

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

In re:	:	Chapter 11
	:	
North Philadelphia Health System	:	Case No. 16-18931 (MDC)
	:	
Debtor.	:	Hearing Date: July ____, 2017

**DEBTOR’S MOTION FOR ORDERS (I)(A) AUTHORIZING  
DEBTOR’S ENTRY INTO THE STALKING HORSE PURCHASE  
AGREEMENT FOR THE SALE OF CERTAIN OF THE DEBTOR’S ASSETS  
RELATED TO THE GIRARD MEDICAL CENTER, (B) APPROVING BIDDING  
PROCEDURES AND BID PROTECTIONS FOR SALE OF SUBSTANTIALLY ALL OF  
THE DEBTOR’S ASSETS,  
(C) SCHEDULING A HEARING TO CONSIDER APPROVAL OF THE SALE OF  
ASSETS, (D) APPROVING THE FORM AND MANNER OF NOTICE OF SALE,  
AND (E) GRANTING RELATED RELIEF; AND (II)(A) AUTHORIZING AND  
APPROVING THE SALE OF THE DEBTOR’S ASSETS FREE AND CLEAR OF LIENS,  
CLAIMS, INTERESTS AND ENCUMBRANCES, (B) AUTHORIZING THE  
ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND  
UNEXPIRED LEASES, AND (C) GRANTING RELATED RELIEF**

North Philadelphia Health System (“NPHS” or “the Debtor”), hereby moves (the “Motion”) for entry of (a) an order substantially in the form attached hereto as **Exhibit A** (the “Bidding Procedures Order”) (i) designating MBH of Pennsylvania (“Meridian”) as the “stalking horse” bidder for substantially all of the assets of the Debtor used in the operation of Girard Medical Center, other than the “Excluded Assets,” as defined in that certain Asset Purchase Agreement dated as of June 27, 2017, by and between the Debtor and Meridian attached hereto as **Exhibit B** (the “Meridian APA”), (ii) approving the proposed bidding procedures (the “Bidding Procedures”) to be used in connection with the sale of the Meridian Acquired Assets<sup>1</sup> and, if applicable, other assets owned by the Debtor (collectively with the Meridian Acquired Assets, the “Offered Assets”), (iii) setting the dates for the Bid Deadline (as defined below), the

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<sup>1</sup> The assets to be sold to Meridian are defined in the Meridian APA as the “Acquired Assets” and in this Motion as the “Meridian Acquired Assets.”

auction of the Offered Assets (the "Auction"), the hearing for approving the sales of the Offered Assets (the "Sale Hearing") and approving all notices related thereto (the "Notice Procedures"), and (iv) authorizing certain procedures related to the assumption and assignment of executory contracts and unexpired leases (the "Assignment Procedures"), (b) if Meridian is the Successful Bidder (defined below) for the Meridian Acquired Assets, an order substantially in the form attached hereto as **Exhibit C** (the "Meridian Sale Order") (i) authorizing sale of the Meridian Acquired Assets to Meridian free and clear of all liens, claims, interests and encumbrances, (ii) authorizing the assumption and assignment of certain related executory contracts and unexpired leases, and (iii) granting related relief, and (c) if any bidder other than Meridian is the Successful Bidder for any of the Offered Assets, (i) authorizing sale of the applicable Offered Assets to such other bidder free and clear of all liens, claims, interests and encumbrances, (ii) authorizing the assumption and assignment of certain related executory contracts and unexpired leases, and (iii) granting related relief. In support of this Motion, the Debtor represents as follows:

### **JURISDICTION**

1. This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue of these proceedings and this Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a “core” proceeding pursuant to 28 U.S.C. § 157(b)(2). The Debtor consents to the entry of final orders or judgments of the Court pertaining to this Motion if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

2. The statutory bases for the relief requested herein are sections 105, 363 and 365, 503 and 507 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002,

6004, 6006, 9008 and 9014 of the Federal Rules of Bankruptcy Procedures (the “Bankruptcy Rules”).

### **BACKGROUND**

3. The Debtor is a Pennsylvania non-profit, non-stock, non-member corporation. The Debtor’s mission is to provide quality healthcare through prevention, education, and treatment in the hospital and community, including services and special programs for persons with behavioral medical disorders and/or extended acute medical conditions. It seeks to provide care with integrity, sensitivity and consistency to the under-served communities of Philadelphia.

4. Currently, the Debtor operates the Girard Medical Center, a state-licensed 65 person private psychiatric hospital, and the Goldman Clinic, a medically assisted treatment center, both located at 801 West Girard Avenue (“GMC”). Services offered at the GMC hospital and clinic programs include: hospital-level psychiatric services; residential-level mental health services; outpatient drug and alcohol services; and outpatient mental health services. On a given day, the Debtor will typically provide services to more than 1,000 patients, including approximately 200 on an in-patient, residential basis.

5. The Debtor employs approximately 575 employees, 60% of which are members of one of four unions. The Debtor’s employee base is drawn largely from the communities which it serves.

6. Until its closure in March, 2016, the Debtor also operated St. Joseph’s Hospital, which was an acute care hospital offering medical and surgical services to poor and underserved residents of North Philadelphia throughout its 168 year history. At the time of the filing of the bankruptcy case, the Debtor owned the real property and improvements that housed

the hospital located at 1600-50 W. Girard Avenue, Philadelphia, PA 19130, together with certain, now abandoned as value-less, personal property located there (the “SJ Campus”).

7. Financially strained due to, among other things, the closure of St. Joseph’s Hospital and the residuary liabilities associated with that operation and the declining reimbursement rate for its Medicaid patients (despite corresponding increased costs for the underlying services), on December 30, 2016, (the “Petition Date”) NPHS filed for relief pursuant to Chapter 11 of the Bankruptcy Code. On January 23, 2017 an official Creditors’ Committee of unsecured creditors (the “Creditors’ Committee”) was appointed.

8. According to the schedules, at the time of the filing of the case, the Debtor had approximately \$17 million in secured debt and \$29 million in unsecured indebtedness. Included in the secured debt were claims totaling approximately \$13 million in favor of the Bank of New York Mellon (“BNYM”), Hunt Mortgage, and HUD (collectively the “HUD Group”) associated with bond indebtedness issued in 1997.<sup>2</sup> There was also approximately \$1 million due to Gemino Healthcare Finance LLC (“Gemino”), the Debtor’s receivable finance lender, and approximately \$1.55 million due to the Commonwealth of Pennsylvania on account of unemployment claims arising out of the closure of St. Joseph’s Hospital by the Commonwealth.

9. Since the filing of the case, the Debtor has sold the SJ Campus and transferred approximately \$9 million to the HUD Group for satisfaction of the bulk of the outstanding bond indebtedness. At present, NPHS estimates that, after application of all funds escrowed with BNYM (with the exception of the escrow established on account of insurance

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<sup>2</sup> In addition to a mortgage running in favor of the BNYM, pursuant to the HUD Regulatory Agreement Section 242 Non-Profit Hospital, Project No. 034-57004, of December 30, 1997, there is a recorded covenant (the “HUD Covenant”) against the real and personal property of the Debtor intended to provide the Secretary of the United States Department of Housing and Urban Development (“HUD”) an oversight of the Debtor for the benefit of the FHA mortgage insurance endorsement. The Sale of the Property will be free and clear of the HUD Covenant.

obligations), approximately \$700,000 in principal and interest will remain due on the bonds on July 1, 2017. The HUD Group has advised that it estimates that, at that time, it will be due approximately \$1.3 million in legal fees and other charges.<sup>3</sup>

### **THE SALE PROCESS**

10. The Debtor has determined, in consultation with its advisors, that maximizing the value of the Debtor's estate is best accomplished through a sale, free and clear of liens, claims, encumbrances or other interests, of substantially all of its assets, and accordingly, by this Motion, the Debtor seeks authority to market and sell substantially all of its assets. On June 27, 2017, NPHS entered into the Meridian APA pursuant to which Meridian, as a strategic buyer, will acquire the Meridian Acquired Assets, which comprise substantially all of the assets of NPHS used in the operation of the GMC, other than the Lower Parking Lot (defined below), on the terms and conditions specified in the Meridian APA. The sale transaction contemplated by the Meridian APA will be subject to competitive bidding on the terms set forth herein and in the Bidding Procedures.

#### **A. The Marketing Process**

11. On April 3, 2017, the Debtor engaged the services of SSG Advisors, LLC ("SSG") as its investment banker. In that capacity, SSG is helping the Debtor explore its strategic alternatives and work on a bankruptcy exit strategy. Included in the possible exit strategies are new financing, a strategic buyer to take over the programs, and a real estate sale. At present, SSG is engaged in discussions and due diligence process with multiple interested parties.

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<sup>3</sup> NPHS has requested and received some backup from the HUD Group to substantiate these numbers. Additional documentation regarding these legal fees has been requested.

12. The SSG marketing efforts are not limited to exclusive real estate or going concern sales. In at least one instance, NPHS has been contacted by an operating entity that is looking to joint venture a transaction with a real estate player. Also, in the real estate context, NPHS has been approached by entities that are interested in more than one of NPHS's three (3) significant real estate parcels.<sup>4</sup> Among other things, SSG has worked diligently to commence and conduct an extensive marketing process, targeting potential buyers based on a variety of factors, including a potential buyer's interest in the Debtor's assets and its financial ability to consummate a transaction with the Debtor.

13. As of June 23, 2017, SSG had contacted approximately 107 parties that it believed might have an interest in the assets, approximately 34 interested parties have executed confidentiality agreements, and numerous interested parties are completing due diligence with respect to the Debtor and its assets. Of the contacts, 73 have been individuals or entities primarily interested in the Debtor's real estate and 34 have been primarily interested in the Debtor's operations. The Debtor, with the assistance of SSG, its attorneys and other representatives, has assembled data and documents to facilitate the diligence process and has prepared business presentations to provide for an organized and efficient transmission of a large amount of data related to the Debtor's assets and its businesses.

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<sup>4</sup> The parcels are generally referred to as the main buildings, the upper parking lot and the lower parking lot. The main buildings are located at 801 Girard, which is real estate improved by the GMC Building, the ADC Building, and the Tower Building. This property spans across 8<sup>th</sup> Street and houses NPHS's operations.

The upper parking lot is a 207 space parking lot and is located at 1300-42 North 8<sup>th</sup> Street.

The lower parking lot (the "Lower Parking Lot") includes NPHS's interest in real estate located at 1301-25 N. 8<sup>th</sup> Street; 1329 N. 8<sup>th</sup> Street; 1328 N. Perth Street and 1330 N. Perth Street and contains 73 spaces. The Lower Parking Lot is the subject of the separate purchase agreements and may be removed from the Offered Assets to be sold pursuant to this Motion if the Debtor does not obtain a higher or better bid for the Lower Parking Lot by July 7, 2017.

14. The Debtor believes that the proposed Bidding Procedures described herein are the most effective method of obtaining the highest and best offer for the Debtor's assets and businesses.

**B. The Meridian APA<sup>5</sup>**

15. The negotiations among the Debtor and the Meridian have included extensive business discussions among senior management, the parties' legal teams, and the parties' other advisors. The negotiations culminated on June 27, 2017, when the Debtor and Meridian agreed to the terms of the Meridian APA. The Meridian APA contemplates the sale of the Meridian Acquired Assets, subject to higher or better bids, on the following material terms:

Assets. Meridian will purchase from the Debtor substantially all of the assets of the Debtor used in the operation of GMC, other than certain Excluded Assets (as defined in the Meridian APA), which Excluded Assets shall include cash, accounts receivable, the Lower Parking Lot, avoidance actions and other items. Meridian APA §§ 2.1; 2.2.

Purchase Price The purchase price to be paid for the Meridian Acquired Assets will be (i) \$10,000,000, plus (ii) Meridian's assumption of the Assumed Liabilities, plus or minus (iii) the closing date adjustments pursuant to Section 2.6 of the Meridian APA. Meridian APA §§2.5, 2.6.

Break-Up Fee. If the Debtor sells all or substantially all of the Meridian Acquired Assets in a transaction or a series of transactions with one or more persons other than Meridian in accordance with the Bidding Procedures Order (such an event being an "Alternate Transaction"), Meridian shall be entitled to (a) its reasonably documented actual out-of-pocket fees and expenses (including legal, accounting and other fees and expenses), up to \$200,000, incurred in connection with the negotiation and documentation of the Meridian APA, the performance by the parties of their respective obligations under the Meridian APA and the monitoring of, and participation in, the Bankruptcy Case to the extent reasonably related to the sale by the Debtor of the Offered Assets, plus (b) 3% of the sale price, with such amounts being payable upon the closing or consummation of such alternate transaction(s). Meridian APA § 5.3(f)

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<sup>5</sup> Capitalized terms used but not defined herein have the meanings ascribed to them in the Meridian APA. To the extent that there are inconsistencies between any summary description of the Meridian APA contained herein and the terms and conditions of the Meridian APA, the terms and conditions of the Meridian APA shall control.

