Docket #4741 Date Filed: 5/19/2020

SAMUEL R. MAIZEL (Bar No. 189301)
samuel.maizel@dentons.com
TANIA M. MOYRON (Bar No. 235736)
tania.moyron@dentons.com
SAM J. ALBERTS (pro hac vice)
sam.alberts@dentons.com
DENTONS US LLP
601 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5704
Tel: (213) 623-9300 / Fax: (213) 623-9924
Attorneys for the Chapter 11 Debtors and Debtors In Possession

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

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

In re

VERITY HEALTH SYSTEM OF CALIFORNIA, INC., *et al.*,

Debtors and Debtors In Possession.

☒ Affects All Debtors

☐ Affects Verity Health System of California, Inc.
☐ Affects O'Connor Hospital
☐ Affects Saint Louise Regional Hospital
☐ Affects St. Francis Medical Center
☐ Affects St. Vincent Medical Center
☐ Affects Seton Medical Center
☐ Affects O'Connor Hospital Foundation
☐ Affects Saint Louise Regional Hospital Foundation
☐ Affects St. Francis Medical Center of Lynwood Foundation
☐ Affects St. Vincent Foundation
☐ Affects St. Vincent Dialysis Center, Inc.
☐ Affects Seton Medical Center Foundation
☐ Affects Verity Business Services
☐ Affects Verity Medical Foundation
☐ Affects Verity Holdings, LLC
☐ Affects De Paul Ventures, LLC
☐ Affects De Paul Ventures - San Jose Dialysis, LLC

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

DEBTORS' MOTION UNDER § 1113 OF THE BANKRUPTCY CODE TO REJECT COLLECTIVE BARGAINING AGREEMENT WITH SEIU; DECLARATIONS OF RICHARD G. ADCOCK AND STEVEN SHARRER IN SUPPORT THEREOF

Hearing:
Date: June 3, 2020
Time: 10:00 a.m.
Location: Courtroom 1568
255 E. Temple St., Los Angeles, CA

1820151200519000000000013

PLEASE TAKE NOTICE that, at the above-referenced date, time and location, Verity Health System of California, Inc., ("VHS"), and the above-referenced affiliated debtors and debtors in possession (collectively, the "Debtors") in the above captioned chapter 11 bankruptcy cases (the "Cases"), move for relief (the "Motion"), pursuant to § 1113 of the Bankruptcy Code, for the entry of an order (A) rejecting and terminating all terms of that certain Collective Bargaining Agreement (the "CBA") (cover sheet attached as **Exhibit "1"**) between St. Francis Medical Center ("SFMC") and the Service Employees International Union, United Healthcare Workers-West ("SEIU" or the "Union"), (B) to be effective upon the "Closing" (as that term is defined in the Asset Purchase Agreement dated April 3, 2020 (the "APA") [Docket No. 4471, Ex. B] between VHS, Verity Holdings, LLC, a California limited liability company, and SFMC, on the one hand, and Prime Healthcare Services, Inc. ("Prime"), on the other, for the sale of substantially all of the assets of SFMC (the "Sale") that was approved by the Court in that *Order 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* [Docket No. 4511] (the "Sale Order"), but without prejudice to seek interim modification of the CBA pending Closing under § 1113(e).

PLEASE TAKE FURTHER NOTICE that this Motion is based on this Notice of Motion and Motion, the *Declaration of Richard G. Adcock* and the *Declaration of Steven Sharrer* filed concurrently herewith, the *Declaration of Richard G. Adcock in Support of Emergency First-Day Motions* [Docket No. 8], the supporting testimony and exhibits cited in the Motion, the statements, arguments and representations of counsel who will appear at the hearing on the Motion, the record in these cases, and any other evidence properly brought before the Court in all other matters of which this Court may properly take judicial notice.

PLEASE TAKE FURTHER NOTICE that, in accordance with 11 U.S.C. § 1113(d)(1), which allows final hearings on ten-days' notice and hearings within 14 days of the filing of a motion to reject, a hearing on this Motion will be heard on June 3, 2020, at 10:00 a.m. (Pacific Time). *See also* LBR 9013-1(a)(4) (balance of LBR 9013-1 does not apply to § 1113 rejection motions).

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

PLEASE TAKE FURTHER NOTICE that any party opposing or responding to the Motion must file and serve the response ("Response") on the moving party and the United States Trustee before the hearing and, as applicable, as ordered by this Court. A Response must be a complete written statement of all reasons in opposition thereto or in support, declarations and copies of all evidence on which the responding party intends to rely, and any responding memorandum of points and authorities.

PLEASE TAKE FURTHER NOTICE that, pursuant to LBR 9013-1(h), the failure to file and serve a timely objection to the Motion may be deemed by the Court to be consent to the relief requested herein.

Dated: May 19, 2020

DENTONS US LLP
SAMUEL R. MAIZEL
TANIA M. MOYRON
SAM J. ALBERTS

By */s/ Tania M. Moyron*
Tania M. Moyron

Attorneys for the Chapter 11 Debtors and Debtors In Possession

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

TABLE OF CONTENTS

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Verity Health System Of California, Inc. ("VHS"), and the above-referenced affiliated debtors and debtors in possession (collectively, the "Debtors") in the above captioned chapter 11 bankruptcy cases (the "Cases") request, pursuant to § 1113,[1] the entry of an order (A) rejecting and terminating all terms of that Collective Bargaining Agreement (the "CBA" attached as **Exhibit "1"**) between St. Francis Medical Center ("SFMC") and the Service Employees International Union, United Healthcare Workers-West ("SEIU" or "Union"),[2] (B) to be effective upon the "Closing," (as that term is defined in the Asset Purchase Agreement, dated April 3, 2020 (the "APA") [Docket No. 4471, Ex. B], between VHS, Verity Holdings, LLC, a California limited liability company, and SFMC, on the one hand, and Prime Healthcare Services, Inc. ("Prime"), on the other, for the sale of substantially all of the assets of SFMC (the "Sale"), approved by the Court in that certain sale order [Docket No. 4511] (the "Sale Order"), but without prejudice to seek interim modification of the CBA pending Closing under § 1113(e).

The Debtors move to reject the CBA because a thorough, Court-approved, marketing process (the "Marketing Process") produced only one "Qualified Bid," from Prime and, upon Closing of the Sale, the Debtors will no longer will be operating SFMC. Prior to the filing of this Motion, the Debtors facilitated discussions and negotiations between Prime and the Union in accordance with the terms of the APA, with the objective that the Union and Prime could enter into a new or modified CBA. Those discussions failed to result in an agreement between the Union and Prime within the 30-day period contained in the APA and, as a result, "the Sellers [now] have the absolute right to file or take any other action to reject and terminate [the CBA]." APA § 4.9(b).

---

[1] Unless otherwise indicated, all chapter and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532. All "Rule" references are to the Federal Rules of Bankruptcy Procedure. All "LBR" references are to the Local Bankruptcy Rules for the United States Bankruptcy Court for the Central District of California.

[2] Debtors St. Louise Hospital ("SLRH"), O'Connor Hospital ("OCH"), St. Vincent Medical Center ("SVMC") were previously parties to the SEIU CBA. The Debtors obtained an order removing SLRH and OCH [Docket No. 1577] and after the failed closing of the SGM (defined infra) transaction, SEIU and the Debtors agreed to modify the SEIU CBA to remove reference and applicability to SVMC [Docket No. 4340].

On May 13, 2020, the Debtors issued to the Union a proposal seeking consensual rejection and termination of the CBA pursuant to § 1113 (the "Proposal," a copy of which is attached hereto as **Exhibit "2"**) that included an offer to provide severance benefits for Union-represented employees at SFMC whom are not rehired by Prime. The Proposal requested acceptance by May 18, 2020 and stated that absent such consent, the Debtors would be compelled to seek formal § 1113 relief. On May 18, 2020, the Union advised the Debtors in writing (a copy of which is attached hereto as "**Exhibit "3"**) that it would not consent to the rejection of the CBA.

Based upon the Union's actions, the Debtors are compelled to seek formal rejection and termination of the CBA. As will be demonstrated herein, rejection, which will occur upon the Closing of the Sale to Prime, is appropriate. Notwithstanding this Motion, and in accordance with the requirements of § 1113 the Debtors remain available to conduct negotiations concerning the terms of rejection and termination of the CBA and are open to receiving counterproposals from the Union concerning rejection and termination. Moreover, although the Debtors welcome Prime and the Union to reach agreement under the terms of a new CBA that will become effective upon Closing, the Debtors are no longer under any obligation under the APA, nor under § 1113, to facilitate discussions between Prime and the Union.

For these and other reasons noted below, and without prejudice to the Debtors' right to seek interim modification of the CBA under § 1113(e), the Debtors request that the Court approve the rejection and termination of the CBA effective upon Closing.

II. JURISDICTION AND VENUE

The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The venue of these cases is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

III. STATEMENT OF FACTS

A. General Background.

1. On August 31, 2018 ("Petition Date"), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Since the commencement of their Cases, the Debtors have been operating their businesses as debtors in possession pursuant to §§ 1107 and

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

1108.

2. Debtor VHS, a California nonprofit public benefit corporation, is the sole corporate member of Debtor California nonprofit public benefit corporations. *Declaration of Richard G. Adcock in Support of Emergency First-Day Motions* at 4, ¶ 11 (the "First-Day Decl.").

3. SFMC owns real property commonly known as: (i) 3630 E. Imperial Highway Lynwood, CA 90262, including the patient tower and all of the facilities thereon; (ii) 2700 E. Slauson Ave, Huntington Park, CA 90255, and the Huntington Park Medical Office Building thereon; and (iii) 5953 S. Atlantic Blvd. 5, Maywood, CA 90270, and Maywood Medical Office Building thereon and operates the hospital under its same name. First-Day Decl., at 6, ¶ 22.

B. The CBA.

4. Approximately 941 employees are covered under the SEIU CBA (the "Represented Employees"). *See* Declaration of Steven Sharrer (the "Sharrer Decl."), at ¶ 7. The Represented Employees are service workers, including, but not limited to, environmental services aides, certified nurse assistants, unit coordinators, and technical workers, including but not limited to radiological technician and pharmacy technicians.

5. The Debtors' obligations to represented employees under the CBA and other collective bargaining agreements were a factor in filing these Cases. First Day Declaration at 24-25, ¶ 95 (noting the "inability to renegotiate [CBA]s" leading to the filing of the Cases).

6. On the Petition Date, the Debtors filed their *Emergency Motion Of Debtors For Entry Of Order: (I) Authorizing The Debtors To (A) Pay Prepetition Employee Wages And Salaries, And (B) Pay And Honor Employee Benefits And Other Workforce Obligations; And (II) Authorizing And Directing The Applicable Bank To Pay All Checks And Electronic Payment Requests Made By The Debtors Relating To The Foregoing; Memorandum Of Points And Authorities In Support Thereof* [Docket No. 26] (the "Wage Motion") seeking an order to pay priority employee claims and to pay employees in the ordinary course of business for post-petition work. The Wage Motion did not seek authority to pay general unsecured claims, including significant claims arising in connection with prepetition pension obligations claims.

7. On October 22, 2018, the Court granted the Wage Motion in its *Final Order*

DENTONS US LLP
601 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5704
(213) 623-9300

Granting the [Debtors'] Emergency Motion of Debtors for Entry of Order: (I) Authorizing the Debtors to (A) Pay Prepetition Employee Wages and Salaries, and (B) Pay and Honor Employee Benefits and Other Workforce Obligations; and (II) Authorizing and Directing the Applicable Bank to Pay All Checks and Electronic Payment Requests Made by the Debtors Relating to the Foregoing [Docket No. 612], concurrently entered its *Memorandum of Decision (1) Overruling Objections to the (A) Prepetition Wages Motion and (B) Financing Motions and (2) Denying Motion for Reconsideration of the Final Financing Order* [Docket No. 614] (together, the "Wage Order") and ordered the payment of priority and administrative wage and benefit claims, including for Represented Employees. The Court "denied without prejudice" the Union claimants' ability to request, by motion, that the (contested as to classification) underfunded pre-petition pension liabilities be paid as administrative claims by the Debtors. *Id.*

C. The Proofs of Claim

8. SEIU has filed fourteen proofs of claims in these Cases: (claim nos. 4718, 4719, 4722, 4723, 4725, 4726, 5117, 5137, 5140, 5150, 5160, 5158, 6186, 6221) (together, the "Proofs of Claim"). The Proofs of Claim seek, *inter alia*, pre-petition pension contributions, severance payments, grievances and rejection damages.

D. The Debtors' Pre And Post-Petition Efforts To Sell SFMC.

9. Previously, SFMC was owned by the Daughters of Charity Healthcare System ("DCHS"). Despite continuous efforts to improve operations, operating losses continued to plague the health system due to, among other things, mounting labor costs, low reimbursement rates and the ever-changing healthcare landscape. In 2013, DCHS actively solicited offers for SFMC and the Debtors' other hospitals (the "Hospitals"). First-Day Decl., at 22, ¶ 86.

10. In early 2014, DCHS announced that they were beginning a process to evaluate strategic alternatives for the health system. First-Day Decl., at 22-23, ¶ 87. Throughout 2014, DCHS explored offers to sell their hospital system, including the Hospitals, and, in October 2014, they entered into an agreement with Prime and Prime Healthcare Foundation to sell the health system. *Id.* However, to keep the hospitals open, DCHS needed to borrow $125 million to mitigate immediate cash needs during the sales process; in other words, to allow DCHS to continue to

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

operate until the sale could be consummated. In early 2015, the California Attorney General consented to the sale to Prime, subject to conditions on that sale that were so onerous that Prime terminated the transaction. *Id.*

11. In 2015, DCHS again marketed their health system for sale, and, again, focused on offers that maintained the health system as a whole, and assumed all the obligations. First-Day Decl., at 23, ¶ 88. In July 2015, the DCHS Board of Directors selected BlueMountain Capital Management LLC ("BlueMountain"), a private investment firm, to recapitalize its operations and transition leadership of the health system in the restructured Verity Health System (the "BlueMountain Transaction"). *Id.* In connection with the BlueMountain Transaction, BlueMountain agreed to make a capital infusion of $100 million to the health system, arrange loans for another $160 million to the health system, and manage operations of the health system, with an option to buy the health system at a future time. In addition, the parties entered into a System Restructuring and Support Agreement, and DCHS's name was changed to Verity Health System of California, Inc. First-Day Decl., at 23, ¶ 89.

12. On December 3, 2015, the California Attorney General approved the BlueMountain Transaction, subject to conditions. Despite BlueMountain's infusion of cash and retention of various consultants and experts to assist in improving cash flow and operations, the health system did not prosper. First-Day Decl., at 24, ¶ 93.

13. In July 2017, NantWorks, LLC ("NantWorks") acquired a controlling stake in Integrity. NantWorks brought in a new CEO, CFO, and COO. NantWorks loaned another $148 million to the Debtors. First-Day Decl., at 24, ¶ 94. Despite the infusion of capital and new management, it became apparent that the problems facing VHS were too large to solve without a formal court-supervised restructuring. *Id.* at 24-25, ¶ 95. Thus, despite VHS' great efforts to revitalize its hospitals and improvements in performance and cash flow, the legacy burden of more than a billion dollars of bond debt and unfunded pension liabilities, an inability to renegotiate CBAs (including the CBA here) or payor contracts, the continuing need for significant capital expenditures for seismic obligations and aging infrastructure, and the general headwinds facing the hospital industry, made success impossible. *Id.* Losses continued to amount to approximately $175

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

million annually on a cash flow basis. *Id.*

14. Prior to the Petition Date, the Debtors engaged in substantial efforts to market and sell their assets. In June 2018, the Debtors engaged Cain Brothers, a division of KeyBanc Capital Markets ("Cain"), to identify potential buyers of the hospitals and related assets and commenced discussions with those potential buyers.[3] First-Day Decl., at 34, ¶ 128.

15. Cain prepared a Confidential Investment Memorandum and organized an online data site to share information with potential buyers and contacted over 110 strategic and financial buyers beginning in July 2018 to solicit their interest in exploring a transaction regarding the Debtors and has advanced significantly towards achieving sales. First-Day Decl., at 34-35 ¶ 129; First Moloney Decl., at ¶ 4.

16. By August 2018, as a result of its ongoing and broad marketing process, Cain had received 11 Indications of Interest ("IOI"), and continued to develop potential sales. First-Day Decl., at 35, ¶ 130; First Moloney Decl., at ¶ 5.

E. Postpetition Sale Efforts

17. Postpetition, Cain continued to work with potential buyers for the sale of some or all of the Debtors' assets (the "Assets"). First Moloney Decl., at ¶ 5. Based on these discussions, the Debtors determined that seeking a buyer for the Assets in Santa Clara County and a separate buyer for the other Assets would most likely yield higher net proceeds for the Debtors' estates. *Id.* As a result, the sale of OCH and SLRH to Santa Clara County ("SCC") was approved by the Court on December 27, 2018 [Docket No. 1153] (the "SCC Sale").

F. The Santa Clara Sale and § 1113 Rejections

18. Under terms of the SCC Sale, SCC did not want and would not accept existing collective bargaining agreements between the Debtors and unions. As a result, the Debtors, after making proposals to each of four applicable unions, one of which was SEIU, filed motions seeking

[3] The Debtors fully incorporate the previously filed *Declaration re: of James M. Moloney In Support of The Debtors Memorandum. In Support of Entry of an Order: (A) Authorizing The Sale Of Property Free And Clear Of All Claims, Liens and Encumbrances; (B) Authorizing The Assumption and Assignment Of Designated Executory Contracts And Unexpired Leases; and (C) Granting Related Relief,* (Docket No. 2220, the "First Moloney Decl.") which describe in detail the Debtors' pre- and postpetition marketing activities of their assets, including SFMC.

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

rejection and termination of collective bargaining agreements between unions and each hospital, and modification of applicable master bargaining agreements so as to eliminate all reference and applicability to OCH and SLRH (collectively, the "SCC Rejection Motion," and each a "SCC Rejection Motion"). Docket Nos. 1191-1194 (with respect to SEIU, the applicable SCC Rejection Motion appears at Docket No. 1192).

19. Thereafter, two unions —the Engineers and Scientists of California Local 20, IFPTE Local 20 ("Local 20") and the California Licensed Vocational Nurses Association ("CLVNA") — reached agreement with the Debtors concerning consensual rejection and termination of their collective bargaining agreements [Docket No. 1372 and 1373] and two others—SEIU and California Nurses Association ("CNA")—did not. After further briefing, the Debtors obtained final orders rejecting their CBA obligations covering OCH and SLRH (the "SCC Rejection") [Docket Nos. 1575-1578] upon the SCC Sale, including obligations under SEIU's CBA, in that *Order Granting Debtors' Motion Under Section 1113 Of The Bankruptcy Code To Modify, Reject And Terminate The Terms Of Service Employee International Union-United Healthcare Workers-West's Collective Bargaining Agreements With Certain Debtors Upon The Closing Of The Sale Of Hospitals To Santa Clara County* [Docket No. 1577]; *see also* Docket No. 1541 (tentative decision/memorandum) (the "Prior § 1113 Decision").

20. The outcome for members of the consenting unions (Local 20 and CLVNA) and the nonconsenting (SEIU and CNA) unions differed. Among other things, members of the consenting unions who were not provisionally hired by SCC were entitled to receive severance, calculated under the accrual method by which amounts earned postpetition who receive administrative status, amounts earned within 180 days of the Petition Date were entitled to priority claim status (such to the cap under § 507(a)(4)) and other prepetition amounts would be treated as unsecured claims. *See* Exhibit 1 to each Docket Nos. 1372 and 1373. In contrast, the collective bargain agreements for the nonconsenting unions were rejected and terminated without any provision for corresponding benefits.

G. The SGM APA and Related Union Discussions and Settlements

21. After the SCC Sale, Cain focused on marketing the Debtors' remaining Assets,

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

including SFMC. First Moloney Decl., at ¶ 6. As a part of this process, Cain contacted 189 potential parties to evaluate potential stalking horse bidders for some or all of the Debtors' remaining Assets, of which 92 had executed an NDA and 18 submitted written proposals. *Id.* Subsequent to receiving access to the virtual data room and being offered additional information via conference calls and site visits, many of the potential purchasers indicated that they were not interested in being the stalking horse bidder. *Id.* During November and December 2018, the Debtors and their advisors had substantial discussions with those potential buyers remaining, during which Prime and Strategic Global Management, Inc. ("SGM") emerged as the leading potential candidates to be selected as the stalking horse bidders for the Debtors' remaining Assets. *Id.*

22. The Debtors first selected SGM as a stalking horse bidder for substantially all of the Debtors' remaining Assets, including SFMC. First Moloney Decl., at ¶ 7. On February 19, 2019, the Court held a hearing and thereafter entered an order approving that certain asset purchase agreement with SGM [Docket No. 2305-1] (the "SGM APA") as modified therein.

23. On May 2, 2019, the Court entered the *Order (A) Authorizing the Sale of Certain of the Debtors' Assets to Strategic Global Management, Inc. Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (B) Approving the Assumption and Assignment of an Unexpired Lease Related Thereto; and (C) Granting Related Relief* [Docket No. 2306], approving the sale to SGM (the "SGM Sale"). Pursuant to the SGM APA, SGM agreed to continue to operate SFMC as well as the Debtors' other three hospital facilities. In addition, pursuant to the SGM APA, SGM agreed to provisionally hire substantially all SFMC employees and to negotiate in good faith with labor unions to modify the CBAs. SGM APA at §§ 4.7; 5.3; 5.11.

24. Starting in July and continuing into September 2019, the Debtors engaged in extensive negotiations with SGM and unions whose collective bargaining agreements were implicated by the SGM Sale. Attached Declaration of Richard G. Adcock (the "Adcock Decl.") at ¶ 3. These discussions were time and cost-intensive. *Id.* Ultimately, SGM and the unions were able to reach agreement on the terms of collective bargaining agreements that would become effective upon the closing of the SGM Sale, and related thereto, the Debtors and each union reached agreement on the transfer of CBAs to SGM and the resolution of claims related to the ultimate

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

closure of the hospitals being sold to SGM, including the Proofs of Claim (the "Settlement Agreements") (appended to Docket No. 3604) with the Union (and other labor unions). *See generally,* Declaration of Richard G. Adcock (Docket No. 3604). The Settlement Agreements were conditioned on the closing of the SGM Sale. *See generally,* Settlement Agreements (conditioning obligations on closing of SGM Sale).

25. On November 21, 2019, the Debtors filed their *Omnibus Motion For Approval of 1) Settlement Agreements With Labor Unions, 2) Assumption and Assignment of Modified Collective Bargaining Agreements To SGM, 3) Termination of Retiree Healthcare Benefits and 4) Related Relief* [Docket No. 3604] (the "Omnibus § 1113 Motion") seeking approval of the Settlement Agreements under § 1113. On December 4, 2019, the Court ruled in favor of the Omnibus §1113 Motion and approved the Settlement Agreements. Docket No. 3755.

26. The SGM sale did not close, and, as a result, the Settlement Agreements became null and void according to their terms.

H. The Sale of SFMC

27. After the SGM Sale did not close, the Court entered an order authorizing the Debtors to solicit and enter into an alternative disposition of SFMC and other the hospitals [Docket No. 3784] (the "Plan B Order"). Following entry of the Plan B Order, Cain commenced a new marketing process to identify parties potentially interested in acquiring SFMC as a going-concern. *See* Declaration of James M. Moloney [Docket No. 4471] (the "Moloney SFMC Sale Decl.")[4] at ¶ 4. Cain's marketing efforts are thoroughly described in the Moloney SFMC Sale. Dec.

