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Debtor and Debtor-in-Possession

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:	§	
	§	
DTF CORPORATION,	§	Case No. 11-37362-sgj-11
	§	
Debtor.	§	Chapter 11

**DEBTOR'S MOTION FOR APPROVAL OF ACQUISITION AGREEMENT AND
AUTHORIZING THE SALE OF CERTAIN OF DEBTOR'S PROPERTY TO
GRUPO ANGELES SERVICIOS DE SALUD, S.A. DE C.V. FREE AND CLEAR
OF ALL LIENS, CLAIMS ENCUMBRANCES AND INTERESTS**

NO HEARING WILL BE CONDUCTED ON THIS MOTION OR APPLICATION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT ROOM 1254, UNITED STATES COURTHOUSE AND FEDERAL BUILDING, 1100 COMMERCE STREET, DALLAS, TEXAS 75242 BEFORE THE CLOSE OF BUSINESS ON SEPTEMBER 30, 2013, WHICH IS AT LEAST 24 DAYS FROM THE DATE OF SERVICE HEREOF.

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK AND A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED A HEARING MAY BE HELD WITH NOTICE ONLY TO THE OBJECTING PARTY.

IF NO HEARING ON SUCH NOTICE OR MOTION IS TIMELY REQUESTED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

Pursuant to Rule 6004 of the Federal Rules of Bankruptcy Procedure and Section 363 of the United States Bankruptcy Code (11 U.S.C. §§ 101, *et seq.*, the “Bankruptcy Code”), Debtor and Debtor-in-Possession, DTF Corporation (“Debtor”), files its Debtor’s Motion for Approval of Acquisition Agreement and Authorizing the Sale of Certain Property of the Debtor to Grupo Angeles Servicios de Salud, S.A. de C.V. Free and Clear of Liens, Claims, Encumbrances and Interests (“Sale Motion”), and in support thereof respectfully represents as follows:

JURISDICTION

1. The Court has jurisdiction over the Sale Motion and the relief requested herein pursuant to 28 U.S.C. §§ 1334 and 157. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is appropriate pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

2. Debtor is a Texas corporation that is 100% owned by International Hospital Corporation Holding, N.V., a Netherlands limited liability corporation that is directly or indirectly owned by a number of individuals or entities (“IHC Holding Company”). Gary B. Wood is a director and the Chief Executive Officer of both the Debtor and IHC Holding Company.

3. On November 21, 2011 (the “Petition Date”), the Debtor filed a voluntary case under Chapter 11 of the Bankruptcy Code. The Debtor was authorized to operate its business and manage its properties as a debtor in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code and has managed its financial affairs in accordance with those provisions since the Petition Date. No trustee or creditors committee has been appointed in this case.

4. Prior to the Petition Date, Debtor provided payroll and other administrative services to various affiliates of IHC Holding Company that owned and operated hospitals and medical facilities in Mexico, Brazil, and Costa Rica. Debtor's management agreements were terminated and Debtor ceased providing such services prior to the Petition Date because of Debtor's financial condition and pending and threatened litigation that prevented Debtor from continuing to perform such agreements and jeopardized the operations of the foreign healthcare facilities that Debtor had been servicing.

5. Debtor's property consists of (a) numerous accounts receivable and promissory notes due from IHC Holding Company and certain of its affiliates (including all receivables and notes due Debtor scheduled on Schedule B of Debtor's Bankruptcy Schedules, as amended, "Affiliate Receivables"), and (b) 99.8% of the equity interests ("Privado Monterrey Stock") in Hospital Privado de Monterrey, S.A. de C.V. ("Privado Monterrey"), a Mexican corporation that owns and leases real estate in connection with Hospital CIMA in Monterrey, Mexico. The Privado Monterrey Stock is pledged to Minerva Interests, Ltd. (together with any persons or entities related to or affiliated with such entity, "Minerva") to secure loans and other indebtedness aggregating more than \$19 Million ("Minerva Debt").¹

6. Debtor estimates that the allowable scheduled or filed unsecured claims in this case will aggregate approximately \$10 Million.²

¹ Unless otherwise stated, all monetary amounts in this Application are United States Dollars.

² Such amount is "net" of the off-settable, unsecured claims of Debtor's affiliates against the Debtor and does not include the claims held by such affiliates. Such amount is also "net" of any claims filed by BOKF, NA, d/b/a Bank of Texas, since the Court has previously disallowed such claim as untimely filed.