Conditions to Closing. The Meridian APA contains certain conditions that must be satisfied prior to the closing of the Sale. Among other things, the Meridian Purchaser's obligation to consummate the Sale is subject to the satisfaction at or prior to the Closing Date of each of the following conditions:

- (a) The agreement of Meridian and those unions representing NPHS employees to enter into amended collective bargaining agreements, in form and substance acceptable to Meridian or, at Meridian's option, the rejection of the existing collective bargaining agreements and entry into new agreements in form and substance acceptable to Meridian;
- (b) An agreement between Meridian and Community Behavioral Health ("CBH"), in form and substance acceptable to Meridian, for a term of at least one year, which agreement must include a 6% increase in the reimbursement rate for all services paid by or through CBH;
- (c) An agreement by the Commonwealth of Pennsylvania to transfer 24 psychiatric beds from Norristown State Hospital to Meridian for use at NPHS within 12 months of closing;
- (d) An agreement by the Commonwealth of Pennsylvania and the City of Philadelphia to provide, on a combined basis, up to \$5,000,000 for capital improvements at GMC on a dollar for dollar matching basis with Meridian for a period of 30 months after the closing;
- (e) The receipt of all necessary or appropriate consents and approvals of appropriate persons, including the approval of the governing boards of the affected organizations and appropriate governmental authorities;
- (f) The receipt of approval from the Pennsylvania Attorney General and the Orphans' Court Division of the Court of Common Pleas;
- (g) The filing of all notices and the receipt of such licenses, approvals, permits and provider numbers and agreements, as may be necessary or appropriate;
- (h) The termination of any waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, if required;
- (i) Receipt of new provider numbers (the "Provider Numbers") from all third party payors; and
- (j) The entry of the Meridian Sale Order, the absence of any stay of the Meridian Sale Order and, unless waived by Meridian, the passage of sufficient time for the Meridian Sale Order to become final and no longer subject to any pending appeal; Meridian APA § 7.



Sale Free and Clear. The Meridian Acquired Assets will be transferred free and clear of all liens and any other encumbrances, claims, security interests, mortgages or pledges. Meridian APA § 2.1.

Outside Closing Date. October 31, 2017.

**C. The Bidding Procedures**

16. In order to ensure that the maximum value for the Offered Assets is obtained, the Meridian APA is subject to higher or better offers. The Debtor believes that sale pursuant to the Bidding Procedures described below will provide the best opportunity to maximize the realizable value of the Offered Assets. The Bidding Procedures are included in the proposed Bidding Procedures Order (attached hereto as **Exhibit A**).<sup>6</sup>

17. The key provisions of the Bidding Procedures to be employed with respect to the proposed sale of the Offered Assets include the following:

Proposed Dates and Deadlines:

1. Entry of Bidding Procedures Order: July 5, 2017;
2. Assumption/Assignment and Cure Objection Deadline: July 31, 2017 (at 4:00 p.m. (prevailing Eastern Time));
3. Sale Objection Deadline: August 14, 2017 (at 4:00 p.m. (prevailing Eastern Time));
4. Bid Deadline: August 9, 2017 (at 5:00 p.m. (prevailing Eastern Time));
5. Auction Date: August 11, 2017 (at 10:00 a.m. (prevailing Eastern Time));
6. Sale Hearing: August 15, 2017 (at 11:00 a.m. (prevailing Eastern Time));

Provisions Regarding the Sale of Offered Assets by Lot. The Offered Assets are being offered in three lots as follows:

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<sup>6</sup> The following summary is provided for convenience. In the event of any inconsistency between the following summary and the Bidding Procedures, the latter shall control.

1. Lot 1 shall be comprised of the Meridian Acquired Assets as well as such other Offered Assets as the applicable Qualified Bidder shall designate, but shall not include any of the Offered Assets comprising the Lower Parking Lot.
2. Lot 2 shall be comprised of the Lower Parking as well as such other Offered Assets as the applicable Qualified Bidder shall designate, but shall not include any of the Offered Assets comprising the Meridian Acquired Assets.
3. Lot 3 shall be comprised of the Meridian Acquired Assets, the Lower Parking Lot and such other Offered Assets as the applicable Qualified Bidder shall designate.

Provisions Governing Qualifications of Bidders and Bids. A bid submitted will be considered, and the Qualified Bidder will be authorized to participate in the Auction, only if the bid submitted is for one of the Lots described above and includes each of the following "Qualified Bid Required Documents" (such bid, a "Qualified Bid");

- (a) a letter, executed by such bidder: (i) identifying the Lot number of the Offered Assets subject to the bid, (ii) setting forth the net cash purchase price, which net cash amount must reflect a value to be delivered to the Debtor at closing equal to or greater than: (A) if the bid is for Lot 1, \$10,600,000, (B) if the bid is for Lot 2, \$1,800,000 and (C) if the bid is for Lot 3, \$12,400,000 (iii) stating any assumed liabilities proposed to be paid or assumed by such bidder, (iv) stating that the bid submitted by such bidder is irrevocable until the conclusion of the Sale Hearing (as defined below), subject to the requirements set forth below relating to any Back-up Bidder (as defined below); (v) stating that such bid and the agreements, exhibits, and schedules referred to in clause (b) immediately below, have been duly authorized, executed, and delivered by such bidder and that no further internal or equity holder approvals are required with respect to any such agreement or matter; (vi) setting forth each regulatory and other approval required by such bidder for the consummation of the purchase and sale of the Offered Assets subject to such bid and the time period within which such bidder expects to receive such regulatory and other approvals (and in the case that receipt of any such regulatory or other approval is expected to take more than 14 days following execution and delivery of an asset purchase agreement, those actions such bidder will take to ensure its receipt of all such approval(s) as promptly as possible); (vii) containing a provision similar to the Meridian APA regarding operating losses post September 1, 2017 and including a commitment to close on or before October 31, 2017 (the "Projected Closing Date"); and (viii) confirming that the bid submitted by such bidder is not conditioned on receipt of any financing, or the outcome of any due diligence investigation;

- (b) a clean asset purchase agreement, duly authorized, executed, and delivered by such bidder, for the Offered Assets proposed to be acquired consistent in all material respects with clause (a) immediately above, together with all exhibits and schedules thereto which, if the applicable bid is for Lot 1 or Lot 3, contains substantially the same terms as the Meridian APA (together with such additional terms as are required herein), or terms more favorable to the Debtor than the terms set forth in the Meridian APA for the Offered Assets proposed to be acquired (a "Modified Purchase Agreement") and a marked Modified Purchase Agreement reflecting the variations from the Meridian APA and each exhibit and schedule thereto, as applicable (with it being understood that the Modified Purchase Agreement for each bidder for Lot 1 or Lot 3 must show with precision any changes to the assets, contracts, leases, and liabilities to be assumed or purchased by such bidder relative to the Meridian APA);
- (c) to the extent that the bidder proposes to pay for the Offered Assets in whole or in part, from cash on hand (as reflected on such bidder's balance sheet), recent financial information, satisfactory to the Debtor after consultation with the Creditors' Committee showing such bidder's ability to pay the cash portion of the purchase price, (ii) to the extent that such bidder is proposing to pay for the Offered Assets with funds from any third-party financing source (whether such source is providing debt or equity financing), copies of written and legally binding firm commitments to provide such financing (including, without limitation, under any existing credit facility) executed by all parties thereto, in each case, satisfactory to the Debtor after consultation with the Creditors' Committee and containing no material conditions to the closing and funding of such financing other than entry of a sale order and receipt of required government consents or approvals, and (iii) a combination of the materials and information described in (i) and (ii) of this clause (c) above, satisfactory to the Debtor, after consultation with the Creditors' Committee, evidencing a capitalization for such bidder in such amount as the Debtor, after consultation with the Committee, may require.
- (d) the Modified Purchase Agreement, if for Lot 1 or Lot 3, or the asset purchase agreement, if for Lot 2, must expressly exclude from assets being acquired any and all cash and cash equivalents owned by the Debtor in any form; and
- (e) a cash deposit in the amount equal to (i) \$250,000, if the bid is for Lot 1 or Lot 3, or (ii) \$175,000, if the bid is for Lot 2.

For all purposes of the Bidding Procedures, (i) Meridian will be deemed a Qualified Bidder and the transactions proposed in the Meridian APA will be deemed a Qualified Bid and (ii) each of Gemino and Hunt Mortgage will in all events be deemed a Qualified Bidders and may include a credit

bid with respect to any Offered Assets in accordance with Bankruptcy Code Section 363(k) and applicable law.

No Competing Qualified Bids. If no Qualified Bids for Lot 1 or Lot 3 are submitted by the Bid Deadline, the Debtor shall cancel the Auction as it relates to the Meridian Acquired Assets and Meridian shall be deemed to be the Successful Bidder (as defined below) for the Meridian Acquired Assets. If no Qualified Bids for Lot 2 or Lot 3 are submitted by the Bid Deadline, the Debtor shall cancel the Auction as to the Lower Parking Lot. In the event only one Qualified Bid is received by the Bid Deadline for Lot 2 and no Qualified Bids are received by the Bid Deadline for Lot 3, the Debtor shall cancel the Auction as it relates to Lot 2 and the bidder who submitted the Qualified Bid for Lot 2 will be deemed to be the Successful Bidder for Lot 2.

Auction. If, by the Bid Deadline, the Debtor has received (a) at least one Qualified Bid for Lot 1 (in addition to the Qualified Bid from Meridian), (b) more than one Qualified Bid for Lot 2, or (c) at least one Qualified Bid for Lot 3, the Debtor will conduct an Auction with respect to the Offered Assets subject to more than one Qualified Bid, including the Qualified Bid from Meridian for Lot 1. The Auction will take place on **August 11, 2017 starting at 9:00 a.m. (prevailing Eastern Time)** at the offices of Dilworth Paxson, LLP 1500 Market Street, 3500E, Philadelphia, PA 19102, or at such other place, date, and time as the Debtor may designate in writing in consultation with the Creditors' Committee. If the place, date, or time of the Auction changes, or if the Auction is cancelled, then the Debtor will file a notice with the Court of any such change or cancellation. Other than the Debtor and the Creditors' Committee, only parties and their advisors that have been advised that they have submitted or been deemed to have submitted a Qualified Bid will be permitted to participate as or with a bidder at the Auction.

The Auction shall be governed by the following procedures:

- (a) only Qualified Bidders shall be entitled to make any subsequent bids at the Auction;
- (b) each Qualified Bidder shall be required to confirm that it has not engaged in any collusion with respect to the bidding, the sale, or the bidding process;
- (c) the Qualified Bidders shall appear at the Auction in person or through a duly authorized representative unless the Debtor otherwise agrees in consultation with the Creditors' Committee;
- (d) prior to the Auction, the Debtor shall designate and provide copies of the highest and best Qualified Bid(s) for the Offered Assets which are subject to the Auction (the "Starting Bid(s)") to all Qualified Bidders that have informed the Debtor of their intent to participate in the Auction;
- (e) if one or more Qualified Bids are received by the Bid Deadline for Lot 3, a single Starting Bid shall be designated as the Starting Bid for all of the Offered Assets, which Starting Bid shall be the highest and best Qualified Bid for Lot 3;

(f) if no Qualified Bids for Lot 3 are received by the Bid Deadline, then the Starting Bid for Lot 1 and the Starting Bid for Lot 2, to the extent such Offered Assets are subject to the Auction, shall be separately determined and announced;

(g) Qualified Bidders may then submit successive bids by Lot, with the value to the Debtor, as determined by the Debtor in its reasonable business judgment after consultation with the Creditors' Committee of at least the applicable Starting Bid plus \$100,000 and then continue in minimum increments of at least \$100,000 higher than the value to the Debtor of the previous bid; provided, that the Debtor will retain the right to modify the bid increment requirements (other than the initial bid increment of \$100,000) at the Auction after consultation with the Creditors' Committee;

(h) should Meridian elect to submit additional bids for Lot 1 or submit a bid for Lot 3, for purposes of comparing the value to the Debtor of any bid by Meridian to the value to the Debtor of any other Qualified Bid(s) for such Offered Assets, \$200,000 plus 3% of the amount of any such other Qualified Bid(s) will be deducted from the value of such other Qualified Bid(s) to account for the Debtor's obligation to pay the Meridian Bid Protections to Meridian;

(i) in the event of bidding at the Auction for Lot 1, Lot 2 and Lot 3, (i) for the purposes of determining the highest and best bids, the highest bid for Lot 1 shall be added to the highest bid for Lot 2 and such sum shall be compared to the highest bid for Lot 3, and (ii) any bidder for Lot 1 (and not any other Lot) and any bidder for Lot 2 (and not any other Lot) may coordinate their bids prior to submission.

(j) except as expressly stated herein, the Auction will be conducted in a manner as determined by the Debtor in consultation the Creditors' Committee;

(k) all Qualified Bidders shall have the right to submit additional bids and make additional modifications to their respective Qualified Bids at the Auction; provided, that any such modifications, on an aggregate basis and viewed in whole, shall not be less favorable to the Debtor than any prior bid by such party or the preceding bid, as determined by the Debtor in consultation with the Creditors' Committee; provided, further, that such additional bids must comply with all of the conditions for a Qualified Bid set forth above.

(l) the Debtor shall have the right to request any additional financial information that will allow the Debtor to make a reasonable determination as to the Qualified Bidder's financial and other capabilities to consummate the transactions contemplated by any Qualified Bid, as amended during the Auction process, and any further information that Debtor believes is reasonably necessary to clarify and evaluate the terms of a Qualified Bidder's bid; and

(m) the Debtor shall announce the material terms of each Qualified Bidder's bid and the basis for calculating, and the total consideration offered in, each such bid.