28. On February 10, 2020, the Debtors filed a motion concerning the sale of substantially all of the assets of SFMC. *See Debtors' Notice of Motion and Motion for the Entry of (I) an Order (1) Approving Form of Asset Purchase Agreement; (2) Approving Auction Sale Format and Bidding Procedures, (3) Approving Process for Discretionary Selection of Stalking Horse Bidder and Bid Protections; (4) Approving Form of Notice to Be Provided to Interested Parties; (5) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest and Best Bidder; and (6) Approving Procedures Related to the Assumption of Certain Executory Contracts*

[4] The Moloney SFMC Sale Decl. is incorporated herein.

and Unexpired Leases; and (II) an Order Authorizing the Sale of Property Free and Clear of All Claims, Liens And Encumbrances (the "Sale and Bidding Procedures Motion") [Docket No. 4069].

29. On February 21, 2020, the Debtors filed their reply and supplement in support of the Sale and Bidding Procedures Motion [Docket No. 4132], including the Declarations of Richard G. Adcock and James M. Moloney in support thereof.

30. On February 26, 2020, the Court held a hearing on the Sale and Bidding Procedures Motion and thereafter entered an order approving the Sale and Bidding Procedures Motion (the "Bidding Procedures Order")[5] [Docket No. 4165]. The Bidding Procedures Order modified and approved the bidding procedures set forth in the Sale and Bidding Procedures Motion (the "Bidding Procedures"), and authorized the Debtors to designate a Stalking Horse Purchaser.

31. The Bidding Procedures Order established a deadline of April 3, 2020, at 5:00 p.m. (prevailing Pacific Time), for bidders to submit bids for the Assets (the "Bid Deadline"). An Auction, if necessary, was scheduled to take place on April 7, 2020, at 10:00 a.m. (prevailing Pacific Time).

32. The Debtors reviewed the bids received from the potential purchasers and, in consultation with their advisors, determined that the bids did not satisfy the requirements to be Qualified Bids. *Id.* Consequently, Prime became the Winning Bidder pursuant to the terms of the Bidding Procedures Order. *Id.*

33. On April 8, 2020, the Debtors filed their *Memorandum In Support of Entry of An Order, Pursuant To 11 U.S.C. § 363(B), (f), And (m), (A) Authorizing The Sale of St. Francis Medical Center And Related Assets Free And Clear of All Claims, Liens and Encumbrances; (B) Authorizing The Assumption And Assignment of Designated Executory Contracts And Unexpired Leases; And (C) Granting Related Relief* [Docket No. 4471], attaching the APA and seeking approval of the Sale.

I. The Prime APA.

34. Under the APA, the "Purchaser" is defined as Prime and the "Sellers" are defined

[5] Unless otherwise defined, all capitalized terms used herein shall have the meaning ascribed to them in the Bidding Procedures Order.

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

as SFMC, VHS and Verity Holdings, LLC (a copy of the APA is attached hereto as **Exhibit "4"**).

35. The Debtors sought approval of the APA because Prime's bid represented a fair market value for SFMC and Prime would maintain the healthcare characteristics of SFMC. Adcock Decl., at ¶ 4; Moloney SFMC Sale Decl., at ¶ 6. Moreover, under the APA, Prime agreed to provisionally hire "substantially all" of SFMC's employees (whether full time, part time, on leave, etc.), and to provide reasonable assurance, after the Closing of the administration of employee benefit plans for SFMC's employees. APA at §§ 5.3(a)(b). Prime also agreed to comply with any Bankruptcy Court order relating to the CBA. APA at §§ 5.3(c) (§ 5.3 of the APA is the "Provisional Hiring Clause").

36. The APA contains other employee related provisions. The Purchase Price under the APA (defined in APA, § 1.1(b)), includes a $200 million **"Base Price"** (APA §1.1(a)(i)) and, relevant here, a "[c]ash payment for Seller's payroll liabilities at Closing (the 'Payroll Amount') (which as of October 31, 2019, had an aggregate value of approximately Five Million Dollars ($5,000,000))," APA at § 1.1(a)(iv)), and a "[c]ash payment for accrued vacation and other paid time-off of employees, (the "PTO Payment"), which as of October 31, 2019, had an aggregate value of approximately Ten Million Dollars ($10,000,000)." APA at §1.1(a)(v) (defined terms in APA, are in bold rather than underlined).

37. Collective bargaining agreements are expressly "Excluded Assets" under the APA § 1.8(g) ("all collective bargaining agreements or other arrangements with unions representing Settlers employees"). However, under APA § 4.9 (entitled "Contract With Unions"), Sellers agreed to meet with Prime, and to use commercially reasonable efforts to initiate and participate in discussions with Prime and the unions aimed at reaching new collective bargaining agreements between Prime and the unions or modifications of existing SFMC collective bargaining agreements "under terms that are to be substantially consistent with the Purchaser's existing and most current collective bargaining agreements with each respective union[.]" Specifically, APA § 4.9 provides:

> (a) Promptly following the Signing Date, representatives of Sellers who are parties to St. Francis related collective bargaining agreements and of the Purchaser, respectively, shall meet and confer from time to time as reasonably requested by either Party to discuss

DENTONS US LLP
601 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5704
(213) 623-9300

> strategic business options including terms contained under all operative collective bargaining agreements. The applicable Sellers and Purchaser shall each participate in all negotiations related to the potential modification and assignment of specific Seller's collective bargaining agreements to Purchaser. The applicable Sellers shall use commercially reasonable efforts to initiate discussions with Purchaser and unions and conduct discussions to renegotiate each collective bargaining agreement currently in effect with each applicable union. The applicable Sellers will not unreasonably withhold, condition or delay Bankruptcy Court approval of any successfully renegotiated collective bargaining agreement. The Parties recognize that Seller's failure to conclude a successor collective bargaining agreement shall not be a breach of Sellers' obligation under this Agreement or otherwise excuse Purchaser's obligations under this Agreement.
>
> (b) On or before the date that is thirty (30) days after the Sale Order Date [the "30 Day Deadline"], the negotiations pursuant to Section 4.9(a) shall have resulted in each, such labor unions, agreeing to either (i) either modification of the St. Francis related collective bargaining agreements under terms that are to be substantially consistent with the Purchaser's existing and most current collective bargaining agreements with each such respective labor union, and that settle all liabilities under the existing Seller collective bargaining agreements that shall be assigned to Purchaser, provided that there are shall be no cure obligations to the Sellers or (ii) enter into new collective bargaining agreements that are substantially consistent with the Purchaser's existing collective bargaining agreements with each such respective labor union; provided, that if Purchaser and each labor union have not entered into such agreements described in (i) or (ii) above, or have entered into an agreement under (ii), then Sellers shall have the absolute right to file or take any other action to reject and terminate any such collective bargaining agreement and, in such event, the Bankruptcy Court shall have entered an order granting Sellers' requested rejection of such collective bargaining agreement prior to the Closing Date. In no event will Sellers be liable for any obligations in respect of settlements described in this section.

APA at § 4.9(a);(b) (together, the "APA CBA Provisions"). Despite the foregoing language, nothing prevents Prime and the unions from negotiating new CBA(s) that would come into effect upon closing of sale to Prime.

I. The Court Overrules the Unions' Objections and Approves the Sale to Prime

38. In response to the Debtors seeking approval of the APA, two unions, SEIU and the United Nurses Associations of California/Union of Health Care Professionals ("UNAC"), filed

DENTONS US LLP
601 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5704
(213) 623-9300

objections and reservation of rights.

39. On April 8, 2020, SEIU filed their *Objection and Reservation of Rights to Debtors' Motion for Sale of St. Francis Medical Center* [Docket No. 4495] (the "SEIU Sale Objection"), objecting to the Sale. SEIU argued that the Sale should not be allowed because it would violate a successorship clause of the SEIU CBA and that such a violation would expose the estates to a "substantial administrative claim." SEIU Sale Objection at 2-6. In doing this, SEIU ostensibly recycled objections from their (overruled) objection to the SGM Sale. Docket No. 1354 (SEIU objection to SGM Sale); 1572 (order overruling same).

40. On April 8, 2020, UNAC filed their *Objection and Reservation of Rights by United Nurses Association of California* [Docket No. 4498] (the "UNAC Sale Objection," and, together, with the SEIU Sale Objection, the "Unions' Sales Objections"). UNAC argued against the 30-Day Deadline and argued pre-emptively that they would not agree to CBA modifications they believed Prime would seek.

41. On April 9, 2020, the Court issued a ruling [Docket No. 4507] (the "Sale Ruling") and entered the Sale Order that approved the APA and Sale. Docket No. 4511. The Sale Ruling overruled the Unions' Sale Objections. Specifically:

a. Overruling SEIU's argument that the Debtors had to obtain rejection of the SEIU CBA before seeking approval of the Sale, irrespective of any CBA successorship clause (Sale Ruling at 11-12);

b. Finding that the decision by the Debtors to enter into the APA did not violate the SEIU CBA's successorship clause and that SEIU's argument of the same was barred by the law of the case doctrine (Sale Ruling at 12-13); and

c. Finding that UNAC's Sale Objection was premature, and that the parties could work beyond the 30-Day Deadline and after the filing of a § 1113 motion to resolve CBA issues. Sale Ruling at 14-15.

J. The APA-Based Prime and Seller Discussions and Prime, Union and Seller Negotiations

42. After the Court approved the APA, the Debtors met and conferred with Prime in

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

accordance with the requirements of APA § 4.9(a) concerning questions Prime had about the CBA and Prime's intention to present terms to the unions concerning Prime's desired collective bargaining agreement. Sharrer Decl., at ¶ 8. Beginning in late April and up to May 8, 2020, the Debtors and Prime also participated in negotiations with the Union. *Id.*

43. Without extending or waiving the 30 day provision of APA § 4.9(b), the Debtors agreed to assist Prime and the Union in their effort to try to reach terms of a new collective bargaining agreement between them by participating in meetings in May to the extent such meetings have been set. Sharrer Decl., at ¶ 9.[6] At all times, the Debtors were clear with Prime and the Unions that the Debtors intended to reject the CBA should Prime and the Union fail to research a consensual deal within the 30 day period provided under the APA. *Id.*

44. On April 30, 2020, Prime authorized the Debtors to send to SEIU the following documents, all of which were delivered by email that same day: (1) cover letter from Prime to SEIU dated April 30, 2020, attaching Attorney General Condition Comparison Chart; (2) Prime's proposed Collective Bargaining Agreement; (3) Wage Scale Proposal; (4) Employee Health Plan ("EHP") Benefits Summary; (5) Benefit Guide; and (6) EHP FAQs (collectively, "Prime's SEIU Proposal"). Sharrer Decl., at ¶ 10.

45. On May 1, 2020, representatives for SEIU, the Sellers and Prime engaged in negotiations by videoconference. During this meeting, Prime's SEIU Proposal was discussed by the parties. Sharrer Decl., at ¶ 11.

46. On May 4, 2020, SEIU sent a letter to Prime requesting financial information used to support Prime's SEIU Proposal. Sharrer Decl., at ¶ 12.

47. On May 5, 2020, Prime issued a letter in response to SEIU's requests for financial information letter that was provided to SEIU. Sharrer Decl., at ¶ 13. Later that day, SEIU, the Sellers and Prime reconvened negotiations and discussed Prime's SEIU Proposal and Prime's

[6] Because no agreement was reached between Prime and SEIU, the documents exchanged between the parties contain sensitive information and as the terms contained in such documents are not directly relevant to the relief sought herein, they are not attached. If the Court believes such documents would assist it in resolving any issue related to the Motion, the Debtors are prepared to file the documents *in camera* or if necessary, under seal pursuant to a formal order.

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

responses to SEIU's requests for financial information. *Id.* On that same date, SEIU sent an email listing information that Prime had agreed to provide and listing questions that the parties had agreed to follow up on. *Id.*

48. On May 7, 2020, SEIU sent a letter to the Debtors requesting that they provide SFMC employee data so that SEIU could evaluate Prime's SEIU Proposal. Sharrer Decl., at ¶ 14. A response was provided on May 14, 2020. *Id.*

49. On May 7, 2020, Prime sent a letter to SEIU that expressed concerns regarding the bargaining process and SEIU's public disclosure of certain information that had been transmitted to SEIU under Prime's SEIU Proposal and in the context of discussions. Sharrer Decl., at ¶ 15.

50. On May 8, 2020, SEIU emailed a letter in response to Prime's concerns regarding the bargaining process. Sharrer Decl., at ¶ 16. Prime responded to this letter on May 18, 2020. *Id.* By separate communication, SEIU requesting a rationale for the changes that Prime was proposing to the CBA, which was forwarded to Prime by email. *Id.* Later that day, the parties reconvened discussions by video conference. *Id.* During the course of those negotiations, SEIU submitted a counterproposal to Prime. *Id.* After receiving SEIU's counterproposal, Prime resubmitted its prior SEIU Proposal. *Id.* Thereafter, Prime declared its belief that the parties were at impasse, and SEIU stated that it had made substantial movement and did not believe Prime was acting in good faith. *Id.* The Debtors informed SEIU and Prime that the Debtors would proceed with a motion to reject the CBA since an agreement was not reached within the 30 days set forth under the APA. *Id.*

51. Since that date, neither SEIU nor Prime requested Sellers' further participation in discussions with respect a new collective bargaining agreement between Prime and SEIU. Sharrer Decl., at ¶ 17.

K. The Debtors May 13, 2020 § 1113 Proposal

52. On May 13, 2020, the Debtors delivered to the Union the Proposal. *See* Exh. 2; Adcock Decl., at § 6. The Proposal offered certain terms in the event the Union agreed to consent to the rejection and termination of the CBA, and provided an acceptance deadline of May 18, 2020. In the event of failure to accept by the deadline, the Debtors stated they intended to seek rejection of the CBA by formal motion under § 1113. The Debtors also stated that the Debtors were available

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

to speak or meet with the Union to the extent it would be productive.

53. Among its key provisions, the Proposal provided:

a. Debtors seek the rejection and termination of the CBA and all terms contained therein effective immediately on the Closing of the Sale contemplated under the APA (the "Rejection").[7]

b. In the that [the Union] consents to the Rejection, the Debtors will provide [the Union's] employees who are not offered employment by Prime (or any of its operating affiliates) no later than the date of Closing, an allowed claim for severance calculated under the "accrual method"—meaning severance earned but not yet paid will be calculated on per diem basis from the date of the employee's retention by SFMC to the earlier of the date of their termination or the Closing—and treated as follows: 1) amounts earned on and after Petition Date through the date of termination or the Closing (whichever is earlier) will receive administrative status; 2) amounts earned after March 4, 2018 and through the day prior to the Petition Date will receive priority claim status up to any remaining balance under § 507(a)(4) (up to a maximum of $12,850 per employee), with any excess granted general unsecured claim status; and 3) amounts earned prior to March 4, 2018 will receive general unsecured claim status. The administrative and priority claim portions will be paid within 30 business days of the effective date of a confirmed Bankruptcy Plan (as defined in such plan or confirmation order, and referred to herein as the "Bankruptcy Plan Effective Date"), provided, further, that payment of severance to an employee is contingent on that employee executing a written general release in a form acceptable to SEIU-UHW and the Debtors (the "Severance Benefit"). Please note, this claim treatment mirrors the treatment of severance provided under the settlement agreement dated September 17, 2019 (the "Prior Settlement Agreement") in connection with the envisioned transaction with Strategic Global Management, Inc. ("SGM"), sought by motion [Docket. No. 3604] and approved by the Bankruptcy Court on December 4, 2019 [Docket No.3755] and rendered a nullity by its by SGM's failure to close the related purchase transaction.[8]

c. All unused PTO as of Closing of the Sale to Prime will be calculated under the accrual method and satisfied from the "PTO Amount," defined under APA § 1.1(a)(v) as "Cash payment for accrued vacation and other paid time off of the Sellers' employees at Closing (the 'PTO Amount') (which as of October 31, 2019, had an aggregate value of approximately Ten Million Dollars ($10,000,000)[.]"

[7] Proposal at ¶ 1.
[8] Proposal at ¶ 2.

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

d. Nothing prevents the Debtors from seeking interim modification and relief from any provision of the CBA prior to the Closing in accordance with § 1113(e) of the Bankruptcy Code.

54. The Proposal further noted:

> In the event that [the Union] contests the Rejection or otherwise seeks terms that differ from the above terms, the Debtors withdraw the Severance Benefit and the Debtors will not agree to provide any other severance benefit to any SFMC employed [Union] represented employees. Please note, a similar outcome occurred after SEIU-UHW contested the § 1113 relief requested in connection with the sale of assets of O'Connor Hospital and Saint Louise Regional Hospital to Santa Clara County (as opposed to unions that agreed to the Debtors proposals that obtain severance benefits for members who were not rehired by Santa Clara County) [through the SCC Stipulations].

55. The Union did not accept the Proposal by May 18, 2020. Rather, counsel for SEIU sent a letter to the Debtors and complained about the failure to negotiate a new collective bargaining agreement with Prime and criticized labor terms suggested by Prime for a new CBA. **Exhibit "3."**

IV. ARGUMENT

A. THE BANKRUPTCY COURT HAS AUTHORITY TO REJECT THE CBA.

"Section 1113 of the Bankruptcy Code gives a bankruptcy court the authority to modify or reject a collective bargaining agreement if the debtor follows certain steps prescribed by the statute." *In re Karykeion, Inc.*, 435 B.R. 663, 673 (Bankr. C.D. Cal. 2010) (emphasis added). Bankruptcy courts utilize the following nine factors to approach § 1113: (1) the debtors made a proposal; (2) the proposal is based on the most complete and reliable information available at the time of the proposal; (3) the proposed modifications or rejection are necessary to permit reorganization of the debtor; (4) the modifications assure that all creditors, the debtors, and all other affected parties are treated fairly and equitably; (5) the debtors provide the union relevant information as is necessary to evaluate the proposal; (6) the debtors meet at reasonable times with the union between the time of the proposal and the time of the hearing; (7) the debtors negotiate with the union in good faith at these meetings; (8) the union refuses to accept the debtors' proposal

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

without good cause; and (9) the balance of equities clearly favors rejection or modification of the agreement. : *Id.* at 677 (citing *In re Family Snacks, Inc.*, 257 B.R. 884, 892 (B.A.P. 8th Cir. 2001)).

Courts recognize that abuse of rejection of collective bargaining agreements is more likely where equity and management seek to shed collective bargaining obligations to funnel funds and control back to themselves through an internal reorganization, rather than a court-supervised, market-tested sale. *In re Chicago Constr. Specialties, Inc.*, 510 B.R. 205, 213-215 (Bankr. N.D. Ill. 2014). Therefore, "[w]hen a debtor is liquidating, different factors come into play," with "some of the … factors [being] satisfied by nature of the liquidation itself." *Id.* at 215, 217 (citing *In re Rufener Contr., Inc.*, 53 F.3d 1064, 1067 (9th Cir. 1995)). Accordingly, the policy-push of checking management from rushing through self-interested restructurings that fueled the enactment of § 1113 is not implicated, and the Proposal satisfies § 1113 because "the purpose of the proposed labor concessions is to enable the sale, not to fill some hypothetical financial void." *See In re Walter Energy, Inc.*, 542 B.R. 859, 888 (Bankr. N.D. Ala. 2015) (emphasis added). Further, as set forth below, the Debtors have affirmatively satisfied the remainder of the § 1113 factors sufficient to justify rejection of the CBA.

B. THE DEBTORS HAVE SATISFIED § 1113.

a. The Debtors have made a proposal (Factor 1).

The Debtors made their Proposal in writing and included all material terms for the Union to review. *See* **Exhibit "2."** As such, the Proposal is more than adequate to meet this requirement. *See In re Alpha Nat. Res., Inc.*, 552 B.R. 314, 331 (Bankr. E.D. Va. 2016) ("[T]he bar for satisfying this requirement [of the making of a proposal] is low because in most cases, this factor is a 'routine formality.'") (citations omitted); *Chicago Constr.*, 510 B.R. at 217 ("The Notice clearly provides that the Debtor proposed to modify the CBA by rejecting it. Nothing further is needed or appropriate with respect to the first test."); *In re Allied Delivery Sys. Co.*, 49 B.R. 700, 700–01 (Bankr. N.D. Ohio 1985) (letter sent by debtor to union seeking relief from CBA was "proposal" under § 1113); *Matter of K & B Mounting, Inc.*, 50 B.R. 460, 461 (Bankr. N.D. Ind. 1985) (§ 1113 proposal made by attorney letter).

b. The Proposal was based on the most complete and reliable information

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

available (Factor 2), and the Debtors provided the Union with relevant information necessary to evaluate the Proposal (Factor 5)

Under § 1113, "the debtor is simply required to gather the most complete information available at the time and to base its proposal on the information it considers reliable. This requirement by definition excludes hopeful wishes, mere possibilities and speculation." *In re Karykeion*, 435 B.R. at 678, and "a debtor can only be required to provide information that is within the debtor's power to provide.'" *Chicago Constr*., 510 B.R. at 219 (*quoting In re Pinnacle Airlines Corp.*, 483 B.R. 381, 411 (Bankr. S.D.N.Y. 2012)).

In the Prior § 1113 Decision, this Court found that this factor was satisfied where:

> The Debtors provided the Objecting Unions a declaration detailing the Debtors' finances, assets, and liabilities; bankruptcy schedules showing the Debtors' financial status; testimony from the Debtors' investment banker; and the APA with Santa Clara … the Debtors [also] provided the Unions with substantial additional information subsequent to making the proposal

Prior § 1113 Decision at 27. Here, the same information was made available to the Union, both before and after making the Proposal. *See* First-Day Decl.; *Declaration of David Galfus* [Docket 1507]) (the "Galfus Declaration");[9] Debtors' *Statements of Financial Affairs and Schedules of Assets*; First Moloney Decl.; Moloney SFMC Sale Decl.; APA; Sharrer Decl. (describing information and documents provided to Union). These documents inform and add color to the central, unmistakable pieces of information provided to the Union—that the Debtors, unable to operate SFMC without bankruptcy protection, made the Proposal because (i) the Marketing Process demonstrated that Prime offered the highest and best bid (and the only Qualified Bid), (ii) Prime will not assume the CBA, and (iii) upon closing the Sale to Prime, the Debtors no longer need the CBA.

The Marketing Process has proven that the CBA is not economically viable, and neither Prime nor anyone else desires to operate SFMC with the CBA. Prior § 1113 Decision at 26 ("The unfortunate but undeniable reality is that the legacy cost structure imposed by the CBA is simply too great to permit the Hospitals to continue to sustainably operate."). The Proposal and any new

[9] The Debtors incorporate this Declaration by reference herein.

CBA reached between Prime and the Union should allow SFMC to become economically sustainable in the long-term, instead of "kicking the can" like previous out-of-court restructurings and sales referenced above. The relevant issue is that, upon Closing, the Debtors will not need the CBA. *See In re Walter Energy, Inc.*, 542 B.R. at 886-87 ("[R]equired 'relevant information' was simple and apparent for all to see: the Debtors could not survive absent a sale in the near term, the Proposed Buyer had emerged as the only viable bidder that would purchase the [business] as a going-concern, the sale of the [business] as a going-concern provides the best chance for future employment of the Debtors' employees, and the Stalking Horse APA requires . . . rejection of the . . . CBA.").

c. <u>The Debtors have and will meet at reasonable times with the Union up and until the hearing on this Motion (Factor 6)</u>.

