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14
15 **UNITED STATES BANKRUPTCY COURT**
16 **SOUTHERN DISTRICT OF CALIFORNIA**

17 In re
18 BORREGO COMMUNITY
19 HEALTH FOUNDATION,
20 Debtor and Debtor in
21 Possession.

Case No. 22-02384-11
Chapter 11 Case
Honorable Laura S. Taylor

**JOINT NOTICE OF MOTION AND
MOTION OF THE DEBTOR AND THE
OFFICIAL COMMITTEE OF
UNSECURED CREDITORS FOR
ENTRY OF AN ORDER (I) GRANTING
INTERIM APPROVAL OF THE
ADEQUACY OF DISCLOSURES IN
THE COMBINED JOINT DISCLOSURE
STATEMENT AND PLAN; (II)
APPROVING SOLICITATION
PACKAGES AND PROCEDURES;
(III) APPROVING THE FORMS OF
BALLOTS; (IV) SETTING RELATED
DEADLINES AND (V) GRANTING
RELATED RELIEF; MEMORANDUM
OF POINTS AND AUTHORITIES IN**

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SUPPORT THEREOF; DECLARATION OF ISAAC LEE

Date: December 6, 2023
Time: 2:00 p.m. Pacific Time
Location: Department 3

PLEASE TAKE NOTICE that at the above referenced date, time and location, Borrego Community Health Foundation, the debtor and debtor in possession in the above-captioned chapter 11 bankruptcy case (the “Debtor”), and the Official Committee of Unsecured Creditors (the “Committee”) will jointly move (the “Motion”) the Court for entry of an order (a) granting interim approval of the disclosures (the “Disclosures”) contained in the concurrently filed *Joint Combined Disclosure Statement and Chapter 11 Plan of Borrego Community Health Foundation and the Official Committee of Unsecured Creditors*, (including all exhibits thereto and as amended, supplemented, or otherwise modified from time to time, the “Combined Plan”); (b) approving the solicitation procedures set forth herein (the “Solicitation Procedures”); (c) approving the forms of ballots for the voting classes and the forms of notices to non-voting classes; (d) setting related deadlines; and (e) granting related relief.

PLEASE TAKE FURTHER NOTICE that this Motion is based on this Notice and Motion, its Memorandum, the Declaration of Isaac Lee, the *Declaration of Isaac Lee, Chief Restructuring Officer, in Support of Debtor’s Emergency First Day Motions* [Docket No. 7], supporting statements, arguments and representations of 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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1 **PLEASE TAKE FURTHER NOTICE** that any opposition or other response
2 to the Motion must be served upon the undersigned, and the original and one copy of
3 such papers with proof of service must be filed with the Clerk of the United States
4 Bankruptcy Court at 325 West F Street, San Diego, California 92101-6691, not later
5 than **November 28, 2023**, pursuant to this Court’s *Order on Debtor’s Motion for*
6 *Entry of an Order (I) Authorizing the Debtor to File the Combined Disclosure*
7 *Statement and Plan; (II) Scheduling a Combined Confirmation Hearing and Setting*
8 *Deadlines Related Thereto; and (III) Granting Related Relief* [Docket No. 1041].

9 **PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Bankruptcy
10 Rule 9013-7(b)(2), the failure to file and serve a timely objection to the Motion may
11 be deemed by the Court to be consent to the relief requested herein.

12
13 Dated: November 17, 2023

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SAMUEL R. MAIZEL
TANIA M. MOYRON

14
15 By /s/ Tania M. Moyron
Tania M. Moyron

16
17
18 Dated: November 17, 2023

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Borrego Community Health Foundation, the debtor and debtor in possession (the “Debtor”) in the above-captioned chapter 11 bankruptcy case (the “Case”) and the Official Committee of Unsecured Creditors (the “Committee” and, collectively, with the Debtor, the “Movants”), by and through their undersigned counsel, hereby files this Memorandum of Points and Authorities in support of its motion (the “Motion”) for entry of an order (a) granting interim approval of the disclosures (the “Disclosures”) contained in the concurrently filed *Joint Combined Disclosure Statement and Chapter 11 Plan of Borrego Community Health Foundation and the Official Committee of Unsecured Creditors*, (including all exhibits thereto and as amended, supplemented, or otherwise modified from time to time, the “Combined Plan”); (b) approving the solicitation procedures set forth herein (the “Solicitation Procedures”); (c) approving the forms of ballots and notices for the voting classes and the forms of notices to non-voting classes; (d) approving deadlines related to solicitation; and (e) granting related relief. In support of the Motion, the Movants respectfully state as follows:

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 this Case is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

III. STATEMENT OF FACTS

A. General Background

1. On September 12, 2022 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code

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1 (the “Bankruptcy Code”).¹ Since the commencement of its Case, the Debtor has been
2 operating its business as a debtor in possession pursuant to §§ 1107 and 1108.

3 2. As of the Petition Date, the Debtor was a nonprofit Federally Qualified
4 Health Center that provided health care services to low income and rural patients in
5 San Diego and Riverside Counties through a system of eighteen clinics, two
6 pharmacies, and six mobile units. In 2021, the Debtor provided approximately
7 386,000 patient care visits to over 94,000 patients. The Debtor’s services included
8 comprehensive primary care, urgent care, behavioral health, dental services, specialty
9 care, transgender health, women’s health, prenatal care, veteran’s health, chiropractic
10 services, tele-health, and pharmacy.

11 3. Additional background regarding the Debtor, including an overview of
12 the Debtor’s business and additional events leading up to this Case, is set forth in the
13 *Declaration of Isaac Lee, Chief Restructuring Officer, in Support of Debtor’s*
14 *Emergency First Day Motions* (the “First-Day Declaration”) [Docket No. 7]. As set
15 forth in the First-Day Declaration, the Debtor appointed Isaac Lee, of Ankura
16 Consulting Group, LLC, as its Chief Restructuring Officer.

17 4. On September 26, 2022, the Office of the United States Trustee
18 appointed the Committee in this Case [Docket No. 49].

19 **B. The Sale and DHCS Settlement**

20 5. On March 7, 2023, the Court entered its *Order on Debtor’s Motion to*
21 *Approve Compromise Among Debtor, Official Committee of Unsecured Creditors,*
22 *and California Department of Health Care Services* [Docket No. 544], which
23 approved the terms of a settlement with the California Department of Health Care
24 services (the “DHCS Settlement”). Subsequently, on September 26, 2023, the Debtor
25

26 _____
27 ¹ All references to section or chapter herein are to the Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*,
28 as amended. All references to “Bankruptcy Rules” are to the Federal Rules of Bankruptcy
Procedure. All references to “Local Rules” are to the Local Rules of the United States Bankruptcy
Court for the Southern District of California.

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1 filed the *Notice of Filing of Executed Settlement Agreement among the Debtor, the*
2 *Official Committee of Unsecured Creditors, and the California Department of Health*
3 *Care Services* [Docket No. 923]. As set forth therein, the proceeds of the sale of
4 substantially all of the Debtor’s assets (the “Sale”) will be distributed in accordance
5 with the terms of the DHCS Settlement and the confirmed plan.

6 6. On March 13, 2023, the Court entered the *Order (A) Authorizing the*
7 *Sale of Property to Desert AIDS Project d/b/a DAP Health Free and Clear of Liens,*
8 *Claims, Encumbrances, and Other Interests; (B) Approving the Assumption and*
9 *Assignment of an Unexpired Lease Related Thereto; and (C) Granting Related Relief*
10 [Docket No. 559], which approved the Sale to DAP Health, Inc.

11 7. On July 31, 2023, the Sale closed, and the Debtor filed the *Notice of*
12 *Occurrence of Closing of Sale to DAP Health, Inc.* [Docket No. 823].

13 **C. The Motion to Combine**

14 8. On September 25, 2023, the Debtor, with the approval of the
15 Committee, filed the *Notice of Motion and Motion for Entry of an Order (I)*
16 *Authorizing the Debtor to File the Combined Disclosure Statement and Plan; (II)*
17 *Scheduling a Combined Confirmation Hearing and Setting Deadlines Related*
18 *Thereto; and (III) Granting Related Relief* (the “Motion to Combine”) [Docket No.
19 920], which sought (i) authority to file the Combined Plan; and (ii) a schedule of a
20 combined hearing for final approval of the Disclosures and confirmation the
21 Combined Plan (the “Combined Hearing”) and related deadlines.

22 9. On September 29, 2023, the Debtor, with the approval of the
23 Committee, filed the *Debtor’s Ex Parte Motion for Order Shortening Time on the*
24 *Debtor’s Motion for Entry of an Order (I) Authorizing the Debtor to File the*
25 *Combined Disclosure Statement and Plan; (II) Scheduling a Combined Confirmation*
26 *Hearing and Setting Deadlines Related Thereto; and (III) Granting Related Relief*
27 (the “Motion to Shorten”) [Docket No. 940], which sought (i) to clarify various
28 deadlines in the Motion to Combine, and (ii) an order on the Motion to Combine on

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1 shortened time. The Court granted the Motion to Shorten and provided all parties in
2 interest a fourteen-day objection period on the Motion to Combine [Docket No.
3 1003]. No objections were filed to the Motion to Combine.

4 10. On October 30, 2023, the Court entered the *Order on Debtor’s Motion*
5 *for Entry of an Order (I) Authorizing the Debtor to File the Combined Disclosure*
6 *Statement and Plan; (II) Scheduling a Combined Confirmation Hearing and Setting*
7 *Deadlines Related Thereto; and (III) Granting Related Relief* (the “Order to
8 Combine”) [Docket No. 1041].

9 **D. The Combined Plan**

10 11. The Debtor and the Committee jointly prepared the Combined Plan,
11 which was filed concurrently herewith. The Combined Plan provides for the
12 liquidation of assets, a wind down of remaining affairs and dissolution through a
13 liquidating trust.

14 12. If confirmed and consummated, the Combined Plan will provide for the
15 distribution of the Sale proceeds to creditors in accordance with the DHCS Settlement
16 and the priorities of the Bankruptcy Code.

17 13. Claims are classified as follows:

Class	Designation	Impairment	Entitled to Vote
1	Priority Non-Tax Claims	Not Impaired	No (deemed to accept)
2	Secured Claims	Not Impaired	No (deemed to accept)
3	General Unsecured Claims	Impaired	Yes
4	Allowed DHCS Claim	Impaired	Yes

23
24 14. As shown above, the Combined Plan presently provides for four
25 different classes of claims. Under the Combined Plan, claims in Class 3 and Class 4
26 (collectively, the “Voting Classes”) are impaired by the Combined Plan, and such
27 holders are entitled to vote to reject or accept the Combined Plan. Claims in Class 1
28 and Class 2 (collectively, the “Unimpaired Classes”) are unimpaired by the

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1 Combined Plan, and such holders are deemed to have accepted the Combined Plan
2 pursuant to § 1126(f) and are therefore not entitled to vote on the Combined Plan.

3 15. In addition, pursuant to § 1123(a)(1), the Combined Plan designates four
4 categories of claims that are entitled to receive distributions under the Combined Plan
5 yet are not classified for purposes of voting. These categories are (1) Administrative
6 Claims, (2) Professional Claims, (3) Statutory Fees, and (4) Priority Tax Claims
7 (collectively, the “Unclassified Claimholders”).

8 16. By this Motion, the Movants request (i) interim approval of the
9 adequacy of the Disclosures solely to permit the Debtor to solicit the Combined Plan,
10 with final approval of the Disclosures combined with the hearing on confirmation of
11 the Combined Plan; (ii) approving certain solicitation, notice and tabulation
12 procedures with respect to confirmation of the Combined Plan; (iii) approving the
13 form of the ballots and notices in connection therewith; (iv) setting deadlines related
14 to solicitation; and (v) granting other related relief.

15 17. A summary of the key dates the Movants seek to establish, in addition
16 to the dates set forth in the Order to Combine, subject to the Court’s availability, are
17 as follows:

Event	Date
Voting Record Date	November 28, 2023
Hearing date on this Motion	December 6, 2023, at 2:00 p.m.
Deadline for Debtor to serve the Combined Plan and all solicitation materials/Solicitation commences	December 11, 2023
Voting Objection Deadline²	December 22, 2023
Deadline for creditors to file Rule 3018 Motions	December 22, 2023
Deadline to respond to Determination Motions	December 29, 2023

28 ² Bolded items are dates that have not previously been approved by the Order to Combine.

Event	Date
Deadline for Debtor to respond to Rule 3018 Motions	December 29, 2023
Deadline to file Plan Supplement	January 5, 2024
Voting Deadline	January 8, 2024, at 4:00 p.m.
Deadline to file and serve objections to the Combined Plan Confirmation and/or final approval of the adequacy of the Disclosures	January 8, 2024, at 4:00 p.m.
Deadline to file (1) confirmation brief, (2) tabulation report, and (3) reply to any objection	January 11, 2024
Combined Hearing	January 15, 2024, at 2:00 p.m.

IV. ARGUMENT

A. Request for Interim Approval of the Disclosures

Pursuant to § 1125, the proponent of a proposed chapter 11 plan must provide “adequate information” regarding that plan to holders of impaired claims and interests entitled to vote on the plan. Specifically, the Bankruptcy Code states, in relevant part:

“Adequate information” means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the Debtors and the condition of the Debtors’ books and records, including a discussion of the potential material Federal tax consequences of the plan to the Debtors, any successor to the Debtors, and a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan. ...[I]n determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information.

11 U.S.C. § 1125(a)(1). Thus, a disclosure statement must provide information that is reasonably designed to permit an informed judgment by impaired creditors or equity, or other interest holders entitled to vote on a plan. *See In re Cal. Fidelity, Inc.*, 198 B.R. 567, 571 (B.A.P. 9th Cir. 1996) (“At a minimum, § 1125(b) seeks to guarantee that a creditor receives adequate information about the plan before the

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1 creditor is asked for a vote.”); *In re Art & Architecture Books of the 21st Century*,
2 No. 2:13-bk-14135-RK, 2016 WL 1118743, at *14 (Bankr. C.D. Cal. Mar. 18, 2016)
3 (“The primary purpose of a disclosure statement is to give creditors and interest
4 holders the information they need to decide whether to accept the plan.”) (citing
5 *Captain Blythers, Inc. v. Thompson (In re Captain Blythers, Inc.)*, 311 B.R. 530, 537
6 (B.A.P. 9th Cir. 2004)); *In re Arnold*, 471 B.R. 578, 584-85 (Bankr. C.D. Cal. 2012).

7 In examining the adequacy of the information contained in a disclosure
8 statement, the Court has broad discretion. *See Menard-Sanford v. Mabey (In re A.H.*
9 *Robins Co., Inc.)*, 880 F.2d 694, 696 (4th Cir. 1989); *Tex. Extrusion Corp. v.*
10 *Lockheed Corp. (In re Tex. Extrusion Corp.)*, 844 F.2d 1142, 1157 (5th Cir. 1988);
11 *In re Brotby*, 303 B.R. 177, 193 (B.A.P. 9th Cir. 2003); *Kirk v. Texaco, Inc.*, 82 B.R.
12 678, 682 (S.D.N.Y. 1988) (“The legislative history could hardly be more clear in
13 granting broad discretion to bankruptcy judges under § 1125(a)”); *Art & Architecture*
14 *Books of the 21st Century*, 2016 WL 1118743, at *14 (“Bankruptcy judges have
15 broad discretion in reviewing disclosure statements and what constitutes adequate
16 information and any particular instance will develop on a case-by-case basis.”); *In re*
17 *Oxford Homes, Inc.*, 204 B.R. 264, 269 (Bankr. D. Me. 1997) (Congress intentionally
18 drew vague contours of what constitutes adequate information so that bankruptcy
19 courts may exercise discretion to tailor them to each case’s particular circumstances);
20 *In re Dakota Rail Inc.*, 104 B.R. 138, 143 (Bankr. D. Minn. 1989) (a bankruptcy court
21 has “wide discretion to determine... whether a disclosure statement contains
22 adequate information, without burdensome, unnecessary, and cumbersome detail”).

