemed to have been taken, executed and delivered simultaneously, and no proceedings will be deemed taken nor any documents executed or delivered until all have been taken, executed and delivered. At the conclusion of the Closing, the Sellers shall deliver (or cause to be delivered) to the Purchaser possession and control of all of the Assets.

1.4 Items to be Delivered by Sellers at Closing. At or before the Closing, Sellers shall deliver to Purchaser and/or to Escrow Holder for recordation or delivery at Closing, as applicable, if and to the extent required by the Title Company for issuance of the Title Policy at Closing the following:

(a) bills of sale substantially in the form of **Exhibit 1.4(a)** attached hereto (the "**Bills of Sale**"), duly executed by Sellers;

(b) Real estate assignment agreements (the "**Real Estate Assignments**") substantially in the form of **Exhibit 1.4(b)** attached hereto with respect to the Assigned Leases, each duly executed by the applicable Sellers;

(c) Limited warranty deeds, with respect to the Owned Real Property, in a form mutually agreed to by the Parties, duly executed by Sellers;

(d) assigned contract transfer agreements (the "**Transfer Agreements**") substantially in the form of **Exhibit 1.4(d)** attached hereto, duly executed by the applicable Sellers;

(e) a Medical Records Custodial Agreement, substantially in the form of **Exhibit 1.4(e)** attached hereto (the “**Medical Records Custodial Agreement**”), duly executed by Sellers;

(f) the Staffing Agreement (as defined below), duly executed by Sellers;

(g) ~~(g)~~—Real estate general assignment agreements (the “**General Assignments**”), as applicable, substantially in the form of **Exhibit 1.4(f)** attached hereto with respect to the Real Property, each duly executed by the applicable Sellers;

(h) ~~(g)~~—an IRS Form W-9, duly executed by each Seller;

(i) ~~(h)~~—the Closing Statement, duly executed by Sellers;

(j) ~~(i)~~—a certificate of the corporate secretary of each Seller certifying to (A) such entity’s articles of incorporation and bylaws (or similar governing documents), (B) the adoption of resolutions of such entity approving the Transactions contemplated hereby, and (C) the incumbency of the officer signing this Agreement and other Transaction Documents on behalf of such entity (together with specimen signatures) (the “**Sellers’ Secretary Certificates**”);

(k) ~~(j)~~—a certificate of the president of each Seller certifying to (A) all of the representations and warranties by each Seller contained in this Agreement are true and correct, (B) each and every covenant and agreement of each Seller to be performed prior to and at the Closing has been duly performed in all material respects, and (C) the incumbency of the corporate secretary (together with specimen signatures) (the “**Sellers’ Officer Certificates**”);

(l) ~~(k)~~—a limited power of attorney for use of DEA and Other Registration Numbers, and DEA Order Forms, or other certificates, permits, licenses or accreditations, as necessary, in the form of **Exhibit 1.4(k)** attached hereto (the “**Power of Attorney**”), duly executed by each applicable Seller and any necessary individuals; and

(m) ~~(l)~~—any such other instruments, certificates, consents or other documents which the Parties and/or Escrow Holder and/or Title Company deem reasonably necessary to carry out the Transactions contemplated by this Agreement and to comply with the terms hereof.

1.5 Items to be Delivered by Purchaser at Closing. At or before the Closing, Purchaser shall deliver or cause to be delivered to Sellers and/or to Escrow Holder for recordation or delivery at Closing, as applicable. if and to the extent required by the Title Company for issuance of the Title Policy at Closing the following:

(a) payment of the cash portion of the Purchase Price, less the Purchaser Deposit and any other adjustments reflected on the Closing Statement, by wire transfer of immediately available funds to the account(s) specified in writing by Sellers and/or Escrow Holder;

(b) a certificate of the corporate secretary of Purchaser certifying to (A) Purchaser’s certificate of incorporation and bylaws (or similar governing documents), (B) the adoption of resolutions of Purchaser approving the Transactions contemplated hereby, and (C)

the incumbency of the officer signing this Agreement and other Transaction Documents on behalf of Purchaser (together with their specimen signatures) (the “Purchaser’s Secretary Certificate”);

(c) a certificate of the president of Purchaser certifying to (A) all of the representations and warranties by Purchaser contained in this Agreement are true and correct, (B) each and every covenant and agreement of Purchaser to be performed prior to and at the Closing has been duly performed in all material respects, and (C) the incumbency of the corporate secretary (together with a specimen signature) (the “Purchaser’s Officer Certificate”);

- (d) the Closing Statement, duly executed by Purchaser;
- (e) the Bills of Sale, duly executed by Purchaser;
- (f) the Real Estate Assignments, duly executed by Purchaser;
- (g) the General Assignments, as applicable, duly executed by the Purchaser;
- (h) the Medical Records Custodial Agreement, duly executed by Purchaser;
- (i) [the Staffing Agreement, duly executed by Purchaser;](#)
- (j) ~~(j)~~ the Transfer Agreements, duly executed by Purchaser;
- (k) ~~(k)~~ the Power of Attorney, duly executed by Purchaser;
- (l) ~~(l)~~ Preliminary Change of Ownership Report, duly executed by Purchaser;

and

(m) ~~(m)~~ any such other instruments, certificates, consents or other documents which Purchaser and Sellers and/or Escrow Holder and/or Title Company mutually deem reasonably necessary to carry out the Transactions contemplated by this Agreement and to comply with the terms hereof.

1.6 Prorations and Utilities. All items of income and expense listed below with respect to the Assets shall be prorated in accordance with the principles and the rules for the specific items set forth hereafter:

(a) All transfer, conveyance, sales, use, stamp, recording, license, documentary, registration, excise and similar state and local taxes and fees arising from the Transactions contemplated under this Agreement and not exempted under the Sale Order, by Section 1146(c) of the Bankruptcy Code (collectively, “Transfer Taxes”) hereunder shall be the responsibility of, and allocated to, Purchaser.

(b) The following costs and expenses for a payment or assessment period (*i.e.*, calendar or other year or period) that includes, but does not end on, the Closing Date shall be prorated on a daily basis: (i) all real estate and personal property lease payments, real estate, personal property and ad valorem taxes (“Property Taxes”); (ii) all real estate assessments and

other similar charges against real estate, (iii) utility charges, (iv) Prepays, and (v) other similar costs for, items or services to be assumed by Purchaser that continue past the Effective Time (collectively, the “***Prorated Charges***”). Sellers shall bear and be responsible for the Prorated Charges that are allocable to the portion of the applicable payment or assessment period prior to the Effective Time, and Purchaser shall bear and be responsible for the Prorated Charges that are allocable to the portion of the applicable payment or assessment period from and after the Effective Time. Sellers shall pay at or prior to the Closing (or Purchaser shall receive credit for) any unpaid Prorated Charges attributable to periods or portions thereof occurring on or prior to the Closing Date, and Purchaser shall be responsible for or, to the extent previously paid by Sellers, pay to Sellers at the Closing all Prorated Charges attributable to periods or portions thereof occurring from and after the Effective Time. If as of the Closing Date the actual Property Tax bills for the tax period, year or years in question are not available and the amount of Property Taxes to be prorated cannot be ascertained with certainty, then rates, mileages and assessed valuation of the previous year or period, with known changes, shall be used. As to power and utility charges, “final readings” as of the Closing Date shall be ordered from the utilities if the same are available. If such readings are not available, then the parties shall estimate prorated utilities based on the most recently available billing information, as applied to the billing cycle during which the Closing Date occurs, and once such final billing information for such billing cycle becomes available, the parties shall, at either Party’s written request, re-prorate in accordance with this Section 1.6(b) and the actual billed amount.

(c) Sellers shall be entitled to all rents and other payments under Tenant Leases owing or accruing for or with respect to the period prior to the Effective Time (“***Pre Effective Time Lease Amounts***”), and Purchaser shall be entitled to all rents and other payments under Tenant Leases owing or accruing for or with respect to the period on and after the Effective Time (“***Post Effective Time Lease Amounts***” and together with the Pre Effective Time Lease Amounts, the “***Lease Amounts***”). All Lease Amounts that are collected prior to the Closing shall be prorated as of the Closing in accordance with the immediately preceding sentence, including all rents and other tenant reimbursements relating to the property or building containing the leased premises, including, without limitation, parking revenues, additional rent, common area maintenance charges, contributions and reimbursements from tenants for operating expenses. To the extent the amount of any portion of such Lease Amounts have accrued prior to the Effective Time but are subject to adjustment between landlord and tenant (e.g., tenant’s reimbursements for operating expenses), such Lease Amounts shall nevertheless be prorated at Closing based on such estimates, and such prorations shall be final at Closing and not subject to post-Closing adjustment or reconciliation between Sellers and Purchaser. All Lease Amounts that are accrued or owing with respect to the period prior to the Effective Time, but unpaid as of the Closing (including rents and other payments accrued prior to the Closing but payable in arrears after the Closing) (collectively, the “***Unpaid Amounts***”), shall not be prorated at Closing and belong to Sellers, and Purchaser shall, upon receipt of said rents and other payments, receive the same in trust for Sellers, and shall promptly remit any of such amounts to Sellers within ten (10) days after Purchaser’s determination that such amount constitutes an Unpaid Amount. Purchaser shall collect any Unpaid Amounts; provided, however, that Purchaser shall not be required to evict any tenant or commence litigation or other proceedings against any tenant. As to any Unpaid Amounts that are not collected and paid to Sellers within ninety (90) days after the Closing Date, Sellers may pursue all lawful collection efforts against the delinquent tenant;

provided, however, that Sellers shall not have any right to commence dispossession proceedings or otherwise evict any tenant from its premises.

(d) This Section 1.6 shall survive Closing.

1.7 Risk of Loss. The risk of loss or damage to any of the Assets, Owned Real Property, the Business and all other property, transfer of which is contemplated by this Agreement, shall remain with Sellers until the Effective Time, and Sellers shall maintain such insurance policies of Sellers as are in effect on the date of the execution of this Agreement, or comparable policies of insurance covering the Assets, Owned Real Property, the Business and all other property until the Effective Time.

(a) With respect to the Real Property, if prior to the Closing, all or any material part of the Real Property is destroyed or materially damaged by fire or the elements or by any other cause (any such damage or destruction, a “Casualty”) or is made subject to an eminent domain proceeding (“Condemnation”), Sellers shall promptly (but not less than five (5) days after obtaining actual knowledge of such destruction, damage, or condemnation) deliver written notice of such destruction, damage or condemnation to Purchaser, which notice shall describe such destruction or damage or proceeding in reasonable detail.

(b) With respect to any Assets other than the Real Property that are destroyed or materially damaged by a Casualty prior to the Closing, Sellers shall assign, transfer and set over to Purchaser all of Sellers’ right, title and interest to any insurance proceeds on account of such damage or destruction, and shall reimburse Purchaser for any deductible Purchaser is required to pay in connection with the receipt of such insurance proceeds.

ARTICLE II REPRESENTATIONS AND WARRANTIES OF SELLERS

As an inducement to Purchaser to enter into this Agreement and to consummate the Transactions, Sellers hereby represent and warrant to Purchaser, as to the matters set forth in this Article as of the date of this Agreement and the Closing Date, subject to the disclosure set forth in the disclosure schedule provided by Sellers to Purchaser, as may be amended pursuant to the terms of this Agreement (the “Disclosure Schedules”).

With respect to each Seller, the term “Material Adverse Effect” means any event, change or occurrence that, individually or in the aggregate with other events, changes or occurrences, has had or would reasonably be expected to have, a material adverse effect on such Seller’s financial condition, the Business or the Assets; provided, however, that a Material Adverse Effect shall not include any event, change or occurrence, directly or indirectly, arising out of, or attributable to: (a) general economic or political conditions, (b) conditions generally affecting the industries in which the Business operates, (c) any changes in financial, banking or securities markets in general, including any disruption thereof and any decline in the price of any security or any market index or any change in prevailing interest rates, (d) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof, any action required or permitted by this Agreement or any action taken (or omitted to be taken) with the written consent of or at the written request of Purchaser, (e) any changes in applicable Laws or

accounting rules (including United States generally accepted accounting principles), (f) the announcement, pendency or completion of the Transactions contemplated by this Agreement, including losses or threatened losses of employees, customers, suppliers, distributors, or others having relationships with Sellers and the Business, (g) any natural or man-made disaster or acts of God, (h) any epidemic, pandemic or disease outbreak (including COVID-19), or (i) any failure by the Business to meet any internal or published projections, forecasts or revenue or earnings predictions (provided that the underlying causes of such failures (subject to the other provisions of this definition) shall not be excluded).

2.1 Authorization. Each of the Sellers has all necessary corporate power and authority to enter into this Agreement and to carry out the Transactions contemplated hereby. No other action on the part of either of the Sellers is necessary to authorize the execution, delivery and performance of this Agreement.

2.2 Binding Agreement. This Agreement has been duly and validly executed and delivered by each of the Sellers and, assuming due and valid execution by Purchaser, this Agreement constitutes a valid and binding obligation of each of the Sellers enforceable in accordance with its terms subject to (a) applicable bankruptcy, reorganization, insolvency, moratorium and other Law affecting creditors' rights generally from time to time in effect, and (b) limitations on the enforcement of equitable remedies

2.3 Organization and Good Standing.

(a) Each Seller is duly organized, validly existing and in good standing under the Laws of the State of California. Subject to entry of the Sale Order, each of the Sellers has the requisite corporate power and authority to own, lease and operate its properties and to carry on its business as presently conducted.

(b) Each of the Sellers is duly qualified or licensed to do business and is in good standing (or the equivalent thereof) in each jurisdiction in which the property owned, leased or operated by it, or the nature of the business conducted by it, makes such qualification or licensing necessary.

2.4 Authority and Enforceability. Subject to the entry of the Sale Order,

(a) Each of the Sellers has all requisite corporate power and authority to execute and deliver this Agreement and each of the Transaction Documents to which such Sellers is or will be a party, and to consummate the Transactions contemplated hereby; and

(b) This Agreement and each of the Transaction Documents to which each of the Sellers is a party have been (or, in the case of each Transaction Document to which a Seller will be a party, will be) (i) are duly and validly executed and delivered by such Seller and (ii) constitute a valid, legal and binding agreement of such Seller, enforceable against such Seller in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws affecting creditors' rights and remedies generally and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding at Law or in equity).

2.5 Consents and Approvals; No Violations; No Conflicts.

(a) Except (i) as set forth in Section 2.5(a) of the Disclosure Schedules, and assuming the accuracy of the representations and warranties set forth in Section 3.3, (ii) as may be necessary as a result of any facts or circumstances relating solely to Purchaser or any of its Affiliates, (iii) approval of the California Attorney General, and (iv) as may be required pursuant to the Bankruptcy Code, the Bid Protections Order or the Sale Order, and after taking into account the effect of the Sale Order under the Bankruptcy Code, no material filing with or material notice to, and no material permit, authorization, consent or approval of, or material Order of, any court or tribunal or administrative, governmental or regulatory body or agency (a “**Governmental Entity**”) or any other Person is necessary for the execution and delivery by such Sellers of this Agreement or the consummation by such Sellers of the Transactions contemplated hereby.

(b) Subject to the entry of the Sale Order and any other order(s) necessary to consummate the Transactions contemplated by this Agreement, neither the execution, delivery or performance of this Agreement by either Seller nor the consummation by such Seller of the Transactions contemplated hereby will:

(i) conflict with or result in any breach of any provision of the articles of incorporation or bylaws, of either of the Sellers or any Affiliate thereof, respectively;

(ii) except as set forth in Section 2.5(b) of the Disclosure Schedules, result in a material violation or material breach of, or cause acceleration, or constitute (with or without due notice or lapse of time or both) a material default (or give rise to any material right of termination, modification, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, lease, license, contract, agreement or other instrument or obligation to which either of the Sellers or any Affiliate thereof, respectively, is a party or by which such Seller or any Affiliate thereof or any of such Seller’s or any Affiliate of such Seller’s properties or assets may be bound;

(iii) violate any Order or Law applicable to either of the Sellers or any Affiliate thereof, respectively, or any of such Seller’s or any Affiliate of such Seller’s properties or assets; or

(iv) result in the creation or imposition of any Encumbrance on any of the Assets, except for Permitted Exceptions.

2.6 Brokers. Except as set forth in Section 2.6 of the Disclosure Schedules, no broker, finder or investment banker is entitled to any broker’s, finder’s or investment banker’s fee or commission in connection with the Transactions contemplated by this Agreement based upon arrangements made by and on behalf of either of the Sellers.

2.7 Real and Personal Property.

(a) Each of the Sellers has delivered the preliminary reports of title, including copies of or access to all material underlying title documents listed thereon for all Owned Real Property;

(b) There are no eminent domain proceedings or zoning or other public land use proceedings pending and served upon Sellers, or, to the Knowledge of Sellers, threatened in writing by a governmental authority against the Owned Real Property.

(c) To the Knowledge of Sellers, copies of all material documents in its possession comprising the Lessor Lease and the Tenant Leases have been provided to Purchaser in Seller's electronic data room. To the Knowledge of Sellers, there is no Person in possession of any portion of the premises leased under the Lessor Lease or any Tenant Leases, other than as permitted pursuant to the terms of respective lease agreements. Except as disclosed in Section 2.7(c) of the Disclosure Schedules, no party to any Lessor Lease or Tenant Leases has delivered any notices of default.

(d) Except as disclosed in Section 2.7(c) of the Disclosure Schedules, with respect to the Real Property:

(i) Except for this Agreement, there is no option or purchase right which grants any party the right to acquire the Real Property or any portion thereof and which remains pending; and

(d) to the Knowledge of Sellers there are no violations of any applicable Law or requirement of any governmental agency, body or subdivision affecting or relating to the Real Property, including, without limitation, any environmental law, ordinance, rule, requirement or regulation.

2.8 Certain Other Representations with Respect to the Business.

(a) Except as set forth in Section 2.8(a) of the Disclosure Schedules, during the three (3) years prior to the Closing Date all activities of each of the Sellers with respect to the Business have been, and are currently being, conducted in compliance in all material respects with all Healthcare Laws. Except as set forth in Section 2.8(a) of the Disclosure Schedules, during the three (3) years prior to the Closing Date, neither of the Sellers nor, to the Knowledge of Sellers, any of their respective employees, officers, directors and managers (each in their respective capacity as an employee, officer, director or manager of a Seller with respect to the Business) has received any written notice of any pending or threatened investigation from any Governmental Entity with respect to an alleged material violation of any Healthcare Law in the conduct of the Business.

For purposes of this Agreement, "Healthcare Laws" means Laws relating to the licensure, certification, qualification or authority to transact business relating to the provision of, or payment for, or both the provision of and payment for, health benefits, healthcare or insurance coverage, including ERISA, COBRA, the State Children's Health Insurance Program, Medicare, Medicaid, TRICARE, and Laws relating to the regulation of fraud and abuse, false claims and patient referrals; Laws governing the federal Medicare (including Medicare Part D and Medicare Advantage), Medicaid, Medicaid-waiver, and CHAMPUS/TRICARE programs, any federal

healthcare program as defined in 42 U.S.C. § 1320a-7b(f), and any state healthcare program as defined in 42 U.S.C. § 1320a-7(h) or as otherwise set forth under applicable state Law (“**Healthcare Programs**”) and the delivery and payment of healthcare services; Laws governing billing and submission of a claim to a Healthcare Program or other payor, including reimbursement, payments, and cost reporting and other Healthcare Program or healthcare services reimbursement requirements; the federal Anti-kickback Statute (42 U.S.C. § 1320a-7b(b)) and the regulations promulgated thereunder, and its state law counterparts; the Federal Civil Monetary Penalty Provisions (collectively, 42 U.S.C. § 1320a-7a and 31 U.S.C. § 3801 *et seq.*); the federal False Claims Act, and its state law counterparts; the Stark Law, and its state law counterparts; survey, certification and standards as each relates to the eligibility of Sellers for obtaining governmental authorizations required in any state where they conduct business or required for Sellers to participate in any Healthcare Program; medical records and patient medical information privacy and security Laws, including the requirements of HIPAA and its state law counterparts; Laws governing treatment and reporting by Sellers relating to infectious diseases or other public health reporting; corporate practice of medicine doctrines and similar restrictions on ownership of any Person and the performance of professional medical services by any Person.

(b) Each of the Sellers has all material licenses, permits, certificates and other authorizations, consents and approvals of any Governmental Entity that are required to operate the Business as currently operated in the ordinary course under any Laws, including provider agreements with the Medicare and Medi-Cal programs (including their respective administrative contractors) and TRICARE, except where the failure to have such licenses, permits, certificates or other authorizations, consents, or approvals would not and would not reasonably be expected to interfere, in any material respect, with the operation of the Business.

(c) The Hospital is duly accredited by the NIAHO Hospital Accreditation Program.

(d) The Hospital is certified for participation in the Medicare, Medi-Cal and TRICARE programs, and has current and valid provider contracts with each of such programs, and is in compliance in all material respects with the conditions of participation of such programs.

(e) No current employee at the Hospital has been excluded from participating in any federal healthcare program (as defined in 42 U.S.C. §1320a-7b(f)). None of Sellers or the Hospital’s current officers, directors or employees (as such term is defined in 42 U.S.C. §1320a-5(b)), has been excluded from Medicare, any federal healthcare program (as defined in 42 U.S.C. §1320a-7b(f)) or Medicaid or been subject to sanction pursuant to 42 U.S.C. §1320a-7a or 1320a-8 or been convicted of a crime described at 42 U.S.C. §1320a-7b. To the Knowledge of Sellers, no individual providing services to the Hospital has failed to maintain such individual’s current license to provide the services required to be provided by it to or on behalf of the Hospital. Except as set forth in Section 2.8(e) of the Disclosure Schedule, there are no material pending or, to the Knowledge of Sellers, threatened disciplinary or corrective actions or appeals with respect to the medical or other staff members of the Hospital.

(f) Except as set forth in Section 2.8(f) of the Disclosure Schedules:

(i) Sellers are, and for the past three (3) years have been in compliance in all material respects with the Health Insurance Portability and Accountability Act of 1996, as amended by and supplemented by the Health Information Technology for Clinical Health Act of the American Recovery and Reinvestment Act of 2009, and their implementing regulations (collectively referred to herein as “*HIPAA*”) and applicable state laws regulating the privacy and/or security of individually identifiable information (collectively referred to herein as the “*Information Privacy and Security Laws*”).

(ii) no Seller is under audit or investigation by any Governmental Entity for a violation of HIPAA or any applicable Information Privacy or Security Law and has not received any written notices from the United States Department of Health and Human Services Office for Civil Rights or the Attorney General of any state or territory of the United States relating to any such violations, which written notice has not been resolved.

2.9 Medical Staff Matters. Sellers have made available to Purchaser a list of all current members of such medical staff. Except as set forth on Section 2.9 of the Disclosure Schedules, there are no (a) pending or, to the Knowledge of Sellers, threatened adverse actions with respect to any medical staff member of the Hospital or any applicant thereto, including any adverse actions for which a medical staff member or applicant has requested a judicial review hearing that has not been scheduled or that has been scheduled but has not been completed, or (b) pending or, To the Knowledge of Sellers, threatened disputes with applicants, medical staff members or health professional affiliates, and all appeal periods in respect of any medical staff member or applicant against whom an adverse action has been taken have expired.

2.10 Title to Assets.

(a) As of the date of this Agreement and subject to the entry of the Sale Order, the Sellers are the sole and lawful owners of, and have good title to, or a valid leasehold interest in, all of the Assets, free and clear of all Encumbrances other than the Permitted Exceptions.

(b) As of immediately prior to the Closing and subject to the entry of the Sale Order, Sellers are the sole and lawful owners of, and have good title to, or a valid leasehold interest in, and the power to sell, assign or transfer to Purchaser, all of the Assets free and clear of all Encumbrances other than the Permitted Exceptions.

2.11 Assigned Contracts. Sellers have delivered to Purchaser a complete copy of each Assigned Contract, in each case, as amended or otherwise modified and in effect as of the date hereof.

2.12 Labor Matters. Section 2.12 of the Disclosure Schedules sets forth, ~~all material respects,~~ a complete and accurate list of all Business Employees as of the execution date of ~~the filing of the Chapter 11 Case~~ this Agreement, along with the position, status as full-time or part-time, date of hire, union affiliation, base compensation, any other regular compensation (such as bonuses or commissions), status as active or on leave (and if on leave, the nature of the

leave and the anticipated date of return), and status as exempt or non-exempt for purposes of federal and state overtime pay requirements.

2.13 No Other Representations and Warranties. Except for the representations and warranties contained in this Article II (including the related portions of the Disclosure Schedules), neither Sellers nor any other Person makes (and Purchaser is not relying upon) any other express or implied representation or warranty with respect to Sellers, the Business, the Assets (including the value, condition, or use of any Asset), the Assumed Liabilities or the Transactions contemplated by this Agreement, and Sellers disclaim any other representations or warranties, whether made by any Sellers, any Affiliate of Sellers or any of their respective representatives. Except for the representations and warranties contained in this Article II (including the related portions of the Disclosure Schedule), Sellers expressly (i) disclaim and negate any representation or warranty, express or implied, at common law, by statute or otherwise, relating to the condition of the Assets (including any implied or expressed warranty of title, merchantability or fitness for a particular purpose, or of the probable success or profitability of the ownership, use or operation of the Business or the Assets by Purchaser after the Closing), and (ii) disclaim all liability and responsibility for any representation, warranty, projection, forecast, statement, or information made, communicated, or furnished (orally or in writing) to Purchaser or its Affiliates or representatives (including any opinion, information, projection or advice that may have been or may be provided to Purchaser by any representative of any Sellers).

2.14 AS IS, WHERE IS. THE ASSETS ARE BEING CONVEYED “AS IS”, “WHERE IS”, AND “WITH ALL FAULTS”, WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER AS TO ITS CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED OTHER THAN AS SET FORTH IN THIS AGREEMENT. SELLERS SPECIFICALLY DISCLAIM ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, THERETO EXCEPT AS OTHERWISE SET FORTH IN THE AGREEMENT. PURCHASER IS HEREBY THUS ACQUIRING THE ASSETS BASED SOLELY UPON PURCHASER’S OWN INDEPENDENT INVESTIGATIONS AND INSPECTION OF THAT PROPERTY AND NOT IN RELIANCE UPON ANY INFORMATION PROVIDED BY SELLERS OR SELLERS’ AGENTS OR CONTRACTORS EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT.

2.15 Sellers’ Knowledge. References in this Agreement to “Sellers’ Knowledge” or “the Knowledge of Sellers” means the knowledge of Chief Executive Officer, Chief Operating Officer, and Secretary of Sellers, after reasonably inquiry within the organization of Sellers, in each case as of the date of this Agreement and the Closing Date, respectively.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF PURCHASER

As an inducement to Sellers to enter into this Agreement and to consummate the Transactions contemplated by this Agreement, Purchaser hereby represents and warrants to Sellers as to the following matters as of the date of this Agreement and as of the Closing Date:

3.1 Authorization. Purchaser has all necessary corporate power and authority to enter into this Agreement and has full power and authority to carry out the Transactions contemplated hereby. No other action on the part of Purchaser is necessary to authorize the execution, delivery or performance of this Agreement.

3.2 Binding Agreement. This Agreement has been duly and validly executed and delivered by Purchaser and, assuming due and valid execution by Sellers, this Agreement constitutes a valid and binding obligation of Purchaser enforceable in accordance with its terms subject to (a) applicable bankruptcy, reorganization, insolvency, moratorium and other laws affecting creditors' rights generally from time to time in effect, and (b) limitations on the enforcement of equitable remedies.

3.3 Organization and Good Standing. Purchaser is duly organized, validly existing and in good standing under the Laws of the State of California. Purchaser has the requisite power and authority to own, operate and lease its properties and to carry on its business as now conducted.

3.4 No Violation. Neither the execution and delivery by Purchaser of this Agreement nor the consummation of the Transactions contemplated hereby nor compliance with any of the material provisions hereof by Purchaser will violate, conflict with or result in a breach of any material provision of the Articles of Incorporation, Bylaws or other organizational documents of Purchaser or any contract, lease or other instrument by which Purchaser is bound.

3.5 Brokers and Finders. Neither Purchaser nor any Affiliate thereof nor any officer or director thereof has engaged any finder or broker in connection with the Transactions contemplated hereunder.

3.6 Legal Proceedings. There are no claims, proceedings or investigations pending or, to the Knowledge of Purchaser, threatened relating to or affecting Purchaser or any affiliate of Purchaser before any court or Governmental Entity in which an adverse determination would adversely affect Purchaser's ability to consummate the Transactions contemplated hereby. Neither Purchaser nor any affiliate of Purchaser is subject to any judgment, order, decree or other governmental restriction specifically (as distinct from generically) applicable to Purchaser or any affiliate of Purchaser that would adversely affect Purchaser's ability to consummate the Transactions contemplated hereby.

3.7 Ability to Perform. Purchaser has the ability to obtain funds, including from an Affiliate, and, at the Closing, shall have cash in amounts necessary to consummate the Transactions contemplated by this Agreement.

3.8 Purchaser Knowledge. References in this Agreement to "***Purchaser's Knowledge***" or "***the Knowledge of Purchaser***" means the knowledge of Chair of the Board, President, Finance Officer, and Secretary of Purchaser, after reasonable inquiry within the organization of Purchasers, in each case as of the date of this Agreement and the Closing Date, respectfully.