The Debtors have met with the Union in good faith multiple times, including through arranging and leading multiple Zoom meetings with the Union and Prime during the pandemic,[10] and will meet with them again as reasonably requested up to the hearing on this Motion. *See* Adcock Decl., at § 5. As the Court's Sale Ruling noted in finding that UNAC's Sale Objection was premature, neither the end of the 30-Day Deadline nor the filing of this Motion ends the negotiation process. Ruling at 14-15 ("UNAC incorrectly presupposes that the filing of a § 1113 motion cuts off the process of negotiations. Section 1113 does not 'require completion of negotiations before filing the motion' to modify or reject the CBA.") (citing *In re Walter Energy*, 542 B.R. at 885). The Union *should* continue to meet with Prime— because Prime, the Union and the Debtors all want the Represented Employees to have new collective bargaining agreements covering them— and the Debtors will assist/mediate as requested both to resolve issues regarding the new CBA, and to discuss any issues pertaining to the existing CBA as well. Adcock Decl., at § 5.

[10] Furthermore, and especially relevant in the COVID-19 era, it should be noted that email communications (in which the Debtors engaged with the Union), count as "meetings" in a § 1113 analysis, *Ass'n of Flight Attendants-CWA, AFL-CIO v. Mesaba Aviation, Inc.*, 350 B.R. 435, 456–57 (D. Minn. 2006) ("in-person meetings plus email exchanges regarding the [proposals] that occurred before the hearing satisfied the meeting requirement" of § 1113). Also, courts consider meetings up and until the hearing (including hours or days before so) in a § 1113 analysis. *In re Elec. Contracting Servs. Co.*, 305 B.R. 22, 28–29 (Bankr. D. Colo. 2003).

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

d. The Debtors conferred in good faith (Factor 7).

The Debtors conferred with the Union in good faith by dedicating substantial time and effort through the current process (as well as the prior SGM discussions). Though "§ 1113 contains no such requirement," apart from discussions between the debtor and a union, a debtor demonstrates good faith when it "facilitates negotiations" between a potential buyer and a union and its employees. *In re Alpha Nat. Res. Inc.*, 552 B.R. at 335-336. Here, the Debtors so facilitated by negotiating for and performing under the APA's CBA Provisions. The APA's process worked in its initial stages—Prime, assisted by the Debtors, proposed a new CBA. Notwithstanding such efforts, Prime and the Union failed to reach agreement on the terms of either a new collective bargaining agreement or modification of the CBA on terms that could be agreed upon. In accordance with the APA, the Debtors are permitted to seek rejection of its CBA (because the 30 Day Deadline passed), which rejection will be effective upon Closing of the Sale. *Cf. In re Karykeion, Inc.*, 435 B.R. 663, 678 (Bankr. C.D. Cal. 2010) ("It is noteworthy [and supportive of § 1113 relief] that the debtor did not move to reject any part of the CBAs [until] there was no other choice but to go with [buyer] and their terms that the debtor decided to file this motion.").

The Union cannot establish lack of good faith because certain terms in the Proposal—the Debtors rejection of the CBA—is rendered non-negotiable by external factors (here, the Marketing Process revealing no buyers willing to take assignment of the CBA, and the Debtors' financial inability to do so either). *See In re Walter Energy, Inc.*, 542 B.R. at 885 ("The fact that certain terms—like the rejection of [a CBA] —were non-negotiable for reasons beyond the Debtors' control does not render [a proposal] defective or proffered in bad faith."). This is because (juxtaposed with SEIU's May 18, 2020 letter rejecting the Proposal that focuses on Prime and SEIU's negotiating relationship) this inquiry focuses on the debtor's good faith, "not [a p]roposed [b]uyer's negotiation of [an] APA." *Id.* at 895.

Here, the Debtors acted in good faith in soliciting offers and in selecting the only Qualified Bid—one that promised to provisionally re-hire employees from all the Debtors' remaining facilities. This is in accord with this Court's Prior § 1113 Decision's finding the Debtors' good faith in the SCC Rejection in spite of SEIU's claim that a "better" deal could have been reached

and the *Karykeion* decision the Court relied upon. Prior § 1113 Decision at 22 (citing *Karykeion, Inc.*, 435 B.R. at 678) ("Given the financial burdens. . . [the unions'] optimism. . . falls into the category of 'hopeful wishes, mere possibilities and speculation'")).

e. The Proposal is necessary to permit the successful reorganization of the Debtors (Factor 3).

This Court has found that "within the context of this [Verity] case, the term 'necessary to permit the reorganization of the debtor' is best interpreted to mean 'necessary to permit the Debtors to confirm a liquidating plan.'" Prior § 1113 Decision at 23. The Court explained:

> This interpretation aligns most closely with the manner in which the Debtors are prosecuting this case. ***From the outset, the Debtors have stated their intent to sell the six hospitals that they operate as going concerns, and use the proceeds from the sales to fund a plan of liquidation***. This process is well underway. The Court has already approved the sale of two of the Debtors' hospitals to Santa Clara, and recently approved bidding procedures pertaining to the auction of the remaining four hospitals.

Id. (emphasis added). The Court then adopted the testimony of the Debtors' CEO that explicitly stated the closing of successful and timely sales of the Hospitals were necessary for the confirmation of a liquidating plan:

> Selling the hospitals on a going concern basis is necessary to maximize proceeds to the estate. The Debtors' operational difficulties and mounting losses require that the hospitals be sold quickly. In [the First-Day Decl.], the Debtors' CEO Richard Adcock testified that the hospital system was losing $175 million annually on a cash flow basis, or approximately $480,000 per day.

Id. at 24 (citing First Day Declaration at ¶ 95) ("[T]he Debtors have commenced these chapter 11 cases to protect the original legacy of the Daughters of Charity to the maximum extent possible by retiring debt incurred over the past 18 years and freeing the hospital facilities and work force to continue to operate as hospitals under new ownership and leadership without the accumulated crisis of the past. ***To do that requires the bankruptcy court supervised sale of some or all of the hospitals and related facilities***.") (emphasis added)). The Court correctly found that, without the orderly sales of the hospitals, there would be no efficient and fair way for a distribution to the various creditors in this case—lenders, vendors, employees, etc. *Id.*

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

Here, with no bidder willing to assume the CBA in full, and with Prime, the only Qualified Bidder, not willing to take the CBA, this factor is satisfied. *In re Walter Energy, Inc.*, 542 B.R. at 893-94 ("The evidence establishes that the [businesses could not] be sold without rejection of the [collective bargaining agreement]. Thus, absent the rejection, those operations would be closed and sold on a piecemeal basis. On the other hand, if the sale(s) consummate and the [businesses] are sold as a going-concern, Debtors' employees have the best chance of future employment."); *In re Nat'l Forge Co.*, 289 B.R. 803, 810-811 (Bankr. W.D. Pa. 2003) ("No buyer was willing to assume the CBA. Potential ongoing disputes over the CBA threatened to chill the bidding in the absence of rejection. The proposed modification in the form of rejection of the CBA is necessary to permit reorganization of the Debtor.").

Relief is necessary *now*, and not, for instance, after confirmation of the Plan, because, after Closing, the CBA will expose the Debtors to potential liability and expenses without the Debtors receiving consideration in return. SEIU has already set forth its belief that the Sale exposes the estates to a "substantial [SEIU] administrative claim." SEIU Sale Objection at 6. The Debtors, have agreed to continue at the present time to facilitate and participate in discussions between Prime and the Union to enter into a new collective bargaining agreement between them concerning SFMC. Naturally, prior to the hearing on this Motion, the Debtors remain open to discussing its Proposal.[11]

As the Court found in the SCC Rejection, the failure to reject the CBA exposes the Debtors to "substantial" administrative claims from unions, with the potential total of these administrative claims in excess of the estimated funds available to pay *all* administrative claims. *Id.* at 24-25 (citing Galfus Decl.); *see also Chicago Constr.* 510 B.R. at 217-18. The Court summarized the immediate "necessity" to address the CBA in its Prior § 1113 Decision, equally applicable here:

> Here, the Debtors are in the process of selling the Hospitals … and will no longer operate the Hospitals once the sale has closed. As was the case in *Chicago Const.*, it makes little sense to require the Debtors

[11] Moreover, the Debtors request for rejection at this time is warranted by the facts of this case and is not otherwise prohibited by the terms of the APA. To the contrary, under the APA, as of May 9, 2020, the Debtors were no longer obligated to facilitate discussions between Prime and the Union or to otherwise assist them in negotiating new CBA that might come into effect between those parties upon Sale closing. Further, prior to the hearing on this Motion, the Debtors remain open to discussing its Proposal. See Adcock Decl., at § 5.

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

> to remain bound by CBAs that pertain to assets which they will no longer operate.

Prior § 1113 Decision at 26.

f. <u>The Proposal treats all creditors, the debtor, and all of the affected parties fairly and equitably (Factor 4), the balance of the equities support relief (Factor 9) and the Union has Refused the Proposal without Good Cause (Factor 8).</u>

This Court, in finding that the SCC Rejection treated parties fairly, found:

> In sum, prior to seeking bankruptcy relief, the Debtors diligently attempted to put their operations on a sound financial footing. The unfortunate but undeniable reality is that the legacy cost structure imposed by the CBAs is simply too great to permit the Hospitals to continue to sustainably operate. This reality was confirmed by the recent sales process … Many parties have been required to make sacrifices to permit continued operations of the Hospitals. Under these circumstances, the proposed rejection and/or modification of the CBAs is fair and equitable.

Prior § 1113 Decision at 26-27. The Court also cited precedent that, in a sale context, this factor neither requires that unions are paid in full nor that all union employees are re-hired or re-represented, and instead the inquiry is **whether the debtor is placing a disproportionate burden on non-represented employees**. *Id.* (citing *Walter Energy*, 542 B.R. at 892); *see also In re Nat'l Forge Co.*, 289 B.R. at 811.

Here, the Proposal placed no disproportionate burden on the Represented Employees. Like the SCC Sale, the CBA, without modification, is not economically viable for SFMC's going-concern business (and was a contributing factor to the filing of this bankruptcy). It is not unfair nor disproportionate for the Debtors to seek to reject the CBA to allow SFMC to continue as going concern so that *substantially all of the Debtors employees can keep their jobs* (APA § 5.3) with a willing, solvent and responsible buyer. *In re Nat'l Forge Co.*, 289 B.R. 803 at 808–09 ("where, as here, the evidence establishes that it is likely that some of the employees 'may be employed by the successful buyer' this supports a finding of fair treatment to employees"); *see also In re Walter Energy, Inc.*, 542 B.R. at 867 ("The record . . . indicate[s] the proposed going concern sale is the best chance for selling the [businesses] and to provide potential future employment for the Debtors' represented employees.").

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

In fact, the Union and their members have received heightened treatment. The Debtors have offered the Severance Benefit, so that Represented Employees that are actually severed can receive severance, paid according to applicable bankruptcy priority (like in the SCC Rejection), and the APA's CBA Provisions and the Debtors' energetic effort to mediate a solution pushed the Represented Employees to the forefront in the Sale process. Further, the Debtors proposed (and still will) honor the CBA in full, up to and until the Closing; *provided* nothing herein prohibits the Debtors from seeking to modify the CBA in advance of closing pursuant to a request made under § 1113.

Finally, the Union has no standing to either argue for heightened treatment of their Proofs of Claims than they otherwise would receive under the Bankruptcy Code, nor for treatment under the CBA that Prime will not consent to because § 1113 does not alter the priority scheme of the Bankruptcy Code. *See In re Chicago Constr. Specialties, Inc.*, 510 B.R. at 222 ("[T]he Debtor's proposal to reject the CBA simply treats CBA claims on par with claims of other creditors … The [union's] arguments, on the other hand, would impermissibly and inequitably elevate those claims."); *see also AMR Corp.*, 477 B.R. at 446-47 ("[i]f a union insists on economically unworkable terms without offering a [viable] compromise [...] the court will find that the union has not acted with good cause.").

In the context of a sale where the only potential bidders would not assume the applicable CBA, "[a] [u]nion's insistence that [a] [d]ebtor provide something which was not within its control indicates that the Union's refusal to accept [a] proposal . . . without good cause." *In re Nat'l Forge Co.*, 289 B.R. at 812 (emphasis added). Also, § 1113 approval does not concern any dispute that may exist between the Union and Prime—notably disputes concerning new CBA's terms—the inquiry instead focuses on the Debtors' communication and conduct with the Union. *In re Karykeion, Inc.*, 435 B.R. at 683–84 ("***This court specifically makes no ruling and has no jurisdiction over the dispute between the unions and [buyer]. The relevant inquiry for purposes of the § 1113 motion is the good faith of the debtor and the unions, and allegations related to [buyer's] practices are irrelevant.***") (emphasis added). Here, the Debtors cannot control the results of the Marketing Process, that Prime's bid (the only Qualified Bid) was the highest and best, Prime's desire to not assume the CBA "as is," or the financial circumstances that render the

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

Debtors' unable to operate SFMC outside of these Cases. Like in the SCC Rejection, the Union's refusal to accept the Proposal with a Severance Benefit and rejection of a CBA does not have good cause.

A distressed debtor, especially one in its 21st month of bankruptcy, "cannot base its rejection of its only suitor [to purchase a going-concern business] on a speculative white knight with greater riches." *In re Karykeion, Inc.*, 435 B.R. at 678. Prime has made the best offer for SFMC that will keep SFMC open, and the Debtors must reject the CBA. *See In re Nat'l Forge Co.*, 289 B.R. at 813 ("The balance of the equities in the instant matter demands rejection of the CBA . . . **A sale at the highest possible price is clearly best for all concerned. Achievement of the highest possible price requires that the CBA be rejected**.") (emphasis added).

V. CONCLUSION

Based upon the foregoing, the Debtors respectfully request that the Court enter an order granting the relief requested herein, including: (i) effective upon the Closing, rejecting and abrogating the CBA; and (ii) for such other and further relief as the Court may deem proper.

Dated: May 19, 2020

DENTONS US LLP
SAMUEL R. MAIZEL
TANIA M. MOYRON
SAM J. ALBERTS

By */s/ Tania M. Moyron*
Tania M. Moyron

Attorneys for the Chapter 11 Debtors and Debtors In Possession

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

DECLARATION OF RICHARD G. ADCOCK

I, Richard G. Adcock, declare that if called on as a witness, I would and could testify of my own personal knowledge as follows:

1. I am the Chief Executive Officer ("CEO") of Verity Health System of California, Inc. ("VHS"). I became VHS' CEO effective January 2018. Prior thereto, I served as VHS' Chief Operating Officer ("COO") beginning in August 2017. In my roles as COO and CEO at VHS, I have become intimately familiar with all aspects of VHS and its above-captioned affiliates who filed for bankruptcy protection (collectively the "Debtors," and each a "Debtor"). I submit this Declaration in support of the *Debtors' Motion Under § 1113 of the Bankruptcy Code to Reject Collective Bargaining Agreement with SEIU-UHW* (the "Motion").[12]

2. Except as otherwise indicated herein, this Declaration is based upon my personal knowledge, my review of relevant documents, information provided to me by employees of the Debtors or the Debtors' legal and financial advisors, or my opinion based upon my experience, knowledge, and information concerning the Debtors' operations and the healthcare industry. If called upon to testify, I would testify competently to the facts set forth in this Declaration.

3. Starting in July and continuing into September 2019, the Debtors engaged in extensive negotiations with SGM and unions whose collective bargaining agreements were implicated by the SGM Sale. These discussions were time and cost-intensive.

4. As set forth in my prior declaration, the Debtors determined that Prime had the highest and best bid for the Assets. After consultation with the Committee and with the consent of the Prepetition Secured Creditors, the Debtors selected Prime as the Stalking Horse Bidder. The Debtors believe that selling the Assets to Prime in accordance with the APA is in the best interests of the Debtors' estates, their creditors, and stakeholders. The Purchase Price represented the fair market value for the Assets and will provide a substantial benefit to the Debtors' estates and their creditors. As importantly, the Debtors the Sale of the Debtors' Assets to Prime serves the charitable

[12] Unless otherwise defined herein, all capitalized terms have the definitions set forth in the Motion.

mission of the Debtors and the original legacy of the Daughters of Charity to provide critical healthcare access to underserved communities, preserve jobs, and maximize the recovery for creditors.

5. The Debtors have met with the Union in good faith multiple times, including through arranging and leading multiple Zoom meetings with the Union and Prime during the pandemic, and will meet with them again as reasonably requested up to the hearing on this Motion. The Debtors will assist/mediate as requested both to resolve issues regarding the new CBA between Prime and the Union, and to discuss any issues pertaining to the existing CBA as well. Though the Union did not accept the Proposal by May 18, 2020, the Debtors and the Union are still in discussions, and the Debtors will continue to negotiate, consider proposals and ideas from the Union, and provide information as required under § 1113 up to the hearing on this Motion.

6. On May 13, 2020, the Debtors delivered to the Union the Proposal, and a true and correct copy of the Proposal is attached to the Motion as **Exhibit "2**." Further, a true and correct copy of the cover sheet of the CBA is attached as **Exhibit "1"** to the Motion, and a true and correct copy of correspondence received from SEIU as described in the Motion is attached as **Exhibit "3"** to the Motion.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 19th day of May, 2020, at Santa Monica, California.

By: _____
RICHARD G. ADCOCK

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

DECLARATION OF STEVEN SHARRER

I, Steven Sharrer, declare as follows:

1. I have personal knowledge of the matters stated herein, and if called as a witness, I could and would testify competently thereto under oath.

2. I submit this Declaration in support of (i) the *Debtors' Motion Under § 1113 of the Bankruptcy Code to Reject Collective Bargaining Agreement with SEIU* (the "Motions").[13]

3. I became VHS's Chief Human Resources Officer ("CHRO") effective August 21, 2017. As CHRO, I lead talent recruitment and management, labor relations and workforce planning and development of VHS and its affiliates including SFMC. My role is to ensure that the Debtors' human resources programs are aligned with the health system's goals.

4. I have more than twenty-five years of human resources management experience in the healthcare industry alone, including most recently as Vice President for Human Resources at Hazel Hawkins Memorial Hospital in Hollister, Saint John's Health Center in Santa Monica and Sisters of Charity of Leavenworth Health System in Santa Monica. Between 2000 and 2007, I led the human resources departments at two hospitals within VHS: O'Connor Hospital and St. Louise Regional Hospital.

5. I received my bachelor's degree in history at the University of Tampa and my master's degree in business administration at Golden Gate University. I am also a veteran of the U.S. Army and retired Lieutenant Colonel.

6. As CHRO, I have a collaborative working relationship with each of the unions representing SFMC's employees, including the Service Employees International Union – United Healthcare Workers – West ("SEIU" or the "Union").

7. There are approximately 941 service and maintenance and technical employees at SFMC covered by SFMC's collective bargaining agreement ("CBA") with SEIU. The employees represented by SEIU are service workers, including, but not limited to, environmental services aides, certified nurse assistants, unit coordinators, and technical workers, including but not limited

[13] Unless otherwise defined herein, all capitalized terms have the definitions set forth in the Motion.

to radiological technicians.

8. After the Court approved the APA, the Debtors met and conferred with Prime in accordance with the requirements of APA § 4.9(a) concerning questions Prime had about the CBA and Prime's intention to present terms to the unions concerning Prime's desired collective bargaining agreement. Beginning in late April and up to May 8, 2020, the Debtors and Prime also participated in negotiations with the Union.

9. Without extending or waiving the 30 day provision of APA § 4.9(b), the Debtors agreed to assist Prime and the Union in their effort to try to reach terms agreed to assist Prime and the Union in reaching the terms of a new collective bargaining agreement between them by participating in meetings in May to the extent such meetings have been set.[14] At all times, the Debtors were clear with Prime and the Unions that the Debtors intended to reject the CBA should Prime and the Union fail to research a consensual deal within the 30 day period provided under the APA. *Id.*

10. On April 30, 2020, Prime authorized the Debtors to send to SEIU the following documents, all of which were delivered by email that same day: (1) cover letter from Prime to SEIU dated April 30, 2020, attaching Attorney General Condition Comparison Chart; (2) Prime's proposed Collective Bargaining Agreement ("CBA"); (3) Wage Scale Proposal; (4) Employee Health Plan ("EHP") Benefits Summary; (5) Benefit Guide; and (6) EHP FAQs ("Prime's SEIU Proposal").

11. On May 1, 2020, representatives for SEIU, the Debtors, and Prime engaged in negotiations by videoconference. During this meeting, Prime's SEIU Proposal was discussed by the parties.

12. On May 4, 2020, SEIU sent a letter to Prime requesting financial information used to support Prime's SEIU Proposal.

[14] Because no agreement was reached between Prime and SEIU, the documents exchanged between the parties contain sensitive information and, as the terms contained in such documents are not directly relevant to the relief sought herein, they are not attached to the Motion. If the Court believes such documents would assist it in resolving any issue related to the Motion, the Debtors are prepared to file the documents *in camera* or if necessary, under seal pursuant to a formal order.

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

13. On May 5, 2020, Prime issued a letter in response to SEIU's requests for financial information letter that was provided to SEIU. Later that day, SEIU, the Debtors and Prime reconvened negotiations and discussed Prime's SEIU Proposal and Prime's responses to SEIU's requests for financial information. On that same date, SEIU sent an email listing information that Prime had agreed to provide and listing questions that the parties had agreed to follow up on.

14. On May 7, 2020, SEIU sent a letter to the Debtors requesting that they provide SFMC employee data so that SEIU could evaluate Prime's SEIU Proposal. A response was provided on May 14, 2020.

15. On May 7, 2020, Prime sent a letter to SEIU that expressed concerns regarding the bargaining process and SEIU's public disclosure of certain information that had been transmitted to SEIU under Prime's SEIU Proposal and in the context of discussions.

16. On May 8, 2020, SEIU emailed a letter in response to Prime's concerns regarding the bargaining process. Prime responded to this letter on May 18, 2020. By separate communication, SEIU requesting a rationale for the changes that Prime was proposing to the CBA, which was forwarded to Prime by email. Later that day, the parties reconvened discussions by video conference. During the course of those negotiations, SEIU submitted a counterproposal to Prime. After receiving SEIU's counterproposal, Prime resubmitted its prior SEIU Proposal. Thereafter, Prime declared its belief that the parties were at impasse, and SEIU stated that it had made substantial movement and did not believe Prime was acting in good faith. The Debtors informed SEIU and Prime that the Debtors would proceed with a motion to reject the CBA since an agreement was not reached within the 30 days set forth under the APA.

17. Since that date, SEIU has not provided additional dates to meet regarding a new CBA between Prime and SEIU.

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

I declare under penalty of perjury under the laws of the United States and the states of California and Indiana that the foregoing is true and correct.

Executed this 19th day of May, 2020 at Indianapolis, Indiana.

