Docket #0366 Date Filed: 10/1/2018

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Attorneys for the Chapter 11 Debtors and Debtors In Possession

☐ *Individual appearing without attorney*
☒ *Attorney for:*

FOR COURT USE ONLY

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

In re:

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

Debtor(s).

CASE NO.: 18-20151

CHAPTER: 11

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: 10/24/2018	**Time:** 10:00 am
Location: Courtroom 1568, 255 E. Temple St., Los Angeles, CA	

Type of Sale: ☒ Public ☐ Private **Last date to file objections**: 10/10/2018

Description of property to be sold:

Substantially all of the assets of Debtors, O'Connor Hospital and Saint Louise Hospital, as set forth in Section 1.8 of the Asset Purchase Agreement ("APA"), attached to the Motion as Exhibit A.

Terms and conditions of sale:

See APA. Under the APA, Purchaser has agreed to purchase the vast majority of the Assets (see definition in Section 1.8 of the APA) for the cash purchase price of $235 million. The Assets not purchased are defined as the "Excluded Assets" in Section 1.9 of the APA.

Proposed sale price: $ 235,000,000.00

Overbid procedure (*if any*):
See "Auction Process" in the summary of bidding procedures and protections in the Motion attached hereto as Exhibit A.

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Date: October 24, 2018*
Time: 10:00 am
Place: United States Bankruptcy Court, Central District of California
Courtroom 1568
255 E. Temple St.
Los Angeles, California

*Only the hearing to approve the form of asset purchase agreement, the auction sale format and bidding procedures, the notice to be provided to interested parties and the procedures to assume certain executory contracts will be heard on October 24, 2018. A hearing to approve a sale to the winning bidder at auction will be set by the Court to be heard at a later date.

Contact person for potential bidders (*include name, address, telephone, fax and/or email address*):

James Moloney, Managing Director
Cain Brothers, a division of KeyBanc Capital Markets,
601 California Street, Suite 1505
San Francisco, CA 94108
Telephone: (415) 962-2961
Email: jmoloney@cainbrothers.com

Date: 10/01/2018

EXHIBIT A

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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.	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. Ernest M. Robles
☒ 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.	**DEBTORS' NOTICE OF MOTION AND MOTION FOR THE ENTRY OF (I) AN ORDER (1) APPROVING FORM OF ASSET PURCHASE AGREEMENT FOR STALKING HORSE BIDDER AND FOR PROSPECTIVE OVERBIDDERS TO USE, (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** **Hearing:** **Date: October 24, 2018** **Time: 10:00 am** **Location: Courtroom 1568** **255 E. Temple St., Los Angeles, CA**

TO THE HONORABLE ERNEST M. ROBLES UNITED STATES BANKRUPTCY JUDGE, THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, THE OFFICE OF THE UNITED STATES TRUSTEE, AND OTHER INTERESTED PARTIES:

PLEASE TAKE NOTICE that at the above referenced date, time and location, Verity Health System of California, Inc., a California nonprofit benefit corporation and the Debtor herein ("VHS"), and the above-referenced affiliated debtors, the debtors and debtors in possession in the above-captioned chapter 11 bankruptcy cases (collectively, the "Debtors"), will move (the "Motion"), pursuant to §§ 105(a), 363, and 365 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq*. (the "Bankruptcy Code"),[1] Rules 2002, 6004, 9007, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rules 6004-1(b) and 9013-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California ("LBR"), for the entry of:

I. An order (the "Bidding Procedures Order"):

(1) approving the form of the Asset Purchase Agreement dated October 1, 2018 (the "Stalking Horse APA") between VHS, Verity Holdings, LLC, a California limited liability company ("Verity Holdings"), O'Connor Hospital, a California nonprofit public benefit corporation ("OCHC"), and Saint Louise Regional Hospital, a California nonprofit public benefit corporation ("SLRH"), on the one hand; and the County of Santa Clara, a political subdivision of the State of California ("Stalking Horse Purchaser"), on the other hand,[2] a true and correct copy of which is attached as **Exhibit A** hereto; pertaining to a sale of all assets of the Hospital Sellers (excluding cash, A/R and causes of action) (the "Purchased Assets") to be used by (a) Stalking Horse Purchaser as the stalking horse bidder for the Purchased Assets, and (b) any prospective overbidders (each an "Overbidder" and

[1] Unless otherwise stated, all section references herein are to the Bankruptcy Code.

[2] OCHC and SLRH may each be referred to herein as a "Hospital Seller," and may collectively be referred to herein as the "Hospital Sellers."

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collectively, the "Overbidders") who seek to participate in a hoped for auction sale ("Auction") of the Purchased Assets;

(2) approving the format, bidding procedures, and stalking horse bid protections (the "Bidding Procedures and Protections"), relating to the proposed Auction described below and in the attached Memorandum of Points and Authorities (the "Memorandum");

(3) approving the form of notice to be provided by the Debtors to their creditors and to be provided by the Debtors' investment banker to prospective Overbidders;

(4) scheduling the Auction and a hearing (the "Sale Hearing") in late November 2018 (subject to the availability of the Court), before the Court to consider the Sale Motion and approval of the sale of the Purchased Assets to the highest bidder, which Auction and Sale Hearing the Debtors propose to hold concurrently before the Court;

(5) establishing procedures for the assumption and assignment to the Successful Bidder (as defined below) of executory contracts and unexpired leases in connection with the Sale and approving the form and manner of notice related thereto; and

II. An order (the "Sale Order") authorizing the Sale to the Successful Bidder, free and clear of all claims, liens and encumbrances; and

III. Granting related relief.

PLEASE TAKE FURTHER NOTICE that this Motion is based on this Notice of Motion and Motion, the Memorandum, the Declaration of Richard G. Adcock and the Declaration of James Moloney (to be filed prior to the hearing on the Motion), the Declaration of Richard G. Adcock In Support of Emergency First-Day Motions (the "First-Day Declaration") [Docket No. 8], supporting statements, arguments and representations of a counsel who will appear at the hearing on the Motion, the record in this case, and any other evidence properly brought before the Court in all other matters of which this Court may properly take judicial notice.

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PLEASE TAKE FURTHER NOTICE that any party opposing or responding to the Motion must file and serve the response ("Response"), pursuant to LBR 9013-1(f), on the moving party and the United States Trustee not later than 14 days before the date designated for the hearing. 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: October 1, 2018

DENTONS US LLP
SAMUEL R. MAIZEL
TANIA M. MOYRON

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

Proposed Attorneys for the Chapter 11 Debtors and Debtors In Possession

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TABLE OF AUTHORITIES

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Cases

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Statutes

Rules and Regulations

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Other Authorities

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Through this Motion the Debtors seek entry of an order: (a) establishing Santa Clara County as the stalking horse bidder for its two hospitals in Santa Clara County -- Saint Louise Medical Center and O'Connor Medical Center -- and related assets (the "Assets"), as more completely described below, at a price of approximately $235 million; (b) setting bid procedures to establish guidelines for parties interesting in making an overbid; (c) setting an auction to be held in late November 2018, and (d) setting a hearing for the Court to approve the winning bidder. The Debtors have vigorously marketed these assets and believe that the Stalking Horse Bid represents a fair market value for the Assets. Moreover, Santa Clara County is a buyer who will maintain the healthcare characteristics of the Debtors' Hospitals, continuing patient care for the communities served by the Hospitals. Nonetheless, the Debtors are hopeful that there will be an auction which may result in overbids. If not, however, because a sale to Santa Clara County is not subject to the review of the California Attorney General, the sale should be able to close expeditiously.

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 title 11 of the United States Code (the "Bankruptcy Code").[3] Since the commencement of their cases, the Debtors have been operating their businesses as debtors in possession pursuant to §§ 1107 and 1108.

2. Debtor VHS, a California nonprofit public benefit corporation, is the sole corporate member of five Debtor California nonprofit public benefit corporations that operate six

[3] All references to "§" or "section" herein are to the Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, as amended.

acute care hospitals, including O'Connor Hospital and Saint Louise Regional Hospital (collectively, the "Hospitals") and other facilities in the state of California.

3. Saint Louise Regional Hospital owns real property commonly known as: (i) 9400 No Name Uno, Gilroy, CA 95020, and the hospital and helipad thereon; and (ii) 705 Las Animas Road, Gilroy, CA 95020. Saint Louise Hospital opened in 1989 in the Morgan Hill area of Santa Clara County. In December 1999, the Daughters of Charity of St. Vincent de Paul relocated the hospital to Gilroy and renamed it Saint Louise Regional Hospital. Today, the Hospital's 93-bed facility and 24-hour emergency department provide services to the residents of southern Santa Clara County, including Morgan Hill, San Martin, and Gilroy. Saint Louise Regional Hospital operates a 93 licensed bed, general acute care hospital located at 9400 No Name Uno, Gilroy, California 95020. The Hospital has an emergency department with eight licensed emergency treatment stations. The Hospital also has five surgical operating rooms for inpatient and outpatient surgical procedures. Ten of the Hospital's 21 licensed skilled nursing beds are in suspense. The Hospital provides comprehensive healthcare services including cancer, emergency, rehabilitation, and surgical care. The Hospital is accredited by The Joint Commission.

4. Saint Louise Regional Hospital owns and operates the De Paul Urgent Care Center. The De Paul Urgent Care Center is located on the DePaul Campus, an approximately 25 acre campus located in Morgan Hill, and offers patients non-emergency medical services seven days a week. The De Paul Urgent Care Center treats non-life threatening cases, such as minor injuries and lacerations, strep throat, sinus infections, rashes, nausea, vomiting, colds, flu, and fever.

5. Saint Louise Foundation, governed by a Board of Trustees, raises funds through grants, special events, and individual donors. Charitable donations and endowments raised by Saint Louise Foundation help fund the acquisition of new equipment and the expansion of the Hospital's facilities. Saint Louise is the sole corporate member of Saint Louise Foundation.

6. O'Connor Hospital owns real property commonly known as: (i) 455 O'Connor Dr. San Jose, CA 95128, and partial interest in the medical office building thereon; (ii) 2105 Forest Ave, San Jose, CA 95128 and the acute hospital, medical office building, and all of the facilities

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located thereon.

7. O'Connor Hospital is a nonprofit public benefit corporation that operates a 358 licensed-bed, general acute care hospital that serves residents from the greater San Jose area. The hospital has an emergency department with 23 emergency treatment stations. It also has 11 surgical operating rooms and two cardiac catheterization labs. The hospital offers a comprehensive range of healthcare services, including emergency, cardiac, orthopedic, cancer, obstetrics, and sub-acute care services. The hospital is accredited by The Joint Commission.

8. O'Connor Foundation was incorporated in 1983 and is governed by a Board of Trustees. Charitable donations and endowments help fund the acquisition of new equipment, the expansion of O'Connor Hospitals' facilities, healthcare services, and community outreach programs. O'Connor Hospital is the sole corporate member of O'Connor Foundation.

9. VHS, the Hospitals, and their affiliated entities (collectively, "Verity Health System") operate as a nonprofit health care system, with approximately 1,680 inpatient beds, six active emergency rooms, a trauma center, eleven medical office buildings, and a host of medical specialties, including tertiary and quaternary care. First-Day Declaration, at 4, ¶ 12. On the Petition Date, the Debtors had approximately 850 inpatients. *Id.* at 6, ¶ 17. The scope of the services provided by the Verity Health System is exemplified by the fact that in 2017, the Hospitals provided medical services to over 50,000 inpatients and approximately 480,000 outpatients. *Id.*, at 4, ¶ 12.

10. Verity Medical Foundation ("VMF"), incorporated in 2011, is a medical foundation, exempt from licensure under California Health & Safety Code § 1206(l). VMF contracts with physicians and other healthcare professionals to provide high quality, compassionate, patient-centered care to individuals and families throughout California. With more than 100 primary care and specialty physicians, VMF offers medical, surgical and related healthcare services for people of all ages at community-based, multi-specialty clinics conveniently located in areas served by the Debtor Hospitals. VMF holds long-term professional services agreements with the following medical groups: (a) Verity Medical Group; (b) All Care Medical Group, Inc.; (c) CFL Children's Medical Associates, Inc.; (d) Hunt Spine Institute, Inc.;

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(e) San Jose Medical Clinic, Inc., D/B/A San Jose Medical Group; and (f) Sports, Orthopedic and Rehabilitation Associates.

11. Verity Holdings, LLC ("Holdings") is a direct subsidiary of its sole member VHS and was created in 2016 to hold and finance VHS' interests in four medical office buildings whose tenants are primarily physicians, medical groups, healthcare providers, and certain of the VHS Hospitals. Holdings' real estate portfolio includes more than 15 properties. Holdings is the borrower on approximately $66.2 Million of non-recourse financing secured by separate deeds of trust and revenue and accounts pledges, including the rents on each medical office building.

12. O'Connor Hospital Foundation, Saint Louise Regional Hospital Foundation, St. Francis of Lynwood Medical Center Foundation, St. Vincent Medical Center Foundation, and Seton Medical Center Foundation handle fundraising and grant-making programs for each of their respective Debtor Hospitals.

13. Previously, the Hospitals were 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 among other hospitals, O'Connor Hospital and Saint Louise Regional Hospital.

14. In early 2014, DCHS announced that they were beginning a process to evaluate strategic alternatives for the health system. Throughout 2014, DCHS explored offers to sell their hospital system, including the Hospitals, and, in October of 2014, they entered into an agreement with Prime Healthcare Services and Prime Healthcare Foundation (collectively, "Prime") to sell the health system. 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 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.

15. 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. In July

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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").

16. 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 (the "Restructuring Agreement"), DCHS's name was changed to Verity Health System.

17. 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.

18. 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.

19. Despite the infusion of capital and new management, it became apparent that the problems facing the Verity Health System were too large to solve without a formal court supervised restructuring. 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 collective bargaining agreements or payor contracts, the continuing need for significant capital expenditures for seismic obligations and aging infrastructure, and the general headwinds facing the hospital industry, make success impossible. Losses continue to amount to approximately $175 Million annually on a cash flow basis.

20. Prior to the Petition Date, the Debtors engaged in substantial efforts to market and sell their assets. In June 2018, the Debtor engaged Cain Brothers, a division of KeyBanc Capital

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Markets ("Cain"), to identify potential buyers of some or all of the Verity hospitals and related assets and commenced discussions with those potential buyer.

21. Cain prepared a Confidential Investment Memorandum (the "CIM") and organized an online data site to share information with potentially 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.

22. By August 2018, as a result of its ongoing and broad marketing process, Cain had received 11 Indications of Interest ("IOI"), and has continued to develop potential sales. The Debtors, in consultation with Cain and its other advisors, selected this offer from one or more stalking horse bidder(s) to acquire the Assets through a sale under § 363 of the Bankruptcy Code.

23. Additional background facts on the Debtors, including an overview of the Debtors' business, information on the Debtors' capital structure and additional events leading up to these chapter 11 cases, are contained in the First-Day Declaration.

24. On September 14, 2018, the Office of the United States Trustee appointed an Official Committee of Unsecured Creditors (the "Official Committee") in these chapter 11 Cases. [Docket No. 197].

B. SUMMARY OF THE REQUESTED BIDDING PROCEDURES AND PROTECTIONS

25. As indicated above, a true and correct copy of the Stalking Horse APA, entered into between certain Debtors (VHS, Verity Holdings, OCHC and SLRH) and the Stalking Horse Purchaser, is attached hereto as **Exhibit A**. The bidding procedures and protections are included, in part, in Section 4.4 and Article 6 of the Stalking Horse APA.

a. Provisions Governing Qualifications of Bidders

26. Unless otherwise ordered by the Court, in order to participate in the bidding process, prior to the Bid Deadline (defined herein), each person, other than the Stalking Horse Purchaser, who wishes to participate in the bidding process (a "Potential Bidder") must deliver the following to the Notice Parties (defined herein):

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a) a written disclosure of the identity of each entity that will be bidding for the Purchased Assets or otherwise participating in connection with such bid; and

b) an executed confidentiality agreement (to be delivered prior to the distribution of any confidential information by the Debtors to a Potential Bidder) in form and substance satisfactory to the Debtors and which shall inure to the benefit of any purchaser of the Purchased Assets; without limiting the foregoing, each confidentiality agreement executed by a Potential Bidder shall contain standard non-solicitation provisions.

27. A Potential Bidder that delivers the documents and information described above and that the Debtors determine in their reasonable business judgment, after consultation with its advisors and the Official Committee, is likely (based on availability of financing, experience, and other considerations) to be able to consummate the sale, will be deemed a qualified bidder ("Qualified Bidder"). The Debtors will limit access to due diligence to those parties it believes, in the exercise of its reasonable judgment, are pursuing the transaction in good faith.

28. As promptly as practicable after a Potential Bidder delivers all of the materials required above, the Debtors will determine and will notify the Potential Bidder if such Potential Bidder is a Qualified Bidder.

b. Due Diligence

29. The Debtors will afford any Qualified Bidder such due diligence access or additional information as the Debtor, in consultation with their advisors, deem appropriate, in their reasonable discretion. The due diligence period shall extend through and including the Auction date; provided, however, that any Qualified Bid (defined herein) submitted shall be irrevocable until the selection of the Successful Bidder(s) (defined herein) and any Back-Up Bidder(s) (defined herein).

c. Provisions Governing Qualified Bids

30. A bid submitted will be considered a Qualified Bid only if the bid is submitted by a Qualified Bidder and complies with all of the following (a "Qualified Bid"):

a) it states that the applicable Qualified Bidder offers to purchase, in cash, some or all of the Purchased Assets;

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b) it identifies with particularity the portion of the Purchased Assets that the Qualified Bidder is offering to purchase;

c) it includes a signed writing that the Qualified Bidder's offer is irrevocable until the selection of the Successful Bidder and the Back-Up Bidder, provided that if such bidder is selected as the Successful Bidder or the Back-Up Bidder then the offer shall remain irrevocable until the earlier of (i) the closing of the transaction with the Successful Bidder and (ii) the date that is fifteen (15) business days after entry of the Sale Order with respect to the Successful Bidder and sixteen (16) business days after entry of the Sale Order with respect to the Back-Up Bidder;

d) it includes confirmation that there are no conditions precedent to the Qualified Bidder's ability to enter into a definitive agreement and that all necessary internal governance and shareholder approvals have been obtained prior to the bid;

e) it sets forth each regulatory and third-party approval required for the Qualified Bidder to consummate the transaction and the time period within which the Qualified Bidder expects to receive such approvals and establishes a substantial likelihood that the Qualified Bidder will obtain such approvals by the stated time period;

f) it includes a duly authorized and executed copy of a purchase or acquisition agreement in the form of the Stalking Horse APA (a "Purchase Agreement"), including the purchase price for some or all of the Purchased Assets or, alternatively, assets which are not currently included in the Stalking Horse Bid, or both, expressed in U.S. Dollars, together with all exhibits and schedules thereto, together with copies marked ("Marked Agreement") to show any amendments and modifications to the Stalking Horse APA and the proposed order to approve the sale by the Court;

g) it includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Debtors to make a reasonable determination as to the Qualified Bidder's financial and other capabilities to consummate the transaction contemplated by the Purchase Agreement;

h) if the bid is for some or all of the Purchased Assets, it must have a value to the Debtors, in the Debtors' exercise of its reasonable business judgment, after consultation with its advisors and the Official Committee, that is greater than or equal to the sum of the value offered under the Stalking Horse APA plus the amount of the Break-Up Fee and $7,500,000 (the bidding increment);

i) it identifies with particularity which executory contracts and unexpired leases the Qualified Bidder wishes to assume;

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j) it contains sufficient information concerning the Qualified Bidder's ability to provide adequate assurance of performance with respect to assumed executory contracts and unexpired leases;

k) it includes an acknowledgement and representation that the Qualified Bidder: (A) has had an opportunity to conduct any and all required due diligence regarding the Purchased Assets prior to making its offer; (B) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Purchased Assets in making its bid; (C) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the Purchased Assets or the completeness of any information provided in connection therewith or with the Auction (defined below), except as expressly stated in the Purchase Agreement; and (D) is not entitled to any expense reimbursement, break-up fee, or similar type of payment in connection with its bid;

l) it includes evidence, in form and substance reasonably satisfactory to the Debtors, of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the Purchase Agreement;

m) it is accompanied by a good faith deposit in the form of a wire transfer (to a bank account specified by the Debtors), certified check or such other form acceptable to the Debtors, payable to the order of the Debtors (or such other party as the Debtors may determine) in an amount equal to $23,500,000.00, which deposit shall be forfeited if such bidder is the Successful Bidder and breaches its obligation to close, and if the overbidder is a secured creditor of the Debtors who intends to make a credit bid, evidence of the amount, priority and basis for such creditor's secured claim against the Debtors;

n) it contains a detailed description of how the Qualified Bidder intends to treat current employees of the Debtors, if applicable;

o) it is for cash or credit bid and not subject to any financing contingency;

p) it contains such other information reasonably requested by the Debtors; and

q) it is received prior to the Bid Deadline.

31. The Debtors, in consultation with the Official Committee, may qualify any bid as a Qualified Bid that meets the foregoing requirements. Notwithstanding the foregoing, the Stalking Horse Purchaser is deemed a Qualified Bidder and the Stalking Horse APA is deemed a Qualified Bid, for all purposes in connection with the Bidding Process, the Auction, and the Sale.

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32. The Debtors shall notify the Stalking Horse Purchaser and all Qualified Bidders in writing as to whether or not any bids constitute Qualified Bids (and with respect to each Qualified Bidder that submitted a bid as to whether such Qualified Bidder's bid constitutes a Qualified Bid) and provide copies of the Purchase Agreements relating to any such Qualified Bid to the Stalking Horse Purchaser and such Qualified Bidders no later than one (1) day following the Debtors' receipt of such Qualified Bid.

d. Bid Deadline

33. In order to be eligible to participate in the Auction, a Qualified Bidder that desires to make a bid will deliver written copies of its bid to the following parties (collectively, the "Notice Parties"): (i) counsel to the Debtors: Dentons US LLP, 601 S. Figueroa Street, Suite 2500, Los Angeles, CA 90017 (Attn: Samuel R. Maizel (samuel.maizel@dentons.com)); (ii) the Debtors' Investment Banker: Cain Brothers, a division of KeyBanc Capital Markets, 601 California Street, Suite 1505, San Francisco, CA 94108 (Attn: James Moloney (jmoloney@cainbrothers.com)); (iii) counsel to the Stalking Horse Purchaser: McDermott Will & Emery LLP, 2049 Century Park East, Suite 3800, Los Angeles, CA 90067 (Attn: James F. Owens (JFowens@mwe.com)); (iv) the Office of the United States Trustee (the "U.S. Trustee"): 915 Wilshire Blvd., Suite 1850, Los Angeles, California 90017 (Attn: Hatty Yip (Hatty.Yip@usdoj.gov)); and (v) counsel to the Official Committee, so as to be received by the Notice Parties not later than the Bid Deadline established in the Bidding Procedures Order.

e. Credit Bidding

34. Any party with a valid, properly perfected security interest in any of the Purchased Assets may credit bid for the Purchased Assets in connection with the Sale pursuant to § 363(k) of the Bankruptcy Code.

35. Any credit bids made by secured creditors shall not impair or otherwise affect the Stalking Horse Purchaser's entitlement to the Bidding Procedures and Protections granted under the Bidding Procedures Order.

f. Evaluation of Competing Bids

36. A Qualified Bid will be valued based upon several factors including, without

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limitation: (1) the amount of such bid; (2) the risks and timing associated with consummating such bid; (3) any proposed revisions to the form of Stalking Horse APA; and (4) any other factors deemed relevant by the Debtors in their reasonable discretion, in consultation with the Official Committee.

g. No Qualified Bids

37. If the Debtors do not receive any Qualified Bids other than the Stalking Horse APA, the Debtors will not hold an auction and the Stalking Horse Purchaser will be named the Successful Bidder for the Purchased Assets.

h. Auction Process

38. If the Debtors receive one or more Qualified Bids in addition to the Stalking Horse APA, the Debtors will conduct the Auction of the Offered Assets, as well as all other assets included in a Qualified Bid, which shall be transcribed at a date and time as is determined by the Court, at the offices of Dentons US LLP, 601 South Figueroa Street, Suite 2500, Los Angeles, CA or such other location as shall be timely communicated to all entities entitled to attend the Auction. The Auction shall run in accordance with the following procedures:

a) only the Debtors, the Stalking Horse Purchaser, Qualified Bidders who have timely submitted a Qualified Bid, the U.S. Trustee, and the Official Committee, and their respective attorneys and advisors may attend the Auction;

b) only the Stalking Horse Purchaser and the Qualified Bidders who have timely submitted a Qualified Bid will be entitled to make any subsequent bids at the Auction;

c) each Qualified Bidder shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the sale;

d) at least one (1) business day prior to the Auction, each Qualified Bidder who has timely submitted a Qualified Bid must inform the Debtors whether it intends to attend the Auction; provided that in the event a Qualified Bidder elects not to attend the Auction, such Qualified Bidder's Qualified Bid shall nevertheless remain fully enforceable against such Qualified Bidder until the date of the selection of the Successful Bidder and the Back-Up Bidder (defined below) at the conclusion of the Auction. At least one (1) day prior to the Auction, the Debtors will provide copies of the Qualified Bid or combination of Qualified Bids which the Debtors

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believe in their reasonable discretion is the highest or otherwise best offer (the "Baseline Bid") to all Qualified Bidders;

e) all Qualified Bidders who have timely submitted Qualified Bids will be entitled to be present for all Subsequent Bids (defined herein) at the Auction and the actual identity of each Qualified Bidder will be disclosed on the record at the Auction; provided that all Qualified Bidders wishing to attend the Auction must have at least one individual representative with authority to bind such Qualified Bidder attending the Auction in person;

f) the Debtors, after consultation with their advisors and the Official Committee, may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances for conducting the Auction, provided that such rules are (i) not inconsistent with the Bidding Procedures, the Stalking Horse APA, the Bankruptcy Code, or any order of the Court entered in connection herewith, and (ii) disclosed to the Stalking Horse Purchaser and each other Qualified Bidder at the Auction; and

g) bidding at the Auction will begin with the Baseline Bid and continue in bidding increments of at least $7,500,000 (each a "Overbid"), which shall be made and received on an open basis, and all material terms of each Overbid shall be fully disclosed to all other Qualified Bidders who submitted Qualified Bids.

h) The initial Overbid, if any, shall provide for total consideration to Debtors with a value that exceeds the value of the consideration under the Baseline Bid by an incremental amount that is not less than the sum of the Bid Protections. Additional consideration in excess of the amount set forth in the respective Baseline Bid must include: (1) cash or (2) in the case of a Qualified Bidder that has a valid and perfected lien on any assets of Debtors' estates, a credit bid of up to the full amount of such Qualified Bidder's allowed perfected lien, subject to § 363(k) of the Bankruptcy Code and any other restrictions set forth herein.

i) After the first round of bidding and between each subsequent round of bidding, the Debtors, after consultation with the Official Committee, shall announce the bid that they believe to be the highest or otherwise better offer (the "Prevailing Highest Bid"). Debtors shall describe to all Qualified Bidders the material terms of any Overbid designated as the Prevailing Highest Bid as well as the value attributable by Debtors to such Prevailing Highest Bid. A round of bidding will conclude after each participating Qualified Bidder has had the opportunity to submit a Overbid with full knowledge of the Prevailing Highest Bid. Except as specifically set forth herein, for the purpose of evaluating the value of the consideration provided by Overbids, the Debtors will give effect to the Break-Up Fee payable to the Stalking Horse Purchaser as well as any additional liabilities or Cure Amounts (defined herein) to be assumed by

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the Stalking Horse Purchaser or a Qualified Bidder, as applicable, and any additional costs which may be imposed on the Debtors.

i. Selection of Successful Bid

39. Prior to the conclusion of the Auction, the Debtors, in consultation with their advisors and the Official Committee, will review and evaluate each Qualified Bid in accordance with the procedures set forth herein and determine which offer or offers are the highest or otherwise best from among the Qualified Bidders submitted at the Auction (one or more such bids, collectively the "Successful Bid" and the bidder(s) making such bid, collectively, the "Successful Bidder"), and communicate to the Qualified Bidders the identity of the Successful Bidder and the details of the Successful Bid. The Successful Bid may consist of a single Qualified Bid or multiple bids. The determination of the Successful Bid by the Debtors at the conclusion of the Auction shall be subject to approval by the Court.

40. Unless otherwise agreed to by the Debtors and the Successful Bidder, within two (2) business days after the conclusion of the Auction, the Successful Bidder shall complete and execute all agreements, contracts, instruments, and other documents evidencing and containing the terms and conditions upon which the Successful Bid was made. Within forty-eight (48) hours following the conclusion of the Auction, the Debtors shall file a notice identifying the Successful Bidder(s) with the Court and shall serve such notice by fax, email, or if neither is available, by overnight mail to all counterparties whose contracts are to be assumed and assigned.

41. The Debtors will sell the Offered Assets to the Successful Bidder pursuant to the terms of the Successful Bid upon the approval of such Successful Bid by the Court at the Sale Hearing and satisfaction of any other closing conditions set forth in the Successful Bidder's Purchase Agreement.

j. Return of Deposits

42. All deposits shall be returned to each bidder not selected by the Debtors as the Successful Bidder or the Back-Up Bidder (defined herein) no later than five (5) business days following the conclusion of the Auction.

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k. Back-Up Bidder

43. If an Auction is conducted, the Qualified Bidder or Qualified Bidders with the next highest or otherwise best Qualified Bid, as determined by the Debtors in the exercise of their business judgment, at the Auction shall be required to serve as a back-up bidder (the "Back-Up Bidder") and keep such bid open and irrevocable until the earlier of one hundred days after the Sale Hearing or approval of the Qualified Bidders' purchase by the California Attorney General, if necessary.[4] If the Successful Bidder fails to consummate the approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Back-Up Bidder will be deemed to be the new Successful Bidder, and the Debtors will be authorized, but not required, to consummate the sale with the Back-Up Bidder without further order of the Court.

l. Break-Up Fee and Expense Reimbursement

44. In recognition of this expenditure of time, energy, and resources, the Debtors have agreed that if the Stalking Horse Purchaser is not the Successful Bidder as to the Purchased Assets, the Debtors will pay the Stalking Horse Purchaser at closing of the sale of the Purchased Assets an amount in cash equal to $9,400,000.00, plus repayment of the Expense Reimbursement. The Break-Up Fee shall be payable at closing of the sale from the sale proceeds.

45. If the Stalking Horse APA is terminated because the Stalking Horse Purchaser is not selected as the Successful Bidder or the Back-Up Bidder at Auction (or the Stalking Horse Purchaser is selected as the Back-Up Bidder but the sale of the Purchased Assets is consummated and closed with another entity), the Debtors shall pay to the Stalking Horse Purchaser the Break-Up Fee and Expense Reimbursement by wire transfer of immediately available funds immediately, and contemporaneous with, the closing of the sale of the Purchased Assets from the first cash proceeds thereof. The Break-Up Fee and Expense Reimbursement shall constitute an administrative expense claim with priority under Section 507(a) of the Bankruptcy Code in favor

[4] Section 5914 of the California Corporations Code establishes the circumstances when the sale of a not-for-profit ("NFP") healthcare facility is subject to AG review. Section 5914 says that sales of NFP healthcare corporations to (a) for-profit corporations or entities, (b) not-for-profit corporations or entities, or (c) mutual benefit corporations or entities, are subject to AG review. A county government is a public entity, not (i) a for-profit corporation or entity, (ii) a mutual benefit corporation or entity, or (iii) a not-for-profit corporation or entity. Based on the plain language of the statute, it does not provide for AG review of a sale to a governmental or public entity like a county.