3.9 Independent Investigation. Purchaser has conducted its own independent investigation, review and analysis of the Business and the Assets, and acknowledges that it has

been provided such access to the personnel, properties, assets, premises, books and records, and other documents and data of Sellers as has been requested by Purchaser for such purpose. Purchaser acknowledges and agrees that: (a) in making its decision to enter into this Agreement and to consummate the Transactions contemplated hereby, Purchaser has relied solely upon its own investigation and the express representations and warranties of Sellers set forth in Article II of this Agreement (including related portions of the Disclosure Schedules); and (b) neither Sellers nor any other Person has made any representation or warranty as to Sellers, the Business, the Assets or this Agreement, except as expressly set forth in Article II of this Agreement (including the related portions of the Disclosure Schedules).

ARTICLE IV PRE-CLOSING COVENANTS OF SELLERS

4.1 Access and Information; Inspections. Upon reasonable advance notice to Sellers, Sellers shall afford to the officers and agents of Purchaser (which shall include accountants, attorneys, bankers and other consultants and authorized agents of Purchaser) reasonable access during normal business hours, the right to inspect, the books, accounts, records and other relevant documents and information related to the Business as Purchaser may reasonably request, and (ii) Sellers shall furnish Purchaser with copies of such additional financial and operating data and other information in Sellers' possession related to the Business as Purchaser or its representatives may from time to time reasonably request; provided, however, that Sellers is not obligated to disclose information that (a) is proprietary to Sellers, (b) would, in Sellers' sole discretion, cause significant competitive harm to Sellers or the Business if the Transactions contemplated by this Agreement are not consummated, or (c) contravene any applicable Law, fiduciary duty or binding agreement entered into prior to the date of this Agreement; provided, further, that all disclosures of information shall be consistent with the confidentiality agreements and any other non-disclosure agreements entered into among Purchaser, its representatives and Sellers or their representatives. Purchaser's right of access and inspection shall be exercised in such a manner as not to interfere with the operations of Sellers or the Business. Sellers shall promptly provide Purchaser with copies of all reports and information provided to the DIP Lender under the DIP Credit Agreement, other than reports and information concerning other offers to purchase the Sellers' assets and the process related thereto. Sellers shall provide updated lists of Business Employees as reasonably requested by Purchaser.

4.2 Cooperation and Consents.

(a) The Parties shall reasonably cooperate with each other and their respective authorized representatives and attorneys in: (i) all efforts to obtain all consents, approvals, authorizations, clearances and licenses required to carry out the Transactions contemplated by this Agreement (including those of governmental and regulatory authorities), and (ii) the preparation of any document or other material which may be required by any Governmental Entity as a predicate to or result of the Transactions contemplated in this Agreement. Upon reasonable request of Purchaser, Sellers shall promptly provide Sellers specific information that is necessary for Purchaser to obtain all governmental consents, approvals, assignments, authorizations, clearances, permits and licenses necessary to consummate the Transactions contemplated by this Agreement.

(b) Sellers will use its commercially reasonable efforts to obtain, prior to the Closing Date, any consents required or requested by Purchaser for any Assigned Contracts and Assigned Leases; provided, however, that Sellers shall not be required to expend funds or incur additional liability as a condition or requirement to obtaining consent for any Assigned Contract or Assigned Lease (other than as may be expressly provided in an Assigned Contract or Assigned Lease and payable to the contract party or landlord in connection with providing such a consent or such ordinary legal and similar 3rd party advisory costs associated with seeking and obtaining such consents).

(c) Sellers shall provide Purchaser with advance copies of material pleadings in the Chapter 11 Case reasonably in advance of filing the same with the Bankruptcy Court.

4.3 Sellers' Efforts to Close. Sellers shall use their reasonable commercial efforts to satisfy all of the conditions precedent set forth in Article VI and Article VII to its or Purchaser's obligations under this Agreement to the extent that Sellers' action or inaction can control or materially influence the satisfaction of such conditions; provided, however, that Sellers shall not be required to pay or commit to pay any amount to (or incur any obligation in favor of) any Person.

4.4 Termination Cost Reports. Sellers shall file all Medicare, Medicaid and any other termination cost reports required to be filed as a result of the consummation of (a) the transfer of the Assets to Purchaser, and (b) the Transactions contemplated by this Agreement. Purchaser shall permit Sellers reasonable access to all Business books and records to prepare such reports. All such termination cost reports shall be filed by Sellers in a manner that is in compliance with current Laws. Sellers shall be responsible for filing governmental cost reports relating to its operation of the Business and any follow up requests, audits, or reconciliations with CMS or its designee related to such cost reports. Purchaser shall be responsible for its own cost report filings beginning as of the Effective Time.

4.5 Employee Liabilities. Prior to the Effective Time, Sellers shall be solely responsible for complying with WARN and all other obligations under applicable Law requiring notice of plant closings, relocations, mass layoffs, reductions in force or similar actions (and for any failures to so comply), in any case applicable to Business Employees as a result of any action by Sellers or any Seller's Affiliate prior to the Effective Time or following the Effective Time for any reason.

4.6 Business Operations. Prior to the Effective Time, Sellers shall use commercially reasonable efforts, subject to Sellers possessing required funding, to continue to operate at least the Hospital's emergency room department and at least one medical/surgery unit as is being operated on the date hereof. With respect to the operations of the Business, Sellers shall:

(a) use commercially reasonable efforts to carry on the Business and use commercially reasonable efforts to maintain personnel, operations, real or personal property, finance or accounting policies in all material respects, provided that ~~Seller may take actions reasonably necessary to achieve~~ after entry of the Sale Order and prior to the Effective Time, Beverly shall reduce services to the Effective Time Service Lines;

(b) use commercially reasonable efforts to maintain the Business and the Assets in operating condition in a manner consistent with past practices, casualty, condemnation and ordinary wear and tear excepted, and inclusive of substitutions and retirements;

(c) maintain in effect the insurance coverages with respect to the Assets;

(d) perform Sellers' material obligations under all Assigned Leases and Assigned Contracts, and with respect to the Assets;

(e) permit and allow reasonable access by Purchaser and its representatives to make offers of post-Closing employment to any of Sellers' personnel and to establish relationships with physicians, medical staff and others having business relations with Sellers, provided, that such actions by Purchaser do not unreasonably interfere with Sellers' operation of the Business;

(f) timely file or cause to be filed all material reports, notices and tax returns required to be filed;

(g) maintain all existing material approvals, permits and environmental permits relating to the Hospital; and

(h) use commercially reasonable efforts (i) to facilitate the transfer of Patient Records from Beverly's EMR system to Purchaser's EMR system and (ii) any other actions that may be required to facilitate the transfer of Beverly's EMR system to Purchaser's EMR system.

4.7 Negative Covenants. Until the Effective Time, with respect to the operations of the Business, Sellers shall use commercially reasonable efforts not to, without the prior written consent of Purchaser (which shall not be unreasonably withheld) or except as may be required by Laws:

(a) except in the Ordinary Course of Business (which shall include renewals or extensions of the term of any contract) amend or terminate any of the Assigned Contracts or Assigned Leases; or, incur or agree to incur any material liability;

(b) with respect to the Ancillary Property and the MOB Improvements, negotiate or enter into any lease or other agreement to use, occupy, or change the occupancy of all or any portion of any of the properties constituting the Ancillary Property or the MOB Improvements;

(c) create, assume or permit to exist any new material debt or other Encumbrance upon any of the Assets (other than Permitted Exceptions and other than any debt created in accordance with California Assembly Bill AB112, provided, that the lender of such debt consents to the Transactions at the time such debt is incurred or is not granted a lien against the Assets to secure such debt), provided that with respect to the Leased Real Property, this covenant shall apply only to Sellers' leasehold interest therein;

(d) acquire (whether by purchase or lease) or sell, assign, lease, or otherwise transfer or dispose of any material Asset, except in the Ordinary Course of Business with comparable replacement thereof;

(e) except with respect to previously budgeted (or in the Ordinary Course of Business) expenditures, purchase capital assets or incur material costs in respect of construction in progress;

(f) agree or commit to take any of the actions set forth in this Section 4.7;

(g) allow any breach, default, termination or cancellation of such insurance policies or agreements to occur or exist with respect to the Real Property, the Assigned Leases, or the Assigned Contracts; or

(h) cause any Material Adverse Effect to occur with respect to any of the Assets.

(i) For purposes of this Section 4.7, Sellers shall be deemed to have obtained Purchaser's prior written consent to undertake the actions otherwise prohibited by this Section 4.7 if Sellers give Purchaser written notice of a proposed action and Sellers do not receive from Purchaser a written notice of objection to such action within seven (7) days after Purchaser receives Sellers' written notice. Notwithstanding any provision to the contrary contained in this Agreement, neither Section 4.6 nor this Section 4.7 shall be construed to prohibit Sellers from engaging in any act which Sellers reasonably believes is necessary (i) to preserve and protect the condition or continued operations of the Business, (ii) for patient safety needs, or (iii) to comply with the requirements of any Laws. Sellers shall give Purchaser prompt written notice subsequent to taking any act described in the immediately preceding sentence.

4.8 Title Matters. At any time prior to the Closing Date, Purchaser may cause to be delivered to Sellers (a) a preliminary binder or title commitment(s) (the "**Title Commitment**") sufficient for the issuance of a standard coverage Owner's Title Insurance Policy in form and with such ALTA extended coverages and all endorsements thereto as Purchaser may have reasonably requested and that the Title Company shall have agreed to, insuring fee title in Purchaser (or its designated vestee pursuant hereto) in the full insurable value of the Owned Real Property, free and clear of all Encumbrances, subject only to the non-monetary Schedule B exceptions set forth therein with respect to the Owned Real Property (the "**Owner's Title Policy**") and, a standard coverage Leasehold Title Policy in a form approved for issuance in California with respect to any Leased Real Property (the "**Leasehold Title Policy**") in form and with such ALTA extended coverages and all endorsements thereto as Purchaser may have reasonably requested and that the Title Company shall have agreed to, insuring a leasehold interest in Purchaser (or its designated vestee pursuant hereto) in the full insurable value of the Leased Real Property, free and clear of all Encumbrances, subject only to the non-monetary Schedule B exceptions set forth therein (the Owner's Title Policy and the Leasehold Title Policy are collectively referred to in this Agreement as the "**Title Policy**"), issued by First American Title Insurance Company (the "**Title Company**"), together with true, correct and legible (or, if not legible, the best available) copies of all instruments referred to therein as conditions or exceptions to title (the "**Title Instruments**"), and (b) if and to the extent Purchaser so elects in its

sole discretion, an ALTA survey or surveys of the Owned Real Property complying with the Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys for the Owned Real Property in a form reasonably acceptable to Purchaser and the Title Company (the "Surveys"). The costs and expenses of the Title Commitment, the Title Policy and the Surveys shall be borne by Purchaser. Prior to the Closing, Sellers shall deliver to the Escrow Holder for delivery to the Title Company at Closing (i) an owner's affidavit of title (the "Owner's Affidavit") substantially in the form attached as Exhibit 4.8, or such other form reasonably requested by the Title Company and adequate to cause Title Company to delete the standard pre-printed exceptions in the Title Commitment (provided that such deletion does not require the delivery to Title Company of an ALTA survey approved by Title Company as Sellers shall have no duty to provide such a survey) and (ii) such other documentation as Title Company may reasonably require from Sellers to issue the Title Policy to Purchaser at Closing.

4.9 Bid Protections Order

~~— In connection with the Chapter 11 Case, no later than one (1) business day after execution of this Agreement, the Sellers shall file a motion seeking entry of an order, in a form reasonably acceptable to the Purchaser, with the Bankruptcy Court (the "Bid Protections Order") that must include the following:~~

~~(a) If the Stalking Horse Purchaser is not the Successful Bidder and is not then in breach, and the Stalking Horse APA has not otherwise been terminated, the Stalking Horse Purchaser shall be paid at the closing of the Sale of the Purchased Assets (i) three percent (3.0%) of the Purchase Price (the "Break-Up Fee"), plus (ii) reimbursement of reasonably documented reasonable costs and expenses in an amount not to exceed \$650,000 (the "Expense Reimbursement" and together with the Break-Up Fee, the "Bid Protections"). In the event that the Successful Bidder other than the Stalking Horse fails to close the Sale, but a subsequent sale of the Assets is consummated, the Debtors shall pay the Stalking Horse Purchaser the Break-Up Fee and Expense Reimbursement (to the extent not already paid) from such Sale. Regardless of whether another bidder is selected as the Successful Bidder, in the event that the Stalking Horse APA is terminated for any reason other than breach by the Stalking Horse Purchaser, the Debtors shall pay the Expense Reimbursement within five (5) business days of such termination of the Stalking Horse APA.~~

~~(b) The Bid Protections, to the extent payable under this Order, shall constitute allowed administrative expense claims against the Debtors' estates pursuant to section 105(a), 503(b), and 507(a)(2) of the Bankruptcy Code. The Debtors are authorized to pay the Break-Up Fee and the Expense Reimbursement in cash or by wire transfer of immediately available funds in accordance with this Order without any further action or order by the Court.~~

~~(c) The Expense Reimbursement shall be payable by the Debtors as administrative expenses without any requirement to (a) file retention or fee applications, (b) provide notice to any person other than the Debtors and the Committee, and (c) provide itemized time detail to the Debtors or any other Person, provided that the Stalking Horse Purchaser will provide additional detail as reasonably requested by the Debtors.~~

~~(d) Notwithstanding anything to the contrary contained herein, upon payment of the Break-Up Fee and the Expense Reimbursement to the Stalking Horse Purchaser, the Debtors and their representatives and affiliates, on the one hand, and Stalking Horse Purchaser and its respective representatives and affiliates, on the other hand, will be deemed to have fully released and discharged each other from any liability resulting from the termination of the Stalking Horse APA, and neither the Debtors and their representatives and affiliates, on the one hand, and the Stalking Horse Purchaser and its respective representatives and affiliates, on the other hand, nor any other Person, will have any other remedy or cause of action under or relating to the Stalking Horse APA, including for reimbursement of any additional expenses incurred by the Stalking Horse Purchaser in connection with the negotiation and documentation of the Stalking Horse APA and all proceedings held in connection therewith.~~

ARTICLE V
COVENANTS OF ~~PURCHASER~~ THE PARTIES PRIOR TO CLOSING

5.1 Purchaser's Efforts to Close. Purchaser shall use its reasonable commercial efforts to satisfy all of the conditions precedent set forth in Article VI and Article VII to its or Sellers' obligations under this Agreement to the extent that Purchaser's action or inaction can control or materially influence the satisfaction of such conditions.

5.2 Certain Employee Matters.

(a) The Parties shall negotiate the terms and conditions of a staffing agreement whereby Seller shall provide the services to Purchaser of all the Business Employees who are in good standing as of the Closing under Sellers' employment policies (the "Staffing Agreement Employees") to provide services at Purchaser's White Memorial campus or at the new Montebello campus on the Hospital Property (the "Staffing Agreement") while Purchaser conducts the interview and evaluation process set forth in Section 5.2(b) below. The Staffing Agreement shall provide for Purchaser's reimbursement to Seller for the full salary and benefit expense of each Staffing Agreement Employee incurred or accrued during the Staffing Period.

(b) As soon as practicable, Purchaser shall interview or otherwise use commercially reasonable efforts to evaluate all Staffing Agreement Employees in compliance with applicable federal and California labor laws, rules and regulations, including compliance with rules regarding employee use of cannabis. Purchaser (or one of its Affiliates) agrees to offer employment as soon as practicable to all qualified Staffing Agreement Employees who are in good standing under Sellers' employment policies and who meet Purchaser's employment eligibility standards to work at Purchaser's White Memorial campus or at the new Montebello campus on the Hospital Property, subject to Purchaser's standard hiring practices.

(c) The Sellers shall use commercially reasonable efforts (i) to facilitate Purchaser's interview/ evaluation process, (ii) to facilitate the transition of Business Employees hired by Purchaser as reasonably requested by Purchaser, and (iii) to take other actions reasonably necessary for a smooth transition of operations immediately following the Closing.

~~(d) Subject to Purchaser's standard hiring practices and (collectively, the "Purchaser Eligibility Requirements"), Purchaser (or one of its Affiliates) may offer~~

~~employment to commence at the Effective Time to a Business Employee.~~ Sellers shall remain responsible for severance or termination payments or obligations to all Business Employees related to employment by Sellers, including under Sellers' Plans. The provisions of this Section 5.2 are solely for the benefit of the Parties, and no employee or former employee or any other individual associated therewith or any employee benefit plan or trustee thereof shall be regarded for any purpose as a third-party beneficiary of this Agreement, and nothing herein shall be construed as an amendment to any employee benefit plan for any purpose.

5.3 Governmental Approvals. Purchaser (i) shall use its reasonable commercial efforts to secure, as promptly as possible, all consents, approvals (or exemptions therefrom), authorizations, clearances and licenses required to be obtained from any Governmental Entity in order to carry out the Transactions contemplated by this Agreement and to cause all of its covenants and agreements to be performed, satisfied and fulfilled, and (ii) will provide such other information and communications to all Governmental Entities as Sellers or such authorities may reasonably request. Purchaser is responsible for all filings with and requests to Governmental Entity necessary to enable Purchaser to operate the Business at and after the Closing Date.

5.4 Collective Bargaining Agreement. Purchaser shall use commercially reasonable efforts to negotiate amendments to the CBA with the Union, on terms and conditions acceptable to it in its sole and absolute discretion, including, without limitation as follows: (a) the CBA is modified to provide for relief from all Beverly benefit plans and instead reflects that employees will participate in Purchaser's existing employee benefit plans, including but not limited to health insurance and prescription plans, 401(k)/403(b) plans, dental plans, vision plans, life insurance plans, AD&D plans, LTD plans, and EAP plans; (b) bargaining unit members will participate in Purchaser's benefit plans on the same terms as other non-exempt employees; (c) any recognition of the Union, and coverage of the CBA, is limited to the Beverly addresses as set forth in the CBA, and no other sites, and the union agrees to any limits on recognition; (d) any terms of the CBA inconsistent with the foregoing are abrogated, as are any maintenance of benefits provisions, language about services performed at Beverly hospital, language about wellness programs, and any other limitations or restrictions on Adventist Health White Memorial's ability to administer benefit plans in which employees participate (the "*Amended CBA*").

ARTICLE VI CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLERS

Sellers' obligation to sell the Assets and to close the Transactions as contemplated by this Agreement shall be subject to the satisfaction of each of the following conditions on or prior to the Closing Date unless specifically waived in writing by Sellers in whole or in part at or prior to the Closing:

6.1 Signing and Delivery of Instruments. Purchaser shall have executed and delivered all documents, instruments and certificates required to be executed and delivered pursuant to the provisions of this Agreement.

6.2 No Restraints. No temporary restraining order, preliminary or permanent injunction or other order preventing the consummation of the Transactions contemplated in this Agreement shall have been issued by any court of competent jurisdiction or any other Governmental Entity and remain in effect on the Closing Date.

6.3 Representations and Warranties; Performance of Covenants. The representations and warranties of Purchaser contained in this Agreement shall be true and correct in all material respects when made. Each and all of the terms, covenants, and agreements in this Agreement to be complied with or performed by Purchaser on or before the Closing Date shall have been complied with and performed by Purchaser in all material respects.

6.4 Sale Order. The Bankruptcy Court shall have entered the ~~Bid Protections Order and the~~ Sale Order.

6.5 Schedules. The provisions of the schedules attached to this Agreement that were updated by Purchaser after the execution of this Agreement, if any, shall be acceptable to Sellers in its reasonable discretion.

6.6 Required Consents. All Governmental Entities set forth on Schedule 6.6 whose approval is required for Purchaser or Sellers to consummate the Transactions contemplated by this Agreement have given (or will give) such approval ("Required Governmental Entity Consents") effective as of the Effective Time.

6.7 Staffing Agreement. The Staffing Agreement shall have been negotiated and executed by the parties thereto.

ARTICLE VII CONDITIONS PRECEDENT TO OBLIGATIONS OF PURCHASER

Purchaser's obligation to purchase the Assets and to close the Transactions contemplated by this Agreement shall be subject to the satisfaction of each of the following conditions on or prior to the Closing Date unless specifically waived in writing by Purchaser in whole or in part at or prior to the Closing.

7.1 Signing and Delivery of Instruments. Sellers shall have executed and delivered all documents, instruments and certificates required to be executed and delivered pursuant to the provisions of this Agreement.

7.2 No Restraints. No temporary restraining order, preliminary or permanent injunction or other order preventing the consummation of the Transactions contemplated in this Agreement shall have been issued by any court of competent jurisdiction or any other Governmental Entity and remain in effect on the Closing Date.

7.3 Representations and Warranties; Performance of Covenants. The representations and warranties of Sellers contained in this Agreement shall be true and correct in all material respects when made (except to the extent limited or qualified by materiality or Material Adverse Effect, in which event, such applicable representation and warranty shall be true and accurate in

all respects in accordance with the terms of the applicable representation and warranty as set forth in this Agreement). Each and all of the terms, covenants, and agreements in this Agreement to be complied with or performed by Sellers on or before the Closing Date shall have been complied with and performed by Sellers in all material respects.

7.4 Title Insurance Policy. The Title Company shall be irrevocably committed, subject only to payment of premiums, to issue to Purchaser on and effective as of the Closing Date the Title Policy.

7.5 No Material Adverse Effect. Since the date hereof, there will not have been any Material Adverse Effect with respect to the Business or any of the Assets, including without limitation the Real Property.

7.6 Schedules. The provisions of the schedules attached to this Agreement or any Disclosure Schedule that were updated by Seller after the execution of this Agreement, if any, shall be acceptable to Purchaser in its reasonable discretion.

7.7 Required Consents.

(a) All Required Governmental Entity Consents shall have been obtained by Sellers and are satisfactory to Purchaser in its sole and absolute discretion.

(b) Purchaser shall have received all Governmental Entity consents necessary for Purchaser to operate a multi-campus general acute care hospital under a consolidated license as set forth on **Schedule 7.7(b)** ("**Purchaser Governmental Entity Consents**").

(c) Sellers have taken the steps (including with respect to required notifications with respect to changes to licensure or service lines) necessary so that as of the Effective Time, the Hospital ~~is~~ (i) has not taken any action to suspend its general acute care hospital license with the California Department of Public Health and (ii) is only operating the Effective Time Service Lines.

7.8 Bankruptcy Court Orders. The Bid Protections Order shall be ~~a Final Order, be~~ in full force and effect, and not subject to any stay. The Sale Order shall be entered and shall be a Final Order, be in full force and effect, and not subject to any stay.

7.9 Surrender of License. Immediately prior to the Effective Time, Beverly shall have surrendered its general acute care hospital license to the California Department of Public Health.

7.10 CBA. The Amended CBA shall have been executed by the parties thereto.

7.11 Staffing Agreement. The Staffing Agreement shall have been negotiated and executed by the parties thereto.

ARTICLE VIII
TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to Closing:

(a) by the mutual written consent of the Parties; or

(b) by either Purchaser or Sellers if the Closing has not occurred (other than through the failure of any Party seeking to terminate this Agreement to comply fully with its obligations under this Agreement) on or before ~~July 18, 2023~~ sixty (60) days after the date of execution of this Agreement (the "***Termination Date***").

(c) by Sellers:

(i) if a material breach of this Agreement has been committed by Purchaser and such breach has not been (i) waived in writing by Sellers, or (ii) cured by Purchaser to the reasonable satisfaction of Sellers within three (3) business days after Sellers provide Purchaser a written notice that describes the nature of such breach; provided, however, that Sellers shall not be permitted to terminate this Agreement pursuant to this Section 8.1(c)(i) if Sellers are also in material breach of this Agreement; or

(ii) if satisfaction of any such condition in Article VI is or becomes impossible and Sellers have not waived such condition in writing (provided that the failure to satisfy the applicable condition or conditions has occurred by reason other than (i) through the failure of Sellers to comply with its obligations under this Agreement, or (ii) Purchaser's failure to provide its closing deliveries on the Closing Date as a result of Sellers not being ready, willing and able to close the transaction on the Closing Date);

(d) by Purchaser:

(i) if a material breach of this Agreement has been committed by Sellers, which material breach has resulted, and such breach has not been (i) waived in writing by Purchaser, or (ii) cured by Sellers to the reasonable satisfaction of Purchaser within three (3) business days after Purchaser provides Sellers a written notice which describes the nature of such breach; provided, however, that Purchaser shall not be permitted to terminate this Agreement pursuant to this Section 8.1(d)(i) if Purchaser is also in material breach of this Agreement;

(ii) if satisfaction of any condition in Article VII is or becomes impossible and Purchaser has not waived such condition in writing (provided that the failure to satisfy the applicable condition or conditions has occurred by reason other than (i) through the failure of Purchaser to comply with its obligations under this Agreement, or (ii) Sellers' failure to provide its closing deliveries on the Closing Date as a result of Purchaser not being ready, willing and able to close the transaction on the Closing Date);

~~(iii) if (1) the Bankruptcy Court does not enter the Bid Protections Order within nine (9) days of execution of this Agreement and/or (2) the Bankruptcy Court fails to enter the Sale Order within forty five (45) days of execution of this Agreement;~~

(iii) ~~(iv)~~ if any conditions are imposed by the California Attorney General other than those acceptable to the Purchaser in its sole and absolute discretion;

(iv) ~~(v)~~ if the Chapter 11 Case of any Seller or any of its affiliated debtors is converted to a case under Chapter 7 of the Bankruptcy Code or is dismissed or if the a Chapter 11 trustee or an examiner with expanded powers occurs is appointed;

(v) ~~(vi)~~ if Purchaser is not selected as the winning bidder or Back-Up Bidder at any auction for the Assets-; or

(vi) ~~(vii)~~ upon a notice of a Casualty or Condemnation pursuant to Section 1.7(a) of this Agreement.

8.2 Termination Consequences.

(a) If this Agreement is terminated pursuant to Section 8.1: (a) all further obligations of the Parties under this Agreement shall terminate, except that the obligations in Sections 8.2, 11.4, 11.9 and 11.12 shall survive, and (b) each Party shall pay the costs and expenses incurred by it in connection with this Agreement, except as provided in the Bid Protections Order and Section 11.12. Each Party acknowledges that the agreements contained in this Section 8.2 are an integral part of the Transactions contemplated by this Agreement and that without these agreements such Party would not have entered into this Agreement.

(b) If this Agreement is terminated pursuant to Section 8.1(a)8.1(a), Section 8.1(b), Section 8.1(c)(ii), or Section 8.1(d)(i), 8.1(d)(ii), 8.1(d)(iii), 8.1(d)(iv), 8.1(d)(v), 8.1(d)(vi), or 8.1(d)(vii), Purchaser shall be entitled to disbursement of the Purchaser Deposit (including, for the avoidance of doubt) from the Escrow Account and the payment of the all amounts owed to Purchaser under the Bid Protections Order. In the event of a termination of this Agreement pursuant to Section 8.1(c)(i), Sellers shall be entitled to disbursement of the Purchaser Deposit from the Escrow Account. If this Agreement is terminated, then promptly following the effective date of any such termination either (i) Sellers and Purchaser will deliver joint written instructions to the Escrow Holder or (ii) the Bankruptcy Court shall issue an order, to pay Sellers or Purchaser, as applicable, the Purchaser Deposit from the Escrow Account, subject to the terms of the Escrow Agreement.

ARTICLE IX

POST-CLOSING MATTERS AND ADDITIONAL AGREEMENTS OF PURCHASER

9.1 Excluded Assets. Subject to Section 1.1(b) hereof, any Excluded Asset (or proceeds thereof) pursuant to the terms of this Agreement or as otherwise determined by the Parties' mutual written agreement, which comes into the possession, custody or control of Purchaser (or its respective successors-in-interest, assigns or affiliates) shall, within twenty (20) business days following receipt, be transferred, assigned or conveyed by Purchaser (and its respective successors-in-interest, assigns and affiliates) to Sellers without imposing any charge to Sellers for Purchaser's transfer, storage, handling or holding of same on and after the Effective Time.