**PROPOSED ACQUISITION AGREEMENT AND CONTEMPLATED
TRANSACTIONS, TRANSFER OR SALE OF PRIVADO STOCK, AND
RELATED AFFILIATE AND CREDITOR RELEASES**

7. IHC Holding Company has negotiated a transaction with Grupo Angeles Servicios de Salud, S.A. de C.V. (together with any affiliate, designee, or assignee of any interests in or rights under the transaction in whole or in part, “Purchaser”), a Mexican corporation that is not affiliated with Debtor, IHC Holding Company, or any of their affiliates, whereby Purchaser will acquire all of the equity interests owned directly or indirectly by IHC Holding Company of Consorcio International Hospital, S.A. de C.V. (“Consorcio Mexico”), a Mexican company that is the holding company for numerous Mexican subsidiaries that own and operate hospitals, clinics, and health care facilities in Mexico (“CIMA Mexico Operations”). The CIMA Mexico Operations to be included in the proposed transaction consist of the healthcare facilities and businesses in Monterrey, Hermosillo, and Chihuahua, Mexico, which are owned or operated by Consorcio Mexico’s affiliates. The proposed transaction does not include Consorcio Mexico’s healthcare operations in Puebla, Mexico. As noted above, Privado Monterrey leases real estate owned by Privado Monterrey to Hospital CIMA in Monterrey. As part of the acquisition, the Privado Monterrey Stock will also be acquired by the Purchaser.

8. Purchaser and IHC Holding Company have executed a letter of intent regarding the proposed acquisition of Consorcio Mexico, the Privado Monterrey Stock, and the CIMA Mexico Operations. Purchaser and IHC Holding Company have negotiated, but have not yet executed, a written acquisition agreement (the “Acquisition Agreement”) to memorialize the terms, provisions, and conditions of the proposed

transactions (“Acquisition Transactions”). A copy of the most current version of the Acquisition Agreement is attached as Exhibit A.³ The current intent of the parties, including Debtor, is that such parties will execute the Acquisition Agreement at the time of the closing of the Acquisition Transactions.⁴ The parties would like to close the Acquisition Transactions on or before September 30, 2013.

9. As more fully set forth in the proposed Acquisition Agreement, (i) the Debtor will cause Privado Monterrey to issue new stock to Purchaser (or its designee, which may be Hospital Santa Engracia, S.A. de C.V. or another Consorcio Mexico affiliate being directly or indirectly acquired by Purchaser) such that, following the issuance, Purchaser will hold 99.8% of the Privado Monterrey Stock, (ii) the Debtor will, in addition, transfer its Privado Monterrey Stock to Purchaser free and clear of any liens, claims and encumbrances (including the Minerva liens), (iii) the Debtor and IHC Holding Company will release, and will cause each of their affiliates to release, any and all intercompany claims against Privado Monterrey and Consorcio Mexico (and each of its subsidiaries), (iv) Purchaser will pay an aggregate purchase price of \$72.5 Million in exchange for the various assets it is receiving in the Acquisition Transactions, including the stock of Consorcio Mexico and the Privado Monterrey Stock (for which the Purchaser will pay approximately \$22,931,144 of the \$72.5 Million), (v) the purchase proceeds (\$5.5 Million of which will be deposited an “indemnity escrow” and will be available to

³ The execution version of the Acquisition Agreement, together with a blacklined draft reflecting changes, if any, to Exhibit A, will be filed with the Court and served upon all parties entitled to notice thereof prior to the hearing on this Sale Motion.

⁴ None of Purchaser, IHC Holding Company or the Debtor shall be obligated to proceed with the acquisition unless and until (i) final agreement is reached on all numbers, (ii) all terms of the Acquisition Agreement have been agreed to and incorporated into the Acquisition Agreement, and (iii) the Acquisition Agreement has been executed.