23 Accordingly, the determination of whether a disclosure statement contains
24 adequate information is to be made on a case-by-case basis, focusing on the unique
25 facts and circumstances of each case. *See In re Tex. Extrusion Corp.*, 844 F.2d 1142,
26 1157 (5th Cir. 1988) (“The determination is largely within the discretion of the
27 bankruptcy court.”); *In re PC Liquidation Corp.*, 383 B.R. 856 at 866 (E.D.N.Y.
28 2008); *In re Diversified Inv’rs Fund XVII*, 91 B.R. 559, 561 (Bankr. C.D. Cal. 1988)

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1 (“According to the legislative history, the parameters of what constitutes adequate
2 information are intended to be flexible.”); *In re Egan*, 33 B.R. 672, 674-75 (Bankr.
3 N.D. Ill. 1983). This discretion provides flexibility and facilitates the effective
4 reorganization of the different types of chapter 11 debtors by accommodating the
5 varying circumstances accompanying chapter 11 cases. See H.R. Rep. No. 595, at
6 408-09, 95th Cong. (1st Sess. 1977).

7 The determination of whether adequate information has been provided should
8 take account of the expertise and resources, including outside advisors and relevant
9 information already possessed or publicly available, of the hypothetical investor of
10 each class of claims or interests, from which classes the acceptance or rejection of
11 the plan is solicited after the commencement of the cases. See *In re Zenith Elec.*
12 *Corp.*, 241 B.R. 92, 99-100 (Bankr. D. Del. 1999).

13 Here, the Disclosures contain ample information to allow well-informed
14 judgments on the Combined Plan. Specifically, the Disclosures contain detailed
15 information with respect to, among other things: (a) the Debtor’s business and
16 prepetition capital structure; (b) the relevant events and circumstances preceding this
17 Case; (c) the major events during the administration of this Case; (d) the key terms
18 of the Combined Plan; (e) estimates of the anticipated distributions to be received by
19 holders of allowed claims; (f) the feasibility of the Combined Plan; (g) a comparison
20 to a hypothetical liquidation under chapter 7 of the Bankruptcy Code; (h) risk factors
21 that may affect the Combined Plan; and (i) the existence of federal tax consequences
22 of the Combined Plan for which creditors should seek independent counsel.

23 The Disclosures also provide adequate notice of the release, exculpation, and
24 injunction provisions in the Combined Plan. Pursuant to Bankruptcy Rule 3016(c),
25 “[i]f a plan provides for an injunction against conduct not otherwise enjoined under
26 the Code, the plan and disclosure statement [must] describe in specific and
27 conspicuous language all acts to be enjoined and identify the entities that would be
28

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1 subject to the injunction.” Fed. R. Bankr. P. 3016(c). The Combined Plan provides a
2 detailed description of the releases and exculpations.

3 Furthermore, the Disclosures provide an analysis of the alternatives to
4 confirmation and consummation of the Combined Plan, which demonstrates than an
5 impaired claimant not accepting the Combined Plan will receive or retain property of
6 a value greater than the amount that such holder would receive or retain if the Debtor
7 was forced to liquidate under chapter 7. Accordingly, the Debtor recommends that
8 holders of claims eligible to vote on the Combined Plan vote to accept because it is
9 the most efficient and effective means to provide remaining recoveries to holders of
10 claims against the Debtor’s estate.

11 Importantly, the Solicitation Procedures provide for solicitation of the
12 Combined Plan in accordance with the Bankruptcy Code, the Bankruptcy Rules, and
13 the Local Rules, and ensure that creditors and parties in interest will have sufficient
14 time to review the Combined Plan and file objections thereto in advance of the
15 Combined Hearing. The Debtor will consider all requests to make reasonable
16 changes to the Combined Plan in advance of the hearing on this Motion.

17 As noted above, the Movants intend to seek final approval of the Disclosures
18 at the Combined Hearing and only seek interim approval at this time. By this Motion,
19 the Movants respectfully submit that the Disclosures contain “adequate information”
20 within the meaning of § 1125. Accordingly, the Movants request that the Court
21 (a) approve the adequacy of the Disclosures on an interim basis to permit the Movants
22 to use the Combined Plan in the solicitation process as described herein, and (b)
23 approve the Disclosures on a final basis as part of the order confirming the Combined
24 Plan.

25 **B. Approval of Form and Manner of Solicitation Package**

26 Bankruptcy Rule 3017(d) sets forth the materials that must be provided to
27 holders of claims for the purpose of soliciting their votes and providing adequate
28 notice of the hearing on confirmation of a plan of reorganization:

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1 Upon approval of a disclosure statement,—except to the extent that the
2 court orders otherwise with respect to one or more unimpaired classes
3 of creditors or equity security holders—the debtor in possession, trustee,
4 proponent of the plan, or clerk as the court orders shall mail to all
5 creditors and equity security holders, and in a chapter 11 reorganization
6 case shall transmit to the United States trustee:

- 7 (1) the plan or a court-approved summary of the plan;
- 8 (2) the disclosure statement approved by the court;
- 9 (3) notice of the time within which acceptances and rejections
10 of the plan may be filed; and
- 11 (4) any other information as the court may direct, including
12 any court opinion approving the disclosure statement or a
13 court-approved summary of the opinion.

14 In addition, notice of the time fixed for filing objections and the hearing
15 on confirmation shall be mailed to all creditors and equity security
16 holders in accordance with Rule 2002(b), and a form of ballot
17 conforming to the appropriate Official Form shall be mailed to creditors
18 and equity security holders entitled to vote on the plan...

19 Fed. R. Bankr. P. 3017(d).

20 As further discussed below, if the Court conditionally approves the
21 Disclosures as containing adequate information pursuant to § 1125, the Movants
22 propose to distribute by First Class Mail to the Voting Classes a package containing:
23 (a) the Voting Classes Combined Hearing Notice (as defined below); (b) the Court’s
24 order granting this Motion; (c) the Combined Plan; (d) a ballot, substantially in the
25 form annexed hereto as **Exhibit “A”** (the “Ballots”), as applicable; (e) a release opt-
26 out election form, substantially in the form attached hereto as **Exhibit “B”** (the “Opt-
27 Out Form”); (f) a pre-addressed, return envelope; and (g) such other information as
28 the Court may direct or approve (collectively, the “Solicitation Package”). The
Movants submit that such materials and manner of service satisfy the requirements
of Bankruptcy Rule 3017(d).

Pursuant to § 1126(f), unimpaired creditors are “conclusively presumed to
have accepted the plan, and solicitation of acceptances with respect to such class...
is not required.” Accordingly, the Movants submit that it need not transmit a

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1 Solicitation Package to the holders of claims in the Unimpaired Classes and the
2 Unclassified Claimholders (collectively, the “Non-Voting Classes”).

3 Kurtzman Carson Consultants LLC will serve as the solicitation agent (the
4 “Solicitation Agent”) and provide access to the Solicitation Packages, among other
5 things. The Solicitation Package (without Ballots) will be available for download at
6 <https://www.kccllc.net/borregohealth> and on the Court’s website.³

7 **C. Approval of Form and Manner of Notices of the Combined Hearing**

8 Upon conditional approval of the Disclosures, the Movants will serve or cause
9 to be served the following documents on the following parties, as applicable: (i) a
10 written notice to the Voting Classes (the “Voting Combined Hearing Notice”),
11 substantially in the form of **Exhibit “C,”** of (a) the Court’s conditional approval of
12 the Disclosures, (b) the deadline for voting on the Plan, (c) the time, date, and place
13 of the Combined Hearing, (d) a summary of the Combined Plan’s release, injunction,
14 and exculpation provisions, and (e) the deadline and procedures for filing objections
15 to the Combined Plan, together with the Solicitation Package; and (ii) a written notice
16 to the Non-Voting Classes (the “Non-Voting Combined Hearing Notice”),
17 substantially in the form of **Exhibit “D,”** that sets forth (a) the treatment of the Non-
18 Voting Classes in the Combined Plan, (b) a summary of the Combined Plan’s release,
19 injunction, and exculpation provisions, (c) information regarding the time, date, and
20 place of the Combined Hearing and related deadlines, and (d) attaches the Opt-Out
21 Form. The Solicitation Package and relevant notices will be served on the appropriate
22 parties by First Class Mail.

23 The Movants submit that the Voting Combined Hearing Notice and the Non-
24 Voting Combined Hearing Notice satisfy the requirements of the Bankruptcy Code
25 and Bankruptcy Rule 3017(d). Accordingly, the Movants request that the Court
26

27 _____
28 ³ <http://www.cacb.uscourts.gov> (a Pacer login and password are required to access documents on
the Court’s website).

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1 approve such notices and determine that the Movants are not required to distribute
2 copies of the Combined Plan to any of the Non-Voting Classes, unless otherwise
3 requested in writing or by the terms of an order of this Court.

4 **D. The Voting Record Date and Approval of Procedures for Distribution of**
5 **Solicitation Packages**

6 Bankruptcy Rule 3017(d) provides that, for the purposes of soliciting votes in
7 connection with the confirmation of a chapter 11 plan, “creditors and equity security
8 holders shall include holders of stock, bonds, debentures, notes and other securities
9 of record on the date the order approving the disclosure statement is entered or
10 another date fixed by the court, for cause, after notice and a hearing.” Fed. R. Bankr.
11 P. 3017(d). Bankruptcy Rule 3018(a) contains a similar provision regarding
12 determination of the record date for voting purposes.

13 Pursuant to the Order to Combine, the record date (the “Voting Record Date”)
14 –for the purposes of determining (a) which creditors are entitled to receive a
15 Solicitation Package and may be entitled to vote on the Combined Plan, subject to
16 the disallowance of such creditors’ claims for voting purposes as set forth herein, or
17 (b) the holders of claims entitled to receive the Non-Voting Notice—is November
18 28, 2023.⁴

19 As set forth in the Order to Combine, subject to approval of this Motion, the
20 Movants expect that they will be able to commence distribution of (i) the Voting
21 Combined Hearing Notice and the Solicitation Package to the Voting Classes, and
22 (ii) the Non-Voting Combined Hearing Notice to the Non-Voting Classes and all
23 other non-voting parties in interest, by December 11, 2023 (the “Solicitation
24 Commencement Date”).

25
26
27
28 ⁴ The Voting Record Date is for voting purposes only, and the Voting Record Date shall not affect
who is entitled to receive distributions under the Combined Plan.

1 On the Solicitation Commencement Date, the Movants shall cause the
2 Solicitation Agent to electronically distribute (i) the order approving this Motion
3 (excluding exhibits thereto), (ii) the Non-Voting Combined Hearing Notice, (iii) the
4 Combined Plan, and (iv) any other materials the Court may direct (excluding a Ballot)
5 to, among other parties (to the extent such parties did not otherwise receive the
6 Solicitation Package):

- 7 a) The United States Trustee;
8 b) the Internal Revenue Service; and
9 c) all persons and entities that have filed a request for service of filings
10 pursuant to Bankruptcy Rule 2002.

11 The Movants submit that good cause exists for implementing the Solicitation
12 Procedures.

13 **E. Approval of Forms of Ballot**

14 Bankruptcy Rule 3017(d) requires that the Movants mail a form of Ballot to
15 “creditors and equity security holders entitled to vote on the plan.” The Movants
16 propose to distribute a Ballot to each holder of a claim in the Voting Classes. The
17 form of Ballot is based upon Official Form No. B314 modified to address the aspects
18 of the Debtor’s Case and to include certain additional information that the Movants
19 believe to be relevant and appropriate for the applicable Voting Classes.

20 **F. Establishment of Deadline for Receipt of Ballots and Opt-Out Forms**

21 Bankruptcy Rule 3017(c) provides that, on or before approval of a disclosure
22 statement, the court shall fix a time within which the holders of claims or equity
23 security interests may accept or reject a plan. The schedule approved by the Order to
24 Combine provides for a solicitation period of at least 28 days, which the Movants
25 believe is appropriate considering the circumstances of the case and consistent with
26 the requirements set forth in Bankruptcy Rule 2002(b). Accordingly, as set forth in
27 the Order to Combine, to be counted as a vote on the Plan, each Ballot must be
28 properly executed, completed, and delivered to the Solicitation Agent to be received

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1 by the Debtor no later than **January 8, 2024, at 4:00 p.m., Pacific Time** (the “Voting
2 Deadline”) as set forth below. The Movants submit that such solicitation period is
3 sufficient for the creditors to make informed decisions to accept or reject the
4 Combined Plan considering the circumstances of the Case.

5 All Ballots and Opt-Out Forms must be delivered via First Class Mail,
6 overnight courier, or hand delivery to be received by the Solicitation Agent no later
7 than the Voting Deadline. Except as provided below, Ballots and Opt-Out Forms
8 must be submitted to the Solicitation Agent in accordance with the voting procedures
9 set forth below to:

10 Borrego Ballot Processing Center
11 c/o Kurtzman Carson Consultants LLC
12 222 North Pacific Coast Highway, Suite 300
El Segundo, California 90245
1 866 967 0670 (domestic) / +1 310 751 2670 (international)

13 In addition to accepting hard copies of the Ballots and Opt-Out Forms via First
14 Class Mail, overnight courier, and hand delivery, the Movants request authorization
15 to accept the Ballots and Opt-Out Forms via electronic online transmissions, solely
16 through a customized online balloting portal on the Solicitation Agent’s case website,
17 www.kccllc.net/borregohealth. Parties entitled to vote may cast an electronic Ballot
18 and electronically sign and submit a Ballot instantly by utilizing the online balloting
19 portal. Parties entitled to submit an Opt-Out Form may also electronically sign and
20 submit the Opt-Out Form using the online portal. The encrypted data and audit trail
21 created by such electronic submission shall become part of the record of any Ballot
22 and Opt-Out Form submitted in this manner and the electronic signature will be
23 deemed to be immediately legally valid and effective. For the avoidance of doubt,
24 the Movants request that Ballots and Opt-Out Forms submitted via the customized
25 online balloting portal be deemed to contain original signatures.

26 **BALLOTS AND OPT-OUT FORMS TRANSMITTED TO THE DEBTOR**
27 **BY FACSIMILE, ELECTRONIC MAIL, OR OTHER MEANS NOT**
28

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1 SPECIFICALLY APPROVED BY THE COURT MAY BE ACCEPTED BY THE
2 DEBTOR ON A CASE-BY-CASE BASIS IN ITS SOLE DISCRETION.

3 **G. Approval of Procedures for Vote Tabulation**

4 Section 1126 provides:

5 A class of claims has accepted a plan if such plan has been accepted by
6 creditors, other than any entity designated under subsection (e) of this
7 section, that hold at least two thirds in amount and more than one half
8 in number of the allowed claims of such class held by creditors, other
than any entity designated under subsection (e) of this section, that have
accepted or rejected such plan.

9 11 U.S.C. § 1126(c). Further, Bankruptcy Rule 3018(a) provides that the “court after
10 notice and a hearing may temporarily allow [a] claim or interest in an amount which
11 the court deems proper for the purpose of accepting or rejecting a plan.” Fed. R.
12 Bankr. P. 3018(a).

13 For purposes of voting on the Combined Disclosure and Plan, with respect to
14 all creditors the Movants propose that the amount of a claim used to tabulate
15 acceptance or rejection of the Combined Plan should be, as applicable:

- 16 a) The amount of the claim listed in the Debtor’s schedules of assets and
17 liabilities (the “Schedules”); provided that (i) such claim is not
18 scheduled as any of contingent, unliquidated, undetermined, disputed,
19 or in a zero-dollar amount, and (ii) no proof of claim has been timely
20 filed (or otherwise deemed timely filed by the Court under applicable
21 law) with respect to such claim.
- 22 b) The noncontingent and liquidated amount specified in a proof of claim
23 timely filed with the Court (or otherwise deemed timely filed by the
24 Court under applicable law to the extent the proof of claim is not subject
25 of an objection filed by **December 22, 2023** (the “Voting Objection
26 Deadline”) or if such claim has been resolved for allowance and/or
27 voting purposes pursuant to a stipulation or order entered by the Court,
28 or otherwise resolved by the Court, the amount set forth in such
stipulation or order).
- c) If a proof of claim has been timely filed prior to the applicable bar date
and such claim is asserted in the amount of \$0.00, such claim shall not
be entitled to vote.
- d) Notwithstanding anything to the contrary in these tabulation rules, the
holder of any claim that has been indefeasibly paid, in full or in part,
shall only be permitted to vote the unpaid amount of such claim, if any,
to accept or reject the Combined Plan.