9.2 Preservation and Access to Records After the Closing.

(a) ~~From the Closing Date until the earlier of the closing of the Chapter 11 Cases and~~ After the Closing, Purchaser shall maintain all the Books and Records that are in the control or the possession of Purchaser or any of its Affiliates or their respective agents or representatives with respect to time periods prior to the Closing Date that are among the Assets as of the Effective Time, but excluding any records that are among the Excluded Assets (collectively, "***Business Records***") for a period of seven (7) years after the Closing Date or such longer period as required by Law (the "***Document Retention Period***"). After the Closing, Purchaser shall ~~keep and preserve all medical records, patient records, and other books and records that are among the~~ Assets as of the Effective Time, but excluding any records that are among the Excluded Assets. ~~Purchaser will afford to the representatives of Sellers and any of its affiliates, including their counsel and accountants ("***Sellers Parties***"), reasonable access to, and copies of (at Sellers' expense), such records with respect to time periods prior to the Closing Date (including access to records of patients treated at the Hospital prior to the Closing Date) during normal business hours after the Closing Date, to the extent reasonably needed by any Seller for any lawful~~ provide the Sellers, any direct or indirect successor to the Sellers and their respective professionals, and the Committee, the Committee's successors, any estate representative, any liquidating trust relating to the Sellers and each of their respective professionals (collectively, the "***Permitted Parties***") reasonable access during normal business hours to the Business Records for the purposes of (i) pursuing, assessing, settling, or otherwise dealing with any Excluded Assets; (ii) pursuing, assessing, defending, settling, or otherwise dealing with (including, without limitation, exercising rights and remedies with respect to) any claim or cause of action, including, without limitation, any objection or motion, that any Permitted Party has the right to pursue; (iii) performing and/or otherwise dealing with any obligations of the Sellers pursuant to this Agreement, including the Excluded Liabilities; (iv) assisting any one or more of the Permitted Parties in connection with or otherwise relating to the claims reconciliation process relating to Sellers, including, without limitation, with respect to claims against any Person, including, without limitation, assessing, resolving, settling, and/or otherwise dealing with priority and administrative claims and any other general unsecured claims that accrue prior to the Closing Date; and (v) without limiting the generality of the immediately preceding clauses (i) through (iv), otherwise administering Sellers' estates including, without limitation, the preparation and confirmation of a plan relating to Sellers and the preparation of a disclosure statement relating to Sellers, and compliance with any subpoena, document request, or order of any court compelling any Permitted Party to produce documents to third parties, winding down Sellers' estates, preparing or filing tax returns and causing audits to be performed and/or for any other reasonable purpose.

(b) In complying with Section 9.2, Purchaser shall not incur any out-of-pocket costs and shall be reimbursed for expenses for material time expended by employees of Purchaser. The right of reasonable access for the Permitted Parties shall include, without limitation, (i) the right of such Permitted Party to copy at its expense at Purchaser's location, during regular business hours and upon reasonable notice (not less than 5 business days), such Business Records as they may reasonably request, and (ii) Purchaser's copying (at the Permitted

Party's expense) and delivering to such Permitted Party such Business Records as may be reasonably requested in writing with reasonable written descriptions of the materials.¹

(c) Purchaser acknowledges that, as a result of entering into this Agreement ~~and operating the Business~~, it will gain access to ~~patient records~~ Patient Records and other information which are subject to rules and regulations concerning confidentiality. Purchaser shall ~~abide by any such rules and regulations relating to the confidential information it acquires. Purchaser shall maintain the patient records at the Hospital~~ Patient Records in accordance with applicable Laws ~~and the requirements of relevant insurance carriers. After the expiration of the Document Retention Period, if Purchaser intends to destroy or otherwise dispose of any of the documents described in this Section 9.2(a).~~ Notwithstanding any other provision of this Agreement, from the Closing Date, Purchaser shall ~~comply with applicable law. Furthermore, provided that Purchaser shall not incur any out of pocket costs, Purchaser shall provide reasonable cooperation to Sellers and their insurance carriers in respect of the defense of claims by third parties against Sellers or any affiliate of Sellers, in respect of events occurring prior to~~ keep and preserve all Patient Records that are among the Assets as of the Effective Time with respect to the operations of the Business. Such cooperation shall include, without limitation (and at Sellers' sole expense for material time expended by employees of Purchaser), making the employees of Purchaser historically employed by the Hospital, if any, reasonably available for interviews, depositions, hearings and trials. for so long as and as required by Law.

(d) ~~(b)~~ Upon Purchaser's reasonable request, Purchaser and its representatives shall be given access by Sellers during normal business hours to the extent needed by Purchaser for business purposes to all documents, records, correspondence, work papers and other documents retained by Sellers pertaining to any of the Assets prior to the Effective Time (excluding confidential employee information, privileged materials and patient records), all in such manner as to not interfere unreasonably with Sellers. Such documents and other materials shall be, at Sellers' option, either (i) copied by Sellers for Purchaser at Purchaser's expense, or (ii) removed by Purchaser from the premises, copied by Purchaser and promptly returned to Sellers.

(e) ~~(e)~~ Purchaser shall cooperate with Sellers, on a timely basis and as reasonably requested by Sellers, in connection with the provision of all data of the Hospital and other information required by Sellers for reporting purposes, to the extent such information is included in the Assets.

(f) ~~(d)~~ To the maximum extent permitted by Law, if any Person other than the Permitted Parties, requests or demands, by subpoena or otherwise, any documents consisting of Assets, but relating to the Excluded Liabilities or Excluded Assets, including documents relating to the operations of the Business or any of the Hospital's committees prior to the Closing Date, Purchaser shall use reasonable efforts to notify Sellers and provide Sellers with the opportunity to object to, and otherwise coordinate with respect to, such request or demand, to the extent such documents are included in the Assets.

¹ NTD: To confirm whether Seller will pay for Purchaser's provisions of records.

9.3 General Cooperation and Turnover Obligations. The Parties shall cooperate to ensure that any and all payments that constitute Excluded Assets shall be paid to and received by Sellers, and any and all payments that constitute Assets transferred to Purchaser pursuant to Section 1.1(a) or that otherwise arise from services rendered by Purchaser on or after the Closing Date shall be paid to and received by Purchaser. In this regard, for a period of one (1) year after the Closing Date (“Turnover Period”), the Parties shall, within twenty (20) business days of receipt, copy and send to the other Party copies (either in hard copy or via electronic file) of all remittance advices for all deposits to all bank accounts for such receivables, from whatever payor or source of funds, that are received on and after the Effective Time. If payments that constitute a transferred Asset are deposited to a bank account of Sellers that is not automatically swept or transferred to Purchaser, then Sellers, within five (5) business days of notice of the receipt of such payments, shall turn over and pay Purchaser said funds. If a deposit representing payment of any Excluded Assets is received by Purchaser, then Purchaser, within five (5) business days of discovery that such funds constitute Excluded Assets, shall turn over and pay Sellers such funds. Each Party shall have the right, within three (3) months after the expiration of the Turnover Period, to audit by an independent and competent auditor, at the requesting Party’s sole expense, of the bank records and remittance advices of the other Party. Thereafter, upon the findings of the auditor that there has either been an overpayment or an underpayment of funds due, the Party owning funds shall, within twenty (20) business days, make a payment of such funds to whom they are owed.

ARTICLE X TAXES AND COST REPORTS

10.1 Tax Matters; Allocation of Purchase Price.

(a) After the Closing Date, the Parties shall reasonably cooperate with each other and shall make available to each other, as reasonably requested, all information, records or documents relating to tax liabilities or potential tax liabilities attributable to Sellers with respect to the operation of the Business for all periods prior to the Closing Date and shall preserve all such information, records and documents at least until the expiration of any applicable statute of limitations or extensions thereof. The Parties shall also make available to each other to the extent reasonably required, and at the reasonable cost of the requesting Party (for out-of-pocket costs and expenses only), personnel responsible for preparing or maintaining information, records and documents in connection with tax matters and as Sellers reasonably may request in connection with the completion of any post-Closing audits of the Business.

(b) The Purchase Price (including any liabilities that are considered to be an increase to the Purchase Price for United States federal income tax purposes) shall be allocated first among the Sellers, and such amounts shall be further allocated among the Assets in accordance with Schedule 10.1(b) and Section 1060 of the Code and the Treasury Regulations promulgated thereunder (the “Allocation Schedule”). Purchaser shall provide to Sellers the Allocation Schedule no later than sixty (60) days after the Closing Date for Sellers’ review and comment. Purchaser shall consider in good faith any revisions as are reasonably requested by Seller no later than fifteen (15) days after the receipt by Seller of such Allocation Schedule. The

Parties shall prepare and file all Tax returns and otherwise take all Tax actions consistent with the Allocation Schedule.

10.2 Cost Report Matters. Consistent with Section 4.4, Sellers shall prepare and timely file all cost reports relating to the periods ending prior to the Closing Date or required as a result of the consummation of the Transactions described in this Agreement, including those relating to Medicare, Medicaid, and other third party payors which settle on a cost report basis (the “Sellers Cost Reports”).

ARTICLE XI MISCELLANEOUS PROVISIONS

11.1 Defined Terms. As used in this Agreement and unless otherwise defined in this Agreement, capitalized terms shall have the meanings described in Appendix I.

11.2 Further Assurances and Cooperation. Each Party shall execute, acknowledge and deliver to the other Parties any and all other assignments, consents, approvals, conveyances, assurances, documents and instruments reasonably requested by such Party at any time and shall take any and all other actions reasonably requested by such Party at any time for the purpose of consummating the Transactions hereunder and fulfilling such Party’s obligations hereunder. After consummation of the Transactions, the Parties agree to cooperate with each other and take such further actions as may be necessary or appropriate to effectuate, carry out and comply with all of the terms of this Agreement, the documents referred to in this Agreement and the Transactions.

11.3 Successors and Assigns. All of the terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of and be enforceable by the respective successors and assigns of the Parties hereto; provided, however, that no Party hereto may assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other Parties which consent shall not be unreasonably withheld or delayed.

11.4 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the internal Laws of the State of California (without giving effect to the principles of conflict of Laws thereof), except to the extent that the Laws of such state are superseded by the Bankruptcy Code. Without limiting any Party’s right to appeal any order of the Bankruptcy Court, the Parties agree that if any dispute arises out of or in connection with this Agreement or any of the documents executed hereunder or in connection herewith, the Bankruptcy Court shall have exclusive personal and subject matter jurisdiction and shall be the exclusive venue to resolve any and all disputes relating to the Transactions contemplated hereby and any of the documents executed hereunder or in connection herewith. Such court shall have sole jurisdiction over such matters and the Parties affected thereby and Purchaser and each Seller each hereby consent and submit to such jurisdiction; provided, however, that if the Chapter 11 Case shall have closed and cannot be reopened, the Parties agree to unconditionally and irrevocably submit to the exclusive jurisdiction of the United States District Court for the Central District of California and any appellate court thereof, for the resolution of any such claim or dispute. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable Law, any objection which they may now or hereafter have to the laying of venue of any such dispute

brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties hereto agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. In the event any such action, suit or proceeding is commenced, the Parties hereby agree and consent that service of process may be made, and personal jurisdiction over any Party hereto in any such action, suit or proceeding may be obtained, by service of a copy of the summons, complaint and other pleadings required to commence such action, suit or proceeding upon the Party at the address of such Party set forth in Section 11.7, unless another address has been designated by such Party in a notice given to the other Parties in accordance with the provisions of Section 11.7.

11.5 Amendments. This Agreement may not be amended other than by written instrument signed by the Parties.

11.6 Exhibits, Schedules and Disclosure Schedule. The Disclosure Schedules and all exhibits and schedules referred to in this Agreement shall be attached hereto and are incorporated by reference herein. From the date of the execution of this Agreement until the Closing, the Parties agree that Sellers may update the Disclosure Schedules and either Party may update the schedules as necessary, subject to the terms of Sections 6.5 or Section 7.6, as applicable, of this Agreement.

11.7 Notices. Any notice, demand, letter or other communication required, permitted, or desired to be given hereunder shall be deemed effectively given when either personally delivered, or when received by electronic means (including email) or overnight courier, addressed as follows:

If to Sellers: Montebello Community Health Services, Inc.
309 W. Beverly Blvd.
Montebello, California 90640
Attn: Alice Cheng, President and Chief Executive Officer

With a copy to: Sheppard Mullin
333 South Hope Street
Forty-Third Floor
Los Angeles, California 90071
Attention: Jennifer L. Nassiri

If to Purchaser: Adventist Health
1 Adventist Health Way
Roseville, California 95661
Attention: Kerry Heinrich, Chair of the Board

With a copy to: Adventist Health System
1 Adventist Health Way
Roseville, California 95661
Attn: Meredith Jobe, Vice President, General Counsel

Jones Day

555 S. Flower Street
50th Floor
Los Angeles, California 90071
Attention: Catherine A. Ehr Gott
Joshua M. Mester

or at such other address as one Party may designate by notice hereunder to the other Parties.

11.8 Headings. The section and other headings contained in this Agreement and in the Disclosure Schedule, exhibits and schedules to this Agreement are included for the purpose of convenient reference only and shall not restrict, amplify, modify or otherwise affect in any way the meaning or interpretation of this Agreement or the Disclosure Schedules, exhibits and schedules hereto.

11.9 Confidentiality and Publicity. The Parties acknowledge and agree that the Nondisclosure Agreement, dated as of July 16, 2021, between an affiliate of Purchaser and Sellers (the “***Confidentiality Agreement***”) remains in full force and effect. Prior to the Closing Date, Sellers and Purchaser shall consult with each other as to the form and substance of any press release or other public disclosure materially related to this Agreement or any other transaction contemplated hereby and each shall have the right to review and comment on the other’s press releases at least forty-eight (48) hours prior to issuance; provided, however, that nothing in this Section 11.9 shall be deemed to prohibit either Sellers or Purchaser from making any disclosure that its counsel deems necessary or advisable in order to satisfy either Party’s disclosure obligations imposed by law subject to reasonable prior notice to the other Parties thereof.

11.10 Gender and Number; Construction; Affiliates. All references to the neuter gender shall include the feminine or masculine gender and vice versa, where applicable, and all references to the singular shall include the plural and vice versa, where applicable. Unless otherwise expressly provided, the word “***including***” followed by a listing does not limit the preceding words or terms and shall mean “***including, without limitation***.” Any reference in this Agreement to an “***Affiliate***” shall mean any Person directly or indirectly controlling, controlled by or under common control with a second Person. The term “***control***” (including the terms “***controlled by***” and “***under common control with***”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

11.11 Third Party Beneficiary. The provisions contained in this Agreement are not intended by the Parties, nor shall they be deemed, to confer any benefit on any Person not a Party to this Agreement, except for the Parties’ successors and permitted assigns.

11.12 Expenses and Attorneys’ Fees. Except as otherwise provided in this Agreement or the Bid Protections Order, each Party shall bear and pay its own costs and expenses relating to the preparation of this Agreement and to the Transactions contemplated hereby, or the performance of or compliance with any condition or covenant set forth in, this Agreement, including the disbursements and fees of their respective attorneys, accountants, advisors, agents

and other representatives, incidental to the preparation and carrying out of this Agreement, whether or not the Transactions contemplated hereby are consummated.

11.13 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement, binding on all of the Parties hereto. The Parties agree that .PDF copies of signatures shall be deemed originals for all purposes hereof and that a Party may produce such copies, without the need to produce original signatures, to prove the existence of this Agreement in any proceeding brought hereunder. Signatures sent by facsimile or electronic transmission shall be deemed to be originals for all purposes of this Agreement.

11.14 Entire Agreement. This Agreement, the Disclosure Schedules, the exhibits and schedules, and the Transaction Documents contain the entire understanding between the Parties with respect to the Transactions contemplated hereby and supersede all prior or contemporaneous agreements, understandings, representations and statements, oral or written, between the Parties on the subject matter hereof.

11.15 No Waiver. Any term, covenant or condition of this Agreement may be waived at any time by the Party which is entitled to the benefit thereof but only by a written notice signed by the Party expressly waiving such term or condition. The subsequent acceptance of performance hereunder by a Party shall not be deemed to be a waiver of any preceding breach by any other Party of any term, covenant or condition of this Agreement, other than the failure of such other Party to perform the particular duties so accepted, regardless of the accepting Party's knowledge of such preceding breach at the time of acceptance of such performance. The waiver of any term, covenant or condition shall not be construed as a waiver of any other term, covenant or condition of this Agreement.

11.16 Severability. If any one or more of the provisions contained in this Agreement or in the Transaction Documents, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by Law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or the Transaction Documents.

11.17 Time is of the Essence. Time is of the essence for all dates and time periods set forth in this Agreement and each performance called for in this Agreement.

11.18 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION (I) ARISING UNDER THIS AGREEMENT OR (II) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES IN RESPECT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY, OR OTHERWISE. EACH OF THE PARTIES EACH HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY OF THE PARTIES MAY FILE AN ORIGINAL COUNTERPART OF A COPY

OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

11.19 Non-Recourse. All claims or causes of action (whether in contract or in tort, in law or in equity, by statute or otherwise) that may be based upon, arise out of or relate to this Agreement or the other Transaction Documents, or the negotiation, execution or performance of this Agreement or the other Transaction Documents (including any representation or warranty made in or in connection with this Agreement or the other Transaction Documents or as an inducement to enter into this Agreement or the other Transaction Documents), may be made only against the Persons that are expressly identified as parties hereto and thereto. No Person who is not a named party to this Agreement or the other Transaction Documents, including any past, present or future director, officer, employee, incorporator, member, partner, stockholder, equityholder, controlling person, Affiliate, agent, attorney or representative of any named party to this Agreement or the other Transaction Documents (the “*Non-Party Affiliates*”) shall have any liability (whether in contract or in tort, in law or in equity, by statute or otherwise, or based upon any theory that seeks to impose liability of an entity party against its owners or Affiliates, including by or through theories of equity, agency, control, instrumentality, single business enterprise, piercing the veil or undercapitalization) for any obligations or liabilities arising under, in connection with or related to this Agreement or the other Transaction Documents (as the case may be) or for any claim based on, in respect of, or by reason of this Agreement or the other Transaction Documents (as the case may be) or the negotiation or execution hereof or thereof; and each Party waives and releases all such liabilities, claims and obligations against any such Non-Party Affiliates.

11.20 Survival. The representations and warranties of each Seller and of Purchaser contained in this Agreement or in any certificate delivered pursuant hereto (whether or not contained in Article II or Article III) shall not survive, and shall terminate at, the Closing, and none of the Sellers nor Purchaser shall have liability after the Closing for any breach of any of its representations or warranties contained in this Agreement or in any certificate delivered pursuant hereto. The covenants or other agreements of each Seller and of Purchaser contained in this Agreement or in any certificate delivered pursuant hereto which are to be performed prior to Closing shall not survive, and shall terminate at, the Closing, and none of the Sellers nor Purchaser shall have liability after the Closing for any breach of any such covenant or other agreement contained in this Agreement or in any certificate delivered pursuant hereto. The covenants and other agreements of each Seller and of Purchaser contained in this Agreement or in any certificate delivered pursuant hereto which are to be performed after the Closing shall survive the Closing for the period contemplated by their terms (or if no such survival period is contemplated, then indefinitely).

11.21 Bankruptcy Court Approval. The Parties acknowledge that this Agreement shall not become effective until it has been approved by the Bankruptcy Court pursuant to the Sale Order.

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IN WITNESS WHEREOF, this Asset Purchase Agreement has been entered by each Party's duly authorized officer effective as of the date first written above.

PURCHASER:

**White Memorial Medical Center d/b/a
Adventist Health White Memorial**

Signature: _____

Print Name: Kerry Heinrich

Title: Chair of the Board

SELLER:

**Beverly Community Hospital Association
d/b/a Beverly Hospital**

Signature: _____

Print Name: _____

Title: _____

SELLER:

**Montebello Community Health Services,
Inc.**

Signature: _____
Print Name: _____
Title: _____

Appendix I
Defined Terms Glossary

Terms defined within the Agreement and their applicable section references are set forth below.

Defined Term	Section Reference
Affiliate	Section 11.10
Allocation Schedule	Section 10.1(b)
<u>Amended CBA</u>	<u>Section 5.4</u>
Ancillary Property	Section 1.1(a)(iv)(c)
Agreement	Preamble
Assets	Section 1.1(a)
Assigned Contracts	Section 1.1(a)(x)
Assigned Leases	Section 1.1(a)(v)
Assumed Liabilities	Section 1.1(c)
Bid Protections Order	Section 4.9
Bill of Sale	Section 1.4(a)
Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Beverly	Preamble
Business	Recitals
Casualty	Section 1.7(a)
Chapter 11 Case	Recitals
Closing	Section 1.3(a)
Closing Date	Section 1.3(a)
Closing Statement	Section 1.2(c)
Condemnation	Section 1.7(a)
Confidentiality Agreement	Section 11.9
Disclosure Schedule	Article II
DIP Facility Credit Agreement	Section 1.2(a)
DIP Facility Repayment Amount	Section 1.2(a)
DIP Lender	Section 1.2(a)
Document Retention Period	Section 9.2(a)
Effective Time	Section 1.3(a)
Escrow Account	Section 1.2(b)
Escrow Agreement	Section 1.2(b)
Escrow Holder	Section 1.2(b)
Excluded Assets	Section 1.1(b)
Excluded Contracts	Section 1.1(b)(xii)
Excluded Liability	Section 1.1(d)
Foundation	Preamble
Governmental Entity	Section 2.5(a)
Ground Lease	Section 1.1(a)(v)(a)
Healthcare Laws	Section 2.8(a)
Healthcare Programs	Section 2.8(a)

HIPAA	Section 2.8(f)(i)
Hospital	Recitals
Hospital Property	Section 1.1(a)(iv)(a)
Information Privacy and Security Laws	Section 2.8(f)(i)
Inventory	Section 1.1(a)(xi)
Lease Amounts	Section 1.6(c)
Leased Real Property	Section 1.1(a)(v)(a)
Leasehold Title Policy	Section 4.8
Licenses	Section 1.1(a)(iii)
Material Adverse Effect	Article II
Medical Records Custodial Agreement	Section 1.4(e)
MOB Improvements	Recitals
MOB Land	Section 1.1(a)(iv)(b)
Montebello	Preamble
Non-Party Affiliates	Section 11.19
Owned Real Property	Section 1.1(a) 1.4(c)(iv)
Owner's Affidavit	Section 4.8
Owner's Title Policy	Section 4.8
Party	Preamble
Personal Property	Section 1.1(a)(ii)
Post Effective Time Lease Amounts	Section 1.6(c)
Power of Attorney	Section 1.4(k) 1.4(j)
Pre Effective Time Lease Amounts	Section 1.6(c)
Prepays	Section 1.1(a)(xii)
Prorated Charges	Section 1.6(b)
Property Taxes	Section 1.6(b)
Purchase Price	Section 1.2(a)
Purchaser	Preamble
Purchaser Deposit	Section 1.2(b)
Purchaser Eligibility Requirements	Section 5.2
Purchaser Knowledge	Section 3.8
Real Estate Assignments	Section 1.4(b)
Real Property	Section 1.1(a)(v)(a)
Required Governmental Entity Consents	Section 6.6
Sale Order	Recitals
Security Deposits	Section 1.1(a)(vi)
Seller	Preamble
Sellers Cost Reports	Section 10.2
Sellers Parties	Section 9.2
Sellers' Knowledge	Section 2.15
<u>Staffing Agreement</u>	<u>Section 5.2(a)</u>
<u>Staffing Agreement Employees</u>	<u>Section 5.2(a)</u>
Surveys	Section 4.8
Tenant Leases	Section 1.1(a)(v)(b)
Termination	Section 8.1(b)

Title Commitments	Section 4.8
Title Company	Section 4.8
Title Instruments	Section 4.8
Title Policy	Section 4.8
Title Vehicles	Section 1.1(a)(i)
Transactions	Recitals
Transaction Documents	Recitals
Transfer Agreement	Section 1.4(d)
Transfer Taxes	Section 1.6
Turnover Period	Section 9.3
Unpaid Amounts	Section 1.6(e) 1.6(c)

Terms not otherwise defined in the Defined Terms table above but otherwise referenced in the Agreement herein shall have the meanings set forth below.

~~“**Back-Up Bidder**” has the meaning set forth in the Sellers’ Motion For The Bid Protections Order”~~ means that certain Order Approving Debtors’ Motion for the Entry Of An of an Order (I) Approving Asset Purchase Agreement Forfor Stalking Horse Purchaser And Forand for Prospective Overbidders, (II) Approving Bid Protections, (III) Approving Bidding Procedures, (IV) Scheduling Certain Dates Thereto, (V) Approving Form Ofof Notice, Andand (VI) Scheduling Court Hearing Foto Approve Sale Free Andand Clear To Theto the Successful Bidder entered as Docket No. 378.

“Business Employee” means any employee of the Business (whether salaried or hourly, and full-time or part-time), whether or not actively employed on the date hereof, e.g., including employees on vacation and leave of absence, including maternity, family, sick, military or disability leave.

“Cash” means as of the applicable time, including all cash, commercial paper, certificates of deposit and other bank deposits, treasury bills, and all other cash equivalents in the Sellers’ accounts, and third party checks deposited or held in such the Sellers’ accounts that have not yet cleared.

“CBA” the Collective Bargaining Agreement between Beverly and the Union dated February 4, 2022, as amended.

“CMS Settlement” means a settlement among the Sellers, Purchaser and CMS regarding the resolution of claims asserted by CMS and the Purchaser’s process for amending its Medicare provider agreement to include Beverly as an additional site which shall be in a form acceptable to the Purchaser and include funding from the Purchaser of no more than \$3.2 million.

“Code” means the Internal Revenue Code of 1986, as amended.

“**COVID-19**” means the novel coronavirus disease, COVID-19 virus (SARS-COV-2 and all related strains and sequences) or mutations (or antigenic shifts or drifts) thereof or a disease or public health emergency resulting therefrom.

“**COVID-19 Funds**” means all grants, payments, distributions, loans, funds or other relief provided under the CARES Act, the Paycheck Protection Program Act, or any other program authorized by any Governmental Entity or government program in response to COVID-19 (as defined herein), including, but not limited to, the Paycheck Protection Program, Main Street Loan Program, Provider Relief Fund, Small Rural Hospital Improvement Program, Assistant Secretary for Preparedness and Response or Hospital Preparedness Program Grants, Federal Emergency Management Agency, or any other law or program enacted, adopted or authorized in response to or in connection with COVID-19; provided that COVID-19 Funds do not include any Medicare Accelerated Advance Payments.

“**Cure Costs**” means the payment of Cash or the distribution of other property (as the parties may agree or the Bankruptcy Court may order) as necessary to (a) cure a monetary default, as required by section 365(a) of the Bankruptcy Code by the Debtors in accordance with the terms of an executory contract or unexpired lease of the Debtors, and (b) permit the Sellers to assume or assume and assign such executory contract or unexpired lease under section 365(a) of the Bankruptcy Code.

“**Effective Time Service Lines**” mean the operation of only basic general acute care hospital services as defined in 22 CCR § 70005 and the operation of an emergency department as defined in 22 CCR § 70411.

“**Encumbrance**” means with respect to any property or asset, any charge, claim, condition, covenants, defect in title, easement, encroachment, encumbrance, equities, escrow, lease, license, lien, mortgage, option, pledge, proxy, security interest, right of way, right of first refusal or first offer or other third-party right, title defect or restriction, including any restriction on use, voting, transfer, receipt of income or exercise of any other attributable of ownership.

“**Expense Reimbursement**” shall have the meaning set forth in the [Bidding Procedures Order](#).

“**Final Order**” means an order or judgment of the Bankruptcy Court entered by the clerk of the Bankruptcy Court on the docket in the Chapter 11 Cases which has not been reversed, vacated, or stayed and as to which (a) the time to appeal, petition for certiorari, or move for a new trial, reargument, or rehearing has expired and as to which no appeal, petition for certiorari, or other proceeding for a new trial, reargument, or rehearing shall then be pending, or (b) if an appeal, writ of certiorari, new trial, reargument, or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari, or move for a new trial, reargument, or rehearing shall have expired; provided, that no order or judgment shall fail to be a Final Order solely because of the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure has been or may be filed with respect to such order or judgment.

“Intellectual Property” means collectively, (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all letters patent and pending applications for patents of the United States and all countries foreign thereto and all reissues, reexaminations, divisions, continuations, continuations-in-part and extensions thereof; (b) all trademarks, service marks, trade names, Internet domain names, social media handles, and other similar designations of source, association or origin, and all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith; (c) all published and unpublished works of authorship, and all applications, registrations and renewals in connection therewith; (d) all mask works and all applications, registrations, and renewals in connection therewith; (e) all trade secrets and confidential business information (including confidential ideas, research and development, know how, methods, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals); (f) all software (including in source code, executable code, and object code form), data, data bases, and collections of data; (g) rights of publicity and likeness; (h) all other intellectual property rights of any type in any jurisdiction; and (i) all copies and tangible embodiments of the foregoing (in whatever form or medium).

“Law” means any statute, law, ordinance, code, act, rule, regulation, treaty, Order or other requirement having the force of law of any Governmental Entity (including common law).

“Liabilities” means all liabilities, indebtedness, obligations, damages, fines, fees, penalties and other liabilities (or contingencies that have not yet become liabilities) of any kind, character or description, whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, secured or unsecured, fixed or otherwise, or whether due or to become due, including, without limitation, any fines, penalties, judgments, awards or settlements respecting any judicial, administrative or arbitration proceedings or any damages, losses, claims or demands with respect to any Laws.

“Master Indenture” means that certain Master Trust Indenture, dated December 1, 2015, by and between the Sellers and U.S. Bank National Association, including without limitation, all supplements and documents related thereto.

“Meaningful Use” means the Medicare and Medicaid Electronic Health Record Incentive Programs and any successor program.

“Medicare Accelerated Advance Payments” means the accelerated and advance payments received by Sellers prior to the Effective Time pursuant to the Accelerated Payment Program or the Advance Payment Program implemented by the Centers for Medicare & Medicaid Services to increase cash flow to healthcare providers as a result of COVID-19.

“Order” means any award, writ, sentence, injunction, judgment, decree, order, ruling, subpoena or verdict or other decision issued, promulgated or entered by any Governmental Entity.

“Ordinary Course of Business” means, with respect to any Person, the ordinary course of business of such Person.

“***Permitted Exceptions***” means all real estate tax and assessment liens for the Real Property due but not yet payable appearing on the Title Commitment and all easements, rights-of-way, zoning ordinances and other Encumbrances of record appearing on Schedule B of the Title Commitment.