Steven Sharrer

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

Exhibit 1

ORIGINAL

SEIU-UHW
United Healthcare Workers West

United Healthcare Workers – West

Service Employees International Union
CTW, CLC

560 Thomas L. Berkley Wy.
Oakland, CA 94612

510-251-1250 ☐ 800-585-4250

www.seiu-uhw.org
Quality Healthcare for All

Collective Bargaining Agreement with

O'CONNOR HOSPITAL
SAINT LOUISE REGIONAL HOSPITAL
ST. FRANCIS MEDICAL CENTER
ST. VINCENT MEDICAL CENTER

November 1, 2018 – October 31, 2021

Exhibit 2

大成 DENTONS

Sam J. Alberts
Partner

Sam.Alberts@Dentons.com
D 202 408 7004
M 202 321 0777

Dentons US LLP
1900 K Street, NW
Washington, DC 20006
United States

大成 Salans FMC SNR Denton McKenna Long
dentons.com

May 13, 2020

TRANSMITTED VIA ELECTRONIC MAIL

Bruce A. Harland
Caitlin E. Gray
Legal Counsel for SEIU UHW
Weinberg, Roger and Rosenfeld
Alameda, CA 94501
Phone: (510) 337-1001
Fax: (510) 337-1023
Email: bharland@unioncounsel.net
cgray@unioncounsel.net

RE: Bankruptcy Code § 1113 Proposal Concerning Rejection and Termination of Collective Bargaining Agreement

Dear Bruce and Caitlin:

As you are aware, Verity Health System of California, Inc., ("VHS"), St. Francis Medical Center ("SFMC") and affiliates (collectively, the "Debtors") are debtors and debtors in possession in separate cases filed under chapter 11 of title 11 U.S.C. § 101-1532 (the "Bankruptcy Code") on August 31, 2018 (the "Petition Date") pending under Lead Case No. 2:18-bk-20151-ER (collectively, the "Bankruptcy Cases") in the United States Bankruptcy Court for the Central District of California (the "Bankruptcy Court"). This communication constitutes a proposal (the "Proposal") made in accordance with § 1113 of the Bankruptcy Code concerning the rejection and termination of the Collective Bargaining Agreement effective November 1, 2018 - October 31, 2021, as modified, between SFMC and SEIU-UHW (the "CBA"). This proposal supersedes any and all previously proposals.

Background

On April 9, 2020, the Bankruptcy Court entered that certain 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 (the "Sale Order"). Under the Sale Order, the Bankruptcy Court approved that certain Asset Purchase Agreement (the "APA") dated April 3, 2020, by and between SFMC, VHS and Verity Holdings, LLC ("Holdings," and referred to together with SFMC and VHS as the "Sellers") and Prime Healthcare Services, Inc. ("Prime" or the "Purchaser") with respect to the sale of assets of SFMC. Of relevance:

APA § 4.9, titled "Contract with Unions," addresses the treatment of collective bargaining agreements ("CBAs").

APA § 4.9(a) provides, in relevant part, "The applicable Sellers shall use commercially reasonable efforts to initiate discussions with Purchasers and unions and conduct discussions to renegotiate each collective bargaining agreement currently in effect with each applicable union.... The Parties recognize that Seller's failure to conclude a successor collective bargaining agreement shall not be a breach of Sellers' obligation under this Agreement or otherwise excuse Purchaser's obligations under this Agreement."

APA § 4.9(b) provides, "On or before the date that is thirty (30) days after the Sale Order Date [April 9, 2020], the negotiations pursuant to Section 4.9(a) shall have resulted in each, such labor unions, agreeing to either (i) either modification of the St. Francis related collective bargaining agreements under terms that are to be substantially consistent with the Purchaser's existing and most current collective bargaining agreements with each such respective labor union, and that settle all liabilities under the existing Seller collective bargaining agreements that shall be assigned to Purchaser, provided that there are shall be no cure obligations to the Sellers or (ii) enter into new collective bargaining agreements that are substantially consistent with the Purchaser's existing collective bargaining agreements with each such respective labor union; provided, that if Purchaser and each labor union have not entered into such agreements described in (i) or (ii) above, or have entered into an agreement under (ii), then Sellers shall have the absolute right to file or take any other action to reject and terminate any such collective bargaining agreement and, in such event, the Bankruptcy Court shall have entered an order granting Sellers' requested rejection of such collective bargaining agreement prior to the Closing Date. In no event will Sellers be liable for any obligations in respect of settlements described in this section."

May 9, 2020, was the 30th day after the Sale Order. Between April 9 and May 9, 2020, the Sellers facilitated discussions between Prime and SEIU-UHW. In connection with those discussions, Prime delivered a written collective bargaining agreement to SEIU-UHW under terms that Prime asserts are substantially consistent with the Purchaser's existing and most current collective bargaining agreements with SEIU-UHW (the "Proposed CBA"). SEIU-UHW did not accept the terms of Proposed CBA and did not otherwise reach agreement with Prime on any terms prior to or after May 9, 2020.

In accordance with the terms of APA § 4.9(b), because May 9, 2020 has occurred without any agreement on a collective bargaining agreement between Prime and SEIU-UHW, "Sellers shall have the absolute right to file or take any other action to reject and terminate any such collective bargaining agreement."

Sellers have all through the process informed SEIU-UHW of their intent to reject should the Buyer and SEIU-UHW fail to reach agreement, and this intent was reiterated on May 8, 2020 at the close of the negotiation session. As communicated previously, and as the Bankruptcy Court has held, the Debtors estates' cannot be bound or burdened by CBAs that cover facilities that the Debtors are selling.

大成 DENTONS
Bruce A. Harland
Caitlin E. Gray
May 13, 2020
大成 Salans FMC SNR Denton McKenna Long
dentons.com

Proposal

1. Debtors seek the rejection and termination of the CBA and all terms contained therein effective immediately on the Closing of the Sale contemplated under the APA (the "Rejection").

2. In the that SEIU-UHW consents to the Rejection, the Debtors will provide SEIU-UHW employees who are not offered employment by Prime (or any of its operating affiliates) no later than the date of Closing, an allowed claim for severance calculated under the "accrual method"—meaning severance earned but not yet paid will be calculated on per diem basis from the date of the employee's retention by SFMC to the earlier of the date of their termination or the Closing—and treated as follows: 1) amounts earned on and after Petition Date through the date of termination or the Closing (whichever is earlier) will receive administrative status; 2) amounts earned after March 4, 2018 and through the day prior to the Petition Date will receive priority claim status up to any remaining balance under § 507(a)(4) (up to a maximum of $12,850 per employee), with any excess granted general unsecured claim status; and 3) amounts earned prior to March 4, 2018 will receive general unsecured claim status. The administrative and priority claim portions will be paid within 30 business days of the effective date of a confirmed Bankruptcy Plan (as defined in such plan or confirmation order, and referred to herein as the "Bankruptcy Plan Effective Date"), provided, further, that payment of severance to an employee is contingent on that employee executing a written general release in a form acceptable to SEIU-UHW and the Debtors (the "Severance Benefit"). Please note, this claim treatment mirrors the treatment of severance provided under the settlement agreement dated September 17, 2019 (the "Prior Settlement Agreement") in connection with the envisioned transaction with Strategic Global Management, Inc. ("SGM"), sought by motion [Docket. No. 3604] and approved by the Bankruptcy Court on December 4, 2019 [Docket No.3755] and rendered a nullity by its by SGM's failure to close the related purchase transaction.

3. All unused PTO as of Closing of the Sale to Prime will be calculated under the accrual method and satisfied from the "PTO Amount," defined under APA § 1.1(a)(v) as "Cash payment for accrued vacation and other paid time off of the Sellers' employees at Closing (the 'PTO Amount') (which as of October 31, 2019, had an aggregate value of approximately Ten Million Dollars ($10,000,000)[.]"

4. Nothing prevents the Debtors from seeking interim modification and relief from any provision of the CBA prior to the Closing in accordance with § 1113(e) of the Bankruptcy Code.

In the event that SEIU-UHW contests the Rejection or otherwise seeks terms that differ from the above terms, the Debtors withdraw the Severance Benefit and the Debtors will not agree to provide any other severance benefit to any SFMC employed SEIU-UHW represented employees. Please note, a similar outcome occurred after SEIU-UHW contested the § 1113 relief requested in connection with the sale of assets of O'Connor Hospital and Saint Louise Regional Hospital to Santa Clara County (as opposed to unions that agreed to the Debtors proposals that obtain severance benefits for members who were not rehired by Santa Clara County.

大成 DENTONS
Bruce A. Harland
Caitlin E. Gray
May 13, 2020
大成 Salans FMC SNR Denton McKenna Long
dentons.com

The Debtors request that you accept this Proposal prior to the close of business on May 18, 2020. If the Proposal is not accepted by May 18, 2020, the Debtors will seek the Rejection of the CBA by formal motion filed in accordance with § 1113.

If you have any questions, please feel free to contact me directly. Further, we are available to meet with you (virtually) to the extent that it would be productive.

Sincerely,

Sam J. Alberts

cc: via email

Chokri Bensaid
Rich Adcock
Steven Sharrer
Peter Chadwick
Joel Richlin
Samuel Maizel
Tonia Moyron
An Ruda
Luzann Fernandez
Casey Doherty
David Galfus

Exhibit 3

Weinberg Roger & Rosenfeld
A Professional Corporation

1001 Marina Village Parkway, Suite 200
Alameda, California 94501
TELEPHONE: (510) 337-1001
FACSIMILE: (510) 337-1023
Bruce A. Harland
bharland@unioncounsel.net

May 18, 2020

VIA EMAIL
(Sam.Alberts@Dentons.com)

Mr. Sam J. Alberts
Partner
Dentons US LLP
1900 K Street
Washington, D.C. 20006

Re: Your May 13, 2020 Letter Concerning Verity's § 1113 Proposal re: Rejection and Termination of the SEIU-UHW Collective Bargaining Agreement

Dear Mr. Alberts:

I write on behalf of SEIU, United Healthcare Workers – West ("SEIU-UHW" or the "Union"). This letter is in response to your May 13, 2020 letter.

I would like to set the record straight with respect to a number of "facts" that you recite in your letter, especially since your letter makes it appear as if the Sellers and Buyer participated in the § 1113 process in good faith. As you know, the Buyer walked away from negotiations on May 8, 2020, without even responding to the Union's *first* counter-proposal.

In your letter you write that "[b]etween April 9 to May 9, 2020, the Sellers facilitated discussions between Prime and SEIU-UHW," suggesting that the Union had been meeting with the Buyer for a month. This is not accurate. The Union did not receive any communication from the Sellers or the Buyer until April 22, 2020. The Union accepted all of the bargaining dates proposed by the Sellers and Buyer, except one. As a result, the parties did not meet until May 1, 2020.

You also suggest that the Buyer proposed terms that were "substantially consistent" with the terms of their current agreement with the Union. This too is inaccurate, as the Buyer included it its proposal significant terms—most notably, related to subcontracting—that are not contained in any agreement the Buyer has with the Union. The subcontracting proposal made by the Buyer during the § 1113 negotiations would allow the Buyer the unfettered right to subcontract out any bargaining unit work without any contractual protections for the members of the Union. In other words, if the Union accepted the Buyer's subcontracting proposal, on the first day that the Buyer assumed operations of St. Francis, every member of the Union would be at risk of having their job subcontracted without any contractual protection.

Finally, you note that SEIU-UHW did not accept the terms of Prime's proposal, but that is only half of the story. While it is true that the Union did not accept the first proposal made by the Buyer, the Union made a counter-offer to the Buyer. That counter-offer was rejected by Prime; and Prime refused to provide any counter-proposal to the Union's proposal. When Prime refused to provide a counter-proposal, the Union stressed that it was willing to continue to bargain, but Prime chose to walk away from the negotiations rather than provide a counter-proposal to the Union's proposal. In addition to the Buyer walking away from the negotiations, the Union is still waiting for outstanding information requests that it made during the three days of negotiations that took place. The Union summarized these outstanding information requests in a May 8 letter to both the Sellers and Buyer.

Given the Sellers' and Buyer's failure to seriously engage in the § 1113 process, the Union cannot consent to the rejection of their Collective Bargaining Agreement.

Sincerely,

Bruce A. Harland

Bruce A. Harland

BAH:rfb
opeiu 29 afl-cio(1)
145535\1084082

cc: Greg Pullman
Chokri Bensaid
Caitlin E. Gray
An Ruda *(aruda@BZBM.com)*
Rich Martwick *(rmartwick@primehealthcare.com)*

Exhibit 4

ASSET PURCHASE AGREEMENT

By and Among

ST. FRANCIS MEDICAL CENTER, VERITY HOLDINGS, LLC, and VERITY HEALTH SYSTEM OF CALIFORNIA, INC.

(as "Sellers")

and

PRIME HEALTHCARE SERVICES, INC.

(as "Purchaser")

Dated April 3, 2020

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the "**Agreement**") is made and entered into as of April 3, 2020 (the "**Signing Date**") by and among St. Francis Medical Center, a California nonprofit public benefit corporation ("**SFMC**"), Verity Holdings, LLC ("**Verity Holdings**"), a California limited liability company and Verity Health System of California, Inc., a California nonprofit public benefit corporation ("**VHS**" and, together with SFMC and Verity Holdings, the "**Sellers**" and each individually a "**Seller**") and Prime Healthcare Services, Inc., a Delaware corporation ("**Purchaser**" and, together with the Sellers, the "**Parties**" and each individually a "**Party**").

RECITALS

A. SFMC engages in the business of operating a hospital known as St. Francis Medical Center ("**St. Francis**") in the City of Lynwood, California, including the hospital pharmacy, laboratory and emergency department as well as through the medical office buildings and clinics owned or operated by SFMC (with St. Francis, collectively referred to herein, as the "**Hospital**").

B. VHS is the sole member of SFMC and Verity Holdings. Verity Holdings owns and rents certain properties on or near the Hospital campus.

C. Purchaser desires to purchase from Sellers, and Sellers desire to sell to Purchaser, the assets described in Section 1.7 below for the consideration and upon the terms and conditions contained in this Agreement.

D. On August 28, 2018, Sellers filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the Central District of California, Los Angeles Division, before the Honorable Ernest M. Robles (the "**Bankruptcy Court**"), which are jointly administered with their affiliates under Case No. 18-20151 (the "**Bankruptcy Cases**").

E. On February 10, 2020, Sellers filed the *Debtors' Notice of Motion and Motion for the Entry of (I) an Order (1) Approving Form of Asset Purchase Agreement; (2) Approving Auction Sale Format, Bidding Procedures and Stalking Horse Bid Protections; (3) Approving Form of Notice to be Provided to Interested Parties; (4) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest Bidder; and (5) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases; and (II) an Order (A) Authorizing the Sale of Property Free and Clear of All Claims, Liens and Encumbrances; Memorandum Of Points And Authorities In Support Thereof* [Docket No. 4069] (the "**Bidding Procedures Motion**") which was approved by an order of the Bankruptcy Court (the "**Bidding Procedures Order**") [Docket No. 4165] and pursuant thereto the Parties have entered into this Agreement.

F. The Parties intend to effectuate the transactions contemplated by this Agreement through a sale of the Assets pursuant to the Bidding Procedures and as approved by the Bankruptcy Court pursuant to Sections 363 and 365 of the Bankruptcy Code.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and 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 agree as follows:

ARTICLE 1
SALE AND TRANSFER OF ASSETS;
CONSIDERATION; CLOSING

1.1 Purchase Price.

(a) Subject to the terms and conditions of this Agreement, the aggregate consideration shall be as follows:

(i) Payment to Sellers of a cash base purchase price ("**Base Price**") as follows: Two Hundred Million Dollars ($200,000,000); provided, that in the event at Closing the Annualized Normalized EBITDA (as defined in Schedule 1.1(a)(i)) is more than Fifty Million Dollars ($50,000,000) less than the Prior Period Annualized Normalized EBITDA (as defined in Schedule 1.1(a)(i)), the Purchaser shall offset from the portion of the remaining QAF V net receipts collected after Closing (but not by more than an aggregate of Thirty Million Dollars ($30,000,000)) one dollar for every dollar of difference between Prior Period Annualized Normalized EBITDA and Annualized Normalized EBITDA over Fifty Million Dollars ($50,000,000) up to Eighty Million Dollars ($80,000,000). In the event that the QAF V payments are insufficient to satisfy the amount of offset, then Purchaser shall have offset rights from the Seller's QAF VI Seller Net Payments;

(ii) Sellers shall retain, as an Excluded Asset, the QAF V Payments (defined below) and the QAF VI Seller Net Payments (defined below) as described in Section 1.8(b), which are currently estimated at Twenty-Nine Million Dollars ($29,000,000) in connection with the QAF V Payments and Eighty-Three Million Dollars ($83,000,000) in connection with the QAF VI Seller Net Payments;

(iii) Cash payment of Sixty-One Million Dollars ($61,000,000) (the "**A/R Target Amount**") as consideration for the Accounts Receivable transferred at Closing (subject to adjustment in Section 1.12);

(iv) Cash payment for Sellers' payroll liabilities at Closing (the "**Payroll Amount**") (which as of October 31, 2019, had an aggregate value of approximately Five Million Dollars ($5,000,000));

(v) Cash payment for accrued vacation and other paid time-off of Sellers' employees at Closing (the "**PTO Amount**") (which as of October

31, 2019, had an aggregate value of approximately Ten Million Dollars ($10,000,000));

(vi) An amount equal to the Cure Costs (defined below) associated with outstanding liabilities of Sellers under any Assigned Leases and/or Assigned Contracts; and

(vii) An amount determined in accordance with Section 1.6.

(b) At the Closing, Purchaser shall pay to Sellers, by wire transfer of immediately available funds to the accounts specified by Sellers to Purchaser in writing, an aggregate amount equal to the Base Price, *plus* the A/R Target Amount, *plus* the Cure Cost Amount, *plus* the PTO Amount, *plus* the Payroll Amount (collectively, the "**Purchase Price**"), *minus* the Deposit (defined below).

(c) For purposes of this Agreement, the "**QAF Program**" means the California Department of Health Care Services ("**DHCS**") Hospital Quality Assurance Fee Programs V ("**QAF V**") and VI ("**QAF VI**"). During the period prior to the Closing, Sellers shall pay or permit DHCS to offset from amounts owed to St. Francis any fees due and owing prior to the Closing under QAF V and QAF VI (such payments or offsets shall be included in the formula described in Section 1.8(b)), and Sellers shall be entitled to retain all payments received under QAF V and QAF VI.

(d) Separate from, and in addition to, the Purchase Price, Purchaser commits to invest Forty-Seven Million Dollars ($47,000,000) in capital expenditures for St. Francis (including NPC-3 seismic compliance responsibilities).

1.2 Deposit. Purchaser has deposited an amount equal to $27,725,342.48 (the "**Initial Deposit**") by wire transfer to Chicago Title Insurance Company ("**Escrow Agent**") pursuant to that certain Escrow Agreement attached hereto as Exhibit 1.2. Within two (2) business day after the date of the conclusion of the auction for the Assets, if any, if Purchaser is the Prevailing Bidder (as defined below) and as a result of such auction has opted to increase the Purchase Price (the "**Auction Purchase Price**"), Purchaser shall deposit an additional amount with the Escrow Agent such that the total amount deposited with the Escrow Agent is equal to ten percent (10%) of the Auction Purchase Price (the Initial Deposit and any additional amount deposited with the Escrow Agent (if any) referred to collectively as the "**Deposit**") by wire transfer to the Escrow Agent. All fees of the Escrow Agent shall be paid by Purchaser. The Deposit shall be non-refundable in all events, except in the event the Closing does not occur due to Purchaser's termination of the Agreement pursuant to Sections 9.1 (a), (c), (d), (f), (g), (h) or (i) hereof. Upon Closing, the Deposit will be credited against the Purchase Price.

1.3 Closing Date. The consummation of the transactions contemplated by this Agreement (the "**Closing**") shall take place at the offices of Dentons US LLP, 601 South Figueroa St., Suite 2500, Los Angeles, CA 90017-5704 (the day on which Closing actually occurs, the "**Closing Date**") within three (3) business days following the satisfaction or waiver of the conditions set forth in ARTICLE 7 and ARTICLE 8, and other than those conditions that by their nature are to be satisfied at Closing but subject to fulfillment or waiver of those conditions. The

Closing shall be deemed to occur and to be effective as of 12:00 a.m. pacific time on the day immediately after the Closing Date (the "**Effective Time**"). Purchaser and Sellers agree that because the change of ownership and regulatory approval process may take an extended period of time, at the Effective Time, the Assets (less any Assets constituting drugs or pharmacy assets, the Medicare/Medi-Cal Agreements, the Lockboxes, the Transferred Managed Care Agreements and the Transferred Private Payor Agreements (as such terms are defined below)) will be sold to Purchaser and immediately leased back to Sellers (substantially in the form of the Leaseback Agreement attached hereto as Exhibit 1.3(a), the "**Leaseback Agreement**"), with a concurrent management arrangement (substantially in the form of the Interim Management Agreement attached hereto as Exhibit 1.3(b), the "**IMA**"). On the effective date that Purchaser obtains a general acute care hospital license from the California Department of Public Health ("**CDPH**") and a hospital pharmacy permit from the California State Board of Pharmacy ("**BOP**") (i) the Leaseback Agreement and IMA will terminate and (ii) the drugs and pharmacy assets, the Medicare/Medi-Cal Agreements, the Lockboxes, the Transferred Managed Care Agreements and the Transferred Private Payor Agreements will be transferred to Purchaser (without payment of any additional Purchase Price) (the "**Licensure Date**"). For the avoidance of any doubt, the Licensure Date shall be the date the Purchaser's hospital license and pharmacy permit are effective, even if they are not actually issued until a later date. The Licensure Date may be determined based on oral assurances from CDPH and the BOP.

1.4 Items to be Delivered by Sellers at Closing. At or before the Closing, Sellers shall deliver, or cause to be delivered, to Purchaser the following:

(a) a Bill of Sale substantially in the form of Exhibit 1.4(a) attached hereto (the "**Bill of Sale**"), duly executed by each Seller;

(b) Real Estate Assignment Agreements (the "**Real Estate Assignments**") in the form of Exhibit 1.4(b) attached hereto with respect to (i) the Leased Real Property, and (ii) the Tenant Leases, each duly executed by the applicable Sellers;

(c) Quitclaim Deeds in the form of Exhibit 1.4(c) attached hereto with respect to the real property listed in Schedule 1.4(c), together with all plant, buildings, structures, installments, improvements, fixtures, betterments, additions and constructions in progress situated thereon (the "**Owned Real Property**") duly executed by SFMC and Verity Holdings as applicable;

(d) an Assigned Contract Transfer Agreement (the "**Transfer Agreement**") in the form of Exhibit 1.4(d) attached hereto, duly executed by the applicable Sellers;

(e) evidence of payment of all Cure Costs;

(f) the Transition Services Agreement (the "**Transition Services Agreement**") in form attached hereto as Exhibit 1.4(f), duly executed by the applicable Sellers;

(g) the Leaseback Agreement and IMA, duly executed by SFMC;

(h) favorable certificates of good standing, of each Seller, issued by the State of California, dated no earlier than a date which is fifteen (15) calendar days prior to the Closing

Date;

(i) a duly executed certificate of an officer of each Seller certifying to Purchaser (i) the incumbency of the officers of such Seller on the Signing Date and on the Closing Date and bearing the authentic signatures of all such officers who shall execute this Agreement and any additional documents contemplated by this Agreement and (ii) the due adoption and text of the resolutions or consents of the Board of Directors of such Seller authorizing (I) the transfer of the Assets and transfer of the Transferred Obligations by such Seller to Purchaser and (II) the due execution, delivery and performance of this Agreement and all additional documents contemplated by this Agreement, and that such resolutions have not been amended or rescinded and remain in full force and effect on the Closing Date;

(j) a certified copy of the Sale Order (as defined below);

(k) non-foreign affidavits of SFMC and Verity Holdings, as applicable, dated as of the Closing Date, in the form of Exhibit 1.4(k); and

(l) Any such other instruments, certificates, consents or other documents which Purchaser and Sellers mutually 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 the following:

(a) payment of the Purchase Price, minus the Deposit;

(b) a duly executed certificate of the Secretary of Purchaser certifying to Sellers (a) the incumbency of the officers of Purchaser on the Signing Date and on the Closing Date and bearing the authentic signatures of all such officers who shall execute this Agreement and any additional documents contemplated by this Agreement and (b) the due adoption and text of the resolutions of the Board of Directors of Purchaser authorizing the execution, delivery and performance of this Agreement and all additional documents contemplated by this Agreement, and that such resolutions have not been amended or rescinded and remain in full force and effect on the Closing Date;

(c) favorable certificate of good standing, of Purchaser, issued by the California Secretary of State dated no earlier than a date which is fifteen (15) calendar days prior to the Closing Date;

(d) the Transition Services Agreement, duly executed by Purchaser;

(e) the Leaseback Agreement and IMA, duly executed by Purchaser;

(f) the Bill of Sale, duly executed by Purchaser;

(g) the Real Estate Assignment(s), duly executed by Purchaser;

(h) the Transfer Agreement, duly executed by Purchaser;

(i) Preliminary Change of Ownership Report(s) (BOE-502-A) with respect to the Owned Real Property, duly executed by Purchaser; and

(j) any such other instruments, certificates, consents or other documents which Purchaser and Sellers 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, similar state and local taxes arising from the sale of the Assets hereunder shall be the responsibility of, and allocated to, Purchaser.