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of the Stalking Horse Purchaser. If the Debtors fail to timely pay such amounts due to the Stalking Horse Purchaser, the Debtors shall also pay the costs and expenses (including reasonable legal fees and expenses) incurred by the Stalking Horse Purchaser in connection with any action or proceeding taken to collect payment of such amounts; provided, however, to the extent any portion of the Expense Reimbursement is being contested in good faith, the Debtors shall (a) promptly pay the undisputed portion of the expense claimed by the Stalking Horse Purchaser, and (b) set aside the disputed portion of such expense in a separate interest bearing account for the sole benefit of Stalking Horse Purchaser pending the resolution of such dispute. If no alternative transaction closes, the Break-Up Fee and Expense Reimbursement will not be due or paid but the Stalking Horse Purchaser's Deposit shall be returned to it within thirty days after the conclusion of the Auction in which the Stalking Horse Purchaser is not selected as the Successful Bidder.

46. The Debtors acknowledge that the provision of the Break-Up Fee and Expense Reimbursement are an integral part of the Stalking Horse APA and are a material and necessary inducement for the Stalking Horse Purchaser to enter into the Stalking Horse APA and to consummate the transactions contemplated therein. In the event that the payment of the Breakup Fee and the Expense Reimbursement (including any costs of collection) becomes due and payable to the Stalking Horse Purchaser, and such amounts are actually paid to the Stalking Horse Purchaser, such amounts will constitute liquidated damages (and not a penalty). In light of the difficulty of accurately determining actual damages with respect to the foregoing, the right to any such payment of the Breakup Fee and the Expense Reimbursement (and any related collection costs) and the return of the Deposit to the Stalking Horse Purchaser constitute a reasonable estimate of the damages that will compensate the Stalking Horse Purchaser in the circumstances in which such fees and reimbursements are payable for the efforts and resources expended and the opportunities foregone while negotiating the Stalking Horse APA and in reliance on the Stalking Horse APA and on the expectation of the consummation of the transactions contemplated therein. The Debtors believe that the entry into this Stalking Horse APA provides value to the Debtors' chapter 11 estates and bankruptcy cases by, among other things, inducing other Qualified Bidders to submit higher or better offers for the Purchased Assets.

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m. Sale Hearing

47. The Debtors will seek entry of the Sale Order from the Court at the Sale Hearing to begin in late November (or at another date and time convenient to the Court) to approve and authorize the sale transaction to the Successful Bidder(s) on terms and conditions determined in accordance with the Bidding Procedures.

48. At the Sale Hearing, the Debtors will seek Court approval of the Sale to the Successful Bidder, free and clear of all liens, claims, interests, and encumbrances pursuant to § 363 of the Bankruptcy Code, with all liens, claims, interests, and encumbrances to attach to the sale proceeds with the same validity and in the same order of priority as they attached to the Purchased Assets prior to the Sale, including the assumption by the Debtors and assignment to the Successful Bidder of the Assumed Executory Contracts and Leases pursuant to Section 365 of the Bankruptcy Code. The Debtors will submit and present additional evidence, as necessary, at the Sale Hearing demonstrating that the Sale is fair, reasonable, and in the best interest of the Debtors' estates and all interested parties, and satisfies the standards necessary to approve a sale of the Purchased Assets.

C. NOTICE PROCEDURES

49. The Debtors propose that any objections to the Sale (other than an Assumption Objection (defined herein) which shall be governed by the procedures set forth below) (a "Sale Objection"), must: (i) be in writing; (ii) comply with the Bankruptcy Rules and the Local Rules; (iii) set forth the specific basis for the Sale Objection; (iv) be filed with the Court at 255 East Temple St., (Attn: Judge E. Robles), Los Angeles, CA 90012, together with proof of service, on or before the Sale Objection Deadline set forth in the Bidding Procedures Order; and (v) be served, so as to be actually received on or before the Sale Objection Deadline, upon the Notice Parties. If a Sale Objection is not filed and served on or before the Sale Objection Deadline, the Debtors request that the objecting party be barred from objecting to the Sale and not be heard at the Sale Hearing, and this Court may enter the Sale Order without further notice to such party. The Debtors also request that the Court approve the form of the Procedures Notice, substantially in the form of Exhibit 3 to the Bidding Procedures Order. The Debtors will serve a copy of the

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Procedures Notice on the following parties: (i) the Notice Parties; (ii) any parties requesting notices in this case pursuant to Bankruptcy Rule 2002; (iii) all Potential Bidders; (iv) all parties known by the Debtors to assert a lien on any of the Purchased Assets; (v) all persons known or reasonably believed to have asserted an interest in any of the Purchased Assets; (vi) all non-Debtor parties to any contracts and leases to be assumed; (vii) the Office of the United States Attorney for the Central District of California; (viii) the Office of the California Attorney General; (ix) the Office of the California Secretary of State; (x) all taxing authorities having jurisdiction over any of the Purchased Assets, including the IRS; and (xi) all environmental authorities having jurisdiction over any of the Purchased Assets (collectively with the parties specified in this paragraph, the "Procedures Notice Parties").

50. The Debtors propose to file with the Court and serve the Procedures Notice within one (1) business day following entry of the Bidding Procedures Order, by first-class mail, postage prepaid on the Procedures Notice Parties. The Procedures Notice provides that any party that has not received a copy of the Motion or the Bidding Procedures Order that wishes to obtain a copy of the Motion or the Bidding Procedures Order, including all exhibits thereto, may make such a request in writing to Dentons US LLP, Attn: Samuel R. Maizel, 601 S. Figueroa St., Suite 2500, Los Angeles, CA 90017 or by emailing samuel.maizel@dentons.com or calling (301) 892-2910.

51. The Debtors submit that the foregoing notices comply fully with Bankruptcy Rule 2002 and are reasonably calculated to provide timely and adequate notice of the Bidding Procedures, Auction and Sale, and Sale Hearing to the Debtors' creditors and other parties in interests as well as to those who have expressed an interest or are likely to express an interest in bidding on the Purchased Assets. Based on the foregoing, the Debtors respectfully request that this Court approve these proposed notice procedures.

D. PROCEDURES FOR THE ASSUMPTION AND ASSIGNMENT OF ASSIGNED CONTRACTS AND LEASES

52. As noted above, the Debtors will seek to assume and assign certain contracts and leases to be identified in the Purchase Agreement(s) (collectively, the "Assumed Executory Contracts").

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53. At least initially, the Assumed Executory Contracts will be those contracts and leases that the Debtors believe may be assumed and assigned as part of the orderly transfer of the Purchased Assets. The Successful Bidder(s) may choose to exclude (or to add) certain contracts or leases to the list of Assumed Executory Contracts, subject to further notice.

54. In the interim, the Debtors will file with the Court and serve the Cure Notice, substantially in the form of Exhibit 4 to the Bidding Procedures Order, (along with a copy of this Motion) upon each counterparty to the Assumed Executory Contracts. The Cure Notice will state the date, time and place of the Sale Hearing as well as the date by which any objection to the assumption and assignment of Assumed Executory Contracts (including the Cure Amount (defined below)) must be filed and served. The Cure Notice also will identify the amounts, if any, that the Debtors believe are owed to each counterparty to an Assumed Executory Contract in order to cure any defaults that exist under such contract (the "Cure Amounts"). To the extent there is a contract added to the list of contracts to be assumed by the Successful Bidder pursuant to the Successful Bidder's Purchase Agreement selected at the Auction, this Motion constitutes a separate motion to assume and assign that contract to the Successful Bidder pursuant to §365 of the Bankruptcy Code; each such contract will be listed in the Successful Bidder's Purchase Agreement, and will be given a separate Cure Notice filed and served by overnight delivery within five (5) business days of the conclusion of the Auction and announcement of the Successful Bidder.

55. The inclusion of a contract, lease, or other agreement on the Cure Notice shall not constitute or be deemed a determination or admission by the Debtors and their estates or any other party in interest that such contract, lease, or other agreement is, in fact, an executory contract or unexpired lease within the meaning of the Bankruptcy Code, and any and all rights with respect thereto shall be reserved.

56. If a Contract or Lease is assumed and assigned pursuant to Court Order, then unless the Assumed Executory Contract counterparty properly files and serves an objection to the Cure Amount contained in the Cure Notice by the Assumption Objection Deadline (defined below), the Assumed Executory Contract counterparty will receive at the time of the Closing of

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the sale (or as soon as reasonably practicable thereafter), the Cure Amount as set forth in the Cure Notice, if any. If an objection is filed by a counterparty to an Assumed Executory Contract, the Debtors propose that such objection must set forth a specific default in the executory contract or unexpired lease, claim a specific monetary amount that differs from the amount, if any, specified by the Debtors in the Cure Notice, and set forth any reason why the counterparty believes the executory contract or unexpired lease cannot be assumed and assigned to the Successful Bidder.

57. If any counterparty objects for any reason to the assumption and assignment of an Assumed Executory Contract (including to a Cure Amount) (a "Assumption Objection"), the Debtors propose that the counterparty must file the objection and serve it so as to be actually received on or before the Assumption Objection Deadline established in the Bidding Procedures Order, provided, however, as to any Successful Bidder who is not the Stalking Horse Purchaser, any counterparty may raise at the Sale Hearing an objection to the assumption and assignment of the Assumed Executory Contract solely with respect to the Successful Bidder's ability to provide adequate assurance of future performance under the Assumed Executory Contract. After receipt of an Assumption Objection, the Debtors will attempt to reconcile any differences in the Cure Amount or otherwise resolve the objection with the counterparty. In the event that the Debtors and the counterparty cannot resolve an Assumption Objection, and the Court does not otherwise make a determination at the Sale Hearing regarding an Assumption Objection related to a Cure Amount, the Debtors shall segregate from the sale proceeds any disputed Cure Amounts pending the resolution of any such Cure Amount disputes by the Court or mutual agreement of the parties.

58. The Successful Bidder shall be responsible for satisfying any requirements regarding adequate assurance of future performance that may be imposed under §365(b) of the Bankruptcy Code in connection with the proposed assignment of any Assumed Executory Contract, and the failure to provide adequate assurance of future performance to any counterparty to any Assumed Executory Contract shall not excuse the Successful Bidder from performance of any and all of its obligations pursuant to the Successful Bidder's Purchase Agreement. The Debtors propose that the Court make its determinations concerning adequate assurance of future performance under the Assumed Executory Contacts pursuant to § 365(b) of the Bankruptcy

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Code at the Sale Hearing. Cure Amounts disputed by any counterparty will be resolved by the Court at the Sale Hearing or such later date as may be agreed to or ordered by the Court.

59. Except to the extent otherwise provided in the Successful Bidder's Purchase Agreement, the Debtors and the Debtors' estates shall be relieved of all liability accruing or arising after the assumption and assignment of the Assumed Executory Contracts pursuant to § 365(k) of the Bankruptcy Code.

E. THE PRIMARY TERMS OF THE STALKING HORSE APA

60. The Stalking Horse APA contemplates the sale of the Purchased Assets to the Stalking Horse Bidder, subject to higher or better bids, on the following material terms:[5]

Stalking Horse APA Provision	Summary Description
APA Parties	Verity Health System of California, Inc., Verity Holdings, LLC, O'Connor Hospital, and Saint Louise Regional Hospital ("Sellers"). County of Santa Clara, a political subdivision of the State of California ("Purchaser").
Consideration **APA § 1.1**	As consideration for the sale of the Assets, Purchaser shall pay to Sellers an aggregate purchase price equal to Two Hundred Thirty-Five Million Dollars ($235,000,000), subject to adjustment as described in the Stalking Horse APA.
Purchased Assets; Avoidance Actions **APA § 1.8**	"Assets" shall mean all assets, businesses, real property, personal property, equipment, supplies, software, contracts, leases, licenses/permits, books, records, offices, facilities, and all other tangible and intangible property (a) whatsoever and wherever located that is owned, leased, or used primarily in connection with the Businesses by O'Connor Hospital or Saint Louise Regional Hospital, (b) located in Santa Clara County, California that is owned, leased, or used primarily in connection with the Businesses by Verity Holdings, LLC, and (c) whatsoever and wherever located that is owned, leased, or used by Verity Health System of California, Inc. primarily in connection with the Businesses, in each case, except for the Excluded Assets. The "Assets" further include all owned real property assets and interests of each Seller with respect to real property located in Santa Clara County, California.
Excluded Assets	"Excluded Assets" include cash, cash equivalents and investments; all Benefit Plans and the assets of all Benefit Plans; Contracts and Leases which are not assumed; inventory and assets disposed of by any Seller in the ordinary course

[5] The summary of the terms contained in this Motion highlights some of the material terms of the Stalking Horse APA. This summary is qualified in its entirety by reference to the provisions of the Stalking Horse APA. In the event of any inconsistencies between the provisions of the Stalking Horse APA and the summary set forth herein, the terms of the Stalking Horse APA shall govern. Unless otherwise defined in the summary set forth in the accompanying text, capitalized terms shall have the meanings ascribed to them in the Stalking Horse APA.

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Stalking Horse APA Provision	Summary Description
APA § 1.9	of business after the Signing Date but prior to the Effective Time; all claims, counterclaims, and causes of action of each Seller or each Seller's bankruptcy estate; all insurance policies and contracts and coverages obtained by any Seller or listing a Seller as insured party, a beneficiary or loss payee; all bank accounts of each Seller (except as otherwise provided); all tax refunds of each Seller; and all accounts and interest thereupon, notes and interest thereupon and other receivables of Sellers.
Assumed Liabilities **APA § 1.10**	"Assumed Obligations" include all Assumed Contracts and Assumed Leases and all liabilities and obligations arising thereunder on and after the Effective Time, but not including any Cure Costs; 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 Businesses or any of the Assets on or after the Effective Time; all unpaid real and personal property taxes that are attributable to the Assets after the Effective Time, subject to prorations; and all liabilities and obligations arising on or following the Effective Time relating to utilities being furnished to the Assets, subject to prorations.
Excluded Liabilities **APA § 1.11**	Purchaser shall not assume or become responsible for any duties, obligations, or liabilities of any Seller other than the Assumed Obligations.
Assumption of Transferred Contracts and Assignment **APA § 1.12.2**	At the Closing and pursuant to § 365 of the Bankruptcy Code and the Sale Order, Sellers shall assume and immediately assign to Purchaser, and as of the Effective Time, Purchaser shall assume from Sellers, the Assumed Contracts and the Assumed Leases; provided, however, Purchaser shall only assume the liabilities that arise thereunder with respect to events or periods on and after the Effective Time and that do not relate to any failure to perform or other breach, default, or violation by any Seller on or prior to the Closing Date.
Payment of Cure Costs **APA § 4.7**	Sellers, upon assumption, shall pay the Cure Costs for each Assumed Contract and Assumed Lease so that each such Assumed Contract and Assumed Lease may be assumed by the applicable Seller and assigned to Purchaser in accordance with the provisions of Section 365 of the Bankruptcy Code.
Employment Provisions **APA § 5.3**	Subject to standard hiring practices of Purchaser, Purchaser agrees to offer provisional employment, effective as of the Effective Time, to substantially all employees of O'Connor Hospital or Saint Louise Regional Hospital who are listed on Schedule 5.3.1 who are actively employed and in good standing with a Hospital Seller as of Closing.
Agreements with Management **APA § 5.3.1**	Purchaser shall make decisions with respect to hiring Seller Employees who served in a management role prior to or as of Closing on a case-by-case basis, but Purchaser shall not be obligated hereunder to offer to employ any of such individuals.

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Stalking Horse APA Provision	Summary Description
Good Faith Deposit **APA § 1.2**	Promptly after the Signing Date, Purchaser, Sellers, and the Escrow Agent will enter into a deposit agreement which will obligate Purchaser to make a good faith deposit in the amount of Twenty-Three Million Five Hundred Thousand Dollars ($23,500,000) (the "Deposit") with the Escrow Agent upon the entry of the Bidding Procedures Order. Upon Closing, the Deposit shall be credited against the Purchase Price.
Closing and Other Deadlines **APA § 1.4, 6.2.9**	The Closing Date shall occur within five (5) business days following the satisfaction or waiver of the conditions precedent to Closing set forth in in Articles 7 and 8 of the Stalking Horse APA. The Stalking Horse APA contains the following Sale Milestones: • On or before the date that is no later than two (2) business days after the Signing Date, Sellers shall have filed the Sale Motion. • On or before the date that is thirty (30) days after the Signing Date, the Bankruptcy Court shall have entered the Bidding Procedures Order. • On or before the date that is seventy-five (75) days after the Signing Date, Sellers shall have conducted the Auction. • On or before the date that is ninety (90) days after the Signing Date, the Bankruptcy Court shall have entered the Sale Order. • On or before the date that is one hundred five (105) days after the Signing Date, the Closing shall have occurred.
Conduct of Business Prior to Closing **APA § 4.10**	On and after the Signing Date and until the Effective Time, Sellers shall continue to operate the Businesses as presently operated, and consistent with such operation, comply in all material respects with all applicable legal and contractual obligations of any Seller, use commercially reasonable efforts to preserve the goodwill of Sellers' suppliers, patients, physicians, and others with whom Sellers have business relationships, maintain inventories of goods and supplies at levels necessary for the normal operation of the Hospitals, make and continue to make or cause to be made all repairs, restoration, replacements, and maintenance that may be necessary or appropriate to maintain the Assets, use commercially reasonable efforts to retain the services of the Seller Employees, and preserve each Seller's rights under the Assumed Contracts and Assumed Leases.

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Stalking Horse APA Provision	Summary Description
Record Retention **APA § 11.3**	From the Closing Date until seven (7) years after the Closing 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. After the expiration of the Document Retention Period, if Purchaser intends to destroy or otherwise dispose of any of the documents, 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.
Bid Protections **APA § 6.2.4**	The "Bid Protections" shall collectively mean the Breakup Fee and the Expense Reimbursement. The "Breakup Fee" shall mean a breakup fee in the amount totaling Nine Million Four Hundred Thousand Dollars ($9,400,000). The "Expense Reimbursement" shall mean reasonably documented reasonable costs and expenses incurred by Purchaser related to its due diligence, and pursuing, negotiating, and documenting the transaction(s) contemplated by the Stalking Horse APA. The Bid Protections shall be payable pursuant to the terms of the Stalking Horse APA in the event that the Stalking Horse APA is terminated due to Sellers' consummation of an Alternative Transaction and/or under such other conditions specified in the Stalking Horse APA.
Buyer's Termination Rights **APA §§ 9.1, 9.2**	If, prior to or as of the Closing Date, any portion of the Assets have suffered loss or damage on account of fire, flood, wind, hurricane, earthquake, accident, act of war, terrorist act, civil commotion, or other cause or event (whether or not similar to the foregoing), and such casualty is a Material Casualty (*i.e.* estimated repair costs of such damage exceeds $11,750,000), Purchaser shall have the right to terminate the Stalking Horse APA by giving at least five (5) days' prior written notice to Sellers. The Stalking Horse APA may be terminated at any time prior to Closing by Purchaser if a material breach of the Stalking Horse APA has been committed by Sellers or if the Closing has not occurred on or before February 28, 2019 (the "Termination Date"), if the Termination Date has not been extended by mutual consent of the Sellers and Purchaser. The Stalking Horse APA may also be terminated by Purchaser or Sellers in the event that Purchaser is not the Successful Bidder at the Auction and Purchaser has not been selected by the Sellers as the Back-Up Bidder at the Auction.
Requested Findings as to Good Faith, Successor Liability;	The Sale Order shall contain findings of fact and conclusions of law that the transactions contemplated herein are undertaken by Purchaser and Sellers at arm's length, without collusion and that Purchaser has acted in "good faith"

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Stalking Horse APA Provision	Summary Description
Waiver of Automatic Stay **APA § 6.2.6**	within the meaning and entitled to the protections of Sections 363(m) and 363(n) of the Bankruptcy Code. The Sale Order shall also provide for a sale of the Assets free and clear of all claims, Excluded Liabilities, and liens (including any successor liability) to the maximum extent permitted by law and within the meaning of, and in compliance with, Section 363(f) of the Bankruptcy Code. The Sale Order shall also provide for the waiver of the automatic stay provisions of Bankruptcy Rules 6004 and 6006.

IV. ARGUMENT

A. APPROVAL OF THE BIDDING PROCEDURES IS APPROPRIATE AND IN THE BEST INTERESTS OF THE DEBTORS' ESTATES AND STAKEHOLDERS.

Section 363(b)(1) provides that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate [.]" 11 U.S.C. § 363 (b)(1). Section 105(a) provides in pertinent part that "[t]he Court may issue any order, process or judgment that is necessary and appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Rules") govern the scope of the notice to be provided in the event a debtor elects to sell property of the estate under § 363.

With respect to the procedures to be adopted in conducting a sale outside the ordinary course of a debtor's business, Rule 6004 provides only that such sale may be by private sale or public auction, and requires only that the debtor provide an itemized list of the property sold together with the prices received upon consummation of the sale. Fed. R. Bankr. P. 6004(f). LBR 6004-1 provides, in pertinent part, as follows:

> **(b) Motion for Order Establishing Procedures for the Sale of Estate Property.**
>
> (2) Contents of Notice [of a Sale Procedure Motion]. The notice must describe the proposed bidding procedures and include a copy of the proposed purchase agreement. If the purchase agreement is not available, the moving party must describe the terms of the sale proposed, when a copy of the actual agreement will be filed with the court, and from whom it may be obtained. The notice must describe the marketing efforts undertaken and the anticipated marketing plan, or explain why no marketing is required. […]

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> (3) Service of the Notice and Motion. The moving party must serve the motion and notice of the motion and hearing by personal delivery, messenger, telephone, fax, or email to the parties to whom notice of the motion is required to be given by the FRBP or by these rules, any other party that is likely to be adversely affected by the granting of the motion, and the United States trustee. The notice of hearing must state that any response in opposition to the motion must be filed and served at least 1 day prior to the hearing, unless otherwise ordered by the court.
> (6) Break-Up Fees. If a break-up fee or other form of overbid protection is requested in the Sale Procedure Motion, the request must be supported by evidence establishing: (A) That such a fee is likely to enhance the ultimate sale price; and (B) The reasonableness of the fee. […]

LBR 6004-1(b).

Neither the Bankruptcy Code nor the Rules contain specific provisions with respect to the procedures to be employed by a debtor in conducting a public or private sale. Nonetheless, as one court has stated, "[i]t is a well-established principle of bankruptcy law that the objective of bankruptcy rules and the [debtors'] duty with respect to such sales is to obtain the highest price or greatest overall benefit possible for the estate." *In re Atlanta Packaging Products, Inc.*, 99 B.R. 124, 131 (Bankr. N.D. Ga. 1988). Additionally, courts have long recognized the need for competitive bidding at hearings; "[c]ompetitive bidding yields higher offers and thus benefits the estate. Therefore, the objective is 'to maximize bidding, not restrict it.'" *Id.*; *see also Burtch v. Ganz (In re Mushroom Transp. Co.)*, 382 F.3d 325, 339 (3d Cir. 2004) (finding that debtor's fiduciary duties included maximizing and protecting the value of the estate's assets); *Four B. Corp. v. Food Barn Stores, Inc. (In re Food Barn Stores, Inc.)*, 107 F.3d 558, 564-65 (8th Cir. 1997) ("[A] primary objective of the [Bankruptcy] Code [is] to enhance the value of the estate at hand."). Courts uniformly recognize that procedures established for the purpose of enhancing competitive bidding are consistent with the fundamental goal of maximizing the value of a debtor's estate and, therefore, are appropriate. *See Calpine Corp. v. O'Brien Envtl. Energy, Inc. (In re O'Brien Envtl. Energy, Inc.)*, 181 F.3d 527, 536-37 (3d Cir. 1999) (noting that bidding procedures that promote competitive bidding provide benefit to debtor's estate); *Official Comm. of Subordinated Bondholders v. Integrated Res. Inc. (In re Integrated Res. Inc.)*, 147 B.R. 650,

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659 (S.D.N.Y. 1992) (such sale procedures "encourage bidding and to maximize the value of the Purchased Assets").

Here, the Bidding Procedures are designed to promote the paramount goal of any proposed sale of property of the Debtors' estates: maximizing the value of sale proceeds received by the estates. The Bidding Procedures provide for an orderly and appropriately competitive process through which interested parties may submit offers to purchase the Property. Specifically, the Debtors, with the assistance of their advisors, have structured the Bidding Procedures to promote active bidding by interested parties and to confirm the highest or otherwise best offer reasonably available for the Purchased Assets. Additionally, the Bidding Procedures will allow the Debtors to conduct the Auction in a fair and transparent manner that will encourage participation by financially capable bidders with demonstrated ability to consummate a timely Sale. Accordingly, the Bidding Procedures should be approved because, under the circumstances, they are reasonable, appropriate and in the best interests of the Debtors, their estates, creditors, and all parties in interest.

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B. THE BREAK-UP FEE AND EXPENSE REIMBURSEMENT HAVE SOUND BUSINESS PURPOSES AND ARE NECESSARY TO PRESERVE THE VALUE OF THE DEBTORS' ESTATES.

The Debtors submit that the Break-Up Fee is a normal and oftentimes necessary component of sales outside the ordinary course of business under § 363 of the Bankruptcy Code. In particular, such a protection encourages a potential purchaser to invest the requisite time, money, and effort to conduct due diligence and sale negotiations with a debtor despite the inherent risks and uncertainties of the chapter 11 process. *See, e.g., In re Comdisco, Inc.*, Case No. 01 24795 (RB) (Bankr. N.D. Ill. Aug. 9, 2002) (approving a termination fee as, *inter alia*, an actual and necessary cost and expense of preserving the debtor's estate, of substantial benefit to the debtor's estate and a necessary inducement for, and a condition to, the proposed purchaser's entry into the purchase agreement); *Integrated Resources*, 147 B.R. at 660 (noting that fees may be legitimately necessary to convince a "white knight" to offer an initial bid, for the expenses such bidder incurs and the risks such bidder faces by having its offer held open, subject to higher and better offers); *In re Hupp Indus.*, 140 B.R. 191, 194 (Bankr. N.D. Ohio 1997) (without any

reimbursement, "bidders would be reluctant to make an initial bid for fear that their first bid will be shopped around for a higher bid from another bidder who would capitalize on the initial bidder's. . . due diligence*"); In re Marrose Corp.*, 1992 WL 33848, at *5 (Bankr. S.D.N.Y. 1992) (stating that "agreements to provide reimbursement of fees and expenses are meant to compensate the potential acquirer who serves as a catalyst or 'stalking horse' which attracts more favorable offers"); *In re 995 Fifth Ave. Assocs.*, 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989) (finding that bidding incentives may be "legitimately necessary to convince a white knight to enter the bidding by providing some form of compensation for the risks it is undertaking") (citations omitted).

A proposed bidding incentive, such as the Break-Up Fee, should be approved when it is in the best interests of the estate. *See In re S.N.A. Nut Co.*, 186 B.R. 98, 104 (Bankr. N.D. Ill. 1995); *see also In re America West Airlines, Inc.*, 166 B.R. 908 (Bankr. D. Ariz. 1994); *In re Hupp Indus., Inc.*, 140 B.R. *191* (Bankr. N.D. Ohio 1992). Typically, this requires that the bidding incentive provide some benefit to the debtor's estate. *Calpine Corp. v. O'Brien Envtl. Energy, Inc. (In re O'Brien Envtl. Energy, Inc.)*, 181 F.3d 527, 533 (3d Cir. 1999) (holding even though bidding incentives are measured against a business judgment standard in non-bankruptcy transactions the administrative expense provisions of § 503(b) govern in the bankruptcy context).

In evaluating the appropriateness of a break-up fee, the appropriate question for the Court to consider is "whether the break-up fee served any of three possible useful functions: (1) to attract or retain a potentially successful bid; (2) to establish a bid standard or minimum for other bidders to follow; or (3) to attract additional bidders." *In re Integrated Resources, Inc.*, 147 B.R. at 662. The published opinions addressing break-up fees provide for a broad range of break-up fees, typically in the range of 1-5% of the purchase price. *See, In re Twenver, Inc.*, 149 B.R. 954, 957 (Bankr. D. Colo. 1992) (stating that breakup fees of 1% to 2% are found to be reasonable in the majority of cases approving such fees); *In re Integrated Resources, Inc.*, 147 B.R. 650, 662 (Bankr. S.D.N.Y. 1992) (where the Court heard testimony that the average breakup fee in the industry is 3.3%); *Cottle v. Storer Commc'n, Inc.*, 849 F.2d 570 (11th Cir. 1988) ($18 million termination fee approved using business judgment rule where fee was 1.16% of sale price); *Samjens Partners I v. Burlington Indus.*, 663 F. Supp. 614 (S.D.N.Y. 1987) (breakup fee

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calculated as 2% of the value of the company was "not so onerous as to end the auction"); *In re Crowthers McCall Pattern, Inc.*, 114 B.R. 877 (Bankr. S.D.N.Y. 1990) (approving $500,000 break-up fee in a $45 million sale – 1.11%); *Beebe v. Pacific Realty Trust*, 578 F. Supp. 1128 (D. Or. 1984)(termination fee calculated as 1% of the transaction was reasonable). Notwithstanding the foregoing, Break-up fees of over three percent have been routinely approved in the context of bankruptcy sales. *See, In re CXM, Inc.*, 307 B.R. 94, 103–04 (Bankr. N.D. Ill. 2004) (court approved break-up fee in amount equal to the actual expenses that the stalking horse incurred in connection with its bid to buy the Sale Assets, subject to a maximum cap of $200,000, which equaled 3% of the cash purchase price of $5,914,000); *In re Women First Healthcare, Inc.*, 332 B.R. 115, 118, (Bankr. D. Del. 2005) (court approved break-up fee and expense reimbursement that equaled 4.7% percent of the purchase price*; In re Dan River, Inc.*, No. 04-10990 (Banker. N.D. Ga. Dec. 17, 2004) (court approved break-up fee equal to 5.3% of the cash purchase price); *In re Lake Burton Dev., LLC*, No. 09-22830 (Bankr. N.D. Ga. Apr. 1, 2010) (court approved break-up fee equal to 4.75% of cash purchase price).

The Debtors submit that all of the bidding procedures the Debtors are seeking to have the Court approve, including the proposed Break-Up Fee to the Stalking Horse Purchaser, satisfies all three of the useful functions set forth above: (1) to attract or retain a potentially successful bid; (2) to establish a bid standard or minimum for other bidders to follow; and (3) to attract additional bidders. The proposed break-up fee of $9,400,000.00 (plus repayment of the Expense Reimbursement), which is 4% of the purchase price, is well within the percentage parameters that have been approved by many other courts. Thus, the Debtors believe that the proposed Break-Up Fee is fair and reasonably compensates the Stalking Horse Purchaser for taking actions that will benefit the Debtors' estates. The Break-Up Fee and Expense Reimbursement compensate the Stalking Horse Purchaser for diligence and professional fees incurred in negotiating the terms of the Stalking Horse APA on an expedited timeline.

Additionally, the Debtors do not believe that the Break-Up Fee will have a chilling effect on the sale process. Rather, the Stalking Horse Purchaser will increase the likelihood that the best possible price for the Purchased Assets will be received, by permitting other qualified bidders to

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rely on the diligence performed by the Stalking Horse Purchaser, and moreover, by allowing qualified bidders to utilize the Stalking Horse APA as a platform for negotiations and modifications in the context of a competitive bidding process.

Finally, the Break-Up Fee and Expense Reimbursement will be paid only if, among other things, the Debtors enter into a transaction for the Purchased Assets with a bidder other than the Stalking Horse Purchaser. Accordingly, no Break-Up Fee will be paid unless a higher and better offer is achieved and consummated. In sum, the Break-Up Fee is reasonable under the circumstances and will enable the Debtors to maximize the value for the Purchased Assets while limiting any chilling effect in the sale process.