Purchaser to satisfy, *inter alia*, claims for breaches (if any) of certain representations or warranties under the Acquisition Agreement) will be used to, *inter alia*, satisfy the Minerva debt and repay more than \$9 Million of the net amount of intercompany claims owed to IHC Holding Company and other affiliates, thereby facilitating repayment of the Affiliate Receivables. The calculation and determination of the net amount of cash that IHC Holding Company will actually receive from the Acquisition Transactions on account of the Consorcio Mexico and Privado Monterrey stock and the gross purchase price to be paid by Purchaser therefor will be determined on the closing date and the agreement of the parties providing for certain financial and accounting adjustments to be made on account of CIMA Mexico Operations during the period from the date of the initial letter of intent through the closing date. Debtor is filing this Sale Motion and seeking this Court's approval of the Acquisition Agreement and the Acquisition Transactions to the extent that Debtor will be a party to the Acquisition Agreement and will be (i) directing Privado Monterrey to issue stock to Purchaser (or its designee), (ii) transferring the Privado Monterrey Stock owned by Debtor to Purchaser free and clear of liens, claims and encumbrances in exchange for the payment in full and satisfaction of the Minerva Debt through the transactions contemplated by the Acquisition Agreement, (iii) acknowledging that the amount it receives from the proceeds of the Acquisition Transactions are in full payment and satisfaction of the Affiliate Receivables held by Debtor, (iv) executing mutual releases in respect of IHC Holding Company, Consorcio Mexico (and the other Consorcio Mexico subsidiaries involved in the CIMA Mexico Operations) and Privado Monterrey, and (v) taking such other steps as may be required to consummate the Acquisition Transaction. Such authorization and approval is also sought

because the Acquisition Transactions will generate the funds for the payment of allowed claims in this case.

10. This Court's authorization and approval of the Acquisition Agreement and the Acquisition Transactions involving Debtor are required under the Bankruptcy Code and are a condition to the closing of such transactions. In addition, Purchaser requires an Order of this Court authorizing the sale of the Privado Monterrey Stock to Purchaser free and clear of any and all liens, claims, interests, and encumbrances of Minerva or any other person or entity as a condition to the closing and consummation of the Acquisition Transactions.

11. The Acquisition Agreement and the Acquisition Transactions are governed by Mexico law and Purchaser's proposed acquisition of Consorcio Mexico and the CIMA Mexico Operations is also subject to applicable Mexico laws, including any Mexican antitrust laws and any regulatory approvals or clearances required by such laws. On August 20, 2013 the relevant Mexican anti-trust authority cleared the proposed transaction to proceed.

12. The Debtor intends to sell the Privado Monterrey Stock to Purchaser (or its designee) pursuant to the Acquisition Agreement free and clear of all liens, claims and encumbrances of Minerva or any other person or entity pursuant to section 363(f) of the Bankruptcy Code. Debtor will receive sufficient funds through the Acquisition Transactions to fully pay and satisfy the Minerva Debt and therefore Minerva may be compelled to release any liens, claims, encumbrances, or other interests in the Privado Monterrey Stock upon such payment under Section 363(f).

13. In addition to satisfying in full any obligations that Debtor or Privado Monterrey may have on account of the Minerva Debt, the Debtor will receive at least \$9,049,996.95 (as such amount is adjusted and reduced to reflect all payments to Plains Capital Bank and Viewpoint Bank, f/k/a Highlands Bank of Dallas, after January 31, 2013) as a result of the Acquisition Transactions and the payment of the Affiliate Receivables from the proceeds of such transactions. The Debtor believes that the consummation of the Acquisition Transactions will thus enable Viewpoint Bank and Plains Capital Bank to receive payment in full on account of their allowed claims in this case and to enable Debtor's unsecured creditors to receive 90% or more of their allowed unsecured claims. Consummation of the Acquisition Transactions will also result in the dismissal of pending litigation against or by the Debtor related to creditor claims, including litigation pending in this Court and in the probate court of Dallas County, Texas.

14. Debtor will hold in trust all of the proceeds of the Acquisition Transactions that it expects to receive and will not disburse or otherwise use any of such funds until confirmation of a plan of reorganization in this case or further order of this Court.⁵ Those proceeds will be distributed to creditors in accordance with such confirmed plan and any confirmation order entered by this Court. The approvals and authorizations sought in this Sale Motion are not a *sub rosa* plan that alters or determines creditors'

⁵ The proceeds used to satisfy the Minerva Claim will be paid to the secured creditor in conjunction with the closing of the Acquisition Transactions in order to effect the release of the pledge of the Privado Stock and because the Minerva Debt is a primary obligation of Privado and not a direct obligation of Debtor, who has only pledged its Privado Stock to secure such debt.

claims, distributions, or other rights under the Bankruptcy Code that should be determined under a confirmed plan.