Successful Bid; Back-Up Bid. Upon completion of the foregoing steps in the Auction, if not cancelled, or as soon thereafter as practicable, the Debtor, in consultation with the

Creditors' Committee, will: (i) review each Qualified Bid, and consider each Qualified Bid, in each case as updated through the conclusion of the Auction, on the basis of, among other considerations, the same considerations used by the Debtor in determining the highest and best offer(s) during the Auction, and (ii) identify the highest or otherwise best Qualified Bid(s) for the Offered Assets received at the Auction (the "Successful Bid" and the party making such bid(s), the "Successful Bidder"), as well as identifying the Back-up Bidder(s) if any. The Auction will be deemed concluded upon the determination of the Successful Bid(s), the Successful Bidder(s) and the Back-up Bidder(s). The concluding date and time of the Auction, if held, shall be stated on the record. Upon designation as such, the Successful Bidder(s) shall have such rights and responsibilities as set forth in the applicable asset purchase agreement for such Successful Bidder(s) as agreed at the Auction. Within two (2) calendar days following the conclusion of the Auction, if not cancelled, or the Bid Deadline, if the Auction is cancelled, the Successful Bidder(s) shall complete and execute all agreements, contracts, instruments, or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made. The results at the close of the Auction shall be final and no additional bids will be accepted after the close of the Auction. The foregoing notwithstanding, Meridian has not agreed to serve as Back-up Bidder and will not be required to serve as a Back-up Bidder.

Return of Deposits. Except as otherwise provided in the Bidding Procedures and under any asset purchase agreement relating to a Qualified Bid(s) accepted by the Debtor in accordance with these Bidding Procedures, all deposits shall be returned to each bidder not selected by the Debtor in accordance with the above procedures as the Successful Bidder(s) or the Back-up Bidder(s) by no later than the fifth business day after the conclusion of the Auction; provided, however, that the interest, if any, on such deposit may not be returned until the second business day of the month following such conclusion; and further provided, however, the Deposit paid by Meridian shall be returned to Meridian pursuant to the terms of the Meridian APA. The deposit of the Back-up Bidder(s) shall be held by the Debtor until 24 hours after the earlier of the applicable outside closing date or the date on which the sale is consummated with the Back-up Bidder(s) upon its designation as the new Successful Bidder.

#### **D. Meridian Bid Protections**

18. Meridian and its advisors have expended, and will continue to expend, considerable time, energy and resources pursuing the purchase of the Meridian Acquired Assets, and have engaged in extended, good faith negotiations with the Debtor to facilitate such transaction. Among other things, Meridian heavily negotiated the Meridian APA and participated in the drafting and negotiating of the form of the Meridian Sale Order, all of which will facilitate negotiations with any other Successful Bidder(s) for either Lot 1 or Lot 3.

19. The Debtor and its advisors believe that a sale of the Meridian Acquired Assets (whether pursuant to a bid for Lot 1 or Lot 3) requires a stalking horse bid and an auction in order to maximize the return to the Debtor's estate. The Meridian Bid Protections are necessary in order to obtain the commitment of Meridian and compensate it for the time and effort of investigating the Meridian Acquired Assets. Notably, Meridian has committed to keep its bid open, subject to the termination provisions of the Meridian APA, through October 31, 2017, without any assurance that the Debtor's marketing efforts will not yield a higher or better offer. This alone justifies the Meridian Bid Protections as necessary to the Debtor's estate. In addition, the presence and commitment of Meridian should assuage some of the concerns of potential bidders regarding the delay and uncertainties inherent in a bankruptcy sale, compared to alternative sales. Meridian has also set a minimum price floor for bidding on the Meridian Acquired Assets and minimized the possibility of an unsuccessful sale.

20. In recognition of this expenditure of time, energy, and resources, the Debtor, in accordance with Section 5.3(f) of the Meridian APA, has agreed to pay Meridian (a) its reasonably documented actual out-of-pocket fees and expenses (including legal, accounting and other fees and expenses), up to \$200,000, incurred directly or indirectly in connection with the negotiation and documentation of the Meridian APA, the performance by the parties of their respective obligations under the Meridian APA and the monitoring of, and participation in, the Bankruptcy Case to the extent reasonably related to the sale by the Debtor of the Offered Assets, plus (b) 3% of the sale price if the Debtor sells all or substantially all of the Meridian Acquired Assets in a transaction or a series of transactions with one or more persons other than Meridian in accordance with the Bidding Procedures Order, with such amounts being payable upon the closing or consummation of such alternate transaction(s).

**E. The Notice Procedures**

21. The Debtor proposes to give notice of the Auction and the Sale Hearing no later than two (2) business days after the entry of the Bidding Procedures Order to all interested persons and entities, including (i) the Office of the United States Trustee; (ii) those parties requesting notice under Bankruptcy Rule 2002; (iii) counsel to the Official Committee of Unsecured Creditors; (iv) counsel to The Bank of New York Mellon Trust Company, N.A.; (v) counsel to Hunt Mortgage Group, LLC; (vi) counsel to the United States of America Department of Housing and Urban Development ("HUD"); (vii) all creditors listed on the matrix filed by the Debtor with the Court; (viii) all parties known by the Debtor to hold or assert liens against any of the Acquired Assets (as defined in the Agreement); (ix) the Local District Director for the United States of America Internal Revenue Service, (x) the United States Attorney for the Eastern District of Pennsylvania; (xi) the United States Environmental Protection Agency; (xii) the Pension Benefit Guaranty Corporation; (xiii) the Commonwealth of Pennsylvania Department of Revenue; (xiv) the Commonwealth of Pennsylvania Department of Environmental Protection; (xv) the Office of the Attorney General for the Commonwealth of Pennsylvania; (xvi) the Commonwealth of Pennsylvania Department of Labor and Industry; (xvii) the City Solicitor of the City of Philadelphia, (xviii) all counterparties to contracts with the Debtor; (xix) all parties that have filed an entry of appearance in this case, (xx) all parties that expressed an interest in acquiring the Acquired Assets and any additional persons that the Debtor believed may have had an interest in acquiring the Acquired Assets. To this end, the Debtor seeks Court approval of the notice of Auction and Sale Hearing and Objection Deadline attached to the Bidding Procedures Order as **Exhibit 2** (the "Sale Notice").

**F. The Assignment Procedures**

22. The Debtor proposes the following procedures for notifying counterparties to executory contracts and unexpired leases (collectively, the "Executory Contracts and Unexpired Leases") of potential cure amounts and adequate assurance information in the event



such Executory Contracts and Unexpired Leases are assumed by the Debtor and assigned to Meridian and/or another Successful Bidder at the Auction:

(a) Notice of Potential Assumption and Assignment. As soon as practicable, but in any event no later than ten (10) business days following entry of the Bidding Procedures Order, the Debtor shall serve each counterparty with an Assumption and Assignment Notice substantially in the form attached to the Bidding Procedures Order as **Exhibit 1** (an "Assumption and Assignment Notice"), by first class mail. The Assumption and Assignment Notice will inform each recipient that the respective Executory Contract and Unexpired Lease may be either: (i) assumed and assigned or (ii) rejected. The Assumption and Assignment Notice will state the amounts (the "Cure Amounts") that the Debtor asserts are due to cure any non-monetary defaults in the event that the applicable Executory Contract and Unexpired Lease is assumed and assigned.

(b) Objection Period. Any objections to the assumption and/or assignment of any Executory Contracts and Unexpired Leases identified on an Assumption and Assignment Notice, including to the Cure Amount set forth in such notice and the ability of Meridian to provide adequate assurance of future performance, must be in writing, filed with the Court, and be actually received by the Objection Notice Parties (defined below) no later than **July 31, 2017 at 4:00 p.m. (prevailing Eastern Time)** (the "Cure Amount/Assignment Objection Deadline").

(c) Assigned Contracts. No later than two (2) days prior to the Sale Hearing, Meridian and/or any other Successful Bidder shall designate, by written notice to the Debtor, which of the Executory Contracts and Unexpired Leases are to be assumed by the Debtor and assigned to Meridian and/or any other Successful Bidder (each an "Assigned Contract") provided, however, Meridian and/or any other Successful Bidder may remove any executory contract or unexpired lease from the Assigned Contracts list at any time prior to the applicable closing(s). Only Executory Contracts and Unexpired Leases that are designated as Assigned Contracts prior to the Sale Hearing and not removed from the Assigned Contracts list prior to applicable closing(s) shall be assumed by the Debtor and assigned to Meridian or any other Successful Bidder.

(d) Excluded Contracts. The Debtor shall notify the non-Debtor party or parties to any Executory Contract and Unexpired Lease not assumed and assigned (each an "Excluded Contract") by written notice as soon as practicable after the applicable closing(s). Each Excluded Contract may be rejected or otherwise terminated by the Debtor in its discretion.

#### **G. Sale Hearing and Objection Procedures**

23. To the extent that the Debtor holds the Auction and selects a Successful Bid(s), within one (1) business day of determining the Successful Bid(s), the Debtor shall file on the Court's public docket the Successful Bidder Notice disclosing the identity of the Successful

Bidder(s) and the identity of the Back-Up Bidder(s), if any. The Debtor intends to present the Successful Bid(s), if any, for approval by the Court pursuant to Bankruptcy Code sections 105, 363 and 365 at the Sale Hearing to be scheduled by the Court and, subject to the Court's availability, currently proposed as **August 15, 2017**. The Debtor reserves the right to request the adjournment of the Sale Hearing. The Debtor shall be deemed to have accepted a bid only when the Court has approved the bid at the Sale Hearing.

24. The Debtor respectfully requests this Court to require that all objections to the sale(s) contemplated by this Motion: (a) be in writing; (b) state with specificity the nature of such objection; (c) comply with the Bankruptcy Rules and the Local Rules; and (d) be filed with the Court on or before **August 14, 2017, at 4:00 p.m. (prevailing Eastern Time)** (the "Sale Objection Deadline"), or such later date and time as the Debtor may agree; and (e) be served, so as to be actually received on or before the Sale Objection Deadline, by (i) counsel for the Debtor, Dilworth Paxson LLP, 1500 Market Street, Suite 3500E, Philadelphia, PA 19102; Attn: Martin J. Weis, Esquire, (ii) counsel for the Creditors' Committee, Obermayer Rebmann Maxwell & Hippell LLC, Centre Square West, 1500 Market Street, Suite 3400, Philadelphia, PA 19102, Attention: Edmond George, Esquire, and (iii) counsel to Meridian, Stevens & Lee, P.C., 620 Freedom Business Center, Suite 200, King of Prussia, PA 19406, Attention: Robert Lapowsky, Esquire (the "Objection Notice Parties").

25. The failure of any objecting person or entity to file its objections by the Sale Objection Deadline and in accordance with the procedures outlined above should act as a bar to the assertion, at the Sale Hearing or thereafter, of any objection, and should be deemed to constitute consent to entry of the Meridian Sale Order and any other applicable sale order and

consummation of the sale(s) contemplated thereby and all transactions related thereto for purposes of Bankruptcy Code section 363(f)(2).

26. The Sale Hearing may be adjourned, from time to time, without further notice to creditors or other parties in interest other than by announcement of said adjournment before the Court or on the Court's calendar on the date scheduled for said hearing.

#### **H. Sale Free and Clear of Liens, Claims, Interests and Encumbrances**

27. The Debtor has agreed to sell, transfer and assign, pursuant to Bankruptcy Code section 363, the Debtor's right, title and interest in the Meridian Acquired Assets and seeks leave to sell the Debtor's right, title and interest in the remainder of the Offered Assets, in each case, free and clear of any and all liens, claims, interests, and other encumbrances. Without the assurance that the Meridian Acquired Assets would be sold free and clear of all liens, claims, interests and other encumbrances, Meridian would not have agreed to the terms of the Meridian APA and would not consummate the transactions contemplated thereby. Without the assurance that the Offered Assets other than the Meridian Acquired Assets would be sold free and clear of all liens, claims, interests and other encumbrances, the Debtor does not believe any party would be willing to submit a bid. As a result, the sale, transfer and assignment of the Meridian Acquired Assets and the other Offered Assets (if applicable) free and clear of all liens, claims, interests and other encumbrances benefits the Debtor's estate by, as regards the Meridian Acquired Assets, providing a baseline purchase price and ensuring the commitment of significant capital by at least one Qualified Bidder prior to the Auction and, as to the other Offered Assets, preserving the possibility that bids will be received. Accordingly, the Debtor seeks a finding by the Court that, upon the applicable closing(s), neither the Offered Assets nor the Successful Bidder(s) (including Meridian, if applicable) shall be liable for any liens, claims, interests or other encumbrances.

### **RELIEF REQUESTED**

28. By this Motion, the Debtor is requesting the entry of two orders concerning sales of the Offered Assets. First, the Debtor seeks the immediate entry the Bidding Procedures Order to provide for the orderly sale of the Meridian Acquired Assets and, if applicable, the other Offered Assets. Second, the Debtor seeks the eventual entry of the Meridian Sale Order and, if applicable, sale orders approving any and all sales of Offered Assets to any bidder other than Meridian that are a result of the Bidding Procedures set forth above. This relief requested by the Debtor is intended to provide for a competitive bidding and auction procedure for the Offered Assets to maximize value for the Debtor's estates, creditors and other stakeholders as expeditiously as possible.

### **BASIS FOR RELIEF**

#### **A. The Bidding Procedures Are Appropriate Under The Circumstances**

29. A debtor may sell, after notice and a hearing, its assets outside the ordinary course of business. 11 U.S.C. § 363(b)(1). Generally, to obtain approval of a proposed sale of assets, a debtor must demonstrate that the proposed purchase price is the highest and best offer under the circumstances of the case. *See, e.g., In re Mushroom Transp. Co.*, 382 F.3d 325, 339 (3d Cir. 2004) (holding that Debtor have a "fiduciary duty to protect and maximize the estate's assets"); *Four B. Corp. v. Food Barn Stores, Inc. (In re Food Barn Stores, Inc.)*, 107 F.3d 558, 564-65 (8th Cir. 1997) (holding that in bankruptcy sales, "a primary objective of the Code [is] to enhance the value of the estate at hand"); *In re Integrated Res.*, 147 B.R. 650, 659 (S.D.N.Y. 1992) ("It is a well-established principle of bankruptcy law that the . . . Debtor' duty with respect to such sales is to obtain the highest price or greatest overall benefit possible for the estate.") (quoting *Cello Bay Co. v. Champion Int'l Corn. (In re Atlanta Packaging Prods., Inc.)*, 99 B.R. 124, 130 (Bankr. N.D. Ga. 1988)).