“***Person***” means an individual, a corporation, a partnership, a limited liability company, a trust, an unincorporated association, a Governmental Entity, or any other entity or body.

“***Sellers’ Plans***” means (a) each “employee benefit plan,” as defined in Section 3(3) of ERISA whether or not subject to ERISA; and (b) each other pension, retirement, profit-sharing, savings, deferred compensation, bonus, incentive, performance award, equity or equity-based compensation, change in control, retention, separation, employment, consulting, severance, welfare, health, dental, vision, life insurance, disability, vacation, paid time off or fringe-benefit and each other benefit or compensation plan, policy, program, contract, agreement or arrangement, that, in each case, is maintained, sponsored or contributed to or required to be contributed to by any Seller for the benefit of any current or former directors, officers, or employees, or with respect to which any Seller has or may have any liability.

“***Tax***” or “***Taxes***” means any and all U.S. federal, state, local and foreign income, profits, franchise, gross receipts, stamp, payroll, sales, employment, unemployment, disability, use, personal and real property, withholding, excise, value added, and any other taxes, charges, fees, duties, levies or similar assessments or liabilities in the nature of a tax, whether computed on a separate, consolidated, unitary or combined basis or in any other manner, and includes any interest, fines, penalties, assessments, deficiencies or additions thereto.

“***Union***” means [the United Nurses Association of California/Union of Health Care Professionals/NUHHCE/AFSCME/AFL-CIO.](#)

“***WARN***” means the Worker Adjustment and Retraining Notification Act and California Assembly Bill AB 2957, as codified at California Labor Code Sections 1400 to 1408.

Exhibit 1.4(a)

Bills of Sale

See attached.

Exhibit 1.4(b)

Real Estate Assignments

See attached.

Exhibit 1.4(d)

Transfer Agreement

See attached.

Exhibit 1.4(e)

Medical Records Custodial Agreement

See attached.

Exhibit 1.4(f)

General Assignments

See attached.

Exhibit 1.4(k)

Power of Attorney

See attached.

Exhibit 4.8

Form of Owner's Affidavit

See attached.

Summary report:	
Litera Compare for Word 11.2.0.54 Document comparison done on 8/7/2023 11:41:41 AM	
Style name: SMRH Standard	
Intelligent Table Comparison: Active	
Original DMS: nd://4895-6320-3676/15/Beverly Hospital 363 Asset Purchase Agreement Auction Form.docx	
Modified DMS: nd://4879-1864-6645/7/Beverly-Adventist - Asset Purchase Agreement (August 2023).docx	
Changes:	
Add	128
Delete	105
Move From	10
Move To	10
Table Insert	3
Table Delete	3
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	259

EXHIBIT E

Schedule 1.1(a)(x)
Assigned Contracts

1. Collective Bargaining Agreement between Beverly Hospital Registered Nurses Association/United Nurses Associations of California/Union of Health Care Professionals and Beverly Community Hospital Association d/b/a Beverly Hospital, dated February 4, 2022 – April 30, 2025, as amended¹
2. Lease Schedule No. 009R3 to Lease Agreement No. BE101405, by and among Huntington Technology Finance, Inc., Beverly Community Hospital Association d/b/a Beverly Hospital, and Montebello Community Health Services, dated April 28, 2022
3. Purchase Order No. 097107 by between and between and Beverly Community Hospital Association d/b/a Beverly Hospital and Insight Direct USA Inc., dated October 20, 2020
4. Purchase Order No. 11644 by between and between Beverly Community Hospital Association d/b/a Beverly Hospital and Insight Direct USA Inc., dated December 1, 2022
5. Veeam Standard Support - Technical Support by and between Insight Direct USA, Inc. and Beverly Hospital, dated 8/11/2020
6. Service Agreement by and between Insight Direct USA, Inc. and Beverly Hospital, dated 3/1/2021
7. Records Management and Storage Agreement by and between Beverly Community Hospital Association d/b/a Beverly Hospital and Access Record Xpress of California LLC, dated July 19, 2013, as amended
8. Purchase Order No. 119684, by and between Beverly Community Hospital Association d/b/a Beverly Hospital and Access Record Xpress of California LLC, dated April 3, 2023
9. Service Agreement by and between Beverly Community Hospital Association d/b/a Beverly Hospital and Mediwaste Disposal LLC, dated January 27, 2023
10. Non Hazardous Waste Removal, Recycling and Disposal Service Agreement by and between Beverly Community Hospital Association d/b/a Beverly Hospital and Athens Disposal Co Inc., dated November 8, 2018
11. Contract for Performance of Services Agreement by and between Beverly Community Hospital Association d/b/a Beverly Hospital and Haemokinetics LLC, dated August 31, 2022
12. Rental Agreement by and between Beverly Community Hospital Association d/b/a Beverly Hospital and Kyocera Document Solutions America, dated October 7, 2019

¹ NTD: Parties to discuss amendments to the Collective Bargaining Agreement

13. Full Service Contract Agreement by and between Beverly Community Hospital Association d/b/a Beverly Hospital and Universal Medical Systems LLC, dated October 7, 2020
14. Purchase Order No. 073253 re: Lab Door Access Control by and between Beverly Community Hospital Association d/b/a Beverly Hospital and TRL Systems, Inc., dated February 8, 2018
15. 2023 Fire Alarm Safety Testing Agreement - Medical Plaza by and between Beverly Community Hospital Association d/b/a Beverly Hospital and TRL Systems, Inc., dated February 2, 2023
16. 2023 Fire Alarm Safety Testing Agreement - Woundcare Center by and between Beverly Community Hospital Association d/b/a Beverly Hospital and TRL Systems, Inc., dated February 14, 2023
17. 2023 Fire Alarm Safety Testing Agreement - Main Hospital by and between Beverly Community Hospital Association d/b/a Beverly Hospital and TRL Systems, Inc., dated February 2, 2023
18. 2023 Fire Alarm Relay Installation Agreement by and between Beverly Community Hospital Association d/b/a Beverly Hospital and TRL Systems, Inc., dated January 3, 2023
19. 2016 Fire Alarm Monitoring Agreement by and between Beverly Community Hospital Association d/b/a Beverly Hospital and TRL Systems, Inc., dated May 5, 2016
20. Exhibit A to 2016 Fire Alarm Monitoring Agreement by and between Beverly Community Hospital Association d/b/a Beverly Hospital and TRL Systems, Inc., dated October 10, 2016
21. Radiology Services Agreement by and between Beverly Community Hospital Association d/b/a Beverly Hospital and Focus Medical Imaging, dated July 1, 2017, as amended on July 1, 2020 and amendment terminates on June 30, 2023; Medical Directorship Agreement by and between Beverly Community Hospital Association and Focus Medical Imaging, dated July 1, 2017
22. Master Services Agreement by and between ConvergeOne, Inc. and Beverly Hospital, dated 12/4/2017
23. Monthly Maintenance Agreement and Purchase Order 086703 by and between ConvergeOne, Inc. and Beverly Hospital, dated June 4, 2020
24. OKTA Software and Service Support Agreement and Purchase Order #: 094206 by and between ConvergeOne, Inc. and Beverly Hospital, dated 4/30/2020
25. Palo Alto Renewal Agreement and Purchase Order #: 086704 by and between ConvergeOne, Inc. and Beverly Hospital, dated 7/29/2019

26. Palo Alto Renewal Agreement and Purchase Order #: 094144 by and between ConvergeOne, Inc. and Beverly Hospital, dated 6/2/2020
27. Purchase Order #: 101007 by and between ConvergeOne, Inc. and Beverly Hospital, dated March 22, 2021
28. Purchase Order #: 101006 by and between ConvergeOne, Inc. and Beverly Hospital, dated March 22, 2021
29. Purchase Order #: 100967 by and between ConvergeOne, Inc. and Beverly Hospital, dated March 18, 2021
30. Purchase Order #: 100964 by and between ConvergeOne, Inc. and Beverly Hospital, dated March 18, 2021
31. Purchase Order #: 100966 by and between ConvergeOne, Inc. and Beverly Hospital, dated March 18, 2021
32. Purchase Order #: 111837 by and between ConvergeOne, Inc. and Beverly Hospital, dated May 31, 2022
33. Purchase Order #: 101186 by and between ConvergeOne, Inc. and Beverly Hospital, dated March 8, 2021
34. Purchase Order #: 101712 by and between ConvergeOne, Inc. and Beverly Hospital, dated April 14, 2021
35. Purchase Order (PA No. 10394764) re: Email Security 3 yr License by and between ConvergeOne, Inc. and Beverly Hospital, dated April 13, 2022
36. Solution Summary, Solution Quote, and Purchase Order re: August Cisco Secure Email XaaS Subscription, dated July 27, 2022
37. Addendum to Master Agreement by and between DrFirst.com, Inc. and Beverly Hospital, dated 10/18/2017
38. Amendment to Master Agreement for EPCS Gold with PDMP Access by and between DrFirst.com, Inc. and Beverly Hospital, dated 9/30/2018
39. Purchase Order No. 114893 by and between DrFirst.com, Inc. and Beverly Hospital, dated 9/29/2022
40. Amendment to Master Agreement by and between DrFirst.com, Inc. and Beverly Hospital, dated 12/31/2021
41. End-User License/Contract Agreement by and between FormFast, Inc. and Beverly Hospital, dated 5/19/2009

42. Addendum #1 to FormFast Agreement by and between by and between FormFast, Inc. and Beverly Hospital, dated 10/28/2015
43. Google Cloud Platform Terms of Service by and between Google and Beverly Hospital, dated 9/20/2021
44. Software Product Master License Agreement Addendum by and between Iatric Systems, Inc. and Beverly Hospital, dated 11/4/2009
45. Software Product Master Maintenance Agreement Addendum by and between Iatric Systems, Inc. and Beverly Hospital, dated 11/4/2009
46. Firm Order Letter by and between IBM Corporation and Beverly Hospital, dated 6/25/2020
47. IMO Enhanced Terminology Platform Addendum by and between Intelligent Medical Objects, Inc. and Beverly Hospital, dated 4/28/2016
48. IMO License Agreement by and between Intelligent Medical Objects, Inc. and Beverly Hospital, dated 12/10/2012
49. Software Agreement Amendment by and between Interbit Data, Inc. and Beverly Hospital, dated 2/6/2017
50. Document Management Project by and between Kyocera Document Solutions West, LLC and Beverly Hospital, dated 1/27/2020
51. Health Care Information System Software Agreement by and between Medical Information Technology, Inc. and Beverly Hospital, dated 4/24/2008
52. Health Care Information System Software Agreement by and between Medical Information Technology, Inc. and Beverly Hospital, dated 12/2/2009
53. Health Care Information System Software Agreement by and between Medical Information Technology, Inc. and Beverly Hospital, dated 5/31/2008
54. Health Care Information System Software Agreement by and between Medical Information Technology, Inc. and Beverly Hospital, dated 3/29/2011
55. Health Care Information System Software Agreement by and between Medical Information Technology, Inc. and Beverly Hospital, dated 6/30/2011
56. Health Care Information System Software Agreement by and between Medical Information Technology, Inc. and Beverly Hospital, dated 1/31/2013
57. Health Care Information System Software Agreement by and between Medical Information Technology, Inc. and Beverly Hospital, dated 10/30/2012

58. Health Care Information System Software Agreement by and between Medical Information Technology, Inc. and Beverly Hospital, dated 9/11/2013
59. Health Care Information System Software Agreement by and between Medical Information Technology, Inc. and Beverly Hospital, dated 1/14/2016
60. Health Care Information System Software Agreement by and between Medical Information Technology, Inc. and Beverly Hospital, dated 7/22/2009
61. Online Services Terms by and between Microsoft Corporation and Beverly Hospital, dated 10/1/2018
62. Healthcare Master Agreement by and between Nuance Communications, Inc. and Beverly Hospital, dated 3/30/2016
63. Order by and between Nuance Communications, Inc. and Beverly Hospital, dated 7/11/2016
64. Dragon Medical Network Edition Enterprise License by and between Nuance Communications, Inc. and Beverly Hospital
65. Certificate of Software License Purchase by and between Nuance Communications, Inc. and Beverly Hospital
66. Purchase Order No. 116443 by and between Nuance Communications, Inc. and Beverly Hospital, dated December 1, 2022
67. Purchase Order No. 116449 by and between Nuance Communications, Inc. and Beverly Hospital, dated December 1, 2022
68. OpSus\Recover Service Agreement by and between Park Place International (PPI), LLC dba CloudWave and Beverly Hospital, effective as of June 26, 2014 (as amended, supplemented or otherwise modified from time to time)
69. OpSus\Recover Service Level Addendum for non-MEDITECH Enterprise Applications, by and between Park Place International (PPI), LLC dba CloudWave and Beverly Hospital, effective as of June 26, 2014 (as amended, supplemented or otherwise modified from time to time)
70. Change Order #R11, by and between Park Place International (PPI), LLC dba CloudWave and Beverly Hospital, dated 3/16/21;
71. Change Order #R12.1, by and between Park Place International (PPI), LLC dba CloudWave and Beverly Hospital, dated 1/27/22
72. Change Order #R15, by and between Park Place International (PPI), LLC dba CloudWave and Beverly Hospital, dated 3/6/22

73. Executed Quote # 09-RR-42-AW. by and between Park Place International (PPI), LLC dba CloudWave and Beverly Hospital, dated September 27, 2022
74. Executed Quote # 02-RR-13-AW, by and between Park Place International (PPI), LLC dba CloudWave and Beverly Hospital, dated February 21, 2023
75. Executed Quote # 01-LN-25-LN, by and between Park Place International (PPI), LLC dba CloudWave and Beverly Hospital, dated January 26, 2023
76. Quote # 636309, by and between Park Place International (PPI), LLC dba CloudWave and Beverly Hospital, dated December 31, 2022
77. Summit Exchange Proposal (PO 063955) by and between Summit Healthcare Services, Inc. and Beverly Hospital, dated 12/14/2016
78. Software and Services Proposal by and between Summit Healthcare Services, Inc. and Beverly Hospital, dated April 3, 2014
79. Business Associate Agreement by and between Summit Healthcare Services, Inc. and Beverly Hospital, dated April 18, 2014
80. Integration Services Proposal by and between Summit Healthcare Services, Inc. and Beverly Hospital, dated March 19, 2021
81. Demonstration Site Agreement by and between Summit Healthcare Services, Inc. and Beverly Hospital, dated November 11, 2020
82. Summit Exchange Upgrade by and between Summit Healthcare Services, Inc. and Beverly Hospital, dated June 15, 2018
83. 1st Addendum to License Agreement by and between Summit Healthcare Services, Inc. and Beverly Hospital, dated January 19, 2021
84. Copy Rental Agreement by and between TIAA Commercial Finance, Inc. and Beverly Hospital, dated 10/7/2019
85. Equipment Installment Plan Contract and Disclosures and Retail Installment Contract by and between T-Mobile Financial, LLC and Beverly Hospital, dated 3/31/2020
86. Equipment Installment Plan Contract and Disclosures and Retail Installment Contract by and between T-Mobile Financial, LLC and Beverly Hospital, dated 8/20/2020
87. Disclosure Informing Company About Apple Business Manager and Company Authorization by and between T-Mobile Financial, LLC and Beverly Hospital, dated 11/23/2021
88. Telecommunications Account Agreement by and between U.S. TelePacific Corp. and Beverly Hospital, dated 5/9/2014

89. Service Agreement by and between U.S. TelePacific Corp. and Beverly Hospital, dated 4/22/2015
90. Service Agreement by and between U.S. TelePacific Corp. and Beverly Hospital, dated 7/18/2018
91. Service Agreement by and between U.S. TelePacific Corp. and Beverly Hospital, dated 10/29/2019
92. Service Agreement by and between U.S. TelePacific Corp. and Beverly Hospital, dated 8/13/2018
93. Zoom Order Form by and between Zoom Video Communications Inc. and Beverly Hospital, dated 1/19/2021

Schedule 1.1(a)(v)(a)
Leased Real Property¹

1. Ground Lease Agreement dated April 2, 1979 as amended by that certain Addendum to Lease dated April 2, 1979 between Beverly Community Hospital Association as lessor and Montebello Community Health Services, Inc. as lessee
2. Lease Agreement commencing on November 1, 2018 by and between Montebello Community Health Services, Inc. (Landlord) and Beverly Care (Tenant) for Suite 104A 101 E. Beverly Blvd., Montebello, CA
3. Lease dated June 1, 1997 by and between Montebello Community Health Services, Inc. (Landlord) and Beverly Community Hospital Association (Tenant), as amended by that certain First Amendment to Lease dated October 1, 2002 for 101 E. Beverly Blvd., Suite 104, Montebello, CA
4. Lease dated December 3, 1997 by and between Montebello Community Health Services, Inc. (Landlord) and Beverly Community Hospital Association (Tenant), as amended by that certain First Amendment to Lease dated May 1, 2003 for 101 E. Beverly Blvd., Suite 105, Montebello, CA

¹ This schedule does not include the space owned by Montebello and occupied by Beverly located at 318 W. Beverly Blvd., Montebello, CA.

Schedule 1.1(a)(v)(b)
Tenant Leases²

1. Ground Lease Agreement dated April 2, 1979 as amended by that certain Addendum to Lease dated April 2, 1979 between Beverly Community Hospital Association as lessor and Montebello Community Health Services, Inc. as lessee
2. Lease Agreement dated November 1, 2022 by and between Montebello Community Health Services, Inc., a California nonprofit corporation (Landlord) and Jackson Ma, M.D. (Tenant) for Suite 100A at 101 E. Beverly Blvd., Montebello, CA
3. Lease Agreement executed as of December 30, 2021 by and between Montebello Community Health Services, Inc. (Landlord) and Beverly Plaza RX, Inc. (Tenant), as amended by that certain Amendment to Page 4, Section 8, Use of Premises dated January 5, 2022 for Suite 101 at 101 E. Beverly Blvd., Montebello, CA
4. Lease Agreement dated January 11, 2019 by and between Montebello Community Health Services, Inc. (Landlord) and Comprehensive Cardiovascular Specialists Group (Tenant) for Suite 103 101 E. Beverly Blvd., Montebello, CA
5. Lease Agreement commencing on November 1, 2018 by and between Montebello Community Health Services, Inc. (Landlord) and Beverly Care (Tenant) for Suite 104A 101 E. Beverly Blvd., Montebello, CA
6. Lease dated June 1, 1997 by and between Montebello Community Health Services, Inc. (Landlord) and Beverly Community Hospital Association (Tenant), as amended by that certain First Amendment to Lease dated October 1, 2002 for 101 E. Beverly Blvd., Suite 104, Montebello, CA
7. Lease dated December 3, 1997 by and between Montebello Community Health Services, Inc. (Landlord) and Beverly Community Hospital Association (Tenant), as amended by that certain First Amendment to Lease dated May 1, 2003 for 101 E. Beverly Blvd., Suite 105, Montebello, CA
8. Lease Agreement entered into as of May 16, 2005 by and between Montebello Community Health Services, Inc. (Landlord) and Beverly Community Hospital Association (Tenant) for 413 N. Poplar Ave., Montebello, CA
9. Lease Agreement dated October 21, 2020 by and between Montebello Community Health Services, Inc. (Landlord) and TOI Management, LLC (Tenant) for Suite 200/203A at 101 E. Beverly Blvd., Montebello, CA
10. Lease Agreement dated May 8, 2015 by and between Montebello Community Health Services, Inc. (Landlord) and Victor M Wassily, M.D. (Tenant) for Suite 202 at 101 E. Beverly Blvd., Montebello, CA
11. Lease Agreement dated March 19, 2019 by and between Montebello Community Health Services, Inc. (Landlord) and Fernando Ibarra MD (Tenant) for Suite 203 at 101 E. Beverly Blvd., Montebello, CA
12. Lease Agreement dated May 16, 2006 by and between Montebello Community Health Services, Inc. (Landlord) and Abdul M. Alaama, M.D. (Tenant) for Suite 204 at 101 E. Beverly Blvd., Montebello, CA

² This schedule does not include the space owned by Montebello and occupied by Beverly located at 318 W. Beverly Blvd., Montebello, CA.

13. Lease Agreement executed as of January 1, 2022 by and between Montebello Community Health Services, Inc. (Landlord) and Agility Ortho MSO, Inc. (Tenant) for Suite 205 at 101 E. Beverly Blvd., Montebello, CA
14. Lease Agreement fully executed as of November 16, 2020 by and between Montebello Community Health Services, Inc. (Landlord) and TOI Management, LLC (Tenant) for Suite 206 at 101 E. Beverly Blvd., Montebello, CA
15. Lease Agreement executed as of July 2, 2019 by and between Montebello Community Health Services, Inc. (Landlord) and Beverly Care (Tenant) for Suite 301A at 101 E. Beverly Blvd., Montebello, CA
16. Lease Agreement dated May 1, 2022 by and between Montebello Community Health Services, Inc. (Landlord) and Beverly Care (Tenant) FOR Suite 301/305 at 101 E. Beverly Blvd., Montebello, CA
17. Lease Agreement dated June 12, 2019 by and between Montebello Community Health Services, Inc. (Landlord) and Suda Govindarajan, M.D., Inc., and Suda Govindarajan, M.D. (Tenant), as amended by that certain Amendment to Lease Agreement dated October 28, 2019 for Suite 302 at 101 E. Beverly Blvd., Montebello, CA
18. Lease Agreement executed as of August 15, 2018 by and between Montebello Community Health Services, Inc. (Landlord) and Beverly Care (Tenant) as amended by that certain Amendment to Lease Agreement dated August 15, 2018 for Suite 303 at 101 E. Beverly Blvd., Montebello, CA
19. Lease Agreement executed as of September 6, 2018 by and between Montebello Community Health Services, Inc. (Landlord) and Kidney Specialists, Inc. (Tenant) for Suite 304 at 101 E. Beverly Blvd., Montebello, CA
20. Lease Agreement commencing on September 1, 2004 by and between Montebello Community Health Services, Inc., a California nonprofit corporation (Landlord) and Krishna Narayanan, M.D., as an individual physician and Krishna Narayanan, M.D., Inc., a California medical corporation (Tenant) as amended by that certain Second Amendment to Lease Agreement dated November 1, 2013 for Suite 306 at 101 E. Beverly Blvd., Montebello, CA
21. Lease Agreement executed as of January 28, 2021 by and between Montebello Community Health Services, Inc., a California nonprofit corporation (Landlord) and Beverly Care (Tenant) for Suite 307 at 101 E. Beverly Blvd., Montebello, CA
22. Lease Agreement dated October 1, 2022 by and between Montebello Community Health Services, Inc. (Landlord) and Eliseo Mills, Jr., M.D. (Tenant) for Suite 400 at 101 E. Beverly Blvd., Montebello, CA
23. Lease Agreement executed as of June 5, 2007 by and between Montebello Community Health Services, Inc. (Landlord) and Mohammad Chaudhry, M.D. (Tenant) as amended by that certain Amendment to Lease Agreement dated May 1, 2007 for Suite 401 at 101 E. Beverly Blvd., Montebello, CA
24. Lease Agreement executed as of January 9, 2019 by and between Montebello Community Health Services, Inc., a California nonprofit corporation (Landlord) and Stephanee Hethumuni, M.D. (Tenant) for Suite 404 at 101 E. Beverly Blvd., Montebello, CA
25. Lease Agreement dated January 1, 2022 by and between Montebello Community Health Services, Inc., a California nonprofit corporation (Landlord) and Southern California Heart and Vascular Center (Tenant) for Suite 405 at 101 E. Beverly Blvd., Montebello, CA

26. Lease Agreement executed as of September 20, 2018 by and between Montebello Community Health Services, Inc., a California nonprofit corporation (Landlord) and Dr. Iftikhar A. Khan M.D. (Tenant) for Suite 406 at 101 E. Beverly Blvd., Montebello, CA
27. Lease Agreement executed as of October 8, 2007 by and between Montebello Community Health Services, Inc., a California nonprofit corporation (Landlord) and Mir-Basharat Ali, M.D. (Tenant) as amended by that certain Amendment to Lease Agreement dated October 18, 2010 and that certain Second Amendment to Lease Agreement dated March 27, 2013 for Suite 408 at 101 E. Beverly Blvd., Montebello, CA
28. Rental Agreement (Month to Month) dated October 11, 2017 by and between Montebello Community Health Services, Inc. (Landlord) and Christopher Frumento (Tenant) for 208 W. Beverly Boulevard, Montebello, CA
29. Rental Agreement dated September 27, 2017 by and between Montebello Community Health Services, Inc. (Landlord) and Christopher Frumento (Tenant) for 210 W. Beverly Boulevard, Montebello, CA
30. Frumento Properties Commercial Lease dated July 1, 2003 by and between Anthony and Barbara Frumento - Frumento Properties (Original Landlord) and Anthony J. Frumento, dba Frumento Italian Deli (Tenant), as amended by that certain Assignment of Lease dated July 14, 2003 by and between Anthony and Barbara Frumento - Frumento Properties (Assignors) and Anthony J. Frumento (Tenant) and Montebello Community Health Services, Inc. (Assignee/Landlord) for 212-218 W. Beverly Blvd., Montebello CA
31. Commercial Lease Agreement dated October 1, 2020 by and between Montebello Community Health Service, Inc. (Landlord) and Barua Himu dba Popular Liquor (Tenant) for 312 W. Beverly Blvd Montebello, CA
32. Standard Industrial/ Commercial Multi-Tenant Lease - Gross dated May 25, 2001 by and between Masao Ishihama & Asako Ishihama Revocable Trust dated 3/10/78 (Original Landlord) and Jacob Zulalyan dba Arax Deli (Tenant) and as currently leased by Montebello Community Health Service, Inc. (Landlord) for 316 W. Beverly Blvd, Montebello, CA
33. Lease dated September 6, 1973, by and among Allen E. Jones and Kathleen C. Jones (together, Original Landlord) and Kentucky Fried Chicken of Beverly (Original Tenant), as amended by that certain Assignment of Lease dated November 1, 1982 (Assignment) by and between Kentucky Fried Chicken of Beverly (Assignor) and Donald W. Steinke, James E. Short, and Barbara K. Short (collectively, Assignee), that certain Amendment to Lease dated February 3, 1989 (First Amendment) by and between Donald W. Steinke, James E. Short, and Barbara K. Short (collectively, Lessee) and Masao Ishihama (Lessor), and that certain Amendment to Lease Dated November 1, 2001 (Second Amendment) by and between Donald W. Steinke, James E. Short, and Barbara K Short (collectively, Lessee) and Masao Ishihama (Lessor) as currently leased by Montebello Community Health Service, Inc. (Landlord) and Alex Bana dba KFC (Tenant) for 320 W. Beverly Blvd., Montebello, CA
34. Residential Lease or Month-to-Month Rental Agreement dated April 1, 2022 by and between Montebello Community Health Services (Landlord) and Jocelyne Blanco, Christopher Ruvalcaba (Tenant) for 509 N. 3rd Street, Montebello, CA
35. Residential Lease or Month to Month Rental Agreement dated April 4, 2022 by and between Montebello Community Health Services (Landlord) and Rosa Doris Gutierrez and Juan Francisco Garcia (together, Tenant) for 509 ½ N. 3rd Street Montebello, CA

36. Residential Lease or Month to Month Rental Agreement dated July 8, 2022 by and between Montebello Community Health Services (Landlord) and Katy Mimi Chanthavong (Tenant) for 517 N. 3rd Street, Montebello CA
37. Residential Lease or Month to Month Rental Agreement dated July 22, 2022 by and between Montebello Community Health Services (Landlord) and Jeanne Leyva Paramo (Tenant) for 517 ½ N. 3rd Street, Montebello CA
38. Residential Lease or Month-to-Month Rental Agreement dated February 20, 2023, by and between Bolanle Olajide (Tenant) and Montebello Community Health Services (Landlord) for 519 N. 3rd Street, Montebello, CA
39. Residential Lease or Month-to-Month Rental Agreement dated July 2, 2022, by and between Eryssa Sophia Ninette Cerda and Jacob Walter Cabral (Tenant) and Montebello Community Health Services (Landlord) for 521 N. 3rd Street, Montebello, CA
40. Residential Lease or Month-to-Month Rental Agreement dated February 20, 2023, by and between Gilberto David Juarez (Tenant) and Montebello Community Health Services (Landlord) for 521 ½ N. 3rd Street Montebello, CA
41. Residential Lease or Month-To-Month Rental Agreement dated September 29, 2022 by and among Montebello Community Health Services (Landlord) and Mary E. McMahan Costabile, Taylor Ann McMahan, and John William Leatherby III (collectively, Tenant) for 523 N. 3rd Street Montebello, CA
42. Lease Agreement entered into as of May 16, 2005 by and between Montebello Community Health Services, Inc. (Landlord) and Beverly Community Hospital Association (Tenant) for 413 N. Poplar Ave., Montebello, CA
43. Lease Agreement executed as of December 12, 2018 by and between Montebello Community Health Services, Inc. (Landlord) and Beverly Care (Tenant) for 1920 Whittier Blvd., Montebello, CA

Exhibit

1 SAMUEL R. MAIZEL (Bar No. 189301)
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2 TANIA M. MOYRON (Bar No. 235736)
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6 Attorneys for the Chapter 11 Debtors and
7 Debtors In Possession

FILED & ENTERED
APR 23 2020
CLERK U.S. BANKRUPTCY COURT
Central District of California
BY gonzalez DEPUTY CLERK

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

10 In re
11 VERITY HEALTH SYSTEM OF
12 CALIFORNIA, INC., *et al.*,
13 Debtors and Debtors In Possession.

Lead Case No. 2:18-bk-20151-ER

Jointly Administered With:

- Case No. 2:18-bk-20162-ER
- Case No. 2:18-bk-20163-ER
- Case No. 2:18-bk-20164-ER
- Case No. 2:18-bk-20165-ER
- Case No. 2:18-bk-20167-ER
- Case No. 2:18-bk-20168-ER
- Case No. 2:18-bk-20169-ER
- Case No. 2:18-bk-20171-ER
- Case No. 2:18-bk-20172-ER
- Case No. 2:18-bk-20173-ER
- Case No. 2:18-bk-20175-ER
- Case No. 2:18-bk-20176-ER
- Case No. 2:18-bk-20178-ER
- Case No. 2:18-bk-20179-ER
- Case No. 2:18-bk-20180-ER
- Case No. 2:18-bk-20181-ER

- 14 Affects All Debtors
- 15 Affects Verity Health System of
California, Inc.
- 16 Affects O'Connor Hospital
- 17 Affects Saint Louise Regional Hospital
- 18 Affects St. Francis Medical Center
- 19 Affects St. Vincent Medical Center
- 20 Affects Seton Medical Center
- 21 Affects O'Connor Hospital Foundation
- 22 Affects Saint Louise Regional Hospital
Foundation
- 23 Affects St. Francis Medical Center of
Lynwood Foundation
- 24 Affects St. Vincent Foundation
- 25 Affects St. Vincent Dialysis Center, Inc.
- 26 Affects Seton Medical Center Foundation
- 27 Affects Verity Business Services
- 28 Affects Verity Medical Foundation
- Affects Verity Holdings, LLC
- Affects De Paul Ventures, LLC
- Affects De Paul Ventures - San Jose
Dialysis, LLC

Hon. Judge Ernest M. Robles

**ORDER GRANTING DEBTORS' MOTION TO
APPROVE TERMS AND CONDITIONS OF A
PRIVATE SALE OF CERTAIN OF THE
DEBTORS' ASSETS RELATED TO SETON
MEDICAL CENTER TO AHMC
HEALTHCARE INC.**

Hearing:

Date: April 22, 2020
Time: 10:00 a.m.
Location: Courtroom 1568
255 E. Temple St., Los Angeles, CA

Debtors and Debtors In Possession.