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- 1 e) The amount temporarily allowed or estimated by the Court for voting
2 purposes, pursuant to Bankruptcy Rule 3018(a), subject to notice
3 consistent with the procedures set forth herein, the Bankruptcy Code,
4 the Bankruptcy Rules, and the Local Rules shall be the amount of the
5 claim for voting purposes.
- 6 f) If a claim for which a proof of claim has been timely filed for unknown
7 or undetermined amounts (as determined on the face of the claim or after
8 a reasonable review of the supporting documentation by the Debtor) and
9 such claim has not been allowed, such claim shall be temporarily
10 allowed for voting purposes only, and not for purposes of allowance or
11 distribution, at \$1.00.
- 12 g) If a claim is listed on a timely filed proof of claim as either wholly or
13 partially contingent or unliquidated, such claim is temporarily allowed
14 in the amount that is the greater of (i) the liquidated and non-contingent
15 amount, and (ii) \$1.00 for voting purposes only, and not for purposes of
16 allowance or distribution.
- 17 h) If a claim is deemed allowed under the Combined Plan, such claim is
18 allowed for voting purposes in the deemed allowed amount set forth in
19 the Combined Plan.
- 20 i) If a claim is not listed in the Schedules or is listed in the Schedules as
21 contingent, unliquidated, or disputed (or in a zero amount) and a proof
22 of claim was not (i) filed by the applicable bar date for the filing of
23 proofs of claim established by the Court, or (ii) deemed timely filed by
24 an order of the Court prior to the Voting Deadline, such claim shall be
25 disallowed for voting purposes.
- 26 j) If a proof of claim has been amended by a later proof of claim that is
27 filed on or prior to the Voting Record Date, the later filed amending
28 claim shall be entitled to vote in a manner consistent with these
tabulation rules, and the earlier filed claim shall be disallowed for voting
purposes, regardless of whether the Debtor or Committee has objected
to such amended claim. Except as otherwise ordered by the Court, any
amendments to proofs of claim after the Voting Record Date shall not
be considered for purposes of these tabulation rules.

The temporary allowance of claims for voting purposes does not constitute an allowance of claims for purposes of distribution under the Combined Plan and is without prejudice to the rights of the Movants or any other party-in-interest in any other context, including the right to contest the amount or validity of any claim for purposes of allowance under the Combined Plan.

Additionally, the Movants seek authorization from the Court to object solely for voting purposes to any claim (as defined in § 101(5)) by filing a determination motion (the “Determination Motion”), no later than the Voting Objection Deadline.

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1 If an objection to a claim (made by way of a Determination Motion or otherwise)
2 filed on or before the Voting Objection Deadline requests that such claim be reduced
3 or reclassified, such claimant’s Ballot shall be counted in such reduced amount or as
4 falling into the reclassified category. Further, if a creditor casts a Ballot and has
5 timely filed a proof of claim (or has otherwise had a proof of claim deemed timely
6 filed by the Court under applicable law), yet the creditor’s claim is the subject of an
7 objection (made by way of a Determination Motion or otherwise) filed no later than
8 the Voting Objection Deadline, the Movants request, in accordance with Bankruptcy
9 Rule 3018, that the creditor’s Ballot not be counted to the extent it is challenged by
10 the objection, unless such claim is temporarily allowed by the Court for voting
11 purposes pursuant to Bankruptcy Rule 3018(a) after the creditor files a motion for
12 such temporary allowance (the “Rule 3018 Motion”).⁵ If a creditor seeks to have its
13 claim temporarily allowed for purposes of voting to accept or reject the Combined
14 Plan pursuant to Bankruptcy Rule 3018(a), the Movants request that such creditor be
15 required to file a Rule 3018 Motion by **December 22, 2023**.

16 If a Determination Motion or Rule 3018 Motion is filed, the Movants request
17 that the Court allow the non-moving party to file a response to such motion by
18 **December 29, 2023**. A hearing will be scheduled, subject to the Court’s availability,
19 prior to the Combined Hearing on **January 15, 2024, at 2:00 p.m. (Pacific Time)**.
20 The Movants further request that the ruling by the Court on any Determination
21 motion or Rule 3018 Motion be considered a ruling with respect to the allowance of
22 the claim(s) under Bankruptcy Rule 3018 and such claim(s) be counted, for voting
23 purposes only, in the amount determined by the Court. The Movants propose that, in
24
25
26

27 ⁵ This proposed procedure is consistent with § 1126, which provides that a plan may be accepted
28 or rejected by the holder of a claim allowed under § 502. 11 U.S.C. § 1126. In turn, § 502(a)
provides that a filed proof of claim is deemed allowed “unless a party in interest... objects.” 11
U.S.C. § 502(a).

1 the event a claimant reaches an agreement with the Movants as to the treatment of its
2 claim for voting purposes, the claim may be treated in such manner.

3 The Movants further request that the following voting procedures and standard
4 assumptions be used in tabulating the Ballots:

- 5 a) For purposes of the numerosity requirement of § 1126(c) and based on
6 the reasonable efforts of the Movants, separate claims held by a single
7 creditor in a particular class will be aggregated as if such creditor held
8 one claim against the Debtor in such class, and the votes related to such
9 claims will be treated as a single vote to accept or reject the Combined
10 Plan.
- 11 b) Any creditor who holds duplicate claims within the same class shall be
12 provided with only one Solicitation Package, one Ballot, and one Opt-
13 Out Form for voting a single claim in such class, regardless of whether
14 the Debtor or the Committee has objected to such duplicate claims.
- 15 c) Creditors must vote all their claims within a particular class either to
16 accept or reject the Combined Plan and may not split their vote.
17 Accordingly, a Ballot (or multiple Ballots with respect to multiple
18 claims within a single class) that partially rejects and partially accepts
19 the Combined Plan will not be counted.
- 20 d) Ballots that fail to indicate an acceptance or rejection of the Combined
21 Plan or that indicate both acceptance and rejection of the Combined
22 Plan, but which are otherwise properly executed and received prior to
23 the Voting Deadline, will not be counted.
- 24 e) Only Ballots that are timely received with signatures will be counted.
25 Unsigned Ballots will not be counted.
- 26 f) Ballots sent by mail or overnight delivery that are postmarked prior to
27 the Voting Deadline, but received after the Voting Deadline, will not be
28 counted.
- g) Ballots that are illegible or contain insufficient information to permit the
identification of the creditor, will not be counted.
- h) Ballots transmitted to the Debtor by facsimile, electronic mail, or other
means not specifically approved by the Court may be accepted by the
Debtor on a case-by-case basis in its sole discretion.
- i) Whenever a creditor casts more than one Ballot voting the same claim
prior to the Voting Deadline, the last valid Ballot received prior to the
Voting Deadline shall be deemed to reflect the voter's intent and
supersede any prior received Ballots.
- j) If a creditor simultaneously casts inconsistent duplicate Ballots with
respect to the same claim, such Ballots shall not be counted.
- k) Each creditor shall be deemed to have voted the full amount of its claim
in a class. Unless otherwise ordered by the Court, questions as to the

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1 validity, form, eligibility (including time of receipt), acceptance and
2 revocation or withdrawal of Ballots shall be determined by the Movants,
which determination shall be final and binding.

- 3 l) Any Ballot containing a vote that the Court determines, after notice and
4 a hearing, was not solicited or procured in good faith or in accordance
with the provisions of the Bankruptcy Code shall not be counted.
- 5 m) Any Ballot cast by a person or entity not holding a Claim in a class
6 entitled to vote on the Combined Plan shall not be counted.
- 7 n) Notwithstanding anything contained herein to the contrary, the Movants
8 may contact parties that submitted Ballots to cure any defects in the
Ballots.
- 9 o) Any class that does not contain any claim eligible to vote or accept or
10 reject the Combined Plan (by reason of temporary allowance by the
Court or otherwise) as of the date of the Combined Hearing shall be
11 deemed eliminated from the Combined Plan for purposes of voting and
for purposes of determining acceptance or rejection of the Combined
Plan by such class pursuant to § 1129(a)(8).
- 12 p) Unless waived any defects or irregularities in connection with deliveries
13 of Ballots must be cured within such time as the Movants or the Court
determines. Neither the Movants nor any other person or entity shall be
14 under any duty to provide notification of defects or irregularities with
respect to deliveries of Ballots, nor shall any incur any liabilities for
15 failure to provide such notification. Unless otherwise directed by the
Court, delivery of such Ballots shall not be deemed to have been made
16 until such irregularities have been cured or waived. Ballots previously
furnished (and as to which any irregularities have not theretofore been
cure or waived) shall not be counted.
- 17 q) The Debtor, in consultation with the Committee, subject to contrary
18 order of the Court, may waive any defect in any Ballot at any time, either
before or after the Voting Deadline and without notice; and any such
19 waivers shall be documented in the voting results filed with the Court.
- 20 r) Except as provided below, unless the Ballot being furnished is timely
21 submitted on or prior to the Voting Deadline, the Debtor may reject such
Ballot as invalid and, therefore, decline to utilize it in connection with
22 confirmation of the Combined Plan by the Court; provided, however,
that such invalid Ballots shall be documented in the voting results filed
23 with the Court.
- 24 s) Subject to the contrary order of the Court, the Debtor reserves the
absolute right to reject all Ballots not proper in form, the acceptance of
25 which would, in the opinion of the Debtor, not be in accordance with
the provisions of the Bankruptcy Code; provided, however, that such
26 invalid Ballots shall be documented in the voting results filed with the
Court.

27 The Movants submit that such procedures provide for a fair and equitable
28 voting process.

1 **H. Procedures for Filing Objections to Final Approval of the Disclosures and**
2 **Confirmation of the Combined Plan**

3 Pursuant to Bankruptcy Rule 3020(b)(1), objections to confirmation of a plan
4 must be filed and served “within a time fixed by the court.” Fed. R. Bankr. P.
5 3020(b)(1). As set forth in the Order to Combine, the deadline to file and serve an
6 objection to final approval of the Disclosures and confirmation of the Combined Plan
7 (the “Confirmation Objection”) is **January 8, 2024, at 4:00 p.m. (Pacific Time)** (the
8 “Confirmation Objection Deadline”). Both the Voting Combined Hearing Notice and
9 Non-Voting Combined Hearing Notice provide, and the Movants request the Court
10 to direct, that Confirmation Objections, if any, must:

- 11 a) Be in writing;
- 12 b) Comply with the Bankruptcy Rules and the Local Rules;
- 13 c) Set forth the name of the objector and the nature and amount of any
14 claim asserted by the objector against the Debtor;
- 15 d) State with particularity the legal and factual bases for the Confirmation
16 Objection and, if practicable, a proposed modification to the Combined
17 Plan that would resolve such Confirmation Objection; and
- 18 e) Be filed with the Court, together with proof of service, and served so
19 that they are received by the Notice Parties (as defined below) no later
20 than the Confirmation Objection Deadline.

21 The Movants request that the Court require any Confirmation Objection be
22 served on the following parties (collectively, the “Notice Parties”): (i) counsel to the
23 Debtor: Dentons US LLP, 601 South Figueroa Street, Suite 2500, Los Angeles,
24 California 90017-5704 (Attn: Samuel R. Maizel (samuel.maizel@dentons.com) and
25 Tania M. Moyron (tania.moyron@dentons.com)); (ii) financial advisor to the
26 Debtor: Ankura, 2021 McKinney Avenue, Suite 340, Dallas, Texas 75201 (Attn:
27 Charles Pease (charles.pease@ankura.com)); (iii) the Office of the United States
28 Trustee: 880 Front Street, Room 3230, San Diego, California 92101 (Attn: David

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1 Ortiz (david.a.ortiz@usdoj.gov)); (iv) counsel to the Committee: Pachulski Stang
2 Ziehl & Jones LLP, 10100 Santa Monica Boulevard, 13th Floor, Los Angeles,
3 California 90067 (Attn: Jeffrey N. Pomerantz (jpomerantz@pszjlaw.com) and
4 Steven W. Golden (sgolden@pszjlaw.com)); and (v) financial advisor to the
5 Committee: FTI, 350 South Grand Avenue, Suite 3000, Los Angeles, California
6 90071 (Attn: Cliff Zucker (cliff.zucker@fticonsulting.com) and Narendra Ganti
7 (narendra.ganti@fticonsulting.com)).

8 The proposed timing for filing and service of Confirmation Objections, if any,
9 will afford the Court, the Debtor, the Committee, and other parties in interest
10 sufficient time to consider the Confirmation Objections prior to the Combined
11 Hearing.

12 **I. Establishing Procedures for the Combined Hearing**

13 Pursuant to the Order to Combine, the Court scheduled the Combined Hearing
14 on **January 15, 2024, at 2:00 p.m. (Pacific Time)**. The Movants propose that the
15 Debtor will file the Plan Supplement, as defined in the Combined Plan, by **January**
16 **5, 2024**. Additionally, as approved in the Order to Combine, the Debtor will file a
17 tabulation report, a proposed form of confirmation order, a memorandum in support
18 of confirmation addressing the requirements of § 1129(a) and any declarations or
19 other evidence in support thereof and replies to any Confirmation Objections
20 received by the Confirmation Objection Deadline by **January 11, 2024**.

21 **V. CONCLUSION**

22 **WHEREFORE**, for the foregoing reasons and such additional reasons as may
23 be advanced at or prior to the hearing on this Motion, the Movants respectfully
24 request that the Court enter an order: (a) granting interim approval of the Disclosures
25 contained in the Combined Plan; (b) approving the Solicitation Procedures set forth
26 herein; (c) approving the forms of Ballots and notices for the Voting Classes and the
27 forms of notices to Non-Voting Classes; (d) setting related deadlines; and
28

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1 (e) granting such other and further relief as this Court deems just and proper under
2 the circumstances.

3
4 Dated: November 17, 2023

DENTONS US LLP
SAMUEL R. MAIZEL
TANIA M. MOYRON

5
6 By /s/ Tania M. Moyron
Tania M. Moyron

7
8 Dated: November 17, 2023

Attorneys for the Chapter 11 Debtor
and Debtor in Possession
PACHULSKI STANG ZIEHL &
JONES LLP
Jeffrey N. Pomerantz
Steven W. Golden

9
10
11 By /s/ Steven W. Golden
STEVEN W. GOLDEN

12
13 Attorneys for the Official Committee of
14 Unsecured Creditors

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LOS ANGELES, CALIFORNIA 90017-5704
213 623 9300

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1 **Declaration of Isaac Lee**

2 I, Isaac Lee, hereby state and declare that if called as a witness, I would and
3 could testify of my own personal knowledge as follows:

4 1. I am the Chief Restructuring Officer (“CRO”) of Borrego Community
5 Health Foundation (the “Debtor”).

6 2. The statements herein are based upon my personal knowledge of the
7 facts and information gathered by me in my capacity as CRO for the Debtor.

8 3. I make this declaration in support of the *Joint Motion for Entry of an*
9 *Order (I) Granting Interim Approval of the Adequacy of Disclosures in the Combined*
10 *Joint Disclosure Statement and Plan; (II) Approving Solicitation Packages and*
11 *Procedures; (III) Approving the Forms of Ballots; (IV) Setting Related Deadlines;*
12 *and (V) Granting Related Relief* (the “Motion”) (unless otherwise defined herein,
13 capitalized terms shall have the same meaning as in the Motion).

14 4. On October 30, 2023, the Court entered the Order to Combine [Docket
15 No. 1041], which granted (i) authority to file the Combined Plan; and (ii) scheduled
16 the Combined Hearing and related deadlines.

17 5. The Debtor and the Committee jointly prepared the Combined Plan,
18 which was filed concurrently herewith. The Combined Plan provides for the
19 liquidation of assets, a wind down of remaining affairs and dissolution through a
20 liquidating trust.

21 6. If confirmed and consummated, the Combined Plan will provide for the
22 distribution of the Sale proceeds to creditors in accordance with the DHCS Settlement
23 and the priorities of the Bankruptcy Code.

24 7. By this Motion, the Movants request (i) interim approval of the
25 adequacy of the Disclosures solely to permit the Movants to solicit the Combined
26 Plan, with final approval of the Disclosures combined with the hearing on
27 confirmation of the Combined Plan; (ii) approving certain solicitation, notice and
28 tabulation procedures with respect to confirmation of the Combined Plan;

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(iii) approving the form of the ballots and notices in connection therewith; (iv) setting deadlines related to solicitation; and (v) granting other related relief.

8. A summary of the key dates the Movants seek to establish, in addition to the dates set forth in the Order to Combine, subject to the Court’s availability, are as follows:

Event	Date
Voting Record Date	November 28, 2023
Hearing date on this Motion	December 6, 2023, at 2:00 p.m.
Deadline for Debtor to serve the Combined Plan and all solicitation materials/Solicitation commences	December 11, 2023
Voting Objection Deadline⁶	December 22, 2023
Deadline for creditors to file Rule 3018 Motions	December 22, 2023
Deadline to respond to Determination Motions	December 29, 2023
Deadline for Debtor to respond to Rule 3018 Motions	December 29, 2023
Deadline to file Plan Supplement	January 5, 2024
Voting Deadline	January 8, 2024, at 4:00 p.m.
Deadline to file and serve objections to the Combined Plan Confirmation and/or final approval of the adequacy of the Disclosures	January 8, 2024
Deadline to file (1) confirmation brief, (2) tabulation report, and (3) reply to any objection	January 11, 2024
Combined Hearing	January 15, 2024, at 2:00 p.m.