30. The implementation of sale procedures to facilitate the sale of a debtor's assets outside of the ordinary course of a debtor's business is routinely approved by bankruptcy courts as a means of ensuring that such sale will generate the highest and best return for a debtor's estate. The Debtor submits that the opportunity for bidding embodied in the Bidding Procedures will generate the highest or otherwise best offer for the Meridian Acquired Assets and, if applicable, the other Offered Assets and therefore is designed to maximize the value of the Offered Assets.

31. As set forth above, the Debtor believes that the sale of the Meridian Acquired Assets and, if applicable, the other Offered Assets is the best way to generate the highest possible sale proceeds for the benefit of the Debtor's estate, creditors, and other stakeholders. Accordingly, the Debtor, in its business judgment, has concluded that (a) a court-supervised sale of the Meridian Acquired Assets and, if applicable, the other Offered Assets, is the best way to maximize value for the Debtor's estate, and (b) the proposed Bidding Procedures described herein are fair, reasonable and appropriate and are designed to maximize recovery with respect to the sale of the Meridian Acquired Assets and, if applicable, the other Offered Assets.

**B. Sale of the Offered Assets is a Product of the Selling Debtor's Reasonable Business Judgment**

32. Bankruptcy Code section 363(b)(1) provides: "[t]he Trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." Bankruptcy Code section 105(a) provides in relevant part: "[t]he Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title."

33. A proposed sale of assets of a debtor under Bankruptcy Code section 363 outside the ordinary course of business and prior to the confirmation of a plan of reorganization

should be approved if a court finds that the transaction represents a reasonable business judgment on the part of the trustee or debtor in possession. *See In re Abbotts Dairies of Pa.*, 788 F.2d 143 (3d Cir. 1986); *In re Del. & Hudson Ry. Co.*, 124 B.R. 169, 176 (D. Del. 1991) (holding that the following non-exclusive list of factors may be considered by a court in determining whether there is a sound business purpose for an asset sale: "the proportionate value of the asset to the estate as a whole; the amount of elapsed time since the filing; . . . the effect of the proposed disposition [on] the future plan of reorganization; the amount of proceeds to be obtained from the sale versus appraised values of the property; and whether the asset is decreasing or increasing in value"); *In re Phoenix Steel Corp.*, 82 B.R. 334, 335-36 (Bankr. D. Del. 1987) (stating that the elements necessary for approval of a section 363 sale in a chapter 11 case are "that the proposed sale is fair and equitable, that there is a good business reason for completing the sale and the transaction is in good faith").

34. The "sound business reason" test requires a trustee or debtor-in-possession to establish four elements: (1) that a sound business purpose justifies the sale of assets outside the ordinary course of business; (2) that accurate and reasonable notice has been provided to interested persons; (3) that the trustee or the debtor in possession has obtained a fair and reasonable price; and (4) good faith. *See Abbotts's Dairies*, 788 F.2d at 145-47; *In re Titusville Country Club*, 128 B.R. 396, 399 (Bankr. W.D. Pa. 1991); *In re Sovereign Estates, Ltd.*, 104 B.R. 702, 704 (Bankr. E.D. Pa. 1989); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983).

35. The proposed Bidding Procedures for the sale of the Meridian Acquired Assets and, if applicable, the other Offered Assets, meets the "sound business reason" test. First, sound business purposes justify the sales. The Debtor believes that a prompt sale of the

Meridian Acquired Assets and, if applicable, the other Offered Assets, by auction presents the best opportunity to realize the maximum value of the estate's assets for distribution to creditors. The Debtor further believes that the net benefit to its creditors may be adversely affected absent an immediate sale, as a result of the Debtor's inability to continue to fund operating losses. Furthermore, the Debtor continues to incur costs that, if a sale is not consummated promptly, likely will erode the proceeds that which can be realized for the Debtor's creditors from a sale of the Meridian Acquired Assets and, if applicable, the other Offered Assets. *See In re Lionel Corp.*, 722 F.2d at 1071 (of factors for court to evaluate on motion under section 363(b), "most important perhaps, [is] whether the asset is increasing or decreasing in value").

36. The proposed Bidding Procedures for sale of the Meridian Acquired Assets and, if applicable, the other Offered Assets, also meets the other factors of the "sound business reason" test. As part of this Motion, the Debtor has sought to establish procedures for notice to creditors, other prospective bidders, and other parties in interest. Under the circumstances of this case, the Debtor submits that the notice period proposed satisfies the requirements of the Bankruptcy Rules, *see* Bankruptcy Rule 2002, and provides sufficient time for parties in interest to submit objections to the proposed sale and for bidders to formulate and submit competing proposals.

37. Finally, the proposed Bidding Procedures for sale of the Meridian Acquired Assets and, if applicable, the other Offered Assets, satisfy the good faith requirement of *Abbotts Dairies*. The Debtor submits that the results of the Auction will be the product of good faith, arm's-length negotiations with respect to the price and other terms of the sale of the Meridian Acquired Assets and, if applicable, the other Offered Assets, between the Debtor and highest and best bidders at the conclusion of the Auction.

38. As set forth above, the Debtor has determined, in the exercise of its sound business judgment, that the sale of the Meridian Acquired Assets and, if applicable, the other Offered Assets, to the highest and best bidders at the Auction is appropriate and in the best interests of its estate and creditors. The sale of the Meridian Acquired Assets and, if applicable, the other Offered Assets, at the Auction will afford the Debtor's estate an opportunity to maximize the recoveries to creditors. Accordingly, the Debtor requests that the Court approve the proposed Bidding Procedures for sale of the Meridian Acquired Assets and, if applicable, the other Offered Assets, to the highest and best bidder(s) at the Auction and approve the sale(s) presented to the Court at the Sale Hearing.

**C. The Meridian Bid Protections are Necessary Under the Circumstances**

39. The Debtor has formulated a bidding process that the Debtor believes will induce prospective competing bidders to expend the time, energy and resources necessary to submit a bid for the Meridian Acquired Assets, and which the Debtor believes is fair and reasonable and will provide a benefit to the Debtor's estate and creditors. The Debtor has concluded that the provision of the Meridian Bid Protections is warranted under the circumstances at hand.

40. The use of bid protections such as the break-up fee/expense reimbursements enables a debtor to ensure a sale at a minimum price that the debtor believes is fair, while providing the debtor with the potential of obtaining an enhanced recovery through an auction process. Historically, bankruptcy courts have approved bidding incentives (including bid protections) solely by reference to the "business judgment rule," which proscribes judicial second-guessing of the actions of a corporation's board of directors taken in good faith and in the exercise of honest judgment. *See, e.g., In re 995 Fifth Ave. Assocs.*, 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989) (holding that bidding incentives may "be legitimately necessary to convince a



'white knight' to enter the bidding by providing some form of compensation for the risks it is undertaking" and upholding the fee where the creditors' Creditors' Committee closely scrutinized the fee, the fee was not unreasonable in relation to the size of the sale, and the work and expense involved in negotiating the transaction were significant) (citation omitted); *In re Marrose Corp.*, Nos. 89 B 12171-12179 (CB), 1992 WL 33848, at \*5 (Bankr. S.D.N.Y. Feb. 15, 1992) ("[bidding incentives] are meant to compensate the potential acquirer who serves as a catalyst or 'stalking horse' which attracts more favorable offers"). *See also In re Integrated Res.*, 147 B.R. at 657-58.

41. The Court of Appeals, through its decision in *Calpine Corp. v. O'Brien Env'tl. Energy, Inc. (In re O'Brien Env'tl. Energy, Inc.)*, 181 F.3d 527 (3d Cir. 1999), clarified that, in the bankruptcy context, while a debtor's business judgment is relevant, a debtor also must show that bidding incentives, as administrative expenses under Bankruptcy Code section 503(b), provide a benefit to the debtor's estate. *Id.* at 533.

42. The *O'Brien* decision identified at least two instances in which bidding incentives may provide a benefit to the estate. First, a benefit may be found if "assurance of a break-up fee promoted more competitive bidding, such as by inducing a bid that otherwise would not have been made and without which bidding would have been limited." *Id.* at 537. Second, where the availability of bidding incentives induced a bidder to research the value of the debtor and submit a bid that serves as a minimum or floor bid on which other bidders can rely, "the bidder may have provided a benefit to the estate by increasing the likelihood that the price at which the debtor is sold will reflect its true worth." *Id.*

43. The Meridian Bid Protections are consistent with the "business judgment rule" and satisfy the Court of Appeals' "administrative expense" standard. Meridian is unwilling

to pursue the Meridian APA—while subjecting it to higher or better offers—absent approval of the Meridian Bid Protections. The Meridian Bid Protections are warranted to induce Meridian to continue to participate in the auction process, and without such protections, bidding on the Meridian Acquired Assets may be reduced or nonexistent, leaving the Debtor with the risk of insufficient interest in the assets. In particular, Meridian is committing significant capital without any assurance that the Debtor's marketing efforts will not ultimately yield a higher or better offer. The need to compensate Meridian for this commitment alone justifies the necessity of the Meridian Bid Protections.

**D. Sale of the Assets Should be Free and Clear of Liens, Claims, Interests and Encumbrances**

44. Pursuant to Bankruptcy Code section 363(f), the Debtor seeks authority to sell and transfer the Debtor's right, interest and title in the Meridian Acquired Assets and, if applicable, the other Offered Assets, to the successful bidder(s) free and clear of all liens, claims, interests and other encumbrances other than the assumed liabilities and permitted liens, with such other liens, claims, interests and other encumbrances to attach to the proceeds of the sale of the Meridian Acquired Assets and, if applicable, the other Offered Assets, subject to any rights and defenses of the Debtor and other parties in interest with respect thereto. Bankruptcy Code section 363(f) provides, in pertinent part:

The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if –

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or

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

11 U.S.C. § 363(f). *Folger Adam Sec. Inc. v. De Matties/McGregor JV*, 209 F.3d 252, 257 (3d Cir. 2000) (discussing how section 363(f) authorizes sale of debtor's assets free and clear of all liens, claims, and interests if "any one of [the] five prescribed claims is met"). *See also In re Elliot*, 94 B.R. 343, 345 (E.D. Pa. 1988) (holding that Bankruptcy Code section 363(f) was written in disjunctive; court may approve sale "free and clear" provided at least one of the requirements is met).

45. The Debtor anticipates that it will be able to satisfy one or more of the conditions set forth in section 363(f). The Debtor will serve the Motion on all parties known to assert a lien, claim or encumbrance against any of the Meridian Acquired Assets or the other Offered Assets, so lien holders will receive notice and will be given sufficient opportunity to object to the relief requested. Lienholders that are on notice of, and do not object to, a sale should be deemed to have consented to that sale. *See FutureSource LLC v. Reuters Ltd.*, 312 F.3d 281, 285-86 (7<sup>th</sup> Cir. 2002)("[L]ack of objection (provided of course there is notice) counts as consent. It could not be otherwise; transaction costs would be prohibitive if everyone who *might* have an interest in the bankrupt's assets had to execute a formal consent before they could be sold.") (internal citations omitted); *In re Elliot*, 94 B.R. 343, 345-46 (E.D.Pa. 1998) (holding that creditor's failure to object to sale free and clear of liens, claims and encumbrances satisfies section 363(f)(2)). In the event of an objection from a secured party to the Debtor's requested section 363(f) finding, the Debtor reserves the right to demonstrate that the other provisions of section 363(f) have been satisfied.

46. The Debtor believes that the City; L&I; PA UC; the Water Revenue Board; PGW; the HUD Group; the 1199C Fund; Ms. Deanes; and Gemino may all be asserting

liens, claims or interests against some or all of the Meridian Acquired Assets and the other Offered Assets. To the extent that these entities or any other parties in interest asserting liens, claims and interests against any of the Meridian Acquired Assets or the other Offered Assets do not consent to the sale, the undisputed portions of certain liens may be paid at closing. Moreover, the parties asserting a claim against the Meridian Acquired Assets and, if applicable, the other Offered Assets, can be compelled to accept money satisfactions of such claim. *See In re Milford Group, Inc.*, 150 B.R. 904, 906 (Bankr. M.D. Pa. 1992)(Section 363(f)(3) satisfied where value of collateral is equivalent to the sale price of the property); *In re Hatfield Homes, Inc.*, 30 B.R. 353, 355 (Bankr. E.D. Pa. 1983). Finally, as certain of the liens were obtained within 90 days of the filing of the bankruptcy petition, they are avoidable and subject to a bona fide dispute.

47. The sale free and clear of liens, claims, interests and other encumbrances, if any, other than any assumed liabilities and permitted liens is necessary to maximize the value of the assets. A sale of the Meridian Acquired Assets and, if applicable, the other Offered Assets, other than one free and clear of all interests would yield substantially less value for the Debtor's estate, with less certainty than a transaction free and clear of all interests. Therefore, the sales contemplated here are in the best interests of the Debtor, its estate and creditors, and all other parties in interest. A sale free and clear of liens, claims, interests and encumbrances is particularly appropriate under the circumstances because any lien or claim in, to or against the Debtor's right, interest, and title in the Meridian Acquired Assets and, if applicable, the other Offered Assets, that exists immediately prior to the closing of any sale, to the extent not paid at closing, will attach to the sale proceeds allocated to such asset with the same validity, priority, force and effect as it had at such time, subject to the rights and defenses of the Debtor or any party in interest. The Debtor submits that holders of liens, claims, interests and other

encumbrances will be adequately protected by the availability of the proceeds of the sale(s) to satisfy their liens, claims, interests and other encumbrances.