C. THE PROCEDURE FOR ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES IS APPROPRIATE

Section 365(a) of the Bankruptcy Code provides that, subject to the court's approval, a trustee "may assume or reject any executory contracts or unexpired leases of the debtor." 11 U.S.C. § 365(a). Upon finding that a trustee has exercised its sound business judgment in determining to assume an executory contract or unexpired lease, courts will approve the assumption under section 365(a) of the Bankruptcy Code. *See Nostas Assocs. v. Costich (In re Klein Sleep Prods., Inc.)*, 78 F.3d 18, 25 (2d Cir. 1996); *see also Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.)*, 4 F.3d 1095, 1099 (2d Cir. 1993).

Pursuant to § 365(f)(2) of the Bankruptcy Code, a trustee may assign an executory contract or unexpired lease of nonresidential real property if:

> (A) the trustee assumes such contract or lease in accordance with the provisions of this section; and
>
> (B) adequate assurance of future performance by the assignee of such contract or lease is provided, whether or not there has been a default in such contract or lease.

11 U.S.C. § 365(f)(2).

The meaning of "adequate assurance of future performance" depends on the facts and circumstances of each case, but should be given "practical, pragmatic construction." *See Carlisle Homes, Inc. v. Arrari (In re Carlisle Homes, Inc.)*, 103 B.R. 524, 538 (Bankr. D.N.J. 1989); *see*

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also In re Natco Indus., Inc., 54 B.R. 436, 440 (Bankr. S.D.N.Y. 1985) (adequate assurance of future performance does not mean absolute assurance that debtor will thrive and pay rent); *In re Bon Ton Rest. & Pastry Shop, Inc.*, 53 B.R. 789, 803 (Bankr. N.D. Ill. 1985) ("Although no single solution will satisfy every case, the required assurance will fall considerably short of an absolute guarantee of performance.").

Among other things, adequate assurance may be given by demonstrating the assignee's financial health and experience in managing the type of enterprise or property assigned. *In re Bygaph, Inc.*, 56 B.R. 596, 605-6 (Bankr. S.D.N.Y. 1986) (adequate assurance of future performance is present when prospective assignee of lease has financial resources and expressed willingness to devote sufficient funding to business to give it strong likelihood of succeeding; chief determinant of adequate assurance is whether rent will be paid).

The Debtors and the Successful Bidder will present evidence at the Sale Hearing to prove the financial credibility, willingness, and ability of the Successful Bidder to perform under the contracts or leases. The Court and other interested parties therefore will have the opportunity to evaluate the ability of any Successful Bidder to provide adequate assurance of future performance under the contracts or leases, as required by § 365(b)(1)(C) of the Bankruptcy Code.

In addition, the Debtors submit that the cure procedures set forth herein are appropriate, reasonably calculated to provide notice to any affected party, and afford the affected party to opportunity to exercise any rights affected by the Motion, and consistent with Section 365 of the Bankruptcy Code. To the extent that any defaults exist under any Assumed Executory Contracts, any such defaults will be cured pursuant to the Successful Bidder's Purchase Agreement. Except as otherwise limited by § 365 of the Bankruptcy Code, any provision in the Assumed Executory Contracts that would restrict, condition, or prohibit an assignment of such contracts will be deemed unenforceable pursuant to § 365(f)(1) of the Bankruptcy Code.

Accordingly, the Debtors submit that the cure procedures for effectuating the assumption and assignment of the Assumed Executory Contracts as set forth herein are appropriate and should be approved.

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D. APPROVAL OF THE SALE IS WARRANTED UNDER SECTION 363 OF THE BANKRUPTCY CODE

As discussed above, § 363(b)(1) of the Bankruptcy Code provides that a debtor "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1).

i. The Sale of the Purchased Assets is Authorized by Section 363 as a Sound Exercise of the Debtors' Business Judgment

In accordance with Bankruptcy Rule 6004, sales of property rights outside the ordinary course of business may be by private sale or public auction. The Debtors have determined that the Sale of the Purchased Assets by public auction will enable it to obtain the highest and best offer for these assets (thereby maximizing the value of the estate) and is in the best interests of the Debtors' creditors. In particular, the Stalking Horse APA is the result of comprehensive arms'-length negotiations for the Sale of the Purchased Assets and the Sale pursuant to the terms of the Stalking Horse APA, subject to higher or otherwise better offers at the Auction, will provide a greater recovery for the Debtors' creditors than would be provided by any other existing alternative. The Debtors similarly have determined in their business judgment that a sale of the Purchased Assets through a competitive, public auction is the best way to maximize the value of those assets.

Sections 363 of the Bankruptcy Code provides that a trustee, "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b). Although § 363 of the Bankruptcy Code does not specify a standard for determining when it is appropriate for a court to authorize the use, sale or lease of property of the estate, a sale of a debtor's assets should be authorized if a sound business purpose exists for doing so. *See, e.g., Meyers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996); *In re Abbotts Dairies of Pennsylvania, Inc*., 788 F.2d 143 (2d Cir. 1986); *In re Titusville Country Club*, 128 B.R. 396 (W.D. Pa. 1991); *In re Delaware & Hudson Ry. Co.*, 124 BR. 169, 176 (D. Del. 1991); *see also Official Committee of Unsecured Creditors v. The LTV Corp. (In re Chateaugay Corp.)*, 973 F.2d 141, 143 (2d Cir. 1992); *Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel*

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Corp.), 722 F.2d 1063, 1070 (2d Cir. 1983); *Committee of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986).

The paramount goal in any proposed sale of property of the estate is to maximize the proceeds received by the estate. *See, e.g., In re Food Barn Stores, Inc.*, 107 F.3d 558, 564-65 (8th Cir. 1997) (in bankruptcy sales, "a primary objective of the Code [is] to enhance the value of the estate at hand"); *Integrated Resources*, 147 B.R. at 659 ("It is a well-established principle of bankruptcy law that the. . . [trustee's] duty with respect to such sales is to obtain the highest price or greatest overall benefit possible for the estate.") (*quoting In re Atlanta Packaging Prods., Inc.*, 99 BR. 124, 130 (Bankr. N.D. Ga. 1988)). As long as the sale appears to enhance a debtor's estate, court approval of a trustee's decision to sell should only be withheld if the trustee's judgment is clearly erroneous, too speculative, or contrary to the provisions of the Bankruptcy Code. *GBL Holding Co., Inc. v. Blackburn/Travis/Cole, Ltd.*, 331 B.R. 251, 255 (N.D. Tex. 2005); *In re Lajijani*, 325 B.R. 282, 289 (9th Cir. B.A.P. 2005); *In re WPRV-TV, Inc.*, 143 B.R. 315, 319 (D.P.R. 1991) ("The trustee has ample discretion to administer the estate, including authority to conduct public or private sales of estate property. Courts have much discretion on whether to approve proposed sales, but the trustee's business judgment is subject to great judicial deference.").

Applying Section 363, the proposed Sale of the Purchased Assets should be approved. As set forth above, the Debtors have determined that the best method of maximizing the recovery of the Debtors' creditors would be through the Sale of the Purchased Assets. As assurance of value, bids will be tested through the Auction consistent with the requirements of the Bankruptcy Code, the Bankruptcy Rules, and pursuant to the Bidding Procedures approved by the Court. Consequently, the fairness and reasonableness of the consideration to be paid by the Successful Bidder ultimately will be demonstrated by adequate "market exposure" and an open and fair auction process—the best means, under the circumstances, for establishing whether a fair and reasonable price is being paid.

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In addition to the Debtors' prior marketing efforts, the Debtors' investment banker has been contacting potential interested parties and has assembled a data room which is available upon the execution of an appropriate confidentiality agreement. There is a limited universe of potential acquirers of the Purchased Assets, and the Debtors and their advisors have been in active discussions with many of these potential purchasers.

ii. The Sale of the Debtors' Assets Free and Clear of Liens and Other Interests is Authorized by Section 363(f) of the Bankruptcy Code

The Debtors further submit that it is appropriate to sell the Purchased Assets free and clear of liens pursuant to § 363(f) of the Bankruptcy Code, with any such liens attaching to the sale proceeds of the Purchased Assets to the extent applicable. Section 363(f) of the Bankruptcy Code authorizes a trustee to sell assets free and clear of liens, claims, interests and encumbrances if:

(1) applicable nonbankruptcy law permits the sale of such property free and clear of such interests;

(2) such entity consents;

(3) such interest is a lien and the price at which such property is to be sold is greater than the value of all liens on such property;

(4) such interest is in bona fide dispute; or

(5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f).

This provision is supplemented by § 105(a) of the Bankruptcy Code, which provides that "[t]he Court may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]." 11 U.S.C. § 105(a).

Because § 363(f) of the Bankruptcy Code is drafted in the disjunctive, satisfaction of any one of its five requirements will suffice to permit the sale of the Debtor's Assets "free and clear" of liens and interests. *In re Dundee Equity Corp*., 1992 Bankr. LEXIS 436, at *12 (Bankr. S.D.N.Y. Mar. 6, 1992) ("Section 363(f) is in the disjunctive, such that the sale free of the interest concerned may occur if any one of the conditions of § 363(f) have been met.*"); In re Bygaph, Inc*., 56 B.R. 596, 606 n.8 (Bankr. S.D.N.Y. 1986) (same); *Michigan Employment Sec. Comm'n v.*

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Wolverine Radio Co. (In re Wolverine Radio Co.), 930 F.2d 1132, 1147 n.24 (6th Cir. 1991) (stating that § 363(f) is written in the disjunctive; holding that the court may approve the sale "free and clear" provided at least one of the subsections of § 363(f) is met).

The Debtors believe that at least one of the tests of § 363(f) of the Bankruptcy Code is satisfied with respect to the transfer of the Purchased Assets pursuant to the Stalking Horse APA. In particular, at least § 363(f)(2) will be met in connection with the transactions proposed under the Purchase Agreement because each of the parties holding liens on the Purchased Assets will consent or, absent any objection to this motion, will be deemed to have consented to the Sale. Any lienholder also will be adequately protected by having its liens, if any, in each instance against the Debtors or their estates, attach to the sale proceeds ultimately attributable to the Purchased Assets in which such creditor alleges an interest, in the same order of priority, with the same validity, force and effect that such creditor had prior to the Sale, subject to any claims and defenses the Debtors may possess with respect thereto. Accordingly, § 363(f) of the Bankruptcy Code authorizes the transfer and conveyance of the Purchased Assets free and clear of any such claims, interests, liabilities, or liens.

Although § 363(f) of the Bankruptcy Code provides for the sale of assets "free and clear of any interests," the term "any interest" is not defined anywhere in the Bankruptcy Code. *Folger Adam Security v. DeMatteis/MacGregor JV*, 209 F.3d 252, 257 (3d Cir. 2000). In the case of *In re Trans World Airlines, Inc.*, 322 F.3d 283, 288-89 (3d Cir. 2003), the Third Circuit specifically addressed the scope of the term "any interest." The Third Circuit observed that while some courts have "narrowly interpreted that phrase to mean only in rem interests in property," the trend in modern cases is towards "a more expansive reading of 'interests in property' which 'encompasses other obligations that may flow from ownership of the property.'" *Id.* at 289 (*citing* 3 Collier on Bankruptcy, ¶ 363.06[1] (L. King, 15th rev. ed. 1988)). As determined by the Fourth Circuit in *In re Leckie Smokeless Coal Co.*, 99 F.3d 573, 581-582 (4th Cir. 1996), the scope of § 363(f) is not limited to in rem interests. Thus, debtors "could sell their assets under § 363(f) free and clear of successor liability that otherwise would have arisen under federal statute." *Folger*, 209 F.3d at 258 (*citing Leckie*, 99 F.3d at 582).

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Courts have consistently held that a buyer of a debtor's assets pursuant to a § 363 sale takes such assets free from successor liability resulting from pre-existing claims. *See The Ninth Avenue Remedial Group v. Allis-Chalmers Corp*., 195 B.R. 716, 732 (Bankr. N.D. Ind. 1996) (stating that a bankruptcy court has the power to sell assets free and clear of any interest that could be brought against the bankruptcy estate during the bankruptcy); *MacArthur Company v. Johns-Manville Corp. (In re Johns-Manville Corp.),* 837 F.2d 89, 93-94 (2d Cir. 1988) (channeling of claims to proceeds consistent with intent of sale free and clear under section 363(f) of the Bankruptcy Code); *In re New England Fish Co*., 19 B.R. 323, 329 (Bankr. W.D. Wash. 1982) (transfer of property in free and clear sale included free and clear of Title VII employment discrimination and civil rights claims of debtor's employees); *In re Hoffman*, 53 B.R. 874, 876 (Bankr. D.R.I. 1985) (transfer of liquor license free and clear of any interest permissible even though the estate had unpaid taxes); *American Living Systems v. Bonapfel (In re All Am. of Ashburn, Inc.),* 56 B.R. 186, 190 (Bankr. N.D. Ga. 1986) (product liability claims based on successor doctrine precluded after sale of assets free and clear). The purpose of an order purporting to authorize the transfer of assets free and clear of all "interests" would be frustrated if claimants could thereafter use the transfer as a basis to assert claims against the purchaser arising from the Debtors' pre-sale conduct. Under § 363(f) of the Bankruptcy Code, the purchaser is entitled to know that the Purchased Assets are not infected with latent claims that will be asserted against the purchaser after the proposed transaction is completed. Accordingly, consistent with the above-cited case law, the order approving the Sale should state that the Successful Bidder is not liable as a successor under any theory of successor liability, for claims that encumber or relate to the Debtor's Assets.[1]

iii. The Successful Bidder Should be Afforded All Protections Under Section 363(m) as A Good Faith Purchaser

Section 363(m) of the Bankruptcy Code protects a good-faith purchaser's interest in property purchased from the debtor's estate notwithstanding that the sale conducted under § 363(b) is later reversed or modified on appeal. Specifically, § 363(m) states that:

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> The reversal or modification on appeal of an authorization under [section 363(b)] . . . does not affect the validity of a sale . . . to an entity that purchased . . . such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale were stayed pending appeal.

11 U.S.C. § 363(m). Section 363(m) "codifies Congress's strong preference for finality and efficiency" in bankruptcy proceedings. *In re Energytec, Inc.* 739 F.3d 215, 218-19 (5th Cir. 2013). The Ninth Circuit has repeatedly held that, under § 363(m), "[w]hen a sale of assets is made to a good faith purchaser, it may not be modified or set aside unless the sale was stayed pending appeal." *Paulman v. Gateway Venture Partners III, L.P. (In re Filtercorp, Inc).*, 163 F.3d 570, 576 (9th Cir. 1998) ; *In re Ewell*, 958 F.2d 276, 282 (9th Cir. 1992) ("Because the Buyer was a good faith purchaser, under 11 U.S.C. § 363(m) the sale may not be modified or set aside on appeal unless the sale was stayed pending appeal."); *Onouli-Kona Land Co. v. Estate of Richards (In re Onouli-Kona Land Co.)*, 846 F.2d 1170, 1172 (9th Cir. 1988) ("Finality in bankruptcy has become the dominant rationale for our decisions …").

The selection of the Successful Bidder will be the product of arms'-length, good-faith negotiations in an anticipated competitive purchasing process. The Debtors intend to request at the Sale Hearing a finding that the Successful Bidder is a good faith purchaser entitled to the protections of section 363(m) of the Bankruptcy Code.

E. RELIEF FROM THE 14-DAY WAITING PERIOD UNDER BANKRUPTCY RULES 6004(H) AND 6006(D) IS APPROPRIATE

Bankruptcy Rule 6004(h) provides that an "order authorizing the use, sale, or lease of property . . . is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Similarly, Bankruptcy Rule 6006(d) provides that an "order authorizing the trustee to assign an executory contract or unexpired lease . . . is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise." The Debtors request that the Order be effective immediately by providing that the 14-day stays under Bankruptcy Rules 6004(h) and 6006(d) are waived.

The purpose of Bankruptcy Rules 6004(h) and 6006(d) is to provide sufficient time for an objecting party to appeal before an order can be implemented. *See* Advisory Committee Notes to

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Fed. R. Bankr. P. 6004(h) and 6006(d). Although Bankruptcy Rules 6004(h) and 6006(d) and the Advisory Committee Notes are silent as to when a court should "order otherwise" and eliminate or reduce the 14-day stay period, *Collier* suggests that the 14-day stay period should be eliminated to allow a sale or other transaction to close immediately "where there has been no objection to the procedure." *Collier on Bankruptcy*, ¶ 6004.11 (Alan N. Resnick & Henry J. Sommer eds., 16th ed.). Furthermore, *Collier* provides that if an objection is filed and overruled, and the objecting party informs the court of its intent to appeal, the stay may be reduced to the amount of time actually necessary to file such appeal. *Id.*

The Debtors hereby request that the Court waive the 14-day stay periods under Bankruptcy Rules 6004(h) and 6006(d) or, in the alternative, if an objection to the Sale is filed, reduce the stay period to the minimum amount of time needed by the objecting party to file its appeal.

THE APPLICABLE REQUIREMENTS OF LBR 6004-1 HAVE BEEN SATISFIED

Here all of the applicable requirements of LBR 6004-1(b) pertaining to the Motion and the request therein to approve the Bidding Procedures and Protections have been satisfied. First, as required by LBR 6004-1(b)(2), the Notice of Motion describes the proposed Bidding Procedures and Protections and includes a copy of the Stalking Horse APA. Second, as required by LBR 6004-1(b)(2), the Notice of the Bid Procedures Motion and this Memorandum describe marketing efforts undertaken and the anticipated marketing of the Purchased Assets through the deadline for prospective Overbidders to submit bids for the Auction. Third, the Debtors provided notice of the Notice of Motion, Motion, and this Memorandum pursuant to LBR 6004-1(b)(3) and the *Order Granting Emergency Motion of Debtors for Order Limiting Scope of Notice* [Dkt. No. 132]. Therefore, the Debtors submit that service of the Notice of Motion, Motion, and this Memorandum by such means was adequate and appropriate.

WHEREFORE, the Debtors respectfully request that the Court enter orders: (i) granting the relief requested herein; and (ii) granting to the Debtors such other and further relief as the Court may deem proper.

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Dated: October 1, 2018

DENTONS US LLP
SAMUEL R. MAIZEL
TANIA M. MOYRON

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

Proposed Attorneys for the Chapter 11 Debtors and Debtors In Possession

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EXHIBIT A

ASSET PURCHASE AGREEMENT

By and Among

Verity Health System of California, Inc.,

Verity Holdings, LLC,

O'Connor Hospital,

Saint Louise Regional Hospital,

and

the County of Santa Clara

Dated October 1, 2018

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the "**Agreement**") is made and entered into as of the first (1st) day of October, 2018 (the "**Signing Date**") by and among Verity Health System of California, Inc., a California nonprofit public benefit corporation ("**Verity**"), Verity Holdings, LLC, a California limited liability company ("**Verity Holdings**"), O'Connor Hospital, a California nonprofit public benefit corporation ("**OCHC**"), and Saint Louise Regional Hospital, a California nonprofit public benefit corporation ("**SLRH**"), on the one hand; and the County of Santa Clara, a political subdivision of the State of California ("**Purchaser**"), on the other hand. OCHC and SLRH may each be referred to herein as a "**Hospital Seller**," and may collectively be referred to herein as the "**Hospital Sellers**." Verity, Verity Holdings, OCHC, and SLRH may each be referred to herein as a "**Seller**," and collectively as the "**Sellers**." Sellers and Purchaser, together, shall be referred to herein as the "**Parties**."

R E C I T A L S:

A. OCHC engages in the business of the operation of the hospital known as O'Connor Hospital, a hospital owned and operated by OCHC and located at 2105 Forest Avenue, San Jose, California (Assessor's Parcel Numbers 274-40-081, -082 and -085), including the hospital pharmacy, laboratory, and emergency department, as well as through the medical office buildings and clinics owned or operated by OCHC (collectively "**O'Connor Hospital**"). For purposes of this Agreement, the defined term, "O'Connor Hospital" shall also include OCHC's limited partnership interest in O'Connor Health Center 1, a California limited partnership (the "**455 JV**"), which is the limited partnership that owns the property located at 455 O'Connor Drive, San Jose, California (Assessor's Parcel Numbers 274-59-063 and 274-59-064), as well as all other real estate assets owned or leased by OCHC in Santa Clara County, California, if any.

B. SLRH engages in the business of the operation of the hospital known as Saint Louise Regional Hospital, a hospital owned and operated by SLRH and located at 9400 No Name Uno and 705 Las Animas Road, Gilroy, California (Assessor's Parcel Number 835-05-032), including the hospital pharmacy, laboratory, and emergency department, as well as through the medical office buildings and clinics owned or operated by SLRH (collectively, "**Saint Louise Regional Hospital**" and, together with O'Connor Hospital, the "**Hospitals**"). For purposes of this Agreement, the defined term, "Saint Louise Regional Hospital" shall also include the De Paul Health Center located at 18500 and 18550 DePaul Drive, Morgan Hill, California (Assessor's Parcel Number 728-31-013) ("**De Paul**"), as well as all other real estate assets owned or leased by SLRH in Santa Clara County, California, if any.

C. Verity Holdings owns and/or leases real property located in Santa Clara County, California, including the real property upon which the De Paul Health Center is located (all such real property, the "**Verity Holdings Facilities**" and together with the Hospitals, the "**Businesses**").

D. Purchaser desires to purchase from Sellers, and Sellers desire to sell to Purchaser, the assets described in Section 1.8 below, for the consideration and upon the terms and conditions contained in this Agreement.

E. Sellers filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the "**Bankruptcy Code**") with the United States Bankruptcy Court for the Central District of California, Los Angeles Division (the "**Bankruptcy Court**"), lead Case No. 2:18-bk-20151-ER, jointly administered or to be jointly administered with their affiliates (the "**Bankruptcy Cases**").

F. The Parties intend to effectuate the transactions contemplated by this Agreement through a sale of the Assets approved by the Bankruptcy Court pursuant to Section 363 of the Bankruptcy Code.

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 agree as follows:

DEFINITIONS AND REFERENCES

As used in this Agreement, unless the context requires a different meaning, the following terms have the meanings set forth below:

1. "**455 JV**" shall have the meaning set forth in the Recitals.

2. "**455 JV Amount**" shall have the meaning set forth in Section 8.12.2.

3. "**455 JV Assignment Agreement**" shall have the meaning set forth in Section 1.5.13.

4. "**Accounts Receivable**" shall have the meaning set forth in Section 1.9.22.

5. "**Acquisition Proposal**" shall have the meaning set forth in Section 6.1.2.

6. "**Aggregate Damage**" shall have the meaning set forth in Section 9.1.

7. "**Agreement**" shall have the meaning set forth in the Preamble.

8. "**Alternative Transaction**" shall have the meaning set forth in Section 6.1.3.

9. "**Assets**" shall have the meaning set forth in Section 1.8.

10. "**Assignment and Assumption Procedures**" shall have the meaning set forth in Section 6.2.5.

11. "**Assumed Contracts**" shall have the meaning set forth in Section 1.8.4.

12. "**Assumed Leases**" shall have the meaning set forth in Section 1.8.3.

13. "**Assumed Obligations**" shall have the meaning set forth in Section 1.10.

14. "**Assumption Agreement**" shall have the meaning set forth in Section 1.5.4.

15. "**Auction**" shall mean that certain auction, if any, conducted pursuant to the terms of the Bidding Procedures Order.

16. "**Back-up Bidder**" shall have the meaning set forth in Section 6.3.

17. "**Bankruptcy Cases**" shall have the meaning set forth in the Recitals.

18. "**Bankruptcy Code**" shall have the meaning set forth in the Recitals.

19. "**Bankruptcy Court**" shall have the meaning set forth in the Recitals.

20. "**Baseline Bid**" shall have the meaning set forth in Section 6.4.

21. "**Benefit Plans**" shall have the meaning set forth in Section 2.11.2.

22. "**Bid Protections**" shall have the meaning set forth in Section 6.2.4.

23. "**Bidding Procedures Order**" shall have the meaning set forth in Section 6.2.2.

24. "**Bill of Sale**" shall have the meaning set forth in Section 1.5.1.

25. "**Breakup Fee**" shall have the meaning set forth in Section 6.2.4.

26. "**Businesses**" shall have the meaning set forth in the Recitals.

27. "**Charter**" shall mean the Charter of the County of Santa Clara, California, as amended from time to time.

28. "**Closing**" shall have the meaning set forth in Section 1.4.

29. "**Closing Date**" shall have the meaning set forth in Section 1.4.

30. "**Closing of Financials**" shall have the meaning set forth in Section 11.4.

31. "**CMS**" shall have the meaning set forth in Section 2.14.3.

32. "**COBRA**" shall have the meaning set forth in Section 4.14.

33. "**Code**" shall mean the Internal Revenue Code of 1986, as amended.

34. "**Cure Costs**" shall have the meaning set forth in Section 4.7.

35. "**Damages**" shall have the meaning set forth in Section 15.2.

36. "**Deeds**" shall have the meaning set forth in Section 1.5.3.

37. "**Defects**" shall have the meaning set forth in Section 10.2.

38. "**Denied Transition Patient**" shall have the meaning set forth in Section 14.5.2.

39. "**De Paul**" shall have the meaning set forth in the Recitals.

40. "**Deposit**" shall have the meaning set forth in Section 1.2.

41. "**Disclosure Schedule**" shall have the meaning set forth in ARTICLE 2.

42. "**Disclosure Letter**" shall have the meaning set forth in Section 2.16.4.

43. "**Disputed Contract**" shall have the meaning set forth in Section 6.2.5.

44. "**Document Retention Period**" shall have the meaning set forth in Section 11.3.1.

45. "**Effective Time**" shall have the meaning set forth in Section 1.4.

46. "**EHR**" shall have the meaning set forth in Section 2.17.

47. "**EMTALA**" shall have the meaning set forth in Section 2.14.2.

48. "**Environmental Claim**" shall have the meaning set forth in Section 2.18.10(a).

49. "**Environmental Condition**" shall have the meaning set forth in Section 2.18.10(b).

50. "**Environmental Laws**" shall have the meaning set forth in Section 2.18.10(c).

51. "**Environmental Lien**" shall have the meaning set forth in Section 2.18.10(d).

52. "**Environmental Permits**" shall have the meaning set forth in Section 2.18.10(e).

53. "**Environmental Reports**" shall have the meaning set forth in Section 2.18.9.

54. "**ERISA**" shall mean the Employee Retirement Income Security Act, as amended.

55. "**Escrow Account**" shall have the meaning set forth in Section 1.1.2.

56. "**Escrow Agent**" shall have the meaning set forth in Section 1.1.2.

57. "**Escrow Agreement**" shall have the meaning set forth in Section 1.1.2.

58. "**Escrow Amount**" shall have the meaning set forth in Section 1.1.2.

59. "**Evaluated Contracts**" shall have the meaning set forth in Section 1.12.1.

60. "**Excluded Assets**" shall have the meaning set forth in Section 1.9.

61. "**Excluded Liabilities**" shall have the meaning set forth in Section 1.11.

62. "**Expense Reimbursement**" shall have the meaning set forth in Section 6.2.4.

63. "**Final Statement**" shall have the meaning set forth in Section 1.3.1.

64. "**Financial Statements**" shall have the meaning set forth in Section 2.5.1.

65. "**Fraction**" shall have the meaning set forth in Section 14.5.1.

66. "**Fraud and Abuse Laws**" shall have the meaning set forth in Section 2.16.1.

67. "**Government Programs**" shall have the meaning set forth in Section 2.14.2.

68. "**Governmental Entity**" shall mean any (i) nation, state, county, city, town, village, district, or other jurisdiction of any nature; (ii) federal, state, local, municipal, foreign, or other government; (iii) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, or entity and any court or other tribunal); (iv) multinational organization or body; or (v) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature.

69. "**Hazardous Substance**" shall have the meaning set forth in Section 2.18.10(f).

70. "**Hired Employees**" shall have the meaning set forth in Section 5.3.1.

71. "**HITECH Act**" shall mean the Health Information Technology for Economic and Clinical Health Act, enacted as Title XIII of the American Recovery and Reinvestment Act.

72. "**Hospital(s)**" shall have the meaning set forth in the Recitals.

73. "**HQAFP**" shall have the meaning set forth in Section 1.9.25.

74. "**Independent Auditor**" shall have the meaning set forth in Section 1.3.1.

75. "**Intellectual Property**" shall have the meaning set forth in Section 1.8.11.

76. "**Interim Financial Statements**" shall have the meaning set forth in Section 4.12.

77. "**Inventory**" shall have the meaning set forth in Section 1.8.6.

78. "**Joint Commission**" shall have the meaning set forth in Section 2.14.1.

79. "Knowledge"

a. **"Purchaser's knowledge" and "knowledge of Purchaser"** and similar references herein shall mean the knowledge of those individuals set forth on **Schedule A**, which, for all purposes of this Agreement, means the actual knowledge of any of such individuals, or the knowledge that any of

them would have by (a) review of materials in the Virtual Data Room, (b) review of materials in their respective files, or (c) inquiry of any of their respective direct reports, in each case as of the Signing Date and the Closing Date.

b. "**Seller's knowledge**" and "**knowledge of Sellers**" and similar references herein shall mean the knowledge of those individuals set forth on **Schedule B**, which, for all purposes of this Agreement, means the actual knowledge of any of such individuals, or the knowledge that any of them would have by (a) review of materials in the Virtual Data Room, (b) review of materials in their respective files, or (c) inquiry of any of their respective direct reports, in each case as of the Signing Date and the Closing Date.

80. "**Labor Obligations**" shall have the meaning set forth in Section 8.13.

81. "**Lease Amounts**" shall have the meaning set forth in Section 1.7.3.

82. "**Leased Real Property**" shall have the meaning set forth in Section 1.8.3.

83. "**Licenses**" shall have the meaning set forth in Section 1.8.2.

84. "**Loss Consultant**" shall have the meaning set forth in Section 9.1.4.

85. "**Material Adverse Change**" shall mean an event, change, or circumstance which, individually or together with any other event, change, or circumstance, would be reasonably expected to have a material adverse effect, either individually or in the aggregate, on the business, assets, liabilities, financial condition, or results of operations of the Businesses or the Assets, whether such effect would be realized before or after the Closing. Notwithstanding the foregoing, the Parties acknowledge and agree that the filing and pendency of the Bankruptcy Cases shall not constitute a Material Adverse Change.

86. "**Material Casualty**" shall have the meaning set forth in Section 9.1.

87. "**Material Update**" shall have the meaning set forth in Section 16.5.

88. "**Medicaid**" shall have the meaning set forth in Section 2.14.2.

89. "**Medi-Cal**" shall mean California's Medicaid Program, as set forth in California Welfare and Institutions Code, Division 9, Part 3, Chapter 7 and California Code of Regulations, Title 22, Division 3.

90. "**Medicare**" shall have the meaning set forth in Section 2.14.2.

91. "**Multi-Facility Contract**" means a contract, lease, or other agreement of any kind that (i) involves the Businesses (or any portion of the Businesses), or includes any Hospital Seller as a party thereto, and (ii) also involves participation

by one (1) or more hospitals directly or indirectly owned or operated by Verity or its affiliates which are not among the Businesses.

92. "**NDA**" shall mean that certain Confidentiality Agreement entered into by Purchaser and Cain Brothers, a division of KeyBank Capital Markets Inc., as representative of Verity, dated July 12, 2018.

93. "**Notice Parties**" shall have the meaning set forth in Section 6.7.

94. "**OCHC**" shall have the meaning set forth in the Preamble.

95. "**O'Connor Hospital**" shall have the meaning set forth in the Recitals.

96. "**Ordinance Code**" shall mean the Ordinance Code of the County of Santa Clara, California, as amended from time to time.

97. "**Overbid**" shall have the meaning set forth in Section 6.4.

98. "**Owned Real Property**" shall have the meaning set forth in Section 1.5.3.

99. "**Parties**" shall have the meaning set forth in the Preamble.

100. "**PCBs**" shall have the meaning set forth in Section 2.18.10(f).

101. "**Pending Litigation**" shall have the meaning set forth in Section 2.12.