I declare under penalty of perjury that, to the best of my knowledge and after reasonable inquiry, the foregoing is true and correct.

Executed this 17th day of November, 2023, at Los Angeles, California.

⁶ Bolded items are dates that have not previously been approved by the Order to Combine.

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Isaac Lee
Chief Restructuring Officer

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Exhibit A
Ballots

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LOS ANGELES, CALIFORNIA 90017-5704
213 623 9300

1 UNITED STATES BANKRUPTCY COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3
4 In re
5 BORREGO COMMUNITY HEALTH
6 FOUNDATION, a California nonprofit
7 public benefit corporation,
8 Debtor and Debtor in Possession.

Case No. 22-02384-11
Chapter 11 Case
Hon. Judge Laura S. Taylor

**BALLOT FOR VOTING TO ACCEPT
OR REJECT THE JOINT
COMBINED DISCLOSURE
STATEMENT AND CHAPTER 11
PLAN OF LIQUIDATION OF
BORREGO COMMUNITY HEALTH
FOUNDATION**

11
12 **CLASS 3 - General Unsecured Claims**
13

14
15 **THE VOTING DEADLINE TO ACCEPT OR REJECT THE PLAN
16 IS JANUARY 8, 2024, AT 4:00 P.M. (PACIFIC TIME).**

17 **IN ORDER TO BE COUNTED, YOUR BALLOT MUST BE
18 COMPLETED, EXECUTED, AND RETURNED SO THAT IT IS
19 RECEIVED BY THE CLAIMS AND BALLOTING AGENT,
20 KURTZMAN CARSON CONSULTANTS, LLC (“KCC”), BY
21 THIS DEADLINE.**

22 **IF THE BANKRUPTCY COURT CONFIRMS THE COMBINED
23 PLAN, IT WILL BIND YOU REGARDLESS OF WHETHER YOU
24 HAVE VOTED.**

25 This ballot (the “Ballot”) is submitted to you to solicit your vote to accept or
26 reject the *Joint Combined Disclosure Statement and Chapter 11 Plan of Liquidation
27 of Borrego Community Health Foundation* (including all exhibits thereto and as
28 amended, modified or supplemented from time to time, the “Combined Plan”)

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1 proposed by the Plan Proponents.¹ The disclosures (the “Disclosures”) contained in
2 the Combined Plan were approved on an interim basis by an order of the United States
3 Bankruptcy Court for the Southern District of California (the “Bankruptcy Court”)
4 entered on December __, 2023 [Docket No. ____] (the “Approval Order”). The
5 Disclosures provide information to assist you in deciding how to vote your Ballot.
6 You should review the Combined Plan before you vote. You may wish to seek legal
7 advice concerning the Combined Plan and the classification and treatment of your
8 claim(s) under the Combined Plan. Capitalized terms not defined herein shall have
9 the meaning ascribed to such term in the Combined Plan.

10 You have received this Ballot because the Debtor’s books and records indicate
11 that you are a Holder of an Allowed Claim in Class 3 (General Unsecured Claims) as
12 of November 28, 2023 (the “Voting Record Date”), and as set forth in Item 1 of the
13 Ballot. Accordingly, you have the right to execute this Ballot and vote to accept or
14 reject the Combined Plan on account of those Claims. For additional discussion of
15 your treatment and rights under the Combined Plan, please read the Combined Plan.
16 The Combined Plan provides information to assist you in deciding how to vote your
17 Ballot. A copy of the Combined Plan and the Approval Order have been provided to
18 you with this Ballot. You may also obtain additional copies of the Approval Order
19 and the Combined Plan free of charge on the dedicated webpage of KCC at
20 <http://www.kccllc.net/borregohealth> or upon written request at the address below:

21 Kurtzman Carson Consulting LLC
22 222 North Pacific Coast Highway, Suite 300
23 El Segundo, California 90245-5614
24 Telephone: 1-866-967-0670 (Domestic) / 1-310-751-2670 (International)

25 Additionally, copies of the Approval Order and the Combined Plan are
26 available for inspection and may be obtained on the Bankruptcy Court’s website² and
27 reviewed during the regular hours of the Bankruptcy Court.

28 The Combined Plan can be confirmed by the Bankruptcy Court and thereby
made binding on you if it is accepted by the holders of at least two-thirds in amount
and more than one-half in number of the Claims in each impaired Class to vote on the
Combined Plan and/or if the Combined Plan otherwise satisfies the applicable
requirements of section 1129(a) under chapter 11 of title 11 of the United States Code,

¹ The Plan Proponents are the Debtor and the Official Committee of Unsecured Creditors (the
“Committee”).

² <http://www.cacb.uscourts.gov/> (a PACER login and password are required to access documents
on the Bankruptcy Court’s website).

1 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”).

2 If the requisite acceptances are not obtained, the Bankruptcy Court nonetheless
3 may confirm the Combined Plan if it finds that the Combined Plan (i) provides fair
4 and equitable treatment to, and does not unfairly discriminate against, the Class or
5 Classes rejecting the Plan, and (ii) otherwise satisfies the requirements of section
6 1129(b) of the Bankruptcy Code.

6 To have your vote counted, you must complete, sign, and return this Ballot to
7 the following address so that it is **actually received** on or before the Voting Deadline:

- 8 • By U.S. First Class Mail, Overnight Mail or Hand Delivery to:

9 Borrego Health Ballot Processing Center
10 c/o Kurtzman Carson Consulting LLC
11 222 North Pacific Coast Highway, Suite 300
12 El Segundo, California 90245-5614
13 Telephone: 1-866-967-0670 (Domestic) / 1-310-751-2670 (International)

- 13 • Or, as an alternative, by submitting your Ballot via the online balloting portal,
14 as explained on page 5 of this Ballot.

15 Ballots transmitted to anyone other than KCC, above, and/or by facsimile, electronic
16 mail, or other means not specifically approved by the Bankruptcy Court, may be
17 accepted by the Plan Proponents on a case-by-case basis.

18 **PLEASE READ THE ATTACHED VOTING INFORMATION AND
19 INSTRUCTIONS BEFORE COMPLETING THIS BALLOT.**

20 **PLEASE COMPLETE ITEMS 1 (ACCEPTANCE OR REJECTION), 2 (VOTING
21 AMOUNT) AND 3 (INFORMATION ON SIGNATORY). IF NOT SIGNED ON
22 THE APPROPRIATE LINE, THIS BALLOT WILL NOT BE VALID OR NOT
COUNTED AS HAVING BEEN CAST.**

23 **Item 1. Class Vote.** The undersigned, a holder of a Class 3 General Unsecured Claim
24 in the voting amount indicated below, elects to (check one box only):

25 **Accept (votes FOR) the Combined Plan**

26 **Reject (votes AGAINST) the Combined Plan**

27 **Item 2. Vote Amount.** For purposes of voting to accept or reject the Combined Plan,
28 as of November 28, 2023 (the “Voting Record Date”), the undersigned (the

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213 623 9300

1 “Claimant”) was a holder of a Class 3 General Unsecured Claim in the aggregate
2 amount set forth below:

3 \$ _____

4 **Item 3. Certification.** By signing this Ballot, the undersigned acknowledges receipt
5 of the Combined Plan and the other applicable solicitation materials and certifies that
6 the undersigned is the Claimant or has the power and authority to vote to accept or
7 reject the Combined Plan on behalf of the Claimant. The undersigned understands
8 that an otherwise properly completed, executed and timely returned Ballot that does
9 not indicate either acceptance or rejection of the Combined Plan or indicates both
10 acceptance and rejection of the Combined Plan will not be counted.

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Name of Creditor

Signature

If by Authorized Agent, Name and Title

Name of Institution (if applicable)

Street Address

City, State & Zip Code

Telephone Number

Email Address

Date Completed

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213 623 9300

VOTING INFORMATION AND INSTRUCTIONS FOR COMPLETING THE BALLOT

(a) **In the boxes provided in Item 1 of the Ballot, please indicate either acceptance or rejection of the Plan.** Then, complete the Ballot by providing all the “Voting Amount” in Items 2, then sign, date, and complete the information on the identification of the signatory, and return the Ballot by ONLY ONE of the following approved return methods:

- By U.S. First Class Mail or Hand Delivery or Overnight Mail to:

Borrego Health Ballot Processing Center
c/o Kurtzman Carson Consulting LLC
222 North Pacific Coast Highway, Suite 300
El Segundo, California 90245-5614

Telephone: 1-866-967-0670 (Domestic) / 1-310-751-2670 (International)

- Alternatively, to submit your Ballot via KCC’s online balloting portal, visit <http://www.kccllc.net/borregohealth>, click on the “Submit E-Ballot” section of the website, and follow the instructions to submit your Ballot.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized electronic Ballot:

Unique E-Ballot ID#: _____

PIN #: _____

KCC’s online balloting portal is the sole manner in which Ballots will be accepted via electronic or online transmission.

Each E-Ballot ID# is to be used solely for voting only those Claims described in Item 1 of your electronic Ballot. Please complete and submit an electronic Ballot for each E-Ballot ID# you receive, as applicable. Creditors who cast a Ballot using KCC’s online portal should NOT also submit a paper Ballot.

(b) **Ballots must be received by KCC on or before January 8, 2024, at 4:00 p.m. (Pacific Time)** (the “Voting Deadline”). If a Ballot is received after the Voting Deadline, it will not be counted (even if post-marked prior to the Voting Deadline), except at the Debtor’s discretion. An envelope addressed to KCC is enclosed for your convenience (which address may differ from the address above). Ballots transmitted to anyone other than KCC, above, and/or transmitted to KCC by facsimile, electronic mail, or other means not specifically approved by the Bankruptcy Court, may be accepted by the Plan Proponents on a case-by-case

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1 basis. If neither the “accept” nor “reject” box is checked in Item 1 for an
2 otherwise properly completed, executed and timely returned Ballot, the Ballot
3 will not be counted.

4 (c) You must vote all your Claims within a single Class under the Combined Plan
5 either to accept or reject the Combined Plan. Accordingly, if you return more than
6 one Ballot voting different Claims within a single Class under the Combined Plan
7 and the Ballots are not voted in the same manner, those Ballots will not be
8 counted. An otherwise properly executed Ballot that attempts to partially accept
9 and partially reject the Combined Plan likewise will not be counted. Further,
10 inconsistent duplicate Ballots with respect to the same claim shall not be counted.

11 (d) Your Claim has been temporarily allowed solely for purposes of voting to accept
12 or reject the Plan in accordance with certain tabulation rules approved by the
13 Bankruptcy Court (the “Tabulation Rules”). The Tabulation Rules are set forth in
14 the Approval Order. The temporary allowance of claims for voting purposes does
15 not constitute an allowance of claims for purposes of distribution under the Plan
16 and is without prejudice to the rights of the Debtor or any other party-in-interest
17 in any other context to contest the amount or validity of any claim for purposes
18 of allowance under the Plan. More specifically, the Debtor may object to any
19 Claim (as defined in § 101(5) of the Bankruptcy Code) solely for Plan voting
20 purposes by filing a determination motion (a “Determination Motion”), no later
21 than the Voting Objection Deadline, which is December 22, 2023. If an objection
22 to a Claim (made by way of a Determination Motion or otherwise) is filed by the
23 Debtor, or the Committee (if permitted by the Debtor, or a Stipulation and Order
24 granting the Committee standing to object to such Claim, if required), on or before
25 the Voting Objection Deadline, which is December 22, 2023, requesting that such
26 Claim be reduced or reclassified, such claimant’s Ballot shall, subject to such
27 claimant’s right to file a responsive pleading (including, but not limited to, a Rule
28 3018 Motion [as defined below] as set forth herein, be counted in such reduced
amount or as falling into the reclassified category, unless otherwise ordered by
the Court. Further, if you have cast a Ballot and if you have timely filed a Proof
of Claim (or have otherwise had a Proof of Claim deemed timely filed by the
Bankruptcy Court under applicable law), but your Claim is the subject of an
objection (made by way of a Determination Motion or otherwise) filed no later
than the Voting Objection Deadline, your Ballot will not be counted to the extent
it is challenged by the objection, unless such claim is temporarily allowed by the
Bankruptcy Court for voting purposes pursuant to Bankruptcy Rule 3018(a) after
the creditor files a motion for such temporary allowance (the “Rule 3018
Motion”). If you seek to have your Claim temporarily allowed for purposes of
voting to accept or reject the Plan pursuant to Bankruptcy Rule 3018(a), you are
required to file a Rule 3018 Motion by **December 22, 2023**. In the event that a

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1 Determination Motion or Rule 3018 Motion is filed, and the non-moving party
2 wants to file a response to such motion, such responses must be filed by
3 **December 29, 2023**. A hearing will be scheduled, subject to the Bankruptcy
4 Court's availability, prior to the Combined Hearing on **January 15, 2024, at 2:00**
5 **p.m.** The ruling by the Bankruptcy Court on any Determination Motion or Rule
6 3018 Motion shall be a ruling with respect to the allowance of the Claim(s) under
7 Bankruptcy Rule 3018 and such Claim(s) will be counted, for voting purposes
8 only, in the amount determined by the Bankruptcy Court. In the event a claimant
9 reaches an agreement with the Plan Proponents, as to the treatment of a Claim for
10 voting purposes, the Claim may be treated in such manner.

11 (e) The Ballot does not constitute and will not be deemed a Proof of Claim or an
12 assertion of a Claim.

13 (f) If you cast more than one Ballot voting for the same Claim prior to the Voting
14 Deadline, the latest received properly completed Ballot will supersede any
15 previously received Ballot.

16 (g) **NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR
17 ADVICE OR TO MAKE ANY REPRESENTATION, OTHER THAN WHAT
18 IS CONTAINED IN THE MATERIALS MAILED WITH THIS BALLOT OR
19 OTHER MATERIALS AUTHORIZED BY THE BANKRUPTCY COURT.**

20 (h) **PLEASE RETURN YOUR BALLOT PROMPTLY.**

21 (i) **IF YOU HAVE RECEIVED A DAMAGED BALLOT, HAVE LOST YOUR
22 BALLOT, OR IF YOU HAVE ANY QUESTIONS CONCERNING THIS
23 BALLOT OR THE VOTING PROCEDURES, PLEASE CONTACT THE
24 DEBTOR AT**

25 Kurtzman Carson Consulting LLC
26 222 North Pacific Coast Highway, Suite 300
27 El Segundo, California 90245-5614

28 Telephone: 1-866-967-0670 (Domestic) / 1-310-751-2670 (International)

**DO NOT CONTACT THE DEBTOR FOR LEGAL ADVICE. THE DEBTOR
CANNOT AND WILL NOT PROVIDE PARTIES WITH LEGAL ADVICE.**

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1 UNITED STATES BANKRUPTCY COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3
4 In re
5 BORREGO COMMUNITY HEALTH
6 FOUNDATION, a California nonprofit
7 public benefit corporation,
8 Debtor and Debtor in Possession.

Case No. 22-02384-11
Chapter 11 Case
Hon. Judge Laura S. Taylor

**BALLOT FOR VOTING TO ACCEPT
OR REJECT THE JOINT
COMBINED DISCLOSURE
STATEMENT AND CHAPTER 11
PLAN OF LIQUIDATION OF
BORREGO COMMUNITY HEALTH
FOUNDATION**

11
12
13 **CLASS 4 - DHCS Claims**
14

15
16 **THE VOTING DEADLINE TO ACCEPT OR REJECT THE PLAN
17 IS JANUARY 8, 2024, AT 4:00 P.M. (PACIFIC TIME).**

18 **IN ORDER TO BE COUNTED, YOUR BALLOT MUST BE
19 COMPLETED, EXECUTED, AND RETURNED SO THAT IT IS
20 RECEIVED BY THE CLAIMS AND BALLOTING AGENT,
21 KURTZMAN CARSON CONSULTANTS, LLC (“KCC”), BY
THIS DEADLINE.**

22 **IF THE BANKRUPTCY COURT CONFIRMS THE COMBINED
23 PLAN, IT WILL BIND YOU REGARDLESS OF WHETHER YOU
24 HAVE VOTED.**

25 This ballot (the “Ballot”) is submitted to you to solicit your vote to accept or
26 reject the *Joint Combined Disclosure Statement and Chapter 11 Plan of Liquidation*
27 *of Borrego Community Health Foundation* (including all exhibits thereto and as
28 amended, modified or supplemented from time to time, the “Combined Plan”)

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213 623 9300

1 proposed by the Plan Proponents.¹ The disclosures (the “Disclosures”) contained in
2 the Combined Plan were approved on an interim basis by an order of the United States
3 Bankruptcy Court for the Southern District of California (the “Bankruptcy Court”)
4 entered on December __, 2023 [Docket No. ____] (the “Approval Order”). The
5 Disclosures provide information to assist you in deciding how to vote your Ballot.
6 You should review the Combined Plan before you vote. You may wish to seek legal
7 advice concerning the Combined Plan and the classification and treatment of your
8 claim(s) under the Combined Plan. Capitalized terms not defined herein shall have
9 the meaning ascribed to such term in the Combined Plan.