**E. A Successful Bidder Should be Granted the Protection of Bankruptcy Code Section 363(m)**

48. As will be set forth in further detail at the Sale Hearing, the Debtor also maintains that Meridian or any other Successful Bidder arising from the Auction, is or would be entitled to the protections afforded by Bankruptcy Code section 363(m).

49. Specifically, Bankruptcy Code section 363(m) 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, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. § 363(m).

50. While the Bankruptcy Code does not define "good faith," the Court of Appeals in *Abbotts Dairies* has held that:

[t]he requirement that a purchaser act in good faith. . . speaks to the integrity of his conduct in the course of the sale proceedings. Typically, the misconduct that would destroy a purchaser's good faith status at a judicial sale involves fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.

788 F.2d at 147 (citations omitted); *see generally Marin v. Coated Sales, Inc., (In re Coated Sales, Inc.)*, No. 89-3704 (KMW), 1990 WL 212899, at \* 2, (S.D.N.Y. Dec. 13, 1990) (holding that party, to show lack of good faith, must demonstrate "fraud, collusion . . . or an attempt to take grossly unfair advantage of other bidders"); *see also In re Sasson Jeans, Inc.*, 90 B.R. 608, 610 (S.D.N.Y. 1988) (quoting *In re Bel Air Assocs., Ltd.*, 706 F.2d 301, 305 (10th Cir. 1983)); *In re Pisces Leasing Corp.*, 66 B.R. 671, 673 (E.D.N.Y. 1986) (examining facts of each case,

concentrating on "integrity of [an actor's] conduct during the sale proceedings" (quoting *In re Rock Indus. Mach. Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978)).

51. In addition, as will be set forth in further detail at the Sale Hearing, the Meridian APA has been negotiated and proposed by the Debtor and Meridian without collusion, in good faith and from arm's-length bargaining positions, with give and take on both sides. Further, neither the Debtor nor Meridian have engaged in any conduct that would cause or permit the APA to be avoided. Under the circumstances, this Court should find that Meridian (or any other Successful Bidder) is entitled to all of the protections of Bankruptcy Code section 363(m).

**F. The Meridian APA is Not the Subject of Collusive Bidding Under Bankruptcy Code Section 363(n)**

52. As will be set forth in further detail at the Sale Hearing, the Meridian APA has been negotiated and proposed by the Debtor and Meridian without collusion, in good faith, and from arm's-length bargaining positions. Neither the Debtor nor Meridian has engaged in any conduct that would cause or permit the APA to be avoided under Bankruptcy Code section 363(n).

**G. Notice of the Proposed Sale is Reasonable**

53. The Debtor submits that the Notice Procedures as set forth above are appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Bidding Procedures. This Motion has been filed and served in accordance with Bankruptcy Rule 2002, and the Sale Notice attached to the Bidding Procedures Order as **Exhibit 2** will provide all interested parties with further notice of the Bidding Procedures, the Sale Objection Deadline and the Sale Hearing.

**H. The Assignment Procedures for the Assumption and Assignment of the Executory Contracts and Unexpired Leases Should be Authorized**

54. Bankruptcy Code section 365(a) provides, in pertinent part, that a debtor in possession "subject to the court's approval, may assume or reject any executory contract or [unexpired] lease of the debtor." 11 U.S.C. § 365(a). The standard governing bankruptcy court approval of a debtor's decision to assume or reject an executory contract or unexpired lease is whether the debtor's reasonable business judgment supports assumption or rejection. *See, e.g., In re HQ Global Holdings, Inc.*, 290 B.R. 507, 511 (Bankr. D. Del. 2003) (finding that debtor's decision to assume or reject executory contract is governed by business judgment standard and can only be overturned if decision was product of bad faith, whim or caprice); *see also In re Market Square Inn, Inc.*, 978 F.2d 116, 121 (3d Cir. 1992) (finding that assumption or rejection of lease "will be a matter of business judgment by the bankruptcy court").

55. The business judgment test "requires only that the trustee [or debtor in possession] demonstrate that [assumption] or rejection of the contract will benefit the estate." *Wheeling-Pittsburgh Steel Corp. v. West Penn Power Co., (In re Wheeling-Pittsburgh Steel Corp.)*, 72 B.R. 845, 846 (Bankr. W.D. Pa. 1987). Any more exacting scrutiny would slow the administration of the debtor's estate and increase costs, interfere with the Bankruptcy Code's provision for private control of administration of the estate, and threaten the court's ability to control a case impartially. *See Richmond Leasing Co. v. Capital Bank*, 762 F.2d 1303, 1311 (5th Cir. 1985). Moreover, pursuant to Bankruptcy Code section 365(b)(1), for a debtor to assume an executory contract, it must "cure, or provide adequate assurance that the debtor will promptly cure," any default, including compensation for "actual pecuniary loss" relating to such default. 11 U.S.C. § 365(b)(1).

56. Once an executory contract is assumed, the trustee or debtor in possession may elect to assign such contract. *See In re Rickel Home Center, Inc.*, 209 F.3d 291, 299 (3d Cir. 2000) ("The Code generally favors free assignability as a means to maximize the value of the debtor's estate."); *see also In re Headquarters Dodge, Inc.*, 13 F.3d 674, 682 (3d Cir. 1994) (noting that the purpose of section 365(f) is to assist the trustee in realizing the full value of the debtor's assets).

57. Bankruptcy Code section 365(f) provides that the "trustee may assign an executory contract . . . only if the trustee assumes such contract . . . and adequate assurance of future performance is provided." 11 U.S.C. § 365(f)(2). The meaning of "adequate assurance of future performance" depends on the facts and circumstances of each case, but should be given a "practical, pragmatic construction." *In re DBSI, Inc.*, 405 B.R. 698, 708 (Bankr. D. Del. 2009). Adequate assurance may be provided by demonstrating the assignee's financial health and experience in managing the type of enterprise or property assigned. *See, e.g., In re Bygaph, Inc.*, 56 B.R. 596, 605-06 (Bankr. S.D.N.Y. 1986) (finding that adequate assurance is present when prospective assignee of lease from debtor has financial resources and has expressed willingness to devote sufficient funding to business to give it strong likelihood of success).

58. The Debtor requests approval under Bankruptcy Code section 365 of the Assignment Procedures governing the Debtor's assumption and assignment or assignment of the Executory Contracts and Unexpired Leases to Meridian (or any other Successful Bidder) or its designee. The Debtor further requests that the Meridian Sale Order (and any other sale order) provide that, subject to the Assignment Procedures, the Executory Contracts and Unexpired Leases will be transferred to, and remain in full force and effect for the benefit of, Meridian or any other Successful Bidder or its designee notwithstanding any provisions in the Executory



Contracts or Unexpired Leases, including those described in Bankruptcy Code sections 365(b)(2) and (f)(1) and (f)(3), that would prohibit such assignment.

59. To the extent that a counterparty to an Executory Contract or Unexpired Lease objects to the assumption and assignment of its respective Executory Contract or Unexpired Lease, the Debtor will present facts at a hearing to show the financial credibility, willingness and ability of Meridian (or any other Successful Bidder) or its designee to perform under such Executory Contract or Unexpired Lease. The hearing will afford the Court and other interested parties the opportunity to evaluate the ability of Meridian or any other Successful Bidder or its designee to provide adequate assurance of future performance under the Executory Contracts and Unexpired Leases, as required under Bankruptcy Code section 365(b)(1)(C). Further, as set forth above, the Debtor will give notice to all non-Debtor counterparties to the Executory Contracts and Unexpired Leases (and their counsel of record, if known). This notice will include the amounts the Debtor believes are necessary to cure any defaults in accordance with Bankruptcy Code section 365(b). Accordingly, the Debtor submits that implementation of the proposed Assignment Procedures is appropriate in these cases.

**I. Waiver of Automatic Fourteen-Day Stay Under Bankruptcy Rules 6004(h) and 6006(d)**

60. Pursuant to Bankruptcy Rule 6004(h), unless the Court orders otherwise, all orders authorizing the sale of property pursuant to section 363 of the Bankruptcy Code are automatically stayed for fourteen days after entry of the order. Similarly, under Bankruptcy Rule 6006(d), unless the Court orders otherwise, all orders authorizing the assignment of contracts or unexpired leases are automatically stayed for fourteen days after entry of the order. The purpose of Bankruptcy Rules 6004(h) and 6006(d) is to provide sufficient time for an objecting party to

request a stay pending appeal before the order can be implemented. *See* Advisory Committee Notes to Fed. R. Bankr. P. 6004(h); Advisory Committee Notes to Fed. R. Bankr. P. 6006(d).

61. Although Bankruptcy Rules 6004(h) and 6006(d) and the Advisory Committee Notes are silent as to when a court should "order otherwise" and eliminate or reduce the 14-day stay period, commentators agree that the 14-day stay period should be eliminated to allow a sale or other transaction to close immediately where there has been no objection to the procedure. *See generally* 10 *Collier on Bankruptcy* ¶ 6004.09 (15th ed. 1999). Furthermore, if an objection is filed and overruled, and the objecting party informs the court of its intent to appeal, the stay may be reduced to the amount of time necessary to file such appeal. *Id.*

62. Because of the potentially diminishing value of the assets, the Debtor must close this sale promptly after all closing conditions have been met or waived. Thus, waiver of any applicable stays is appropriate in this circumstance.

### **NOTICE**

63. Notice of this Motion has been provided to (a) the Office of the United States Trustee; (b) the Committee; (c) all parties who have expressed an interest in purchasing the assets; (d) counsel to Meridian; (e) all parties known to assert a lien, claim or encumbrance against the Debtor's real property; and (f) all creditors and parties who have entered an appearance in this case.

### **NO PRIOR REQUEST**

64. No prior motion for the relief requested herein has been made to this or any other Court.

WHEREFORE, the Debtor respectfully requests that this Court (i) grant this Motion and the relief requested herein; (ii) enter the proposed orders attached hereto; and (iii) grant such other and further relief as it deems just and proper.

Dated: June 27, 2017

/s/Anne Marie Aaronson  
**DILWORTH PAXSON LLP**  
Martin J. Weis  
Anne Marie Aaronson  
1500 Market St., Suite 3500E  
Philadelphia, PA 19102  
Telephone: (215) 575-7000  
Facsimile: (215) 575-7200  
  
*Attorneys for North Philadelphia Health System*

**EXHIBIT A**  
**PROPOSED BIDDING PROCEDURES ORDER**

**[See Attached]**

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

In re:	:	Chapter 11
	:	
North Philadelphia Health System	:	Case No. 16-18931 (MDC)
	:	
Debtor.	:	

**ORDER APPROVING BIDDING PROCEDURES IN CONNECTION  
WITH SALE OF SUBSTANTIALLY ALL OF DEBTOR'S ASSETS**

Upon the Debtor's Motion (the "Motion") for an Order, pursuant to 11 U.S.C. §§ 105(a) and 363(b)(1), (i)(a) authorizing the Debtor's Entry into the Stalking Horse Purchase Agreement for the Sale of Certain of the Debtor's Assets related to the Girard Medical Center, (b) Approving Bidding Procedures and Bid Protections for Sale of Substantially all of the Debtor's Assets, (c) Scheduling a Hearing to Consider Approval of the Sale of Assets, (d) Approving the Form and Manner of Notice of Sale, and (e) Granting Related Relief; and (ii) (a) Authorizing and Approving the Sale of the Debtor's Assets Free and Clear of Liens, Claims, Interests and Encumbrances, (b) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (C) Granting Related Relief<sup>1</sup>; and the Court finding that (i) it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (iii) the relief requested in the Motion is in the best interests of the Debtor, its estate, and its creditors; (iv) adequate notice of the Motion and the hearing thereon has been given and that no other or further notice is necessary; and (v) upon the record herein, after due deliberation thereon, good and sufficient cause exists for the granting of the relief as set forth herein,

**IT IS HEREBY ORDERED** that:

1. The Debtor is authorized to enter into that certain Asset Purchase Agreement attached to the Motion as Exhibit B (the “Meridian APA”).;

2. MBH of Pennsylvania (“Meridian”) is approved as the “stalking horse” bidder for the Meridian Acquired Assets. If the Debtor sells all or substantially all of the Meridian Acquired Assets in a transaction or series of transactions with one or more persons other than Meridian in accordance with this Order, upon consummation of such transaction(s), from the proceeds of such sale(s), the Debtor shall pay to Meridian (a) its reasonably documented actual out-of-pocket fees and expenses (including legal, accounting and other fees and expenses), up to \$200,000, incurred in connection with the negotiation and documentation of the Meridian APA, the performance by the parties of their respective obligations under the Meridian APA and the monitoring of, and participation in, the Bankruptcy Case to the extent reasonably related to the sale by the Debtor of the Offered Assets (the “Expense Reimbursement”), plus (b) 3% of the sale price(s) (the “Topping Fee” and, together with the Expense Reimbursement, the “Bid Protections”). The Bid Protections shall be treated as an administrative claim in this Bankruptcy Case and as a direct cost of such sale(s). No liens or other Interests shall attach to the amounts owed to Meridian on account of the Bid Protections. No further order of this Court shall be required in order to pay the Bid Protections to Meridian, provided, however, if as of the date of consummation of any transaction from which Meridian is entitled to payment of all or any part of the Bid Protections the Debtor and Meridian are unable to agree on the amount of all or any portion of such Bid Protections, the undisputed amount shall be paid to Meridian and the

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<sup>1</sup> Capitalized terms used but not defined herein shall have the meaning stated in the Motion.

disputed amount shall be escrowed pursuant to an agreement acceptable to Meridian and the Debtor, each in the exercise of reasonable discretion.