102. "**Permitted Exceptions**" shall mean (i) the Assumed Obligations, (ii) liens for taxes not yet due and payable, and (iii) those exceptions set forth on **Schedule 10.1**.

103. "**Person**" shall have the meaning set forth in Section 6.1.2.

104. "**Personal Property**" shall have the meaning set forth in Section 1.8.1.

105. "**Personal Property Leases**" shall have the meaning set forth in Section 2.7.2.

106. "**Post-Closing Adjustment Date**" shall have the meaning set forth in Section 1.3.2.

107. "**Post-Effective Time CFOs**" shall have the meaning set forth in Section 11.4.

108. "**Post Effective Time Lease Amounts**" shall have the meaning set forth in Section 1.7.3.

109. "**Pre-Auction Date**" shall mean that day immediately prior to the day on which the Auction occurs.

110. "**Prepaids**" shall have the meaning set forth in Section 1.8.7.

111. "**Prepaids/Inventory Actual Closing Amount**" shall mean the actual aggregate amount of Prepaids and Inventory as of the Closing Date. The Parties acknowledge and agree that the value of the Inventory as of Closing for purposes of determining the Prepaids/Inventory Actual Closing Amount shall be calculated based on net book value, provided that any Inventory that is damaged, obsolete, or otherwise no longer usable for its intended use shall be valued at zero.

112. "**Prepaids/Inventory Adjusting Payments**" shall have the meaning set forth in Section 1.3.1.

113. "**Prepaids/Inventory Estimated Closing Amount**" shall mean the good faith estimate by Sellers of the aggregate value of all Prepaids and Inventory as of the Closing Date, which estimate (along with supporting documentation) shall be provided by Sellers to Purchaser no later than five (5) business days prior to the Closing Date. The Parties acknowledge and agree that the estimated value of the Inventory as of Closing shall be calculated based on net book value, provided that any Inventory that is damaged, obsolete, or otherwise no longer usable for its intended use shall be valued at zero.

114. "**Prepaids/Inventory Shortfall**" shall mean the amount of the shortfall between the Prepaids/Inventory Threshold and the Prepaids/Inventory Estimated Closing Amount. A Prepaids/Inventory Shortfall shall only exist if the Prepaids/Inventory Estimated Closing Amount is less than the Prepaids/Inventory Threshold.

115. "**Prepaids/Inventory Surplus**" shall mean the amount of the surplus between the Prepaids/Inventory Estimated Closing Amount and the Prepaids/Inventory Threshold. A Prepaids/Inventory Surplus shall only exist if the Prepaids/Inventory Estimated Closing Amount is greater than the Prepaids/Inventory Threshold.

116. "**Prepaids/Inventory Threshold**" shall mean an aggregate value of all Prepaids and Inventory as of the Closing Date equal to Eight Million Nine Hundred Thousand Dollars ($8,900,000).

117. "**Pre Effective Time Lease Amounts**" shall have the meaning set forth in Section 1.7.3.

118. "**Prevailing Highest Bid**" shall have the meaning set forth in Section 6.4.

119. "**Prorated Charges**" shall have the meaning set forth in Section 1.7.2.

120. "**PTO Liabilities**" shall mean liabilities and/or obligations of any Seller for all vacation pay, holiday pay, short or long-term disability, reimbursement of expenses, tuition reimbursement, commissions, compensation for absences due to jury duty and funeral leave, paid time off, wages, salaries, bonuses, compensation, sick pay, extended sick leave, insurance benefits, or other employee benefits or reimbursements with regard to any current or former Seller Employee, in each case, for all time periods through and including the Closing Date.

121. "**Purchase Price**" shall have the meaning set forth in Section 1.1.

122. "**Purchaser**" shall have the meaning set forth in the Preamble.

123. "**Qualified Bid**" shall have the meaning set forth in Section 6.1.7.

124. "**Qualified Bidder**" shall have the meaning set forth in Section 6.1.7.

125. "**Real Estate Assignments**" shall have the meaning set forth in Section 1.5.2.

126. "**Real Estate Leases**" shall have the meaning set forth in Section 2.6.2.

127. "**Real Property**" shall have the meaning set forth in Section 1.8.3.

128. "**Receivable Records**" shall have the meaning set forth in Section 1.9.23.

129. "**Reconciliation**" shall have the meaning set forth in Section 14.5.1.

130. "**Rejected Contracts**" shall have the meaning set forth in Section 1.12.1.

131. "**Release**" shall have the meaning set forth in Section 2.18.10(g).

132. "**Remedial Action**" shall have the meaning set forth in Section 2.18.10(h).

133. "**Saint Louise Regional Hospital**" shall have the meaning set forth in the Recitals.

134. "**Sale Order**" shall have the meaning set forth in Section 6.2.6.

135. "**Sale Milestones**" shall have the meaning set forth in Section 6.2.9.

136. "**Sale Motion**" shall have the meaning set forth in Section 6.2.1.

137. "**Secured Creditor**" shall have the meaning set forth in Section 6.4.

138. "**Seismic Safety Act**" shall have the meaning set forth in Section 2.16.2.

139. "**Seller(s)**" shall have the meaning set forth in the Preamble.

140. "**Seller Cost Reports**" shall have the meaning set forth in Section 14.4.1.

141. "**Seller Employees**" shall have the meaning set forth in Section 5.3.1.

142. "**Seller Parties**" shall have the meaning set forth in Section 11.3.1.

143. "**Seller Third Party Liabilities**" shall have the meaning set forth in Section 1.11.

144. "**Signing Date**" shall have the meaning set forth in the Preamble.

145. "**SLRH**" shall have the meaning set forth in the Preamble.

146. "**Successful Bid**" shall have the meaning set forth in Section 6.4.

147. "**Successful Bidder**" shall have the meaning set forth in Section 6.1.6.

148. "**Superseded Agreements**" shall have the meaning set forth in Section 16.14.

149. "**Supplemental Payments**" shall have the meaning set forth in Section 1.9.25.

150. "**Survey**" shall have the meaning set forth in Section 4.15.

151. "**Tenant Leases**" shall have the meaning set forth in Section 1.8.3.

152. "**Termination Date**" shall have the meaning set forth in Section 9.2.7.

153. "**Title Company**" shall have the meaning set forth in Section 10.1.

154. "**Title Policy**" shall have the meaning set forth in Section 10.1.

155. "**Transition Patients**" shall have the meaning set forth in Section 14.5.

156. "**Transition Services**" shall have the meaning set forth in Section 14.5.

157. "**Transition Services Agreement**" shall have the meaning set forth in Section 1.5.12.

158. "**Unpaid Amounts**" shall have the meaning set forth in Section 1.7.3.

159. "**Verity**" shall have the meaning set forth in the Preamble.

160. "**Verity Holdings**" shall have the meaning set forth in the Preamble.

161. "**Verity Holdings Facilities**" shall have the meaning set forth in the Recitals.

162. "**Virtual Data Room**" shall mean the virtual data room established by Sellers (or Sellers' representatives) located at datasiteone.merrillcorp.com in the project folder titled Phoenix Cain.

163. "**WARN**" shall have the meaning set forth in Section 4.13.

ARTICLE 1

SALE AND TRANSFER OF ASSETS; CONSIDERATION; CLOSING

1.1 Purchase Price. In reliance upon the representations, warranties, and covenants of Sellers contained herein, and as consideration for the sale of the Assets, Purchaser shall pay to Sellers an aggregate purchase price equal to Two Hundred Thirty-Five Million Dollars ($235,000,000) (the "**Purchase Price**"), as adjusted pursuant to Section 1.1.1.

1.1.1 Payment at Closing. At Closing, Purchaser shall pay, by wire transfer of immediately available funds to the accounts specified by Sellers to Purchaser in writing, the Purchase Price, (a) minus the Escrow Amount, (b) minus an amount equal to the outstanding payoff balance for the capital leases, debt, and other financial obligations of Sellers listed on **Schedule 1.1.1(a)**, which shall be paid off by Purchaser on the Closing Date on Sellers' behalf to each lender, lessor, vendor, or creditor, as applicable, in full satisfaction of such obligations and liabilities, (c) minus the Prepaids/Inventory Shortfall, or plus the Prepaids/Inventory Surplus, as applicable, (d) minus the Deposit, which shall be credited against the Purchase Price as described in Section 1.2, (e) plus or minus an amount determined pursuant to the prorations described in Section 1.7, (f) minus an amount, if any, as determined pursuant to Section 9.1, and (g) in the event that the Closing condition contained in Section 8.12.1 has not been satisfied, minus the 455 JV Amount. The calculations and adjustments described in this Section 1.1.1 shall be set forth on **Schedule 1.1.1(b)**; which shall also describe the allocation of the Purchase Price among each Seller pursuant hereto.

1.1.2 Escrow Account. At Closing, (a) Purchaser, Sellers, and First American Title Insurance Company (the "**Escrow Agent**") shall enter into an escrow agreement in the form of **Exhibit 1.1.2** attached hereto (the "**Escrow Agreement**"), and (b) Purchaser shall deposit into an account controlled by the Escrow Agent (the "**Escrow Account**") cash in an amount equal to the amount set forth on **Schedule 1.1.2** (the "**Escrow Amount**"). As security for the satisfaction of Sellers' post-closing obligations hereunder and to offset Damages incurred by Purchaser as described in Section 15.2, the Escrow Agent shall hold the Escrow Amount for a period of twelve (12) months following the Closing Date, and the Escrow Agent shall disburse the same (along with any interest accrued thereon, as further described in the Escrow Agreement) upon the expiration of such twelve (12) month period (subject to valid escrow claims) in accordance with the terms of the Escrow Agreement. Purchaser, on the one hand, and Sellers, on the other hand, shall each be responsible for payment of one-half (1/2) of all administrative and other fees and expenses payable to the Escrow Agent in connection with establishing and maintaining the Escrow Account and serving as the Escrow Agent.

1.2 Deposit. Promptly after the Signing Date, Purchaser, Sellers, and the Escrow Agent will enter into a deposit agreement in the form of **Exhibit 1.2** attached hereto, which agreement will obligate Purchaser to make a good faith deposit in the amount of Twenty-Three Million Five Hundred Thousand Dollars ($23,500,000) (the "**Deposit**") with the Escrow Agent upon the entry of the Bidding Procedures Order. Upon Closing, the Deposit shall be credited against the Purchase Price.

1.3 Post-Closing Adjustment for Prepaids and Inventory.

1.3.1 Within ninety (90) days following the Closing Date, Purchaser shall make a determination regarding the Prepaids/Inventory Actual Closing Amount, and shall provide to Sellers a detailed statement summarizing and explaining such determination (the "**Final Statement**"), which determination and Final Statement shall be performed and prepared in accordance with the terms of this Agreement and, except as otherwise agreed by the Parties in writing, generally accepted accounting principles. Purchaser shall make available to Sellers all work papers, books, and records reasonably necessary in order to facilitate Sellers' review of the Final Statement. The Final Statement shall also include Purchaser's calculation of what

adjusting payments (the "**Prepaids/Inventory Adjusting Payments**") should be made by Purchaser, on the one hand, or Sellers, on the other hand, to the other party based on the amount actually paid to Sellers at Closing pursuant to Section 1.1.1(c) and the Prepaids/Inventory Actual Closing Amount as compared to the Prepaids/Inventory Estimated Closing Amount. For example, if the Prepaids/Inventory Estimated Closing Amount was equal to Eight Million Dollars ($8,000,000), such that the Purchase Price would be reduced by Nine Hundred Thousand Dollars ($900,000) pursuant to Section 1.1.1(c), and the Final Statement reflects a Prepaids/Inventory Actual Closing Amount of Nine Million Dollars ($9,000,000), the Prepaids/Inventory Adjusting Payments would equal One Million Dollars ($1,000,000) payable by Purchaser to Sellers. If Sellers dispute any entry on the Final Statement, Sellers shall notify Purchaser in writing (which writing shall contain Sellers' determination of the amount of the disputed entry) within twenty (20) business days after Sellers' receipt of the Final Statement. If Purchaser and Sellers cannot resolve such dispute within thirty (30) calendar days after Sellers notify Purchaser in writing of such dispute, then Deloitte (the "**Independent Auditor**"), shall review the matter in dispute and, solely as to disputes relating to accounting issues and acting as experts and not as arbitrators, shall promptly decide the proper amounts of such disputed entries (which decision shall also include a calculation of the Prepaids/Inventory Adjusting Payments). In the event that all or a portion of the dispute at issue involves a legal issue or an interpretation of this Agreement, such legal or interpretative dispute shall first be subject to review and determination by the Bankruptcy Court, with any necessary review by the Independent Auditor under this Section 1.3 occurring following the resolution of such legal dispute. A decision of the Independent Auditor shall be conclusive and binding as among the Parties. The costs for the services of the Independent Auditor shall be borne by the party whose final calculation of the Prepaids/Inventory Actual Closing Amount is farther from the Independent Auditor's final calculation of the Prepaids/Inventory Actual Closing Amount.

1.3.2 Within twenty-five (25) business days after Sellers' receipt of the Final Statement or, if disputed by Sellers, within five (5) business days after the earlier of (i) the date Purchaser and Sellers finally resolve such dispute and determine the Prepaids/Inventory Adjusting Payments accordingly, or (ii) the date of receipt of a decision from the Independent Auditor (the "**Post-Closing Adjustment Date**"), either, as applicable:

(a) Purchaser shall be entitled to be paid funds from the Escrow Account by the Escrow Agent the amount of any Prepaids/Inventory Adjusting Payments due to Purchaser, or

(b) Purchaser shall pay Sellers in cash or in other immediately available funds the amount of any Prepaids/Inventory Adjusting Payments due to Sellers.

1.4 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 five (5) business days following the satisfaction or waiver of the conditions set forth in ARTICLE 7 and ARTICLE 8, 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 12:01 a.m. Pacific time on the day immediately after the Closing Date (the "**Effective Time**").

1.5 Items to be Delivered by Sellers at Closing. At or before the Closing, Sellers shall deliver, or cause to be delivered, to Purchaser (or the Escrow Agent, as applicable) the following:

1.5.1 a Bill of Sale substantially in the form of **Exhibit 1.5.1** attached hereto (the "**Bill of Sale**"), duly executed by each Seller;

1.5.2 Real Estate Assignment and Assumption Agreements (the "**Real Estate Assignments**") in the form of **Exhibit 1.5.2** attached hereto with respect to (a) the Leased Real Property, and (b) the Tenant Leases, each duly executed by each Seller;

1.5.3 Grant Deeds (the "**Deeds**") in the form of **Exhibit 1.5.3** attached hereto from each Seller of the real property listed in **Schedule 1.5.3** (the "**Owned Real Property**"), duly executed by each Seller;

1.5.4 an Assumption Agreement (the "**Assumption Agreement**") in the form of **Exhibit 1.5.4** attached hereto with respect to the Assumed Obligations duly executed by each Seller;

1.5.5 favorable original 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;

1.5.6 a certificate of the President of each Seller certifying to Purchaser (a) the accuracy of the representations and warranties set forth in ARTICLE 2 and compliance with such Seller's covenants set forth in this Agreement, and (b) that all of the conditions contained in ARTICLE 7 have been satisfied or waived by Sellers;

1.5.7 a duly executed certificate of the Secretary of each Seller certifying to Purchaser (a) 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 (b) 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 Assumed 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;

1.5.8 a certified and docketed copy of the Sale Order;

1.5.9 evidence of payment of all Cure Costs required hereunder to be paid by Sellers;

1.5.10 UCC-3 financing statement amendments (a) terminating any and all financing statements filed with respect to the Assets, other than those financing statements which correspond to an Assumed Obligation, and (b) assigning any and all financing statements which correspond to a personal property lease that is among the Assumed Obligations;

1.5.11 the Escrow Agreement, duly executed by Sellers and the Escrow Agent;

1.5.12 a transition services agreement in the form of **Exhibit 1.5.12** (the "**Transition Services Agreement**"), duly executed by Sellers;

1.5.13 in the event the condition in Section 8.12.1 is satisfied, an assignment agreement in the form of **Exhibit 1.5.13**, which transfers OCHC's interest in the 455 JV to Purchaser (the "**455 JV Assignment Agreement**"), duly executed by OCHC;

1.5.14 payoff demand letters from all creditors, lessors, lenders, and other contract parties, as applicable, to enable Purchaser to confirm the amounts required to be paid in order to pay off in full all outstanding amounts and extinguish all related liens, liabilities, and other encumbrances in connection with the obligations of Sellers listed on **Schedule 1.1.1(a)** as of Closing;

1.5.15 a certificate pursuant to Treasury Regulations Section 1.1445-2(b) that states that no Seller is a foreign person within the meaning of Section 1445 of the Code, duly executed by each Seller, as well as a California Real Estate Withholding Certificate (Form 593-C) from each Seller conveying Real Property assets hereunder, duly executed by each such Seller;

1.5.16 Owner's Affidavits and a Gap Indemnity in forms approved by the Title Company and sufficient to facilitate the issuance of the Title Policy; and

1.5.17 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 Items to be Delivered by Purchaser at Closing. At or before the Closing, Purchaser shall deliver or cause to be delivered to Sellers (or the Escrow Agent, as applicable) the following:

1.6.1 payment of the Purchase Price, as adjusted pursuant to Section 1.1.1, as set forth on **Schedule 1.1.1**;

1.6.2 the deposit of the Escrow Amount into the Escrow Account, to be held in accordance with the terms of the Escrow Agreement;

1.6.3 a certificate of the County Executive certifying to Sellers (a) the accuracy of the representations and warranties set forth in ARTICLE 3 hereof and compliance with Purchaser's covenants set forth in this Agreement, (b) that, except as specifically set forth therein, all consents and approvals that are required from any person, entity or Governmental Entity in connection with the consummation of the transactions contemplated by this Agreement by Purchaser have been obtained, and (c) that all of the conditions contained in ARTICLE 8 have been satisfied or waived;

1.6.4 a duly executed certificate of the Clerk of the Board of Supervisors of the County of Santa Clara certifying to Sellers (a) the incumbency of the signatories of Purchaser on

the Signing Date and on the Closing Date and bearing the authentic signatures of all such signers 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 Supervisors 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;

1.6.5 a Certificate of Acceptance for each Deed, duly executed by Purchaser, to be recorded with each Deed;

1.6.6 the Bill of Sale, duly executed by Purchaser;

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

1.6.8 the Assumption Agreement, duly executed by Purchaser;

1.6.9 the Escrow Agreement, duly executed by Purchaser;

1.6.10 the Transition Services Agreement, duly executed by Purchaser;

1.6.11 in the event the condition in Section 8.12.1 is satisfied, the 455 JV Assignment Agreement, duly executed by Purchaser; and

1.6.12 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.

1.7 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:

1.7.1 All transfer, conveyance, sales, use, stamp, similar state and local taxes arising from the sale of the Assets hereunder shall be the sole responsibility of, and allocated to, Sellers.

1.7.2 Other than with respect to Cure Costs payable by Sellers, 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: all real estate and personal property lease payments, real estate and personal property taxes, real estate assessments and other similar charges against real estate, and power and utility charges (collectively, the "**Prorated Charges**") on the Assets. Each Seller shall pay its respective portion at or prior to the Closing of (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 assume as an Assumed Obligation or, to the extent previously paid by any Seller, pay to such Seller 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 promptly after the amount of taxes is actually determined. 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 Sellers.

1.7.3 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 shall be responsible for the payment of any amounts due to tenants as incentives for entering into leases (i.e., tenant improvement costs), 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 the applicable Seller within ten (10) days after Purchaser's receipt of same; provided, however, any Lease Amounts collected by Purchaser on and after the Effective Time shall be applied first to any current or overdue amounts due to Purchaser and any collection costs incurred by Purchaser related thereto, and then to Unpaid Amounts due to Sellers. Purchaser shall also receive a credit for any security deposits held by Sellers in connection with any Tenant Leases, and if any tenants' security deposits are in the form of a letter of credit, Sellers shall deliver originals of the letters of credit to Purchaser at Closing together with executed instruments sufficient to transfer the same to Purchaser.

1.7.4 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 the applicable Seller 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 thirty (30) 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. This Section 1.7 shall survive Closing.

1.8 Transfer of Assets of Sellers. On the Closing Date and subject to the terms and conditions of this Agreement, each Seller shall sell, assign, transfer, convey, and deliver to Purchaser, free and clear of all liens, privileges, pledges, security interests, rights of first refusal, options, defects in title, and any other encumbrances other than the Permitted Exceptions, and Purchaser shall acquire, all of each Seller's right, title and interest in and to the Assets as they shall exist on the Closing Date, with such transfer being deemed to be effective at the Effective Time. For purposes of this Agreement, "**Assets**" shall mean all assets, businesses, real property, personal property, equipment, supplies, software, contracts, leases, licenses/permits, books, records, offices, facilities, and all other tangible and intangible property (a) whatsoever and wherever located that is owned, leased, or used primarily in connection with the Businesses by a

Hospital Seller, (b) located in Santa Clara County, California that is owned, leased, or used primarily in connection with the Businesses by Verity Holdings, and (c) whatsoever and wherever located that is owned, leased, or used by Verity primarily in connection with the Businesses, in each case, except for the Excluded Assets. Notwithstanding anything to the contrary in this Agreement, the Parties expressly acknowledge and agree that "Assets" shall include all owned real property assets and interests of each Seller with respect to real property located in Santa Clara County, California. Without limiting the generality of the foregoing, the Parties acknowledge and agree that the Assets shall include the following:

1.8.1 all of the tangible personal property owned by any Seller and used by any Seller in the operation of the Businesses, including equipment, furniture, machinery, vehicles, and office furnishings (the "**Personal Property**");

1.8.2 all of each Seller's rights, to the extent assignable or transferable, to all licenses, provider numbers, permits, approvals, certificates of exemption, franchises, accreditations, registrations, and other governmental licenses, permits, or approvals issued to any Seller for use primarily in connection with the operation of the Businesses or any of the Assets (the "**Licenses**"), including, without limitation, the Licenses and Medicare/Medi-Cal Provider Agreements and their associated Provider Numbers set forth on **Schedule 1.8.2**;

1.8.3 all of each Seller's interest in and to the Owned Real Property and all of each Seller's interest in and to all of the following which have been designated by Purchaser as a contract to be assumed pursuant to Section 1.12 (the "**Assumed Leases**"): (a) all personal property leases of Sellers with respect to the operation of the Businesses, (b) the real property leases for all real property leased by each Seller, as tenant or occupant, in Santa Clara County, California, as set forth on **Schedule 1.8.3(b)** (the "**Leased Real Property**" and together with the Owned Real Property, the "**Real Property**"), and (c) the real property leased or subleased by each Seller to a third party tenant or occupant in connection with the Businesses and set forth on **Schedule 1.8.3(c)** (the "**Tenant Leases**");

1.8.4 all of each Seller's interest in and to all contracts and agreements (including, but not limited to, purchase orders) with respect to the operation of the Businesses that have been designated by Purchaser as a contract to be assumed pursuant to Section 1.12 (the "**Assumed Contracts**");

1.8.5 all claims, rights, interests, and proceeds (whether received in cash or by credit to amounts otherwise due to a third party) with respect to amounts overpaid by any Seller to any third party with respect to periods prior to the Effective Time in connection with the operation of the Businesses (e.g., such overpaid amounts may be determined by billing audits undertaken by a Seller or a Seller's consultants), except with respect to any causes of action or proceeds thereof arising under Chapter 5 of the Bankruptcy Code other than with respect to Assumed Contracts and Assumed Leases;

1.8.6 all inventories of supplies, drugs, food, janitorial, and office supplies and other disposables and consumables (a) located at the Businesses, or (b) used in the operation of the Businesses (the "**Inventory**");

1.8.7 all prepaid rentals, deposits (including all utility deposits), prepaid expenses, prepayments and similar amounts relating to the Assumed Contracts and/or the Assumed Leases, which were made with respect to the operation of the Businesses (the "**Prepaids**");

1.8.8 all operating manuals, forms, files, books, records, documents, and computer software related primarily to or used primarily in the operations of the Businesses, including, without limitation, all patient records, medical records, all other medical and financial information regarding patients of the Hospitals, patient lists, medical staff records, employee and personnel records, financial records, equipment records, construction plans and specifications, and medical and administrative libraries;

1.8.9 all rights in all warranties of any manufacturer or vendor in connection with the Personal Property;

1.8.10 all goodwill of any Seller that is associated with the Businesses;

1.8.11 all intellectual property and proprietary rights of a Hospital Seller or Verity Holdings, in each case, as used or held for use primarily with respect to the operation of the Businesses, including: (a) all U.S. and foreign patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof; (b) all inventions and discoveries (whether or not patentable and whether or not reduced to practice); (c) all U.S. and foreign trademarks, service marks, trade names, service names, brand names, company names, trade dress rights, and logos (in each case regardless whether registered) and all goodwill associated with any of the foregoing, specifically including, without limitation, the names "O'Connor Hospital," "Saint Louise Regional Hospital," "De Paul Health Center," and all similar variations thereof; (d) all websites and webpages (including all contents, data, information, codes, designs, components and elements thereof), domain names, uniform resource locators (URLs), and social media usernames, profile names and accounts; (e) all U.S. and foreign copyrights (regardless whether registered); (f) all trade secrets and confidential business information (including, without limitation, ideas, concepts, formulae, know-how, research and development information, drawings, specifications, designs, plans, proposals, technical data, financial, business and marketing plans, and customer and supplier lists and related information); (g) all proprietary computer software and computerized databases, in both source code and object code forms; and (h) all U.S. and foreign registrations and applications and licenses pertaining to the foregoing; (collectively, the "**Intellectual Property**");

1.8.12 to the extent transferable or assignable, each Seller's right and interest in the telephone and facsimile numbers used primarily with respect to the operation of the Businesses;

1.8.13 each Seller's Medicare and Medi-Cal lock box account(s) related to any Hospital, subject to approval by the appropriate governmental and regulatory agencies;

1.8.14 all rights of the Hospitals to receive payments from, or otherwise in connection with, the California Disproportionate Share Hospital Program, the California Hospital

Quality Assurance Fee Program, and other similar programs applicable to any Hospital on or after the Effective Time, in each case, in connection with services provided for any applicable period on or after the Effective Time, where Purchaser would be entitled to payments under such programs;

1.8.15 all interests held by any Hospital Seller in partnerships (including, without limitation, the limited partnership interest in the 455 JV, subject to Section 8.12), corporations, limited liability companies, and other legal entities, in each case that are not one hundred percent (100%) owned (whether by equity, membership, or other interest) by Verity or a Verity affiliate; and

1.8.16 except for the Excluded Assets, any other assets owned by any Seller (which are not otherwise specifically described above in this Section 1.8) that are primarily related to or used primarily in the operation of the Businesses.

1.9 Excluded Assets. Notwithstanding anything to the contrary in Section 1.8, Sellers shall retain, and shall not transfer to Purchaser pursuant hereto, all right, title, and interest in and to the following (collectively, the "**Excluded Assets**"):

1.9.1 cash, cash equivalents, and, subject to Section 1.8.15, investments (short-term and long-term);

1.9.2 all Benefit Plans and the assets of all Benefit Plans and any asset that would revert to the employer upon the termination of any Benefit Plan, including, without limitation, any assets representing a surplus or overfunding of any Benefit Plan;

1.9.3 all contracts that are not Assumed Contracts;

1.9.4 all leases that are not Assumed Leases;

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

1.9.6 assets owned and provided by vendors of services or goods to any Hospital;

1.9.7 all of each Seller's organizational or corporate record books, minute books, and tax records;

1.9.8 all claims, counterclaims, and causes of action of each Seller or each Seller's bankruptcy estate (including parties acting for or on behalf of a Seller's bankruptcy estate, including, but not limited to, the official committee of unsecured creditors appointed in the Bankruptcy Cases) not specifically set forth in Section 1.8.5 or 1.8.9 hereof, including, without limitation, causes of action arising out of any claims and causes of action under chapter 5 of the Bankruptcy Code and any related claims, counterclaims, and causes of action under applicable non-bankruptcy law, and any rights to challenge liens asserted against property of each Seller's bankruptcy estate, including, but not limited to, liens attaching to the payments

made to each Seller pursuant hereto, and the proceeds from any of the foregoing; provided, however, Purchaser shall acquire and be deemed to release and waive as of the Effective Time causes of action under Sections 544, 547, 548, and 550 of the Bankruptcy Code against counterparties to executory contracts and unexpired leases being assumed by a Seller and assigned to Purchaser;

1.9.9 all insurance policies and contracts and coverages obtained by any Seller or listing a Seller 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, in each case, arising from or relating to the Assets for time periods on or prior to the Closing Date, except for any such proceeds pertaining to the physical condition of any of the Assets, and except as otherwise expressly provided in this Agreement;

1.9.10 all rents, deposits, prepayments, and similar amounts relating to any contract or lease that is not an Assumed Contract or Assumed Lease;

1.9.11 all unclaimed property of any third party as of the Closing Date, including, without limitation, property which is subject to applicable escheat laws;

1.9.12 except as described in Section 1.8.13, all bank accounts of each Seller;

1.9.13 all writings and other items that are protected from discovery by the attorney-client privilege, or the attorney work product doctrine;

1.9.14 the rights of each Seller to receive mail and other communications with respect to Excluded Assets or Excluded Liabilities;

1.9.15 all director and officer insurance of any Seller;

1.9.16 all tax refunds of each Seller;

1.9.17 all documents, records, correspondence, operating manuals, film, work papers, and other patient records that may not be transferred under applicable law, in each case, as more particularly set forth on **Schedule 1.9.17**;

1.9.18 subject to applicable law, any rights or documents relating to any Excluded Liability or Excluded Asset;

1.9.19 any rights or remedies provided to a Seller under this Agreement and each other document executed in connection with the Closing;

1.9.20 any (a) personnel files for employees of Sellers who are not hired by Purchaser; (b) other books and records that Sellers are required by law to retain, as more particularly set forth on **Schedule 1.9.20**; provided, however, except as prohibited by law, Purchaser shall have the right to make copies of any portions of such retained books and records that relate to the Businesses, or that otherwise relate to any of the Assets; (c) documents which a Seller is not permitted to transfer pursuant to any contractual obligation owed to any third party,

as more particularly set forth on **Schedule 1.9.20**; and (d) documents necessary to prepare tax returns, as more particularly set forth on **Schedule 1.9.20** (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 the applicable Seller(s) shall be entitled to retain a copy of such documents for any period ending on or prior to the Closing Date;

1.9.21 all deposits or other prepaid charges and expenses paid in connection with or relating to any other Excluded Assets;

1.9.22 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, disproportionate share payments and Seller Cost Report settlements related thereto, in each case arising from the rendering of services or provision of goods, products or supplies to inpatients and outpatients at the Hospitals, billed and unbilled, recorded and unrecorded, for services, goods, products, and supplies provided by Sellers prior to the Effective Time whether payable by Medicare, Medi-Cal, 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 (collectively, "**Accounts Receivable**");

1.9.23 all documents, records, correspondence, work papers, and other documents, other than patient records, primarily relating to the Accounts Receivable (the "**Receivable Records**");

1.9.24 (a) all rights, claims, and causes of action of any Seller to the extent related to and/or to the extent arising out of the Accounts Receivable and rights to settlements and retroactive adjustments, if any, whether arising under a Seller Cost Report or otherwise, for any reporting periods ending on or prior to the Closing Date, whether open or closed, arising from or against the United States government under the terms of the Medicare or Medi-Cal programs or TRICARE (formerly the Civilian Health and Medical Program of the Uniformed Services); and (b) causes of action under Sections 544, 547, 548, and 550 of the Bankruptcy Code against the counterparties to the Assumed Contracts and Assumed Leases listed on **Schedule 1.9.24**;

1.9.25 all Hospital Quality Assurance Fee Program ("**HQAFP**") payments and payments from the State of California or any of its administrative entities or other entities to support the Hospitals (together with Medicare and Medi-Cal supplemental payments, the "**Supplemental Payments**") received on and after the Effective Time, for services provided prior to the Effective Time; provided, however, the remittance of such Supplemental Payments to Sellers as an Excluded Asset shall nevertheless be subject to offset to the extent that any Excluded Liabilities are incurred by Purchaser, including, without limitation, Excluded Liabilities associated with payments due from the Hospitals to the HQAFP, it being understood that Purchaser shall be entitled to make payments on Sellers' behalf (funded by such offsets) to the HQAFP to ensure that all payments to the HQAFP for the Hospitals are kept current, but only with Sellers' consent or an order of the Bankruptcy Court;

1.9.26 all Disproportionate Share Hospital Payments and all California Hospital Quality Assurance Fee Program payments to be made to the Hospitals for periods prior to the Effective Time;

1.9.27 assets whose use is limited or restricted, as more particularly set forth on **Schedule 1.9.27**;

1.9.28 all operating manuals, forms, files, books, records, documents, computer software, and other intellectual property (such as specific website content, domain names, and computerized databases) that are proprietary to Verity, as set forth on **Schedule 1.9.28**; and

1.9.29 any assets identified in **Schedule 1.9.29**.