10 You have received this Ballot because the Debtor’s books and records indicate
11 that you are a Holder of an Allowed Claim in Class 4 (DHCS Claim) as of November
12 28, 2023 (the “Voting Record Date”), and as set forth in Item 1 of the Ballot.
13 Accordingly, you have the right to execute this Ballot and vote to accept or reject the
14 Combined Plan on account of those Claims. For additional discussion of your
15 treatment and rights under the Combined Plan, please read the Combined Plan. The
16 Combined Plan provides information to assist you in deciding how to vote your
17 Ballot. A copy of the Combined Plan and the Approval Order have been provided to
18 you with this Ballot. You may also obtain additional copies of the Approval Order
19 and the Combined Plan free of charge on the dedicated webpage KCC at
20 <http://www.kccllc.net/borregohealth> or upon written request at the address below:

21 Kurtzman Carson Consulting LLC
22 222 North Pacific Coast Highway, Suite 300
23 El Segundo, California 90245-5614
24 Telephone: 1-866-967-0670 (Domestic) / 1-310-751-2670 (International)

25 Additionally, copies of the Approval Order and the Combined Plan are
26 available for inspection and may be obtained on the Bankruptcy Court’s website² and
27 reviewed during the regular hours of the Bankruptcy Court.

28 The Combined Plan can be confirmed by the Bankruptcy Court and thereby
made binding on you if it is accepted by the holders of at least two-thirds in amount
and more than one-half in number of the Claims in each impaired Class to vote on the
Combined Plan and/or if the Combined Plan otherwise satisfies the applicable
requirements of section 1129(a) under chapter 11 of title 11 of the United States Code,

¹ The Plan Proponents are the Debtor and the Official Committee of Unsecured Creditors (the
“Committee”).

² <http://www.cacb.uscourts.gov/> (a PACER login and password are required to access documents
on the Bankruptcy Court’s website).

1 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”).

2 If the requisite acceptances are not obtained, the Bankruptcy Court nonetheless
3 may confirm the Combined Plan if it finds that the Combined Plan (i) provides fair
4 and equitable treatment to, and does not unfairly discriminate against, the Class or
5 Classes rejecting the Plan, and (ii) otherwise satisfies the requirements of section
6 1129(b) of the Bankruptcy Code.

6 To have your vote counted, you must complete, sign, and return this Ballot to the
7 following address so that it is **actually received** on or before the Voting Deadline:

- 8 • By U.S. First Class Mail, Overnight Mail or Hand Delivery to:

9 Borrego Health Ballot Processing Center
10 c/o Kurtzman Carson Consulting LLC
11 222 North Pacific Coast Highway, Suite 300
12 El Segundo, California 90245-5614
13 Telephone: 1-866-967-0670 (Domestic) / 1-310-751-2670 (International)

- 13 • Or, in the alternative, by submitting your Ballot via the online balloting portal,
14 as explained on page 5 of this Ballot.

15 Ballots transmitted to anyone other than KCC, above, and/or by facsimile, electronic
16 mail, or other means not specifically approved by the Bankruptcy Court, may be
17 accepted by the Plan Proponents on a case-by-case basis.

18 **PLEASE READ THE ATTACHED VOTING INFORMATION AND
19 INSTRUCTIONS BEFORE COMPLETING THIS BALLOT.**

20 **PLEASE COMPLETE ITEMS 1 (ACCEPTANCE OR REJECTION), 2 (VOTING
21 AMOUNT) AND 3 (INFORMATION ON SIGNATORY). IF NOT SIGNED ON
22 THE APPROPRIATE LINE, THIS BALLOT WILL NOT BE VALID OR NOT
COUNTED AS HAVING BEEN CAST.**

23 **Item 1. Class Vote.** The undersigned, the holder of the Class 4 DHCS Claim in the
24 voting amount indicated below, elects to (check one box only):

25 **Accept (votes FOR) the Combined Plan**

26 **Reject (votes AGAINST) the Combined Plan**

27 **Item 2. Vote Amount.** For purposes of voting to accept or reject the Combined Plan,
28 as of November 28, 2023 (the “Voting Record Date”), the undersigned (the

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213 623 9300

1 “Claimant”) was a holder of a Class 4 DHCS Claim in the aggregate amount set forth
2 below:

3 \$ _____

4 **Item 3. Certification.** By signing this Ballot, the undersigned acknowledges receipt
5 of the Combined Plan and the other applicable solicitation materials and certifies that
6 the undersigned is the Claimant or has the power and authority to vote to accept or
7 reject the Combined Plan on behalf of the Claimant. The undersigned understands
8 that an otherwise properly completed, executed and timely returned Ballot that does
9 not indicate either acceptance or rejection of the Combined Plan or indicates both
10 acceptance and rejection of the Combined Plan will not be counted.

11 _____
Name of Creditor

12 _____
Signature

13 _____
If by Authorized Agent, Name and Title

14 _____
Name of Institution (if applicable)

15 _____
Street Address

16 _____
City, State & Zip Code

17 _____
Telephone Number

18 _____
Email Address

19 _____
Date Completed

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LOS ANGELES, CALIFORNIA 90017-5704
213 623 9300

VOTING INFORMATION AND INSTRUCTIONS FOR COMPLETING THE BALLOT

(a) **In the boxes provided in Item 1 of the Ballot, please indicate either acceptance or rejection of the Plan.** Then, complete the Ballot by providing all the “Voting Amount” in Items 2, then sign, date, and complete the information on the identification of the signatory, and return the Ballot by ONLY ONE of the following approved return methods:

- By U.S. First Class Mail or Hand Delivery or Overnight Mail to:

Borrego Health Ballot Processing Center
c/o Kurtzman Carson Consulting LLC
222 North Pacific Coast Highway, Suite 300
El Segundo, California 90245-5614

Telephone: 1-866-967-0670 (Domestic) / 1-310-751-2670 (International)

- Alternatively, to submit your Ballot via KCC’s online balloting portal, visit <http://www.kccllc.net/borregohealth>, click on the “Submit E-Ballot” section of the website, and follow the instructions to submit your Ballot.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized electronic Ballot:

Unique E-Ballot ID#: _____

PIN #: _____

KCC’s online balloting portal is the sole manner in which Ballots will be accepted via electronic or online transmission.

Each E-Ballot ID# is to be used solely for voting only those Claims described in Item 1 of your electronic Ballot. Please complete and submit an electronic Ballot for each E-Ballot ID# you receive, as applicable. Creditors who cast a Ballot using KCC’s online portal should NOT also submit a paper Ballot.

(b) **Ballots must be received by KCC on or before January 8, 2024, at 4:00 p.m. (Pacific Time)** (the “Voting Deadline”). If a Ballot is received after the Voting Deadline, it will not be counted (even if post-marked prior to the Voting Deadline), except at the Debtor’s discretion with the consent of the Committee. An envelope addressed to KCC is enclosed for your convenience (which address may differ from the address above). Ballots transmitted to anyone other than KCC, above, and/or transmitted to KCC by facsimile, electronic mail, or other means not specifically approved by the Bankruptcy Court, may be accepted by

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213 623 9300

1 the Plan Proponents on a case-by-case basis. If neither the “accept” nor “reject”
2 box is checked in Item 1 for an otherwise properly completed, executed and
3 timely returned Ballot, the Ballot will not be counted.

4 (c) You must vote all your Claims within a single Class under the Combined Plan
5 either to accept or reject the Combined Plan. Accordingly, if you return more than
6 one Ballot voting different Claims within a single Class under the Combined Plan
7 and the Ballots are not voted in the same manner, those Ballots will not be
8 counted. An otherwise properly executed Ballot that attempts to partially accept
9 and partially reject the Combined Plan likewise will not be counted. Further,
10 inconsistent duplicate Ballots with respect to the same claim shall not be counted.

11 (d) Your Claim has been temporarily allowed solely for purposes of voting to accept
12 or reject the Plan in accordance with certain tabulation rules approved by the
13 Bankruptcy Court (the “Tabulation Rules”). The Tabulation Rules are set forth in
14 the Approval Order. The temporary allowance of claims for voting purposes does
15 not constitute an allowance of claims for purposes of distribution under the Plan
16 and is without prejudice to the rights of the Debtor or any other party-in-interest
17 in any other context to contest the amount or validity of any claim for purposes
18 of allowance under the Plan. More specifically, the Debtor may object to any
19 Claim (as defined in § 101(5) of the Bankruptcy Code) solely for Plan voting
20 purposes by filing a determination motion (a “Determination Motion”), no later
21 than the Voting Objection Deadline, which is December 22, 2023. If an objection
22 to a Claim (made by way of a Determination Motion or otherwise) is filed by the
23 Debtor, or the Committee (if permitted by the Debtor, or a Stipulation and Order
24 granting the Committee standing to object to such Claim, if required), on or before
25 the Voting Objection Deadline, which is December 22, 2023, requesting that such
26 Claim be reduced or reclassified, such claimant’s Ballot shall, subject to such
27 claimant’s right to file a responsive pleading (including, but not limited to, a Rule
28 3018 Motion [as defined below] as set forth herein, be counted in such reduced
amount or as falling into the reclassified category, unless otherwise ordered by
the Court. Further, if you have cast a Ballot and if you have timely filed a Proof
of Claim (or have otherwise had a Proof of Claim deemed timely filed by the
Bankruptcy Court under applicable law), but your Claim is the subject of an
objection (made by way of a Determination Motion or otherwise) filed no later
than the Voting Objection Deadline, your Ballot will not be counted to the extent
it is challenged by the objection, unless such claim is temporarily allowed by the
Bankruptcy Court for voting purposes pursuant to Bankruptcy Rule 3018(a) after
the creditor files a motion for such temporary allowance (the “Rule 3018
Motion”). If you seek to have your Claim temporarily allowed for purposes of
voting to accept or reject the Plan pursuant to Bankruptcy Rule 3018(a), you are
required to file a Rule 3018 Motion by **December 22, 2023**. In the event that a

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1 Determination Motion or Rule 3018 Motion is filed, and the non-moving party
2 wants to file a response to such motion, such responses must be filed by
3 **December 29, 2023**. A hearing will be scheduled, subject to the Bankruptcy
4 Court's availability, prior to the Combined Hearing on **January 15, 2024, at 2:00**
5 **p.m.** The ruling by the Bankruptcy Court on any Determination Motion or Rule
6 3018 Motion shall be a ruling with respect to the allowance of the Claim(s) under
7 Bankruptcy Rule 3018 and such Claim(s) will be counted, for voting purposes
8 only, in the amount determined by the Bankruptcy Court. In the event a claimant
9 reaches an agreement with the Plan Proponents, as to the treatment of a Claim for
10 voting purposes, the Claim may be treated in such manner.

11 (e) The Ballot does not constitute and will not be deemed a Proof of Claim or an
12 assertion of a Claim.

13 (f) If you cast more than one Ballot voting for the same Claim prior to the Voting
14 Deadline, the latest received properly completed Ballot will supersede any
15 previously received Ballot.

16 (g) **NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR
17 ADVICE OR TO MAKE ANY REPRESENTATION, OTHER THAN WHAT
18 IS CONTAINED IN THE MATERIALS MAILED WITH THIS BALLOT OR
19 OTHER MATERIALS AUTHORIZED BY THE BANKRUPTCY COURT.**

20 (h) **PLEASE RETURN YOUR BALLOT PROMPTLY.**

21 (i) **IF YOU HAVE RECEIVED A DAMAGED BALLOT, HAVE LOST YOUR
22 BALLOT, OR IF YOU HAVE ANY QUESTIONS CONCERNING THIS
23 BALLOT OR THE VOTING PROCEDURES, PLEASE CONTACT THE
24 DEBTOR AT**

25 Kurtzman Carson Consulting LLC
26 222 North Pacific Coast Highway, Suite 300
27 El Segundo, California 90245-5614

28 Telephone: 1-866-967-0670 (Domestic) / 1-310-751-2670 (International)

**DO NOT CONTACT THE DEBTOR FOR LEGAL ADVICE. THE DEBTOR
CANNOT AND WILL NOT PROVIDE PARTIES WITH LEGAL ADVICE.**

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Exhibit B
Release Opt-Out Election Form

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213 623 9300

1 UNITED STATES BANKRUPTCY COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3
4 In re
5 BORREGO COMMUNITY
6 HEALTH FOUNDATION,
7 Debtor and Debtor In
8 Possession.

Case No. 22-02384-LT11

Chapter 11 Case

Judge: Honorable Laura S. Taylor

ELECTION TO OPT OUT OF THIRD-PARTY RELEASES INCLUDED IN THE JOINT COMBINED DISCLOSURE STATEMENT AND CHAPTER 11 PLAN OF LIQUIDATION OF BORREGO COMMUNITY HEALTH FOUNDATION

11 **TO BE EFFECTIVE, THIS COMPLETED FORM**
12 **MUST BE ACTUALLY RECEIVED BY KURTZMAN CARSON**
13 **CONSULTANTS (“KCC”) ON OR BEFORE**
14 **JANUARY 8, 2024, AT 4:00 P.M. (PACIFIC TIME)**

15 This **Third-Party Release Opt-Out Election** form (the “Opt-Out Form”) relates to the *Joint Combined Disclosure Statement and Chapter 11 Plan of Liquidation of Borrego Community Health Foundation* (as may be amended, supplemented, or otherwise modified from time to time, the “Combined Plan”), dated [], 2023, proposed by the Plan Proponents.¹ The disclosures (the “Disclosures”) contained in the Combined Plan were approved on an interim basis by an order of the United States Bankruptcy Court for the Southern District of California (the “Bankruptcy Court”) entered on December __, 2023 [Docket No. ____] (the “Approval Order”).

21 As set forth more fully in the Combined Plan, the Combined Plan proposes that Holders of Claims will grant the releases,² including releases of parties that are not the Debtor. Except as otherwise set forth in the Combined Plan, Holders of Claims are deemed to grant the Third Party Release set forth in Section 17.2(b) of the Combined Plan, unless a holder affirmatively opts out of the Third Party Release (as defined below) on or before **January 8, 2024, at 4:00 p.m. (Pacific Time)** (the

26 _____
27 ¹ The Plan Proponents are the Debtor and the Official Committee of Unsecured Creditors (the “Committee”).

28 ² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan.

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1 “Opt-Out Deadline”). Accordingly, you are urged to carefully review the Combined
2 Plan to determine how your rights may be affected, and you may also want to consult
3 with your counsel.

4 PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS FOR
5 COMPLETING THIS OPT-OUT FORM CAREFULLY BEFORE COMPLETING
6 THIS OPT-OUT FORM.

7 **UNLESS YOU CHECK THE BOX ON THIS OPT-OUT FORM BELOW AND**
8 **FOLLOW ALL INSTRUCTIONS, YOU WILL BE HELD TO FOREVER**
9 **RELEASE THE RELEASED PARTIES (AS DEFINED HEREIN) IN**
10 **ACCORDANCE WITH THE PLAN.**

11 **THIS OPT-OUT FORM MUST BE COMPLETED, EXECUTED, AND**
12 **RETURNED TO KCC SO THAT IT IS ACTUALLY RECEIVED ON OR**
13 **BEFORE THE OPT-OUT DEADLINE.**

14 **Item 1. Release Opt-Out Election**

15 **The following non-Debtor third parties are proposed to grant releases**
16 **under the Combined Plan:**

17 The Plan term “**Releasing Parties**” means (a) the Released Parties; and (b) all
18 Claimants that (i) vote to accept the Plan (or are deemed to accept the Plan),
19 and (ii) do not affirmatively opt out of Third Party Releases pursuant to a duly
20 executed Release Opt-Out Election Form; provided, that, notwithstanding
21 anything contained herein to the contrary, in no event shall an Entity be a
22 Releasing Party that (x) does not vote to accept or reject the Plan, (y) votes to
23 reject the Plan, or (z) appropriately marks the Release Opt-Out Election Form
24 to opt out of the Third Party Releases and returns such Release Opt-Out
25 Election Form in accordance with the Plan and the Voting Instructions.