3. The following bidding procedures are approved:

- (a) **Assets to Be Sold.** The Offered Assets are being offered in three lots as follows: Lot 1 shall be comprised of the Meridian Acquired Assets as well as such other Offered Assets as the applicable Qualified Bidder shall designate, but shall not include any of the Offered Assets comprising the Lower Parking Lot. Lot 2 shall be comprised of the Lower Parking as well as such other Offered Assets as the applicable Qualified Bidder shall designate, but shall not include any of the Offered Assets comprising the Meridian Acquired Assets. Lot 3 shall be comprised of the Meridian Acquired Assets, the Lower Parking Lot and such other Offered Assets as the applicable Qualified Bidder shall designate.
- (b) **Provisions Governing Qualifications of Bidders and Bids.** All bids must be submitted to J. Scott Victor, SSG Capital Advisors LLC, 300 Barr Harbor Dr., Suite 420, Conshohocken, PA 19428, jsvector@ssgca.com, on or before **5:00 p.m. (prevailing Eastern Time) on August 9, 2017** (the "Bid Deadline"). A bid submitted will be considered, and the Qualified Bidder will be authorized to participate in the Auction, only if the bid submitted is for one of the Lots described above and includes each of the following "Qualified Bid Required Documents" (such bid, a "Qualified Bid"):
  - (i) a letter, executed by such bidder: (i) identifying the Lot number of the Offered Assets subject to the bid, (ii) setting forth the net cash purchase price, which net cash amount must reflect a value to be delivered to the Debtor at closing equal to or greater than: (A) if the bid is for Lot 1, \$10,600,000, (B) if the bid is for Lot 2, \$1,800,000 and (C) if the bid is for Lot 3, \$12,400,000 (iii) stating any assumed liabilities proposed to be paid or assumed by such bidder, (iv) stating that the bid submitted by such bidder is irrevocable until the conclusion of the Sale Hearing (as defined below), subject to the requirements set forth below relating to any Back-up Bidder (as defined below); (v) stating that such bid and the agreements, exhibits, and schedules referred to in clause (b) immediately below, have been duly authorized, executed, and delivered by such bidder and that no further internal or equity holder approvals are required with respect to any such agreement or matter; (vi) setting forth each regulatory and other approval required by such bidder for the consummation of the purchase and sale of the Offered Assets subject to such bid and the time period within which such bidder expects to receive such regulatory and

other approvals (and in the case that receipt of any such regulatory or other approval is expected to take more than 14 days following execution and delivery of an asset purchase agreement, those actions such bidder will take to ensure its receipt of all such approval(s) as promptly as possible); (vii) containing a provision similar to the Meridian APA regarding operating losses post September 1, 2017 and including a commitment to close on or before October 31, 2017 (the "Projected Closing Date"); and (viii) confirming that the bid submitted by such bidder is not conditioned on receipt of any financing, or the outcome of any due diligence investigation;

- (ii) a clean asset purchase agreement, duly authorized, executed, and delivered by such bidder, for the Offered Assets proposed to be acquired consistent in all material respects with clause (a) immediately above, together with all exhibits and schedules thereto which, if the applicable bid is for Lot 1 or Lot 3, contains substantially the same terms as the Meridian APA (together with such additional terms as are required herein), or terms more favorable to the Debtor than the terms set forth in the Meridian APA for the Offered Assets proposed to be acquired (a "Modified Purchase Agreement") and a marked Modified Purchase Agreement reflecting the variations from the Meridian APA and each exhibit and schedule thereto, as applicable (with it being understood that the Modified Purchase Agreement for each bidder for Lot 1 or Lot 3 must show with precision any changes to the assets, contracts, leases, and liabilities to be assumed or purchased by such bidder relative to the Meridian APA);
- (iii) (A) to the extent that the bidder proposes to pay for the Offered Assets in whole or in part, from cash on hand (as reflected on such bidder's balance sheet), recent financial information, satisfactory to the Debtor after consultation with the Creditors' Committee showing such bidder's ability to pay the cash portion of the purchase price, (B) to the extent that such bidder is proposing to pay for the Offered Assets with funds from any third-party financing source (whether such source is providing debt or equity financing), copies of written and legally binding firm commitments to provide such financing (including, without limitation, under any existing credit facility) executed by all parties thereto, in each case, satisfactory to the Debtor after consultation with the Creditors' Committee and containing no material conditions to the closing and funding of such financing other than entry of a sale order and receipt of required government consents or approvals, and (C) a combination of the materials and information described in (A) and (B) of this clause (iii) above, satisfactory to the Debtor, after



consultation with the Creditors' Committee, evidencing a capitalization for such bidder in such amount as the Debtor, after consultation with the Committee, may require.

- (iv) the Modified Purchase Agreement, if for Lot 1 or Lot 3, or the asset purchase agreement, if for Lot 2, must expressly exclude from assets being acquired any and all cash and cash equivalents owned by the Debtor in any form; and
  - (v) a cash deposit in the amount equal to (i) \$250,000, if the bid is for Lot 1 or Lot 3, or (ii) \$175,000, if the bid is for Lot 2.
  - (vi) For all purposes of the Bidding Procedures, (i) Meridian will be deemed a Qualified Bidder and the transactions proposed in the Meridian APA will be deemed a Qualified Bid and (ii) each of Gemino and Hunt Mortgage will in all events be deemed a Qualified Bidders and may include a credit bid with respect to any Offered Assets in accordance with Bankruptcy Code Section 363(k) and applicable law.
- (c) **No Competing Qualified Bids.** If no Qualified Bids for Lot 1 or Lot 3 are submitted by the Bid Deadline, the Debtor shall cancel the Auction as it relates to the Meridian Acquired Assets and Meridian shall be deemed to be the Successful Bidder (as defined below) for the Meridian Acquired Assets. If no Qualified Bids for Lot 2 or Lot 3 are submitted by the Bid Deadline, the Debtor shall cancel the Auction as to the Lower Parking Lot. In the event only one Qualified Bid is received by the Bid Deadline for Lot 2 and no Qualified Bids are received by the Bid Deadline for Lot 3, the Debtor shall cancel the Auction as it relates to Lot 2 and the bidder who submitted the Qualified Bid for Lot 2 will be deemed to be the Successful Bidder for Lot 2.
- (d) **Auction.** If, by the Bid Deadline, the Debtor has received (a) at least one Qualified Bid for Lot 1 (in addition to the Qualified Bid from Meridian), (b) more than one Qualified Bid for Lot 2, or (c) at least one Qualified Bid for Lot 3, the Debtor will conduct an Auction with respect to the Offered Assets subject to more than one Qualified Bid, including the Qualified Bid from Meridian for Lot 1. The Auction will take place on **August 11, 2017** starting at **9:00 a.m. (prevailing Eastern Time)** at the offices of Dilworth Paxson, LLP 1500 Market Street, 3500E, Philadelphia, PA 19102, or at such other place, date, and time as the Debtor may designate in writing in consultation with the Creditors' Committee. If the place, date, or time of the Auction changes, or if the Auction is cancelled, then the Debtor will file a notice with the Court of any such change or cancellation. Other than the Debtor and the Creditors' Committee, only parties and their advisors that have been advised that they have submitted or been deemed to have

submitted a Qualified Bid will be permitted to participate as or with a bidder at the Auction.

The Auction shall be governed by the following procedures:

- (i) only Qualified Bidders shall be entitled to make any subsequent bids at the Auction;
- (ii) each Qualified Bidder shall be required to confirm that it has not engaged in any collusion with respect to the bidding, the sale, or the bidding process;
- (iii) the Qualified Bidders shall appear at the Auction in person or through a duly authorized representative unless the Debtor otherwise agrees in consultation with the Creditors' Committee;
- (iv) prior to the Auction, the Debtor shall designate and provide copies of the highest and best Qualified Bid(s) for the Offered Assets which are subject to the Auction (the "Starting Bid(s)") to all Qualified Bidders that have informed the Debtor of their intent to participate in the Auction;
- (v) if one or more Qualified Bids are received by the Bid Deadline for Lot 3, a single Starting Bid shall be designated as the Starting Bid for all of the Offered Assets, which Starting Bid shall be the highest and best Qualified Bid for Lot 3;
- (vi) if no Qualified Bids for Lot 3 are received by the Bid Deadline, then the Starting Bid for Lot 1 and the Starting Bid for Lot 2, to the extent such Offered Assets are subject to the Auction, shall be separately determined and announced;
- (vii) Qualified Bidders may then submit successive bids by Lot, with the value to the Debtor, as determined by the Debtor in its reasonable business judgment after consultation with the Creditors' Committee of at least the applicable Starting Bid plus \$100,000 and then continue in minimum increments of at least \$100,000 higher than the value to the Debtor of the previous bid; provided, that the Debtor will retain the right to modify the bid increment requirements (other than the initial bid increment of \$100,000) at the Auction after consultation with the Creditors' Committee;
- (viii) should Meridian elect to submit additional bids for Lot 1 or submit a bid for Lot 3, for purposes of comparing the value to the Debtor of any bid by Meridian to the value to the Debtor of any other Qualified Bid(s) for such Offered Assets, \$200,000 plus 3%

of the amount of any such other Qualified Bid(s) will be deducted from the value of such other Qualified Bid(s) to account for the Debtor's obligation to pay the Meridian Bid Protections to Meridian;

(ix) in the event of bidding at the Auction for Lot 1, Lot 2 and Lot 3, (A) for the purposes of determining the highest and best bids, the highest bid for Lot 1 shall be added to the highest bid for Lot 2 and such sum shall be compared to the highest bid for Lot 3, and (B) any bidder for Lot 1 (and not any other Lot) and any bidder for Lot 2 (and not any other Lot) may coordinate their bids prior to submission;

(x) except as expressly stated herein, the Auction will be conducted in a manner as determined by the Debtor in consultation the Creditors' Committee;

(xi) all Qualified Bidders shall have the right to submit additional bids and make additional modifications to their respective Qualified Bids at the Auction; provided, that any such modifications, on an aggregate basis and viewed in whole, shall not be less favorable to the Debtor than any prior bid by such party or the preceding bid, as determined by the Debtor in consultation with the Creditors' Committee; provided, further, that such additional bids must comply with all of the conditions for a Qualified Bid set forth above;

(xii) the Debtor shall have the right to request any additional financial information that will allow the Debtor to make a reasonable determination as to the Qualified Bidder's financial and other capabilities to consummate the transactions contemplated by any Qualified Bid, as amended during the Auction process, and any further information that Debtor believes is reasonably necessary to clarify and evaluate the terms of a Qualified Bidder's bid; and

(xiii) the Debtor shall announce the material terms of each Qualified Bidder's bid and the basis for calculating, and the total consideration offered in, each such bid.

- (e) **Successful Bid; Back-Up Bid.** Upon completion of the foregoing steps in the Auction, if not cancelled, or as soon thereafter as practicable, the Debtor, in consultation with the Creditors' Committee, will: (i) review each Qualified Bid, and consider each Qualified Bid, in each case as updated through the conclusion of the Auction, on the basis of, among

other considerations, the same considerations used by the Debtor in determining the highest and best offer(s) during the Auction, and (ii) identify the highest or otherwise best Qualified Bid(s) for the Offered Assets received at the Auction (the "Successful Bid") and the party making such bid(s), the "Successful Bidder"), as well as identifying the Back-up Bidder(s) if any. The Auction will be deemed concluded upon the determination of the Successful Bid(s), the Successful Bidder(s) and the Back-up Bidder(s). The concluding date and time of the Auction, if held, shall be stated on the record. Within one (1) business day of determining the Successful Bid(s), the Debtor shall file on the Court's public docket the Successful Bidder Notice disclosing the identity of the Successful Bidder(s) and the identity of the Back-Up Bidder(s), if any. Upon designation as such, the Successful Bidder(s) shall have such rights and responsibilities as set forth in the applicable asset purchase agreement for such Successful Bidder(s) as agreed at the Auction. Within two (2) calendar days following the conclusion of the Auction, if not cancelled, or the Bid Deadline, if the Auction is cancelled, the Successful Bidder(s) shall complete and execute all agreements, contracts, instruments, or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made. The results at the close of the Auction shall be final and no additional bids will be accepted after the close of the Auction. The foregoing notwithstanding, Meridian will not be required to serve as a Back-up Bidder.

- (f) **Return of Deposits.** Except as otherwise provided in the Bidding Procedures and under any asset purchase agreement relating to a Qualified Bid(s) accepted by the Debtor in accordance with these Bidding Procedures, all deposits shall be returned to each bidder not selected by the Debtor in accordance with the above procedures as the Successful Bidder(s) or the Back-up Bidder(s) by no later than the fifth business day after the conclusion of the Auction; provided, however, that the interest, if any, on such deposit may not be returned until the second business day of the month following such conclusion; and further provided, however, the Deposit paid by Meridian shall be returned to Meridian pursuant to the terms of the Meridian APA. The deposit of the Back-up Bidder(s) shall be held by the Debtor until 24 hours after the earlier of the applicable outside closing date or the date on which the sale is consummated with the Back-up Bidder(s) upon its designation as the new Successful Bidder.
- (g) **The Sale Hearing and Objection Deadline.** A hearing to confirm the results of the Auction, if any, and to approve the sale of the Acquired Assets (the "Sale Hearing") will be held before The Honorable Magdeline D. Coleman, United States Bankruptcy Judge, at 900 Market Street, Philadelphia, Pennsylvania 19103, Courtroom 2, on **Tuesday, August 15, 2017 at 11:00 a.m. (prevailing Eastern time)**. Objections, if any, to approval of the Sale must be in writing, state with specificity the nature of

such objection, and be filed with the Court on or before **August 14, 2017 at 4:00 p.m. (prevailing Eastern time)** and be served so as to be actually received on or before the Sale Objection Deadline by counsel for the Debtor, Dilworth Paxson LLP, 1500 Market Street, Suite 3500E, Philadelphia, PA 19102; Attn: Martin J. Weis, Esquire, (ii) counsel for the Creditors' Committee, Obermayer Rebmann Maxwell & Hippell LLC, Centre Square West, 1500 Market Street, Suite 3400, Philadelphia, PA 19102, Attention: Edmond George, Esquire, and (iii) counsel to Meridian, Stevens & Lee, P.C., 620 Freedom Business Center, Suite 200, King of Prussia, PA 19406, Attention: Robert Lapowsky, Esquire (the "Objection Notice Parties"). The Sale Hearing may be adjourned or rescheduled after consultation with the Creditors' Committee, without notice other than by an announcement of the adjourned date in open court.