(b) Other than the Utility Deposits (defined below), which are governed by Section 1.8(n), and other than with respect to Cure Costs, the following costs and expenses shall be prorated based upon the payment period (*i.e.*, calendar or other tax fiscal year) to which the same are attributable: (i) all real estate and personal property lease payments, real estate and personal property taxes, real estate assessments and other similar charges against real estate, (ii) power and utility charges, (iii) payments made by Sellers for information technology software or services for periods after the Effective Time, (iv) payments made by Sellers in association with Licenses or dues paid to government and non-governmental agencies for calendar year 2020, and (v) other similar costs for items or services which continue past the Effective Time (collectively, the "**Prorated Charges**"). 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 prior to the Effective Time, 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. In the event that as of the Closing Date the actual tax bills for the tax year or years in question are not available and the amount of taxes to be prorated as aforesaid cannot be ascertained, then rates, millages and assessed valuation of the previous year, with known changes, shall be used. The Parties agree that if the real estate and personal property tax prorations are made based upon the taxes for the preceding tax period, the prorations shall be re-prorated after the Closing. As to power and utility charges, "final readings" as of the Closing Date shall be ordered from the utilities; the cost of obtaining such "final readings," if any, shall be paid by Purchaser.

(c) Sellers shall be entitled to all rents and other payments under Tenant Leases accruing for 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 accruing for the period 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. All Lease Amounts that are accrued but unpaid as of the Closing (including, without limitation, rents and other payments accrued prior to the Closing but payable in arrears after the Closing) (collectively, the "**Unpaid Amounts**") shall 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 receipt of same.

(d) If Purchaser requests that Sellers transfer electronic medical records in a specific electronic format due to the Sellers' electronic medical record ("**EMR**") system and Purchaser's EMR system not being interoperable, then Purchaser shall reimburse, on the Closing Date, all amounts paid or to be paid by Sellers to transfer electronic medical records to Purchaser in such different electronic format.

(e) All prorations and payments to be made under the foregoing provisions shall be agreed upon by Purchaser and Sellers prior to the Closing and shall be binding upon the Parties; *provided, however*, with respect to the Unpaid Amounts, in the event any proration, apportionment or computation shall prove to be incorrect for any reason, then either Sellers or Purchaser shall be entitled to an adjustment to correct the same, provided that said Party makes written demand on the Party from whom it is entitled to such adjustment within fifteen (15) calendar days after the erroneous payment or computation was made, or such later time as may be required, in the exercise of due diligence, to obtain the necessary information for proration.

(f) This Section 1.6 shall survive Closing.

1.7 Transfer of Sellers Assets. On the Closing Date, subject to the terms and conditions of this Agreement and except as otherwise contemplated in Section 1.3, Sellers shall sell, assign, transfer, convey and deliver to Purchaser, free and clear of all interests, including but not limited to all liens, privileges, pledges, security interests, rights of first refusal, options, defects in title and encumbrances ("**Encumbrances**") other than the Permitted Exceptions (defined below), and Purchaser shall acquire, all of Sellers' right, title and interest in and to only the following assets and properties, as such assets shall exist on the Closing Date, to the extent not included among the Excluded Assets, such transfer being deemed to be effective at the Effective Time (the "**Assets**"):

(a) all of the tangible personal property owned by Sellers, or to the extent assignable or transferable by Sellers, and used by Sellers in the operation of the Hospital, including equipment, furniture, fixtures, machinery, vehicles, office furnishings and leasehold improvements (the "**Personal Property**");

(b) subject to Section 1.7(e), all of Sellers' rights, to the extent assignable or transferable, to all licenses, permits, approvals, certificates of exemption, franchises, accreditations and registrations and other governmental licenses, permits or approvals issued to Sellers for use in the operation of the Hospital (the "**Licenses**"), including, without limitation, the Licenses set forth on Schedule 1.7(b), except to the extent Purchaser elects, in its discretion, not to take assignment of any such Licenses;

(c) all of Sellers' interest in and to the Owned Real Property and all of Sellers' interest, to the extent assignable or transferable and that have been designated by Purchaser, in and to all of the following (the "**Assigned Leases**"): (i) the real property leases for all real property leased by Sellers and set forth on Schedule 1.7(c)(i) (the "**Leased Real Property**"), and (ii) the real property leased or subleased by Sellers to a third party and set forth on Schedule 1.7(c)(ii) (the "**Tenant Leases**");

(d) all of Sellers' interest in, and all of Sellers' obligations due under, from and after the Effective Time, to the extent assignable or transferable, all contracts and agreements (including, but not limited to, purchase orders) that have been designated by Purchaser as an Assigned Contract, pursuant to Section 1.11 and appearing on Schedule 1.7(d);

(e) all of Sellers' interest in, from and after the Licensure Date, to the extent assignable or transferable, the Hospital's Medicare Provider Agreement (and provider number) and the Hospital's Medi-Cal Provider Agreement (and provider number) (collectively, the "**Medicare/Medi-Cal Agreements**");

(f) all of Sellers' interest in, and all of Sellers' obligations due under, from and after the Licensure Date, to the extent assignable or transferable, in and to any of the Hospital's managed care, pre-paid, capitated or other full-risk health plan agreements (collectively, the "**Managed Care Agreements**") that have been designated by Purchaser as an Assigned Contract pursuant to Section 1.11 (to the extent so designated, the "**Transferred Managed Care Agreements**");

(g) subject to Section 4.6, all of Sellers' interest in, and all of Sellers' obligations due under, from and after the Licensure Date, to the extent assignable or transferable, in and to any of the Hospital's services, participation or provider agreements with private health plans, insurers or other third party payors (collectively, the "**Private Payor Agreements**") that have been designated by Purchaser as an Assigned Contract pursuant to Section 1.11 (to the extent so designated, the "**Transferred Private Payor Agreements**"), *provided that*, Private Payor Agreements shall not include any "risk-sharing" agreements with independent physician associations;

(h) to the extent assignable or transferable, 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 (the "**Inventory**") except as set forth in Sections 1.3 and 1.8(i);

(i) other than Utility Deposits, all prepaid rentals, deposits, prepayments and similar amounts relating to the Assigned Contracts and/or the Assigned Leases, which were made with respect to the operation of the Hospital (the "**Prepaids**");

(j) to the extent assignable or transferable, all of the following that are not proprietary to Sellers and/or owned by or proprietary to Sellers' affiliates: operating manuals, files and computer software with respect to the operation of the Hospital, including, without limitation, all patient records, medical records, employee records, billing records, financial records, equipment records, construction plans and specifications, and medical and administrative libraries; *provided, however*, that any electronic medical records may be transferred in paper or "pdf" if Sellers' EMR system and Purchaser's EMR system are not interoperable;

(k) to the extent assignable or transferable, all rights in all warranties of any manufacturer or vendor in connection with the Personal Property;

(l) all right, title and interest in and to the name "St. Francis Medical Center," including any associated Hospital trademarks, service marks, trade names, logos and domain names but excluding the domain https://stfrancis.verity.org and content therein;

(m) all goodwill of the Hospital evidenced by the Assets;

(n) to the extent transferable or assignable, Sellers' right or interest in the telephone and facsimile numbers used with respect to the operation of the Hospital;

(o) to the extent assignable or transferable, Sellers' lock box account(s) associated with Medicare or Medi-Cal fee-for-service receivables (the "**Lockboxes**") on or after the Licensure Date;

(p) (i) all accounts and interest thereupon, notes and interest thereupon and other receivables of Sellers, including, without limitation, accounts, notes or other amounts receivable, and all claims, rights, interests and proceeds related thereto, including all accounts and other receivables, , in each case arising from the rendering of services or provision of goods, products or supplies to inpatients and outpatients at the Hospital, billed and unbilled, recorded and unrecorded (including any such amounts that were written-off by Sellers for any reason), for services, goods, products and supplies provided by Sellers prior to the Licensure Date whether payable by Medicare, Medi-Cal, Medicaid, or any other payor (including an insurance company), or any health care provider or network (such as a health maintenance organization, preferred provider organization or any other managed care program) or any fiscal intermediary of the foregoing, private pay patients, private insurance or by any other source and all claims, rights, interests and proceeds relating to any grant or governmental awards directly or indirectly related to COVID-19 (collectively, "**Accounts Receivable**"); and (ii) trauma payments, disproportionate share payments (subject to Section 1.8(c)), California Health Foundation & Trust payments, cost report, claim, EHR or other similar appeals and Seller Cost Report settlements in each case arising from the rendering of services or provision of goods, products or supplies to inpatients and outpatients at the Hospital (the "Other Receivables" and together with the Accounts Receivable, the "Receivables");

(q) all documents, records, correspondence, work papers and other documents, other than patient records, primarily relating to the Receivables;

(r) all QAF payments due to the Hospital from the State of California or any of its administrative entities or other entitles, including without limitations, Medi-Cal managed care plans, that are both received on and after the Licensure Date and attributable to QAF VI and any subsequent QAF Program, regardless of the state fiscal year for which the payments are made in reference to and regardless of the state fiscal year for which the data was derived to calculate eligibility for such payments, other than the QAF payments received prior to Closing or specifically excluded pursuant to Section 1.8(b) as QAF VI Seller Net Payments;

(s) except as set forth in Section 1.8(l) (*i.e.*, certain causes of action), 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; and

(t) to the extent assignable or transferable, any other assets owned by Sellers (which are not otherwise specifically described above in this Section 1.7) that are used primarily in the operation of the Hospital.

As used herein, the term "**Permitted Exceptions**" means (i) the Transferred Obligations; (ii) liens for taxes not yet due and payable; (iii) easements, rights of way, zoning ordinances and other similar encumbrances affecting real property; (iv) imperfections of title or encumbrances identified in the Title Commitments (defined below) other than those specifically identified in Schedule 1.7(I); and (iv) other imperfections of title or encumbrances, if any, which are not monetary in nature and that are not, individually or in the aggregate, material to the business of the Hospital.

1.8 Excluded Assets. Notwithstanding anything to the contrary in Section 1.7, Sellers shall retain all interests, rights and other assets owned directly or indirectly by it (or any of Sellers' affiliates) which are not among the Assets, including, without limitation, the following interests, rights and other assets of Sellers (collectively, the "**Excluded Assets**"):

(a) cash, cash equivalents and short-term investments;

(b) all QAF payments received prior to Closing under any QAF Program and, in addition, (I) the Excluded Assets shall include all payments received or to be received by the Hospital with respect to QAF V (the "**QAF V Payments**"), and (II) with respect to QAF VI, the Excluded Assets shall include the "**QAF VI Seller Net Payments**" which shall be, with respect to the Hospital, an amount equal to the product of: (A) all payments received or to be received by the Hospital under the QAF Program in respect of QAF VI minus all payments already made, required to be made in the future or to be offset by the government with respect to QAF VI, multiplied by (B) the Closing Date Percentage. The "**Closing Date Percentage**" shall mean the percentage derived by dividing the total number of days between July 1, 2019 and the Effective Time, by 915;

(c) all Disproportionate Share Hospital Payments ("**DSH**") 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);

(d) all Sellers Plans (defined below) and the assets of all Sellers Plans and any asset that would revert to the employer upon the termination of any Sellers Plan, including, without limitation, any assets representing a surplus or overfunding of any Sellers Plan;

(e) all contracts that are not Assigned Contracts and all risk sharing agreements with independent physician associations ("**IPAs**");

(f) any Private Payor Agreement that is not a Transferred Private Payor Agreement and any Managed Care Agreement that is not a Transferred Managed Care Agreement;

(g) all collective bargaining agreements or other arrangements with unions representing Sellers' employees;

(h) all leases that have not been designated as Assigned Leases, and all Contracts that have not been designated as Assigned Contracts and all rents, deposits, prepayments, and similar amounts relating thereto;

(i) the portions of Inventory, Prepaids, and other assets disposed of, expended or canceled, as the case may be, by Sellers after the Signing Date and prior to the Effective Time in the ordinary course of business;

(j) assets owned by vendors of services or goods to the Hospital;

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

(l) Except as set forth in Section 1.7(k) or 1.7(s) hereof (*i.e.*, rights under warranties and physical condition claims), all claims, counterclaims and causes of action of Sellers or Sellers' bankruptcy estate (including parties acting for or on behalf of Sellers' bankruptcy estate, including, but not limited to, the official committee of unsecured creditors appointed in the Bankruptcy Case), including, without limitation, (A) causes of action arising out of any claims and causes of action under chapter 5 of the Bankruptcy Code ("**Avoidance Claims**"), (B) any claims, counterclaims and causes of action under applicable non-bankruptcy law (including claims, counterclaims and causes of action against any health plan or other third party payors related to services provided prior to the Effective Time), and (C) any rights to challenge liens asserted against property of the Sellers' bankruptcy estate (including, but not limited to, liens attaching to the Purchase Price paid to the Sellers), and the proceeds from any of the foregoing; *provided, however,* that Purchaser shall acquire and be deemed to release and waive as of the Effective Time all Avoidance Claims against counterparties to Assigned Contracts and Assigned Leases solely to the extent such avoidance claims arise from, or are in connection with, executory contracts and unexpired leases assigned by the Sellers to Purchaser pursuant to Section 1.11 hereof;

(m) Except as set forth in Section 1.7(s), all insurance policies and contracts and coverages obtained by Sellers or listing Sellers as 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 Licensure Date and/or (ii) Excluded Assets whether prior to or after the Licensure Date;

(n) all deposits made with any entity that provides utilities to the Hospital (the "**Utility Deposits**");

(o) all unclaimed property of any third party as of the Effective Time, including, without limitation, property which is subject to applicable escheat laws;

(p) all bank accounts of Sellers, other than the Lockboxes as set forth in Section 1.7(o);

(q) 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;

(r) the rights of Sellers to receive mail and other communications with respect to Excluded Assets or Excluded Liabilities;

(s) all tax refunds and tax assets of Sellers;

(t) all documents, records, operating manuals and film pertaining to the Hospital that the Parties agree that Sellers is required by law to retain;

(u) all patient records and medical records which are not part of any electronic medical record software transferred to Purchaser and are not required by law (including Section 351 of the Bankruptcy Code) to be maintained by Purchaser as of the Effective Time;

(v) any rights or documents relating to any Excluded Liability or other Excluded Asset;

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

(x) any rights or remedies provided to Sellers under this Agreement and each other document executed in connection with the Closing and the actions necessary to complete the sale of the Hospital pursuant to this Agreement;

(y) any rights or remedies, including deposits, against any individual or entity arising pursuant to (including in connection with Sellers' termination of) or relating to that certain Asset Purchase Agreement dated January 8, 2019 between, *inter alia*, Sellers and Strategic Global Management, Inc.;

(z) any (i) personnel files for employees of Sellers who are not hired by Purchaser; (ii) all documents, records, correspondence (including with respect to any employees), work papers, patient records or other books and records that Sellers is required by Law to retain; *provided, however*, that except as prohibited by Law and subject to ARTICLE 5, Purchaser shall have the right to make copies of any portions of such retained books and records that relate to the business of the Hospital as conducted before the Closing or that relate to any of the Assets; (iii) documents which Sellers is not permitted to transfer pursuant to any contractual obligation owed to any third party; (iv) documents primarily related to any Excluded Assets; and (v) documents necessary to prepare tax returns (Purchaser shall be entitled to a copy of such documents). With respect to documents necessary to prepare cost reports, Purchaser shall receive the original document and Sellers shall be entitled to retain or request a copy of such documents;

(aa) any and all rights and entitlements of Sellers in respect of that certain Settlement Agreement, executed as of April 29, 2019, by and between, on the one hand, Premier, Inc., Premier Services, LLC ("**Premier GP**"), Premier Healthcare Alliance, L.P. ("**Premier LP**"), Premier Healthcare Solutions, Inc. ("**PHSI**") and each of Premier, Inc.'s other subsidiaries (collectively and including Premier GP, Premier LP and PHSI, "**Premier**"), and on the other hand,

VHS, as approved by the Bankruptcy Court by order entered on May 29, 2019 [Docket No. 2461], including but not limited to the right to convert and exchange partnership interests arising under that certain Amended and Restated Limited Partnership Agreement, effective as of October 1, 2013, as amended, by and among Premier LP, Premier GP and the limited partners of Premier LP party thereto (including VHS); and

(bb) any assets identified in Schedule 1.8(bb).

For the avoidance of doubt, Purchaser is not acquiring any asset owned by any affiliate of Sellers.

1.9 Transferred Obligations. Purchaser is not assuming any liabilities of Sellers. Instead, on and after the Closing Date, Purchaser shall be responsible for and agrees to discharge, perform and satisfy fully, on and after the Effective Time, the following liabilities and obligations (collectively, the "**Transferred Obligations**"):

(a) the Assigned Contracts, after Sellers pay the Cure Costs from the proceeds of the Purchase Price;

(b) the Assigned Leases, after Sellers pay the Cure Costs from the proceeds of the Purchase Price;

(c) all liabilities and obligations arising out of or relating to any act, omission, event or occurrence connected with the use, ownership or operation by Purchaser of the Hospital or any of the Assets on or after the Effective Time;

(d) all liabilities and obligations related to the Hired Employees arising on or following the Effective Time (which for avoidance of doubt, does not include any duties, obligations or liabilities arising from or related to employment-related documentation required to be maintained by such Seller prior to the Effective Time, including but not limited to, documentation of I-9 compliance for Sellers' employees and any alternative work schedule compliance duties, obligations or liabilities that relate to Sellers' employees);

(e) all unpaid real and personal property taxes, if any, that are attributable to the Assets after the Effective Time, subject to the prorations provided in Section 1.6;

(f) all liabilities and obligations relating to utilities being furnished to the Assets, subject to the prorations provided in Section 1.6;

(g) any documentary, sales and transfer tax liabilities of Sellers incurred as a result of the consummation of the transaction contemplated by this Agreement;

(h) all liabilities or obligations provided for in Section 5.3; and

(i) any other obligations and liabilities identified in Schedule 1.9(i).

1.10 Excluded Liabilities. Purchaser shall have those duties, obligations and liabilities set forth in this Agreement, the IMA, the Leaseback Agreement, the Transition Services Agreement, the Bill of Sale, the Transfer Agreement and the Real Estate Assignment(s) and shall

be responsible for the Transferred Obligations. However, except as expressly set forth herein, Purchaser is not assuming any liabilities of Sellers related to the Assets, Sellers' employees or the Hospitals, is purchasing the Assets free and clear of the Encumbrances except the Permitted Exceptions (defined herein) and shall not be deemed a successor to Sellers or their estates by reason of any theory of law or equity with respect to any claims or liens against Sellers or the Assets (the "**Excluded Liabilities**").

1.11 Designation of Assigned Contracts and Assigned Leases. Each Seller will assign to Purchaser the Assigned Leases and such other contracts and leases as are subject to evaluation by Purchaser for assumption or rejection (collectively "**Evaluated Contracts**"). At the later of (i) 5:00 p.m. pacific time on the day that is seven (7) calendar days prior to the date of the auction for the Assets and (ii) the date the Purchaser submits its bid for the Assets: (A) Purchaser shall notify Seller in writing signed and dated by Purchaser of which Evaluated Contracts are to be assigned to Purchaser (the "**Assigned Contracts**") and (B) Purchaser shall notify Seller in writing signed and dated by Purchaser of which Evaluated Contracts are to be rejected by Seller (the "**Rejected Contracts**"); provided, that Purchaser shall have the right to designate any contracts on the Assigned Contract list as a Rejected Contract on or prior to 5:00 p.m. pacific time on the day that is thirty (30) days prior to Closing Date, and Sellers shall have the absolute right to remove any Evaluated Contract from the list of Assigned Contracts in order to preserve avoidance claims; provided, however, that notwithstanding anything to the contrary, and to enable Sellers to comply with the terms of the Bidding Procedures Order with respect to UnitedHealthcare Insurance Company ("**UnitedHealthcare**"), Purchaser shall irrevocably designate all UnitedHealthcare agreements as Assigned Contracts or Rejected Contracts by the date that is two (2) calendars days after the Bankruptcy Court enters the Sale Order. The final list of Assigned Contracts at Closing will appear on Schedule 1.7(d).

1.12 Accounts Receivable Reconciliation.

(a) Sellers and Purchaser have mutually agreed that the target Accounts Receivable amount that will be transferred from Sellers to Purchaser as of the Effective Time is the A/R Target Amount. In connection with the Account Receivable reconciliation process, Purchaser shall collect the Accounts Receivable during the one hundred thirty-five (135) day period immediately following the Closing Date (collectively, the "**Final A/R Collected**"), and within the thirty (30) day period thereafter, Purchaser shall provide Sellers, in good faith, a schedule which provides an accounting of the Final A/R Collected (the "**A/R Accounting Schedule**"), together with reasonably detailed schedules and data supporting such accounting.

(b) After receipt of the A/R Accounting Schedule, Sellers shall have sixty (60) days to review the A/R Accounting Schedule and the Final A/R Collected as proposed by Purchaser, together with the work papers used in the preparation thereof, and have their representatives and advisors review such A/R Accounting Schedule and proposed Final A/R Collected. In connection with the review of the A/R Accounting Schedule and proposed Final A/R Collected, Purchaser shall give, and shall cause its representatives and advisors to give, to Sellers and their representatives and advisors reasonable access, upon reasonable prior notice, to the books, records and other materials and the personnel of, and work papers prepared by or for, Purchaser and its representatives and advisors, including to such historical financial information relating to the Sellers and the Accounts Receivable as Sellers or their representatives or advisors

may request, in each case, in order to permit the timely and complete review of the A/R Accounting Schedule and proposed Final A/R Collected in accordance with this Section 1.12(b) and so long as such access does not unreasonably interfere with the operations of the Purchaser.

(c) If Sellers disagree with the A/R Accounting Schedule and/or proposed Final A/R Collected, they shall notify Purchaser in writing within sixty (60) days after the date on which Purchaser delivers such A/R Accounting Schedule and proposed Final A/R Collected to Sellers, which shall include the items as to which they disagree and their calculation of such disputed amounts with reasonable supporting detail (the "Statement of Objections"). Purchaser and Sellers shall reasonably cooperate to resolve any such disagreements. If Purchaser and Seller are unable to resolve all such disagreements on or before the date which is thirty (30) days following notification by Sellers of any such disagreements, such disagreements shall be submitted to the Bankruptcy Court for resolution. The A/R Accounting Schedule and Final A/R Collected shall become final on the earlier of (i) failure by Sellers to deliver a Statement of Objections within the time period required by this section; (ii) mutual written agreement by Sellers and Purchaser; or (iii) a determination by the Bankruptcy Court.