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1 This matter came before the Court on the *Debtors' Notice of Motion and Motion to*
2 *Approve Terms and Conditions of a Private Sale of Certain of the Debtors' Assets Related to*
3 *Seton Medical Center to AHMC Healthcare Inc.* [Docket No. 4360] (the "Motion"),¹ filed by
4 Verity Health System of California, Inc. ("VHS"), and the above-referenced affiliated debtors and
5 debtors in possession in the above-captioned chapter 11 bankruptcy cases (the "Debtors"), for the
6 entry of an order, pursuant to §§ 105(a), 363, and 365 of title 11 of the United States Code (the
7 "Bankruptcy Code"), Rules 2002, 6004, 6006, 9007, and 9014, and LBR 6004-1.² This order (the
8 "Sale Order") relates to the sale of certain assets (the "Purchased Assets") used in the operation of
9 the general acute care hospitals owned, as applicable, by Seton Medical Center, a California
10 nonprofit public benefit corporation ("Seton"),³ VHS, and Verity Holdings LLC, a California
11 limited liability company ("Holdings").

12 The Court, having reviewed the Motion and the Declarations of Richard G. Adcock
13 [Docket Nos. 8, 4360], Peter C. Chadwick [Docket No. 4360], James M. Moloney [Docket No.
14 2220, 4360], Erick Tuckman [Docket No. 4577], Robert Perez [Docket No. 4413], Josiah Child
15 [Docket No. 4413], Stephen K. Gerard [Docket No. 4413], Brian P. Grady [Docket No. 4413],
16 Susan M. Longar [Docket No. 4413], Josephus L. Sanjorjo [Docket No. 4413], Nang-Lok Ellick
17 Tsang [Docket No. 4413], and Constance Y. Wong [Docket No. 4413]; the proposed *Notice To*
18 *Counterparties To Executory Contracts And Unexpired Leases Of The Debtors That May Be*
19 *Assumed And Assigned* attached to the Motion as Exhibit "B" (the "Cure Notice"); the *Limited*
20 *Objection to Debtors' Motion to Approve Terms and Conditions of A Private Sale of Certain of*

21 _____
22 ¹ Unless otherwise defined herein, all capitalized terms have the definitions set forth in the
23 Motion or the APA, as applicable.

24 ² Unless specified otherwise, all chapter and section references are to the Bankruptcy Code, 11
25 U.S.C. §§ 101-1532, all "Rule" references are to the Federal Rules of Bankruptcy Procedure, and
26 all "LBR" references are to the Local Bankruptcy Rules for the United States Bankruptcy Court
27 for the Central District of California.

28 ³ The Purchased Assets related to Seton concern assets located at both (i) Seton Medical Center,
located at 1800, 1850, and 1900 Sullivan Ave. and 1500 Southgate Ave., Daly City, California
(the "Hospital") and (ii) Seton Medical Center–Coastside, located at 600 Marine Blvd, Moss
Beach, California (the "Coastside Campus" and, together with the Hospital, the "Seton
Facilities").

1 *the Debtors' Assets Related to Seton Medical Center to AHMC Healthcare Inc.* [Docket. No.
2 4467] (the "United Objection"), the *Amended Objection of Cigna Entities to Debtors' Motion to*
3 *Approve Terms and Conditions of A Private Sale of Certain of Debtors' Assets Related to Seton*
4 *Medical Center to AHMC Healthcare Inc.* [Docket No. 4503], the *Official Committee of*
5 *Unsecured Creditors' Response to the Debtors' Motion to Approve Private Sale of Seton Medical*
6 *Center to AHMC Healthcare Inc.* [Docket No. 4528], the *Limited Objection of 2017 Working*
7 *Capital Notes Trustee to Debtors' Motion to Approve Terms and Conditions of a Private Sale of*
8 *Certain of the Debtors' Assets Related to Seton Medical Center* [Docket No. 4534], *Hooper*
9 *Healthcare Consulting, LLC's (1) Limited Response to Debtors' Motion to Approve Terms and*
10 *Conditions of a Private Sale of Certain of Debtors' Assets Related to Seton Medical Center to*
11 *AHMC Healthcare Inc.; (2) Joinder in Objection Thereto Filed by Cigna Healthcare of*
12 *California, Inc.; and (3) Reservation of Rights* [Docket No. 4546], and the *Response and*
13 *Reservation of Rights of the State of California Governor's Office of Emergency Services to the*
14 *Debtors' Motion to Approve Terms and Conditions of a Private Sale of Certain of the Debtors'*
15 *Assets Related to Seton Medical Center to AHMC Healthcare Inc.*, and any withdrawals or
16 settlements thereof; the *Second Stipulation Continuing Objection Deadline of the California*
17 *Department of Health Care Services Related to the Proposed Transfer of the Medi-Cal Provider*
18 *Agreement Related to Seton Medical Center* [Docket No. 4562] and the order [Docket No. 4567]
19 related thereto, the *Second Stipulation Continuing Objection Deadline of the the U.S. Department*
20 *of Health and Human Services and Centers for Medicare and Medicaid Services Related to the*
21 *Proposed Transfer of the Medicare Provider Agreement Related to Seton Medical Center* [Docket
22 No. 4566] and the order [Docket No. 4568] related thereto, the *Reply by the Seton Medical Staff*
23 *in Support of Sale Motion* [Docket No. 4561], *AHMC Healthcare Inc.'s Reply in Support of*
24 *Debtors' Notice of Motion and Motion to Approve Terms and Conditions of a Private Sale of*
25 *Certain of the Debtors' Assets Related to Seton Medical Center to AHMC Healthcare Inc.*
26 [Docket No. 4576], the *Debtors' Reply to Oppositions Filed by UnitedHealthcare Insurance*
27 *Company and Cigna Healthcare of California, Inc. to the Motion to Approve Terms and*
28 *Conditions of a Private Sal of Certain of the Debtors' Assets Related to Seton Medical Center to*

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1 *AHMC Healthcare Inc.* [Docket No. 4579], the *Letter of the National Union of Healthcare*
2 *Workers in Support of Sale Motion* [Docket No. 4600], the *Debtors' Reply to Response Filed by*
3 *the Official Committee of Unsecured Creditors to the Motion to Approve Terms and Conditions of*
4 *a Private Sale of Certain of the Debtors' Assets Related to Seton Medical Center to AHMC*
5 *Healthcare Inc.* [Docket No. 4604], the *Notice by KPC Global Medical Center of San Mateo*
6 *County, LLC of Withdrawal of Offers to Purchase Seton Assets* [Docket No. 4622], and the
7 *Supplement to Motion re Unsolicited Submission of Draft Asset Purchase Agreement by KPC*
8 *Global Medical Center of San Mateo County, LLC Related to Proposed Private Sale of Seton*
9 *Medical Center to AHMC Healthcare Inc.* [Docket No. 4624]; the statements, arguments and
10 representations of the parties made at the Sale Hearing; and the entire record of these cases; and
11 the Court, having determined that the relief sought in the Motion is in the best interests of the
12 Debtors, their estates, their creditors, and that the legal and factual bases set forth in the Motion
13 and presented at the Sale Hearing establish just cause for the relief granted herein and for the
14 reasons set forth in the Court's tentative ruling [Docket No. 4627], which the Court adopts as its
15 final ruling and which is incorporated herein by reference; and all objections to the Motion, if
16 any, having been withdrawn, continued, overruled, or settled by stipulation approved by the
17 Court; and after due deliberation and sufficient good cause appearing therefor:

18 **THE COURT HEREBY FINDS AND CONCLUDES THAT:⁴**

19 A. Jurisdiction and Venue. This Court has jurisdiction to hear and determine the
20 Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter relates to the administration of the
21 Debtors' bankruptcy estates and is accordingly a core proceeding pursuant to 28 U.S.C. § 157(b)
22 (2) (A), (M), (N) and (O). Venue of these cases is proper in this District and in this Court
23 pursuant to 28 U.S.C. §§ 1408 and 1409.

24
25
26 ⁴ The findings and conclusions set forth herein constitute the Court's findings of fact and
27 conclusions of law pursuant to Rule 7052, made applicable to this proceeding pursuant to Rule
28 9014. To the extent that any of the following findings of fact constitute conclusions of law, they
are adopted as such. To the extent that any of the following conclusions of law constitute
findings of fact, they are adopted as such.

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1 B. Statutory Predicates. The statutory predicates for the relief requested in the
2 Motion are (i) §§ 105(a), 363(b), (f), (k), (l) and (m), and 365, (ii) Rules 2002(a)(2), 2002(c)(1)
3 and (d), 6004 (a), (b), (c), (e), (f) and (h), 6006(a), (c) and (d), 9006, 9007, 9013 and 9014, and
4 (iii) LBR 6004-1 and 9013-1.

5 C. Notice. As evidenced by the affidavits of service previously filed with the Court,
6 the Debtors have provided proper, timely, adequate and sufficient notice with respect to the
7 following: (i) the Motion and the relief sought therein, including the entry of this Sale Order and
8 the transfer and sale of the Purchased Assets, as set forth in the Asset Purchase Agreement, dated
9 March 30, 2020, a copy of which is attached as Exhibit “A” to Docket No. 4360 (the “APA”); (ii)
10 the Sale Hearing; and (iii) the proposed procedures to serve the Cure Notice concerning, among
11 other things, the deadline to file an Assumption Objection and the Assumption Hearing; and no
12 further notice of the Motion, the relief requested therein or the Sale Hearing is required. The
13 Debtors have also complied with all obligations to provide notice of the Sale Hearing. A
14 reasonable opportunity to object and to be heard regarding the relief provided herein has been
15 afforded to parties-in-interest.

16 D. Title in the Purchased Assets. The Purchased Assets constitute property of the
17 Debtors’ estates and title thereto is vested in the Debtors’ estates within the meaning of § 541(a).
18 The Debtors are the sole and lawful owner of the Purchased Assets.

19 E. Arm’s Length Transaction. The APA and other documents and instruments (the
20 “Transaction Documents”) related to and connected with this transaction (the “Transaction”) and
21 the consummation thereof were negotiated and entered into by the Debtors and AHMC
22 Healthcare Inc. (“AHMC” or the “Purchaser”),⁵ as Purchaser under the APA without collusion, in
23 good faith and through an arm’s length bargaining process. Neither AHMC nor any of its
24 affiliates or representatives is an “insider” of the Debtors, as that term is defined in § 101(31).
25 None of the Debtors, AHMC, or their respective representatives engaged in any conduct that
26

27 ⁵ As contemplated by the APA, AHMC may assign its rights and obligations under the APA to
28 certain legally affiliated entities controlled by AHMC, and any and all references to “AHMC” or
“Purchaser” herein shall include such affiliated assignees.

1 would cause or permit the APA, any of the other Transaction Documents or the Transaction to be
2 avoided under § 363(n), or have acted in any improper or collusive manner. The terms and
3 conditions of the APA and the other Transaction Documents, including, without limitation, the
4 consideration provided in respect thereof, are fair and reasonable, and are not avoidable and shall
5 not be avoided, and no damages may be assessed against AHMC or any other party as set forth in
6 § 363(n). The consideration provided by AHMC is fair, adequate and constitutes reasonably
7 equivalent value and fair consideration under the Bankruptcy Code and any other applicable laws
8 of the United States or any of its jurisdictions or subdivisions, including the State of California.

9 F. Good Faith Purchaser. AHMC has proceeded in good faith and without collusion
10 in all respects in connection with the sale process, in that: (i) AHMC, in proposing and
11 proceeding with the Transaction in accordance with the APA, recognized that the Debtors were
12 free to deal with other interested parties; (ii) AHMC agreed to provisions in the APA that would
13 enable the Debtors to accept a higher and better offer; (iii) all payments to be made by AHMC
14 and other agreements entered into or to be entered into between AHMC and the Debtors in
15 connection with the Transaction have been disclosed; (iv) the negotiation and execution of the
16 APA and related Transaction Documents were conducted in good faith and constituted an arm's
17 length transaction; (v) AHMC did not induce or cause the chapter 11 filings by the Debtors; and
18 (vi) the APA was not entered into, and the Transaction being consummated pursuant to and in
19 accordance with the APA is not being consummated, for the purpose of hindering, delaying or
20 defrauding creditors of the Debtors. AHMC is therefore entitled to all of the benefits and
21 protections provided to a good-faith purchaser under § 363(m). Accordingly, the reversal or
22 modification on appeal of the authorization provided herein to consummate the Transaction shall
23 not affect the validity of the Transaction, any terms or conditions of the Transaction or AHMC's
24 status as a "good faith" purchaser.

25 G. Justification for Relief. Good and sufficient reasons for approval of the APA and
26 the other Transaction Documents and the Transaction have been articulated to this Court in the
27 Motion and at the Sale Hearing, and the relief requested in the Motion and set forth in this Sale
28 Order is in the best interests of the Debtors, their estates, and their creditors. The Debtors have

1 demonstrated through the Motion and other evidence submitted at the Sale Hearing both (i) good,
2 sufficient and sound business purpose and justification and (ii) compelling circumstances for the
3 transfer and sale of the Purchased Assets as provided in the APA outside the ordinary course of
4 business, and (iii) such transfer and sale is an appropriate exercise of the Debtors' business
5 judgment and in the best interests of the Debtors, their estates, and their creditors.

6 H. Free and Clear. In accordance with §§ 105(a), 363(b), and 363(f), the
7 consummation of the Transaction pursuant to the Transaction Documents shall be a legal, valid,
8 and effective transfer and sale of the Purchased Assets and shall vest in AHMC, through the
9 consummation of the Transaction, all of the Debtors' right, title, and interest in and to the
10 Purchased Assets, free and clear of all liens, claims, interests, rights of setoff, recoupment, netting
11 and deductions, rights of first offer, first refusal and any other similar contractual property, legal
12 or equitable rights, and any successor or successor-in-interest liability theories (collectively, the
13 "Encumbrances"). The Debtors have demonstrated that one or more of the standards set forth in §
14 363(f)(1)-(5) have been satisfied. Those holders of Encumbrances who did not object, or who
15 withdrew their objections, to the sale or the Motion are deemed to have consented pursuant to §
16 363(f)(2). Those holders of Encumbrances who did object fall within one or more of the other
17 subsections of § 363(f). All holders of the Encumbrances in the Purchased Assets are adequately
18 protected by having their respective Encumbrances attach to the Debtors' interests in the proceeds
19 of the sale of the Purchased Assets under the APA (subject to any Challenge within the meaning
20 of that certain *Final Order (I) Authorizing Postpetition Financing, (II) Authorizing Use of Cash*
21 *Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV)*
22 *Granting Adequate Protection, (V) Modifying Automatic Stay, and (VI) Granting Related Relief*
23 [Docket No. 409] (the "Final DIP Order") that has been, or may be, timely filed), and any related
24 documents or instruments delivered in connection therewith, whenever and wherever received
25 (the "Sale Proceeds") to the extent and manner herein provided. The outcome of any Challenge
26 (as defined in the Final DIP Order) does not affect the findings in this paragraph as it relates to
27 Purchaser.
28

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1 I. Prompt Consummation. The Debtors have demonstrated good and sufficient cause
2 to waive the stay requirement under Rules 6004(h) and 6006(d). Time is of the essence in
3 consummating the Transaction, and it is in the best interests of the Debtors and their estates to
4 consummate the Transaction within the timeline set forth in the Motion and the APA. The Court
5 finds that there is no just reason for delay in the implementation of this Order, and expressly
6 directs entry of judgment as set forth in this Order.

7 J. Assumption of Executory Contracts and Unexpired Leases. The Debtors have
8 demonstrated that it is an exercise of their sound business judgment to assume and assign to the
9 Purchaser the “Assigned Contracts” (as that term is defined in the APA), subject to the
10 Purchaser’s right to designate any Evaluated Contracts as “Rejected Contracts” (as that term is
11 defined in the APA) pursuant to the APA and as modified by this Sale Order, in connection with
12 the consummation of the Transaction, and the assumption and assignment of the Assigned
13 Contracts is in the best interests of the Debtors and their estates.

14 K. Rejection of Executory Contracts and Unexpired Leases. The Debtors will have
15 demonstrated that it is a reasonable and appropriate exercise of their sound business judgment for
16 Seton to reject all of its executory contracts and unexpired leases, excluding (i) Assigned
17 Contracts, (ii) any prepetition multiparty contract affecting more than one Debtor in addition to
18 SVMC, (iii) any prepetition contract that is the subject of a Rule 9019 settlement motion prior to
19 Closing, and (vi) any collective bargaining agreement (a “CBA”), pension plan or health and
20 welfare plan providing collectively bargained benefits to which Seton is a party or sponsor. The
21 Debtors shall file an appropriate motion to reject the contracts, covered by this paragraph K, prior
22 to Closing and shall request therein that the rejection be effective as of the Closing or as
23 otherwise appropriate. The Court finds that AHMC has no liability with respect to any contract
24 or lease of the Debtors, with the exception of the Assigned Contracts, following the Effective
25 Time (as defined in the APA) and following the payment of Cure Amounts, as set forth and in
26 accordance with the APA.

27 L. Cure Notice. The Debtors’ proposed Cure Notice, the Assumption Objection
28 deadline, and the Assumption Objection Hearing are appropriate and reasonably calculated to

1 provide all interested parties with timely and proper notice, and no other or further notice is
2 required.

3 M. Assumption and Assignment Procedures. The procedures for assumption and
4 assignment of Assigned Executory Contracts (the “Assumption and Assignment Procedures”)
5 provided for herein and the Cure Notice are reasonable and appropriate and consistent with the
6 provisions of § 365 and Rule 6006. The Assumption and Assignment Procedures and the Cure
7 Notice have been narrowly tailored to provide an adequate opportunity for all non-debtor
8 counterparties to the Assigned Executory Contracts to assert any Assumption Objection.

9 N. Highest and Best Offer. The Debtors solicited offers for the Purchased Assets.
10 The sale process was conducted in a non-collusive manner and the sale to AHMC is in the best
11 interests of the Debtors, their estates, creditors, and stakeholders. The Debtors properly consulted
12 with the Prepetition Secured Creditors and the Committee⁶ prior to selecting AHMC’s bid as the
13 highest and best offer for the Purchased Assets. The transfer and sale of the Purchased Assets to
14 AHMC on the terms set forth in the APA constitutes the highest and best offer for the Purchased
15 Assets and will provide a greater recovery for the Debtors’ estates than would be provided by any
16 other available alternative. The Debtors’ determination that the APA constitutes the highest or
17 best offer for the Purchased Assets constitutes a valid and sound exercise of the Debtors’ business
18 judgment.

19 O. No De Facto or Sub Rosa Plan of Reorganization. The sale of the Purchased
20 Assets does not constitute a *de facto* or *sub rosa* plan of reorganization or liquidation because it
21 does not propose to (i) impair or restructure existing debt of, or equity or membership interests in,
22 the Debtors, (ii) impair or circumvent voting rights with respect to any plan proposed by the

23 _____
24 ⁶ Specifically, the constituents consulted by the Debtors include the Official Committee of
25 Unsecured Creditors; UMB Bank, N.A., as successor Master Trustee (“UMB”); Wells Fargo
26 Bank National Association, as bond indenture trustee under the bond indentures relating to the
27 2005 Bonds (“Wells Fargo”); U.S. Bank National Association, solely in its capacity as the note
28 indenture trustee and as the collateral agent under each of the note indentures relating to the 2015
Working Capital Notes and the 2017 Working Capital Notes (“U.S. Bank”); and Verity MOB
Financing, LLC and Verity MOB Financing II, LLC (“MOB Lenders”). UMB, Wells Fargo, U.S.
Bank, and the MOB Lenders are collectively referred to herein as the “Prepetition Secured
Creditors.” The Prepetition Secured Creditors are further described in the Final DIP Order.

1 Debtors, (iii) circumvent chapter 11 safeguards, including those set forth in §§ 1125 and 1129, or
2 (iv) classify claims or equity or membership interests.

3 P. Legal and Factual Bases. The legal and factual bases set forth in the Motion and at
4 the Sale Hearing establish just cause for the relief granted herein.

5 **NOW THEREFORE, IT IS HEREBY ORDERED THAT:**

6 1. The relief requested in the Motion is GRANTED and APPROVED in all respects
7 to the extent provided herein.

8 2. All objections with regard to the relief sought in the Motion that have not been
9 withdrawn, waived, settled, or provided for herein, including any reservation of rights included in
10 such objections, are overruled on the merits with prejudice.

11 3. Notice of the Motion, the Sale Hearing, and the Sale was fair and equitable under
12 the circumstances and complied in all respects with §§ 102(1), 363, and 365, and Rules 2002,
13 6004, 6006, 9006, and 9007.

14 4. Pursuant to §§ 105(a), 363(b), 363(f), and 365, the Transaction, including the
15 transfer and sale of the Purchased Assets to AHMC on the terms set forth in the APA, is approved
16 in all respects, and the Debtors are authorized and directed to consummate the Transaction in
17 accordance with the APA, including, without limitation, by executing all of the Transaction
18 Documents (and any ancillary documents or instruments that may be reasonably necessary or
19 desirable to implement the APA or the Transaction) and taking all actions necessary and
20 appropriate to effectuate and consummate the Transaction (including the transfer and sale of the
21 Purchased Assets) in consideration of the Purchase Price (as defined in § 1.1 of the APA) upon
22 the terms set forth in the APA, except with respect to the assumption and assignment of the
23 Assigned Executory Contracts, which shall be subject to the Assumption and Assignment
24 Procedures approved herein. The Debtors and AHMC shall have the right to make any mutually
25 agreeable, non-material changes to the APA, which shall be in writing signed by both parties,
26 without further order of the Court provided, that after reasonable notice, the Official Committee
27 of Unsecured Creditors (the "Committee") and the Prepetition Secured Creditors do not object to
28

1 such changes. Any timely objection by the aforementioned parties to any agreed non-material
2 changes to the APA may be resolved by the Court on shortened notice.

3 5. As of the closing of the Transaction as set forth in the APA (the “Closing”), (i) the
4 Transaction set forth in the APA shall effect a legal, valid, enforceable and effective transfer and
5 sale of the Purchased Assets to AHMC free and clear of all Encumbrances as further set forth in
6 the APA, the order [Docket No. 4613] approving the stipulation [Docket No. 4583] (the “CSCDA
7 Stipulation”) with the California Statewide Communities Development Authority (“CSCDA”),
8 and this Sale Order; and (ii) the APA, and the other Transaction Documents, and the Transaction,
9 shall be enforceable against and binding upon, and not subject to rejection or avoidance by, the
10 Debtors, any successor thereto including a trustee or estate representative appointed in the
11 Bankruptcy Cases, the Debtors’ estates, all holders of any Claim(s) (as defined in the Bankruptcy
12 Code) against the Debtors, whether known or unknown, any holders of Encumbrances on all or
13 any portion of the Purchased Assets, and all other persons and entities.

14 6. With the exception the Encumbrance of CSCDA which will be paid at Closing in
15 accordance with the CSCDA Stipulation, Encumbrances in and to Purchased Assets shall attach
16 to the Sale Proceeds of such Purchased Assets with each such Encumbrance having the same
17 force, extent, effect, validity and priority as such Encumbrance had on the Purchased Assets
18 giving rise to the Sale Proceeds immediately prior to the Closing. For the avoidance of doubt, the
19 foregoing force, extent, effect, validity and priority of such Encumbrances of the Prepetition
20 Secured Creditors that attach to the Sale Proceeds shall: (i) reflect and include, without limitation,
21 the security interests, liens (including any Prepetition Replacement Liens arising from diminution
22 of value, if any) and rights, powers and authorities that have been granted to the Prepetition
23 Secured Creditors, as applicable, pursuant to the Financing Orders,⁷ subject to the results of the

24 ⁷ The “Financing Orders” refer, collectively, to (i) the Final DIP Order; (ii) the *Final Order (A)*
25 *Authorizing Continued Use of Cash Collateral, (B) Granting Adequate Protection, (C) Modifying*
26 *the Automatic Stay, and (D) Granting Related Relief* [Docket No. 3022]; (iii) the *Final Order*
27 *Approving Stipulation Between the Prepetition Secured Creditors and the Debtors to (A) Amend*
28 *Cash Collateral Order, Authorize Continued Use of Cash Collateral, Grant Adequate Protection,*
(D) Modify Automatic Stay, and (E) Grant Related Relief [Docket No. 3883]; (iv) the *Final Order*
Approving Stipulation to (A) Amend the First Amended Supplemental Cash Collateral Order,
Authorize Continued Use of Cash Collateral, Grant Adequate Protection, (D) Modify Automatic

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1 appeal from the Final DIP Order filed by the Committee on November 29, 2019 challenging the
2 rights granted to the Prepetition Secured Creditors pursuant to the Final DIP Order with respect to
3 §§ 506(c) and 552(b); and/or (ii) the results of any Challenge within the meaning of the Final DIP
4 Order that has been, or may be, timely filed. In addition, the Intercreditor Agreement (as defined
5 in the Final DIP Order), the Final DIP Order, and the *Order Approving Stipulation Resolving*
6 *Limited Objection of 2017 Working Capital Notes Trustee to Debtors' Motion to Approve Terms*
7 *and Conditions of a Private Sale of Certain of the Debtors' Assets Related to Seton Medical*
8 *Center to AHMC Healthcare Inc.* [Docket No. 4598] (the “2017 Notes Trustee Order”) shall
9 apply with respect to the rights of the parties thereto in and to the Sale Proceeds and the Escrow
10 Deposit Accounts, to the extent of and in accordance with its terms with all parties reserving all
11 rights thereunder. Each of the Prepetition Secured Creditors opposes all existing Challenges and
12 the appeal brought by the Committee, and nothing contained herein shall constitute an express or
13 implicit admission by any of the Prepetition Secured Creditors in connection therewith, or shall
14 be deemed to be a waiver of any rights in respect thereof. The outcome of any such Challenge
15 does not affect the Transaction in any respect.

16 7. Subject to the fulfillment of the terms and conditions of the APA, this Sale Order
17 shall, as of the Closing, be considered and constitute for all purposes a full and complete general
18 assignment, conveyance, and transfer of the Purchased Assets and/or a bill of sale transferring all
19 of the Debtors' rights, title and interest in and to the Purchased Assets to AHMC. Consistent
20 with, but not in limitation of the foregoing, each and every federal, state, and local governmental
21 agency or department, except as stated herein, is hereby authorized and directed to accept all
22 documents and instruments necessary and appropriate to consummate the transactions
23 contemplated by the APA and approved in this Sale Order. A certified copy of this Order may be
24 filed with the appropriate clerk and/or recorded with the appropriate recorder to cancel any
25 Encumbrances of record.

26 _____
27 *Stay, and (E) Grant Related Relief* [Docket No. 4028] (v) the *Final Order Approving Stipulation*
28 *to (A) Amend the Second Amended Supplemental Cash Collateral Order, Authorize Continued*
Use of Cash Collateral, Grant Adequate Protection, (D) Modify Automatic Stay, and (E) Grant
Related Relief [Docket No. 4187].