26 **The following parties are proposed to be the beneficiaries of the releases**
27 **under the Combined Plan:**

28 The Plan term “**Released Parties**” means, individually and collectively: a) the
Debtor, (b) the Committee, (c) the following members of the Committee:
McKesson Corporation; Greenway Health, LLC; We Klean Inc.; Mustafa
Bilal, DDS, Inc.; Vista Village Family Dentistry; Vitamin D Public Relations,
LLC; and Pourshirazi & Youssefi Dental Corporation; and (d) each of the
Related Persons of each of the Entities in the foregoing clauses (a)-(c);
provided, however, that notwithstanding anything to the contrary herein,

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1 including the definition of “Related Persons,”³ none of the Prepetition Fraud
2 Parties are a Released Party.

3 **Section 17.2(b) of the Plan provides as follows with respect to the releases**
4 **granted by third parties under the Plan (the “Third-Party Release”):**

5 On, and as of, the Effective Date and for good and valuable consideration, the
6 receipt and sufficiency of which are acknowledged, the Released Parties shall
7 be forever released (the “Third-Party Release”) from any and all claims,
8 obligations, actions, suits, rights, debts, accounts, causes of action, remedies,
9 avoidance actions, agreements, promises, damages, judgments, demands,
10 defenses, and liabilities throughout the world under any law or court ruling
11 through the Effective Date (including all claims based on or arising out of
12 factors or circumstances that existed as of or prior to the Effective Date,
13 including claims based on negligence or strict liability, and further including
14 any derivative claims asserted on behalf of the Debtor, whether known or
15 unknown, foreseen or unforeseen, existing or hereinafter arising, in law,
16 equity, or otherwise) which the Debtor, its estate, Creditors, or other persons
17 receiving or who are entitled to receive distributions under the Plan may have
18 against any of them in any way related to this Chapter 11 Case, the negotiation,
19 formulation, or preparation of the Plan or related agreements, instruments, or
20 other documents, any other act or omission, transaction, agreement, event, or
21 other occurrence taking place on and before the Petition Date, and related to
22 the Debtor (or its predecessors), its business and/or its assets; provided,
23 however, that the foregoing releases are granted only by (a) Creditors who
24 returned a Ballot; and (b) Creditors who were sent a Solicitation Package or a
25 Release Opt-Out Election Form, but either (i) did not vote; or (ii) did not return
26 a Release Opt-Out Election Form; provided, however, that the release provided
27 in this section shall not apply to (A) any Creditor whose Claim is not Allowed
28 either in whole or in part; or (B) any Creditor in category (b) above if the
Solicitation Package or Release Opt-Out Election Form was returned to the
Debtor as undelivered and that such Creditor did not otherwise submit a Ballot;
and provided further, however, that the release provided in this Section shall
not extend to any claims by any Governmental Unit with respect to criminal
liability under applicable law, willful misconduct or bad faith under applicable
law, *ultra vires* acts under applicable law.

³ “**Related Persons**” means, subject to any exclusions expressly set forth in the Plan, with respect to a specific Person, said Person’s successors and assigns, as applicable, its current and former shareholders, affiliates, subsidiaries, employees, agents, investment managers, subagents, officers, directors, managers, trustees, partners, members, professionals, representatives, advisors, attorneys, financial advisors, accountants, and consultants.

1 You are receiving this Opt-Out Form because the Debtor believes you may be
2 a Holder of a Claim. The Combined Plan provides that Holders of Claims will be
3 deemed “Releasing Parties” if they do not opt out of granting the releases described
4 therein.

5 As a potential Holder of a Claim, please carefully read Section 17.2(b) of the
6 Combined Plan as it affects your rights by releasing claims that you may hold against
7 the Released Parties. Check the box below if you do not consent to the Third-Party
8 Release. If you do not check the box, or if you otherwise do not correctly complete
9 and return this Opt-Out Form, you will be deemed to consent to the Third-Party
10 Release.

11 By checking the box below, the undersigned Claimant elects **NOT** to release
12 the Released Parties as set forth in Section 17.2(b).

13 **IF YOU DO NOT RETURN THIS OPT-OUT FORM, YOU WILL BE**
14 **DEEMED TO HAVE CONCLUSIVELY, ABSOLUTELY,**
15 **UNCONDITIONALLY, IRREVOCABLY AND FOREVER RELEASED AND**
16 **DISCHARGED THE RELEASED PARTIES FROM ANY AND ALL CLAIMS**
17 **AND CAUSES OF ACTION TO THE EXTENT PROVIDED IN THE**
18 **COMBINED PLAN IF YOU DO NOT CHECK THE OPT-OUT BOX BELOW.**

- 19 **The undersigned does not consent to the Third-Party Release and**
20 **elects to be excluded as Releasing Party.**

21 **Item 2. Certification.** By signing this Opt-Out Form, the undersigned certifies
22 that the undersigned has the power and authority to elect whether to grant the Third-
23 Party Release contained in Section 17.2(b) of the Combined Plan and has elected not
24 to be a Releasing Party under the Combined Plan.
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Name of Holder

Signature

If by Authorized Agent, Name and Title

Name of Institution

Street Address

City, State & Zip Code

Telephone Number

Email Address

Date Completed

Return of Opt-Out Form

To opt-out of the Third-Party Release, please submit your Opt-Out Form by one of the following two methods:

Via Paper Form. Complete, sign, and date, this Opt-Out Form and return it promptly via first-class mail, overnight courier, or hand delivery to:

Borrego Health Ballot Processing Center
c/o Kurtzman Carson Consulting LLC
222 North Pacific Coast Highway, Suite 300
El Segundo, California 90245-5614
Telephone: 1-866-967-0670 (Domestic) / 1-310-751-2670 (International)

Via E-Ballot Portal. Submit your Opt-Out Form via KCC’s online portal, by visiting <https://www.kccllc.net/borregohealth> (the “E-Ballot Portal”). Click on the “Submit E-Ballot” section of the website and follow the instructions to submit your Opt-Out Form.

1 **IMPORTANT NOTE: YOU WILL NEED THE FOLLOWING**
2 **INFORMATION TO RETRIEVE YOUR CUSTOMIZED ELECTRONIC**
3 **OPT-OUT FORM:**

4 **UNIQUE ID #:** _____

5 **PIN #:** _____

6 Parties that submit their Opt-Out Form using the E-Ballot Portal should NOT also
7 submit a paper Opt-Out Form.

8 **IF KCC DOES NOT ACTUALLY RECEIVE THIS OPT-OUT FORM ON**
9 **OR BEFORE THE OPT-OUT DEADLINE, THEN YOUR ELECTION**
10 **TRANSMITTED HEREBY WILL NOT BE EFFECTIVE.**

11 **OPT-OUT FORMS SENT BY FACSIMILE OR E-MAIL**
12 **WILL NOT BE ACCEPTED**

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1 respect to the same Claim prior to the Opt-Out Deadline, the last Opt-Out Form
2 timely received will supersede and revoke any earlier received Opt-Out Forms.

3 7. The Opt-Out Form is not a letter of transmittal and may be used for any
4 purpose other than to opt out of the Third-Party Release.

5 8. The Opt-Out Form does not constitute, and shall not be deemed to be,
6 (a) a proof of claim, or (b) an assertion or admission of a Claim.

7 9. Please be sure to sign and date your Opt-Out Form. If you are signing
8 an Opt-Out Form in your capacity as a trustee, executor, administrator, guardian,
9 attorney in fact, officer of a corporation, or otherwise acting in a fiduciary or
10 representative capacity, you must indicate such capacity when signing and, if
11 required or requested by KCC, the Debtor, or the Bankruptcy Court, must submit
12 proper evidence to the requesting party to so act on behalf of such Holder. In
13 addition, please provide your name and mailing address if it is different from that set
14 forth on the attached mailing label or if no such mailing label is attached to the Opt-
15 Out Form.

13 **PLEASE RETURN YOUR OPT-OUT FORM PROMPTLY.**

14 **IF YOU HAVE ANY QUESTIONS REGARDING THIS OPT-OUT**
15 **FORM OR THE INSTRUCTION OR PROCEDURES, PLEASE**
16 **CONTACT KCC AT:**

17 **Telephone: 1-866-967-0670 (Domestic) / 1-310-751-2670 (International)**

18 **IF KCC DOES NOT ACTUALLY RECEIVE THIS OPT-OUT FORM ON**
19 **OR BEFORE THE OPT-OUT DEADLINE, THEN YOUR ELECTION**
20 **TRANSMITTED HEREBY WILL NOT BE EFFECTIVE.**

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Exhibit C
Voting Combined Hearing Notice

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1 SAMUEL R. MAIZEL (SBN 189301)
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3 REBECCA M. WICKS (SBN 313608)
rebecca.wicks@dentons.com
4 DENTONS US LLP
601 South Figueroa Street, Suite 2500
5 Los Angeles, CA 90017-5704
Telephone: 213 623 9300
6 Facsimile: 213 623 9924

7 Attorneys for Chapter 11 Debtor
and Debtor In Possession

8
9 **UNITED STATES BANKRUPTCY COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11
12 In re:
13 **BORREGO COMMUNITY HEALTH**
14 **FOUNDATION,**
15 Debtor and Debtor In Possession.

Case No. 22-02384
Chapter 11 Case

**NOTICE OF (I) INTERIM
APPROVAL OF DISCLOSURES;
(II) HEARING TO CONSIDER
CONFIRMATION OF THE
COMBINED PLAN; AND
(III) DEADLINE FOR FILING
OBJECTIONS TO CONFIRMATION
OF THE COMBINED PLAN**

Judge: Hon. Laura S. Taylor

Hearing:
Date: January 15, 2024
Time: 2:00 p.m.
Place: Department 3

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LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

1 **PLEASE TAKE NOTICE OF THE FOLLOWING:**

2 1. On September 12, 2022 (the “Petition Date”), the above-captioned
3 debtor and debtor in possession (the “Debtor”) filed a voluntary petition for relief
4 under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).¹
5 Since the commencement of its Case, the Debtor has been operating its business as a
6 debtor in possession pursuant to §§ 1107 and 1108.

7 **THE COMBINED PLAN AND DISCLOSURE STATEMENT**

8 2. On October 30, 2023, the Court entered the *Order on Debtor’s Motion*
9 *for Entry of an Order (I) Authorizing the Debtor to File the Combined Disclosure*
10 *Statement and Plan; (II) Scheduling a Combined Confirmation Hearing and Setting*
11 *Deadlines Related Thereto; and (III) Granting Related Relief* (the “Order to
12 Combine”) [Docket No. 1041]. The Order to Combine (i) authorized the Debtor to
13 file a combined disclosure statement and liquidating plan and (ii) set forth a schedule
14 for the plan confirmation process.

15 3. On November 17, 2023, the Debtor and the Official Committee of
16 Unsecured Creditors (the “Committee”) jointly filed the *Joint Combined Disclosure*
17 *Statement and Chapter 11 Plan of Liquidation of Borrego Community Health*
18 *Foundation* [Docket No. _] (including all exhibits thereto and as amended,
19 supplemented, or otherwise modified from time to time (the “Combined Plan”).

20 **INTERIM APPROVAL OF DISCLOSURES**

21 4. By an order dated [_], 2023 (the “Approval Order”), the Bankruptcy
22 Court approved, on an interim basis, the disclosures (the “Disclosures”) in the
23 Combined Plan as containing adequate information within the meaning of § 1125.
24 The Approval Order expressly reserves all parties’ rights to raise objections to the
25 adequacy of information in the Disclosures and Combined Plan.

26 5. Pursuant to the Order to Combine and the Approval Order, the
27 Bankruptcy Court established **January 8, 2024, at 4:00 p.m. (Pacific Time)** (the
28 “Voting Deadline”) as the deadline by which Ballots accepting or rejecting the
Combined Plan must be received. To be counted, your original ballot must actually
be **received** on or before the Voting Deadline by the solicitation agent, Kurtzman
Carson Consultants LLC (the “Solicitation Agent”), at the following address:

Borrego Community Health Foundation Balloting Center
c/o KCC
222 North Pacific Coast Highway, Suite 300
El Segundo, California 90245

COMBINED HEARING

6. On **January 15, 2024, at 2:00 p.m. (Pacific Time)**, or as soon thereafter
as counsel may be heard, a hearing will be held before the Honorable Laura S. Taylor

¹ All references to section or chapter herein are to the Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*,
as amended. All references to “Bankruptcy Rules” are to the Federal Rules of Bankruptcy
Procedure. All references to “Local Rules” are to the Local Rules of the United States Bankruptcy
Court for the Southern District of California.

1 in the United States Bankruptcy Court for the Southern District of California, 325
2 West F Street, Department 3, San Diego, California 92101, to consider final approval
3 of the Disclosures and confirmation of the Combined Plan, as the same may be
4 amended or modified (the “Combined Hearing”).

5 7. The Combined Hearing may be continued from time to time. If the
6 Combined Hearing is continued, the Debtor will file a notice of continuance on the
7 docket and serve it by email if available, otherwise by first class or overnight mail,
8 on the parties who have requested notice pursuant to Bankruptcy Rule 2002 and
9 Local Rule 2002-1(a) and on any parties that have filed objections to approval of the
10 Disclosures or confirmation of the Combined Plan. The Combined Plan may be
11 modified in accordance with the Bankruptcy Code, the Bankruptcy Rules, the
12 Combined Plan, and other applicable law, without further notice, prior to or as a result
13 of the Combined Hearing.

14 INJUNCTIONS, RELEASES, AND EXCULPATION

15 8. Section 17 of the Combined Plan contains the exculpation, release, and
16 injunction provisions set forth below:

17 Releases:

18 a) ***Debtor Release.*** Pursuant to § 1123(b), and except as otherwise
19 specifically provided in the Plan, for good and valuable consideration, on
20 and after and subject to the occurrence of the Effective Date, the Debtor
21 and its estate shall release each Released Party, and each Released Party
22 is deemed released by the Debtor and the estate from any and all claims,
23 obligations, rights, suits, damages, Causes of Action, remedies, and
24 liabilities whatsoever, including any derivative claims, asserted or
25 assertable on behalf of any of the Debtor or its estate, as applicable,
26 whether known or unknown, foreseen or unforeseen, asserted or
27 unasserted, accrued or unaccrued, matured or unmatured, determined or
28 indeterminable, disputed or undisputed, liquidated or unliquidated, or
due or to become due, existing or hereinafter arising, in law, equity, or
otherwise, that the Debtor or the estate would have been legally entitled
to assert in its own right, or on behalf of the Holder of any Claim or other
entity, based on or relating to, or in any manner arising from, in whole or
in part, the Debtor, the Debtor’s liquidation, the Chapter 11 Case, the
purchase, sale, transfer of any security, asset, right, or interest of the
Debtor, the DAP Sale, the subject matter of, or the transactions or events
giving rise to, any Claim that is treated in the Plan, the business or
contractual arrangements between any Debtor and any Released Party,
the treatment of Claims prior to or in the Chapter 11 Case, the
negotiation, formulation, or preparation of the Plan or related
agreements, instruments, or other documents, any other act or omission,
transaction, agreement, event, or other occurrence taking place on and
before the Petition Date, other than claims or liabilities arising out of or
relating to any act or omission of a Released Party that constitutes fraud,
willful misconduct, or gross negligence; provided, that, the foregoing
Debtor Release shall not operate to waive or release any obligations of any
party under the Plan or any other document, instrument, or agreement
executed to implement the Plan. For avoidance of doubt, the foregoing
Debtor Release does not release any of the Debtor’s claims, obligations,
rights, suits, damages, Causes of Action, remedies, and liabilities with
respect thereto.

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1 Entry of the Confirmation Order shall constitute the Bankruptcy Court’s
2 approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release,
3 which includes by reference each of the related provisions and definitions
4 contained herein, and further, shall constitute the Bankruptcy Court’s
5 finding that the Debtor Release is: (a) in exchange for the good and
6 valuable consideration provided by the Released Parties; (b) a good faith
7 settlement and compromise of the Claims released by the Debtor Release;
8 (c) in the best interests of the Debtor and all Holders of Claims; (d) fair,
9 equitable and reasonable; (e) given and made after due notice and
10 opportunity for hearing; and (f) a bar to the Debtor or its estate asserting
11 any Claim or Cause of Action released pursuant to the Debtor Release.