1.10 Assumed Obligations. On the Closing Date (effective as of the Effective Time), each Seller shall assign, and Purchaser shall assume and agrees to discharge, perform and satisfy fully, on and after the Effective Time, the following liabilities and obligations of such Seller, and only the following liabilities and obligations (collectively, the "**Assumed Obligations**"):

1.10.1 the Assumed Contracts and all liabilities of such Seller under the Assumed Contracts arising on or after the Effective Time, but not including any related Cure Costs;

1.10.2 the Assumed Leases and all liabilities of such Seller under the Assumed Leases arising on or after the Effective Time, but not including any related Cure Costs;

1.10.3 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 Businesses or any of the Assets on or after the Effective Time;

1.10.4 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 1.7;

1.10.5 all liabilities and obligations arising on or following the Effective Time relating to utilities being furnished to the Assets, subject to the prorations provided in Section 1.7; and

1.10.6 any other obligations and liabilities identified in **Schedule 1.10.6**.

1.11 Excluded Liabilities. Other than the Assumed Obligations, Purchaser shall not assume or become responsible for any duties, obligations, or liabilities of any Seller that are not expressly assumed by Purchaser pursuant to the terms of this Agreement, the Bill of Sale, the Assumption Agreement, or the Real Estate Assignment(s) (the "**Excluded Liabilities**"). Other than the Assumed Obligations, each Seller shall remain fully and solely responsible for all of such Seller's debts, liabilities, contract obligations, expenses, Cure Costs, and claims of any nature whatsoever related to the Assets, the Businesses, or otherwise, unless expressly assumed by Purchaser pursuant to the terms of this Agreement, the Bill of Sale, the Assumption Agreement, or the Real Estate Assignment(s). Without limiting the generality of the foregoing, the Parties acknowledge and agree that all PTO Liabilities, Labor Obligations, and Seller Third Party Liabilities shall be Excluded Liabilities hereunder. For purposes of this Agreement,

"**Seller Third Party Liabilities**" shall mean any HQAFP fees related to the Hospitals that are payable in connection with the HQAFP (including, without limitation, whether pursuant to the program known as HQAFP IV or HQAFP V), Medicare and/or Medi-Cal cost report liabilities or obligations with respect to the Hospitals, and Medicare or Medi-Cal EHR liabilities or obligations with respect to the Hospitals, in each case, for any applicable period prior to the Effective Time.

1.12 Designation of Assumed Contracts and Assumed Leases.

1.12.1 All contracts and leases will be subject to evaluation by Purchaser for assumption or rejection (collectively "**Evaluated Contracts**"). Not later than three (3) days prior to the date of the Auction, Purchaser shall notify each Seller in writing of which Evaluated Contracts are to be assumed by such Seller and assigned to Purchaser (all Evaluated Contracts that are not so designated by Purchaser are referred to herein as the "**Rejected Contracts**"). Each Seller shall file such motions in the Bankruptcy Court and take such other actions as are reasonably necessary to ensure that final and non-appealable orders are entered that: (a) assume and assign the respective Assumed Contracts or Assumed Leases applicable to such Seller to Purchaser, and (b) reject the Rejected Contracts. With respect to each Assumed Lease, the applicable Seller shall execute and deliver to Purchaser a Real Estate Assignment. Notwithstanding anything to the contrary in this Agreement, the Rejected Contracts shall constitute part of the Excluded Assets pursuant to, and as defined in, this Agreement.

1.12.2 At the Closing and pursuant to Section 365 of the Bankruptcy Code and the Sale Order, Sellers shall assume and immediately assign to Purchaser, and as of the Effective Time, Purchaser shall assume from Sellers, the Assumed Contracts and the Assumed Leases; provided, however, consistent with Section 1.10, Purchaser shall only assume the liabilities that arise thereunder with respect to events or periods on and after the Effective Time and that do not relate to any failure to perform or other breach, default, or violation by any Seller on or prior to the Closing Date.

1.13 Disclaimer of Warranties. Purchaser acknowledges and agrees that, subject in all respects to ARTICLE 2 and the terms of Section 1.11 and Section 15.1:

1.13.1 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 ASSUMED OBLIGATIONS ARE BEING ACQUIRED OR ASSUMED "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; and

1.13.2 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 Businesses, the Assets and the Assumed Obligations) and shall expire, and be of no further force or effect upon the Effective Time, and Sellers shall not have any liability in respect of any breach thereof upon the Effective Time.

ARTICLE 2

REPRESENTATIONS AND WARRANTIES OF SELLERS

As an inducement to Purchaser to enter into this Agreement and to consummate the transactions contemplated by this Agreement, except as disclosed in the disclosure schedule as of the Signing Date, as may be updated by Sellers in accordance with the terms of this Agreement (the "**Disclosure Schedule**"), Sellers, on a joint and several basis, hereby represent and warrant to Purchaser as to the following matters as of the Signing Date, and, except as otherwise specifically provided in this ARTICLE 2, shall be deemed to remake all of the following representations and warranties as of the Closing Date.

2.1 Organization and Good Standing. Each Seller is a non-profit corporation (except for Verity Holdings, which is a limited liability company) duly organized, validly existing and in good standing under the laws of the State of California.

2.2 Authority; Validity; No Breach.

2.2.1 Subject to applicable bankruptcy law restraints on Sellers and the operation of the Businesses, each Seller has the full power and authority to (a) own, lease, and operate its properties and assets as presently owned, leased, and operated, and (b) carry on its businesses as such businesses are now being conducted. Subject to applicable bankruptcy law restraints on Sellers and the operation of the Businesses, each Seller is duly qualified to transact business in each jurisdiction in which the failure to so qualify would materially adversely affect its businesses.

2.2.2 Subject to Bankruptcy Court approval, and except as set forth on **Schedule 2.2.2**: (a) each Seller has the full right, power, legal capacity and authority, without the consent of any other Person, to execute, deliver and carry out the terms of this Agreement and all documents and agreements necessary to give effect to the provisions of this Agreement and to consummate the transactions contemplated hereby; (b) all actions required to be taken by each Seller to authorize the execution, delivery and performance of this Agreement, all documents executed by each Seller which are necessary to give effect to this Agreement, and all transactions contemplated hereby, have been duly and properly taken or obtained; and (c) no other action on the part of a Seller is necessary to authorize the execution, delivery and performance of this

Agreement, all documents necessary to give effect to this Agreement, and all transactions contemplated hereby.

2.3 Extent of Assets. Except for the Excluded Assets and except as set forth on **Schedule 2.3**, the Assets include, without limitation, all of the real and personal property, intangible property, rights and other assets of every kind and nature whatsoever owned, leased, held, or used (a) in connection with, or which are required for, the operation of the Businesses, or (b) by any Seller, within Santa Clara County, California, subject only to depletions and additions of supplies and Inventory or other sales and purchases made by Seller in the ordinary course of business. Except as set forth on **Schedule 2.3**, no assets other than the Excluded Assets previously used in or otherwise required for the operation of the Businesses have been removed or disposed of by Seller or any agent of Seller after the Signing Date except in the ordinary course of business consistent with past operations or with approval of the Bankruptcy Court.

2.4 Consents and Approvals. Except as set forth on **Schedule 2.4**, and except for approval of the Bankruptcy Court, no consent, approval, permit, waiver, authorization, or other action of or by any Governmental Entity, or nongovernmental person or entity, is required in connection with (a) the sale and/or assignment of the Assets (excluding consents and notices that may be required in connection with assignment of the Assumed Contracts and Assumed Leases) to Purchaser, or (b) the execution, delivery or performance of this Agreement by Sellers.

2.5 Financial Statements.

2.5.1 Attached hereto as **Schedule 2.5.1** are true and complete copies of audited financial statements of each Seller with respect to the operation of the Businesses for 2016 and 2017 (the "**Financial Statements**"). The Financial Statements are true, complete, and correct in all material respects, and present fairly and accurately the financial condition of the Businesses and the results of their operations at the dates and for the periods indicated.

2.5.2 Except as set forth on **Schedule 2.5.2**, since January 1, 2018:

(a) no Seller has in connection with the Businesses sold, assigned, leased, or otherwise transferred or disposed of any material property, plant, equipment, Asset, or any portion of the Businesses, except in the ordinary course of business;

(b) there has not occurred any damage, destruction, or loss, whether or not covered by insurance, of any of the tangible Assets, ordinary wear and tear excepted, in an amount which exceeds Seventy-Five Thousand Dollars ($75,000), or which materially and adversely affects the ability of any Seller to continue to conduct the Businesses in all material respects as such businesses were conducted immediately prior to the Signing Date; and

(c) no Seller in connection with the Businesses has cancelled or waived any material rights in respect of any of the Assets, except in the ordinary course of business.

2.6 Title to and Condition of Real Property.

2.6.1 **Schedule 2.6.1** sets forth a legal description of all real property that constitutes a part of the Owned Real Property and all real property that constitutes a part of the Leased Real Property. To the knowledge of Sellers, except as identified in any title commitment or title report referenced on **Schedule 10.1** and subject to Section 10.2 below, Sellers have fee simple title to the Owned Real Property, and a valid leasehold interest in the Leased Real Property.

2.6.2 **Schedule 2.6.2** sets forth an accurate and complete list of all contracts, agreements, leases, subleases, options, and commitments, oral or written, affecting the Real Property, including any Leased Real Property, Tenant Leases, or real property that is under contract to be acquired or leased by any Seller to be used in, or necessary or intended for a material use in the operation of the Businesses, or any interest therein, pursuant to which any Seller is a lessor, sublessor, lessee or sublessee (collectively referred to as the "**Real Estate Leases**"). Sellers have provided Purchaser with complete and correct copies of all Real Estate Leases. Except for the Real Estate Leases and any other items listed on **Schedule 2.6.2**, there are no purchase contracts, no leases of space within real property owned or leased by any Seller, options, rights of first refusal, or other agreements of any kind, oral or written, formal or informal, whereby any person or entity will have acquired or will have any basis to assert any right, title, or interest in, or right to the possession, use, enjoyment, or proceeds of, any part or all of the Owned Real Property or the applicable Seller's leasehold interest in the Leased Real Property.

Except as set forth on **Schedule 2.6.2**, the Real Estate Leases have not been modified, amended or assigned, are legally valid.

2.6.3 Except as set forth on **Schedule 2.6.3**, to the knowledge of Sellers, the Real Property is zoned to permit the uses for which it is presently used and/or intended to be used without variances or conditional use permits.

2.6.4 To the knowledge of Sellers, Sellers have all easements, servitudes, and rights-of-way necessary for access to the Real Property (including without limitation, all access routes currently used to and from the Real Property visible by an inspection of the Real Property), and there exists reasonably unrestricted access to a public street from each unit of the Real Property at and over existing passageways, driveways, and accessways. To the knowledge of Sellers, Sellers have not entered into any written agreement or commitment to grant an easement, right-of-way, or license for the use of the Real Property except as disclosed on **Schedule 2.6.2** or in any title commitment or title report referenced on **Schedule 10.1**.

2.6.5 Other than the Owned Real Property and the Leased Real Property, no Seller holds any right, title, or interest, whether ownership, leasehold, or otherwise, with respect to any other real property in Santa Clara County, California.

2.7 Title to and Condition of Personal Property and Leased Personal Property.

2.7.1 To the knowledge of Sellers, Sellers have good, clear title to, and ownership of all of the Personal Property, including, without limitation, the Personal Property identified on **Schedule 2.7.1**.

2.7.2 **Schedule 2.7.2** sets forth an accurate and complete list of all material leases of tangible personal property that is used by any Seller in the operation of the Businesses, including equipment, furniture, machinery, vehicles and office furnishings (the "**Personal Property Leases**"). Sellers have provided Purchaser with complete and correct copies of all of the Personal Property Leases. Except as set forth on **Schedule 2.7.2**, the Personal Property Leases have not been modified, amended, or assigned by the applicable Seller and are legally valid..

2.8 Intellectual Property.

2.8.1 A true and complete list of all registered Intellectual Property owned by any Seller pertaining to the Businesses is set forth on **Schedule 2.8**.

2.8.2 Sellers own, are licensed to use, or otherwise possesses all necessary rights to use all Intellectual Property that is material to the operation of the Businesses as presently operated, and no rights thereto have been granted to others by any Seller. To the knowledge of Sellers, there is no unauthorized use, disclosure, infringement, or misappropriation of any Intellectual Property rights of any Seller, or any Intellectual Property right of any third party to the extent licensed by or through any Seller, by any third party, relating in any way to any of the Assets.

2.8.3 To the knowledge of Sellers, Sellers' use of the Assets does not infringe upon or otherwise violate the rights of others. To the knowledge of Sellers, no one has asserted in writing to any Seller that any Seller's use of the Assets infringes the patents, trade secrets, tradenames, trademarks, service marks, copyrights, or other intellectual property rights of any other person or entity.

2.9 Contracts. Except for those contracts, leases, and agreements set forth on **Schedule 2.6.2** or **Schedule 2.7.2**, **Schedule 2.9** sets forth an accurate and complete list of all contracts, leases, and agreements of any kind to which any Seller is a party pertaining to the Assets or the Businesses which provide for payments over the remaining term of the contract, lease, or agreement in excess of Five Hundred Thousand Dollars ($500,000) (the "**Scheduled Contracts**"). Sellers have provided Purchaser with complete and correct copies of all of the Scheduled Contracts. Except as set forth on **Schedule 2.9**, the Scheduled Contracts have not been modified, amended, or assigned, and are legally valid.

2.9.1 **Schedule 2.9.1** sets forth a complete and accurate list of all Multi-Facility Contracts.

2.10 Inventory. All inventories of Sellers that are located at the Businesses or used in the operation of the Hospitals which are among the Assets are valued on Sellers' books at the lower of cost or market value, on a first-in first-out basis, and contain no material amounts that are obsolete or not usable for the purposes intended in the ordinary course of business. All of the Inventory is, and at the Closing shall be, maintained in quantities substantially consistent with quantities maintained in the ordinary course of the operations of the Hospitals.

2.11 Employees.

2.11.1 Except as set forth on **Schedule 2.11.1**, all Seller Employees are "at will" employees.

2.11.2 Except as set forth on Schedule 2.11.2, no Seller, with respect to the Businesses, is a party to, bound by, or obligated to contribute to or under, any: pension or retirement plan (except for Social Security), medical, hospitalization, vision, dental, life, disability, or other similar benefit plan, deferred compensation plan, or other similar plan, severance plan or policy, or any other similar performance, bonus, incentive or benefit plans, trusts, funds (all of the foregoing are collectively referred to as the "**Benefit Plans**") with respect to Seller Employees.

2.11.3 **Schedule 2.11.3** contains a true and complete list of all labor unions, trade associations, and other employee organizations that represent or have a written demand for recognition with respect to any Seller Employees, and, to the knowledge of Sellers, **Schedule 2.11.3** contains a true and complete list of all labor union organizing activity at the Businesses. **Schedule 2.11.3** sets forth a true and complete list of all of Sellers' respective collective bargaining agreements and understandings with any labor union, trade association, or other employee organization with respect to any Seller Employees, as well as a description of any such agreements that are currently being negotiated.

2.11.4 **Schedule 2.11.4** sets forth a complete list of all Seller Employees, along with the job title, location, classification (i.e., exempt or not exempt), status (e.g., part-time, full-time, seasonal or temporary) and bargaining unit (if any) of each such Seller Employee.

2.12 Litigation or Claims. Except as set forth on **Schedule 2.12** (said matters set forth on **Schedule 2.12** being collectively referred to herein as "**Pending Litigation**"), no Seller, with respect to the Businesses or any of the Assets is engaged in, or a party to, or, to Sellers' knowledge, threatened with, nor are the Businesses, nor any of the Assets subject to any suit, action, proceeding, inquiry, enforcement action, investigation, or legal, administrative, arbitration, or other method of settling disputes or disagreements. To the knowledge of Sellers, no Seller has any investigation threatened by any Governmental Entity that remains unresolved involving the Assets or operation of the Businesses.

2.13 Licenses.

2.13.1 **Schedule 2.13.1** sets forth a current, complete, and accurate list of the material Licenses issued to each Seller with respect to the Businesses or any of the Assets, including the expiration dates thereof, if any. True and correct copies of the Licenses have previously been made available to Purchaser by Sellers. Except as set forth on **Schedule 2.13.1**, Sellers have all material licenses, permits, and franchises required by law or governmental regulations from all applicable federal, state, and local authorities, and any other regulatory agencies necessary or proper in order to own and/or lease the Assets and to conduct and operate the Hospitals and each of its departments, as presently operated. To the knowledge of Sellers, each Seller is currently complying in all material respects with its obligations under each of the Licenses. To the knowledge of Sellers, for the past three (3) years, no written notice from any authority in respect to the threatened, pending, or possible revocation, termination, suspension, or limitation of any of the Licenses has been issued or given, nor do Sellers have any knowledge

of the proposed or threatened issuance of any such written notice or action. Sellers have previously made available to Purchaser true, correct, and complete copies of any state licensing survey reports received by them and related to the Businesses or the Assets in the two (2) year period prior to the Closing Date, as well as any statements of deficiencies and plans of correction in connection with such reports. Sellers have taken all reasonable steps to correct all deficiencies referenced in this Section 2.13.1 and a description of any uncorrected deficiency is set forth on **Schedule 2.13.1**.

2.13.2 To Sellers' knowledge, each Seller Employee who is required by law to have a professional license or certification to perform his or her job for a Seller (*e.g.*, a registered nurse) holds such license or certification in good standing. To Sellers' knowledge, no proceeding is pending or threatened, seeking revocation, cancellation, suspension, or limitation of any Seller Employee's professional license or certification.

2.14 Accreditation; Medicare and Medi-Cal; Third Party Payors.

2.14.1 The Hospitals are currently accredited by The Joint Commission (the "**Joint Commission**"). Sellers have previously made available to Purchaser true, correct, and complete copies of: (a) each Hospital's most recent Joint Commission accreditation survey report, and deficiency list and plan of correction, if any, and a list and description of events in the past three (3) years at the Hospitals that constitute Sentinel Events as defined by the Joint Commission, if any, and any documentation that was created, prepared, and/or produced by Sellers to satisfy Joint Commission requirements relating to addressing such Sentinel Events; (b) each Hospital's fire marshal's surveys for the past two (2) years and list of deficiencies, if any; and (c) each Hospital's boiler inspection reports for the past two (2) years and list of deficiencies, if any. Sellers have taken all reasonable steps to correct all deficiencies referenced in this Section 2.14.1 and a description of any uncorrected deficiency is set forth on **Schedule 2.14.1**.

2.14.2 Except as set forth on **Schedule 2.14.2**, the Hospitals are eligible to receive payment without restriction under Title XVIII of the Social Security Act ("**Medicare**"), Title XIX of the Social Security Act ("**Medicaid**"), Title XXI of the Social Security Act ("**Children's Health Insurance Program**"), and TRICARE, and are "providers" with valid and current provider agreements and with one or more provider numbers with the federal Medicare, all applicable state Medicaid, Medi-Cal, TRICARE, Children's Health Insurance Program, and successor programs of each (the "**Government Programs**") through intermediaries or administrative contractors. A true and correct copy of each such agreement has been made available to Purchaser by Sellers. Except as set forth on **Schedule 2.14.2**, each of the Hospitals is in compliance with the applicable conditions of participation for the Government Programs in all material respects. Except as set forth on **Schedule 2.14.2**, there is not pending, nor to the knowledge of Sellers, threatened, any proceeding or investigation under the Government Programs involving Sellers pertaining to the Businesses or any of the Assets, nor has any allegation been made against the Hospitals within the past three (3) years by any state or federal agency relating to the federal Emergency Medical Treatment or Active Labor Act ("**EMTALA**"). Sellers have made available to Purchaser true, correct, and complete copies of the Hospitals' most recent Medicare and Medi-Cal certification survey reports, including any statements of deficiencies and plans of correction, and any statements of deficiencies against the

Hospitals in the past twelve (12) months that include any allegation involving EMTALA, and the Hospitals' corrective action plans related thereto. Sellers have taken all reasonable steps to correct all deficiencies referenced in this Section 2.14.2 and a description of any uncorrected deficiency is set forth on **Schedule 2.14.2**.

2.14.3 Sellers have timely filed, or caused to be timely filed, all cost reports and other reports of every kind whatsoever that are required, by law or by written contracts, to have been filed or made with respect to the purchase of services of the Hospitals in the period prior to the Effective Time by third party payors, including but not limited to Government Programs and other insurance carriers, and all such reports were complete and accurate when filed. Except as disclosed on **Schedule 2.14.3**, each Seller is and has been in material compliance with filing requirements with respect to cost reports of the Hospitals, and such reports do not claim, and no Hospital has received, payment or reimbursement in excess of the amount provided or allowed by applicable law or any applicable agreement, except where excess reimbursement was noted on the cost report. Except as disclosed on **Schedule 2.14.3**, Sellers have not retained and are not retaining any overpayment in violation of Section 6402(a) of the Patient Protection and Affordable Care Act. True and correct copies of all such reports for the three (3) most recent fiscal years of Sellers and the Hospitals have been made available to Purchaser. Except as disclosed on **Schedule 2.14.3**, there are no material claims, actions, or appeals pending before any commission, board, or agency, including any fiscal intermediary, carrier or administrative contractor, Governmental Entity, or the Centers for Medicare & Medicaid Services ("**CMS**"), with respect to any Government Program cost reports or claims filed on behalf of any Seller with respect to the Hospitals. **Schedule 2.14.3** indicates which of such cost reports have been audited by the fiscal intermediary or administrative contractor and finally settled, and contains a brief description of any and all notices of program reimbursement, proposed or pending audit adjustments, disallowances, appeals of disallowances, and any and all other unresolved claims or disputes, in connection with any audit, review, or inquiry with respect to such cost reports. Except as set forth on **Schedule 2.14.3**, there are no facts or circumstances which may reasonably be expected to give rise to any material disallowance under any such cost reports.

2.14.4 Except as listed on **Schedule 2.14.4**, (a) no employee or independent contractor of any Seller or any of its affiliates (whether an individual or entity) performing services related to the Hospitals has been excluded from participating in any federal health care program (as defined in 42 U.S.C. §1320a-7b(f)), and (b) none of the Hospitals, or any Seller's or any of its affiliates' officers, directors, agents or managing employees (as such term is defined in 42 U.S.C. §1320a-5(b)), has been excluded from Medicare, Medi-Cal, or any federal health care program (as defined in 42 U.S.C. §1320a-7b(f)), or been subject to sanction pursuant to 42 U.S.C. §1320a-7a or 1320a-8, or been convicted of a crime described at 42 U.S.C. §1320a-7b.

2.15 Medical Staff. Except as set forth on **Schedule 2.15**, there are no pending or, to the knowledge of Sellers, threatened appeals, challenges, disciplinary or corrective actions, or disputes involving applicants to the Hospitals' respective medical staffs, current members of the Hospitals' respective medical staffs, or affiliated health professionals. True and correct copies of each Hospital's Medical Staff Bylaws, Medical Staff Rules and Regulations, and Medical Staff Hearing Procedures, all as presently in effect, and each Hospital's current medical staff roster, have been made available by Sellers to Purchaser.

2.16 Compliance with Law.

2.16.1 Except as set forth on **Schedule 2.16.1**, to the knowledge of Sellers, Sellers, with respect to the Businesses and all of the Assets, are in compliance in all material respects with all applicable laws, rules, regulations (including, without limitation, the Occupational and Safety Health Act of 1970, as amended, and any analogous state laws, as well as applicable health care laws, rules and regulations, including those relating to Medicare and Medi-Cal reimbursement and to the payment or receipt of illegal remuneration, including 42 U.S.C. §1320a-7b(b) (the Medicare/Medi-Cal anti-kickback statute), 42 U.S.C. §1395nn (the Stark Statute), 42 U.S.C. §1320a-7a, 42 U.S.C. §1320a-7b(a), 42 U.S.C. §1320a-7b(c) and any analogous state laws) (collectively, the "**Fraud and Abuse Laws**"), ordinances or orders of any Governmental Entity (including, without limitation, civil rights laws, fire codes, confidentiality laws, and record and document maintenance laws). Except as set forth on **Schedule 2.16.1**, no Seller has received any notice, written or otherwise, of noncompliance with respect to any of the foregoing during the past twelve (12) months.

2.16.2 **Schedule 2.16.2** sets forth the current status of the Businesses' compliance with the Alfred E. Alquist Hospital Facilities Seismic Safety Act (the "**Seismic Safety Act**").

2.16.3 No Seller is a party to, or otherwise bound by, a corporate integrity agreement with the Office of the Inspector General of the U.S. Department of Health and Human Services ("**HHS**"), or any similar agreement with any Governmental Entity. No Seller has been requested to enter into, and no Seller is in the process of negotiating, any such agreement.

2.16.4 Except as set forth on **Schedule 2.16.4**, no Seller, with respect to the Hospitals during the past three (3) years, has made a voluntary self-disclosure under the Self-Referral Disclosure Protocol established by the Secretary of HHS pursuant to Section 6409 of the Patient Protection and Affordable Care Act, or under the self-disclosure protocol established and maintained by HHS' Office of the Inspector General, or any United States Attorney or other Governmental Entity. Except as set forth in a separate letter to Purchaser that is subject to the provisions of the Non-Disclosure Agreement (the "**Disclosure Letter**"), to Seller's knowledge, no Seller, with respect to the Hospitals, is currently in the process of making or considering any such self-disclosure, and to Sellers' knowledge, no Seller has an obligation to make any such self-disclosure in lieu of repayment under Section 6402(a) of the Patient Protection and Affordable Care Act.

2.17 Meaningful Use. Except as to SLRH and as set forth on **Schedule 2.17**, with respect to the Businesses, each Seller is eligible to participate in the Medicare and Medi-Cal Electronic Health Record ("**EHR**") Incentive Programs (described in HITECH Act §§4101, 4102 and 4201) and has in place a certified EHR technology (as defined in HITECH Act §3000). Except as set forth on **Schedule 2.17**, since the Businesses became eligible to qualify for "meaningful use" payments (as defined in the HITECH Act), to Sellers' knowledge, each Hospital has been and continues to be in compliance in all material respects with the applicable requirements necessary for eligible professionals and the Hospitals to successfully demonstrate meaningful use of certified EHR technology and receive the associated Medicare and Medi-Cal incentive payments or avoid related Medicare payment adjustments.

2.18 Environmental Matters. Except as identified on **Schedule 2.18** or otherwise disclosed in the Environmental Reports:

2.18.1 To Sellers' knowledge, Sellers are currently (and Sellers are currently owning and operating the Businesses and all of the Assets), and for the past three (3) years have been (and have owned and operated the Businesses and the Assets), in compliance, in all material respects, with all applicable Environmental Laws. The Businesses possess all material Environmental Permits for their current operations, there are not any proceedings pending or, to Sellers' knowledge, threatened disputing the validity of such Environmental Permits, and Sellers are currently in compliance, in all material respects, with the terms and conditions of all such Environmental Permits.

2.18.2 In the past three (3) years, no Seller has received any written Environmental Claim; and there is no unresolved Environmental Claim currently pending or, to the knowledge of Sellers, threatened against any Seller or the Real Property. To the knowledge of Sellers, there are no circumstances that would reasonably be expected to form the basis of any Environmental Claim.

2.18.3 To Sellers' knowledge, there has been no treatment, storage, disposal, arrangement, permitted disposal, transportation, handling, or release of any Hazardous Substance, in, at, on, or under the Real Property in such a manner as has given or would reasonably be expected to give rise to any liabilities or investigative, corrective or remedial obligations, pursuant to CERCLA or any other Environmental Laws.

2.18.4 To Sellers' knowledge, (a) there are no above ground or underground storage tanks or any septic tanks, pits, sumps, or lagoons on or under the Real Property, and (b) no Environmental Lien has attached to, or land use restriction has been imposed pursuant to, Environmental Laws to address the presence of Hazardous Materials at, the Real Property or any other property now or formerly operated or used in connection with the Businesses and/or the Assets.

2.18.5 To Sellers' knowledge, there is no Environmental Condition presently at, under, or emanating from, the Real Property.

2.18.6 Sellers have not entered into any consent order, consent decree, settlement agreement, or other similar agreement with any Governmental Entity that imposes ongoing or outstanding obligations under Environmental Laws on the Real Property, other than the Environmental Permits.

2.18.7 Except as provided in the Real Estate Leases generally, Sellers have not assumed by contract or other writing any liability, including without limitation any obligation for corrective action or to conduct Remedial Action, of any other Person under Environmental Laws with respect to the Real Property.

2.18.8 To the knowledge of Sellers, neither the Real Property nor any other property operated or used in connection with the Businesses and/or the Assets, is listed or proposed for listing on the National Priorities List pursuant to CERCLA, or listed on the

Comprehensive Environmental Response Compensation Liability Information System List, or any similar state list of sites.

2.18.9 Sellers have made available to Purchaser copies of all material environmental audits, reports, and studies in their possession and relating to the Businesses or the Real Property, which reports are identified in **Schedule 2.18.9** (the "**Environmental Reports**").

2.18.10For purposes of this Agreement, the term:

(a) "**Environmental Claim**" shall mean any claim, action, complaint, cause of action, citation, order, investigation or notice by any person or entity alleging potential liability (including, without limitation, potential liability for investigatory tests, cleanup costs, governmental response costs, natural resources damages, property damages, diminution in value, personal injuries, or penalties) arising out of, based on or resulting from (i) the presence, or release into the environment, of any Hazardous Substances at any location, (ii) any Environmental Condition, or (iii) any other violation, or alleged violation, of any Environmental Law.

(b) "**Environmental Condition**" shall mean a condition of the soil, surface waters, groundwater, stream sediments, air and/or similar environmental media, including a condition resulting from any Release of Hazardous Substances on, under, or about the Real Property, resulting from any activity, inactivity or operations that, by virtue of Environmental Laws or otherwise, (i) requires notification, investigatory, corrective or remedial measures, and/or (ii) comprises a basis for material claims against, demands of and/or liabilities in respect of the Businesses or the Real Property.

(c) "**Environmental Laws**" shall mean all federal, state, and local environmental statutes, laws, common law ordinances, orders, rules, and regulations now or hereafter in effect and as amended, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to human health, the environment, safety, natural resources, or Hazardous Substances, including, without limitation, the Clean Air Act, as amended ("**CAA**"); the Federal Water Pollution Control Act, as amended ("**CWA**"); the Safe Drinking Water Act, as amended ("**SDWA**"); the Resource Conservation and Recovery Act, as amended ("**RCRA**"); the Hazardous Material Transportation Act, as amended ("**HMTA**"); the Toxic Substances Control Act, as amended ("**TSCA**"); the Atomic Energy Act, as amended; the Federal Insecticide, Fungicide and Rodenticide Act, as amended; the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, as amended ("**CERCLA**"); and all other similar federal, state, and municipal laws, ordinances, orders, rules, regulations, or moratoria.