4. The following procedures for the assumption and assignment of Executory Contracts and Unexpired Leases are approved:

- (a) **Notice of Potential Assumption and Assignment.** As soon as practicable, but in any event no later than ten (10) business days following entry of this Order, the Debtor shall serve each counterparty with an Assumption and Assignment Notice substantially in the form attached to this Order as **Exhibit 1** (an "Assumption and Assignment Notice"), by first class mail. The Assumption and Assignment Notice will inform each recipient that the respective Executory Contract and Unexpired Lease may be either: (i) assumed and assigned or (ii) rejected. The Assumption and Assignment Notice will state the amounts (the "Cure Amounts") that the Debtor asserts are due to cure any non-monetary defaults in the event that the applicable Executory Contract and Unexpired Lease is assumed and assigned.
- (b) **Objection Period.** Any objections to the assumption and/or assignment of any Executory Contracts and Unexpired Leases identified on an Assumption and Assignment Notice, including to the Cure Amount set forth in such notice and the ability of Meridian to provide adequate assurance of future performance, must be in writing, filed with the Court, and be actually received by the Objection Notice Parties (defined below) no later than **July 31, 2017 at 4:00 p.m. (prevailing Eastern Time)** (the "Cure Amount/Assignment Objection Deadline").
- (c) **Assigned Contracts.** No later than two (2) days prior to the Sale Hearing, Meridian and/or any other Successful Bidder shall designate, by written notice to the Debtor, which of the Executory Contracts and Unexpired Leases are to be assumed by the Debtor and assigned to Meridian and/or any other Successful Bidder (each an "Assigned Contract") provided,

however, Meridian and/or any other Successful Bidder may remove any executory contract or unexpired lease from the Assigned Contracts list at any time prior to the applicable closing(s). Only Executory Contracts and Unexpired Leases that are designated as Assigned Contracts prior to the Sale Hearing and not removed from the Assigned Contracts list prior to applicable closing(s) shall be assumed by the Debtor and assigned to Meridian or any other Successful Bidder.

- (d) **Excluded Contracts.** The Debtor shall notify the non-Debtor party or parties to any Executory Contract and Unexpired Lease not assumed and assigned (each an “Excluded Contract”) by written notice as soon as practicable after the applicable closing(s). Each Excluded Contract may be rejected or otherwise terminated by the Debtor in its discretion.

5. The form of Sale Notice attached to this Order as **Exhibit 2** is hereby approved as sufficient.

6. Within two (2) business days after entry of this Order, the Debtor shall serve a copy of the Motion, the Sale Notice and this Order on: (i) the Office of the United States Trustee; (ii) those parties requesting notice under Bankruptcy Rule 2002; (iii) counsel to the Official Committee of Unsecured Creditors; (iv) counsel to The Bank of New York Mellon Trust Company, N.A; (v) counsel to Hunt Mortgage Group, LLC; (vi) counsel to the United States of America Department of Housing and Urban Development; (vii) all creditors listed on the matrix filed by the Debtor with the Court; (viii) all parties known by the Debtor to hold or assert liens against any of the Acquired Assets (as defined in the Agreement); (ix) the Local District Director for the United States of America Internal Revenue Service; (x) the United States Attorney for the Eastern District of Pennsylvania; (xi) the United States Environmental Protection Agency; (xii) the Pension Benefit Guaranty Corporation; (xiii) the Commonwealth of Pennsylvania Department of Revenue; (xiv) the Commonwealth of Pennsylvania Department of Environmental Protection; (xv) the Office of the Attorney General for the Commonwealth of Pennsylvania; (xvi) the Commonwealth of Pennsylvania Department of Labor and Industry;

(xvii) the City Solicitor of the City of Philadelphia; (xviii) all counterparties to contracts with the Debtor; (xix) all parties that have filed an entry of appearance in this case; (xx) all parties that expressed an interest in acquiring the Acquired Assets and any additional persons that the Debtor believed may have had an interest in acquiring the Acquired Assets.

7. Within one (1) business day after the conclusion of the Auction, the Debtor shall cause its counsel to file with the Court a supplement outlining the identity of the Successful Bidder of the Purchased Assets and the purchase price received therefor.

8. The Debtor is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

9. Notwithstanding the possible applicability of Bankruptcy Rules 6004, 6006, 7062, 9014 or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable.

10. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

11. This Court shall retain jurisdiction to resolve any dispute relating to the interpretation of the Bid Procedures and this Order. To the extent any provisions of this Order are inconsistent with the Motion, the terms of this Order shall control.

Dated: \_\_\_\_\_  
Philadelphia, Pennsylvania

BY THE COURT:

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The Honorable Magdeline D. Coleman  
United States Bankruptcy Judge

**EXHIBIT 1 TO BID PROCEDURES ORDER**

**[ASSUMPTION AND ASSIGNMENT NOTICE]**



**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

In re:

North Philadelphia Health System,  
  
Debtor.

Chapter 11

Case No. 16-18931 (MDC)

**NOTICE OF POSSIBLE ASSUMPTION AND ASSIGNMENT  
OF EXECUTORY CONTRACTS AND OF CURE AMOUNTS**

**PLEASE TAKE NOTICE THAT:**

A. Pursuant to the Order entered by the United States Bankruptcy Court for the Eastern District of Pennsylvania on July \_\_, 2017 which, among other things, approved the procedures for the sale by the Debtor of substantially all of its assets and possible assumption and assignment of executory contracts and unexpired leases (the “Sale Procedures Order”),<sup>1</sup> the above captioned debtor and debtor in possession (the “Debtor”) hereby provides notice that it is potentially seeking to assume and assign the executory contracts or unexpired leases (each, a “Contract or Lease”) listed on Exhibit A attached hereto to MBH of Pennsylvania, LLC (“Meridian”) and/or any other Successful Bidder.<sup>2</sup>

B. If the Debtor assumes a Contract or Lease to which you are a party and if, as of the date of such assumption, there has been a default by the Debtor, then pursuant to Section 365(b)(1), the Debtor is required to (i) promptly cure such default, except if such default relates to any failure to perform a nonmonetary obligation under an unexpired lease of real property and if it is impossible to cure such default by performing nonmonetary acts at and after the time of assumption, and (ii) promptly compensate you for any actual pecuniary loss resulting from such default (such requirements are hereafter referred to as the “Cure Obligations”). If the Debtor does not assume a Contract or Lease to which you are a party, that Contract or Lease may be rejected.

<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Bid Procedures Order.

<sup>2</sup> Inclusion of a Contract or Lease on Exhibit A is not a guarantee that such Contract or Lease will ultimately be assumed and assigned to the Successful Bidder.

C. The Debtor believes that, as to each Contract or Lease, upon payment of the amount listed opposite the name of the non-debtor counterparty (the “Debtor’s Cure Amount”) on the attached schedule, all Cure Obligations as to such Contract or Lease will be satisfied.

D. Objections, if any, to the Debtor’s Cure Amount or assumption and assignment of any Contract or Lease (other than, as to any Successful Bidder other than Meridian, on the basis of lack of adequate assurance of future performance by the Successful Bidder) must be made in writing and (a) state the basis for such objection and (b) if you disagree with the Debtor’s Cure Amount, state with specificity what amount you believe is required (in all cases with appropriate documentation in support thereof) in order to satisfy the Cure Obligation related to the Contract or Lease to which you are a counterparty.

E. All such objections must be (a) filed on or before **July 31, 2017 at 4:00 p.m. (prevailing Eastern Time)** (the “Assumption/Cure Objection Deadline”) with the Clerk of the United States Bankruptcy Court for the Eastern District of Pennsylvania, 900 Market St., Suite 400, Philadelphia, Pennsylvania, 19103, and (b) served on or before the Assumption/Cure Objection Deadline on (1) counsel for the Debtor, Dilworth Paxson LLP, 1500 Market Street, Suite 3500E, Philadelphia, PA 19102; Attn: Martin J. Weis, Esquire, (ii) counsel for the Creditors’ Committee, Obermayer Rebmann Maxwell & Hippell LLC, Centre Square West, 1500 Market Street, Suite 3400, Philadelphia, PA 19102, Attention: Edmond George, Esquire, and (iii) counsel to Meridian, Stevens & Lee, P.C., 620 Freedom Business Center, Suite 200, King of Prussia, PA 19406, Attention: Robert Lapowsky, Esquire

F. If an objection to the Debtor’s Cure Amount or assumption and assignment of a Contract or Lease is filed and served by the Assumption/Cure Objection Deadline and not resolved by the parties, a hearing with respect to the objection will take place before the Honorable Magdeline D. Coleman, United States Bankruptcy Judge, 900 Market St., Courtroom 2, Philadelphia, Pennsylvania, 19103 at the Sale Hearing to be held on **August 15, 2017 at 11:00 a.m. (prevailing Eastern Time)**, or at a later hearing, as determined by the Debtor. A hearing regarding the Cure Obligation, if any, may be continued at the sole discretion of the Debtor (but subject to approval by the court) until after the Closing.

G. If an objection to the Debtor's Cure Amount or assumption and assignment of a Contract or Lease is not filed and served by the Assumption/Cure Objection Deadline, the counterparty to such Contract or Lease will: (a) be forever barred from objecting to the Debtor's Cure Amount and from asserting any additional Cure Obligations, and (b) be forever barred and estopped from asserting or claiming against the Debtor or the assignee of such Contract or Lease that any additional Cure Obligations are due, or conditions to assumption and assignment (other than demonstration of adequate assurance of future performance) must be satisfied with respect to such Contract or Lease in order for such Contract or Lease to be assumed and assigned.

H. Promptly following conclusion of the Auction, the Debtor shall file a notice of the identity of the Successful Bidder(s) and Backup Bidder(s) and, at that same time, shall serve notice of the identity of the Successful Bidder(s) and Backup Bidder(s) by fax, email or overnight mail to all counterparties whose Contracts or Lease may be assumed and assigned.

I. If a Successful Bidder or Backup Bidder other than Meridian proposes to have the Debtor assume and assign to such Successful Bidder or Backup Bidder a Contract or Lease to which you are the counterparty, you will have the opportunity to evaluate and, if necessary, challenge the ability of such Successful Bidder or Backup Bidder to provide adequate assurance of future performance under such Contract or Lease, whether or not you file an objection, by appearing at the Sale Hearing and stating such objection on the record. **Any objections to the ability of Meridian to provide adequate assurance of future performance under any Contract or Lease must be filed by the Assumption/Cure Objection Deadline.**

J. At the Sale Hearing, the Debtor will present evidence necessary to demonstrate adequate assurance of future performance by the Successful Bidder as to any Contract or Lease as to which a timely objection to the ability of the Successful Bidder to provide such assurance has been filed.

**K. WHILE THERE IS NO CERTAINTY THAT ANY PARTICULAR CONTRACT OR LEASE WILL BE DESIGNATED FOR ASSUMPTION AND ASSIGNMENT, IF YOU HAVE ANY OBJECTION TO THE ASSUMPTION AND ASSIGNMENT OF YOUR CONTRACT OR LEASE, YOU MUST FILE A TIMELY**

**OBJECTION AND APPEAR AT THE SALE HEARING TO PROSECUTE SUCH  
OBJECTION.**

L. The Debtor and/or the Successful Bidder reserve all of their rights, claims and causes of action with respect to the Contracts and Leases. Notwithstanding anything to the contrary herein, in the Meridian APA or in any other asset purchase agreement, the proposed assumption and assignment of any Contract or Lease (a) shall not be an admission as to whether any such Contract or Lease was executory or unexpired as of the Petition Date or remains executory or unexpired postpetition within the meaning of Bankruptcy Code section 365; and (b) shall be subject to the Debtor's and/or the Successful Bidder's right to conduct further confirmatory diligence with respect to the related Cure Obligation and to modify the Debtor's Cure Amount accordingly. In the event that the Debtor and/or the Successful Bidder determine that your Cure Obligation should be modified, you will receive a notice, which will provide for additional time to object to such modification.