(d) Once the A/R Accounting Schedule and Final A/R Collected have become final in accordance with Section 1.12(c), the following shall occur:

(i) if the Final A/R Collected is more than the A/R Target Amount, then such excess amount shall be paid by Purchaser to Sellers within ten (10) business days of Purchaser's delivery of the accounting of the Final A/R Collected to Sellers, provided that, in no event shall amounts of any governmental grants or awards directly or indirectly related to COVID-19 be paid to Sellers under this Section 1.12(d)(i) (for the avoidance of doubt, any amounts of any governmental grants or awards directly or indirectly related to COVID-19 must be removed from the calculation of the Final A/R Collected to determine whether Purchaser owes to Sellers any amount above the A/R Target Amount);

(ii) if the Final A/R Collected is less than the A/R Target Amount, then such deficit amount shall be paid by Sellers to Purchaser within ten (10) business days of Purchaser's delivery of the accounting of the Final A/R Collected to Sellers (and if not paid, Purchaser shall have the right to offset such amounts against Seller's QAF VI Seller Net Payments); or

(iii) if the Final A/R Collected is equal to the A/R Target Amount, then no adjusting payments in respect of the Accounts Receivable shall be required by either Purchaser or Sellers.

(e) During the one hundred thirty-five (135) day period immediately following the Closing Date Purchaser shall (i) use good faith, commercially reasonable best efforts to collect the Accounts Receivable (including at least the efforts used by Purchaser to collect its other receivables) within the one hundred thirty-five (135) day period immediately following the Closing Date; (ii) not take any action for the purpose of or which would be reasonably likely to result in any of the Accounts Receivable not being collected in a timely manner and within the one hundred thirty-five (135) day period immediately following the Closing Date; and (iii) provide Sellers with weekly written updates on its collection of the Accounts Receivable.

1.13 Disclaimer of Warranties; Release.

(a) THE ASSETS TRANSFERRED TO PURCHASER WILL BE SOLD BY SELLERS AND PURCHASED BY PURCHASER IN THEIR PHYSICAL CONDITION AT THE EFFECTIVE TIME, "AS IS, WHERE IS AND WITH ALL FAULTS AND NONCOMPLIANCE WITH LAWS" WITH NO WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, USAGE, WORKMANSHIP, QUALITY, PHYSICAL CONDITION, OR VALUE, AND ANY AND ALL SUCH OTHER REPRESENTATIONS AND WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED, AND WITH RESPECT TO THE LEASED REAL PROPERTY WITH NO WARRANTY OF HABITABILITY OR FITNESS FOR HABITATION, INCLUDING, WITHOUT LIMITATION, THE LAND, THE BUILDINGS AND THE IMPROVEMENTS. ALL OF THE PROPERTIES, ASSETS, RIGHTS, LICENSES, PERMITS, PRIVILEGES, LIABILITIES, AND OBLIGATIONS OF SELLERS INCLUDED IN THE ASSETS AND THE TRANSFERRED OBLIGATIONS ARE BEING ACQUIRED OR RECEIVED "AS IS, WHERE IS" ON THE CLOSING DATE AND IN THEIR PRESENT CONDITION, WITH ALL FAULTS. ALL OF THE TANGIBLE ASSETS SHALL BE FURTHER SUBJECT TO NORMAL WEAR AND TEAR AND NORMAL AND CUSTOMARY USE OF THE INVENTORY AND SUPPLIES IN THE ORDINARY COURSE OF BUSINESS UP TO THE EFFECTIVE TIME.

(b) Purchaser acknowledges that Purchaser has examined, reviewed and inspected all matters which in Purchaser's judgment bear upon the Purchase Price, the Assets, the Sellers, the Hospital, the businesses of the Hospital and their value and suitability for Purchaser's purposes and, except for Sellers representations and warranties in ARTICLE 2, is relying solely on Purchaser's own examination, review and inspection of the Assets and Transferred Obligations. Purchaser hereby releases Sellers and their affiliates from all responsibility and liability regarding the condition, valuation, salability or utility of the businesses of the Hospital or the Assets, or their suitability for any purpose whatsoever. Purchaser further acknowledges that the representations and warranties of Sellers contained in ARTICLE 2 of this Agreement are the sole and exclusive representations and warranties made by Sellers to Purchaser (including with respect to the Hospital, the Assets and the Transferred Obligations) and shall expire, and be of no further force or effect at the Closing.

ARTICLE 2
REPRESENTATIONS AND WARRANTIES OF SELLERS

Each Seller hereby represents, warrants and covenants to Purchaser, severally (and not jointly) with respect to such Seller that the following matters are true and correct as of the Signing Date, except as would not have a Material Adverse Effect (as defined below) upon the Assets, and except as disclosed in the disclosure schedule, as may be amended pursuant to the terms of this Agreement (the "**Disclosure Schedule**"), provided that the representations and warranties set forth in Sections 2.1 (Authorization), 2.2 (Binding Agreement), 2.3 (Organization and Good Standing; No Violation), 2.7 (Compliance with Legal Requirements), 2.8 (Required Consents), 2.10 (Title)

and 2.13 (Legal Proceedings) (the "**Sale Order Date Representations**") shall also be made as of immediately prior to the entry of the Sale Order (the "**Sale Order Date**"):

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 the Sellers' financial condition, provided, that in determining whether a Material Adverse Effect has occurred, any degradation in earnings and/or Receivables shall be excluded.

2.1 Authorization. Such Seller has all necessary corporate power and authority to enter into this Agreement and, subject to Bankruptcy Court approval, to carry out the transactions contemplated hereby.

2.2 Binding Agreement. This Agreement has been duly and validly executed and delivered by Sellers and, assuming due and valid execution by Purchaser, this Agreement constitutes a valid and binding obligation of Sellers 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 (including, without limitation approval of the Bankruptcy Court) and (b) limitations on the enforcement of equitable remedies.

2.3 Organization and Good Standing; No Violation.

(a) Each of SFMC and VHS is a non-profit corporation duly organized, validly existing and in good standing under the laws of the State of California. Verity Holdings is a limited liability company duly organized, validly existing and in good standing under the laws of the State of California. Each Seller has all necessary power and authority to own, operate and lease its properties and to carry on its businesses as now conducted.

(b) Neither the execution and delivery by such Seller of this Agreement nor the consummation of the transactions contemplated hereby by such Seller nor compliance with any of the material provisions hereof by such Seller, will violate, conflict with or result in a breach of any material provision of such Seller's articles of incorporation or bylaws or any other organizational documents of such Seller.

2.4 Contracts. Except as set forth in Schedule 2.4, upon entry of the Sale Order and payment of the Cure Costs, to Sellers' knowledge, Sellers are not in breach or default of the Assigned Contracts or Assigned Leases. No provision of this Section 2.4 shall apply to any failure to obtain consents to the assignment of the Assigned Contracts and/or Assigned Leases from third parties in connection with the assignment of such Assigned Contracts and/or Assigned Leases to Purchaser (the "**Contract and Lease Consents**").

2.5 Brokers and Finders. Except as set forth on Schedule 2.5, neither such Seller nor any affiliate thereof, nor any officer or director thereof, have engaged or incurred any liability to any finder, broker or agent in connection with the transactions contemplated hereunder.

2.6 Non-Contravention. Neither the execution and delivery by Sellers of this Agreement and each Ancillary Agreement nor performance of any of the material provisions

hereof by Sellers, will violate, conflict with or result in a breach of any material provisions of the articles of incorporation or bylaws of Sellers.

2.7 Compliance with Legal Requirements. Except as set forth in Schedule 2.7, to the knowledge of Sellers: each Seller, with respect to the operation of the Hospital, is in material compliance with all applicable laws, statutes, ordinances, orders, rules, regulations, licenses, certificates, judgments or decrees of all judicial or governmental authorities (federal, state, local, foreign or otherwise) (collectively, "**Legal Requirements**"). Except as set forth in Schedule 2.7, to the knowledge of Sellers, none of the Sellers, with respect to the operation of the Hospital, has been charged in writing with or been given written notice of any material violation or any obligation to take material remedial action under, any applicable Legal Requirements.

2.8 Required Consents. Except as set forth in Schedule 2.8, and other than in connection with any Licenses, any provider agreements (including any such agreements with a governmental authority) and the Attorney General, Sellers are not a party to or bound by, nor are any of the Assets subject to, any mortgage, or any material lien, deed of trust, material lease, or material contract or any material order, judgment or decree which, after giving effect to the Sale Order (a) will require the consent of any third party to the execution of this Agreement or (b) will require the consent of any third party to consummate the transactions contemplated by this Agreement.

2.9 Environmental Matters

(a) Sellers have provided Purchaser with the Phase I Environmental Site Assessments in Seller's electronic data room.

(b) Except as disclosed in Schedule 2.9(b), to the knowledge of Sellers, the operations of the Hospital are not in material violation of any applicable limitations, restrictions, conditions, standards, prohibitions, requirements and obligations of Environmental Laws and related orders of any court or any other governmental authority.

(c) For the purposes of this Section, the term "**Environmental Laws**" shall mean all state, federal or local laws, ordinances, codes or regulations relating to Hazardous Substances or to the protection of the environment, including, without limitation, laws and regulations relating to the storage, treatment and disposal of medical and biological waste. For purposes of this Agreement, the term "**Hazardous Substances**" shall mean (i) any hazardous or toxic waste, substance, or material defined as such in (or for the purposes of) any Environmental Laws, (ii) asbestos-containing material, (iii) medical and biological waste, (iv) polychlorinated biphenyls, (v) petroleum products, including gasoline, fuel oil, crude oil and other various constituents of such products, and (vi) any other chemicals, materials or substances, exposure to which is prohibited, limited or regulated by any Environmental Laws.

2.10 Title. Sellers have delivered at their own expense for all Owned Real Property (i) preliminary title reports issued by Chicago Title Insurance Company (the "**Title Commitments**") and (ii) copies of or access to all material underlying title documents listed on the Title Commitments.

2.11 Certain Other Representations with Respect to the Hospitals.

(a) Except as set forth in Schedule 2.11, all Licenses which are material and necessary to the operation of the Hospital by SFMC are valid and in good standing and SFMC is in compliance with the terms and conditions of all such Licenses in all material respects, in each case except where the failure to be valid and in good standing or in compliance would not have a Material Adverse Effect on the Assets. Except as set forth in Schedule 2.11, as of the Closing Date, SFMC will have all material Licenses required under Legal Requirements to operate the Hospital as presently operated by SFMC, except where the failure to have any such License would not have a Material Adverse Effect on the Assets. To the knowledge of Sellers, no loss of any License is pending or threatened.

(b) SFMC is certified for participation in the Medicare, Medi-Cal and TRICARE programs and any other federal or state health care reimbursement programs in which SFMC participates, and has current and valid provider agreements with each such program, except where the failure to be so certified or have such provider agreements would not have a Material Adverse Effect.

(c) SFMC has not been excluded from Medicare, Medi-Cal or any federal or state health care reimbursement program, and, to the knowledge of Sellers, there is no pending or threatened exclusion action by a governmental authority against SFMC.

2.12 Financial Statements.

(a) Sellers have provided to Purchaser: (i) the unaudited balance sheets of the Sellers as of June 30, 2018; (ii) unaudited income statements of the Sellers for the twelve-month periods ended June 30, 2018; (iii) the audited consolidated income statements of Sellers for the years ended 2016 and 2017; and (iv) the unaudited consolidated balance sheet of Sellers as of June 30, 2018 (collectively, the "**Historical Financial Statements**").

(b) the income statements contained in the Historical Financial Statements present, fairly in all material respects the results of the operations of the Sellers as of and for the periods covered therein and the balance sheets contained in the Historical Financial Statements (i) are true, complete and correct in all material respects; (ii) present, fairly in all material respects the financial condition of the Sellers as of the dates indicated thereon; and (iii) to the extent prepared by an independent certified public accounting firm, have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods covered, except as disclosed therein.

2.13 Legal Proceedings. Except as set forth on Schedule 2.13, and except for any and all cases and/or pleadings filed or to be filed in the Bankruptcy Court, which shall be available through Sellers' claims and noticing agent's website at http://www.kccllc.com/VERITYHEALTH/, to the knowledge of Sellers, there are no material claims, proceedings or investigations pending or threatened with respect to the ownership of the Assets or the operation of the Hospital or the Hospital by Sellers before any governmental authority. Except as set forth on Schedule 2.13, and other than any action or proceeding brought in the Bankruptcy Court, to the knowledge of Sellers,

Sellers are not subject to any government order with respect to the ownership or operation by SFMC of the Hospital and SFMC is in substantial compliance with respect to any such government order.

2.14 Employee Benefits. Sellers have provided Purchaser with a list of (i) each pension, profit sharing, bonus, deferred compensation, or other retirement plan or arrangement of Seller with respect to the operation of the Hospital, whether oral or written, which constitutes an "employee pension benefit plan" as defined in Section 3(2) of ERISA, (ii) each medical, health, disability, insurance or other plan or arrangement of Seller with respect to the operation of the Hospital, whether oral or written, which constitutes an "employee welfare benefit plan" as defined in Section 3(1) of ERISA, and (iii) each other employee benefit or perquisite provided by Seller with respect to the operation of the Hospital, in which any employee of Seller participates in his/her capacity as such (collectively, the "**Seller Plans**").

2.15 Personnel. Sellers have provided Purchaser with a complete list (as of the date set forth therein) of names, positions and current annual salaries or wage rates and scheduled bonus, and the accrued paid time off pay of all employees of Sellers (including employees of the Hospital and employees of VHS and Verity Holdings) immediately prior to March 31, 2020, whether such employees are full time employees, part-time employees, on short-term or long-term disability or on leave of absence pursuant to Sellers's policies, the Family and Medical Leave Act of 1993 or other similar Legal Requirements (the "**Hospital Employees**") and indicating whether the Hospital Employee is full- time or part-time. Sellers shall provide an updated list to Purchaser no later than five (5) Business Days before the date scheduled for the Closing.

2.16 Insurance. Sellers have provided Purchaser with a list of all material insurance maintained by Sellers with respect to the Assets, as of the Signing Date.

2.17 Receivables. To the knowledge of Sellers, all Receivables included in the Assets at Closing result from the bona fide provision of products or services in the ordinary course of business. All proceeds of Sellers' Receivables are currently deposited, either electronically or manually, into those bank accounts provided to Purchaser in Seller's electronic data room.

2.18 Payor Contracts. To the knowledge of Sellers, and subject to Section 365 of the Bankruptcy Code, Sellers have provided Purchaser with a complete list of all written contracts with private third-party payors including insurance companies and HMOs. Sellers have provided Purchaser with a true and correct copy of all material Payor Contracts.

2.19 Excluded Individuals. Except as set forth on Schedule 2.19, to the knowledge of Sellers: neither Sellers, Hospital nor any director, officer or employee of Sellers or Hospital (a) was, is or is proposed to be, suspended, excluded from participation in, or sanctioned under, any federal or state health care program (including, without limitation, Medicare and Medicaid) (an "**Excluded Individual**"); (b) has been convicted of any criminal offense related to the delivery of any medical or health care services or supplies, or related to the neglect or abuse of patients; (c) has failed to maintain its current License to provide the services required to be provided by it to or on behalf of Sellers and Hospital; or (d) is unable to obtain or maintain liability insurance consistent with commercially reasonable industry practices.

2.20 Seller Knowledge. References in this Agreement to "Sellers' knowledge" or "the knowledge of Sellers" means the actual knowledge of the Chief Executive Officer and Chief Financial Officer of the applicable Seller, without independent research. No constructive or imputed knowledge shall be attributed to any such individual by virtue of any position held, relationship to any other Person or for any other reason.

ARTICLE 3
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 Signing Date and as of the Closing Date:

3.1 Authorization. Purchaser has full power and authority to enter into this Agreement and has full power and authority to perform its obligations hereunder and to carry out the transactions contemplated hereby. No additional internal consents are required in order for Purchaser to perform its obligations and agreements hereunder.

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 a corporation duly organized, validly existing and in good standing under the laws of the State of California, is or will be duly authorized to transact business in the State of California, and has full power and authority to own, operate and lease its properties and to carry on its business as now conducted.

3.4 No Violation. Except as set forth in Schedule 3.4, 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 (a) 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; (b) require any approval or consent of, or filing with, any governmental agency or authority, (c) violate any law, rule, regulation, or ordinance to which Purchaser is or may be subject, or (d) violate any judgment, order or decree of any court or other governmental agency or authority to which Purchaser is subject.

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 Representations of Sellers. Purchaser acknowledges that it is purchasing the Assets on an "AS IS, WHERE IS" basis (as more particularly described in Section 1.12), and that Purchaser is not relying on any covenant, representation, warranty (expressed or implied, oral or

otherwise) made by or on behalf of Sellers, or any other provision of this Agreement, in entering into and performing under this Agreement. Purchaser further acknowledges that Sellers are not making any covenants, representations or warranties herein relating to the Assets or the operation of the Hospital on or after the Effective Time.

3.7 Legal Proceedings. Except as described on Schedule 3.7, there are no claims, proceedings or investigations pending or, to the best knowledge of Purchaser, threatened relating to or affecting Purchaser or any affiliate of Purchaser before any court or governmental body (whether judicial, executive or administrative) 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 which would adversely affect Purchaser's ability to consummate the transactions contemplated hereby.

3.8 No Knowledge of Sellers' Breach. Neither Purchaser nor any of its affiliates has knowledge of any breach of any covenant, representation or warranty by Sellers or of any condition or circumstance that would give Purchaser a right to terminate this Agreement pursuant to Section 9.1(c). If information comes to Purchaser's attention on or before the Closing Date (whether through Sellers or otherwise and whether before or after the Signing Date) which indicates that Sellers have breached any of their covenants, representations, warranties or any other provision or condition under this Agreement, then the effect shall be as if the covenants, representations and warranties or any other provision or condition of this Agreement had been modified in accordance with the actual state of facts existing prior to the Effective Time such that there will be no breach under Sellers' covenants, representations and warranties or any other provision or condition of this Agreement in relation to such information; provided, further, that Purchaser must immediately notify Sellers if any such breach comes to its attention on or before the Closing Date, and Purchaser's failure to so notify Sellers shall constitute a waiver by Purchaser of Sellers' breach, if any, of this Agreement or any ancillary agreements entered into pursuant to this Agreement. Upon written request of Sellers, Purchaser shall promptly confirm and remake this representation in writing.

3.9 Ability to Perform. Purchaser has the ability to obtain funds and at the Closing shall have cash in amounts necessary to consummate the transactions contemplated by this Agreement by means of cash, credit facilities or otherwise. Upon the earlier of ten (10) days after satisfaction of Section 8.3 or five (5) days prior to the Closing Date, Purchaser shall have delivered to Sellers true, correct and complete copies of (i) executed commitment letter(s) from one or more banks or other lending institutions or sources (the "**Debt Commitment Letter**"), pursuant to which, and subject to the terms and conditions thereof, the lender parties thereto have committed to lend the amounts set forth therein to Purchaser for the purpose of funding the transactions contemplated by this Agreement and (ii) any executed equity commitment letter(s) (the "**Equity Commitment Letter**" and, together with the Debt Commitment Letter, the "**Financing Commitments**"). The Financing Commitments provide sufficient funds to consummate the transactions contemplated by this Agreement.

3.10 Investigation. Purchaser has been afforded reasonable access to, and has been provided adequate time to review, the books, records, information, operations, facilities and

personnel of Sellers and the Hospital for purposes of conducting a due diligence investigation of Sellers and the Hospital. Purchaser has conducted a reasonable due diligence investigation of Sellers and the Hospital and has received satisfactory answers to all inquiries it has made respecting Sellers and the Hospital and has received all information it considers necessary to make an informed business evaluation of Sellers and the Hospital. In connection with its due diligence investigation of Sellers and the Hospital, Purchaser has not relied upon any books, records, information, operations, facilities and personnel provided by Sellers, including in making its determination to enter into this Agreement and/or consummate the transactions contemplated hereby. Purchaser has completed all of its due diligence of Sellers and the Hospital and this Agreement is not subject to any further due diligence of Sellers and the Hospital by Purchaser.

3.11 Purchaser Knowledge. References in this Agreement to "Purchaser's knowledge" or "the knowledge of Purchaser" means the actual knowledge of the Chief Executive Officer and Chief Financial Officer of Purchaser, without independent research. No constructive or imputed knowledge shall be attributed to any such individual by virtue of any position held, relationship to any other Person or for any other reason.

ARTICLE 4
COVENANTS OF SELLERS

4.1 Access and Information; Inspections.

(a) From the Signing Date through the Effective Time, (a) 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 at Sellers' corporate headquarters in Los Angeles, California to, and the right to inspect, the books, accounts, records and all other relevant documents and information with respect to the assets, liabilities and business of the Hospital and the plant and property of the Hospital at the Hospital and (b) Sellers shall furnish Purchaser with such additional financial and operating data and other information in Sellers' possession as to the businesses and properties of the Hospital as Purchaser or its representatives may from time to time reasonably request; *provided*, *however*, that Sellers are not obligated to disclose information which is proprietary to Sellers and would not be essential to the ongoing operation of the Hospital by Purchaser; *provided*, *further*, that all disclosures of information shall be consistent with the confidentiality agreements and any other non-disclosure agreements entered into (or to be 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 unreasonably with the operations of Sellers or the Hospital.

(b) Notwithstanding anything contained herein, Sellers shall not be required to provide Purchaser or its representatives or agents access to or disclose information where such access or disclosure would violate the rights of its patients, jeopardize the attorney-client or similar privilege with respect to such information or contravene any law, judgment, fiduciary duty or contract entered into prior to or on the date of this Agreement with respect to such information.

4.2 Cooperation.

(a) The Parties shall reasonably cooperate with each other and their respective

authorized representatives and attorneys in: (a) all efforts to obtain all consents, approvals, authorizations, clearances and licenses required to carry out the transactions contemplated by this Agreement (including, without limitation, those of governmental and regulatory authorities), (b) the preparation of any document or other material which may be required by any governmental agency as a predicate to or result of the transactions contemplated in this Agreement, and (c) Purchaser's efforts to effectuate the assignment of Assigned Contracts to Purchaser as of the Closing Date.

(b) Except as may be otherwise requested by Sellers in order to comply with applicable law or regulatory guidance, notwithstanding anything contained herein, other than Bankruptcy Court orders and authorizations, it shall be Purchaser's sole responsibility (including payment of any fees, expenses, filing costs or other amounts) to obtain the Contract and Lease Consents, as well as all governmental consents, approvals, assignments, authorizations, clearances and licenses required to (x) carry out the transactions contemplated by this Agreement and/or (y) transfer any of the Assets, including any Licenses, Transferred Managed Care Agreements and/or Transferred Private Payor Agreements, not including the application required to be submitted to the California Attorney General and the transfer of the Medicare Provider Agreement and the Medi-Cal Provider Agreement, which are dealt with in Sections 5.8(c) and 4.5 hereto respectively. Upon request, Sellers shall provide Seller-specific information that may be needed by Purchaser to obtain such Contract and Lease Consents and such governmental consents, approvals, assignments, authorizations, clearances and licenses.

(c) Notwithstanding any provision to the contrary contained in this Agreement, Sellers shall not be obligated to obtain the approval or consent to the assignment, to Purchaser, of any Assigned Contracts or Assigned Leases, from any party to any of the Assigned Contracts or Assigned Leases even if any such contract or lease states that it is not assignable without such party's consent.