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1 8. Any person or entity that is currently, or on the Closing Date may be, in
2 possession of some or all of the Purchased Assets is hereby directed to surrender possession of
3 such Purchased Assets either to (a) the Debtors before the Closing or (b) to AHMC or its designee
4 upon the Closing, and to cooperate with the Debtors and AHMC in the Debtors' and AHMC's
5 fulfillment of their obligations hereunder and pursuant to the APA.

6 9. The transfer of the Purchased Assets pursuant to the Transaction Documents shall
7 be a legal, valid, and effective transfer and shall, in accordance with, among other provisions, §§
8 105(a), 363(b), and 363(f), and upon consummation of the Transaction, including, without
9 limitation, payment of the Purchase Price to the Debtors, vest AHMC with all right, title, and
10 interest in the Purchased Assets, free and clear of all Encumbrances. Upon closing of the
11 Transaction, AHMC shall take title to and possession of the Purchased Assets as set forth in the
12 APA. The transfer of the Purchased Assets from the Debtors to AHMC constitutes a transfer for
13 reasonable equivalent value and fair consideration under the Bankruptcy Code and the laws of the
14 State of California.

15 10. Following the Closing, no holder of any Encumbrance against the Debtors or upon
16 the Purchased Assets shall: (i) attempt to assert or enforce an Encumbrance against the Purchased
17 Assets or AHMC; and/or (ii) interfere with AHMC's respective rights in, title to or use and
18 enjoyment of the Purchased Assets. All persons and entities are hereby forever prohibited and
19 enjoined from taking any action that would adversely affect or interfere with the ability of the
20 Debtors to sell and transfer the Purchased Assets to AHMC, including the assumption and
21 assignment of the Assigned Executory Contracts.

22 11. AHMC shall not be deemed, as a result of any action taken in connection with, or
23 as a result of the Transaction (including the transfer and sale of the Purchased Assets), to the
24 maximum extent permitted by law by reason of any theory of law or equity with respect to any
25 claims or liens against Sellers or the Assets, to: (i) be a successor, continuation or alter ego (or
26 other such similarly situated party) to or of the Debtors or their estates by reason of any theory of
27 law or equity, including, without limitation, any bulk sales law, doctrine or theory of successor
28 liability, or any theory or basis of liability, regardless of source of origin; or (ii) have, *de facto* or

1 otherwise, merged with or into the Debtors; or (iii) be a mere continuation, *alter ego*, or
2 substantial continuation of the Debtors. AHMC is not assuming any of the Debtors' debts.

3 12. This Sale Order (i) shall be effective as a determination that, on Closing, all
4 Encumbrances existing against the Purchased Assets before the Closing have been
5 unconditionally released, discharged and terminated except to the extent provided in paragraph 6
6 above, and that the transfers and conveyances described herein have been effected, and (ii) shall
7 be binding upon and shall govern the acts of all persons and entities. If, following a reasonable
8 written request made by the Debtors, any person or entity that has filed financing statements or
9 other documents or agreements evidencing any Encumbrances against the Purchased Assets shall
10 not have delivered to the Debtors for use at or in connection with Closing, in proper form for
11 filing and executed by the appropriate parties, termination statements, instruments of satisfaction,
12 releases of all Encumbrances which the person or entity has with respect to the Purchased Assets,
13 then AHMC and/or the Debtors are hereby authorized to execute and file such statements,
14 instruments, releases and other documents on behalf of the person or entity with respect to such
15 Purchased Assets. For the avoidance of doubt, such statements, instruments, releases and other
16 documents shall not impair Encumbrances that attach (subject to any Challenge within the
17 meaning of the Final DIP Order that has been, or may be, timely filed, which shall not affect the
18 enforceability of this Sale Order as to AHMC) to the Sale Proceeds by the terms of this Order.

19 13. In accordance with the APA, concurrently with the Closing, AHMC shall pay that
20 portion of the Purchase Price due at Closing, by wire transfer of immediately available funds, to
21 Debtors' Escrow Deposit Accounts (defined below), subject to the adjustments set forth in the
22 APA. Any direct expenses of the Sale shall be disclosed by Debtors to the Prepetition Secured
23 Creditors and the Committee in advance of the Closing.

24 14. The terms and conditions of the Financing Orders shall apply with respect to the
25 Sale Proceeds and Escrow Deposit Accounts (defined herein). Without limiting the foregoing, the
26 Debtors shall comply with paragraph 4 of the Final DIP Order in the following manner:

27 a. the Debtors shall direct AHMC, pursuant to the terms of the APA, to remit
28 to Chicago Title Insurance Company as closing escrow agent (the "Closing Escrow Agent") all

1 Sale Proceeds for the separate account of each selling Debtor. Upon closing, the Closing Escrow
2 Agent shall remit the Sale Proceeds to the separate accounts for each selling Debtor (each such
3 account hereafter referred to as “Escrow Deposit Account”), except the Closing Escrow Agent
4 will retain a separate Indemnity Escrow Fund, which is separate from, and shall not constitute, an
5 Escrow Deposit Account until released to the Debtors in accordance with section 4.8 of the APA.

6 b. in giving direction to AHMC pursuant to sub-paragraph (a), above, the
7 Debtors shall exercise their reasonable business judgment, in good faith, and allocate the Sale
8 Proceeds among the Escrow Deposit Accounts on the basis of the value of each Debtor’s
9 Purchased Assets as of the Closing (which allocation, for the avoidance of doubt, shall be subject
10 to the reservations of rights in paragraph 4 of the Final DIP Order and the provisions of the 2017
11 Notes Trustee Order); provided that, in accordance with, and subject to the provisions of the 2017
12 Notes Trustee Order, \$11,500,000 of the Sales Proceeds shall be allocated to the Escrow Deposit
13 Account for Holdings; provided further that nothing in this paragraph shall waive or limit any
14 rights the Committee or the Prepetition Secured Creditors may have in connection with the
15 confirmation of a proposed chapter 11 plan for any of the Debtors’ cases (including the right to
16 seek to reallocate estate values and the Sale Proceeds at any time);

17 c. no funds held in any Escrow Deposit Account shall be (i) commingled with
18 any other funds of the applicable Debtor or any of the other Debtors or (ii) used by the Debtors
19 for any purpose, except as provided in paragraphs 21, 23 and 25 of this Order with respect to cure
20 costs, and as may be required for any other transaction prorrations, fees, and closing costs under
21 the APA, in each case, without first obtaining the consent of the Prepetition Secured Creditors or
22 without further order of this Court, after reasonable notice under the circumstances to the
23 Prepetition Secured Creditors and the Committee and, if necessary, a hearing thereon; provided
24 further that, as provided in the 2017 Notes Trustee Order, the Debtors will not use any funds in
25 the Holdings’ Escrow Deposit Account without first obtaining the consent of the Prepetition
26 Secured Creditors, including the 2017 Notes Trustee, or an order of the Court, on reasonable
27 notice under the circumstances to counsel for the Prepetition Secured Creditors, including the
28 2017 Notes Trustee and the Committee;

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1 d. establishment of an Escrow Deposit Account shall not require execution by
2 the Debtors of a deposit account control agreement in favor of the Prepetition Secured Creditors
3 to establish their perfected lien rights in and to the Escrow Deposit Account balances as collateral
4 or proceeds of collateral (which lien rights shall be deemed automatically granted and perfected
5 by the terms of the Financing Orders and this Order);

6 e. for the avoidance of doubt, the rights of the Debtors, the Committee, and
7 the Prepetition Secured Creditors as to the Sale Proceeds and any funds held in any Escrow
8 Deposit Accounts shall be, except as set forth herein, as contemplated by Paragraph 4 of the Final
9 DIP Order and the terms of the Financing Orders and the 2017 Notes Trustee Order, and nothing
10 in this Order shall be construed as altering, amending, waiving, or affecting in any way such
11 rights or any rights under the Intercreditor Agreement to the extent applicable; and

12 f. as provided in the 2017 Notes Trustee Order, the Debtors shall maintain
13 and preserve (i) detailed cash-flows and the financial information and reporting concerning the
14 Seton Sale, the Hospital and the Coastside Campus, including, but not limited to, that required
15 pursuant to the terms of the Final DIP Order; and (ii) any and all past, current and future
16 indications of interest, offers and/or solicitations to purchase the Hospital and/or the Coastside
17 Campus, to the extent in the Debtors' possession, custody or control.

18 15. The form of Cure Notice, in the form substantially similar to that attached hereto
19 as Exhibit "1" is approved.

20 16. The Debtors shall file with the Court and serve the Cure Notice (along with a copy
21 of this Sale Order) upon each counterparty to the Assigned Executory Contracts by no later than
22 **April 29, 2020**. The Cure Notice shall state (i) that the Assumption Objection Hearing shall take
23 place on **May 20, 2020, at 10:00 a.m. (Pacific Time)**, and (ii) counterparties shall file and serve
24 Assumption Objections not later than **May 6, 2020, at 5:00 p.m. (Pacific Time)** with replies to
25 any Assumption Objections to be filed not later than **May 13, 2020**. The Cure Notice also will
26 identify the amounts, if any, that the Debtors believe are owed to each counterparty to an
27 Assigned Executory Contract in order to cure any defaults that exist under such contract (the
28 "Cure Amounts"). Nothing in this Sale Order constitutes a finding or determination on any

1 Assumption Objection or any other objection that may be raised at the Assumption Objection
2 Hearing. All Assumption Objections are preserved until resolved either by agreement between
3 the Debtors, the Purchaser and the counterparty, or further order of the Court.

4 17. The inclusion of a contract, lease, or other agreement on the Cure Notice shall not
5 constitute or be deemed a determination or admission by the Debtors and their estates or any
6 other party in interest that such contract, lease, or other agreement is, in fact, an executory
7 contract or unexpired lease within the meaning of the Bankruptcy Code, and any and all rights
8 with respect thereto shall be reserved.

9 18. Any Assumption Objection must: (i) be in writing; (ii) comply with the Rules and
10 the LBRs; (iii) set forth the specific basis for the Assumption Objection; (iv) be filed with the
11 Court, 255 E. Temple St., Los Angeles, California 90012, together with proof of service, by the
12 applicable Assumption Objection Deadline (defined below); and (v) be served, so as to be
13 actually received on or before the Assumption Objection Deadline, upon (i) counsel to the
14 Debtors: Dentons US LLP, 601 S. Figueroa Street, Suite 2500, Los Angeles, CA 90017 (Attn:
15 Tania M. Moyron (tania.moyron@dentons.com)); (ii) the Debtors' Investment Banker: Cain
16 Brothers, a division of KeyBanc Capital Markets, 1 California Street, Suite 2400, San Francisco,
17 CA 94111 (Attn: James Moloney (jmoloney@cainbrothers.com)); (iii) counsel to the Official
18 Committee of Unsecured Creditors: Milbank, Tweed, Hadley & McCloy LLP, 2029 Century Park
19 East, 33rd Floor, Los Angeles, CA 90067 (Attn: Gregory A. Bray (gbray@milbank.com)); (iv)
20 counsel to the Master Trustee and Series 2005 Bond Trustee: Mintz, Levin, Cohn, Ferris, Glovsky
21 and Popeo, P.C., One Financial Center, Boston, MA 02111 (Attn: Daniel S. Bleck and Paul
22 Ricotta (dsbleck@mintz.com, pricotta@mintz.com)); (v) counsel to the Series 2015 Notes
23 Trustee: McDermott Will & Emery LLP, 444 West Lake Street, Suite 4000, Chicago, IL 60606
24 (Attn: Nathan F. Coco and Megan Preusker (ncoco@mwe.com; mpreusker@mwe.com)); (vi)
25 counsel to the Series 2017 Notes Trustee: Maslon, LLP, 3300 Wells Fargo Center, 90 South
26 Seventh Street, Minneapolis, MN 55402 (Attn: Clark Whitmore (clark.whitmore@maslon.com));
27 and (vii) counsel to the MOB Lenders: Jones Day, 250 Vesey Street, New York, NY 10281 (Attn:
28

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1 Bruce Bennett, Benjamin Rosenblum, and Peter Saba (bbennett@jonesday.com,
2 brosenblum@jonesday.com, psaba@jonesday.com)) (collectively, the “Notice Parties”).

3 19. To the extent the Assigned Executory Contract counterparty wishes to object to the
4 Cure Amount, if any, set forth in the Cure Notice, its Assumption Objection must set forth with
5 specificity each and every asserted default in any executory contract or unexpired lease and the
6 monetary cure amount asserted by such counterparty to the extent it differs from the amount, if
7 any, specified by the Debtors in the Cure Notice.

8 20. Any counterparty to an Assigned Executory Contract that fails to timely file and
9 serve an objection to the Cure Amounts shall be forever barred from asserting that a Cure
10 Amount is owed in an amount in excess of that set forth in the Cure Notice.

11 21. Concurrently with the Closing or as soon thereafter as is possible, and in
12 accordance with the APA, the Debtors shall pay out of the Sale Proceeds to the Counterparties to
13 the Assigned Contracts the Cure Amounts either as (i) set forth in the Cure Notice, (ii) otherwise
14 agreed to by the Debtors, AHMC, and the applicable Counterparties thereto, or (iii) ordered by
15 this Court after a hearing on any objection to the Cure Amount set forth in the Cure Notice.
16 AHMC has the right to remove any contracts or leases from the list of Evaluated Contracts as set
17 forth in the APA and this Sale Order; provided that that certain services agreement (the “State of
18 California Services Agreement”) approved by the Court pursuant to the terms of the *Order*
19 *Granting Debtors’ Emergency Motion to Approve Agreements with the State of California in*
20 *Response to the COVID-19 Healthcare Emergency to (I) Provide Certain Healthcare Services at*
21 *Seton Medical Center and (II) Lease St. Vincent Medical Center* [Docket No. 4315] (the “State
22 Services Agreement Order”), by and between Seton and VHS, on the one hand, and the State of
23 California (the “State”) by and through its agency, the Department of Public Health (“DPH”), on
24 the other hand, shall, subject to the assignment provisions (including the State’s written consent
25 rights) thereof, be deemed an Assigned Contract and AHMC shall be obligated to perform all
26 obligations under the State Services Agreement without interruption of patient care.

27 22. Any executory contracts and/or unexpired leases that are not timely removed from
28 the Assigned Executory Contracts list by AHMC under the APA shall be deemed Assigned

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1 Executory Contracts at the Closing. The Court shall resolve any and all disputes which may arise
2 between the Debtors, AHMC, and any applicable counterparty concerning (i) whether a particular
3 Assigned Executory Contract is an executory contract or unexpired lease or (ii) whether a
4 counterparty to an Assigned Executory Contract is entitled to an allowed claim against the
5 Debtors which exceeds the Cure Amount set forth in the Cure Notice (an “Assumption Dispute”).

6 23. In the event the Court determines that a counterparty has an allowed cure claim
7 against the Debtors which exceeds the Cure Amount set forth in the Cure Notice (the “Excess
8 Cure Amount”) with respect to an Assigned Executory Contract, the difference will be paid by
9 AHMC as an increase to the Cure Pool and the Purchase Price and shall not be the responsibility
10 of the Debtors as more specifically set forth below; provided, however, that an Assigned
11 Executory Contract subject to an Assumption Dispute shall be deemed a “Rejected Contract”
12 within the meaning of § 1.11(a) of the APA if the Assumption Dispute is not resolved by entry of
13 an order on or before thirty (30) days prior to Closing unless the Debtor, AHMC, and the
14 applicable counterparty agree otherwise. To the extent an Assumption Dispute relates solely to
15 the Cure Amount, the Debtors may, with AHMC’s consent, assume and assign the applicable
16 executory contract or unexpired lease at Closing and prior to the resolution of the Assumption
17 Dispute by the Bankruptcy Court, provided, that the Bankruptcy Court has estimated the
18 maximum cure payment, pursuant to § 502(c) and AHMC includes such amount in the Cure Pool
19 to be held by the Debtors in the Sale Proceeds Account for the relevant Debtor(s). The Debtors
20 shall pay and hereby are authorized to pay disputed Cure Amounts from the relevant Sales
21 Proceeds Account(s) upon entry of a final order by this Court to the extent AHMC remitted to
22 Sellers the amount required by this paragraph of the Order.

23 24. AHMC shall have the right to designate any contracts on the Assigned Executory
24 Contract list as a Rejected Contract on or prior to the day that is thirty (30) days prior to Closing
25 Date, that AHMC shall have the right to designate additional Evaluated Contracts for assumption
26 up to fourteen (14) days prior to Closing and the Debtors shall have the absolute right to remove
27 any Evaluated Contract from the list of Assigned Executory Contracts in order to preserve
28 avoidance claims.

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1 25. Upon the Closing, the Debtors are authorized and directed to assume, assign and/or
2 transfer each of the Assigned Executory Contracts to AHMC. At the Closing, the Debtors shall pay
3 out of the Sale Proceeds, which shall include the “Cure Pool” (as defined in the APA) to be paid to the
4 Debtors by AHMC, the Cure Amounts.

5 26. The terms and provisions of this Sale Order, as well as the rights granted under the
6 Transaction Documents, shall continue in full force and effect and are binding upon any successor,
7 reorganized Debtors, or chapter 7 or chapter 11 trustee applicable to the Debtors, notwithstanding any
8 such conversion, dismissal or order entry. Nothing contained in any chapter 11 plan confirmed in the
9 Debtors’ cases or in any order confirming such a plan, nor any order dismissing the cases or converting
10 the cases to a case under chapter 7, shall conflict with or derogate from the provisions of the APA, any
11 documents or instruments executed in connection therewith, or the terms of this Sale Order, provided
12 however, that in the event of a conflict between this Sale Order and an express or implied provision of
13 the APA, this Sale Order shall govern. The provisions of this Sale Order and any actions taken
14 pursuant hereto shall survive any conversion or dismissal of the cases and the entry of any other order
15 that may be entered in the cases, including any order (i) confirming any plan of reorganization;
16 (ii) converting the cases from chapter 11 to chapter 7; (iii) appointing a trustee or examiner in the cases;
17 or (iv) dismissing the cases.

18 27. The Transaction contemplated by the APA and other Transaction Documents are
19 undertaken without collusion and in “good faith,” as that term is defined in § 363(m). AHMC is a
20 good faith purchaser within the meaning of § 363(m) and, as such, is entitled to the full protections of §
21 363(m). Accordingly, the reversal or modification on appeal of the authorization provided herein by
22 this Sale Order to consummate the Transaction shall not affect the validity of the sale of the Purchased
23 Assets free and clear of Encumbrances to AHMC. The APA and the Transactions contemplated
24 thereby cannot be avoided under § 363(n).

25 28. The failure to specifically include any particular provision of the APA or the other
26 Transaction Documents in this Sale Order shall not diminish or impair the effectiveness of such
27 provisions, it being the intent of the Bankruptcy Court that the Transaction, the APA and the other
28

1 Transaction Documents be authorized and approved in their entirety. Likewise, all of the provisions of
2 this Sale Order are non-severable and mutually dependent.

3 29. This Order constitutes a final and appealable order within the meaning of 28 U.S.C.
4 § 158(a). Notwithstanding Rules 6004(h), 6006(d), 7062, or 9014, if applicable, or any other LBR or
5 otherwise, this Sale Order shall not be stayed for 14-days after the entry hereof, but shall be effective
6 and enforceable immediately upon entry pursuant to Rule 6004(h) and 6006(d). Time is of the essence
7 in approving the Transaction (including the transfer and the sale of the Purchased Assets).

8 30. The automatic stay in effect pursuant to § 362 is hereby lifted with respect to the
9 Debtors to the extent necessary, without further order of this Court, to (i) allow AHMC to deliver any
10 notice provided for in the APA and Transaction Documents and (ii) allow AHMC to take any and all
11 actions permitted under the APA and Transaction Documents in accordance with the terms and
12 conditions thereof.

13 31. Unless otherwise provided in this Sale Order, to the extent any inconsistency exists
14 between the provisions of the APA and this Sale Order, the provisions contained in this Sale Order
15 shall govern.

16 32. This Court shall retain exclusive jurisdiction to interpret, construe, and enforce the
17 provisions of the APA and this Sale Order in all respects, and further, including, without limitation, to
18 (i) hear and determine all disputes between the Debtors and/or AHMC, as the case may be, and any
19 other non-Debtor party to, among other things, the Assigned Executory Contracts concerning, among
20 other things, assignment thereof by the Debtors to AHMC and any dispute between AHMC and the
21 Debtors as to their respective obligations with respect to any asset, liability, or claim arising hereunder;
22 (ii) compel delivery of the Purchased Assets to AHMC free and clear of Encumbrances; (iii) compel
23 the delivery of the Purchase Price or performance of other obligations owed to the Debtors;
24 (iv) interpret, implement, and enforce the provisions of this Sale Order; and (v) protect AHMC against
25 (A) claims made related to any of the Excluded Liabilities (as defined in the APA), (B) any claims of
26 successor or vicarious liability (or similar claims or theories) related to the Purchased Assets or the
27 Assigned Executory Contracts, or (C) any Encumbrances asserted on or against AHMC or the
28 Purchased Assets.

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1 33. Following the date of entry of this Sale Order, the Debtors and AHMC are authorized
2 to make changes to the APA and/or execute supplemental agreements implementing the transactions
3 contemplated by the APA without the need for any further order of the Court provided that all such
4 changes have been approved in writing by the Debtors, AHMC, the Committee, and Prepetition
5 Secured Creditors. Any other proposed changes to the APA or this Sale Order shall require a further
6 order of the Court, after reasonable notice under the circumstances and a hearing.

7 34. Notwithstanding any other provision of this Sale Order or any other Order of this
8 Court, no sale, transfer or assignment of any rights and interests of a regulated entity in any federal
9 license or authorization issued by the FCC shall take place prior to the issuance of FCC regulatory
10 approval for such sale, transfer or assignment pursuant to the Communications Act of 1934, as
11 amended, and the rules and regulations promulgated thereunder. The FCC's rights and powers to take
12 any action pursuant to its regulatory authority, including, but not limited to, imposing any regulatory
13 conditions on such sales, transfers and assignments and setting any regulatory fines or forfeitures, are
14 fully preserved, and nothing herein shall proscribe or constrain the FCC's exercise of such power or
15 authority to the extent not inconsistent with the applicable provisions of the Bankruptcy Code.

16 35. The California Attorney General, the Debtors, the Prepetition Secured Creditors, the
17 Committee, and AHMC, reserve all rights, arguments and defenses concerning the California Attorney
18 General's authority, if any, to review the sale under California Corporations Code §§ 5914-5924 and
19 California Code of Regulations on Nonprofit Hospital Transactions—Title 11, Chapter 15, § 999.5,
20 and any conditions issued thereto. Notwithstanding any provision to the contrary in the APA or the
21 Sale Order, nothing in the APA or this Sale Order shall limit or be construed as a waiver of the
22 Attorney General's statutory or regulatory authority or other rights or defenses, or a waiver of the
23 Debtors' statutory or other rights or defenses.

24 36. Notwithstanding anything to the contrary in this Order or the APA, all rights and
25 interests of New Cingular Wireless PCS, LLC ("AT&T") as lessee under that certain Medical
26 Office Lease dated as of May 16, 1989, as modified and amended (the "AT&T Lease") are
27 reserved with respect to (i) AT&T's rights under § 365(h) or § 363(e) and the applicable
28 agreements and state law and (ii) AT&T's objections to the ability of the Debtors to sell real

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1 property free and clear of AT&T's rights and interests related to the AT&T Lease whether under
2 Section 363(f) of the Bankruptcy Code or otherwise (and Debtors' or AHMC's rights to contest
3 such rights and objections). In the event that the parties are unable to resolve the above matters,
4 these issues will be set for hearing on a mutually convenient date. Notwithstanding anything in
5 this Order, the APA or otherwise to the contrary, any Purchased Assets that are subject to or
6 encumbered by the AT&T Lease, remain subject to or encumbered by such lease on and after the
7 Closing, subject to a further hearing on a date to be determined or an agreed upon resolution by
8 AT&T, the Debtors, and AHMC.

9 37. Notwithstanding anything to the contrary in the Motion, any Cure Notice or
10 assumption notice, any purchase agreement, or this Sale Order (i) none of the insurance policies
11 or any related agreements (collectively, the "Chubb Insurance Contracts") issued at any time by
12 Federal Insurance Company, ACE American Insurance Company, Illinois Union Insurance
13 Company and each of their affiliates and successors (collectively, "Chubb"), or any rights,
14 benefits, claims, rights to payments and/or recoveries under the Chubb Insurance Contracts shall
15 be sold, assigned or otherwise transferred to the Purchaser in connection with the Sale;
16 (ii) nothing shall alter, modify or otherwise amend the terms or conditions of the Chubb Insurance
17 Contracts; and (iii) for the avoidance of doubt, the Purchaser is not, and shall not be deemed to
18 be, an insured under any of the Chubb Insurance Contracts; provided, however, that to the extent
19 any claim with respect to any Purchased Assets arises that is covered by the Chubb Insurance
20 Contracts and the proceeds of the applicable Chubb Insurance Contract would be payable to the
21 Debtors (as opposed to a third party claimant), the Debtors may pursue such claim in accordance
22 with the terms of the Chubb Insurance Contracts, and, if applicable, turn over to the Purchaser
23 any such insurance proceeds (each, a "Proceed Turnover"); provided, further, however, that the
24 Chubb Companies shall not have any duty to effectuate a Proceed Turnover or liability related to
25 a Proceed Turnover.

26 38. The Debtors shall, no later than forty (40) days prior to the Closing Date, provide
27 UnitedHealthcare Insurance Company and Cigna Healthcare of California, Inc., and certain
28 affiliates, with written notice of the Debtors' irrevocable decisions as to whether or not the

1 Debtors propose to assume and assign any or all of the United Facility Participation Agreement,
2 effective as of April 1, 2017, or the Cigna Hospital Services Agreement, effective as of May 1,
3 2017, each as amended, as part of the Sale; provided, however, that such notice shall be
4 irrevocable only to the extent that the Sale transaction is approved by this Court and an order
5 thereon becomes final and non-appealable.

6 39. The Committee and the Prepetition Secured Creditors rights, and their ability to
7 participate and be heard at hearings concerning the Sale, are hereby reserved. To the extent that the
8 Prepetition Secured Creditors or the Committee desire to file pleadings related to such hearings, their
9 respective times for filing an objection or response shall be the same as granted to the Debtors pursuant
10 to the notice in each such instance.

11 40. The Purchaser is acquiring the Purchased Assets subject to the State of California
12 Services Agreement, which, subject to the assignment provisions (including the State's written consent
13 rights) thereof, will be assumed by the Debtors and assigned to the Purchaser in a manner consistent
14 with section 1.1 of the Additional Provisions Addendum of the State of California Services Agreement.
15 The free and clear provisions of § 363(f) with respect to the Purchased Assets do not apply to the State
16 of California Services Agreement. The Purchaser shall comply with all assignment provisions under
17 the State of California Services Agreement, including any requirement for written consent from DPH
18 and an amendment to the State of California Services Agreement that provides for an agreed reduction
19 in Compensation (as defined in the State of California Services Agreement). DPH and the Purchaser
20 are authorized to negotiate the required amendment to the State of California Services Agreement.
21 Pending any such amendment and written approval (and thereafter), the Purchaser will perform all
22 obligations under the State of California Services Agreement without interruption of patient care.
23 Notwithstanding any contrary provisions herein or in the APA, the segregated account under section
24 5.15 of the State of California Services Agreement shall be used only as permitted under the State of
25 California Services Agreement and the State Services Agreement Order unless authorized by the prior
26 written consent of DPH. Nothing in this Order or the APA amends, modifies or supersedes the rights
27 of DPH under the State Services Agreement Order or the State of California Services Agreement. The
28

1 State Services Agreement Order and the State of California Services Agreement remain in full force
2 and effect.

3 **IT IS SO ORDERED.**

4 ###

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Date: April 23, 2020



Ernest M. Robles
United States Bankruptcy Judge

Exhibit 1

Form of Cure Notice

1 SAMUEL R. MAIZEL (Bar No. 189301)
samuel.maizel@dentons.com
2 TANIA M. MOYRON (Bar No. 235736)
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3 NICHOLAS A. KOFFROTH (Bar No. 287854)
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6 Proposed Attorneys for the Chapter 11 Debtors and
7 Debtors In Possession

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

10 In re
11 VERITY HEALTH SYSTEM OF
CALIFORNIA, INC., *et al.*,
12 Debtors and Debtors In Possession.

Lead Case No. 2:18-bk-20151-ER

Jointly Administered With:

Case No. 2:18-bk-20162-ER

Case No. 2:18-bk-20163-ER

Case No. 2:18-bk-20164-ER

Case No. 2:18-bk-20165-ER

Case No. 2:18-bk-20167-ER

Case No. 2:18-bk-20168-ER

Case No. 2:18-bk-20169-ER

Case No. 2:18-bk-20171-ER

Case No. 2:18-bk-20172-ER

Case No. 2:18-bk-20173-ER

Case No. 2:18-bk-20175-ER

Case No. 2:18-bk-20176-ER

Case No. 2:18-bk-20178-ER

Case No. 2:18-bk-20179-ER

Case No. 2:18-bk-20180-ER

Case No. 2:18-bk-20181-ER

Hon. Judge Ernest M. Robles

**NOTICE TO COUNTERPARTIES TO
EXECUTORY CONTRACTS AND UNEXPIRED
LEASES OF THE DEBTORS THAT MAY BE
ASSUMED AND ASSIGNED RELATED TO
SETON MEDICAL CENTER**

[RELATES TO DOCKET NOS. 4360, ____]

Hearing:

Date: May 20, 2020

Time: 10:00 am

Place: Courtroom 1568

255 E. Temple St.,

Los Angeles, CA

19 Debtors and Debtors In Possession.

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1 AHMC's ability to provide adequate assurance of future performance under the Assumed
2 Executory Contract, then you must file in writing with the United States Bankruptcy Court for the
3 Central District of California, 255 E. Temple St., Los Angeles, California 90012, an objection on
4 or before **May 6, 2020 at 5:00 p.m. (prevailing Pacific Time)**. Any objection must set forth the
5 specific default or defaults alleged and set forth any cure amount as alleged by you. If a contract
6 or lease is assumed and assigned pursuant to a Court order approving same, then unless you
7 properly file and serve an objection to the Cure Amount contained in this Notice, you will receive
8 at the time of the closing of the sale (or as soon as reasonably practicable thereafter), the Cure
9 Amount set forth herein, if any. Any counterparty to an Assumed Executory Contract that fails to
10 timely file and serve an objection to the Cure Amounts shall be forever barred from asserting that
11 a Cure Amount is owed in an amount in excess of the amount, if any, set forth in the attached
12 Exhibit A.