7 b) *Third Party Release.* On, and as of, the Effective Date and for good
8 and valuable consideration, the receipt and sufficiency of which are
9 acknowledged, the Released Parties shall be forever released (the “Third
10 Party Release”) from any and all claims, obligations, actions, suits, rights,
11 debts, accounts, causes of action, remedies, avoidance actions,
12 agreements, promises, damages, judgments, demands, defenses, and
13 liabilities throughout the world under any law or court ruling through the
14 Effective Date (including all claims based on or arising out of factors or
15 circumstances that existed as of or prior to the Effective Date, including
16 claims based on negligence or strict liability, and further including any
17 derivative claims asserted on behalf of the Debtor, whether known or
18 unknown, foreseen or unforeseen, existing or hereinafter arising, in law,
19 equity, or otherwise) which the Debtor, its estate, Creditors, or other
20 persons receiving or who are entitled to receive distributions under the
21 Plan may have against any of them in any way related to this Chapter 11
22 Case, the negotiation, formulation, or preparation of the Plan or related
23 agreements, instruments, or other documents, any other act or omission,
24 transaction, agreement, event, or other occurrence taking place on and
25 before the Petition Date, and related to the Debtor (or its predecessors),
26 its business and/or its assets; provided, however, that the foregoing
27 releases are granted only by (a) Creditors who returned a Ballot; and
28 (b) Creditors who were sent a Solicitation Package or a Release Opt-Out
Election Form, but either (i) did not vote; or (ii) did not return a Release
Opt-Out Election Form; provided, however, that the release provided in
this section shall not apply to (A) any Creditor whose Claim is not Allowed
either in whole or in part; or (B) any Creditor in category (b) above if the
Solicitation Package or Release Opt-Out Election Form was returned to
the Debtor as undelivered and that such Creditor did not otherwise
submit a Ballot; and provided further, however, that the release provided
in this Section shall not extend to any claims by any Governmental Unit
with respect to criminal liability under applicable law, willful misconduct
or bad faith under applicable law, *ultra vires* acts under applicable law.

24 c) *Limitation of Claims Against the Liquidating Trust.* As of the
25 Effective Date, except as provided in this Plan or the Confirmation Order,
26 all Persons shall be precluded from asserting against the Liquidating
27 Trust any other or further Claims, obligations, suits, judgments, damages,
28 demands, debts, rights, causes of action, and liabilities whatsoever,
relating to the Debtor based upon any acts, omissions, liabilities,
transactions, occurrences, or other activity of any nature that occurred
prior to the Effective Date.

d) *WAIVER OF LIMITATIONS ON RELEASES. THE LAWS OF*

1 SOME STATES (FOR EXAMPLE, CALIFORNIA CIVIL CODE § 1542)
2 PROVIDE, IN WORDS OR SUBSTANCE, THAT A GENERAL
3 RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
4 RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN
5 HIS/HER/ITS FAVOR AT THE TIME OF EXECUTING THE
6 RELEASE, WHICH IF KNOWN BY THE RELEASING PARTY MUST
7 HAVE MATERIALLY AFFECTED THE RELEASING PARTY'S
8 DECISION TO RELEASE. THE RELEASING PARTIES IN
9 SECTIONS 17.2(a)-(c) OF THE PLAN ARE DEEMED TO HAVE
10 WAIVED ANY RIGHTS THEY MAY HAVE UNDER SUCH STATE
11 LAWS AS WELL AS UNDER ANY OTHER STATUTES OR
12 COMMON LAW PRINCIPLES OF SIMILAR EFFECT.

13 **Injunctions:**

14 a) *General Injunction.* Except as otherwise expressly provided herein,
15 all Persons who have held, currently hold or may hold a Claim against the
16 Debtor are permanently enjoined on and after the Effective Date from
17 taking any action in furtherance of such Claim or any other Cause of
18 Action released and discharged under the Plan, including, without
19 limitation, the following actions against any Released Party:
20 (a) commencing, conducting or continuing in any manner, directly or
21 indirectly, any action or other proceeding with respect to a Claim;
22 (b) enforcing, levying, attaching, collecting or otherwise recovering in any
23 manner or by any means, whether directly or indirectly, any judgment,
24 award, decree or order with respect to a Claim; (c) creating, perfecting or
25 enforcing in any manner, directly or indirectly, any lien or encumbrance
26 of any kind with respect to a Claim; (d) asserting any setoff, right of
27 subrogation or recoupment of any kind, directly or indirectly, against any
28 debt, liability or obligation due to the Debtor, the Post-Effective Date
Debtor or the Liquidating Trust with respect to a Claim; or
(e) commencing, conducting or continuing any proceeding that does not
conform to or comply with or is contradictory to the provisions of this
Plan; provided, however, that nothing in this injunction shall preclude the
Holders of Claims against the Debtor from enforcing any obligations of
the Debtor, the Post-Effective Date Debtor, the Liquidating Trust, the
Liquidating Trustee, or Co-Liquidating Trustee under this Plan and the
contracts, instruments, releases and other agreements delivered in
connection herewith, including, without limitation, the Confirmation
Order, or any other order of the Bankruptcy Court in the Chapter 11
Case. By accepting a Distribution made pursuant to this Plan, each Holder
of an Allowed Claim shall be deemed to have specifically consented to the
injunctions set forth in this Section.

b) *Other Injunctions.* *The Post-Effective Date Debtor, the Liquidating Trustee, the Co-Liquidating Trustee, the Post-Effective Date Board of Directors, or the Liquidating Trust and their respective members, directors, officers, agents, attorneys, advisors, or employees shall not be liable for actions taken or omitted in its or their capacity as, or on behalf of, the Post-Effective Date Debtor, the Post-Effective Date Board of Directors, the Liquidating Trustee, the Co-Liquidating Trustee, or the Liquidating Trust (as applicable), except those acts found by Final Order to arise out of its or their willful misconduct, gross negligence, fraud, and/or criminal conduct, and each shall be entitled to indemnification and reimbursement for fees and expenses in defending any and all of its or their actions or inactions in its or*

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1 *their capacity as, or on behalf of the Post-Effective Date Board of Directors,*
2 *the Post-Effective Date Debtor, the Liquidating Trustee, the Co-Liquidating*
3 *Trustee, or the Liquidating Trust (as applicable), except for any actions or*
4 *inactions found by Final Order to involve willful misconduct, gross*
5 *negligence, fraud, and/or criminal conduct. Any indemnification claim of*
6 *the Post-Effective Date Debtor, the Post-Effective Date Board of Directors,*
7 *the Liquidating Trustee, the Co-Liquidating Trustee, and the other parties*
8 *entitled to indemnification under this subsection shall be satisfied from the*
9 *Liquidating Trust Assets. The parties subject to this Section shall be entitled*
10 *to rely, in good faith, on the advice of retained professionals, if any.*

11 **Exculpation:**

12 **To the maximum extent permitted by applicable law, each Exculpated**
13 **Party shall not have or incur any liability for any act or omission in**
14 **connection with, related to, or arising out of the Chapter 11 Case**
15 **(including, without limitation, the filing of the Chapter 11 Case), the**
16 **marketing and the DAP Sale, the Plan and any related documents**
17 **(including, without limitation, the negotiation and consummation of the**
18 **Plan, the pursuit of the Effective Date, the administration of the Plan, or**
19 **the property to be distributed under the Plan), or each Exculpated Party’s**
20 **exercise or discharge of any powers and duties set forth in the Plan, except**
21 **with respect to the actions found by Final Order to constitute willful**
22 **misconduct, gross negligence, fraud, or criminal conduct, and, in all**
23 **respects, each Exculpated Party shall be entitled to rely upon the advice**
24 **of counsel with respect to their duties and responsibilities under the Plan.**
25 **Without limitation of the foregoing, each such Exculpated Party shall be**
26 **released and exculpated from any and all Causes of Action that any**
27 **Person is entitled to assert in his/her/their own right or on behalf of any**
28 **other Person, based in whole or in part upon any act or omission,**
transaction, agreement, event or other occurrence in any way relating to
the subject matter of this Section.

9. Pursuant to the Approval Order, the Bankruptcy Court established
January 8, 2024, at 4:00 p.m. (Pacific Time) (the “Opt-Out Deadline”) as the
deadline by which the properly executed release opt-out election form must be
received by the Solicitation Agent at the above-listed address.

**DEADLINE FOR OBJECTIONS TO FINAL APPROVAL OF THE
DISCLOSURES OR CONFIRMATION OF THE COMBINED PLAN**

10. Objections, if any, to final approval of the Disclosures or confirmation
of the Combined Plan, including any supporting memoranda, must be in writing, be
filed with the Clerk of the Court, United States Bankruptcy Court for the Southern
District of California, 325 West F Street, Department 3, San Diego, California 92101,
together with proof of service **on or before January 8, 2024, at 2:00 p.m. (Pacific
Time)** (the “Objection Deadline”), and shall: (a) be in writing; (b) comply with the
Bankruptcy Rules and the Local Rules; (c) set forth the name of the objector and the
nature and amount of any claim asserted by the objector against the Debtor; and
(d) state with particularity the legal and factual bases for the objection and, if
practicable, a proposed modification to the Combined Plan that would resolve such
objection. Said objection shall also be served on the following parties: (i) counsel to
the Debtor: Dentons US LLP, 601 South Figueroa Street, Suite 2500, Los Angeles,
California 90017-5704 (Attn: Samuel R. Maizel (samuel.maizel@dentons.com) and
Tania M. Moyron (tania.moyron@dentons.com)); (ii) financial advisor to the

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1 Debtor: Ankura, 2021 McKinney Avenue, Suite 340, Dallas, Texas 75201 (Attn: Charles Pease (charles.pease@ankura.com)); (iii) the Office of the United States
2 Trustee: 880 Front Street, Room 3230, San Diego, California 92101 (Attn: David Ortiz (david.a.ortiz@usdoj.gov)); (iv) counsel to the Committee: Pachulski Stang
3 Ziehl & Jones LLP, 10100 Santa Monica Boulevard, 13th Floor, Los Angeles, California 90067 (Attn: Jeffrey N. Pomerantz (jpomerantz@pszjlaw.com) and
4 Steven W. Golden (sgolden@pszjlaw.com)); and (v) financial advisor to the Committee: FTI Consulting, Inc., 350 South Grand Avenue, Suite 3000, Los
5 Angeles, California 90071 (Attn: Cliff Zucker (cliff.zucker@fticonsulting.com) and Narendra Ganti (narendra.ganti@fticonsulting.com)).
6

7 **COPIES OF THE COMBINED PLAN**

8 11. If you wish to receive copies of the Combined Plan, they will be provided, as quickly as practicable, upon request to the Solicitation Agent, by writing to Borrego Community Health Foundation Processing Center, c/o KCC, 222 North
9 Pacific Coast Highway, Suite 300, El Segundo, California 90245. Copies of the Combined Plan are also available for free on the Solicitation Agent's website at
10 <http://www.kccllc.net/Borregohealth> and are on file with the Clerk of Court of the United States Bankruptcy Court for the Southern District of California, and may be
11 reviewed during the regular hours of the Bankruptcy Court or online through the Bankruptcy Court's internet website at <http://www.casb.uscourts.gov>.
12

13 12. IF YOU HAVE ANY QUESTIONS REGARDING YOUR CLAIM OR THE VOTING PROCEDURES, OR IF YOU NEED A BALLOT OR ADDITIONAL COPIES OF THE COMBINED PLAN OR OTHER ENCLOSED
14 MATERIALS, PLEASE CONTACT THE SOLICITATION AGENT AS SET FORTH ABOVE.
15

16 Dated: November 17, 2023

DENTONS US LLP
SAMUEL R. MAIZEL
TANIA M. MOYRON

19 By /s/ Tania M. Moyron
Tania M. Moyron

20 Attorneys for the Chapter 11 Debtor and
21 Debtor In Possession
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Exhibit D
Non-Voting Combined Hearing Notice

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213 623 9300

1 SAMUEL R. MAIZEL (SBN 189301)
samuel.maizel@dentons.com
2 TANIA M. MOYRON (SBN 235736)
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3 REBECCA M. WICKS (SBN 313608)
rebecca.wicks@dentons.com
4 DENTONS US LLP
601 South Figueroa Street, Suite 2500
5 Los Angeles, CA 90017-5704
Telephone: 213 623 9300
6 Facsimile: 213 623 9924

7 Attorneys for Chapter 11 Debtor
and Debtor In Possession

8
9 **UNITED STATES BANKRUPTCY COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11
12 In re:
13 **BORREGO COMMUNITY HEALTH**
14 **FOUNDATION,**
15 Debtor and Debtor In Possession.

Case No. 22-02384
Chapter 11 Case

**NOTICE OF (I) NON-VOTING
STATUS DUE TO NON-
IMPAIRMENT; (II) INTERIM
APPROVAL OF DISCLOSURES;
(III) HEARING TO CONSIDER
CONFIRMATION OF THE
COMBINED PLAN; AND
(IV) DEADLINE FOR FILING
OBJECTIONS TO CONFIRMATION
OF THE COMBINED PLAN**

Judge: Hon. Laura S. Taylor

Hearing:
Date: January 15, 2024
Time: 2:00 p.m.
Place: Department 3

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1 **To: Holders of: (i) Class 1 – Priority Non-Tax Claims; (ii) Class 2 – Other**
2 **Secured Claims; and (iii) Non-classified Claims**

3 **PLEASE TAKE NOTICE OF THE FOLLOWING:**

4 1. On September 12, 2022 (the “Petition Date”), the above-captioned
5 debtor and debtor in possession (the “Debtor”) filed a voluntary petition for relief
6 under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).¹
7 Since the commencement of its Case, the Debtor has been operating its business as a
8 debtor in possession pursuant to §§ 1107 and 1108.

9 **THE COMBINED PLAN AND DISCLOSURE STATEMENT**

10 2. On October 30, 2023, the Court entered the *Order on Debtor’s Motion*
11 *for Entry of an Order (I) Authorizing the Debtor to File the Combined Disclosure*
12 *Statement and Plan; (II) Scheduling a Combined Confirmation Hearing and Setting*
13 *Deadlines Related Thereto; and (III) Granting Related Relief* (the “Order to
14 Combine”) [Docket No. 1041]. The Order to Combine (i) authorized the Debtor to
15 file a combined disclosure statement and liquidating plan and (ii) set forth a schedule
16 for the plan confirmation process.

17 3. On November 17, 2023, the Debtor and the Official Committee of
18 Unsecured Creditors (the “Committee”) jointly filed the *Joint Combined Disclosure*
19 *Statement and Chapter 11 Plan of Liquidation of Borrego Community Health*
20 *Foundation* [Docket No. _] (including all exhibits thereto and as amended,
21 supplemented, or otherwise modified from time to time (the “Combined Plan”).

22 **INTERIM APPROVAL OF DISCLOSURES**

23 4. By an order dated [], 2023 (the “Approval Order”), the Bankruptcy
24 Court approved, on an interim basis, the disclosures (the “Disclosures”) in the
25 Combined Plan as containing adequate information within the meaning of § 1125.
26 The Approval Order expressly reserves all parties’ rights to raise objections to the
27 adequacy of information in the Disclosures and Combined Plan.

28 5. You are receiving this notice because under the terms of the Combined
Plan, either: (a) your claim(s) are not classified under the Combined Plan pursuant to
§ 1123(a)(1) and therefore you are not entitled to vote on the Combined Plan; or
(b) you are a holder of a claim defined in the Combined Plan as being in a class
receiving an estimated one hundred percent (100%) recovery under the Combined
Plan, and therefore deemed to have accepted the Combined Plan pursuant to
§ 1126(f), and are not entitled to vote on the Combined Plan. Accordingly, this notice
is being mailed to you for your information only.

6. If, notwithstanding this notice of your non-voting status, you believe
that you may have a claim against the Debtor that entitles you to vote on the
Combined Plan, immediately request the appropriate Ballot by contacting the
Debtor’s solicitation agent, Kurtzman Carson Consultants LLC (the “Solicitation
Agent”).

¹ All references to section or chapter herein are to the Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*,
as amended. All references to “Bankruptcy Rules” are to the Federal Rules of Bankruptcy
Procedure. All references to “Local Rules” are to the Local Rules of the United States Bankruptcy
Court for the Southern District of California.