4.3 Sellers' Efforts to Close. Sellers shall use their reasonable commercial efforts to satisfy all of the conditions precedent set forth in ARTICLE 7 and ARTICLE 8 to their 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 (other than any filing or application fees to the extent Sellers are responsible therefor under this Agreement).

4.4 Termination Cost Reports. Sellers shall file all Medicare, Medi-Cal 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, provided that Purchaser shall fund reasonable costs and expenses of preparation, filing and audit of such reports. Purchaser shall permit Sellers access to all Hospital books and records to prepare such reports and shall assist Sellers in the process of preparing, filing, and reviewing the termination cost reports. All such termination cost reports shall be filed by Sellers in a manner that is consistent with current laws, rules and regulations. Sellers shall be responsible for filing governmental cost reports for all periods through the day immediately preceding the Licensure Date. Purchaser shall be responsible for their own cost report filings relating to the Hospital beginning on the Licensure Date.

4.5 Medicare and Medi-Cal Enrollment. Sellers shall make commercially reasonable efforts to expeditiously enter into settlement agreements with the Centers for Medicare and Medicaid Services ("**CMS**"), with respect to the Medicare Provider Agreement, and the California Department of Health Care Services ("**DHCS**"), with respect to the Medi-Cal Provider Agreement or, alternatively, obtain Bankruptcy Court rulings that the Medicare Provider Agreement and/or the Medi-Cal Provider Agreement may be transferred without the consent of CMS or DHCS, as applicable, free and clear of Encumbrances and Excluded Liabilities and without successor liability, to enable such agreements to be assigned to Purchaser. Between the Closing Date and the Licensure Date, Purchaser may bill and collect for patient services under Seller's health plan agreements, pursuant to the terms of the IMA and Leaseback Agreement.

4.6 Transferred Private Payor Agreements. For purposes of this Section 4.6, the following terms shall have the meanings set forth herein: (a) "**Payor**" means the non-debtor counter-party to a Transferred Private Payor Agreement; (b) "**Overpayment**" means an overpayment made by a Payor to SFMC on account of a Contracted Payment; (c) "**Contracted Payment**" means the contractual reimbursement due from a Payor to SFMC under a Transferred Private Payor Agreement for covered services rendered by Hospital under such agreement with a date of service on or prior to the Effective Time. Purchaser agrees that, as a condition to the assignment of any Transferred Private Payor Agreement on the Licensure Date, it shall honor any defenses to the payment of, and shall permit recoupment against, an Account Receivable due from Payor to Purchaser based on an Overpayment under such agreement, *provided that*, the determination and allowance of any Overpayment shall remain subject to the terms and conditions of the relevant Transferred Private Payor Agreement. Without limiting the scope of the foregoing sentence, Purchaser acknowledges and agrees that (a) the Sale Order shall authorize a Payor to continue to exercise its defenses to the payment to Purchaser of an Account Receivable based on an Overpayment, and (b) Overpayments do not constitute Cure Costs under this Agreement. This Section 4.6 shall satisfy the requirements under Sections 365(b) and (f) of the Bankruptcy Code. Following the Licensure Date, pursuant to Section 365(k) of the Bankruptcy Code, the SFMC shall be relieved and released from any obligation to any Payor on account of any Overpayment or otherwise.

4.7 Hospital Operations. From the date of the Sale Order until the Closing, Sellers shall, with respect to the operation of the Hospital, use commercially reasonable efforts (in each case subject to actions relating to and impacts arising from the SARS-CoV-2 virus or mutations therefrom or in connection with the disease COVID-19) to:

(a) without regard to negative financial impacts or any Material Adverse Effect, carry on Sellers' operation of the Hospital consistent with past practice, but subject to the Bankruptcy Cases and Sellers' obligations and actions in connection therewith;

(b) without regard to Material Adverse Effect, maintain in effect the insurance coverages with respect to the Assets;

(c) without regard to Material Adverse Effect, perform Sellers' material obligations under all Assigned Contracts with respect to the Assets in compliance with the Bankruptcy Code;

(d) with respect to material deficiencies, if any, cited by any governmental authority or accreditation body in the most recent surveys conducted by each, develop and implement a plan of correction (without regard to Material Adverse Effect) that is reasonably acceptable to such governmental authority or such accreditation body, but excluding any deficiencies cited (i) by the Attorney General or (ii) with respect to seismic or OSHPD-related requirements; *provided, however*, that Sellers may appeal any material deficiency citations under applicable laws if a plan of correction is not accepted by the applicable governmental authority or accreditation body which appeal shall satisfy Sellers obligations under this subsection;

(e) following entry of the Sale Order, 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 any written materials shall be approved by Sellers prior to being sent, and provided further that such actions by Purchaser do not unreasonably interfere with Sellers' operation of the Hospital;

(f) timely file or cause to be filed all material reports, notices and tax returns required to be filed and pay all required taxes as they come due, unless such failure would not have a Material Adverse Effect; and

(g) without regard to Material Adverse Effect, maintain all existing material approvals, permits and environmental permits relating to the Hospital.

4.8 Interim Collections. Purchaser may bill and collect for patient services rendered by Hospital between the Closing Date and the Licensure Date under Seller's Private Payor Agreements and Transferred Managed Care Agreements, pursuant to the terms of the IMA and Leaseback Agreement.

4.9 Contract With Unions.

(a) Promptly following the Signing Date, representatives of Sellers who are parties to St. Francis related collective bargaining agreements and of the Purchaser, respectively, shall meet and confer from time to time as reasonably requested by either Party to discuss strategic business options including terms contained under all operative collective bargaining agreements. The applicable Sellers and Purchaser shall each participate in all negotiations related to the potential modification and assignment of specific Seller's collective bargaining agreements to Purchaser. The applicable Sellers shall use commercially reasonable efforts to initiate discussions with Purchaser and unions and conduct discussions to renegotiate each collective bargaining agreement currently in effect with each applicable union. The applicable Sellers will not unreasonably withhold, condition or delay Bankruptcy Court approval of any successfully renegotiated collective bargaining agreement. The Parties recognize that Seller's failure to conclude a successor collective bargaining agreement shall not be a breach of Sellers' obligation under this Agreement or otherwise excuse Purchaser's obligations under this Agreement.

(b) On or before the date that is thirty (30) days after the Sale Order Date, the negotiations pursuant to Section 4.9(a) shall have resulted in each, such labor unions, agreeing to either (i) either modification of the St. Francis related collective bargaining agreements under

terms that are to be substantially consistent with the Purchaser's existing and most current collective bargaining agreements with each such respective labor union, and that settle all liabilities under the existing Seller collective bargaining agreements that shall be assigned to Purchaser, provided that there are shall be no cure obligations to the Sellers or (ii) enter into new collective bargaining agreements that are substantially consistent with the Purchaser's existing collective bargaining agreements with each such respective labor union; provided, that if Purchaser and each labor union have not entered into such agreements described in (i) or (ii) above, or have entered into an agreement under (ii), then Sellers shall have the absolute right to file or take any other action to reject and terminate any such collective bargaining agreement and, in such event, the Bankruptcy Court shall have entered an order granting Sellers' requested rejection of such collective bargaining agreement prior to the Closing Date. In no event will Sellers be liable for any obligations in respect of settlements described in this section.

4.10 Consulting Services. Subject to compliance with applicable Legal Requirements and after entry of the Sale Order if the Purchaser is the Prevailing Bidder:

(a) Purchaser shall provide consulting services to the Hospital for the period prior to the Closing Date;

(b) the consulting services provided by Purchaser may include, but not be limited to, reviewing and advising SFMC regarding accounting and financial records, contracting, billing and collection activities, compliance with law, any of the plans or actions proposed in the following sentence, and other functions;

(c) Sellers shall consider and implement any mutually reasonably agreed upon plans and actions proposed by Purchaser to (a) assist the Hospital in meeting any seismic compliance deadlines, (b) stabilize and improve the operations of the Hospital or (c) develop and implement turnaround plans for the long-term viability of the Hospital; and

(d) Purchaser shall have reasonable access to the business office and records of the Hospital, which shall include reasonable access to the Hospital's chief executive officer, chief financial officer, chief operations officer or other equivalent personnel of the Hospital reasonably necessary for Purchaser to perform the aforementioned consulting services.

Notwithstanding the foregoing, VHS, SFMC and their boards of directors shall at all times retain ultimate control and governance over the assets and operation of the Hospital. Neither VHS nor SFMC shall delegate to Purchaser any of the powers, duties and responsibilities required to own or operate the Hospital or those that are retained by VHS and/or SFMC under law (including all certificates and licenses issued under authority of law for ownership or operation of the Hospital). For the period of time during which such consulting services are provided, Hospital and VHS shall have the non-exclusive, royalty-free, unlimited license to use any implemented Purchaser-owned intellectual property. Purchaser shall not charge Sellers any consulting fee for providing the services described in this Section 4.11.

4.11 Cure Costs. On or about the Closing Date, Sellers (from the proceeds of the Purchase Price) shall pay an amount equal to the Cure Costs to each counter party to an Assigned Contract and Assigned Lease so that each such Assigned Contract and Assigned Lease may be

assumed by Sellers and assigned to Purchaser in accordance with the provisions of Section 365 of the Bankruptcy Code. For purposes of this Agreement, "**Cure Costs**", means all amounts that must be paid and all obligations that otherwise must be satisfied, including pursuant to Sections 365(b)(1)(A) and (B) of the Bankruptcy Code in connection with the assumption and/or assignment of the Assigned Contracts and Assigned Leases to Purchaser as provided herein.

ARTICLE 5
COVENANTS OF PURCHASER

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 7 and ARTICLE 8 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 Consents. Purchaser shall be entitled, but not obligated, to seek to obtain the Contract and Lease Consents. Purchaser shall be entitled, but not obligated, to solicit and seek to obtain estoppel certificates from any third party to any Leased Real Property. Purchaser's failure to obtain any or all of the Contract and Lease Consents or estoppel certificates as of the Closing Date shall not be a condition precedent to either Party's obligation to consummate the Closing and perform all transactions contemplated by this Agreement.

5.3 Certain Employee Matters.

(a) Purchaser agrees to make offers of employment, effective as of the Effective Time, to substantially all persons (whether such persons are full time employees, part-time employees, on short-term or long-term disability or on leave of absence, military leave or workers compensation leave) who, immediately prior to the Effective Time are: (i) employees of SFMC; or (ii) employed by another Seller or affiliate and are listed on Schedule 5.3 (collectively, the "**Hospital Employees**"). For the avoidance of doubt, the Hospital Employees shall not include any employees of VHS or any other affiliate of Sellers unless such individual is listed on Schedule 5.3. Any of the Hospital Employees who accept an offer of employment with Purchaser as of or after the Effective Time shall be referred to in this Agreement as the "**Hired Employees**." All employees who are Hired Employees shall cease to be employees of Sellers or its affiliates as of the Closing Date.

(b) After the Closing Date, Purchaser's human resources department will give reasonable assistance to Sellers and their affiliates with respect to Sellers' and Sellers' affiliates' post-Closing administration of Sellers' and Sellers' affiliates' pre-Closing employee benefit plans for the Hospital Employees. Within five (5) days after the Closing Date, Purchaser shall provide to Sellers a list of all the Hospital Employees who were offered employment by Purchaser but refused such employment along with a list of all Hired Employees (which such list Purchaser shall periodically update).

(c) With respect to any collective bargaining agreements or labor contract with respect to any union employees, Purchaser shall comply with the applicable laws, or to the extent applicable, Bankruptcy Court orders relating to collective bargaining agreements or labor contracts.

(d) The provisions of this Section 5.3 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.

5.4 Waiver of Bulk Sales Law Compliance. Purchaser hereby waives compliance by Sellers with the requirements, if any, of Article 6 of the Uniform Commercial Code as in force in any state in which the Assets are located and all other laws applicable to bulk sales and transfers.

5.5 Conduct Pending Closing. Prior to consummation of the transactions contemplated hereby or the termination or expiration of this Agreement pursuant to its terms, unless Sellers shall otherwise consent in writing, Purchaser shall not take any action or fail or omit to take any action which would cause any of Purchaser's representations and warranties set forth in ARTICLE 4 to be inaccurate or untrue during the term of this Agreement and as of the Closing.

5.6 Resale Certificate. Purchaser agrees to furnish to Sellers any resale certificate or certificates or other similar documents reasonably requested by Sellers to comply with or obtain an exemption from pertinent excise, sales and use tax laws.

5.7 Operating Covenant. Purchaser shall act in good faith in fulfilling its obligations under this Agreement.

5.8 Governmental Approvals.

(a) Best Efforts. Purchaser (a) shall use its best efforts to secure, as promptly as possible after the Signing Date, all consents, approvals (or exemptions therefrom), authorizations, clearances and licenses required to be obtained from governmental and regulatory authorities 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 (b) will provide such other information and communications to governmental and regulatory authorities as Sellers or such authorities may reasonably request. Purchaser is responsible for all filings with and requests to governmental authorities necessary to enable Purchaser to operate the Hospital at and after the Licensure Date. Purchaser acknowledges that Sellers may independently contact governmental and regulatory authorities as part of this process.

(b) Change of Ownership Applications. Purchaser shall, promptly, but no later than ten (10) business days after the entry of the Sale Order, or sooner if required by applicable governmental or regulatory authorities, file all applications, licensing packages and other documents with all applicable governmental and regulatory authorities which are necessary for the operation of a hospital and the consummation of the transactions hereunder, including the hospital license change of ownership application with CDPH, the hospital pharmacy change of ownership application with the BOP, and the Medicare and Medi-Cal change-of-ownership applications.

(c) Attorney General Application. Purchaser and Sellers shall, promptly, but no later than five (5) business days after the date of the Sale Order, file with the California Attorney General (the "**Attorney General**"), the application and report forms required for the transactions

contemplated hereby and any supplemental information that may be reasonably requested in connection therewith pursuant to Title 11, Division 1, Chapter 15, Section 999.5 of the California Code of Regulations ("**Section 999.5**"), which application and report forms and supplemental information will comply in all material respects with the requirements of such regulations and shall state that Purchaser agrees to close the transactions contemplated by this Agreement so long as any conditions imposed by the Attorney General are not materially more burdensome than the conditions attached hereto as Exhibit 5.8(c) (the "**Accepted Conditions**"). Purchaser shall pay all fees (including, without limitation, attorneys' fees) required of Purchaser or Sellers with respect to the preparation and submission of the application, hearings, expert reports, Attorney General attorney review time, reports and other requirements of the Attorney General under Section 999.5. Each of Purchaser and Sellers shall furnish to the other such information and assistance as the other shall reasonably requires in connection with the preparation and submission to, or agency proceedings by, the Attorney General, and each of Purchaser and Sellers shall keep the other promptly apprised of any communications with, and inquires or requests for information from, the Attorney General. Purchaser shall take such action as may be required by the Attorney General in order to resolve with the minimum practicable delay any objections the Attorney General may have to the transactions contemplated by this Agreement under Section 999.5. For any late submission of the Attorney General application, at Seller's election, either the Purchase Price shall be increased by an amount equal to One Thousand Dollars ($1,000) per day or Sellers may terminate this Agreement.

(d) HSR Filing. Purchaser and Sellers shall, promptly, but no later than five (5) business days after the date of the Sale Order, file with the Federal Trade Commission and the Department of Justice the notification and report forms required for the transactions contemplated hereby and any supplemental information that may be reasonably requested in connection therewith pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "**HSR Act**"), which notification and report forms and supplemental information will comply in all material respects with the requirements of the HSR Act. Purchaser shall pay all filing fees required of Purchaser or Sellers with respect to the notification, report and other requirements of the HSR Act. Each of Purchaser and Sellers shall furnish to the other such information and assistance as the other shall reasonably requires in connection with the preparation and submission to, or agency proceedings by, any governmental authority under the HSR Act, and each of Purchaser and Sellers shall keep the other promptly apprised of any communications with, and inquires or requests for information from, such governmental authorities. Purchaser shall take such action (including divestitures or hold separate arrangements) as may be required by any governmental authority in order to resolve with the minimum practicable delay any objections such governmental authorities may have to the transactions contemplated by this Agreement under the HSR Act. For any late submission of the application under the HSR Act, at Seller's election, either the Purchase Price shall be increased by an amount equal to One Thousand Dollars ($1,000) per day or Sellers may terminate this Agreement.

ARTICLE 6
BANKRUPTCY COURT APPROVAL

6.1 Bankruptcy Court Approval.

(a) Sellers and Purchaser acknowledge that this Agreement has been solicited in conformity with the Bidding Procedures approved by the Bankruptcy Court on February 26, 2020 [Docket No. 4165] (the "**Bid Procedures Order**"), and that the sale of the Assets and the assignment of the Assigned Contracts and Assigned Leases remain subject to Bankruptcy Court approval. Purchaser further acknowledges that this Agreement and the transactions contemplated hereby are subject to Sellers' right and ability to consider higher or better competing bids with respect to the Assets subject to the terms of the Bid Procedures Order. Pursuant to the Bid Procedures Order, Purchaser shall, if its bid is determined to be the second highest bid, serve as a back-up bidder (the "**Back-up Bidder**") and, subject to the provisions of the Bid Procedures Order with respect to the retention of the Deposit, keep Purchaser's bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be modified with the written consent of Purchaser in any auction under the Bid Procedures Order) open and irrevocable until the earlier of (i) (a) 5:00 p.m. pacific time on the date which is thirty (30) days after the entry by the Bankruptcy Court of the Sale Order; or (b) 5:00 p.m. pacific time on May 31, 2020 (the "**Outside Back-up Date**"), or (ii) the date of closing of an alternative transaction with the bidder who prevails at the auction (the "**Prevailing Bidder**"). Following the entry of the Sale Order and prior to the Outside Back-up Date, if the Prevailing Bidder breaches or fails to perform its obligations under the terms and conditions of its respective transaction documents and Sellers terminate such agreement with the Prevailing Bidder, the Back-up Bidder will be deemed to have the new prevailing bid, and the Bankruptcy Court order approving the sale to the Prevailing Bidder shall provide that Sellers will be authorized, without further order of the Bankruptcy Court, to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be modified with the written consent of Purchaser in the auction) with the Back-up Bidder.

(b) Purchaser further acknowledges that this Agreement is subject to termination, up to the time of entry of the Sale Order, except to the extent otherwise provided in the Bid Procedures Order, in the event Sellers in the reasonable exercise of their fiduciary duties determine that they have received a higher and better offer for Sellers' Assets and the Bankruptcy Court has authorized the Sellers to accept and implement the terms of such offer in accordance with the Bankruptcy Code.

(c) Sellers shall, at any hearing to consider approval of this Agreement (the "**Sale Hearing**"), exercise reasonable efforts to expeditiously obtain a "Sale Order" approving this Agreement subject to the reasonable exercise of their fiduciary duties to consider and accept a higher and better offer for Sellers' assets in accordance with the Bankruptcy Code and this Agreement. For purposes of this Agreement, the term "**Sale Order**" shall mean an order of the Bankruptcy Court in form and substance reasonably acceptable to Purchaser, authorizing the sale of the Assets pursuant to Section 363(b) of the Bankruptcy Code (including the Sellers' assumption and assignment to Purchaser of the Assigned Contracts and Assigned Leases pursuant to Section 365 of the Bankruptcy Code) on the terms and conditions set forth herein, free and clear of all Encumbrances (other than Permitted Exceptions) and Excluded Liabilities, including, for the

avoidance of doubt, any successor liability, to the maximum extent permitted by the Bankruptcy Code. For the avoidance of doubt, in the event the Sale Order is not in form and substance reasonably acceptable to Purchaser, Purchaser may, at its sole election, terminate the transaction proposed hereby.

(d) Sellers agree, subject to the reasonable exercise of their fiduciary duties, to expeditiously seek a Bankruptcy Court determination that Purchaser is a good faith purchaser within the meaning of Section 363(m) of the Bankruptcy Code and in good faith to file such declarations and other evidence as may be required to support a determination.

(e) Sellers shall seek expeditiously an order from the Bankruptcy Court retaining jurisdiction over all matters relating to claims against Sellers, whether or not arising in connection with this Agreement, solely in the Bankruptcy Court.

6.2 Appeal of Sale Order. In the event an appeal is taken or a stay pending appeal is requested from the Sale Order, Sellers shall immediately notify Purchaser of such appeal or stay request and shall provide to Purchaser promptly a copy of the related notice of appeal or order of stay. Sellers shall also provide Purchaser with written notice of any motion or application filed in connection with any appeal from either of such orders. In the event of an appeal of the Sale Order, Sellers shall be primarily responsible for drafting pleadings and attending hearings as necessary to defend against the appeal.

6.3 Bidding Procedures. Sellers and Purchaser shall comply with the terms of the Bid Procedures Order. Sellers shall sign this Agreement as and when permitted pursuant to the Bid Procedures Order and the Sale Order.

(a) Any Competing Bidder (as defined in the Bid Procedures) must be a Qualified Bidder (as defined in the Bid Procedures Order) under the conditions set forth in the Bid Procedures without waiver thereof or extension of any timing or similar conditions. Purchaser is irrevocably deemed to be a Qualified Bidder.

(b) The Sellers shall immediately upon determination that a bid is a Qualified Bid, simultaneously provide to all Qualified Bidders copies of all other Qualified Bids.

ARTICLE 7
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:

7.1 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.

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 body and remain in effect on the Closing Date.

7.3 Governmental Submissions. Purchaser shall have submitted the hospital license change of ownership application to CDPH and the hospital pharmacy change of ownership application to the BOP.

7.4 Attorney General Approval. The Attorney General shall have approved the transactions contemplated by this Agreement, or the Debtors shall have obtained a Bankruptcy Court order or orders providing for the transfer of the Debtors' assets on conditions which are not materially more burdensome than those forth in Exhibit 5.8(c).

7.5 Bankruptcy Court Approval. The Bankruptcy Court shall have entered the Sale Order.

7.6 HSR Act. The applicable waiting period under the HSR Act shall have expired or been earlier terminated.

ARTICLE 8
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.

8.1 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.

8.2 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 body and remain in effect on the Closing Date.

8.3 Attorney General Approval. The Attorney General shall have approved the transactions contemplated by this Agreement, or the Debtors shall have obtained a Bankruptcy Court order or orders providing for the transfer of the Debtors' assets on conditions which are not materially more burdensome than those forth in Exhibit 5.8(c). In the event the Attorney General imposes conditions on the transactions contemplated by this Agreement, or on Purchaser in connection therewith which are materially more burdensome than the Purchaser Approved Conditions set forth on Exhibit 5.8(c) (the "**Additional Conditions**"), Sellers shall file a motion with the Bankruptcy Court seeking the entry of an order ("**Supplemental Sale Order**") finding that the Additional Conditions are an "interest in property" for purposes of 11 U.S.C. § 363(f), and that the Assets can be sold free and clear of the Additional Conditions without the imposition of any other conditions, which would adversely affect the Purchaser. For purposes of this Section 8.3, Additional Conditions which individually or collectively impose a direct or indirect cost to

Purchaser of Five Million Dollars ($5,000,000), or more, shall be conclusively deemed to be "materially more burdensome." If Sellers fail to obtain such Supplemental Sale Order within sixty (60) days of the Attorney General's imposition of Additional Conditions, Purchaser (at its sole discretion) shall be entitled to terminate this Agreement and receive the return of its Deposit or elect to extend such sixty (60) day period. Upon the entry of such an order from the Bankruptcy Court, and so long as such order is not stayed, Purchaser shall be required to consummate the transactions contemplated by this Agreement. If Sellers do not obtain such an order, or such order does not relieve the Additional Conditions to the satisfaction of Purchaser, Purchaser shall not be required to consummate the transactions contemplated by this Agreement.