13 **PLEASE TAKE FURTHER NOTICE** that any objection you may file must be served
14 so as to be received by the following parties by the applicable objection deadline date and time:
15 (i) counsel to the Debtors: Dentons US LLP, 601 S. Figueroa Street, Suite 2500, Los Angeles,
16 CA 90017 (Attn: Tania M. Moyron (tania.moyron@dentons.com)); (ii) the Debtors' Investment
17 Banker: Cain Brothers, a division of KeyBanc Capital Markets, 1 California Street, Suite 2400,
18 San Francisco, CA 94111 (Attn: James Moloney (jmoloney@cainbrothers.com)); (iii) counsel to
19 the Official Committee: Milbank, Tweed, Hadley & McCloy LLP, 2029 Century Park East, 33rd
20 Floor, Los Angeles, CA 90067 (Attn: Gregory A. Bray (gbray@milbank.com)); (iv) counsel to
21 the Master Trustee and Series 2005 Bond Trustee: Mintz, Levin, Cohn, Ferris, Glovsky and
22 Popeo, P.C., One Financial Center, Boston, MA 02111 (Attn: Daniel S. Bleck and Paul Ricotta
23 (dsbleck@mintz.com, pricotta@mintz.com)); (v) counsel to the Series 2015 Notes Trustee:
24 McDermott Will & Emery LLP, 444 West Lake Street, Suite 4000, Chicago, IL 60606 (Attn:
25 Nathan F. Coco and Megan Preusker (ncoco@mwe.com; mpreusker@mwe.com)); (vi) counsel to
26 the Series 2017 Notes Trustee: Maslon, LLP, 3300 Wells Fargo Center, 90 South Seventh Street,
27 Minneapolis, MN 55402 (Attn: Clark Whitmore (clark.whitmore@maslon.com)); and (vii)
28 counsel to the MOB Lenders: Jones Day, 250 Vesey Street, New York, NY 10281 (Attn: Bruce
Bennett, Benjamin Rosenblum, and Peter Saba (bbennett@jonesday.com,
brosenblum@jonesday.com, psaba@jonesday.com).

19 **PLEASE TAKE FURTHER NOTICE** that AHMC shall be responsible for satisfying
20 any requirements regarding adequate assurance of future performance that may be imposed under
21 11 U.S.C. §§ 365(b) and (f) in connection with the proposed assignment of any Assumed
22 Executory Contract. The Court shall make its determinations concerning adequate assurance of
23 future performance under the Assumed Executory Contracts pursuant to 11 U.S.C. §§ 365(b) and
24 (f) at the Assumption Objection Hearing.

23 **PLEASE TAKE FURTHER NOTICE** that except to the extent otherwise provided in
24 the AHMC APA, the Debtors and the Debtors' estates shall be relieved of all liability accruing or
25 arising after the assumption and assignment of the Assumed Executory Contracts pursuant to 11
26 U.S.C. § 365(k).

26 **PLEASE TAKE FURTHER NOTICE** that Assumption Objections may be resolved by
27 the Court at the Assumption Objection Hearing, or at a separate hearing either before or after the
28 Assumption Objection Hearing.

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Exhibit A

(Assumed Executory Contracts)

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6 Attorneys for the Chapter 11 Debtors and
7 Debtors In Possession



8 **UNITED STATES BANKRUPTCY COURT**
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

CHANGES MADE BY COURT

9 In re

Lead Case No. 2:18-bk-20151-ER

10 VERITY HEALTH SYSTEM OF
11 CALIFORNIA, INC., *et al.*,

Jointly Administered With:

12 Debtors and Debtors In
Possession.

- Case No. 2:18-bk-20162-ER
- Case No. 2:18-bk-20163-ER
- Case No. 2:18-bk-20164-ER
- Case No. 2:18-bk-20165-ER
- Case No. 2:18-bk-20167-ER
- Case No. 2:18-bk-20168-ER
- Case No. 2:18-bk-20169-ER
- Case No. 2:18-bk-20171-ER
- Case No. 2:18-bk-20172-ER
- Case No. 2:18-bk-20173-ER
- Case No. 2:18-bk-20175-ER
- Case No. 2:18-bk-20176-ER
- Case No. 2:18-bk-20178-ER
- Case No. 2:18-bk-20179-ER
- Case No. 2:18-bk-20180-ER
- Case No. 2:18-bk-20181-ER

13 Affects All Debtors

- 14 Affects Verity Health System of
California, Inc.
- 15 Affects O'Connor Hospital
- 16 Affects Saint Louise Regional Hospital
- 17 Affects St. Francis Medical Center
- 18 Affects St. Vincent Medical Center
- 19 Affects Seton Medical Center
- 20 Affects O'Connor Hospital Foundation
- 21 Affects Saint Louise Regional Hospital
Foundation
- 22 Affects St. Francis Medical Center of
Lynwood Foundation
- 23 Affects St. Vincent Foundation
- 24 Affects St. Vincent Dialysis Center, Inc.
- 25 Affects Seton Medical Center Foundation
- 26 Affects Verity Business Services
- 27 Affects Verity Medical Foundation
- 28 Affects Verity Holdings, LLC
- Affects De Paul Ventures, LLC
- Affects De Paul Ventures - San Jose
Dialysis, LLC

Hon. Judge Ernest M. Robles

**ORDER (A) AUTHORIZING THE SALE
OF CERTAIN OF THE DEBTORS'
ASSETS TO PRIME HEALTHCARE
SERVICES, INC. PURSUANT TO THE APA
ATTACHED HERETO FREE AND CLEAR OF
LIENS, CLAIMS, ENCUMBRANCES, AND
OTHER INTERESTS; (B) APPROVING THE
ASSUMPTION AND ASSIGNMENT OF
CERTAIN ASSIGNED CONTRACTS
RELATED THERETO; AND (C) GRANTING
RELATED RELIEF**

25 Debtors and Debtors In
26 Possession.

Hearing:

Date: April 9, 2020

Time: 10:00 a.m.

Location: Courtroom 1568

255 E. Temple St., Los Angeles, CA

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1 This matter came before the Court on the *Debtors' Notice of Motion and Motion for the*
2 *Entry of (I) an Order (1) Approving Form of Asset Purchase Agreement; (2) Approving Auction*
3 *and Sale Format and Bidding Procedures; (3) Approving Process for Discretionary Selection of*
4 *Stalking Horse Bidder and Bid Protections; (4) Approving Form of Notice to be Provided to*
5 *Interested Parties; (5) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest*
6 *and Best Bidder; and (6) Approving Procedures Related to the Assumption of Certain Executory*
7 *Contracts and Unexpired Leases; and (II) An Order Authorizing the Sale of Property Free and*
8 *Clear of All Claims Liens and Encumbrances* [Docket No. 4069] (the "Motion"), filed by Verity
9 Health System of California, Inc. ("VHS"), and the above-referenced affiliated debtors and debtors
10 in possession in the above-captioned chapter 11 bankruptcy cases (the "Debtors"), for the entry of
11 an order, pursuant to §§ 105(a), 363, and 365 of title 11 of the United States Code (the "Bankruptcy
12 Code"), Rules 2002, 6004, 6006, 9007, and 9014, and LBR 6004-1.¹ This Sale Order relates to the
13 sale of certain assets used in the operation of the general acute care hospital known as "St. Francis
14 Medical Center," which are owned, as applicable, by St. Francis Medical Center, a California
15 nonprofit public benefit corporation ("SFMC"), VHS, and Verity Holdings LLC, a California
16 limited liability company ("Holdings").

17 At the previous hearing on the Motion on February 26, 2020 (the "Bidding Procedures
18 Hearing"), the Court granted the Motion [Docket No. 4165] (the "Bidding Procedures Order").
19 Any objections that were filed and overruled at the Bidding Procedures Hearing are not listed
20 herein.

21 The Court, having reviewed the Memorandum [Docket No. 4471], the Declarations of
22 Richard Adcock [Docket Nos. 8, 4132, 4471], James Moloney [Docket Nos. 4132 and 4471], and
23 A. Joel Richlin [Docket No. 4471] in support thereof, the *Notice To Counterparties To Executory*
24 *Contracts And Unexpired Leases Of The Debtors That May Be Assumed And Assigned* [Docket No.
25 4267] (the "Cure Notice"), the *Notice of Sale Procedures, Auction Date, and Sale Hearing* [Docket

26 _____
27 ¹ Unless specified otherwise, all chapter and section references are to the Bankruptcy Code, 11
28 U.S.C. §§ 101-1532, all "Rule" references are to the Federal Rules of Bankruptcy Procedure, and
all "LBR" references are to the Local Bankruptcy Rules for the United States Bankruptcy Court for
the Central District of California.

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1 No. 4167] (the “Auction Notice”), the objections filed by various counterparties to certain
2 executory contracts and unexpired leases [Docket Nos. 4354, 4366, 4371, 4391, 4392, 4403, 4405,
3 4406, 4407, 4408, 4409, 4414, 4415, 4416, 4418, 4419, 4420, 4421, 4422, 4423, 4424, 4425, 4426,
4 4427, 4443] (the “Cure Objections”), the *SEIU-UHW’s Objection and Reservation of Rights to*
5 *Debtors’ Motion for Sale of St. Francis Medical Center* [Docket No. 4495] (the “SEIU-UHW
6 Objection”), the *Objection and Reservation of Rights by United Nurses Associations of California,*
7 *to Debtors’ Motion [Dkt. 4069] and Memorandum [Dkt. 4471] in Support of Entry of an Order*
8 *Authorizing the Sale of Saint Francis Medical Center and Related Assets* [Docket No. 4498] (the
9 “UNAC Objection”), *Hooper Healthcare Consulting, LLC’s Limited Response to Sale Motion*
10 *[Dkt. No. 4069], and Reservation of Rights* [Docket No. 4463] (the “Hooper Reservation”), and
11 any objections set forth on the record at the Sale Hearing, and any withdrawals thereof, the
12 statements, arguments and representations of the parties made at the Sale Hearing; and the entire
13 record of these cases; and the Court, having determined that the relief sought in the Motion is in
14 the best interests of the Debtors, their estates, their creditors, and that the legal and factual bases set
15 forth in the Motion and presented at the Sale Hearing establish just cause for the relief granted
16 herein and for the reasons set forth in the Court’s tentative ruling issued on April 9, 2020, which
17 the Court adopts as its final ruling and which is incorporated herein by reference [**Docket No. 4507**];
18 and all objections to the Motion, if any, having been withdrawn, continued or overruled; and after
19 due deliberation and sufficient good cause appearing therefor:

20 **THE COURT HEREBY FINDS AND CONCLUDES THAT:²**

21 A. Jurisdiction and Venue. This Court has jurisdiction to hear and determine the
22 Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter relates to the administration of the
23 Debtors’ bankruptcy estates and is accordingly a core proceeding pursuant to 28 U.S.C. § 157(b)

24
25
26 ² The findings and conclusions set forth herein constitute the Court’s findings of fact and
27 conclusions of law pursuant to Rule 7052, made applicable to this proceeding pursuant to Rule
28 9014. To the extent that any of the following findings of fact constitute conclusions of law, they
are adopted as such. To the extent that any of the following conclusions of law constitute findings
of fact, they are adopted as such.

1 (2) (A), (M), (N) and (O). Venue of these cases is proper in this District and in this Court pursuant
2 to 28 U.S.C. §§ 1408 and 1409.

3 B. Statutory Predicates. The statutory predicates for the relief requested in the Motion
4 are (i) §§ 105(a), 363(b), (f), (k), (l) and (m), and 365, (ii) Rules 2002(a)(2), 2002(c)(1) and (d),
5 6004 (a), (b), (c), (e), (f) and (h), 6006(a), (c) and (d), 9006, 9007, 9013 and 9014, and (iii) LBR
6 6004-1 and 9013-1.

7 C. Notice. As evidenced by the affidavits of service previously filed with the Court,
8 the Debtors have provided proper, timely, adequate and sufficient notice with respect to the
9 following: (i) the Motion and the relief sought therein, including the entry of this Sale Order and
10 the transfer and sale of the assets (the "Purchased Assets"), as set forth in the Asset Purchase
11 Agreement, dated April 3, 2020, a copy of which is attached as Exhibit "B" to Docket No. 4471
12 (the "APA"); (ii) the Sale Hearing; (iii) the Auction Notice; and (iv) the assumption and assignment
13 of the executory contracts and unexpired leases and proposed cure amounts owing under such
14 executory contracts and unexpired leases (the "Cure Amounts"); and no further notice of the
15 Motion, the relief requested therein or the Sale Hearing is required. The Debtors have also
16 complied with all obligations to provide notice of the Auction, the Sale Hearing, the proposed sale
17 and otherwise, as required by the Bidding Procedures Order. A reasonable opportunity to object
18 and to be heard regarding the relief provided herein has been afforded to parties-in-interest.

19 D. Title in the Purchased Assets. The Purchased Assets constitute property of the
20 Debtors' estates and title thereto is vested in the Debtors' estates within the meaning of § 541(a).
21 The Debtors are the sole and lawful owner of the Purchased Assets.

22 E. Arm's Length Transaction. The APA and other documents and instruments (the
23 "Transaction Documents") related to and connected with this transaction (the "Transaction") and
24 the consummation thereof were negotiated and entered into by the Debtors and Prime Healthcare
25 Services, Inc. ("Prime"), as Purchaser under the APA without collusion, in good faith and through
26 an arm's length bargaining process. Neither Prime nor any of its affiliates or representatives is an
27 "insider" of the Debtors, as that term is defined in § 101(31). None of the Debtors, Prime, or their
28 respective representatives engaged in any conduct that would cause or permit the APA, any of the

1 other Transaction Documents or the Transaction to be avoided under § 363(n), or have acted in any
2 improper or collusive manner. The terms and conditions of the APA and the other Transaction
3 Documents, including, without limitation, the consideration provided in respect thereof, are fair
4 and reasonable, and are not avoidable and shall not be avoided, and no damages may be assessed
5 against Prime or any other party as set forth in § 363(n). The consideration provided by Prime is
6 fair, adequate and constitutes reasonably equivalent value and fair consideration under the
7 Bankruptcy Code and any other applicable laws of the United States or any of its jurisdictions or
8 subdivisions, including the State of California.

9 F. Good Faith Purchaser. Prime has proceeded in good faith and without collusion in
10 all respects in connection with the sale process, in that: (i) Prime, in proposing and proceeding with
11 the Transaction in accordance with the APA, recognized that the Debtors were free to deal with
12 other interested parties; (ii) Prime agreed to provisions in the APA that would enable the Debtors
13 to accept a higher and better offer; (iii) Prime complied with all of the provisions in the Bidding
14 Procedures Order applicable to Prime; (iv) all payments to be made by Prime and other agreements
15 entered into or to be entered into between Prime and the Debtors in connection with the Transaction
16 have been disclosed; (v) the negotiation and execution of the APA and related Transaction
17 Documents were conducted in good faith and constituted an arm's length transaction; (vi) Prime
18 did not induce or cause the chapter 11 filings by the Debtors; and (vii) the APA was not entered
19 into, and the Transaction being consummated pursuant to and in accordance with the APA is not
20 being consummated, for the purpose of hindering, delaying or defrauding creditors of the Debtors.
21 Prime is therefore entitled to all of the benefits and protections provided to a good-faith purchaser
22 under § 363(m) and any other applicable bankruptcy or non-bankruptcy law with respect to the sale
23 and assignment of the Purchased Assets and Assumed Contracts that Prime is acquiring pursuant
24 to the APA and the other terms thereof. Accordingly, the reversal or modification on appeal of the
25 authorization provided herein to consummate the Transaction shall not affect the validity of the
26 Transaction, any terms or conditions of the Transaction or Prime's status as a "good faith"
27 purchaser.

1 G. Justification for Relief. Good and sufficient reasons for approval of the APA and
2 the other Transaction Documents and the Transaction have been articulated to this Court in the
3 Motion and at the Sale Hearing, and the relief requested in the Motion and set forth in this Sale
4 Order is in the best interests of the Debtors, their estates, and their creditors. The Debtors have
5 demonstrated through the Motion and other evidence submitted at the Sale Hearing both (i) good,
6 sufficient and sound business purpose and justification and (ii) compelling circumstances for the
7 transfer and sale of the Purchased Assets as provided in the APA outside the ordinary course of
8 business, and (iii) such transfer and sale pursuant to the terms of the APA and this Order is an
9 appropriate exercise of the Debtors' business judgment and in the best interests of the Debtors, their
10 estates, and their creditors.

11 H. Free and Clear. In accordance with §§ 363(b) and 363(f), the consummation of the
12 Transaction pursuant to the Transaction Documents shall be a legal, valid, and effective transfer
13 and sale of the Purchased Assets and shall vest in Prime, through the consummation of the
14 Transaction, all of the Debtors' right, title, and interest in and to the Purchased Assets, free and
15 clear of all liens, claims, interests, rights of setoff, recoupment, netting and deductions, rights of
16 first offer, first refusal and any other similar contractual property, legal or equitable rights, and any
17 successor or successor-in-interest liability theories (collectively, the "Encumbrances"). The
18 Debtors have demonstrated that one or more of the standards set forth in § 363(f)(1)-(5) have been
19 satisfied. Those holders of Encumbrances who did not object, or who withdrew their objections, to
20 the sale or the Motion are deemed to have consented pursuant to § 363(f)(2). Those holders of
21 Encumbrances who did object fall within one or more of the other subsections of § 363(f). All
22 holders of the Encumbrances in the Purchased Assets are adequately protected by having their
23 respective Encumbrances attach to the Debtors' interests in the proceeds of the sale of the Purchased
24 Assets under the APA (subject to any Challenge within the meaning of that certain *Final Order (I)*
25 *Authorizing Postpetition Financing, (II) Authorizing Use of Cash Collateral, (III) Granting Liens*
26 *and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection,*
27 *(V) Modifying Automatic Stay, and (VI) Granting Related Relief* [Docket No. 409] (the "Final DIP
28 Order") that has been, or may be, timely filed), and any related documents or instruments delivered

1 in connection therewith, whenever and wherever received (the “Sale Proceeds”) to the extent and
2 manner provided herein, including, without limitation, in paragraphs 6, 7 and 16 hereunder. The
3 outcome of any Challenge (as defined in the Final DIP Order) does not affect the findings in this
4 paragraph as it relates to Purchaser.

5 I. Prompt Consummation. The Debtors have demonstrated good and sufficient cause
6 to waive the stay requirement under Rules 6004(h) and 6006(d). Time is of the essence in
7 consummating the Transaction, and it is in the best interests of the Debtors and their estates to
8 consummate the Transaction within the timeline set forth in the Motion and the APA. The Court
9 finds that there is no just reason for delay in the implementation of this Order, and expressly directs
10 entry of judgment as set forth in this Order.

11 J. Assumption of Executory Contracts and Unexpired Leases. The Debtors have
12 demonstrated that it is an exercise of their sound business judgment to assume and assign to Prime
13 the “Assigned Contracts” (as that term is defined in the APA), subject to Prime’s right to designate
14 any Assigned Contracts as “Rejected Contracts” (as that term is defined in the APA) pursuant to
15 the APA, in connection with the consummation of the Transaction, and the assumption and
16 assignment of the Assigned Contracts is in the best interests of the Debtors and their estates.

17 K. Cure/Adequate Assurance. In connection with the Closing, and pursuant to the APA,
18 unless otherwise ordered, any and all defaults existing on or prior to the Closing under any of the
19 Assigned Contracts will have been cured, within the meaning of § 365(b)(1)(A), by payment of the
20 amounts (the “Cure Amounts”) and in the manner set forth below, unless otherwise agreed by Prime
21 and the counterparty (each a “Counterparty”) or as ordered by the Court. Prime has provided
22 adequate assurance of future performance of and under the Assigned Contracts within the meaning
23 of § 365(b)(1)(C) and § 365(f)(2)(B), and shall have no further obligation to provide assurance of
24 performance to any Counterparty to an Assigned Contract. Pursuant to § 365(f), the Assigned
25 Contracts to be assumed by the Debtors (i.e., SFMC, VHS, and Holdings), and assigned to Prime
26 under the APA shall be assigned and transferred to, and remain in full force and effect for the
27 benefit of Prime, notwithstanding any provision in such Assigned Contracts prohibiting their
28 assignment or transfer. The Debtors have demonstrated that no other parties to any of the Assigned

1 Contracts has incurred any actual pecuniary loss resulting from a default on or prior to the Closing
2 under any of the Assigned Contracts within the meaning of § 365(b)(1)(B).

3 L. Rejection of Executory Contracts and Unexpired Leases. The Debtors will have
4 demonstrated that it is a reasonable and appropriate exercise of their sound business judgment for
5 SFMC to reject all of its executory contracts and unexpired leases, excluding (i) Assigned
6 Contracts, (ii) any prepetition multiparty contract affecting more than one Debtor in addition to
7 SFMC, (iii) any prepetition contract that is the subject of a Rule 9019 settlement motion prior to
8 Closing, and (vi) any collective bargaining agreement (a “CBA”), pension plan or health and
9 welfare plan providing collectively bargained benefits to which SFMC is a party or sponsor. The
10 Debtors shall file an appropriate motion to reject the contracts, covered by this paragraph K, prior
11 to Closing and shall request therein that the rejection be effective as of the Closing or as otherwise
12 appropriate.

13 M. Highest and Best Offer. The Debtors solicited offers and noticed the Auction in
14 accordance with the provisions of the Bidding Procedures Order. The Auction was duly noticed,
15 the sale process was conducted in a non-collusive manner and the Debtors afforded a full, fair and
16 reasonable opportunity for any person or entity to make a higher and better offer to purchase the
17 Purchased Assets. Commencing on January 3, 2020, the Debtors contacted all parties that had
18 executed a nondisclosure agreements (an “NDA”) in connection with the Debtors’ previous efforts
19 to market St. Francis and, following the receipt of executed NDAs, granted fifty three (53) parties
20 access to a secured diligence data site and received seven written indications of interest for the
21 potential acquisition of St. Francis by January 31, 2020. Other than Prime’s Bid, the Debtors
22 received no other Qualified Bids by the Bid Deadline (as such terms are defined by the Bidding
23 Procedures Order). The Debtors properly consulted with the Consultation Parties in selecting
24 Prime’s Bid as the highest and best bid pursuant to the Bidding Procedures Order. The transfer and
25 sale of the Purchased Assets to Prime on the terms set forth in the APA constitutes the highest and
26 best offer for the Purchased Assets and will provide a greater recovery for the Debtors’ estates than
27 would be provided by any other available alternative. The Debtors’ determination, in consultation
28

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1 with the Consultation Parties (as defined in the Bidding Procedure Order), that the APA constitutes
2 the Winning Bid, constitutes a valid and sound exercise of the Debtors' business judgment.

3 N. No De Facto or Sub Rosa Plan of Reorganization. The sale of the Purchased Assets
4 does not constitute a *de facto* or *sub rosa* plan of reorganization or liquidation because it does not
5 propose to (i) impair or restructure existing debt of, or equity or membership interests in, the
6 Debtors, (ii) impair or circumvent voting rights with respect to any plan proposed by the Debtors,
7 (iii) circumvent chapter 11 safeguards, including those set forth in §§ 1125 and 1129, or (iv) classify
8 claims or equity or membership interests.

9 O. Legal and Factual Bases. The legal and factual bases set forth in the Motion and at
10 the Sale Hearing establish just cause for the relief granted herein.

11 **NOW THEREFORE, IT IS HEREBY ORDERED THAT:**

12 1. The relief requested in the Motion is GRANTED and APPROVED in all respects to
13 the extent provided herein.

14 2. The UNAC Objection is overruled as premature. The Hooper reservation is
15 preserved for adjudication at the hearing scheduled before this Court on April 29, 2020, at 10:00
16 a.m. All other objections with regard to the relief sought in the Motion that have not been
17 withdrawn, waived, settled, or provided for herein or in the Bidding Procedures Order, including
18 any reservation of rights included in such objections, are overruled on the merits with prejudice,
19 including, without limitation, the SEIU-UHW Objection. To the extent of any inconsistency
20 between this Sale Order and the Bidding Procedures Order, the terms of this Sale Order shall
21 prevail.

22 3. Notice of the Sale Motion, and the assumption and assignment of the Assumed
23 Contracts (including proposed Cure Amounts related thereto), the Auction, the Sale Hearing and
24 the Sale was fair and equitable under the circumstances and complied in all respects with the
25 Bidding Procedures, §§ 102(1), 363, and 365, and Rules 2002, 6004, 6006, 9006, and 9007.

26 4. Pursuant to §§ 105(a), 363(b), 363(f), and 365, the Transaction, including the
27 transfer and sale of the Purchased Assets to Prime on the terms set forth in the APA, is approved
28 in all respects, and the Debtors are authorized and directed to consummate the Transaction in

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1 accordance with the APA, including, without limitation, by executing all of the Transaction
2 Documents (and any ancillary documents or instruments that may be reasonably necessary or
3 desirable to implement the APA or the Transaction) and taking all actions necessary and appropriate
4 to effectuate and consummate the Transaction (including the transfer and sale of the Purchased
5 Assets) in consideration of the Purchase Price (as defined in § 1.1 of the APA) upon the terms set
6 forth in the APA, including, without limitation, assuming and assigning to Prime the Assigned
7 Contracts. The Debtors and Prime shall have the right to make any mutually agreeable, non-material
8 changes to the APA, which shall be in writing signed by both parties, without further order of the
9 Court provided, that after reasonable notice, the Official Committee of Unsecured Creditors (the
10 “Committee”) and the Prepetition Secured Creditors (as defined in the Final DIP Order) do not
11 object to such changes. Any timely objection by the aforementioned parties to any agreed non-
12 material changes to the APA may be resolved by the Court on shortened notice.

13 5. As of the Closing, (i) the Transaction set forth in the APA shall effect a legal, valid,
14 enforceable and effective transfer and sale of the Purchased Assets to Prime free and clear of all
15 Encumbrances as further set forth in the APA and this Sale Order; and (ii) the APA, and the other
16 Transaction Documents, and the Transaction, shall be enforceable against and binding upon, and
17 not subject to rejection or avoidance by, the Debtors, any successor thereto including a trustee or
18 estate representative appointed in the Bankruptcy Cases, the Debtors’ estates, all holders of any
19 Claim(s) (as defined in the Bankruptcy Code) against the Debtors, whether known or unknown,
20 any holders of Encumbrances on all or any portion of the Purchased Assets, all Counterparties to
21 the Assigned Contracts and all other persons and entities.

22 6. Encumbrances in and to Purchased Assets shall attach (subject to any Challenge
23 within the meaning of the Final DIP Order that has been, or may be, timely filed) to the Sale
24 Proceeds of such Purchased Assets with each such Encumbrance having the same force, extent,
25 effect, validity and priority as such Encumbrance had on the Purchased Assets giving rise to the
26 Sale Proceeds immediately prior to the Closing. For the avoidance of doubt, the foregoing force,
27 extent, effect, validity and priority of such Encumbrances of the Prepetition Secured Creditors that
28 attach to the Sale Proceeds shall: (i) reflect and include, without limitation, the security interests,

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1 liens (including any Prepetition Replacement Liens arising for diminution of value, if any) and
2 rights, powers and authorities that have been granted to the Prepetition Secured Creditors, as
3 applicable, pursuant to the Financing Orders,³ subject to (x) the results of the appeal from the Final
4 DIP Order filed by the Committee on November 29, 2019 challenging the rights granted to the
5 Prepetition Secured Creditors pursuant to the Final DIP Order with respect to Sections 506(c) and
6 552(b); and/or (ii) the results of any Challenge within the meaning of the Final DIP Order that has
7 been, or may be, timely filed. In addition, the Intercreditor Agreement (as defined in the Final DIP
8 Order) and the Final DIP Order shall apply with respect to the rights of the parties thereto in and to
9 the Sale Proceeds and the Escrow Deposit Accounts, to the extent of and in accordance with its
10 terms with all parties reserving all rights thereunder. Each of the Prepetition Secured Creditors
11 opposes all existing Challenges and the appeal brought by the Committee, and nothing contained
12 herein shall constitute an express or implicit admission by any of the Prepetition Secured Creditors
13 in connection therewith, or shall be deemed to be a waiver of any rights in respect thereof. The
14 outcome of any such Challenge does not affect the Transaction in any respect.