15. For the foregoing reasons, Debtor believes that the proposed Acquisition Agreement and the Acquisition Transactions involving Debtor are in the best interest of the Debtor, its estate, and all creditors and parties in interest.

16. The Debtor further believes that the sale or transfer of the Privado Monterrey Stock and the consummation of the other Acquisition Transactions represent the best alternative for the Debtor to maximize and satisfy creditor claims and to fund any confirmable plan of reorganization in this case.

17. For the foregoing reasons, in the exercise of its business judgment, the Debtor has agreed to and has determined to consummate the Acquisition Transactions involving Debtor and its property should the Court authorize and approve such transactions.

RELIEF REQUESTED

18. The Debtor is requesting that the Court (i) authorize the Debtor to direct Privado Monterrey to issue to Purchaser (or its designee) Privado Monterrey stock as contemplated by the Acquisition Agreement, (ii) approve and authorize the sale or transfer of the Privado Monterrey Stock owned by the Debtor to Purchaser (or its designee) pursuant to the Acquisition Agreement free and clear of all liens, claims, encumbrances or other interests of Minerva or any other person or entity pursuant to sections 363(b), (f) and (m) of the Bankruptcy Code, with such liens, claims, encumbrances to attach to any sale proceeds of the Privado Monterrey Stock with the same validity (or invalidity), priority and perfection as existed immediately prior to the

sale or transfer of such property; (iii) approve and authorize any receipts, acknowledgements, or releases required by Purchaser to evidence the satisfaction and payment in full of the Affiliate Receivables upon receipt by the Debtor of at least \$9,049,996.95 (as adjusted by payments to Plains Capital Bank and Viewpoint Bank after January 31, 2013) through the proposed Acquisition Transactions, and (iv) grant such other relief as may be necessary or appropriate to allow the parties to perform and consummate the proposed acquisition and related transactions.

Approval of the Sale

21. Section 363(b)(1) of the Bankruptcy Code provides that a debtor, “after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). *See e.g. Cajun Elec. Power Coop., Inc. v. Official Comm. of Unsecured Creditors (In re Cajun Elec. Power Coop., Inc.)*, 119 F.3d 349, 354 (5th Cir. 1997).

22. A debtor must demonstrate sound business judgment for a sale of assets outside of the ordinary course of business. *See, e.g., Institutional Creditors of Continental Airlines, Inc. v. Cont’l Air Lines, Inc. (In re Cont’l Air Lines, Inc.)*, 780 F.2d 1223, 1226 (5th Cir. 1986).

23. Courts look to various factors to determine whether to approve a motion under section 363(b) of the Bankruptcy Code, such as: (a) whether a sound business reason exists for the proposed transaction; (b) whether fair and reasonable consideration is provided; (c) whether the transaction has been proposed in good faith; and (d) whether adequate and reasonable notice is provided. *See, e.g., In re Condere*, 228 B.R. 615, 626 (Bankr. S.D. Miss. 1998).

(i) Sound Business Reasons Exist for the Acquisition Transactions.

24. Adequate business reasons exist to justify the sale or transfer of the Privado Stock to Purchaser or its designee and the other transactions involving Debtor, such as the releases to be executed and delivered upon payment of the Affiliate Receivables. As discussed above, the proposed transactions will pay and satisfy the secured claims of Minerva in full and provide the Debtor with funds to pay creditors between 90% and 100% of their allowed claims. IHC Holding Company has sought and explored numerous other financings, recapitalizations, and transactions that would provide the Debtor with adequate funds to pay its debts substantially in full and the Acquisition Transactions represent the best and most expeditious transaction available to it and the Debtor at this time. Under these circumstances, sound business reasons exist that justify the Acquisition Transactions and the sale and transfer of the Privado Monterrey Stock by Debtor and the related releases of the Affiliate Receivables outside of the ordinary course of business as part of those transactions.

(ii) The Proposed Consideration Offered is Fair and Reasonable.

25. The purchase price for the Acquisition Transactions is the result of extensive negotiations between IHC Holding Company and Purchaser. Such transactions and will generate sufficient proceeds to pay Minerva in full and will enable IHC Holding Company and Consorcio Mexico and their affiliates to pay in full the net amount of the Affiliate Receivables to Debtor. As such the Debtor believes the consideration to be paid

by Purchaser and the proceeds to be realized by Debtor from the Acquisition Transactions are fair and reasonable.⁶

(iii) The Sale Process Has Been Undertaken in Good Faith.