8.4 Bankruptcy Court Approval. The Bankruptcy Court shall have entered the Sale Order and made a finding that Purchaser is a "good faith" purchaser, and such order shall not subject to any stay.

8.5 HSR Act. The applicable waiting period under the HSR Act shall have expired or been earlier terminated.

8.6 Medicare and Medi-Cal Provider Agreement. Following consultation with Purchaser, Sellers shall have obtained agreements with CMS and DHCS or an order from the Bankruptcy Court that has not been stayed with respect to the transfer of the Medicare Provider Agreement and/or the Medi-Cal Provider Agreement, such that (a) all liabilities, obligations and Encumbrances under the Medicare/Medi-Cal Agreements are fully satisfied, discharged, and released with regard to any claims under the Medicare/Medi-Cal Agreements, whether known or unknown, that CMS or DHCS has against the Sellers or Purchaser for liabilities and obligations arising under the Medicare/Medi-Cal Agreements before the Effective Time, and (b) the Medicare/Medi-Cal Agreements will be transferred to Purchaser as of the Effective Time free and clear of such pre-Closing liabilities, obligations and Encumbrances; provided, however, that Purchaser acknowledges and agrees that it may be treated by CMS and DHCS as the successor to the quality history associated with the relevant Medicare/Medi-Cal Agreements assigned and, for purposes of survey and certification issues associated with such quality history, Purchaser may be treated as if it is the relevant Seller and no change of ownership occurred.

8.7 Collective Bargaining Agreements and Labor Contracts. Sellers shall have satisfied, in all material respects, their obligations set forth in Section 4.9(b). For the avoidance of doubt, in the event that Purchaser and each labor union has not entered into an agreement described in Section 4.9(b)(i) or (ii), then material satisfaction of Section 4.9(b) means that Seller has filed or taken action to reject and terminate any such collective bargaining agreement and that the Bankruptcy Court has entered an order granting Seller's requested rejection of such collective bargaining agreement prior to the Closing Date.

ARTICLE 9
TERMINATION

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

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

(b) by Sellers 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 fifteen (15) business days after Sellers provide Purchaser of a written notice which describes the nature of such breach and acceptable cure actions; *provided*, *however*, Sellers shall not be permitted to terminate this Agreement pursuant to this Section 9.1(b) if Sellers are also in material breach of this Agreement;

(c) by Purchaser if Purchaser has complied with Section 3.8 and a material breach of this Agreement has been committed by Sellers, which material breach has resulted, or would more likely than not result, in a Material Adverse Effect on the Assets taken as a whole, and such breach has not been (i) waived in writing by Purchaser or (ii) cured by Sellers to the reasonable satisfaction of Purchaser within fifteen (15) business days after Purchaser provides Sellers of a written notice which describes the nature of such breach and acceptable cure actions; *provided*, *however*, Purchaser shall not be permitted to terminate this Agreement pursuant to this Section 9.1(c) if Purchaser is also in material breach of this Agreement;

(d) by Purchaser if satisfaction of any condition in ARTICLE 8 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 their 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);

(e) by Sellers if satisfaction of any such condition in ARTICLE 7 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 their 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);

(f) by either Purchaser or Sellers if the Bankruptcy Court enters an order dismissing the Bankruptcy Case prior to the sale closing or fails to approve the sale of the Assets to Purchaser;

(g) by Sellers in the event Sellers in the exercise of their fiduciary duties determine that they have received a higher and better offer for Sellers' assets and the Bankruptcy Court has authorized the Sellers to accept and implement the terms of such offer in accordance with the Bankruptcy Code;

(h) by Purchaser in the event that its Back-Up Bidder status has expired in accordance with the Bid Procedures Order and/or the terms of this Agreement; and

(i) 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 September 1, 2020 (the "**Termination Date**"); provided, that the Termination Date shall be extended in the event the conditions set forth in Section 7.4 and Section 8.3 have not been satisfied (but the conditions to Closing in Article 7 and

Article 8 have otherwise been satisfied other than such conditions that are to be satisfied by payments and deliveries to be made at the Closing) to the earlier of (A) ten (10) business days after the satisfaction of the conditions set forth in Section 7.4 and Section 8.3 or (B) December 31, 2020.

9.2 Termination Consequences. If this Agreement is terminated pursuant to Section 9.1: (a) all further obligations of the Parties under this Agreement shall terminate, other than Purchaser's right to receive a return on the Deposit in accordance with Section 1.2 and a break-up fee in accordance with the Bidding Procedures, and provided that the provisions of ARTICLE 11 shall survive, and (b) each Party shall pay the costs and expenses incurred by it in connection with this Agreement; *provided, however*, that in the case of any termination based on Section 9.1(b) or Section 9.1(c), the consequences of such termination shall be determined in accordance with ARTICLE 11 hereof. Each Party acknowledges that the agreements contained in this Section 9.2 are an integral part of the transactions contemplated by this Agreement, that without these agreements such Party would not have entered into this Agreement.

9.3 Additional Termination Consequences. In the event that Purchaser is not the winning bidder as defined in the Bidding Procedures order, Purchaser shall be paid the Stalking Horse Bidder Protections in accordance with the Bidding Procedures Order.

ARTICLE 10
POST-CLOSING MATTERS

10.1 Excluded Assets. Subject to Section 10.2 hereof, any Excluded Asset (or proceeds thereof) (a) pursuant to the terms of this Agreement, (b) as otherwise determined by the Parties' mutual written agreement or (c) absent such agreement, as determined by adjudication by the Bankruptcy Court, which comes into the possession, custody or control of Purchaser (or its respective successors-in-interest, assigns or affiliates) shall, within ten (10) 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. Purchaser (and its respective successors-in-interest, assigns and affiliates) shall have neither the right to offset amounts payable to Sellers under this Section 10.1 against, nor the right to contest its obligation to transfer, assign and convey to Sellers because of, outstanding claims, liabilities or obligations asserted by Purchaser against Sellers. If Purchaser does not remit any monies included in the Excluded Assets (or proceeds thereof) to Sellers in accordance with the first sentence of this Section 10.1, such withheld funds shall bear interest at the Prime Rate in effect on the calendar day upon which such payment was required to be made to Sellers (the "**Excluded Asset Due Date**") plus five percent (5%) (or the maximum rate allowed by law, whichever is less), such interest accruing on each calendar day after the Excluded Asset Due Date until payment of the Excluded Assets and all interest thereon is made to Sellers.

10.2 Preservation and Access to Records After the Closing.

(a) From the Licensure Date until seven (7) years after the Licensure Date or such longer period as required by law (the "**Document Retention Period**"), Purchaser shall keep and preserve all medical records, patient records, medical staff records and other books and records which are among the Assets as of the Effective Time, but excluding any records which are among

the Excluded Assets. Purchaser will afford to the representatives of Sellers, any of their affiliates, the Official Committee of the Unsecured Creditors of the Sellers, Sellers' estate representative or any liquidating trustee of the Sellers' bankruptcy estate ("**Seller Parties**"), including their counsel and accountants, full and complete access to, and copies (including, without limitation, color laser copies) of, such records with respect to time periods prior to the Licensure Date (including, without limitation, access to records of patients treated at the Hospital prior to the Licensure Date) during normal business hours after the Licensure Date, to the extent reasonably needed by any Seller Party for any lawful purpose. Purchaser acknowledges that, as a result of entering into this Agreement and operating the Hospital, it will gain access to 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 and medical staff records at the Hospital in accordance with applicable law 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 10.2(a), Purchaser shall provide written notice to Sellers of Purchaser's intention no later than forty-five (45) calendar days prior to the date of such intended destruction or disposal. Any of the Seller Parties shall have the right, at its sole cost, to take possession of such documents during such forty-five (45) calendar day period. If any of the Seller Parties do not take possession of such documents during such forty-five (45) calendar day period, Purchaser shall be free to destroy or otherwise dispose of such documentation upon the expiration of such forty-five (45) calendar day period.

(b) Provided that Purchaser shall not incur any out of pocket costs, Purchaser shall give full cooperation to the Seller Parties and their insurance carriers in connection with the administration of Sellers' estate, including, without limitation, in connection with all claims, actions, causes of action or audits relating to the Excluded Assets, Excluded Liabilities or pre-Closing operation of the Sellers or the Hospital that any Seller Party may elect to pursue, dispute or defend, in respect of events occurring prior to the Licensure Date with respect to the operation of the Hospital. Such cooperation shall include, without limitation, making the Hired Employees available for interviews, depositions, hearings and trials and other assistance in connection with the administration of Sellers' estate and such cooperation shall also include making all of its employees available to assist in the securing and giving of evidence and in obtaining the presence and cooperation of witnesses (all of which shall be done without payment of any fees or expenses to Purchaser or to such employees. In addition, Sellers and Sellers' affiliates shall be entitled to remove from the Hospital originals of any such records, but only for purposes of pending litigation involving the persons to whom such records refer, as certified in writing prior to removal by counsel retained by Sellers or any of Sellers' affiliates in connection with such litigation. Any records so removed from the Hospital shall be promptly returned to Purchaser following Sellers' or its applicable affiliate's use of such records.

(c) In connection with (i) the transition of the Hospital pursuant to the transaction contemplated by this Agreement, (ii) Sellers' rights to the Excluded Assets, (iii) any claim, audit, or proceeding, including, without limitation, any tax claim, audit, or proceeding and (iv) the Sellers' obligations under the Excluded Liabilities, Purchaser shall after the Effective Time give Sellers access during normal business hours to Purchaser's books, personnel, accounts and records and all other relevant documents and information with respect to the assets, liabilities and business of the Hospital as representatives of Sellers and Sellers' affiliates may from time to time

reasonably request, all in such manner as not to unreasonably interfere with the operations of the Hospital.

(d) Purchaser and its representatives shall be given access by Sellers during normal business hours to the extent reasonably 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) Purchaser shall comply with, and be solely responsible for, all obligations under the Standards for Privacy of Individually Identifiable Health Information (45 CFR Parts 160 and 164) promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 and any and all corresponding California state law requirements with respect to the operation of the Hospital on and after the Licensure Date.

(f) 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, including without limitation QAF or DSH reporting.

(g) To the maximum extent permitted by law, if any Person requests or demands, by subpoena or otherwise, any documents relating to the Excluded Liabilities or Excluded Assets, including without limitation, documents relating to the operations of any of the Hospital or any of the Hospital's committees prior to the Licensure Date, prior to any disclosure of such documents, Purchaser shall notify Sellers and shall provide Sellers with the opportunity to object to, and otherwise coordinate with respect to, such request or demand.

10.3 Provision of Benefits of Certain Contracts. Notwithstanding anything contained herein to the contrary, this Agreement shall not constitute an agreement to assign any Assigned Contract or Assigned Lease, if, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, an attempted assignment thereof, without the consent of the third party thereto, would constitute a breach thereof or in any way negatively affect the rights of Sellers or Purchaser, as the assignee of such Assigned Contract or Assigned Lease, as the case may be, thereunder. If, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, such consent or approval is required but not obtained, Sellers will cooperate with Purchaser in any reasonable arrangement designed to both (a) provide Purchaser with the benefits of or under any such Assigned Contract or Assigned Lease, and (b) cause Purchaser to bear all costs and obligations of or under any such Assigned Contract or Assigned Lease. Further, notwithstanding anything contained in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Account Receivable the assignment of which is either prohibited by law or by the terms of any contract with a payor without the consent of such payor.

10.4 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, with any payments that constitute "Assets" transferred to Purchaser pursuant to Section 1.7 or that otherwise arise from services rendered by Purchaser on or after the Licensure Date be paid to and received by Purchaser. In this regard, for a period of two (2) years after the Effective Date ("**Turnover Period**"), the Parties shall, within ten (10) 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 Lockboxes or other bank accounts for the Receivables, from whatever payor or source of funds, that are received on and after the Effective Time. In the event that payments that constitute a transferred Asset are deposited to a bank account of Sellers which is not automatically swept or transferred to Purchaser, then Sellers, within ten (10) days of notice of the receipt of such payments shall turnover and pay Purchaser said funds. In the event that a deposit representing payment of any Excluded Assets is received by Purchaser, then Purchaser, within ten (10) days of notice of the receipt of funds representing any Excluded Assets, shall turnover 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 and underpayment of funds due, the Party owning funds shall, within ten (10) business days, make a payment of such funds to whom they are owed.

10.5 Closing of Financials. Provided that Purchaser shall not incur any out of pocket costs, Purchaser shall cause the individual acting as the chief financial officer of the Hospital after the Effective Time (the "**Post-Effective Time CFO**") to cooperate with Sellers' representatives in order to complete the standardized closing of Sellers' financial records through the Licensure Date including, without limitation, the closing of general ledger account reconciliations (collectively, the "**Closing of Financials**"). Purchaser shall cause the Post-Effective Time CFO to use their good faith efforts to cooperate with Sellers' representatives in order to complete the Closing of Financials by no later than the date which is sixty (60) calendar days after the Closing Date. The Post-Effective Time CFO and other appropriate personnel shall be reasonably available to Sellers for a period of no less than one hundred eighty (180) calendar days after the Closing Date to assist Sellers in the completion of Sellers' post-Closing audit, such assistance not to interfere unreasonably with such Post-Effective Time CFO's other duties.

10.6 Medical Staff. To ensure continuity of care in the community, Purchaser agrees that the Hospital's medical staff members in good standing as of the Licensure Date shall maintain medical staff privileges at the Hospital as of the Licensure Date. On and after the Licensure Date, the medical staff will be subject to the Hospital's Medical Staff Bylaws then currently in effect, provided that such Bylaws are in compliance with all applicable laws and regulations and contain customary obligations.

10.7 Shared Intangible Assets. In the event and to the extent that certain intangible Assets transferred by Sellers have been used to operate businesses of Verity or Verity Holdings or their affiliates ("**Shared Intangible Assets**") and such Shared Intangible Assets continue to be used by Verity or Verity Holdings or their affiliates to operate such businesses after Closing, Verity and Verity Holdings retain the rights to continue to use such Assets notwithstanding their sale to Purchaser. Purchaser shall reasonably cooperate with Verity and Verity Holdings and their affiliates to give effect to such rights and shall provide Verity and Verity Holdings and their affiliates such documentation, records and information and reasonable access to such systems as

necessary for Verity and Verity Holdings and their affiliates to continue to operate such businesses; all in such manner as not to reasonably interfere with the operations of the Hospitals; *provided, however*, Purchaser shall not be required to incur any out-of-pocket costs in association therewith unless reimbursed by Verity and Verity Holdings and their affiliates.

ARTICLE 11
DEFAULT, TAXES AND COST REPORTS

11.1 Purchaser Default. If the Agreement is terminated pursuant to Section 9.1(b), Sellers shall be entitled to retain the Deposit, and Sellers may, in addition thereto, pursue any rights or remedies that Sellers may have under this Agreement or applicable law, including the right to sue for damages or specific performance.

11.2 Sellers Default. If the Agreement is terminated pursuant to Section 9.1(c), Purchaser shall have the right to demand and receive a refund of the Deposit, and Purchaser may, in addition thereto, pursue any rights or remedies that Purchaser may have under applicable law, including the right to sue for damages or specific performance.

11.3 Tax Matters; Allocation of Purchase Price.

(a) After the Licensure Date, the Parties shall cooperate fully 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 Hospital for all periods prior to the Licensure 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 Hospital.

(b) Solely for purposes of tax reporting, Schedule 11.3 sets forth the allocation of the Purchase Price (including any liabilities that are considered to be an increase to the Purchase Price for United States federal income tax purposes) among the Assets in accordance with Section 1060 of the Code and the Treasury Regulations promulgated thereunder (the "**Allocation Schedule**"). The Allocation Schedule shall be final and binding upon Sellers and Purchaser with respect to matters relating to required tax reporting by each such Party. The Parties shall refrain from taking any position that is inconsistent with the Allocation Schedule with respect to tax reporting.

11.4 Cost Report Matters.

(a) Consistent with Section 4.4, Sellers shall, at Purchaser's expense, prepare and timely file all cost reports relating to the periods ending prior to the Licensure Date or required as a result of the consummation of the transactions described in this Agreement, including, without limitation, those relating to Medicare, Medicaid, and other third party payors which settle on a cost report basis (the "**Seller Cost Reports**").

(b) Upon reasonable notice and during normal business office hours, Purchaser will cooperate reasonably with Sellers in regard to Sellers' preparation and filing of the Seller Cost Reports. Such cooperation shall include, at no cost to Sellers, obtaining access to files at the Hospital and Purchaser's provision to Sellers of data and statistics, and the coordination with Sellers pursuant to reasonable notice of Medicare and Medicaid exit conferences or meetings. Sellers shall have no obligations after the Licensure Date with respect to Seller Cost Reports except for preparation and filing thereof.

ARTICLE 12
MISCELLANEOUS PROVISIONS

12.1 Further Assurances and Cooperation. Each Party shall execute, acknowledge and deliver to the other Party 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 contemplated in this Agreement, 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 contemplated hereby.

12.2 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, except that Purchaser may, without the prior written consent of Sellers, assign all or any portion of its rights under this Agreement to one or more of its affiliates prior to the Closing Date so long as such affiliate was described and was part of the Attorney General application under Section 5.8(c) and provided that any such assignment shall not relieve Purchaser of or reduce Purchaser's obligations under this Agreement.

12.3 Governing Law; Venue. This Agreement shall be construed, performed, and enforced in accordance with, and governed by, the laws of the State of California (without giving effect to the principles of conflicts of laws thereof), except to the extent that the laws of such State are superseded by the Bankruptcy Code or other applicable federal law. For so long as Sellers are subject to the jurisdiction of the Bankruptcy Court, the Parties irrevocably elect, as the sole judicial forum for the adjudication of any matters arising under or in connection with the Agreement, and consent to the exclusive jurisdiction of, the Bankruptcy Court. The Parties hereby consent to the jurisdiction of such court and waive their right to challenge any proceeding involving or relating to this Agreement on the basis of lack of jurisdiction over the Person or forum non conveniens.

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

12.5 Exhibits, Schedules and Disclosure Schedule. The Disclosure Schedule and all exhibits and schedules referred to in this Agreement shall be attached hereto and are incorporated

by reference herein. From the Signing Date until the Closing, the Parties agree that Sellers may update the Disclosure Schedule as necessary upon written notice to Purchaser, and the applicable representation and warranty shall thereafter be deemed amended for all purposes by such updated Disclosure Schedule. Notwithstanding the foregoing, should any exhibit or schedule not be completed and attached hereto as of the Signing Date, Sellers and Purchaser shall promptly negotiate in good faith any such exhibit or schedule, which exhibit or schedule must be acceptable to each of Sellers and Purchaser in their reasonable discretion prior to being attached hereto. Any matter disclosed in this Agreement or in the Disclosure Schedule with reference to any Section of this Agreement shall be deemed a disclosure in respect of all sections to which such disclosure may apply. The headings, if any, of the individual sections of the Disclosure Schedule are provided for convenience only and are not intended to affect the construction or interpretation of this Agreement. The Disclosure Schedule is arranged in sections and paragraphs corresponding to the numbered and lettered sections and paragraphs of this Agreement merely for convenience, and the disclosure of an item in one section of the Disclosure Schedule as an exception to a particular obligation, representation or warranty shall be deemed adequately disclosed as an exception with respect to all other obligations, representations or warranties, notwithstanding the presence or absence of an appropriate section of the Disclosure Schedule with respect to such other obligation, representations or warranties or an appropriate cross reference thereto.

12.6 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 telegraphic or other electronic means (including facsimile) or overnight courier, or five (5) calendar days after being deposited in the United States mail, with postage prepaid thereon, certified or registered mail, return receipt requested, addressed as follows:

If to Sellers:	Verity Health System of California, Inc. 601 South Figueroa St., Suite 4050 Los Angeles, CA 90017-5704 Attention: Chief Executive Officer
With a copies to: (which copies shall not constitute notice)	Dentons US LLP 601 South Figueroa St., Suite 2500 Los Angeles, CA 90017-5704 Attention: Tania Moyron, Esq. Telephone: 213-243-6101
If to Purchaser:	Prime Healthcare Services, Inc. 3480 East Guasti Road, 2nd Floor Ontario, California 91761 Attention: General Counsel Facsimile: 909-235-4316
With a copy to: (which copies shall not constitute notice)	McDermott Will & Emery LLP 2049 Century Park East, Suite 3200 Los Angeles, California 90067 Attention: Jeffrey Reisner, Esq. Facsimile: 310-277-4730

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

12.7 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 Schedule, exhibits and schedules hereto.

12.8 Publicity. 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 12.8 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 Party thereof.

12.9 Fair Meaning. This Agreement shall be construed according to its fair meaning and as if prepared by all Parties.

12.10 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. A "Person" shall mean any natural person, partnership, corporation, limited liability company, association, trust or other legal entity.

12.11 Third Party Beneficiary. None of the provisions contained in this Agreement are 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, and except for any liquidating trustee or plan administrator for Sellers' estate.

12.12 Expenses and Attorneys' Fees. Except as otherwise provided in this Agreement, each Party shall bear and pay its own costs and expenses relating to the preparation of this Agreement and to the transactions contemplated by, or the performance of or compliance with any condition or covenant set forth in, this Agreement, including without limitation, 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. The Parties expressly agree that all sales, transfer, documentary transfer and similar taxes, fees, surcharges and the like in connection with the sale of the Assets shall be borne by Purchaser. If any action is brought by any Party to enforce any

provision of this Agreement, the prevailing Party shall be entitled to recover its court costs and reasonable attorneys' fees.

12.13 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 facsimile 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.

12.14 Entire Agreement. This Agreement, the Disclosure Schedule, the exhibits and schedules, and the documents referred to in this Agreement 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 (the "**Superseded Agreements**"), which Superseded Agreements shall be of no further force or effect.

12.15 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.

12.16 Severability. If any term, provision, condition or covenant of this Agreement or the application thereof to any Party or circumstance shall be held to be invalid or unenforceable to any extent in any jurisdiction, then the remainder of this Agreement and the application of such term, provision, condition or covenant in any other jurisdiction or to persons or circumstances other than those as to whom or which it is held to be invalid or unenforceable, shall not be affected thereby, and each term, provision, condition and covenant of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

12.17 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.

12.18 WAIVER OF JURY TRIAL. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR

ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) EACH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 12.18. THIS IS AN AFFIRMATIVE WAIVER OF THE PARTIES' RIGHTS TO A JURY TRIAL UNDER CALIFORNIA LAW, Cal. C. Civ. Pro. Sec 631. BY SIGNING BELOW ON THE SIGNATURE LINES, EACH PARTY IS EXPLICITLY WAIVING JURY TRIAL AND AUTHORIZING ANY AND ALL PARTIES TO FILE THIS WAIVER WITH ANY COURT AS THE WAIVER REQUIRED UNDER Cal. C. Civ. Proc. Sec. 631(f)(2).

[REMAINDER OF PAGE IS BLANK]

IN WITNESS WHEREOF, this Agreement has been entered into as of the day and year first above written.

PURCHASER:

Prime Healthcare Services, Inc.

Signature: Prem Reddy MD
Print Name: PREM REDDY M.D.
Title: Chairman, President & CEO
Date: April 3, 2020

SELLERS:

Verity Health System of California, Inc.

Signature:_____
Print Name:_____
Title:_____
Date:_____

Verity Holdings, LLC

Signature:_____
Print Name:_____
Title:_____
Date:_____

St. Francis Medical Center

Signature:_____
Print Name:_____
Title:_____
Date:_____

[SCHEDULES & EXHIBITS OMITTED]