(d) "**Environmental Lien**" shall mean any lien in favor of any Governmental Entity in connection with any liability under any Environmental Laws, or damage arising from, or costs incurred by, such Governmental Entity in response to a Release or threatened Release of Hazardous Substances.

(e) "**Environmental Permits**" shall mean any and all permits, approvals, registrations, identification numbers, licenses, and other authorizations required under or issued pursuant to any applicable Environmental Law for the present operation of the Businesses.

(f) "**Hazardous Substance**" shall mean (A) petroleum and petroleum products, radioactive materials, asbestos-containing materials, urea formaldehyde foam insulation, transformers, or other equipment that contain polychlorinated biphenyls ("**PCBs**"), mold (including Stachybotrys chartarum), and radon gas, (B) other chemicals, materials, or substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous wastes", "restricted hazardous wastes", "toxic substances", "toxic pollutants", "medical wastes", "biohazardous wastes", "contaminants" or "pollutants", or words of similar import, under applicable Environmental Law, and (C) any other chemical, material or substance that is regulated by applicable Environmental Law.

(g) "**Release**" shall mean any release, threatened release, spill, emission, leaking, pumping, pouring, emitting, emptying, escape, injection, deposit, disposal, discharge, dispersal, dumping, leaching, or migration of Hazardous Substance in the indoor or outdoor environment, including the movement of Hazardous Substance through or in the air, soil, surface water, ground water, or property.

(h) "**Remedial Action**" shall mean any action to (A) investigate, evaluate, assess, test, monitor, clean up, remove, respond to, treat, abate, remedy, correct, or handle in any other way any Environmental Condition, including any Release or presence of Hazardous Substances, whether on-site or off-site, (B) prevent the Release of Hazardous Substances so that they do not migrate, endanger, or threaten to endanger public health or the environment, or (C) perform remedial investigations, feasibility studies, corrective actions, closures, or post-remedial or post-closure studies, investigations, operations, maintenance, and monitoring.

2.18.11 Notwithstanding any other provision of this Agreement:

(a) the representations and warranties set forth in this Section 2.18 are the sole and exclusive representations and warranties of the Sellers with respect to environmental matters; and

(b) the representations and warranties set forth in this Section 2.18 do not apply to De Paul, except for the representations and warranties set forth in: (i) the first sentence of Section 2.18.2, and (ii) Section 2.18.9.

2.19 Brokers and Finders. Except as set forth on **Schedule 2.19**, neither Sellers nor any affiliate thereof, nor any officer or director thereof, has engaged or incurred any liability to any finder, broker or agent in connection with the transactions contemplated hereunder.

2.20 Subsidiaries and Minority Interests. **Schedule 2.20** describes all subsidiaries, joint ventures, partnerships, or Persons in which any Seller owns or holds any interest, including without limitation, an equity interest or membership interest, in another Person, in each case, that are related to the Businesses or the Assets. To the extent any Seller owns less than a one

hundred percent equity or membership interest in another Person, **Schedule 2.20** describes each Seller's equity or membership interest in each, including each Seller's percentage ownership interest or membership interest and the character of such interest (e.g., whether as a general or limited partner or a corporate shareholder or member).

2.21 California Attorney General. Sellers have made available to Purchaser copies of all annual reports to the Office of the Attorney General of the State of California, as well as all other material correspondence to and from the Office of the Attorney General of the State of California, in each case, in the past three (3) years pertaining to the Businesses.

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, except as otherwise provided herein, shall be deemed to remake all of the following representations and warranties as of the Closing Date.

3.1 Organization and Good Standing. Purchaser is a political subdivision of the State of California duly organized, validly existing and in good standing under the laws of the State of California.

3.2 Authority; Validity; No Breach.

3.2.1 Purchaser has the full power and authority to (a) own, lease, and operate its properties and assets as presently owned, leased, and operated, and (b) carry on its businesses as such businesses are now being conducted.

3.2.2 Subject to Section 8.15: (a) Purchaser has the full right, power, legal capacity and authority, without the consent of any other person, to execute, deliver, and carry out the terms of this Agreement and all documents and agreements necessary to give effect to the provisions of this Agreement and to consummate the transactions contemplated hereby; (b) all corporate and other actions required to be taken by Purchaser to authorize the execution, delivery, and performance of this Agreement, all documents executed by Purchaser which are necessary to give effect to this Agreement, and all transactions contemplated hereby, have been duly and properly taken or obtained or will be duly and properly taken or obtained by Purchaser prior to the Closing Date; and (c) no other action on the part of Purchaser is necessary to authorize the execution, delivery, and performance of this Agreement, all documents necessary to give effect to this Agreement and all transactions contemplated hereby.

3.2.3 Subject to Section 8.15, this Agreement is, and the other documents to be delivered at Closing will be, the lawful, valid and legally binding obligation of Purchaser and enforceable in accordance with their respective terms. Except as set forth on **Schedule 3.2.3**, and subject to Section 8.15, the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not, with or without the giving of notice and/or the passage of time: (a) violate or conflict with the organizational documents of Purchaser; (b)

violate or conflict with any judgment, order, writ, or decree of any court applicable to Purchaser; (c) violate or conflict with any law, statute, rule, or regulation applicable to Purchaser; or (d) result in the breach or termination of any provision of, or create rights of acceleration or constitute a default under, the terms of any indenture, mortgage, deed of trust, contract, agreement, or other instrument to which Purchaser is a party or by which Purchaser is bound.

3.3 Litigation or Claims. Purchaser is not engaged in, or a party to or, to Purchaser's knowledge, threatened with, any suit, action, proceeding, inquiry, enforcement action, investigation, claim, or demand or legal, administrative, arbitration, or other method of settling disputes or disagreements which could reasonably be expected to have a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement.

3.4 Ability to Perform. Purchaser has the ability to obtain funds in cash in amounts equal to the Purchase Price by means of credit facilities or otherwise and will at the Closing have immediately available funds in cash, which are sufficient to pay the Purchase Price (as adjusted pursuant to the terms of this Agreement) and to pay any other amounts payable at the Closing pursuant to this Agreement and to consummate the transactions contemplated by this Agreement.

3.5 Brokers and Finders. Except as set forth in **Schedule 3.5**, 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 1.13), and that Purchaser is not relying on any representation or warranty (expressed or implied, oral or otherwise) made on behalf of any Seller other than as expressly set forth in this Agreement. Purchaser further acknowledges that no Seller is making any representations or warranties herein relating to the Assets or the operation of the Businesses for time periods on and after the Effective Time.

ARTICLE 4

PRE-CLOSING COVENANTS OF SELLERS

4.1 Access and Information; Inspections. From the Signing Date through the Effective Time, (a) each Seller 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 to, and the right to inspect, the offices, plants, properties, books, accounts, records, agreements, and all other relevant documents and information with respect to the Businesses and all of the Assets; (b) each Seller 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 to such Seller's management and executive employees for purposes of asking questions related to the Businesses and the Assets; provided that such access shall be coordinated through Rich Adcock, or his or her designee; and (c) each Seller shall furnish Purchaser with such additional financial and operating data and other information in such Seller's possession as to businesses and properties of the Hospitals as Purchaser or its

representatives may from time to time reasonably request; provided, however, 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 such Seller, including, without limitation, the NDA. Purchaser's right of access and inspection shall be exercised in such a manner as not to interfere unreasonably with the operations of any Seller or the Hospitals.

4.1.1 Notwithstanding anything to the contrary in this Agreement, no Seller shall 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 the Signing Date with respect to such information.

4.2 Required Approvals. Each Seller shall reasonably cooperate with Purchaser and its authorized representatives and attorneys in order to: (a) assist Purchaser in its 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), or which Purchaser reasonably deems necessary or appropriate, (b) prepare and, in coordination with Purchaser, submit any documents, filings, 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) timely deliver all notices in connection with assignment of the Assumed Contracts and Assumed Leases, as required pursuant to the terms of such Assumed Contracts and Assumed Leases. Without limiting the generality of the foregoing, Sellers shall use good faith efforts to facilitate Purchaser's contacting of third parties to Assumed Contracts and Assumed Leases as reasonably requested by Purchaser.

4.3 Sellers' Efforts to Close. Each Seller shall use its reasonable commercial efforts to satisfy all of the conditions precedent set forth in ARTICLE 7 and ARTICLE 8 to its or Purchaser's obligations under this Agreement to the extent that such Seller's action or inaction can control or materially influence the satisfaction of such conditions.

4.4 Bid Protections. Notwithstanding anything to the contrary in this Agreement, Sellers agree, on a joint and several basis, to pay (or cause to be paid to) Purchaser the Bid Protections solely if and when payable under Section 9.4. The Parties acknowledge and agree that it is a condition of this Agreement (and shall be deemed to be incorporated into the requirements of Section 6.2.2) that the Bidding Procedures Order shall provide that: (a) the Bid Protections shall constitute an administrative expense claim with priority under Section 507(a) of the Bankruptcy Code in favor of Purchaser, and (b) the Bid Protections shall be paid by Sellers to Purchaser immediately, and contemporaneous with, the closing of an Alternative Transaction from the first cash proceeds thereof. The Parties acknowledge and agree that the terms and conditions set forth in Section 9.4 with respect to the Bid Protections, and the creation of any escrow with respect to same, shall become operative upon entry by the Bankruptcy Court of the Bidding Procedures Order.

4.5 Sale Free and Clear. Sellers acknowledge and agree that on the Closing Date, to the fullest extent permitted under applicable law, the Assets shall be transferred to Purchaser free

and clear of all claims, liens and liabilities, in accordance with Section 363(f) of the Bankruptcy Code.

4.6 Bankruptcy Cases. During the Bankruptcy Cases, except with the prior written consent of Purchaser, Sellers shall not file any motions inconsistent with, or that seek to change, their obligations under this Agreement or the terms and conditions thereof.

4.7 Cure Costs. Sellers, upon assumption, shall pay the Cure Costs for each Assumed Contract and Assumed Lease so that each such Assumed Contract and Assumed Lease may be assumed by the applicable Seller 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 Assumed Contracts and Assumed Leases to Purchaser as provided herein.

4.8 Preserve Accuracy of Representations and Warranties. Prior to consummation of the transactions contemplated hereby or the termination or expiration of this Agreement pursuant to its terms, unless Purchaser shall otherwise consent in writing, Sellers shall not take any action or fail or omit to take any action which would cause any of Sellers' representations and warranties set forth in ARTICLE 2 to be inaccurate or untrue as of the Closing.

4.9 Notices. From the Signing Date until Closing: (a) Sellers shall promptly notify Purchaser in writing of any lawsuits, claims, administrative actions, investigations, hearings, or other proceedings, threatened in writing or commenced against any Seller, or any Seller's officers, directors, or members, relating to or involving in any material way, the Businesses or any of the Assets, except that Purchaser acknowledges that it is effectively provided notice of any lawsuits filed in Bankruptcy Court; (b) Sellers shall promptly notify Purchaser, in writing, of any facts or circumstances which come to any Seller's attention and which cause, or through the passage of time may cause, any of Sellers' representations and warranties to be materially untrue or misleading at any time from the Signing Date until the Closing Date; (c) to the extent not specifically identified in the additional financial information provided to Purchaser pursuant to Section 4.12, Sellers shall immediately notify Purchaser in writing of (i) any facts or circumstances which have occurred after the Signing Date which would constitute, or reasonably be expected to constitute, a Material Adverse Change, and (ii) any material loss, or damage to the Assets, whether or not covered by insurance occurring at any time after the Signing Date, (d) Sellers shall promptly notify Purchaser in writing upon any member of a Hospital Seller's management team (which for this purpose shall mean each Hospital's CEO, CFO, COO, CNO, CMO, or any Department Head or director level position) providing written notice to any Seller, or otherwise informing a CEO, CFO, COO, CNO, or director of human resources of any Seller of any plans to terminate his or her employment with any Seller, and (e) Sellers shall promptly notify Purchaser in writing upon any physician providing written notice to any Seller, of any plans to terminate his or her medical directorship agreement or call coverage agreement, or his or her position as a department chair or medical executive committee member or officer with any Seller related to the Businesses.

4.10 Conduct of Business. On and after the Signing Date and until the Effective Time, and except as otherwise approved in writing by an authorized officer of Purchaser or required by this Agreement or as permitted by the Bankruptcy Code, Sellers shall with respect to the Businesses and the Assets:

4.10.1 operate them as presently operated, and consistent with such operation, comply in all material respects with all applicable legal and contractual obligations of any Seller;

4.10.2 use commercially reasonable efforts to preserve the goodwill of Sellers' suppliers, patients, physicians, and others with whom Sellers have business relationships;

4.10.3 maintain inventories of goods and supplies at levels necessary for the normal operation of the Hospitals;

4.10.4 make and continue to make or cause to be made all repairs, restoration, replacements, and maintenance that may be necessary or appropriate to maintain the Assets in as good a condition as they exist as of the Signing Date;

4.10.5 use commercially reasonable efforts to retain the services of the Seller Employees;

4.10.6 preserve each Seller's rights under the Assumed Contracts and Assumed Leases; and

4.10.7 not do (or agree to do) any act or omit to do (or agree to omit to do) any act that would cause a breach of or violation or default under any Assumed Contracts or Assumed Leases.

4.11 Negative Covenants. From the Signing Date and until the Effective Time, with respect to the operation of the Businesses and the Assets, Sellers shall not without the prior written consent of Purchaser, or except as may be required by law:

4.11.1 amend or terminate any of the Assumed Contracts or Assumed Leases;

4.11.2 create, incur, assume, or permit to exist any new debt, mortgage, deed of trust, pledge, or other lien or encumbrance upon any of the Assets, other than as a result of debtor-in-possession financing or other loans approved by the Bankruptcy Court;

4.11.3 sell, assign, lease, or otherwise transfer or dispose of any Asset, or any portion of the Businesses, except in the ordinary course of business with comparable replacement thereof or as approved by the Bankruptcy Court;

4.11.4 acquire (whether by purchase or lease) any property, plant, or equipment exceeding Twenty-Five Thousand Dollars ($25,000) individually, or Seventy-Five Thousand Dollars ($75,000) in the aggregate, excluding any purchase or lease of any property, plant, or equipment specifically set forth on **Schedule 4.11.4**;

4.11.5 authorize or undertake any capital projects, except equipment purchases, repairs, and replacements occurring in the ordinary course of business as heretofore conducted and not exceeding Two Hundred Fifty Thousand Dollars ($250,000) for any single item or an aggregate of One Million Dollars ($1,000,000) for all such items, excluding any capital project specifically set forth on **Schedule 4.11.5**;

4.11.6 make any changes in its accounting methods or practices;

4.11.7 cancel or waive any material rights in respect of any of the Assets, except in the ordinary course of business or as approved by the Bankruptcy Court;

4.11.8 file any plan of reorganization or liquidation which would have the effect of making any Seller unable to fulfill its obligations under this Agreement;

4.11.9 file, join or fail to actively contest any motion seeking (a) to convert any Hospital Bankruptcy Case to chapter 7 of the Bankruptcy Code, or (b) the appointment of a chapter 11 trustee under the Bankruptcy Code;

4.11.10 discourage, persuade, or otherwise influence any Seller Employee to not accept employment with Purchaser and become a Hired Employee as of the Effective Time; or

4.11.11 agree or commit to take any of the actions set forth in this Section 4.11.

4.12 Additional Financial Information. Within twenty-five (25) calendar days following the end of each calendar month prior to Closing, Sellers shall deliver to Purchaser complete copies of the unaudited balance sheet and related unaudited statements of income with respect to the operation of the Businesses for each month then ended (the "**Interim Financial Statements**"), together with a year-to-date compilation and the notes, if any, related thereto, which presentation shall be consistent with the provisions of Section 2.5.1 which are applicable to the Financial Statements.

4.13 WARN. Sellers shall take any and all action (whether such action arises or must be carried out before or after Closing) which may be necessary to comply with the terms and provisions of the Workers Adjustment and Retraining Notification Act and any state equivalent (collectively, "**WARN**") as a result of the transactions contemplated by this Agreement. Sellers shall provide to Purchaser copies of all notices sent to any Seller Employee by any Seller regarding or in connection with such transactions, including, without limitation, any notices sent to Seller Employees pursuant to the provisions of WARN, promptly after the date such notices are sent to any Seller Employee. Sellers hereby expressly assume all liability for any action, claims, or damages (including severance liability) which may be imposed against Sellers or Purchaser as a result of any Seller's failure to comply with the provisions of WARN.

4.14 Termination of Certain Seller Employees. Upon the Effective Time, the Hired Employees shall cease to be employees of Sellers and shall be removed from each Seller's payrolls. Sellers shall terminate effective as of the Effective Time the active participation of all of the Hired Employees in all of the Benefit Plans, and shall cause each Benefit Plan to comply with all applicable laws (including but not limited to, the applicable provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 ("**COBRA**")) in connection with such

termination of Hired Employees as of the Closing Date. Sellers shall retain the exclusive obligation under COBRA for qualifying events occurring on or before the Closing Date and for any M&A qualified beneficiaries (as determined in accordance with Treasury Regulation §54.4980B-9) as a result of the transactions contemplated by this Agreement. After the Effective Time, Sellers shall have sole responsibility for making all distributions to, or for the benefit of, all of the Hired Employees in respect of the Benefit Plans which are in force and effect immediately prior to the Effective Time in accordance with ERISA (to the extent applicable), the Code, and the terms and conditions of the Benefit Plans.

4.15 Survey. As soon as available, Sellers shall deliver to Purchaser and the Title Company a survey (the "**Survey**") of the Owned Real Property and the Leased Real Property set forth on **Schedule 4.15**, prepared by a registered land surveyor or surveyors licensed in the State of California, dated no earlier than the Signing Date, certified to Purchaser and the Title Company in full ALTA form. The costs of the Survey shall be borne by Sellers.

4.16 Phase I Site Assessments. As soon as available, Sellers shall deliver to Purchaser Phase I environmental site assessments of the Owned Real Property and the Leased Real Property set forth on **Schedule 4.15**, dated no earlier than the Signing Date. The costs of the Phase I environmental site assessments shall be borne by Sellers.

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 Required Governmental Approvals. With Sellers' reasonable cooperation, Purchaser (a) shall use its commercially reasonable efforts to secure, as promptly as practicable before the Closing 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 (b) will provide such other information and communications to governmental and regulatory authorities as either Seller 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 Businesses at and after the Effective Time. Purchaser shall, promptly, but no later than thirty (30) business days after the entry of the Sale Order, file all applications, licensing packages, and other similar documents with all applicable governmental and regulatory authorities which are a prerequisite to obtaining the material licenses, permits, authorizations, and provider numbers described in Section 8.4.

5.3 Certain Employee Matters.

5.3.1 Subject to Purchaser's standard hiring practices (including, but not limited to, those practices contained in Purchaser's Charter, Ordinance Code, regulations, and policies

and procedures), Purchaser agrees to offer provisional employment, effective as of the Effective Time, to substantially all employees of Hospital Sellers who are listed on **Schedule 5.3.1** who are actively employed and in good standing with a Hospital Seller as of Closing (the "**Seller Employees**"), in County positions consistent with those positions provided by the Hospital Sellers as of Closing; provided, however, (a) Seller Employees must meet the minimum qualifications for the specific position offered, and (b) standard Purchaser pre-employment screenings will be performed on all Seller Employees as a condition to employment with Purchaser. Any of the Seller Employees who accept a provisional offer of employment with Purchaser as of or after the Effective Time shall be referred to in this Agreement as the "**Hired Employees**." Purchaser's labor contracts with its employee labor organizations may require the Purchaser to make available and/or offer current Purchaser employees the opportunity to transfer to a comparable position at one of the Hospitals. Once this process is complete, if required, Purchaser will afford Hired Employees the opportunity to apply for permanent-track positions with Purchaser. For the avoidance of doubt, the Seller Employees shall not include any employees of Verity Health System of California, Inc. or any other affiliate of any Seller unless such individual is listed on **Schedule 5.3.1**. Notwithstanding anything to the contrary in this Agreement, Purchaser shall make decisions with respect to hiring Seller Employees who served in a management role prior to or as of Closing on a case-by-case basis, but Purchaser shall not be obligated hereunder to offer to employ any of such individuals. Substantially all "Per Diem" Seller Employees will be offered extra-help employment in accordance with Purchaser's standard hiring practices as referenced above. For any Hired Employees who are permanently employed by Purchaser, Purchaser will provide benefits and terms and conditions of employment generally consistent with those offered to other Purchaser employees in the same or substantially similar Purchaser classifications. Whether a classification is "substantially similar" to a Purchaser classification shall be determined in Purchaser's sole and absolute discretion.

5.3.2 Pursuant to and consistent with Section 1.11 and 8.13, Sellers shall be fully and solely responsible for all PTO Liabilities and Labor Obligations, and Purchaser shall have no obligation or liability whatsoever with respect to the PTO Liabilities or Labor Obligations.

5.3.3 Promptly after the Closing Date, Purchaser shall provide to Sellers a list of the Seller 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).

5.3.4 The provisions of this Section 5.3 are solely for the benefit of the Parties to this Agreement, 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 Preserve Accuracy of Representations and Warranties. 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 3 to be inaccurate or untrue as of the Closing.

5.6 Attorney General. Purchaser agrees that promptly after the Signing Date, and in any event prior to the date of the Auction, it will use its commercially reasonable efforts to negotiate any issues with the California Attorney General over approval of the transactions contemplated by this Agreement. Sellers agree to cooperate in good faith as permitted under the Bankruptcy Code to assist in this endeavor.

5.7 455 JV. Purchaser shall reasonably cooperate with Sellers to enable Sellers to collect any accrued but unpaid distributions arising from any Seller's ownership in the 455 JV prior to Closing; provided however, the foregoing obligation shall be null and void as of the Effective Time.

ARTICLE 6

SELLERS' BANKRUPTCY AND BANKRUPTCY COURT APPROVAL

6.1 Competing Transaction.

6.1.1 Sellers and Purchaser acknowledge that this Agreement (including the sale of the Assets and the assumption and assignment of the Assumed Contracts and Assumed Leases) is subject to approval by the Bankruptcy Court and that this Agreement is subject to termination in the event any Seller receives a better and higher offer for such Seller's Assets in accordance with the Bankruptcy Code.

6.1.2 From the Signing Date until the entry of the Bidding Procedures Order by the Bankruptcy Court, Sellers shall not, and shall cause their respective affiliates and representatives to not, directly or indirectly: (a) solicit, initiate or induce the making, submission or announcement of, or knowingly encourage any inquiry, proposal or offer from any person, including any individual, corporation, limited liability company, partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, governmental body or other entity (collectively, "Person"), other than Purchaser, concerning an Alternative Transaction (collectively, the "**Acquisition Proposal**"), in any manner that is inconsistent with or violates the (i) auction/solicitation procedures set forth in ARTICLE 6 of this Agreement, (ii) terms of the Sale Motion with respect to all bidding/solicitation/auction procedures or (iii) the Bidding Procedures Order; or (b) enter into any contract or agreement relating to an Alternative Transaction or an Acquisition Proposal.

6.1.3 "**Alternative Transaction**" shall be defined as a transaction or series of related transactions (which could include confirmation of a plan of reorganization in accordance with the Bankruptcy Code) pursuant to which Sellers accept (or any Seller accepts) a bid to acquire all or substantially all of the Assets or all or substantially all of the equity or membership interests of a Seller or any of Sellers' successors from a Person other than Purchaser, in accordance with the Bidding Procedures Order or otherwise, but does not mean the sale of goods or services of the Sellers conducted in the ordinary course of business.

6.1.4 Following entry of the Bidding Procedures Order, Sellers, their representatives, and affiliates may take the actions prohibited by Section 6.1.2.

6.1.5 Following completion of the Auction, if Purchaser is declared the Successful Bidder by Sellers, then Sellers, their representatives, and affiliates shall not, directly or indirectly (a) solicit, initiate, or induce the making, submission, or announcement of, or knowingly encourage, facilitate, or assist, an Alternative Transaction, or (b) (i) furnish to any Person (other than Purchaser or any of its representatives or respective designees or to the Back-Up Bidder) any nonpublic information relating to the Businesses, the Assets, or transactions contemplated in this Agreement, or afford to any Person (other than Purchaser or any of its representatives or respective designees) access to the business, properties, Assets, books, records, or other non-public information, or to any personnel, relating to the Businesses or the Assets, or transactions contemplated in this Agreement, in any such case with the intent to induce the making, submission, or announcement of, or the intent to encourage, facilitate, or assist, an Alternative Transaction or any inquiries that would reasonably be expected to lead to an Alternative Transaction, other than the Back-Up Bidder, (ii) participate or engage in discussions or negotiations with any Person other than the Back-Up Bidder with respect to an Alternative Transaction, or (iii) enter into any contract or agreement relating to an Alternative Transaction.

6.1.6 "**Successful Bidder**" shall be defined as any Person(s) identified by Sellers who acquire(s) the Hospitals, all or substantially all of the Assets identified in this Agreement (in a single transaction or a series of transactions), or all or substantially all of the equity or membership interests (in a single transaction or a series of transactions) of a Seller or any of Sellers' successors by reason of having submitted the Successful Bid at the Auction in a manner consistent with and authorized by the Bidding Procedures Order and this Agreement, including Section 6.4 herein.

6.1.7 A "**Qualified Bidder**" is a potential bidder: (a) whose financials, or the financials of its equity holder(s), as applicable, demonstrate the financial capability to consummate the Alternative Transaction, as determined in Sellers' reasonable business judgment, (b) who has made a good faith deposit in an amount at least equal to the Purchaser's Deposit, and (c) whose bid otherwise complies with any additional requirements of Sellers (as set forth in the Bidding Procedures Order) necessary for a competing bid to be deemed qualified (collectively, a "**Qualified Bid**"). Purchaser shall be deemed a Qualified Bidder that has submitted a Qualified Bid at all times.

6.1.8 If Sellers receive a Qualified Bid, other than that from Purchaser, Sellers will conduct an Auction to determine the Successful Bidder(s). On or before the date that is one (1) business day after the deadline for submitting Qualified Bids (as set forth in the Bidding Procedures Order), Sellers shall notify Purchaser if one or more Qualified Bids are received and the identity of the bidders making any such Qualified Bids. (To the extent that Purchaser has not previously received a copy of any Qualified Bid, Sellers shall immediately provide a copy thereof, or copies thereof, as the case may be, to Purchaser, even if prior to a determination by Sellers as to whether a bid is a Qualified Bid.) The Auction will be conducted openly and all creditors will be permitted to attend but only Qualified Bidders may participate in the Auction. Purchaser may appear at the Auction in person or through duly authorized representatives. If

Sellers do not receive a Qualified Bid (other than the transaction set forth in this Agreement), Sellers shall not conduct an Auction and shall designate Purchaser as the Successful Bid.

6.1.9 The Deposit of Purchaser (if declared by Sellers to be the Successful Bidder) shall be applied to the Purchase Price of the transaction at Closing. The deposits for each competing Qualified Bid shall be held in one or more interest-bearing escrow accounts on terms acceptable to Sellers in their reasonable business judgment and shall be returned (other than with respect to the Successful Bidder(s) and the Backup Bidder) on or within five (5) business days after the Auction. To the extent that Purchaser is selected to be the Backup Bidder and the Alternative Transaction closes, the Deposit shall be paid as set forth in Section 9.4.

6.2 Bankruptcy Court Filings.

6.2.1 The Sale Motion. Sellers shall file with the Bankruptcy Court the motion seeking entry of the Sale Order and the Bidding Procedures Order (the "**Sale Motion**") in compliance with the Sale Milestones set forth in Section 6.2.9.

6.2.2 Bidding Procedures Order. The "**Bidding Procedures Order**" shall be an order of the Bankruptcy Court in substantially the form of **Exhibit 6.2.2** or otherwise in a form and substance satisfactory to each of Purchaser and Sellers in their respective reasonable judgment that, among other things, (a) approves the Bid Protections in consideration for Purchaser having expended considerable time and expense in connection with this Agreement and the negotiation thereof and the identification and quantification of assets of Sellers, (b) establishes a date by which Qualified Bids meeting the requirements approved in the Bidding Procedures Order must be submitted, (c) establishes procedures for the Auction, and (d) requires Sellers to provide copies of any competing bids or proposed Alternative Transactions to Purchaser promptly after receipt by Sellers or its representatives but in no event later than twenty-four (24) hours after Sellers' receipt of such competing bid or proposed Alternative Transaction.

6.2.3 Compliance with Agreement and the Bidding Procedures Order. Neither Sellers nor any of their affiliates shall change or modify, or request that the Bankruptcy Court change or modify, any of the dates or procedures set forth in this Agreement (including the Sale Milestones), the terms of the Sale Order, or the Bidding Procedures Order set forth in this Agreement, including the dates of the hearing on the Sale Motion and Closing Date, without the prior written consent of Purchaser. The purchase and sale of the Assets shall be in accordance with (and only in accordance with) the Bidding Procedures Order.

6.2.4 Bid Protections. The "**Bid Protections**" shall collectively mean the Breakup Fee and the Expense Reimbursement. The "**Breakup Fee**" shall mean a breakup fee in the amount totaling Nine Million Four Hundred Thousand Dollars ($9,400,000). The "**Expense Reimbursement**" shall mean reasonably documented reasonable costs and expenses incurred by Purchaser related to its due diligence, and pursuing, negotiating, and documenting the transaction(s) contemplated by this Agreement. The Bid Protections shall be payable pursuant to the terms of this Agreement in the event that this Agreement is terminated due to Sellers' consummation of an Alternative Transaction and/or under such other conditions specified in this Agreement. In no event shall Sellers provide bid protections (in the form of a breakup fee,

expense reimbursement or otherwise) to any Person other than Purchaser. The Bidding Procedures Order should reflect such terms set forth in this Section 6.2.4.

6.2.5 Assignment and Assumption Procedures. The Sale Motion will include procedures for the assumption of and assignment to Purchaser of the Assumed Contracts and Assumed Leases (the "**Assignment and Assumption Procedures**"). The Assumption and Assignment Procedures shall require Sellers to serve on each non-debtor contract counterparty a notice specifically stating (a) that Sellers are or may be seeking to assume and assign the Evaluated Contract, (b) the Cure Costs for each Evaluated Contract, and (c) the deadline for objecting to the Cure Costs, which will be no later than ten (10) business days prior to the hearing to consider approval of the Sale Order. The Assumption and Assignment Procedures will provide that upon objection by the non-debtor Evaluated Contract counterparty to the Cure Costs asserted by Sellers with regard to any Evaluated Contract (such contract, a "**Disputed Contract**"), Sellers shall either settle the objection of such party or litigate such objection under procedures as the Bankruptcy Court will approve and prescribe. In no event shall any Seller settle a Cure Costs objection with regard to any Evaluated Contract without the express written consent of Purchaser (with an email consent being sufficient) unless the settlement solely involves the amount of the Cure Costs or the obligation of Sellers to pay the Cure Costs.