15 7. The Accounts Receivable shall be transferred from Debtors to Prime free and clear
16 of all Encumbrances as further set forth in the APA and this Sale Order, subject only to the A/R
17 Accounting set forth in the APA. Subject to the fulfillment of the terms and conditions of the APA,
18 this Sale Order shall, as of the Closing, be considered and constitute for all purposes a full and
19 complete general assignment, conveyance, and transfer of the Purchased Assets and/or a bill of sale
20 transferring all of the Debtors' rights, title and interest in and to the Purchased Assets to Prime free

21
22 ³ The "Financing Orders" refer, collectively, to (i) the Final DIP Order; (ii) the *Final Order (A)*
23 *Authorizing Continued Use of Cash Collateral, (B) Granting Adequate Protection, (C) Modifying*
24 *the Automatic Stay, and (D) Granting Related Relief* [Docket No. 3022]; (iii) the *Final Order*
25 *Approving Stipulation Between the Prepetition Secured Creditors and the Debtors to (A) Amend*
26 *Cash Collateral Order, Authorize Continued Use of Cash Collateral, Grant Adequate Protection,*
27 *(D) Modify Automatic Stay, and (E) Grant Related Relief* [Docket No. 3883]; (iv) the *Final Order*
28 *Approving Stipulation to (A) Amend the First Amended Supplemental Cash Collateral Order,*
Authorize Continued Use of Cash Collateral, Grant Adequate Protection, (D) Modify Automatic
Stay, and (E) Grant Related Relief [Docket No. 4028]; and (v) the *Final Order Approving*
Stipulation to (A) Amend the Second Amended Supplemental Cash Collateral Order, Authorize
Continued Use of Cash Collateral, Grant Adequate Protection, (D) Modify Automatic Stay, and
(E) Grant Related Relief [Docket No. 4187].

1 and clear of the Encumbrances. Consistent with, but not in limitation of the foregoing, each and
2 every federal, state, and local governmental agency or department, except as stated herein, is hereby
3 authorized and directed to accept all documents and instruments necessary and appropriate to
4 consummate the transactions contemplated by the APA and approved in this Sale Order. A certified
5 copy of this Order may be filed with the appropriate clerk and/or recorded with the appropriate
6 recorder to cancel any Encumbrances of record.

7 8. Any person or entity that is currently, or on the Closing Date may be, in possession
8 of some or all of the Purchased Assets is hereby directed to surrender possession of such Purchased
9 Assets either to (a) the Debtors before the Closing or (b) to Prime or its designee upon the Closing,
10 and to cooperate with the Debtors and Prime in the Debtors' and Prime's fulfillment of their
11 obligations hereunder and pursuant to the APA.

12 9. The transfer of the Purchased Assets pursuant to the Transaction Documents shall
13 be a legal, valid, and effective transfer and shall, in accordance with §§ 105(a) and 363(f), and upon
14 consummation of the Transaction, including, without limitation, payment of the Purchase Price to
15 the Debtors, vest Prime with all right, title, and interest in the Purchased Assets, free and clear of
16 all Encumbrances. Upon closing of the Transaction, Prime shall take title to and possession of the
17 Purchased Assets as set forth in the APA, provided that notwithstanding any other provision of this
18 Order or the APA to the contrary, Purchased Assets shall not include any Accounts Receivable (as
19 that term is defined in the APA) for which UnitedHealthcare Insurance Company is an account
20 debtor. The transfer of the Purchased Assets from the Debtors to Prime constitutes a transfer in
21 good faith and for reasonable equivalent value and fair consideration under the Bankruptcy Code
22 and the laws of the State of California.

23 10. Following the Closing, no holder of any Encumbrance against the Debtors or upon
24 the Purchased Assets shall interfere with Prime's respective rights in, title to or use and enjoyment
25 of the Purchased Assets. All persons and entities are hereby forever prohibited and enjoined from
26 taking any action that would adversely affect or interfere with the ability of the Debtors to sell and
27 transfer the Purchased Assets to Prime, including the assumption and assignment of the Assigned
28 Contracts.

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1 11. Prime is a good faith purchaser of the Purchased Assets and is hereby granted and
2 entitled to all of the protections provided to a good faith purchaser under § 363(m). Pursuant to §
3 363(m), if any or all of the provisions of this Sale Order are hereafter reversed, modified, or vacated
4 by a subsequent order of the Bankruptcy Court or any other court (including modification of the
5 terms of the APA), such reversal, modification, or vacatur shall not affect the validity and
6 enforceability of the Transaction, any sale, transfer, or assignment under the APA or obligation or
7 right granted pursuant to the terms of this Sale Order, and, notwithstanding any reversal,
8 modification, or vacatur, the original provisions of this Sale Order and the APA, as the case may
9 be, shall apply with respect to the Transaction.

10 12. The Sale approved by this Sale Order is not subject to avoidance or any recovery or
11 damages pursuant to § 363(n) or any other section of the Bankruptcy Code or otherwise, except for
12 any rights of the parties to enforce the terms of the APA.

13 13. Prime shall not be deemed, as a result of any action taken in connection with, or as
14 a result of the Transaction (including the transfer and sale of the Purchased Assets), to the maximum
15 extent permitted by law by reason of any theory of law or equity with respect to any claims or liens
16 against Sellers or the Assets, to: (i) be a successor, continuation or alter ego (or other such similarly
17 situated party) to or of the Debtors or their estates by reason of any theory of law or equity,
18 including, without limitation, any bulk sales law, doctrine or theory of successor liability, or any
19 theory or basis of liability, regardless of source of origin; or (ii) have, *de facto* or otherwise, merged
20 with or into the Debtors; or (iii) be a mere continuation, *alter ego*, or substantial continuation of the
21 Debtors. Prime is not assuming any of the Debtors' debts.

22 14. This Sale Order (i) shall be effective as a determination that, on Closing, all
23 Encumbrances existing against the Purchased Assets before the Closing have been unconditionally
24 released, discharged and terminated, except to the extent provided in paragraph 6 above, and that
25 the transfers and conveyances described herein have been effected, and (ii) shall be binding upon
26 and shall govern the acts of all persons and entities. If, following a reasonable written request made
27 by the Debtors, any person or entity that has filed financing statements or other documents or
28 agreements evidencing any Encumbrances against the Purchased Assets shall not have delivered to

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1 the Debtors for use at or in connection with Closing, in proper form for filing and executed by the
2 appropriate parties, termination statements, instruments of satisfaction, releases of all
3 Encumbrances which the person or entity has with respect to the Purchased Assets, then Prime
4 and/or the Debtors are hereby authorized to execute and file such statements, instruments, releases
5 and other documents on behalf of the person or entity with respect to such Purchased Assets. For
6 the avoidance of doubt, such statements, instruments, releases and other documents shall not impair
7 Encumbrances that attach (subject to any Challenge within the meaning of the Final DIP Order that
8 has been, or may be, timely filed, which shall not affect the enforceability of this Sale Order as to
9 Prime) to the Sale Proceeds by the terms of this Order, including, but not limited to paragraphs 6,
10 7 and 16 hereof.

11 15. In accordance with the APA, concurrently with the Closing, Prime shall pay that
12 portion of the Purchase Price due at Closing, by wire transfer of immediately available funds, to
13 Debtors' Escrow Deposit Accounts (defined below), subject to the adjustments set forth in the APA.
14 Any direct expenses of the Sale shall be disclosed by Debtors to the Prepetition Secured Creditors
15 and the Committee in advance of the Closing.

16 16. The terms and conditions of the Financing Orders shall apply with respect to the
17 Sale Proceeds and Escrow Deposit Accounts (defined herein), except as expressly modified hereby.
18 Without limiting the foregoing, the Debtors shall comply with paragraph 4 of the Final DIP Order
19 in the following manner:

20 a. the Debtors shall direct Prime, pursuant to the terms of the APA, to remit to
21 Chicago Title Insurance Company as closing escrow agent (the "Closing Escrow Agent") all Sale
22 Proceeds for the separate account of each selling Debtor. Upon closing, the Closing Escrow Agent
23 shall remit the Sale Proceeds to the separate accounts for each selling Debtor (each such account
24 hereafter referred to as "Escrow Deposit Account").

25 b. in giving direction to Prime pursuant to sub-paragraph (a), above, the
26 Debtors shall exercise their reasonable business judgment, in good faith, and allocate the Sale
27 Proceeds among the Escrow Deposit Accounts on the basis of the value of each Debtor's Purchased
28 Assets as of the Closing which allocation, for the avoidance of doubt, shall be subject to the

1 reservations of rights in paragraph 4 of the Final DIP Order; provided that nothing in this paragraph
2 shall waive or limit any rights the Committee or the Prepetition Secured Creditors may have in
3 connection with the confirmation of a proposed chapter 11 plan for any of the Debtors' cases
4 (including the right to seek to reallocate estate values and the Sale Proceeds at any time);

5 c. no funds held in any Escrow Deposit Account shall be (i) commingled with
6 any other funds of the applicable Debtor or any of the other Debtors or (ii) used by the Debtors for
7 any purpose, except as provided by paragraphs 17, 19, 20, and 22 of this Order with respect to Cure
8 Costs, and to fund any Purchase Price adjustment in favor of Prime under the APA, in each case,
9 without first obtaining the consent of the Prepetition Secured Creditors or obtaining an order of the
10 Court pursuant to § 363 after reasonable notice under the circumstances to the Prepetition Secured
11 Creditors and to the Committee and, if necessary, a hearing thereon;

12 d. establishment of an Escrow Deposit Account shall not require execution by
13 the Debtors of a deposit account control agreement in favor of the Prepetition Secured Creditors to
14 establish their perfected lien rights over the Escrow Deposit Account balances as collateral or
15 proceeds of collateral (which lien rights shall be deemed automatically granted and perfected by
16 the terms of the Financing Orders and this Order); and

17 e. for the avoidance of doubt, the rights of the Debtors, the Committee, and the
18 Prepetition Secured Creditors as to the Sale Proceeds and any funds held in any Escrow Deposit
19 Accounts shall be, except as set forth herein, as contemplated by Paragraph 4 of the Final DIP Order
20 and the terms of the Financing Orders, and nothing in this Order shall be construed as altering,
21 amending, waiving, or affecting in any way such rights or any rights under the Intercreditor
22 Agreement, to the extent applicable.

23 17. Concurrently with the Closing or as soon thereafter as is possible, and in accordance
24 with the APA, the Debtors shall pay out of the Sale Proceeds to the Counterparties to the Assigned
25 Contracts the Cure Amounts either as (i) set forth in the Cure Notice, (ii) otherwise agreed to by
26 the Debtors, Prime, and the applicable Counterparties thereto, or (iii) ordered by this Court after a
27 hearing on any objection to the Cure Amount set forth in the Cure Notice. Prime has the right under
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1 the APA to remove any contracts from the list of Assigned Contracts up to thirty (30) days prior to
2 Closing.

3 18. Any executory contracts and/or unexpired leases, which give rise to Cure Costs and
4 are designated as Assigned Contracts and are not timely removed from the Assigned Contracts list
5 by Prime under the APA shall be deemed Assigned Contracts at the Closing, subject to the
6 provisions of the APA and this Sale Order. The Court shall resolve any and all disputes which may
7 arise between the Debtors, Prime, and any applicable Counterparty concerning (i) whether a
8 particular Assigned Contract is an executory contract or unexpired lease or (ii) whether a
9 Counterparty to an Assigned Contract is entitled to an allowed claim against the Debtors which
10 exceeds the Cure Amount set forth in the Cure Notice (an “Assumption Dispute”).

11 19. All of the Assigned Contracts, to the extent they are executory contracts or
12 unexpired leases and are not subsequently and timely removed by Prime under the APA, or deemed
13 a rejected contract within the meaning of § 1.11 of the APA, shall be part of the Assigned Contracts
14 that will be assumed by the Debtors and assigned to Prime at the Closing, subject to the provisions
15 of the APA. All Assigned Contracts shall be assumed by the Debtors and assigned to Prime at the
16 Closing, with Prime to be obligated to pay all Cure Costs owing to such Assigned Contract Counter-
17 Parties concurrently with the Closing, as set forth in the APA, or as otherwise agreed to by the
18 Debtors, Prime and the applicable counter-parties thereto, or ordered by the Court (the “Additional
19 Cure Costs”), so long as such amount as ordered by the Court is no greater than the amount agreed
20 upon by Prime; and in the event the Additional Cure Costs is greater than the amount agreed upon
21 by Prime, and Prime is not willing to pay the Additional Cure Costs, the Debtors shall not be
22 required to pay the Additional Cure Cost(s) and the Assigned Contract(s) shall be deemed a rejected
23 contract within the meaning of § 1.11 of the APA and this Sale Order, and funds in an amount equal
24 to the Cure Amount for such Rejected Contract shall be returned to Prime within seven (7) business
25 days of such contract being deemed a rejected contract pursuant to the APA; provided, and for the
26 avoidance of doubt, except as provided in Section 4.9 of the APA, no collective bargaining
27 agreement, pension plan or health and welfare plan providing collectively bargained benefits to
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1 which the Hospital is a party or sponsor constitutes an Assigned Contract for which Prime or the
2 Debtors may be obligated to pay any cure amount.

3 20. In the event the Court determines that a Counterparty has an allowed cure claim
4 against the Debtors which exceeds the Cure Cost agreed to between the Debtors and Prime (the
5 “Excess Cure Amount”) with respect to an Assigned Contract, the difference will be paid by Prime
6 as an increase to the Cure Pool and the Purchase Price and shall not be the responsibility of the
7 Debtors as more specifically set forth below; provided, however, that an Assigned Contract subject
8 to an Assumption Dispute shall be deemed a “Rejected Contract” within the meaning of § 1.11 of
9 the APA if the Assumption Dispute is not resolved by the later of (i) three days following entry of
10 an order, or (ii) removal of the Assigned Contract from the list of Assigned Contracts on or before
11 thirty (30) days prior to Closing, unless the Debtor, Prime, and the applicable Counterparty agree
12 otherwise. To the extent an Assumption Dispute relates solely to the Cure Amount, the Debtors
13 may, with Prime’s consent, assume and assign the applicable executory contract or unexpired lease
14 at Closing and prior to the resolution of the Assumption Dispute by the Bankruptcy Court, provided,
15 that the Bankruptcy Court has estimated the maximum cure payment, pursuant to § 502(c) and
16 Prime includes such amount in the Cure Pool to be held by the Debtors in the Sale Proceeds Account
17 for the relevant Debtor(s). The Debtors shall pay and hereby are authorized to pay disputed Cure
18 Amounts from the relevant Sales Proceeds Account(s) upon entry of a final and non-appealable
19 order by this Court to the extent Prime remitted to Sellers the amount required by this paragraph of
20 the Order.

21 21. Prime shall have the right to designate any contracts on the Assigned Contract list
22 as a Rejected Contract until the later of (i) three business days following entry of an order resolving
23 any Assumption Dispute or (ii) 5:00 p.m. (Pacific Time) on the day that is thirty (30) days prior to
24 Closing Date, provided further that the Debtors shall have the absolute right to remove any
25 Evaluated Contract from the list of Assigned Contracts in order to preserve avoidance claims.

26 22. Upon the Closing or as otherwise provided herein or under the APA, the Debtors are
27 authorized and directed to assume, assign and/or transfer each of the Assigned Contracts to Prime. At
28 the Closing, Prime shall pay out of the Sale Proceeds, which shall include the “Cure Pool” (as defined

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1 in the APA), the Cure Amounts identified pursuant to paragraph 17 above. Notwithstanding anything
2 in this Order to the contrary, and with the exception of Cure Amounts subject to Assumption Disputes
3 on the Closing Date (which shall be paid upon resolution of such Assumption Dispute), the Debtors shall
4 pay to the Counterparties of Assigned Contracts the applicable Cure Amount (including, any Excess
5 Cure Amount) from the Cure Pool upon the Closing or as soon thereafter as is reasonably practicable.
6 The Debtors' payment of such Cure Amounts are deemed the necessary and sufficient amounts to "cure"
7 all "defaults" with respect to all such Assigned Contracts under § 365(b). The foregoing payment shall
8 (i) effect a cure of all defaults existing under all such Assigned Contracts, and (ii) compensate all such
9 Counterparties for any actual pecuniary loss resulting from any such default. The Debtors shall then
10 have assumed and assigned to Prime, effective as of the Closing, subject to the provisions of the APA
11 and this Sale Order, all of the Assigned Contracts, and, pursuant to § 365(f), the assignment by the
12 Debtors of all such Assigned Contracts to Prime shall not be a default thereunder. After the payment of
13 the Cure Amounts, neither the Debtors nor Prime shall have any further liabilities to any Counterparties,
14 other than Prime's obligations under the Assigned Contracts that accrue and become due and payable
15 after the Closing Date, except as provided in Section 4.9 of the APA, are attributable solely to post-
16 Closing events or activities. In addition, adequate assurance of future performance has been
17 demonstrated by or on behalf of Prime with respect to all of the Assigned Contracts within the meaning
18 of §§ 365(b)(1)(c), 365(b)(3) (to the extent applicable) and 365(f)(2)(B). For the avoidance of doubt,
19 Prime shall not be liable for the payment of any liabilities or obligations, including but not limited to the
20 obligation to provide assurance of future performance, arising from or related to (a) any Rejected
21 Contracts, (b) any prepetition multiparty contract affecting more than one Debtor in addition to SFMC,
22 or (c) any CBA, pension plan, or health and welfare plan providing for collectively bargained for benefits
23 to which SFMC is a party or a sponsor, unless expressly assumed and assigned with Prime's consent or
24 as otherwise set forth in this Sale Order.

25 23. The Debtors intend, and are hereby authorized, to (A) reject, pursuant to § 365(a), all
26 executory contracts to which SFMC is a party, excluding (i) Assigned Contracts, and (ii) any
27 prepetition multiparty contract affecting more than one Debtor in addition to SFMC, and, (B) reject
28 and terminate, to the extent separately authorized by this Court, pursuant to §§ 1113, 1114, and any

1 other applicable provision of the Bankruptcy Code, any CBA, pension plan or health and welfare
2 plan providing collectively bargained benefits to which SFMC is a party or sponsor.

3 24. All of the Counterparties are forever barred, estopped, and permanently enjoined from
4 (i) raising or asserting against the Debtors or Prime, or any of their property, any assignment fee,
5 acceleration, default, breach, or claim of pecuniary loss, or condition to assignment, arising under or
6 related to the Assigned Contracts, existing as of the Closing, or arising by reason of the consummation
7 of the Transaction contemplated by the APA, including, without limitation, the Transaction and the
8 assumption and assignment of the Assigned Contracts, including any asserted breach relating to or
9 arising out of the change-in-control provisions in such Assigned Contracts, or any purported written or
10 oral modification to the Assigned Contracts and (ii) asserting against Prime any claim, counterclaim,
11 breach, or condition asserted or assertable against the Debtors existing as of the Closing or arising by
12 reason of the transfer of the Purchased Assets.

13 25. Any provisions in any Assigned Contracts that prohibit or condition the assignment of
14 such Assigned Contract or allow the counterparty to such Assigned Contract to terminate, recapture,
15 impose any penalty, condition on renewal or extension or modify any term or condition upon the
16 assignment of such Assigned Contract constitute unenforceable anti-assignment provisions that are void
17 and of no force and effect with respect to the Debtors' assumption and assignment of such Assigned
18 Contract to Prime in accordance with the APA, pursuant to § 363(f).

19 26. The terms and provisions of this Sale Order, as well as the rights granted under the
20 Transaction Documents, shall continue in full force and effect and are binding upon any successor,
21 reorganized Debtors, or chapter 7 or chapter 11 trustee applicable to the Debtors, notwithstanding entry
22 of any order of conversion or dismissal. Nothing contained in any chapter 11 plan confirmed in the
23 Debtors' cases or in any order confirming such a plan, nor any order dismissing the cases or converting
24 the cases to a case under chapter 7, shall conflict with or derogate from the provisions of the APA, any
25 documents or instruments executed in connection therewith, or the terms of this Sale Order, provided
26 however, that in the event of a conflict between this Sale Order and an express or implied provision of
27 the APA, this Sale Order shall govern. The provisions of this Sale Order and any actions taken pursuant
28 hereto shall survive any conversion or dismissal of the cases and the entry of any other order that may

1 be entered in the cases, including any order (i) confirming any plan of reorganization; (ii) converting the
2 cases from chapter 11 to chapter 7; (iii) appointing a trustee or examiner in the cases; or (iv) dismissing
3 the cases.

4 27. The Transaction contemplated by the APA and other Transaction Documents are
5 undertaken without collusion and in “good faith,” as that term is defined in § 363(m). Prime is a good
6 faith purchaser within the meaning of § 363(m) and, as such, is entitled to the full protections of § 363(m).
7 Accordingly, the reversal or modification on appeal of the authorization provided herein by this Sale
8 Order to consummate the Transaction shall not affect the validity of the sale of the Purchased Assets to
9 Prime or the terms thereof. The APA and the Transactions contemplated thereby cannot be avoided
10 under § 363(n).

11 28. The failure to specifically include any particular provision of the APA or the other
12 Transaction Documents in this Sale Order shall not diminish or impair the effectiveness of such
13 provisions, it being the intent of the Bankruptcy Court that the Transaction, the APA and the other
14 Transaction Documents be authorized and approved in their entirety. Likewise, all of the provisions of
15 this Sale Order are non-severable and mutually dependent.

16 29. This Order constitutes a final and appealable order within the meaning of 28 U.S.C.
17 § 158(a). Notwithstanding Rules 6004(h), 6006(d), 7062, or 9014, if applicable, or any other LBR or
18 otherwise, this Sale Order shall not be stayed for 14-days after the entry hereof, but shall be effective and
19 enforceable immediately upon entry pursuant to Rule 6004(h) and 6006(d). Time is of the essence in
20 approving the Transaction (including the transfer and the sale of the Purchased Assets).

21 30. The automatic stay in effect pursuant to § 362 is hereby lifted with respect to the Debtors
22 to the extent necessary, without further order of this Court, to (i) allow Prime to deliver any notice
23 provided for in the APA and Transaction Documents and (ii) allow Prime to take any and all actions
24 permitted under the APA and Transaction Documents in accordance with the terms and conditions
25 thereof.

26 31. Unless otherwise provided in this Sale Order, to the extent any inconsistency exists
27 between the provisions of the APA and this Sale Order, the provisions contained in this Sale Order shall
28 govern.

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1 32. This Court shall retain exclusive jurisdiction to interpret, construe, and enforce the
2 provisions of the APA and this Sale Order in all respects, and further, including, without limitation, to
3 (i) hear and determine all disputes between the Debtors and/or Prime, as the case may be, and any other
4 non-Debtor party to, among other things, the Assigned Contracts concerning, among other things,
5 assignment thereof by the Debtors to Prime and any dispute between Prime and the Debtors as to their
6 respective obligations with respect to any asset, liability, or claim arising hereunder; (ii) compel delivery
7 of the Purchased Assets to Prime free and clear of Encumbrances; (iii) compel the delivery of the
8 Purchase Price or performance of other obligations owed to the Debtors; (iv) interpret, implement, and
9 enforce the provisions of this Sale Order; and (v) protect Prime against (A) claims made related to any
10 of the Excluded Liabilities (as defined in the APA), (B) any claims of successor or vicarious liability (or
11 similar claims or theories) related to the Purchased Assets or the Assigned Contracts, or (C) any
12 Encumbrances asserted on or against Prime or the Purchased Assets.

13 33. Following the date of entry of this Sale Order, the Debtors and Prime are authorized to
14 make changes to the APA and/or execute supplemental agreements implementing the transactions
15 contemplated by the APA without the need for any further order of the Court provided that all such
16 changes have been approved in writing by the Debtors, Prime, the Committee, and Prepetition Secured
17 Creditors. Any other proposed changes to the APA or this Sale Order shall require a further order of the
18 Court, after reasonable notice under the circumstances and a hearing.

19 34. Notwithstanding any other provision of this Sale Order or any other Order of this Court,
20 no sale, transfer or assignment of any rights and interests of a regulated entity in any federal license or
21 authorization issued by the FCC shall take place prior to the issuance of FCC regulatory approval for
22 such sale, transfer or assignment pursuant to the Communications Act of 1934, as amended, and the rules
23 and regulations promulgated thereunder. The FCC's rights and powers to take any action pursuant to its
24 regulatory authority, including, but not limited to, imposing any regulatory conditions on such sales,
25 transfers and assignments and setting any regulatory fines or forfeitures, are fully preserved, and nothing
26 herein shall proscribe or constrain the FCC's exercise of such power or authority to the extent not
27 inconsistent with the applicable provisions of the Bankruptcy Code.
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1 35. Debtors shall make commercially reasonable efforts to enter into settlement agreements
2 with the Centers for Medicare and Medicaid Services (“CMS”), with respect to the Medicare Provider
3 Agreement, and the California Department of Health Care Services (“DHCS”), with respect to the Medi-
4 Cal Provider Agreement or, alternatively, obtain Bankruptcy Court rulings and pursue possible appeals
5 that the Medicare Provider Agreement and/or the Medi-Cal Provider Agreement may be transferred
6 without the consent of CMS or DHCS, as applicable, and without successor liability, and free and clear
7 of all Encumbrances, to enable such agreements to be assigned to Prime. Between the Closing Date and
8 the Licensure Date, Prime may bill and collect for patient services under Debtors’ health plan
9 agreements, pursuant to the terms of the IMA and Leaseback Agreement (as those terms are defined in
10 the APA).

11 36. For the avoidance of doubt, no pension plans are being assumed pursuant to the APA or
12 this Sale Order.

13 37. Notwithstanding anything to the contrary in this Sale Order, nothing in this Sale Order
14 constitutes a finding or determination on (a) any Cure Objection or (b) on the ability of the Debtors to
15 assume and assign to Prime any contract or lease held by a Counterparty subject to any order extending
16 the deadlines related to such Cure Objections (the “Extended Contracts”). All Cure Objections, and any
17 objections related to assumption and assignment of the Extended Contracts, are preserved until resolved
18 either by agreement between the Debtors and the Counterparty or further order of the Court.

19 38. The California Attorney General, the Debtors, the Consultation Parties (as defined in the
20 Bidding Procedures Order) and Prime, reserve all rights, arguments and defenses concerning the
21 California Attorney General’s authority, if any, to review the sale under California Corporations Code
22 §§ 5914-5924 and California Code of Regulations on Nonprofit Hospital Transactions—Title 11,
23 Chapter 15, § 999.5, and any conditions issued thereto. Notwithstanding any provision to the contrary
24 in the APA or the Sale Order, nothing in the APA or this Sale Order shall limit or be construed as a
25 waiver of the Attorney General’s statutory or regulatory authority or other rights or defenses, or a waiver
26 of the Debtors’ statutory or other rights or defenses.

27 39. Notwithstanding anything to the contrary in the Motion, the Bidding Procedures, the
28 Bidding Procedures Order, any Cure Notice or assumption notice, any purchase agreement, or this

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1 Sale Order (i) none of the insurance policies or any related agreements (collectively, the “Chubb
2 Insurance Contracts”) issued at any time by Federal Insurance Company, ACE American Insurance
3 Company, Illinois Union Insurance Company and each of their affiliates and successors
4 (collectively, “Chubb”), or any rights, benefits, claims, rights to payments and/or recoveries under
5 the Chubb Insurance Contracts shall be sold, assigned or otherwise transferred to the Buyer in
6 connection with the Sale; (ii) nothing shall alter, modify or otherwise amend the terms or conditions
7 of the Chubb Insurance Contracts; and (iii) for the avoidance of doubt, the Winning Bidder is not,
8 and shall not be deemed to be, an insured under any of the Chubb Insurance Contracts; *provided,*
9 *however,* that to the extent any claim with respect to any Purchased Assets arises that is covered by
10 the Chubb Insurance Contracts and the proceeds of the applicable Chubb Insurance Contract would
11 be payable to the Debtors (as opposed to a third party claimant), the Debtors may pursue such claim
12 in accordance with the terms of the Chubb Insurance Contracts, and, if applicable, turn over to the
13 Winning Bidder any such insurance proceeds (each, a “Proceed Turnover”); *provided, further,*
14 *however,* that the Chubb Companies shall not have any duty to effectuate a Proceed Turnover or
15 liability related to a Proceed Turnover.

16 40. The conditions precedent to the Closing are as set forth in Articles 7 and 8 of the APA.

17 41. The Committee’s and the Prepetition Secured Creditors’ rights, and their ability to
18 participate and be heard at hearings concerning the Sale, are hereby reserved. To the extent that the
19 Prepetition Secured Creditors or the Committee desire to file pleadings related to such hearings, their
20 respective times for filing an objection or response shall be the same as granted to the Debtors pursuant
21 to the notice in each such instance.

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IT IS SO ORDERED.

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Date: April 9, 2020



Ernest M. Robles
United States Bankruptcy Judge