1 **COMBINED HEARING**

2 7. On **January 15, 2024, at 2:00 p.m. (Pacific Time)**, or as soon thereafter
3 as counsel may be heard, a hearing will be held before the Honorable Laura S. Taylor
4 in the United States Bankruptcy Court for the Southern District of California, 325
5 West F Street, Department 3, San Diego, California 92101, to consider final approval
6 of the Disclosures and confirmation of the Combined Plan, as the same may be
7 amended or modified (the “Combined Hearing”).

8 8. The Combined Hearing may be continued from time to time. If the
9 Combined Hearing is continued, the Debtor will file a notice of continuance on the
10 docket and serve it by email if available, otherwise by first class or overnight mail,
11 on the parties who have requested notice pursuant to Bankruptcy Rule 2002 and
12 Local Rule 2002-1(a) and on any parties that have filed objections to approval of the
13 Disclosures or confirmation of the Combined Plan. The Combined Plan may be
14 modified in accordance with the Bankruptcy Code, the Bankruptcy Rules, the
15 Combined Plan, and other applicable law, without further notice, prior to or as a result
16 of the Combined Hearing.

17 **INJUNCTIONS, RELEASES, AND EXCULPATION**

18 9. Section 17 of the Combined Plan contains the exculpation, release, and
19 injunction provisions set forth below. **ALL HOLDERS OF CLAIMS THAT ARE
20 UNIMPAIRED AND, THUS, PRESUMED TO HAVE ACCEPTED THE
21 PLAN WILL BE DEEMED TO HAVE CONSENTED TO THE THIRD
22 PARTY RELEASE UNLESS A RELEASE OPT-OUT FORM (THE “OPT-
23 OUT FORM”) IS RETURNED IN THE MANNER DESCRIBED HEREIN:**

24 **Releases:**

25 a) ***Debtor Release.*** Pursuant to § 1123(b), and except as otherwise
26 specifically provided in the Plan, for good and valuable consideration, on
27 and after and subject to the occurrence of the Effective Date, the Debtor
28 and its estate shall release each Released Party, and each Released Party
is deemed released by the Debtor and the estate from any and all claims,
obligations, rights, suits, damages, Causes of Action, remedies, and
liabilities whatsoever, including any derivative claims, asserted or
assertable on behalf of any of the Debtor or its estate, as applicable,
whether known or unknown, foreseen or unforeseen, asserted or
unasserted, accrued or unaccrued, matured or unmatured, determined or
indeterminable, disputed or undisputed, liquidated or unliquidated, or
due or to become due, existing or hereinafter arising, in law, equity, or
otherwise, that the Debtor or the estate would have been legally entitled
to assert in its own right, or on behalf of the Holder of any Claim or other
entity, based on or relating to, or in any manner arising from, in whole or
in part, the Debtor, the Debtor’s liquidation, the Chapter 11 Case, the
purchase, sale, transfer of any security, asset, right, or interest of the
Debtor, the DAP Sale, the subject matter of, or the transactions or events
giving rise to, any Claim that is treated in the Plan, the business or
contractual arrangements between any Debtor and any Released Party,
the treatment of Claims prior to or in the Chapter 11 Case, the
negotiation, formulation, or preparation of the Plan or related
agreements, instruments, or other documents, any other act or omission,
transaction, agreement, event, or other occurrence taking place on and
before the Petition Date, other than claims or liabilities arising out of or

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1 relating to any act or omission of a Released Party that constitutes fraud,
2 willful misconduct, or gross negligence; provided, that, the foregoing
3 Debtor Release shall not operate to waive or release any obligations of any
4 party under the Plan or any other document, instrument, or agreement
5 executed to implement the Plan. For avoidance of doubt, the foregoing
6 Debtor Release does not release any of the Debtor's claims, obligations,
7 rights, suits, damages, Causes of Action, remedies, and liabilities with
8 respect thereto.

9 Entry of the Confirmation Order shall constitute the Bankruptcy Court's
10 approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release,
11 which includes by reference each of the related provisions and definitions
12 contained herein, and further, shall constitute the Bankruptcy Court's
13 finding that the Debtor Release is: (a) in exchange for the good and
14 valuable consideration provided by the Released Parties; (b) a good faith
15 settlement and compromise of the Claims released by the Debtor Release;
16 (c) in the best interests of the Debtor and all Holders of Claims; (d) fair,
17 equitable and reasonable; (e) given and made after due notice and
18 opportunity for hearing; and (f) a bar to the Debtor or its estate asserting
19 any Claim or Cause of Action released pursuant to the Debtor Release.

20 b) *Third Party Release.* On, and as of, the Effective Date and for good
21 and valuable consideration, the receipt and sufficiency of which are
22 acknowledged, the Released Parties shall be forever released (the "Third
23 Party Release") from any and all claims, obligations, actions, suits, rights,
24 debts, accounts, causes of action, remedies, avoidance actions,
25 agreements, promises, damages, judgments, demands, defenses, and
26 liabilities throughout the world under any law or court ruling through the
27 Effective Date (including all claims based on or arising out of factors or
28 circumstances that existed as of or prior to the Effective Date, including
claims based on negligence or strict liability, and further including any
derivative claims asserted on behalf of the Debtor, whether known or
unknown, foreseen or unforeseen, existing or hereinafter arising, in law,
equity, or otherwise) which the Debtor, its estate, Creditors, or other
persons receiving or who are entitled to receive distributions under the
Plan may have against any of them in any way related to this Chapter 11
Case, the negotiation, formulation, or preparation of the Plan or related
agreements, instruments, or other documents, any other act or omission,
transaction, agreement, event, or other occurrence taking place on and
before the Petition Date, and related to the Debtor (or its predecessors),
its business and/or its assets; provided, however, that the foregoing
releases are granted only by (a) Creditors who returned a Ballot; and
(b) Creditors who were sent a Solicitation Package or a Release Opt-Out
Election Form, but either (i) did not vote; or (ii) did not return a Release
Opt-Out Election Form; provided, however, that the release provided in
this section shall not apply to (A) any Creditor whose Claim is not Allowed
either in whole or in part; or (B) any Creditor in category (b) above if the
Solicitation Package or Release Opt-Out Election Form was returned to
the Debtor as undelivered and that such Creditor did not otherwise
submit a Ballot; and provided further, however, that the release provided
in this Section shall not extend to any claims by any Governmental Unit
with respect to criminal liability under applicable law, willful misconduct
or bad faith under applicable law, *ultra vires* acts under applicable law.

c) *Limitation of Claims Against the Liquidating Trust.* As of the

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1 Effective Date, except as provided in this Plan or the Confirmation Order,
2 all Persons shall be precluded from asserting against the Liquidating
3 Trust any other or further Claims, obligations, suits, judgments, damages,
4 demands, debts, rights, causes of action, and liabilities whatsoever,
relating to the Debtor based upon any acts, omissions, liabilities,
transactions, occurrences, or other activity of any nature that occurred
prior to the Effective Date.

5 d) **WAIVER OF LIMITATIONS ON RELEASES.** THE LAWS OF
6 SOME STATES (FOR EXAMPLE, CALIFORNIA CIVIL CODE § 1542)
7 PROVIDE, IN WORDS OR SUBSTANCE, THAT A GENERAL
8 RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
9 RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN
10 HIS/HER/ITS FAVOR AT THE TIME OF EXECUTING THE
11 RELEASE, WHICH IF KNOWN THE RELEASING PARTY MUST
12 HAVE MATERIALLY AFFECTED THE RELEASING PARTY'S
13 DECISION TO RELEASE. THE RELEASING PARTIES IN
14 SECTIONS 17.2(a)-(c) OF THE PLAN ARE DEEMED TO HAVE
15 WAIVED ANY RIGHTS THEY MAY HAVE UNDER SUCH STATE
16 LAWS AS WELL AS UNDER ANY OTHER STATUTES OR
17 COMMON LAW PRINCIPLES OF SIMILAR EFFECT.

18 **Injunctions:**

19 a) **General Injunction.** Except as otherwise expressly provided herein,
20 all Persons who have held, currently hold or may hold a Claim against the
21 Debtor are permanently enjoined on and after the Effective Date from
22 taking any action in furtherance of such Claim or any other Cause of
23 Action released and discharged under the Plan, including, without
24 limitation, the following actions against any Released Party: (a)
25 commencing, conducting or continuing in any manner, directly or
26 indirectly, any action or other proceeding with respect to a Claim; (b)
27 enforcing, levying, attaching, collecting or otherwise recovering in any
28 manner or by any means, whether directly or indirectly, any judgment,
award, decree or order with respect to a Claim; (c) creating, perfecting or
enforcing in any manner, directly or indirectly, any lien or encumbrance
of any kind with respect to a Claim; (d) asserting any setoff, right of
subrogation or recoupment of any kind, directly or indirectly, against any
debt, liability or obligation due to the Debtor, the Post-Effective Date
Debtor or the Liquidating Trust with respect to a Claim; or (e)
commencing, conducting or continuing any proceeding that does not
conform to or comply with or is contradictory to the provisions of this
Plan; provided, however, that nothing in this injunction shall preclude the
Holders of Claims against the Debtor from enforcing any obligations of
the Debtor, the Post-Effective Date Debtor, the Liquidating Trust, the
Liquidating Trustee, or Co-Liquidating Trustee under this Plan and the
contracts, instruments, releases and other agreements delivered in
connection herewith, including, without limitation, the Confirmation
Order, or any other order of the Bankruptcy Court in the Chapter 11
Case. By accepting a Distribution made pursuant to this Plan, each Holder
of an Allowed Claim shall be deemed to have specifically consented to the
injunctions set forth in this Section.

b) **Other Injunctions.** *The Post-Effective Date Debtor, the Liquidating
Trustee, the Co-Liquidating Trustee, the Post-Effective Date Board of*

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1 *Directors, or the Liquidating Trust and their respective members, directors,*
2 *officers, agents, attorneys, advisors or employees shall not be liable for*
3 *actions taken or omitted in its or their capacity as, or on behalf of, the Post-*
4 *Effective Date Debtor, the Post-Effective Date Board of Directors, the*
5 *Liquidating Trustee, the Co-Liquidating Trustee, or the Liquidating Trust*
6 *(as applicable), except those acts found by Final Order to arise out of its or*
7 *their willful misconduct, gross negligence, fraud, and/or criminal conduct,*
8 *and each shall be entitled to indemnification and reimbursement for fees and*
9 *expenses in defending any and all of its or their actions or inactions in its or*
10 *their capacity as, or on behalf of the Post-Effective Date Board of Directors,*
11 *the Post-Effective Date Debtor, the Liquidating Trustee, the Co-Liquidating*
12 *Trustee, or the Liquidating Trust (as applicable), except for any actions or*
13 *inactions found by Final Order to involve willful misconduct, gross*
14 *negligence, fraud, and/or criminal conduct. Any indemnification claim of*
15 *the Post-Effective Date Debtor, the Post-Effective Date Board of Directors,*
16 *the Liquidating Trustee, the Co-Liquidating Trustee, and the other parties*
17 *entitled to indemnification under this subsection shall be satisfied from the*
18 *Liquidating Trust Assets. The parties subject to this Section shall be entitled*
19 *to rely, in good faith, on the advice of retained professionals, if any.*

11 **Exculpation:**

12 **To the maximum extent permitted by applicable law, each Exculpated**
13 **Party shall not have or incur any liability for any act or omission in**
14 **connection with, related to, or arising out of the Chapter 11 Case**
15 **(including, without limitation, the filing of the Chapter 11 Case), the**
16 **marketing and the DAP Sale, the Plan and any related documents**
17 **(including, without limitation, the negotiation and consummation of the**
18 **Plan, the pursuit of the Effective Date, the administration of the Plan, or**
19 **the property to be distributed under the Plan), or each Exculpated Party’s**
20 **exercise or discharge of any powers and duties set forth in the Plan, except**
21 **with respect to the actions found by Final Order to constitute willful**
22 **misconduct, gross negligence, fraud, or criminal conduct, and, in all**
23 **respects, each Exculpated Party shall be entitled to rely upon the advice**
24 **of counsel with respect to their duties and responsibilities under the Plan.**
25 **Without limitation of the foregoing, each such Exculpated Party shall be**
26 **released and exculpated from any and all Causes of Action that any**
27 **Person is entitled to assert in his/her/their own right or on behalf of any**
28 **other Person, based in whole or in part upon any act or omission,**
transaction, agreement, event or other occurrence in any way relating to
the subject matter of this Section.

10. Pursuant to the Approval Order, the Bankruptcy Court established **January 8, 2024, at 4:00 p.m. (Pacific Time)** (the “**Opt-Out Deadline**”) as the deadline by which the properly executed Opt-Out Form, attached to this notice as Exhibit A, must be **received** by the Solicitation Agent at below address:

Borrego Community Health Foundation Balloting Center
c/o KCC
222 North Pacific Coast Highway, Suite 300
El Segundo, California 90245

1 **DEADLINE FOR OBJECTIONS TO FINAL APPROVAL OF THE**
2 **DISCLOSURES OR CONFIRMATION OF THE COMBINED PLAN**

3 11. Objections, if any, to final approval of the Disclosures or confirmation
4 of the Combined Plan, including any supporting memoranda, must be in writing, be
5 filed with the Clerk of the Court, United States Bankruptcy Court for the Southern
6 District of California, 325 West F Street, Department 3, San Diego, California 92101
7 together with proof of service **on or before January 8, 2024, at 2:00 p.m. (Pacific**
8 **Time)** (the “**Objection Deadline**”), and shall: (a) be in writing; (b) comply with the
9 Bankruptcy Rules and the Local Rules; (c) set forth the name of the objector and the
10 nature and amount of any claim asserted by the objector against the Debtor; and
11 (d) state with particularity the legal and factual bases for the objection, and if
12 practicable, a proposed modification to the Combined Plan that would resolve such
13 objection. Any objection shall also be served on the following parties: (i) counsel to
14 the Debtor: Dentons US LLP, 601 South Figueroa Street, Suite 2500, Los Angeles,
15 California 90017-5704 (Attn: Samuel R. Maizel (samuel.maizel@dentons.com) and
16 Tania M. Moyron (tania.moyron@dentons.com)); (ii) financial advisor to the
17 Debtor: Ankura, 2021 McKinney Avenue, Suite 340, Dallas, Texas 75201 (Attn:
18 Charles Pease (charles.pease@ankura.com)); (iii) the Office of the United States
19 Trustee: 880 Front Street, Room 3230, San Diego, California 92101 (Attn: David
20 Ortiz (david.a.ortiz@usdoj.gov)); (iv) counsel to the Committee: Pachulski Stang
21 Ziehl & Jones LLP, 10100 Santa Monica Boulevard, 13th Floor, Los Angeles,
22 California 90067 (Attn: Jeffrey N. Pomerantz (jpomerantz@pszjlaw.com) and
23 Steven W. Golden (sgolden@pszjlaw.com)); and (v) financial advisor to the
24 Committee: FTI Consulting, Inc., 350 South Grand Avenue, Suite 3000, Los
25 Angeles, California 90071 (Attn: Cliff Zucker (cliff.zucker@fticonsulting.com) and
26 Narendra Ganti (narendra.ganti@fticonsulting.com)).

15 **COPIES OF THE COMBINED PLAN**

16 12. If you wish to receive copies of the Combined Plan, they will be
17 provided, as quickly as practicable, upon request to the Solicitation Agent, by writing
18 to Borrego Community Health Foundation Processing Center, c/o KCC, 222 North
19 Pacific Coast Highway, Suite 300, El Segundo, California 90245. Copies of the
20 Combined Plan are also available for free on the Solicitation Agent’s website at
21 <http://www.kccllc.net/Borregohealth> and are on file with the Clerk of Court of the
22 United States Bankruptcy Court for the Southern District of California, and may be
23 reviewed during the regular hours of the Bankruptcy Court or online through the
24 Bankruptcy Court’s internet website at <http://www.casb.uscourts.gov>.

25 13. **IF YOU HAVE ANY QUESTIONS REGARDING YOUR CLAIM OR**
26 **THE VOTING PROCEDURES, OR IF YOU NEED A BALLOT OR**
27 **ADDITIONAL COPIES OF THE COMBINED PLAN OR OTHER ENCLOSED**
28 **MATERIALS, PLEASE CONTACT THE SOLICITATION AGENT AS SET**
FORTH ABOVE.

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

1 Dated: November 17, 2023

DENTONS US LLP
SAMUEL R. MAIZEL
TANIA M. MOYRON

2
3 By /s/ Tania M. Moyron
Tania M. Moyron

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5 Attorneys for the Chapter 11 Debtor and
Debtor In Possession

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

Exhibit A
Release Opt-Out Election Form

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