6.2.6 Sale Order. The "**Sale Order**" shall be an order of the Bankruptcy Court in substantially the form of **Exhibit 6.2.6** or otherwise in form and substance satisfactory to each of Purchaser and Sellers in their respective reasonable judgment, pursuant to, *inter alia*, Sections 105, 363 and 365 of the Bankruptcy Code authorizing and approving this Agreement and the transactions contemplated by this Agreement. Neither Purchaser nor Sellers shall be required to accept a Sale Order that does not, and it will be deemed reasonable for Purchaser or Sellers to find a Sale Order unsatisfactory if it does not: (a) provide for the sale, transfer and assignment of all of Sellers' rights, title and interest in the Assets to Purchaser on the terms and conditions set forth in this Agreement, free and clear of all claims, Excluded Liabilities, and liens (including any successor liability) to the maximum extent permitted by law (other than Permitted Exceptions and the Assumed Obligations) and within the meaning of, and in compliance with, Section 363(f) of the Bankruptcy Code; (b) provide for the assumption and assignment of the Assumed Contracts, the Assumed Leases and the Assumed Obligations by and to Purchaser and contain a finding of adequate assurance of future performance with respect to same; (c) contain findings of fact and conclusions of law that the transactions contemplated herein are undertaken by Purchaser and Sellers at arm's length, without collusion and that Purchaser has acted in "good faith" within the meaning and entitled to the protections of Sections 363(m) and 363(n) of the Bankruptcy Code; (d) find that notice of the Auction and the hearing on the Sale Motion was good and sufficient; (e) provide that, other than the Assumed Obligations and Permitted Exceptions, Purchaser will not be responsible for any liability of Sellers; (f) find that the transfers of the Assets by Sellers to Purchaser constitute transfers for reasonably equivalent value and fair consideration under the Bankruptcy Code and the laws of the State of California; (g) hold that Purchaser is a not 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 and to the maximum extent permitted by applicable law permanently enjoin each and every holder of any claim or lien for such liabilities from commencing, continuing or otherwise pursuing or enforcing any remedy, claim, cause of action or lien against Purchaser or the Assets related thereto; and (h) provide for the waiver of the automatic stay provisions of Bankruptcy Rules 6004 and 6006.

6.2.7 Entry of Sale Order. Subject to Purchaser being designated as the Successful Bidder, Sellers shall promptly use commercially reasonable efforts to obtain entry of the Sale Order approving this Agreement and authorizing the transactions contemplated herein in accordance with the Sale Milestones, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for the purposes, among others, of providing necessary assurances of performance by Purchaser under this Agreement and demonstrating that Purchaser is a "good faith" purchaser under Section 363(m) of the Bankruptcy Code and that the Purchase Price was not controlled by an agreement in violation of Section 363(n) of the Bankruptcy Code.

6.2.8 Other Filings in the Bankruptcy Cases. Sellers shall promptly, and in no event less than three (3) business days prior to making any of the following filings in connection with the Bankruptcy Cases, provide Purchaser with the proposed final drafts of any and all motions (including the Sale Motion), applications, pleadings, schedules, statements, reports, proposed orders, and other papers (including exhibits and supporting documentation) filed by or on behalf of Sellers in the Bankruptcy Court related to or that might have an effect upon the purchase of the Assets, the Evaluated Contracts (including the Assumed Contracts and the Assumed Leases), this Agreement, or the consummation of the transactions or any provision thereof or herein, so as to provide Purchaser and its counsel with a reasonable opportunity to review and comment on such motions, applications, pleadings, schedules, statements, reports, proposed orders, and other papers prior to filing with the Bankruptcy Court, and insomuch as is consistent with Sellers' fiduciary duties, consider such comments in good faith. Should Purchaser file a notice of appearance in the Bankruptcy Cases, Sellers agree that Sellers consent to, and will act in no way to oppose (including, but not limited to, filing pleadings in opposition or encouraging, in any way, other third parties or parties of interest to oppose Purchaser's efforts), Purchaser's efforts to have standing to appear in the Bankruptcy Cases in connection with all proceedings regarding the sale of the Assets or the transactions identified in this Agreement in the Bankruptcy Cases.

6.2.9 Sale Milestones. The following events must occur by the dates set forth below (collectively, the "**Sale Milestone**s"), unless waived by written consent of Purchaser in each instance in its sole discretion:

(a) On or before the date that is no later than two (2) business days after the Signing Date, Sellers shall have filed the Sale Motion.

(b) On or before the date that is thirty (30) days after the Signing Date, the Bankruptcy Court shall have entered the Bidding Procedures Order.

(c) On or before the date that is seventy-five (75) days after the Signing Date, Sellers shall have conducted the Auction.

(d) On or before the date that is ninety (90) days after the Signing Date, the Bankruptcy Court shall have entered the Sale Order.

(e) On or before the date that is one hundred five (105) days after the Signing Date, the Closing shall have occurred.

6.3 Back-up Bidder. Sellers and Purchaser agree that, in the event that Purchaser is not the Successful Bidder at the Auction, and the Alternative Transaction with the Successful Bidder does not close, if and only if Purchaser is identified as the back-up bidder at the Auction pursuant to the Bid Procedures Order (the "**Back-up Bidder**"), Purchaser as the Back-up Bidder will promptly consummate the Transactions upon the terms and conditions as set forth herein. Purchaser agrees to be the Back-up Bidder, if so selected by Sellers in accordance with the Bid Procedures Order. In the circumstance where the Purchaser is declared to be the Back-up Bidder and if the Alternative Transaction fails to consummate, the Sellers shall be free to consummate the transaction set forth in this Agreement without the need for an additional auction or hearing of the Bankruptcy Court but Sellers must otherwise comply with the terms and conditions of this Agreement.

6.4 Auction Procedures. "**Overbid**" means any bid made at the Auction by a Competing Bid subsequent to Sellers' announcement of the baseline bid, which shall be the amount of the Purchase Price and the transaction set forth in this Agreement (the "**Baseline Bid**"). At the start of the Auction, Sellers shall describe the terms of the Baseline Bid. All incremental bids made thereafter shall be Overbids and shall be made and received on an open basis, and all material terms of each Overbid shall be fully disclosed to all other Qualified Bidders who submitted Qualified Bids, including Purchaser. All such Overbids shall be in increasing increments not less than Seven Million Five Hundred Thousand Dollars ($7,500,000). Sellers shall maintain a written transcript of all bids made and announced at the Auction, including the Baseline Bid, all applicable Overbids, and the Successful Bid. The initial Overbid, if any, shall provide for total consideration to Sellers with a value that exceeds the value of the consideration under the Baseline Bid by an incremental amount that is not less than the sum of the Bid Protections. Additional consideration in excess of the amount set forth in the respective Baseline Bid must include: (1) cash, or (2) in the case of a Qualified Bidder that has a valid and perfected lien on any assets of Sellers' estates (a "**Secured Creditor**"), a credit bid of up to the full amount of such Secured Creditors' allowed perfected lien, subject to Section 363(k) of the Bankruptcy Code and any other restrictions set forth herein. Sellers shall announce whether they have identified in the initial applicable Overbid round, an Overbid as being higher or otherwise better than the Baseline Bid for the Assets, or in subsequent rounds, the Overbid previously designated by Sellers as the prevailing highest or otherwise best Bid for the Assets (the "**Prevailing Highest Bid**"). Sellers shall describe to all Qualified Bidders the material terms of any new Overbid designated by Sellers as the Prevailing Highest Bid as well as the value attributable by Sellers to such Prevailing Highest Bid. The Auction shall continue until there is only one Qualified Bid that Sellers determine, in their reasonable business judgment to be the highest or otherwise best Qualified Bid (the "**Successful Bid**"). The Person submitting the Successful Bid shall be the Successful Bidder. Such acceptance by Sellers of the Successful Bid at the Auction is conditioned upon approval by the Bankruptcy Court of the Successful Bid and entry of the Sale Order.

6.5 Credit Bidding. In the event of a qualified Overbid at the Auction, Purchaser shall be entitled, but not obligated, to submit Overbids and shall be entitled in any and all such Overbids to include the full amount of the Bid Protections in lieu of cash and for purposes of evaluating the Overbid equal to cash in the same amount. Credit bids, if any, by Secured Creditors, shall not impair or otherwise affect Purchaser's entitlement to the Bid Protections granted under the Bidding Procedures Order. The Parties acknowledge and agree that provisions

substantially in the form of Sections 6.3, 6.4, and 6.5 shall be reflected in the Bidding Procedures Order.

6.6 Plan of Reorganization. Unless Purchaser is in material breach of this Agreement or this Agreement has been terminated pursuant to ARTICLE 9 herein, Sellers covenant and agree that if the Sale Order is entered, the terms of any plan submitted by Sellers to the Bankruptcy Court for confirmation or otherwise supported by Sellers shall not conflict with, supersede, abrogate, nullify, modify or restrict the terms of this Agreement or the rights of Purchaser hereunder, or in any way prevent or interfere with the consummation or performance of any transaction that is contemplated by this Agreement or approved pursuant to the Sale Order. The Sale Order shall reflect the terms of this Section 6.6.

6.7 Notice of Sale. Notice of the hearing on the Sale Motion, and request for entry of the Sale Order and the objection deadline shall be served by Sellers in accordance with the Bankruptcy Code and Bankruptcy Rules, including Bankruptcy Rules 2002, 6004, 6006 and 9014, any applicable local rules of the Bankruptcy Court and any orders of the Bankruptcy Court on all persons required to receive notice (collectively, the "**Notice Parties**"). Sellers shall provide notice to the Notice Parties that all responses or objections to the Sale Motion will be served on, among others, counsel to Purchaser.

6.8 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. An appeal, however, does not relieve or excuse Sellers from their obligations to comply with the Sale Milestones.

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 by Purchaser 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 shall remain in effect on the Closing Date, and further, no Governmental Entity shall have commenced any action or suit before any court of competent jurisdiction or

other governmental authority that seeks to restrain or prohibit the consummation of the transactions contemplated hereby.

7.3 Performance of Covenants. Purchaser shall have in all material respects performed or complied with each and all of the obligations, covenants, and agreements required to be performed or complied with by it on or prior to the Closing Date.

7.4 Governmental Authorizations. Purchaser shall have obtained all material licenses, permits and authorizations from governmental agencies or governmental bodies that are necessary or required for completion of the transactions contemplated by this Agreement, including reasonable assurances that any material licenses, permits and authorizations not actually issued as of the Closing will be issued following Closing (which may include oral assurances from appropriate governmental agencies or bodies).

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

7.6 Representations and Warranties. The representations and warranties of Purchaser set forth in this Agreement will be true, correct, and complete in all respects at and as of the Closing Date, as if made on and as of the Closing Date (or, to the extent given as of a specific date, as of such date), except where the failure of such representations and warranties to be true, correct, and complete would not have or reasonably be expected to have a material adverse effect on Purchaser's ability to consummate the transactions contemplated hereby and purchase the Assets.

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 (or such earlier date as specified below) unless specifically waived in writing by Purchaser in whole or in part at or prior to the Closing (or such earlier date as specified below):

8.1 Signing and Delivery of Instruments. Each Seller shall have executed and delivered all documents, instruments, and certificates required to be executed and delivered by such Seller 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 shall remain in effect on the Closing Date, and further, no Governmental Entity shall have commenced any action or suit before any court of competent jurisdiction or other governmental authority that seeks to restrain or prohibit the consummation of the transactions contemplated hereby, or that would materially and adversely affect the operation of the Hospitals or the Assets by Purchaser on or after the Effective Time.

8.3 Performance of Covenants. Each Seller shall have in all material respects performed or complied with each and all of the obligations, covenants, and agreements required to be performed or complied with by such Seller on or prior to the Closing Date.

8.4 Governmental Authorizations. Purchaser shall have obtained all material licenses, permits, and authorizations from governmental agencies or governmental bodies that are necessary or required for completion of the transactions contemplated by this Agreement, including reasonable assurances that any material licenses, permits, and authorizations not actually issued as of the Closing will be issued following Closing (which may include oral assurances from appropriate governmental agencies or bodies). Without limiting the generality of the foregoing, Purchaser shall have obtained all licenses, permits, and authorizations from governmental agencies or governmental bodies that are required for operation of the Businesses and all of the Assets, and O'Connor Hospital shall be licensed under Santa Clara Valley Medical Center's hospital license as of the Effective Time. Notwithstanding the foregoing, approval of the Attorney General of the State of California shall not be a condition precedent to Purchaser's obligation to close the transactions contemplated by this Agreement.

8.5 Bankruptcy Court Approval. The Bankruptcy Court shall have entered the Sale Order in accordance with the terms set forth herein (including Section 6.2.6) and otherwise in form and substance acceptable to Purchaser as determined in Purchaser's reasonable discretion.

8.6 Representations and Warranties. The representations and warranties of Sellers set forth in this Agreement shall be true, correct, and complete in all respects at and as of the Closing Date, as if made on and as of the Closing Date (or, to the extent given as of a specific date, as of such date), except where the failure of such representations and warranties to be true, correct, and complete would not cause or reasonably be expected to cause a Material Adverse Change, or materially impact Purchaser's ability to consummate the transactions contemplated hereby and purchase the Assets.

8.7 Sale Milestones. The satisfaction or occurrence of the Sale Milestones shall have occurred in accordance with the dates set forth in the definition of Sale Milestones set forth in Section 6.2.9.

8.8 Medicare and Medi-Cal Provider Agreements. Following consultation with Purchaser, Sellers shall have obtained agreements with the Medicare and Medi-Cal agencies with respect to the assumption and assignment of Seller's provider agreements with such agencies, which agreements shall be acceptable to Purchaser, as determined in Purchaser's reasonable discretion.

8.9 Assumption and Assignment. The Bankruptcy Court shall have approved and authorized the assumption and assignment of each Assumed Contract and Assumed Lease, free and clear of all liens, encumbrances, and pre-closing liabilities or obligations of any kind.

8.10 Material Adverse Change. No Material Adverse Change shall have occurred since the Signing Date.

8.11 Title Matters. The Title Company shall have issued or irrevocably committed to issue to Purchaser the Title Policy in compliance with Section 10.1 hereof.

8.12 455 JV.

8.12.1 OCH Forest 1, a California limited partnership, the general partner of the 455 JV, shall have irrevocably waived its rights of first refusal to acquire OCHC's limited partnership interest in the 455 JV by virtue of the transactions contemplated by this Agreement, or such rights of first refusal shall otherwise have irrevocably expired or be terminated and be of no force and effect, thereby enabling Purchaser to acquire such limited partnership interest as an Asset pursuant to this Agreement. Sellers shall provide notice to such general partner of the offer by OCHC to sell its interest in the 455 JV within ten (10) days after the Signing Date; or

8.12.2 If the condition set forth in Section 8.12.1 shall not be satisfied on or before five (5) business days prior to the Closing Date, the Purchase Price shall be reduced by Eighteen Million Dollars ($18,000,000) (the "**455 JV Amount**"), and all interests held by OCHC in the 455 JV shall be among the Excluded Assets.

8.13 Labor Agreements and Obligations. Purchaser shall be satisfied, in its reasonable discretion, by the terms of the Sale Order or otherwise, that all Labor Obligations are Excluded Liabilities and that the Assets are being sold and transferred to Purchaser free and clear of any and all Labor Obligations to the maximum extent permitted by law. For purposes of this Agreement, "**Labor Obligations**" shall mean (a) legal and/or contractual obligations relating to the employment of labor including, without limitation, any provisions relating to wages, hours, equal employment, occupational safety and health, workers' compensation, unemployment insurance, collective bargaining, immigration, affirmative action, and the payment and withholding of social security and other taxes; (b) terms of all collective bargaining agreements, and any and all other agreements and understandings that are in place with any labor unions, trade associations, or other employee organizations that represent or have written a demand for recognition with respect to any Seller Employees; and (c) retirement, pension, employee, or welfare-benefits obligations with respect to any Seller Employees.

8.14 Participation in Certain Programs. Purchaser shall be in receipt of confirmation or reasonable assurances from the applicable reimbursement program, which shall be satisfactory to Purchaser as determined in Purchaser's reasonable discretion, that the Hospitals will be able to participate in those certain reimbursement programs described on **Schedule 8.14** for any applicable period after the Closing Date.

8.15 County Approval. On or prior to the Pre-Auction Date, Purchaser shall have obtained approval from the Board of Supervisors of the County of Santa Clara to purchase the Assets in accordance with all applicable laws, including, but not limited to, approval to purchase the Owned Real Property in accordance with the requirements for California Government Code Sections 6063 and 25350, which requirements include the publication of notice of intent to purchase for three consecutive weeks followed by a public hearing to consider approval of the purchase. If the foregoing has not been satisfied as of the Pre-Auction Date, Purchaser shall have the right, exercisable in its sole and absolute discretion, to terminate this Agreement and elect not to proceed with the transactions contemplated hereby by providing written notice to Sellers on or prior to the Pre-Auction Date; provided, however, if Purchaser does not so terminate this Agreement, the condition described in this Section 8.15 shall be deemed to be null and void after the Pre-Auction Date.

8.16 Schedules and Exhibits.

8.16.1 Purchaser shall be satisfied, in its sole and absolute discretion, with the contents of the Disclosure Letter and with the contents of any schedule or exhibit that was not completed and attached hereto as of the Signing Date. If Purchaser is not so satisfied and elects not to proceed with the Closing as a result thereof, Purchaser shall have the right, exercisable in its sole and absolute discretion, to terminate this Agreement and elect not to proceed with the transactions contemplated hereby by providing written notice to Sellers no later than forty-five (45) days after the Signing Date; provided, however, if Purchaser does not so terminate this Agreement, the condition described in this Section 8.16.1 shall be deemed to be null and void after such date.

8.16.2 Purchaser shall be satisfied, in its sole and absolute discretion, with any Material Update made by Sellers after the Signing Date.

8.17 Phase I. Purchaser shall have received, and shall be satisfied, in its sole and absolute discretion, with the results of the Phase I environmental site assessments conducted with respect to the Real Property delivered to Purchaser pursuant to Section 4.16, and Purchaser shall also be satisfied, in its sole and absolute discretion, with the environmental condition of the Real Property. If Purchaser is not so satisfied and elects not to proceed with the Closing as a result thereof, Purchaser shall have the right, exercisable in its sole and absolute discretion, to terminate this Agreement and elect not to proceed with the transactions contemplated hereby by providing written notice to Sellers no later than ten (10) business days after the date that Purchaser receives all of such Phase I environmental site assessments from Sellers; provided, however, if Purchaser does not so terminate this Agreement, the condition described in this Section 8.17 shall be deemed to be null and void after such date.

8.18 Survey. Purchaser shall have received, and shall be satisfied, in its sole and absolute discretion, with the results of the Survey. If Purchaser is not so satisfied and elects not to proceed with the Closing as a result thereof, Purchaser shall have the right, exercisable in its sole and absolute discretion, to terminate this Agreement and elect not to proceed with the transactions contemplated hereby by providing written notice to Sellers no later than ten (10) business days after the date that Purchaser receives the Survey from Sellers; provided, however, if Purchaser does not so terminate this Agreement, the condition described in this Section 8.18 shall be deemed to be null and void after such date.

8.19 Due Diligence. Purchaser shall have completed to its satisfaction, in its sole and absolute discretion, its due diligence investigation of the condition (financial and other), operations, and general affairs of Sellers, the Businesses, and the Assets, including, without limitation, compliance with all applicable laws. If Purchaser is not so satisfied and elects not to proceed with the Closing as a result thereof, Purchaser shall have the right, exercisable in its sole and absolute discretion, to terminate this Agreement and elect not to proceed with the transactions contemplated hereby by providing written notice to Sellers no later than forty-five (45) days after the Signing Date; provided, however, if Purchaser does not so terminate this Agreement, the condition described in this Section 8.19 shall be deemed to be null and void after such date.

ARTICLE 9

TERMINATION

9.1 Destruction of Assets. For purposes of this Agreement, damage or destruction to the Assets shall be deemed a "**Material Casualty**" if, as reasonably determined by the Parties, the estimated cost to repair such damage or destruction in the aggregate (the "**Aggregate Damage**") exceeds Eleven Million Seven Hundred Fifty Thousand Dollars ($11,750,000).

9.1.1 If, prior to or as of the Closing Date, any portion of the Assets have suffered loss or damage on account of fire, flood, wind, hurricane, earthquake, accident, act of war, terrorist act, civil commotion, or other cause or event (whether or not similar to the foregoing), and such casualty is a Material Casualty, Purchaser shall have the right to terminate this Agreement by giving at least five (5) days' prior written notice to Sellers.

9.1.2 If such damage or destruction is not a Material Casualty, the Parties' duties and obligations under this Agreement shall not be affected and the Closing shall proceed as scheduled in accordance with the terms of this Agreement; provided, however, Sellers shall assign, transfer, and set over to Purchaser all of Sellers' respective right, title, and interest in and to any third party insurance policy proceeds on account of such damage or destruction not remedied or repaired by Sellers prior to the Closing, and if such third party insurance policy proceeds are insufficient to repair, restore, and/or replace the affected Assets or Businesses, the difference between the cost to repair, restore, and/or replace and the amount of such proceeds shall be deducted from the Purchase Price.

9.1.3 If such damage or destruction constitutes a Material Casualty, and Purchaser does not terminate this Agreement as provided in Section 9.1.1, despite such Material Casualty, then at the Closing, Sellers shall assign, transfer, and set over to Purchaser all of Sellers' respective right, title, and interest in and to any third party insurance policy proceeds on account of such damage or destruction, and if such third party insurance proceeds are insufficient to repair, restore, and/or replace the affected Assets or properties, the difference between the cost to repair, restore, and/or replace and the amount of such proceeds shall be deducted from the Purchase Price, in an amount not to exceed Eleven Million Seven Hundred Fifty Thousand Dollars ($11,750,000), it being the intention of the Parties that Purchaser shall bear the risk of loss for any damage exceeding Eleven Million Seven Hundred Fifty Thousand Dollars ($11,750,000).

9.1.4 If Sellers and Purchaser are unable to agree as to the amount of Aggregate Damage and/or whether a Material Casualty has occurred (and/or any applicable Purchase Price adjustment) in connection with this Section 9.1, the amount of Aggregate Damage and/or determination whether a Material Casualty has occurred shall be determined by the loss consultant mutually designated by the Parties and set forth on **Schedule 9.1.4** (the "**Loss Consultant**"). The Loss Consultant, acting as an expert and not as an arbitrator, shall determine the definitive amount of the Aggregate Damage (and any applicable adjustment to the Purchase Price), or shall otherwise determine whether a Material Casualty has occurred, by selecting either the submission of Sellers or the submission of Purchaser, without making any adjustment thereto, which selection shall occur no later than ten (10) days following the date the Loss

Consultant has received the submission from each of Sellers and Purchaser. Subject to Bankruptcy Court approval, the decision of the Loss Consultant shall be conclusive and binding as between Sellers and Purchaser, and the costs of such review shall be borne by the party whose submission is not selected by the Loss Consultant. If the decision of the Loss Consultant will fall on a date that is after the Termination Date, then the Termination Date will be extended until ten (10) days after the date of the Loss Consultant's decision.

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

9.2.1 by the mutual written consent of the Parties;

9.2.2 by Sellers if a material breach of this Agreement has been committed by Purchaser and such breach has not been (a) waived in writing by Sellers, or (b) cured by Purchaser to the reasonable satisfaction of Sellers within fifteen (15) business days after service by Sellers upon Purchaser of a written notice which describes the nature of such breach; provided, however, Sellers shall not be permitted to terminate this Agreement pursuant to this Section 9.2.2 if any Seller is also in material breach of this Agreement;

9.2.3 by Purchaser if a material breach of this Agreement has been committed by Sellers and such breach has not been (a) waived in writing by Purchaser, or (b) cured by Sellers to the reasonable satisfaction of Purchaser within fifteen (15) business days after service by Purchaser upon Sellers of a written notice which describes the nature of such breach; provided, however, Purchaser shall not be permitted to terminate this Agreement pursuant to this Section 9.2.3 if Purchaser is also in material breach of this Agreement;

9.2.4 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 (a) through the failure of Purchaser to comply with its obligations under this Agreement, or (b) 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);

9.2.5 by Sellers if satisfaction of any 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 (a) through the failure of Sellers to comply with their obligations under this Agreement, or (b) 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);

9.2.6 by Purchaser or Sellers if the Bankruptcy Court enters an order dismissing the Bankruptcy Cases prior to the approval of the Sale Motion and entry of the Sale Order;

9.2.7 by 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 February 28, 2019 (the "**Termination Date**");

9.2.8 by Purchaser or Sellers if there will be in effect a final nonappealable order of a governmental body of competent jurisdiction restraining, enjoining, or otherwise prohibiting the consummation of the transactions described in this Agreement;

9.2.9 by Purchaser or Sellers in the event that Purchaser is not the Successful Bidder at the Auction and Purchaser has not been selected by the Sellers as the Back-Up Bidder at the Auction, by giving written notice at any time to the other party after the conclusion of the Auction, subject, in each case, to Purchaser's right to receive payment of the Bid Protections under Section 9.4.;

9.2.10 by Purchaser or Sellers by giving written notice to the other party, if (a) (i) any Seller enters into a definitive agreement with respect to an Alternative Transaction, (ii) the Bankruptcy Court enters an order approving an Alternative Transaction, and (iii) the Alternative Transaction is consummated, or (b) the Bankruptcy Court enters an order that precludes the consummation of the transactions contemplated hereby on the terms and conditions set forth in this Agreement, subject, in each case, to Purchaser's right to receive payment of the Bid Protections under Section 9.4;

9.2.11 by Purchaser in accordance with Section 9.1;

9.2.12 by Purchaser in accordance with Section 8.15, provided that notice of such termination must be provided to Sellers no later than the Pre-Auction Date;

9.2.13 by Purchaser in accordance with Section 8.16.1, provided that notice of such termination must be provided to Sellers no later than forty-five (45) days after the Signing Date;

9.2.14 by Purchaser in accordance with Section 8.17, provided that notice of such termination must be provided to Sellers no later than ten (10) business days after the date that Purchaser receives all of the Phase I environmental site assessments from Sellers pursuant to Section 4.16;

9.2.15 by Purchaser in accordance with Section 8.18, provided that notice of such termination must be provided to Sellers no later than ten (10) business days after the date that Purchaser receives the Survey from Sellers; or

9.2.16 by Purchaser in accordance with Section 8.19, provided that notice of such termination must be provided to Sellers no later than forty-five (45) days after the Signing Date.

9.3 Procedure upon Termination. In the event of termination by Purchaser or Sellers, or both, pursuant to Section 9.2, written notice thereof will forthwith be given to the other Parties, and this Agreement will terminate, and the purchase of the Assets hereunder will be abandoned, without further action by Purchaser or Sellers.

9.4 Payment of Bid Protections upon Termination. Notwithstanding anything to the contrary in this Agreement, in addition to Sellers' obligations to cause the release of the Deposit to Purchaser in accordance with Section 6.1.9, Sellers shall pay to Purchaser the Bid Protections (and the Deposit to the extent the Purchaser was selected as the Back-up Bidder) by wire transfer

of immediately available funds immediately, and contemporaneous with, the closing of the Alternative Transaction in the event of termination of this Agreement pursuant to Section 9.2.9 or Section 9.2.10. If no Alternative Transaction closes, the Bid Protections will not be due or paid but the Deposit shall be paid to the Purchaser within thirty (30) days after the conclusion of the Auction in which Purchaser is not the Successful Bidder. In addition, if Sellers fail to pay any amounts due to Purchaser pursuant to this Section 9.4 within the time period specified herein, Sellers shall also pay the costs and expenses (including reasonable legal fees and expenses) incurred by Purchaser in connection with any action or proceeding taken to collect payment of such amounts; provided, however, to the extent any portion of the Expense Reimbursement is being contested in good faith, Sellers shall (a) promptly pay the undisputed portion of the expense claimed by Purchaser, and (b) set aside the disputed portion of such expense in a separate interest bearing account for the sole benefit of Purchaser pending the resolution of such dispute. The Parties acknowledge and agree that, in the event that the payment of the Breakup Fee and the Expense Reimbursement (including any costs of collection) described in this Section 9.4 becomes due and payable, and such amounts are actually paid to Purchaser, such amounts will constitute liquidated damages (and not a penalty). The Parties acknowledge and agree that (i) the agreements contained in this Section 9.4 are an integral part of this Agreement and the transactions contemplated herein and are a material and necessary inducement to Purchaser to enter into this Agreement and to consummate the transactions contemplated herein, and (ii) in light of the difficulty of accurately determining actual damages with respect to the foregoing, the right to any such payment of the Bid Protections (and any related collection costs) and the return of the Deposit to Purchaser constitute a reasonable estimate of the damages that will compensate Purchaser in the circumstances in which such fees are payable for the efforts and resources expended and the opportunities foregone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the transactions contemplated herein. Sellers acknowledge and agree that the entry into this Agreement provides value to Sellers' chapter 11 estates and Bankruptcy Cases by, among other things, inducing other Persons to submit higher or better offers for the Assets.

9.5 Termination Consequences. If this Agreement is terminated pursuant to Section 9.2, (other than pursuant to Sections 9.2.9 or Section 9.2.10, in which case Section 9.4 shall govern): (a) all further obligations of the Parties under this Agreement shall terminate, provided that the provisions of ARTICLE 16 shall survive, (b) each party shall pay the costs and expenses incurred by it in connection with this Agreement (except as set forth in Section 9.4) and (c) except in the event of termination of this Agreement pursuant to Section 9.2.2 (in which event the Deposit shall be retained by Sellers), the Deposit shall be returned by wire transfer to Purchaser by Sellers within three business days after the termination of this Agreement. Each party acknowledges that the agreements contained in this Section 9.5 are an integral part of the transactions contemplated by this Agreement, and that without these agreements such party would not have entered into this Agreement. The Parties acknowledge and agree that if the Deposit is retained by Sellers as a result of termination of this Agreement pursuant to Section 9.2.2, as described above, such retention of the Deposit shall be the sole and exclusive remedy available to Sellers against Purchaser arising out of this Agreement and the transactions contemplated hereby, including any breach of this Agreement by Purchaser.

ARTICLE 10

TITLE MATTERS

10.1 Title Policy. As a condition to Closing, at Sellers' sole cost and expense, First American Title Insurance Company (the "**Title Company**") shall deliver to Purchaser at or before the Closing, or be irrevocably committed to deliver to Purchaser within ten (10) days after the Closing, an ALTA Extended Coverage Owner's Title Insurance Policy (or Policies) (the "**Title Policy**") (i.e., the Title Policy shall have deleted or modified those standard and general exceptions which are customarily deleted or modified so as to afford full "extended form coverage") dated as of the Closing. The Title Policy amount shall equal the full insurable value of the Owned Real Property and, if Purchaser elects, the full insurable value of the Leased Real Property set forth on **Schedule 4.15**. The Title Policy shall show fee simple title to (full ownership interest in) the Owned Real Property and, if Purchaser elects, leasehold title to the Leased Real Property set forth on **Schedule 4.15**, in Purchaser subject only to those exceptions listed on **Schedule 10.1** hereto, which shall be Permitted Exceptions as such term is used in this Agreement. The Title Policy shall include the following endorsements: (a) Hill-Burton affirmative language; (b) Zoning 3.0 or Zoning 3.1, at the option of Purchaser; (c) Contiguity; (d) Access and/or Street Abutment; (e) Survey Guaranty; (f) endorsement confirming Subdivision Map Act (California Government Code Section 66410 et seq.) compliance; and (g) any other endorsements requested by Purchaser for matters relating to exceptions disclosed in the Title Policy. Sellers shall pay all title insurance premiums and related work charges and expenses for issuance of the Title Policy (including any expenses or charges for title reports or title commitments), as well as the charges for any endorsements to the Title Policy. All recording charges in connection with the conveyance of the Assets to Purchaser shall be borne by Sellers.

10.2 Defects and Cure. In the event that any title commitment or title report referenced on **Schedule 10.1** discloses any liens, privileges, claims, exceptions or defects which do not constitute Permitted Exceptions, or any exceptions or defects are disclosed in the Survey that are not acceptable to Purchaser in its reasonable discretion (collectively, "**Defects**"), Sellers, at their sole cost and expense, shall cure the Defects and, as applicable, cause them to be removed as exceptions to title and shall satisfy all requirements imposed by the Title Company in connection therewith as soon as reasonably possible, but in no event later than the Closing. If any supplemental title commitment or title report or updates to the Survey are issued by the Title Company and/or the Surveyor, Purchaser shall notify Sellers promptly after its receipt of the same of any liens, privileges, claims, exceptions or defects disclosed which are not acceptable to Purchaser, as determined in Purchaser's reasonable discretion, and those matters shall thereafter be deemed "Defects" under this Agreement. If, by the Closing, Sellers fail to cure all Defects in a manner acceptable to Purchaser, as determined in Purchaser's reasonable discretion, then Purchaser may: (a) terminate this Agreement by written notice to Sellers; provided that such termination shall not be deemed a waiver of any rights or remedies available to Purchaser hereunder or under applicable law by reason of Sellers' breach of their obligation to cure the Defects or to cause the Title Company to insure over the Defects; or (b) proceed to close by deducting from the Purchase Price the amount necessary, in Purchaser's and Sellers' reasonable determination, to cure and/or cause the Title Company to insure and/or endorse over such Defects.