26. Section 363(m) of the Bankruptcy Code provides that “[t]he reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith...” 11 U.S.C. § 363(m). While the Bankruptcy Code does not define “good faith,” the court in *In re Sullivan Central Plaza I, Ltd.*, 106 B.R. 934 (Bankr. N.D. Tex. 1998) stated that:

[t]he type of conduct of a Buyer which would destroy its good faith status under § 363(m) involves fraud, collusion between the Buyer and other bidders of the trustee, or an attempt to take grossly unfair advantages of other bidders.

106 B.R. at 938 (citing *Matter of Bleaufontaine, Inc.*, 634 F.2d 1383, 1388 (5th Cir. 1981)).

27. The proposed Acquisition Transactions and the sale and transfer of the Privado Monterrey Stock to Purchaser are the product of negotiations between the Purchaser, IHC Holding Company, Debtor, and Minerva. Purchaser is not an “insider” of the Debtor, IHC Holding Company, Consorcio Mexico, or any entity affiliated with those parties within the meaning of section 101(31) of the Bankruptcy Code and is not controlled by, or acting on behalf of, any insider of the Debtor. Accordingly, the Debtor

⁶ The Jordan Estate requested, and Debtor and IHC Holding Company agreed, that Debtor would not be charged with its allocated share of the substantial transaction and closing costs incurred by the IHC Holding Company entities involved in those transactions. Debtor therefore is not paying any transaction costs for the transaction other than any professional fees that may be allowed to Debtor’s counsel in this case on account of his representation of Debtor in connection with such transaction.

requests the Court to find that the Purchaser is a “good faith” buyer under section 363(m) of the Bankruptcy Code.

(iv) Reasonable Notice of the Asset Transaction is Being Provided.

28. The Debtor will serve notice of this Sale Motion on (i) the United States Trustee; (ii) Minerva and any other parties known to assert a lien on the Privado Stock or any other property of Debtor to be transferred as part of the Acquisition Transactions; (iii) Purchaser and its United States counsel; (iv) all parties that have filed a notice of appearance and request for notice of papers in the Debtor’s case, and (v) all of the Debtor’s known creditors. The Debtor submits that this service is sufficient to meet the requirements of the Bankruptcy Code and Federal Rules of Bankruptcy Procedure.

Sale of the Privado Stock Free and Clear of Interests Should be Approved

29. Under section 363(f) of the Bankruptcy Code, a debtor may sell property “under subsection (b) and (c) free and clear of any interest in such property of an entity other than the estate.” In particular, section 363(f) authorizes a debtor to sell property free and clear if applicable nonbankruptcy law permits sale of such property free and clear of such interest; such entity consents; such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property; such interest is in bona fide dispute; or such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest. 11 U.S.C. § 363(f).

30. Section 363(f) is drafted in the disjunctive. Thus, satisfaction of any of the requirements enumerated therein will suffice to warrant the sale of the Assets free and clear of the Interests. The Debtor submits that the proposed sale or transfer of the Privado Monterrey Stock satisfies at least one of the five conditions of section 363(f), and

that any liens or security interests of Minerva in such stock will be protected by having such liens and interests attach to the proceeds of the sale or transfer, subject to any claims or defenses that the Debtor may possess with respect thereto.

31. The Debtor accordingly requests the authority to sell or transfer the Privado Monterrey Stock to Purchaser free and clear of all liens, security interests, other encumbrances or other interests of Minerva or any other person or entity, with such liens, security interests, other encumbrances, or other interests to attach to the proceeds of the sale or transfer, with the same validity (or invalidity), priority and perfection as existed prior the sale or transfer.

Waiver of Stay of Order

32. Pursuant to Bankruptcy Rule 6004(g), any order granting the relief requested in this Sale Motion would be stayed for fourteen (14) days after the entry of such order unless the Court orders otherwise. Debtor requests that the Court waive the 14-day stay provided by Bankruptcy Rule 6004(g) in connection with the relief sought herein and submits that such waiver is appropriate under the circumstances and is in the best interests of the Debtor, its estate, and all creditors and parties in interest.

WHEREFORE, based upon the foregoing, Debtor requests that this Court grant this Sale Motion and enter an order or orders, substantially in the form submitted herewith, granting the relief requested herein, and granting Debtor such further relief that is necessary and proper.

Dated: September 5, 2013.

Respectfully submitted,

/s/ John P. Lewis, Jr.

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