ARTICLE 11

POST-CLOSING MATTERS

11.1 Excluded Assets and Excluded Liabilities. Any asset or any liability, all other remittances and all mail and other communications that are determined by this Agreement, the Parties' agreement, or, absent such agreement, as determined by adjudication by the Bankruptcy Court, to be or otherwise relate to an Excluded Asset or an Excluded Liability, and that is or comes into the possession, custody or control of Purchaser (or its respective successors-in-interest, assigns or affiliates) shall promptly be transferred, assigned or conveyed by Purchaser (and its respective successors-in-interest, assigns and affiliates) to Sellers (or a Seller, as applicable), at Sellers' sole cost and expense. Until such transfer, assignment, or conveyance, Purchaser (and its respective successors-in-interest, assigns, or affiliates) shall not have any right, title, or interest in or obligation or responsibility with respect thereto except that Purchaser shall hold same in trust for Sellers.

11.2 Assets and Assumed Obligations. Any asset or any liability, all other remittances and all mail and other communications that are determined by this Agreement, the Parties' agreement, or, absent such agreement, as determined by adjudication by the Bankruptcy Court, to be or otherwise relate to an Asset or an Assumed Obligation, and that is or comes into the possession, custody or control of any Seller (or its successors-in-interest or assigns, or its respective affiliates) shall forthwith be transferred, assigned or conveyed by Sellers (or their respective successors-in-interest or assigns and their respective affiliates) to Purchaser, at Purchaser's sole cost and expense. Until such transfer, assignment and conveyance, Sellers (and their respective successors-in-interest and assigns and their respective affiliates) shall not have any right, title or interest in or obligation or responsibility with respect thereto except that Sellers shall hold same in trust for the benefit of Purchaser.

11.3 Preservation and Access to Records after the Closing.

11.3.1 From the Closing Date until seven (7) years after the Closing 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, reasonable access to, and, at Sellers' sole cost and expense, copies of such records with respect to time periods prior to the Effective Time (including, without limitation, access to records of patients treated at the Hospitals prior to the Effective Time) during normal business hours after the Effective Time, to the extent reasonably needed by any Seller Party for any lawful purpose. 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 11.3.1, 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, to the extent permitted by

applicable law. If any of the Seller Parties does 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.

11.3.2 Provided that Purchaser shall not incur any out of pocket costs in connection therewith, Purchaser shall reasonably cooperate with 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 Sellers or the Hospitals that any Seller Party may elect to pursue, dispute, or defend in respect of events occurring prior to the Effective Time with respect to the operation of the Hospitals. Such cooperation shall include (at Sellers' sole cost and expense for material time expended by the Hired Employees or other employees or representatives of Purchaser), 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. Without limiting the foregoing, Purchaser shall not be required to incur any out of pocket costs in association therewith. In addition, Sellers and their affiliates shall be entitled to remove from the Hospitals 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 their affiliates in connection with such litigation, and only if Sellers and their affiliates leave a copy thereof with Purchaser at all times. Any records so removed from the Hospital shall be promptly returned to Purchaser following Sellers' or their applicable affiliate's use of such records.

11.3.3 In connection with (a) the transition of the Hospitals pursuant to the transactions contemplated by this Agreement, (b) Sellers' rights to the Excluded Assets, (c) any claim, audit, or proceeding which is among the Excluded Liabilities or Excluded Assets, including, without limitation, any tax claim, audit, or proceeding, in each case, which is among the Excluded Liabilities or Excluded Assets, and (d) Sellers' obligations under the Excluded Liabilities, Purchaser shall after the Effective Time, at Sellers' sole cost and expense, give Sellers reasonable access during normal business hours to Purchaser's books, personnel, accounts, records, and all other relevant documents and information with respect to the assets, liabilities and business of the Hospitals as representatives of Sellers and their affiliates may from time to time reasonably request, all in such manner as not to unreasonably interfere with the operations of the Hospitals. Such documents and other materials shall be, at Purchaser's option, either (i) copied by Purchaser for Sellers at Sellers' expense, or (ii) removed by Sellers from the premises, copied by Sellers, and promptly returned to Purchaser.

11.3.4 At Purchaser's sole cost and expense, Purchaser and its representatives shall be given reasonable access by Sellers during normal business hours to the extent reasonably needed by Purchaser for business purposes to all documents, records, correspondence, personnel, work papers and other documents and information retained by Sellers pertaining to any of the Assets prior to the Effective Time, all in such manner as to not interfere unreasonably with Sellers. Such documents and other materials shall be, at Sellers' option, either (a) copied by Sellers for Purchaser at Purchaser's expense, or (b) removed by Purchaser from the premises, copied by Purchaser and promptly returned to Sellers.

11.3.5 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 Hospitals or any of the Hospitals' committees prior to the Effective Time, prior to any disclosure of such documents (to the extent feasible), Purchaser shall notify Sellers, and shall provide Sellers with the opportunity to object to, and otherwise coordinate with respect to, such request or demand.

11.4 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 each Hospital after the Effective Time (the "**Post-Effective Time CFOs**") to cooperate with Sellers' representatives in order to complete the standardized closing of Sellers' financial records through the Closing Date including, without limitation, the closing of general ledger account reconciliations (collectively, the "**Closing of Financials**"). Purchaser shall cause the Post-Effective Time CFOs 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 thirty (30) calendar days after the Closing Date. The Post-Effective Time CFOs 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 CFOs' other duties. All of the foregoing described in this Section 11.4 shall be at Sellers' sole cost and expense for material time expended by the Post-Effective Time CFOs or other employees or representatives of Purchaser in connection therewith.

11.5 Medical Staff. To ensure continuity of care in the community, Purchaser agrees that each Hospital's medical staff members in good standing as of the Effective Time shall maintain medical staff privileges at such Hospital as of the Effective Time in accordance with such Hospital's Medical Staff Bylaws then in effect as approved by the County Board of Supervisors; provided, however, if O'Connor Hospital is operated under SCVMC's hospital license as of the Effective Time, then O'Connor Hospital medical staff members who are not already members of the SCVMC medical staff will be encouraged to apply for medical staff membership with SCVMC pursuant to and in accordance with the SCVMC medical staff's policies and procedures, provided that such applications will be processed on an expedited basis for all such individuals who are in good standing with the O'Connor Hospital medical staff.

11.6 Provision of Benefits. If the Parties are unable to obtain any consent which is required by the terms of any Assumed Contract or Assumed Lease to the assignment of any Seller's interest in an Assumed Contract or Assumed Lease, and the Closing occurs, until such consent is obtained, Sellers shall provide Purchaser the benefits of any such Assumed Contract or Assumed Lease, cooperate in any reasonable arrangement designed to provide such benefits to Purchaser, and allow Purchaser to directly enforce such Assumed Contracts or Assumed Lease against third parties thereto. Provided that Sellers provide Purchaser with such benefits and allow Purchaser to enforce such a contract or lease as described in the preceding sentence, Purchaser shall use reasonable commercial efforts to perform, on behalf of Sellers, the obligations of any Seller thereunder or in connection therewith, but only to the extent that such action would not result in a material default thereunder or in connection therewith and such

obligation would have been among the Assumed Obligations but for the failure to obtain a consent.

ARTICLE 12

POST-CLOSING COVENANTS OF SELLERS

12.1 Noncompetition. As an inducement to Purchaser to enter into this Agreement and to consummate the transactions contemplated hereby, no Seller, nor, except as set forth on **Schedule 12.1**, any other debtor in the Bankruptcy Cases, shall, for a period of five (5) years following the Closing Date, without the prior written consent of Purchaser, directly or indirectly, alone or by affiliation with another person, invest in, own, manage, operate, join, control, or participate in the ownership, management, operation, or control of, or serve as a consultant or lender to, any hospital, medical center, or similar health care facility within Santa Clara County, California. Each Seller shall cause each of the debtors in the Bankruptcy Cases, to comply with the obligations imposed by this Section 12.1. In the event that the provisions contained in this Section 12.1 shall ever be deemed to exceed the time or geographic limits or any other limitations permitted by applicable law in any jurisdiction, then such provisions shall be deemed reformed in such jurisdiction to the maximum extent permitted by applicable law. The provisions of this Section 12.1 shall survive the Closing.

12.2 Nonsolicitation. For a period of five (5) years following the Closing Date, Sellers shall not, directly or indirectly, and Sellers shall cause the other debtors in the Bankruptcy Cases, not to, in any capacity:

12.2.1 take any affirmative act with the intent of causing any Person to terminate any contract, lease, or agreement with the Hospitals or Purchaser for the provision or arrangement of services to or from the Hospitals or Purchaser. In the event that the provisions contained in this Section 12.2 shall ever be deemed to exceed the time or geographic limits or any other limitations permitted by applicable law in any jurisdiction, then such provisions shall be deemed reformed in such jurisdiction to the maximum extent permitted by applicable law; or

12.2.2 solicit for employment any of the Hired Employees, or encourage any such employee to leave such employment, except pursuant to a general solicitation which is not directed specifically to any such employees; provided, however, nothing in this Section 12.2.2 shall prevent any Seller (or other debtor in the Bankruptcy Cases) from (a) soliciting for employment any Hired Employee whose employment has been terminated by Purchaser through no fault of a Seller or a debtor in the Bankruptcy Cases, or (ii) considering for hire or hiring any of the Hired Employees who apply for employment with a Seller or a debtor in the Bankruptcy Cases, without direct or indirect solicitation by any Seller or a debtor in the Bankruptcy Cases.

12.3 Enforceability. Sellers hereby acknowledge that the restrictions and covenants contained in Section 12.1 and Section 12.2 are a condition precedent to Purchaser entering into this Agreement, and that such restrictions and covenants are reasonable and necessary to protect the legitimate interests of Purchaser following the Closing Date. Sellers also hereby acknowledge and agree that any breach of Section 12.1 or Section 12.2 would result in irreparable injury to Purchaser and that any remedy at law for any breach of Section 12.1 or

Section 12.2 would be inadequate. Notwithstanding anything to the contrary in this Agreement, Sellers hereby specifically acknowledge and agree that, without necessity of proof of actual damage, Purchaser may be granted temporary and/or permanent injunctive relief, Purchaser shall be entitled to an equitable accounting of all earnings, profits, and other benefits arising from such breach, and Purchaser shall be entitled to recover its reasonable fees and expenses, including attorneys' fees, incurred by Purchaser in enforcing the restrictions contained in Section 12.1 or Section 12.2.

12.4 Third Party Reimbursement. Sellers shall be responsible for every liability of every kind or nature, known or unknown, to Medicare, Medi-Cal and any other applicable government programs resulting, arising from, or relating to the services rendered at the Hospitals prior to the Effective Time, regardless of when any such claim is made, including, without limitation, any amounts for any claims for reimbursement to any Seller under Medicare, Medi-Cal or any other applicable government program for which it is determined that a Seller is not entitled, and for which Purchaser incurs liability or expense. To the extent that Purchaser incurs any such liability or expense, it shall be considered Damages pursuant to Section 15.2, and Purchaser shall notify Sellers and the Escrow Agent, and Purchaser shall immediately be entitled to be paid funds from the Escrow Account by the Escrow Agent to offset all such Damages; provided, however, subject to Sellers' right to diligently and reasonably contest or appeal any liability, as applicable, being sought by any applicable government program, and to promptly obtain a deferral of the recoupment or repayment sought by the applicable government program, Purchaser's right to funds from the Escrow Account as described above in this Section 12.4 shall be deferred for the period of any such deferral obtained by Sellers from the applicable government program, unless Purchaser actually incurs Damages before then. Sellers shall not compromise or settle any such claim without the consent of Purchaser; provided, however, if any settlement by a Seller does not impose any continuing or future liability on Purchaser, Purchaser shall not unreasonably delay or deny its consent to any such settlement; provided, further, that the foregoing shall not alter or limit Purchaser's right to be paid funds out of the Escrow Account for any Damages arising out of any such claim pursuant to ARTICLE 15. Sellers shall, within ten (10) business days after receipt by any Seller, pay over to Purchaser all revenues, if any, received by a Seller from Medicare, Medi-Cal or any other applicable government program with respect to services performed by Purchaser or otherwise with respect to services rendered at the Hospitals during any time period on or after the Effective Time.

12.5 Taxes. Sellers shall be responsible for every tax liability of every kind or nature, including without limitation any federal, state or local income, franchise, sales and use, employment or property tax of Sellers, known or unknown, resulting, arising from or related to (a) any transactions occurring on or before the Closing Date, (b) taxable periods ending on or before the Closing Date or (c) consummation of the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, Sellers shall be responsible for any sales and use taxes resulting, arising from, or related to consummation of the transactions contemplated by this Agreement, and Sellers shall be responsible for any real property transfer taxes, resulting, arising from, or related to consummation of the transactions contemplated by this Agreement. Sellers shall not be responsible for any income taxes of Purchaser or any affiliate of Purchaser.

ARTICLE 13

POST-CLOSING COVENANTS OF PURCHASER

13.1 Commitment to Quality, Safety, and Patient Satisfaction. As of the Effective Time, and for so long as Purchaser owns and operates any Hospital, Purchaser will operate such Hospital with a commitment to quality, safety, and patient satisfaction, including maintaining, as applicable, Joint Commission (or other applicable accrediting body) accreditation and participation in the Medicare, Medi-Cal, and TriCare programs.

13.2 Charity Care; Community-Based Programs. Purchaser acknowledges that the Hospitals have historically provided significant levels of charity care for indigent and low-income patients and have also provided care through a variety of community-based health programs. As of the Effective Time, and for so long as Purchaser owns and operates any Hospital, but subject to the conditions, if any, placed on any Hospital by the California Attorney General as of the Effective Time, (a) Purchaser's charity care policies, which are broad in scope, will apply to each Hospital, and (b) Purchaser will continue to provide care through community-based health programs at each Hospital, including cooperation with local organizations that sponsor health care initiatives to address identified community needs and improve the health status of the elderly, poor, and other at-risk populations in the community.

13.3 Maintenance of Clinical Services. For so long as Purchaser owns or operates any Hospital, Purchaser intends to maintain essential clinical services at such Hospital as more specifically set forth on Schedule 13.3 in a manner that is consistent with the objectives of the current conditions of approval from the California Attorney General that are binding upon Sellers with respect to each such Hospital.

ARTICLE 14

DEFAULT, TAXES AND COST REPORT MATTERS

14.1 Purchaser Default. If Purchaser commits any material default under this Agreement, Sellers may 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.

14.2 Seller Default. If any Seller commits any material default under this Agreement, Purchaser may pursue any rights or remedies that Purchaser may have under this Agreement or applicable law, including the right to sue for damages or specific performance.

14.3 Tax Matters; Allocation of Purchase Price.

14.3.1 After the Closing Date, the Parties shall reasonably cooperate with each other and shall make available to each other, as reasonably requested, and at the requesting party's sole cost and expense, all information, records, or documents relating to tax liabilities or potential tax liabilities attributable to Sellers with respect to the operation of the Businesses for all periods prior to the Effective Time, and to Purchaser with respect to the operation of the Businesses for all periods on and after the Effective Time, and the Parties 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 sole cost and expense of the requesting party, personnel responsible for preparing or maintaining information, records, and documents in connection with tax matters and as either party reasonably may request in connection with the completion of any post-Closing tax audits of the Hospitals.

14.3.2 The Parties acknowledge and agree that the Purchase Price (including any liabilities that are considered to be an increase to the Purchase Price for United States federal income Tax purposes) shall be allocated among the Assets in accordance with Section 1060 of the Code and the Treasury Regulations promulgated thereunder, as described on **Schedule 14.3.2**. The Parties shall refrain from taking any position for tax purposes that is inconsistent with the allocation set forth on **Schedule 14.3.2**.

14.4 Cost Report Matters.

14.4.1 Each Seller, at such Seller's sole cost and expense, shall prepare and timely file all cost reports relating to the Businesses for periods ending prior to the Effective Time, or required as a result of the consummation of the transactions described in this Agreement, including, without limitation, those relating to Medicare, Medi-Cal, and other third party payors which settle on a cost report basis (the "**Seller Cost Reports**"). All such cost reports (including termination cost reports) shall be filed by the applicable Seller in a manner that is consistent with current laws, rules and regulations. Each Seller shall be responsible for filing governmental cost reports for all periods through the Closing Date. Purchaser shall be responsible for its own cost report filings relating to the Hospitals for all periods beginning as of the Effective Time.

14.4.2 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 Seller's sole cost and expense, obtaining access to files at the Hospitals and Purchaser's provision to Sellers of data and statistics, and the coordination with Sellers pursuant to reasonable notice of Medicare and Medi-Cal exit conferences or meetings.

14.5 Transition Services. To compensate each of Sellers and Purchaser for inpatient hospital services rendered and medicine, drugs, and supplies provided at the Hospitals (the "**Transition Services**") with respect to patients who are admitted to a Hospital prior to the Effective Time but who are not discharged until on or after the Effective Time ("**Transition Patients**"), the Parties shall take the following actions:

14.5.1 It is the expectation of the Parties that, subject to government payor requirements, Purchaser will be entitled to bill government programs in its name and in accordance with the procedures of those payors for the Hospitals. For example, in the case of Medicare, pursuant to regulation 42 C.F.R. §412.125, when a hospital's ownership changes, payment for the operating and capital-related costs of inpatient hospital services for each patient, including outlier payments, are made to the legal owner on the date of discharge, which in this instance, will be Purchaser for the Hospitals, and moreover, the owner on the date of discharge of a Transition Patient is entitled to submit the bill for all inpatient hospital services furnished to

the beneficiary, regardless of when the beneficiary's coverage began or ended during the stay, or how long the stay lasted. Where the Medicare administrative contractor will not itself make this proration between Purchaser and Sellers (or a Seller), this proration is to be made between the Parties in accordance with the principles of this Section 14.5. The Parties shall document the change of status of all Transition Patients as between Sellers and Purchaser as of the Effective Time. As soon as practicable after the Closing Date, Sellers shall deliver to Purchaser a statement itemizing the inpatient hospital Transition Services provided by any Seller with respect to the operation of any Hospital prior to the Effective Time to Transition Patients. Since each bill submitted for a Transition Patient must include all information necessary for the Medicare administrative contractor to compute the payment amount, whether or not some of that information is attributable to a period prior to the Effective Time when a Hospital Seller was the legal owner of each Hospital, Sellers and Purchaser shall (a) provide to the other copies of all medical records and other information reasonably required by that party to bill for Transition Services in accordance with payor requirements for such billing, and (b) reasonably cooperate with each other to facilitate such billing activities. For Transition Services, Purchaser shall pay to Sellers an amount equal to the DRG and outlier payments, the case rate payment, or other similar payment received by Purchaser on behalf of a Transition Patient, multiplied by a fraction (the "**Fraction**"), the numerator of which shall be the total calendar days that such Transition Patient was admitted to a Hospital prior to the Effective Time during such stay and the denominator of which shall be the average length of stay for the specific DRG into which the Transition Patient's case falls. The Parties shall reconcile the payments as soon as practicable, as may be agreed upon between the Parties, but in no event later than ninety (90) calendar days after both the tentative and final Medicare cost report settlement and any other payor settlement affecting the Transition Patients (the "**Reconciliation**"). Purchaser shall bill the applicable payor, including Medicare and Medi-Cal, in accordance with applicable payor procedures for Transition Services provided by such party to Transition Patients. Subject to the terms of any settlement agreement that is entered into as contemplated by Section 8.8, the Parties acknowledge that, with respect to the Medi-Cal provider agreement applicable to the Hospitals, the Parties have executed a State of California Health and Human Services Agency "Successor Liability With Joint And Several Liability Agreement," and that their respective payments and liabilities will be reconciled in accordance with this Section 14.5, subject to the terms of Section 12.4 and Section 15.2.

14.5.2 In the event that there is an overpayment in whole or in part for any such Transition Patient (including Medicare or Medi-Cal Transition Patients), the Parties shall apportion the liability for the aggregate overpayment received by both Sellers (or any Seller) and Purchaser with respect to Transition Services provided to each such patient ("**Denied Transition Patient**") based upon the same apportionment principles provided in this Section 14.5, based upon each party's proportionate and respective responsibility for the Denied Transition Patient by Sellers (or any Seller) prior to the Effective Time and by Purchaser on and after the Effective Time. In connection with any such allocation, each party shall provide the other with copies of any applicable remittance advice. In the event of any such overpayment, Sellers and Purchaser are each respectively responsible for repayment of its allocated overpayment amount to the government payor, provided that the Parties shall agree between them as to the most feasible manner of making the repayment between them and to the government payor in accordance with the applicable payor's requirements.

14.5.3 In the event that following an allocation pursuant to this Section 14.5, (a) any party receives additional amounts following a successful appeal (which appeal, if any, would be undertaken in the discretion of the party who is entitled to the greater share of the claimed reimbursement under the apportionment methodology described in this Section 14.5, with the cost of such appeal apportioned between Sellers and Purchaser in a like manner), or (b) any payor reopens and adjusts such reimbursement determination, the Parties shall re-apportion the aggregate reimbursement received by Sellers (or any Seller) and Purchaser in the manner described in this Section 14.5.

14.5.4 It is the intention of the Parties that payment for Transition Services shall be made in compliance with Medicare requirements, so that Sellers and Purchaser each are appropriately paid in accordance with Medicare rules. In the event that CMS or any Hospital's Medicare administrative contractor requires a methodology that differs from that provided in this Section 14.5, the Parties shall make payments for Transition Services in compliance with the methodology specified by such Hospital's Medicare administrative contractor. In the event that Medi-Cal requires a methodology that differs from that provided in this Section 14.5 for Medi-Cal payment of Transition Services, it is the intention of the Parties that payment by Medi-Cal for Transition Services shall be made in compliance with the Medi-Cal methodology, with each of Purchaser and Sellers receiving payment to compensate each appropriately for its inpatient hospital services rendered and medicine, drugs, and supplies provided at the Hospitals for Transition Patients. In the event that Sellers and Purchaser are unable to agree on the amounts to be paid by one party to the other, or whether any payment is due under this Section 14.5, then such amounts shall be determined by the Independent Auditor, as defined in Section 1.3.1, at their joint expense.

14.5.5 The Parties acknowledge that all claims for reimbursement for outpatient and other cost-based services and items not otherwise bundled into or included in inpatient payment shall be submitted to the appropriate payor, including the Medicare and Medi-Cal programs, (a) by Sellers for all periods prior to the Effective Time, and (b) by Purchaser for all periods on and after the Effective Time. The Parties further acknowledge that each is respectively responsible for any appeal or dispute of denied claims for payment for outpatient services, dependent upon whether the services or items are for periods prior to the Effective Time, in which case Sellers shall be responsible, or for periods on or after the Effective Time, in which case Purchaser shall be responsible.

14.5.6 No party (nor their respective successors-in-interest, assigns, and affiliates) shall have the right to offset amounts payable under this Section 14.5 against, or to contest its obligation to make any payment pursuant to this Section 14.5 to any other party because of, outstanding claims, liabilities, or obligations asserted by such party against any other party.

ARTICLE 15

SURVIVAL AND ESCROW

15.1 Survival. Except as expressly set forth in this Agreement to the contrary, all representations and warranties of Purchaser and Sellers, respectively, contained in this Agreement or in any document delivered pursuant hereto shall be deemed to be material and to have been relied upon by Purchaser and Sellers, respectively, for purposes of Closing; *provided*, *however*, the Parties acknowledge and agree that all such representations and warranties shall expire, and be of no further force or effect upon the Effective Time, and neither Purchaser nor Sellers shall have any liability in respect of any breach thereof upon the Effective Time. All covenants, restrictions, and commitments set forth in this Agreement shall survive the Closing in accordance with the terms described in this Agreement.

15.2 Escrow. The Parties acknowledge and agree that Sellers are solely responsible for, and Purchaser shall have no responsibility, liability, or obligation with respect to: (a) the Excluded Liabilities, (b) the Excluded Assets, and (c) all of Sellers' respective post-Closing obligations, covenants, and agreements set forth in this Agreement (collectively, (a)-(c) are the "**Sellers' Responsibilities**"). In the event that Purchaser suffers or incurs any judgments, obligations, liabilities, settlements, penalties, violations, fees, fines, claims, losses, costs, demands, damages, liens, encumbrances, or expenses, including reasonable attorneys' fees (collectively, "**Damages**"), as a result of any of the Sellers' Responsibilities, Purchaser shall notify Sellers and the Escrow Agent, and Purchaser shall immediately be entitled to be paid funds from the Escrow Account by the Escrow Agent to offset all such Damages; provided, however, if there is a disagreement between the Parties with respect to the Sellers' Responsibilities or any such Damages, the matter shall be subject to Bankruptcy Court review and approval for resolution.

ARTICLE 16

MISCELLANEOUS PROVISIONS

16.1 Further Assurances and Cooperation. Sellers shall execute, acknowledge and deliver to Purchaser any and all other assignments, consents, approvals, conveyances, assurances, documents, and instruments reasonably requested by Purchaser at any time and shall take any and all other actions reasonably requested by Purchaser at any time for the purpose of more effectively assigning, transferring, granting, conveying, and confirming to Purchaser, the Assets (including assignment of the Assumed Contracts and Assumed Leases). 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.

16.2 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; provided, however, no Party may assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other Parties.

16.3 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, and thereafter, the Parties irrevocably elect, as the sole judicial forum for the adjudication of any matters arising under or in connection with this Agreement, and consent to the exclusive jurisdiction of, the courts in Santa Clara County, California. The Parties hereby consent to the jurisdiction of such courts 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.

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

16.5 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; provided, however, for any schedule or exhibit that is not complete and attached hereto as of the Signing Date (including the Disclosure Schedule), and for any schedule or exhibit that is subject to a Material Update after the Signing Date as described below, any such schedule and exhibit shall be deemed to be attached hereto and incorporated by reference herein as of the date that the Parties mutually agree on the terms and contents contained therein. From the Signing Date until the Closing, the Parties agree that Sellers may update the Disclosure Schedule with respect to events occurring after the Signing Date as necessary upon written notice to Purchaser; provided that any such update shall not alter or limit Purchaser's rights under Section 8.6 or Section 8.10. Notwithstanding the foregoing, (a) should any exhibit or schedule not be completed and attached hereto as of the Signing Date, Sellers shall deliver initial drafts of such exhibits and schedules, as well as the Disclosure Letter, to Purchaser within twenty-five (25) days after the Signing Date, and Sellers and Purchaser shall promptly negotiate in good faith any such exhibit or schedule, and (b) should Sellers desire to make a Material Update to a Disclosure Schedule after the Signing Date, Purchaser's prior written approval shall be required in order for such Material Update to so modify the applicable representation and warranty. 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 to the extent that the relevance of such item to such representations or warranties is reasonably apparent on the face of such disclosure. 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 ARTICLE 2 merely for convenience, and the disclosure of an item in one section of the Disclosure Schedule as an exception to a particular representation or warranty shall be deemed adequately disclosed as an exception with respect to all other representations or warranties to the extent that the relevance of such item to such representations or warranties is reasonably

apparent on the face of such disclosure, notwithstanding the presence or absence of an appropriate section of the Disclosure Schedule with respect to such other representations or warranties or an appropriate cross reference thereto. For purposes of this Agreement, a "**Material Update**" shall mean:

16.5.1 any change to the Disclosure Schedule that alters or impacts any of Sellers' representations and warranties contained in this Agreement that relate to the Financial Statements;

16.5.2 any change to the Disclosure Schedule that involves a Material Adverse Change that was not previously identified on the Disclosure Schedule; provided, however, even if Purchaser approves any such change, it shall not limit or otherwise impact Purchaser's rights described in Section 8.6 or Section 8.10; or

16.5.3 any change to the Disclosure Schedule that alters or impacts any of Sellers' representations and warranties contained in this Agreement that relate to compliance with applicable law.

16.6 Notices. Any notice, demand or communication required, permitted, or desired to be given hereunder shall be deemed effectively given when personally delivered, when received by 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. 2040 East Mariposa St. El Segundo, CA 90245 Attention: Rich Adcock, CEO Facsimile: (310) 878-0254
With a copy to: (which copies shall not constitute notice)	Dentons US LLP 601 South Figueroa St., Suite 2500 Los Angeles, CA 90017-5704 Attention: Samuel R. Maizel, Esq. Facsimile: 213-623-9924
If to Purchaser:	County of Santa Clara 70 West Hedding Street, 11th Floor San Jose, California 95110 Attention: Jeffrey V. Smith, M.D., J.D. Facsimile:
With a copy to: (which copies shall not constitute notice)	Office of the County Counsel, County of Santa Clara 70 West Hedding Street, East Wing, 9th Floor San Jose, California 95110 Attention: James R. Williams, Esq. Facsimile:

And a copy to:	McDermott Will & Emery LLP
(which copies shall	2049 Century Park East, 38th Floor
not constitute notice)	Los Angeles, California 90067
	Attention: James F. Owens, Esq.
	Facsimile: 310-277-4730

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

16.7 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

16.8 Publicity; Confidentiality.

16.8.1 Subject to the terms of the NDA, including without limitation, Purchaser's ability to disclose certain information given that Purchaser is a public agency subject to disclosure and open meeting requirements under California law, 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 of the transactions contemplated hereby; provided, however, nothing in this Section 16.8 shall be deemed to prohibit either Sellers or Purchaser from making any disclosure that its counsel deems necessary or advisable in order to satisfy such party's disclosure obligations imposed by law, including, but not limited to, the Ralph M. Brown Act and California Government Code Sections 6063 and 25350, or as required by the Bankruptcy Cases.

16.8.2 After the Closing Date, Sellers shall not (and shall cause its affiliates to not), at any time, directly or indirectly, without the prior written consent of Purchaser, make use of or divulge, or permit any of its affiliates, directors, officers, employees, or agents to make use of or divulge, to any Person any nonpublic or proprietary information concerning the Businesses or any of the Assets, except to the extent required by law or in order to preserve or enforce its rights under this Agreement.

16.8.3 Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge and agree that the NDA shall remain in full force and effect in accordance with its terms until the Closing, at which time the NDA shall automatically terminate and be of no force and effect with respect to information included within the Assets (but not with respect to any entity other than the Sellers or any information not included within the Assets).

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

16.10 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.

16.11 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.

16.12 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 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 Sellers. 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.

16.13 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. The Parties agree that signatures to this Agreement created by the signer by electronic means shall be valid and effective to bind the party so signing, and signatures transmitted by facsimile or electronic pdf 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.

16.14 Entire Agreement. This Agreement, the Disclosure Schedule, the exhibits and schedules, and the documents referred to in this Agreement and the NDA 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.

16.15 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.

16.16 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.

[REMAINDER OF PAGE IS BLANK]

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

PURCHASER:

County of Santa Clara, a political subdivision of the State of California

Signature By: _____
Print Name: Jeffrey V. Smith
Title: County Executive
Date: 10/1/2018

Approved as to Form and Legality:

Signature By: _____
Print Name: James R. Williams
Title: County Counsel
Date: 10/1/2018

SELLERS:

Verity Health System of California, Inc., a California nonprofit public benefit corporation

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

Verity Holdings, LLC, a California limited liability company

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

O'Connor Hospital, a California nonprofit public benefit corporation

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

Saint Louise Regional Hospital, a California nonprofit public benefit corporation

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