Dated: \_\_\_\_\_, 2017

DILWORTH PAXSON LLP

By: \_\_\_\_\_

Martin J. Weis

Anne Marie Aaronson

1500 Market St., Suite 3500E

Philadelphia, PA 19102

Telephone: (215) 575-7000

Facsimile: (215) 575-7200

*Attorneys for North Philadelphia Health System*

CONTRACTS AND CURE AMOUNTS

CONTRACT	COUNTERPARTY	DEBTOR'S CURE AMOUNT

**EXHIBIT 2 TO BID PROCEDURES ORDER**

**[NOTICE OF BID PROCEDURES AND SALE HEARING]**

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

In re:	:	Chapter 11
	:	
North Philadelphia Health System	:	Case No. 16-18931 (MDC)
	:	
Debtor.	:	

**NOTICE OF BID DEADLINE AND AUCTION IN CONNECTION  
WITH THE SALE OF CERTAIN OF THE DEBTOR'S ASSETS AND  
SALE HEARING AND DEADLINE FOR OBJECTIONS**

**PLEASE TAKE NOTICE** that, on June 27, 2017 the above-captioned debtor and debtor in possession (the "Debtor") filed a motion (the "Motion")<sup>4</sup> seeking approval of, among other things (A) auction and bidding procedures (the "Bid Procedures") in connection with the sale (the "Sale") of all or substantially all of its assets (the "Offered Assets") and (B) related relief with the United States Bankruptcy Court for the Eastern District of Pennsylvania (the "Bankruptcy Court"). By order dated July \_\_, 2017, the Bankruptcy Court approved the Bid Procedures set forth in the Bid Procedures Order [*Docket No.* \_\_] (the "Bid Procedures Order"). A copy of the Motion and the Bid Procedures Order are enclosed.

**PLEASE TAKE FURTHER NOTICE** that, all interested parties are invited to submit a Qualified Bid and to make offers to purchase the Offered Assets in accordance with the terms of the Bid Procedures set forth in the Bid Procedures Order. The deadline to submit bids (the "Bid Deadline") is **August 9, 2017 at 5:00 p.m. (prevailing Eastern Time)**.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the Bid Procedures Order, the Debtor intends to conduct an auction (the "Auction") for the sale of the Offered Assets at the offices of Dilworth Paxson LLP, 1500 Market Street, Suite 3500E, Philadelphia, PA 19107 on **August 11, 2016 beginning at 9:00 a.m. (prevailing Eastern Time)**, or at such other place and time as the Debtors shall notify all Qualified Bidders who have submitted Qualified Bids.

**PLEASE TAKE FURTHER NOTICE** that, the Debtor intends to seek the Bankruptcy Court's approval of the Sale of the Offered Assets at a hearing (the "Sale Hearing") which will be held before The Honorable Magdeline D. Coleman, United States Bankruptcy Judge, at United States Bankruptcy Court, 900 Market St., Courtroom 2, Philadelphia, PA 19103, at **11:00 a.m. (prevailing Eastern Time) on August 15, 2017**.

**PLEASE TAKE FURTHER NOTICE** that objections, if any, to approval of the Motion (including the sale of the Offered Assets) must be in writing, state with specificity the nature of such objection, and be filed with the Court on or before **August 14, 2017 at 4:00 p.m.**

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<sup>4</sup> Capitalized terms used but not defined herein shall have the meaning stated in the Motion.

(prevailing Eastern time) (the “Sale Objection Deadline”) and be served so as to be actually received on or before the Sale Objection Deadline by counsel for the Debtor, Dilworth Paxson LLP, 1500 Market Street, Suite 3500E, Philadelphia, PA 19102; Attn: Martin J. Weis, Esquire, (ii) counsel for the Creditors’ Committee, Obermayer Rebmann Maxwell & Hippell LLC, [Centre Square West, 1500 Market Street, Suite 3400, Philadelphia, PA 19102](#), Attention: Edmond George, Esquire, and (iii) counsel to Meridian, Stevens & Lee, P.C., 620 Freedom Business Center, Suite 200, King of Prussia, PA 19406, Attention: Robert Lapowsky, Esquire.

**PLEASE TAKE FURTHER NOTICE** that, this Notice is subject to the complete terms and conditions of the Motion and the Bid Procedures Order, which shall control in the event of any conflict, and the Debtor encourages parties in interest to review such documents in their entirety. Copies of the Motion and the Bid Procedures Order may be obtained by written request to counsel to the Debtor, c/o Dilworth Paxson LLP, 1500 Market Street, Suite 3500E, Philadelphia, PA 19102, Attn: Martin J. Weis and Anne M. Aaronson. In addition, copies of the aforementioned pleadings may be found on the Bankruptcy Court’s website, [www.paeb.uscourts.gov](http://www.paeb.uscourts.gov), and are on file with the Bankruptcy Court Clerk and available for inspection during regular business hours. The address of the Clerk’s Office is: Clerk of the United States Bankruptcy Court, 900 Market St., Suite 400, Philadelphia, Pennsylvania 19103.

Dated: July \_\_, 2017

/s/

---

**DILWORTH PAXSON LLP**

Martin J. Weis

Anne M. Aaronson

1500 Market St., Suite 3500E

Philadelphia, PA 19102

Telephone: (215) 575-7000

Facsimile: (215) 575-7200

*Counsel to the Debtor and Debtor in Possession*



**EXHIBIT B**

**MERIDIAN ASSET PURCHASE AGREEMENT**

**[See Attached]**

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**ASSET PURCHASE AGREEMENT**  
**BY AND AMONG**  
**MERIDIAN BEHAVIORAL HEALTH SYSTEMS, LLC**  
**AND**  
**MBH OF PENNSYLVANIA, LLC**  
**AND**  
**NORTH PHILADELPHIA HEALTH SYSTEM**

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**June 27, 2017**

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## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is made and entered into as of June 27, 2017 by, between and among Meridian Behavioral Health Systems, LLC, a Delaware limited liability company ("MBHS"), MBH of Pennsylvania, LLC, a Delaware limited liability company ("Buyer" and, collectively with MBHS, "Meridian"), and North Philadelphia Health System, a Pennsylvania nonprofit corporation, ("NPHS" and/or "Seller" and, collectively with MBHS and Buyer, the "Parties").

### RECITALS

WHEREAS, NPHS owns and operates, and does business under the registered fictitious name of, Girard Medical Center, a behavioral health center licensed as a private psychiatric hospital located in Philadelphia, Pennsylvania, which offers a range of licensed mental health, behavioral and substance use disorder treatment programs and other services and special programs for persons with behavioral medical disorders, including, without limitation, hospital and outpatient clinic programs, homeless programs, outpatient drug and alcohol services, outpatient mental health services and residential-level mental health services (the "Hospital"), which Hospital employs and otherwise contracts with physicians in connection with such operations.

WHEREAS, upon the terms and subject to the conditions contained in the Agreement, Seller desires to sell to Buyer and Buyer desires to purchase from Seller substantially all of the assets of Seller with respect to the Hospital and related health care operations, as defined hereinafter, in exchange for the payment to the Seller of the Purchase Price and the assumption by the Buyer of the Assumed Liabilities.

WHEREAS, Seller has filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code (the "Bankruptcy Case") in the United States Bankruptcy Court for the Eastern District of Pennsylvania (the "Bankruptcy Court").

WHEREAS, the transactions contemplated by this Agreement (the "Transactions") are subject to the approval of the Bankruptcy Court and will be consummated only pursuant to an Approval Order to be entered in the Bankruptcy Case.

WHEREAS, the Transactions are subject to the agreement by the Commonwealth of Pennsylvania and the City of Philadelphia to provide certain matching funds for capital improvements at the Hospital.

WHEREAS, the Transactions are subject to the agreement by the Commonwealth of Pennsylvania to transfer certain licensed psychiatric beds from Norristown State Hospital to the Hospital.

WHEREAS, the Transactions are subject to the approval of the Orphans' Court and will be consummated only pursuant to approval by the Orphans' Court.

## AGREEMENT

NOW, THEREFORE, for and in consideration of the premises, and the agreements, covenants, representations and warranties set forth below, and for other consideration, the receipt and adequacy of which hereby are acknowledged, the Parties hereto, intending to be legally bound hereby, agree as follows:

### 1. Definitions And References.

1.1. Definitions: As used in this Agreement, and unless the context requires a different meaning, the following terms have the meanings given:

Acquired Assets: defined in Section 2.1;

Affiliate: any Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another Person and includes the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of securities, election or appointment of directors, by contract or otherwise;

Affiliated Persons: defined in Section 3.19;

Agreement: this Asset Purchase Agreement and all Exhibits and Schedules attached hereto, as amended, supplemented or replaced by the parties from time to time, and all instruments, agreements, certificates or other documents executed by any party at Closing;

Approval Order: the Order issued by the Bankruptcy Court described in Section 5.3(f) and substantially in the form of Exhibit A, attached hereto;

Assumed Contracts: defined in Section 2.8;

Assumed Employee Benefit Plans: defined in Section 2.1(j) and listed on Schedule 2.1(j);

Assumed Liabilities: defined in Section 2.3;

Assumption and Assignment Notices: defined in Section 5.3(g);

Attorney General: the Office of Attorney General of the Commonwealth of Pennsylvania.

Auction Procedures: defined in Section 5.3(f);

Balance Sheet: defined in Section 3.4(b);

Bankruptcy Case: defined in the Recitals;

Bankruptcy Code: Title 11 of the United States Code, 11 U.S.C. §§101 *et seq.*;

Bankruptcy Court: defined in the Recitals;

Buyer Indemnified Persons: defined in Section 9.1;

Capital Lease: any lease of real, personal or mixed property under which Seller is the lessee and which, in accordance with GAAP, is or should be capitalized on the books of Seller;

Casualty: defined in Section 5.11;

CBH: defined in Section 7.11;

CBH Effective Date: defined in Section 7.11;

Claims Close Date: defined in Section 9.5;

Closing: defined in Section 8.1;

Closing Date: the date on or as of which the Closing occurs;

Closing Date Liquidated Cure Payments: defined in Section 2.8;

Code: the Internal Revenue Code of 1986, as amended;

Collective Bargaining Agreements: the Collective Bargaining Agreement between Seller and the National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO, and its Affiliate District 1199C, dated December 13, 2012 to June 30, 2018; the Collective Bargaining Agreement between Seller and International Union, Security, Police and Fire Professionals of America and its Amalgamated Local 506, dated July 1, 2014 to June 30, 2017; the Collective Bargaining Agreement between Seller and United Nurses of Pennsylvania, National Union of Hospital and Healthcare Employees, AFSCME, AFL-CIO, dated March 14, 2013 to September 30, 2018; and the Agreement between Seller and Pennsylvania Social Services Union Local 668, SEIU, dated February 12, 2013 to September 30, 2018;

Competing Activities: defined in Section 5.16;

Condemnation: defined in Section 5.11;

Consolidation Agreement: the Consolidation Agreement, dated July 25, 1990, by and between, Seller and Girard Medical Center, a Pennsylvania non-profit corporation;

Contracts: all commitments, contracts, leases, licenses, agreements and understandings, written or oral, to which Seller is a party, including all management, employment, retention and severance agreements, vendor agreements, real and personal property leases and schedules, maintenance agreements and schedules, agreements with municipalities and labor organizations, and bonds, mortgages and other loan agreements;

Cure Escrow Agreement: an agreement substantially in the form attached hereto as Exhibit D;

Cure Payments: the amounts necessary to cure all defaults, if any, under the Assumed Contracts, as required by Section 365(b) of the Bankruptcy Code;

Damages: losses, costs, expenses (including, without limitation, costs of investigation and defense and attorneys' fees), claims, damages, obligations, liabilities or diminutions in value, whether or not involving a third party claim;

Deposits: defined in Section 2.5;

Deposit Escrow Agreement: an agreement substantially in the form attached hereto as Exhibit E;

Disputed Cure Amount: defined in Section 2.8;

Due Diligence Period: defined in Section 5.6;

Due Diligence Review: defined in Section 5.6;

Effective Date: the date as of which this Agreement was entered into by the parties, as set forth on the first page hereof;

Employee Benefit Plan: pension, benefit, retirement, compensation, employment, consulting, profit-sharing, deferred compensation, incentive, bonus, performance award, change in control, retention, severance, vacation, paid time off, sick leave, welfare, fringe-benefit and other similar agreement, plan, policy, program or arrangement (and any amendment thereto), in each case whether or not reduced to writing and whether funded or unfunded, including each "cafeteria plan" under Section 125 of the Code and each "employee benefit plan" within the meaning of Section 3(3) of ERISA, whether or not tax-qualified and whether or not subject to ERISA, which is or has been maintained, sponsored, contributed to, or required to be contributed to by the Seller or any ERISA Affiliates for the benefit of any current or former employee, officer, director, retiree, independent contractor or consultant or any spouse or dependent of any such individual, or under which Seller or any of its ERISA Affiliates has or may have any liability, or with respect to which Buyer could reasonably be expected to have any liability;

Employee Pension Benefit Plan: defined in ERISA Sec. 3(2);

Employee Welfare Benefit Plan: defined in ERISA Sec. 3(1);

Encumbrances: liabilities, levies, claims, charges, assessments, mortgages, security interests, liens, pledges, conditional sales agreements, title retention contracts, leases, subleases, rights of first refusal, options to purchase, easements, rights of way, restrictions and other encumbrances, and agreements or commitments to create or suffer any of the foregoing;

Environmental Claim: any written notice (or oral notice reduced to writing by Seller) by a Person alleging potential liability (including potential liability for investigatory costs, cleanup costs, Governmental Authority response costs, natural resource damages, property damages, personal injuries, or penalties) arising out of, based on or resulting from (a) the presence, or release into the environment by Seller, of any Materials of Environmental Concern

at any location, whether or not owned by a Seller, (b) circumstances forming the basis of any violation, or alleged violation, of any Environmental Laws by Seller; or (c) circumstances forming the basis of any liability, or alleged liability, of Seller under any Environmental Laws;

Environmental Laws: any and all Legal Requirements relating to pollution or protection of human health or the environment (including air, surface water, groundwater, land surface or subsurface strata), including Legal Requirements of any permits, licenses, registrations or other authorizations of Governmental Authorities relating to pollution or protection of human health or the environment, Legal Requirements relating to emissions, discharges, releases or threatened releases of Materials of Environmental Concern, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, recycling, reporting or handling of Materials of Environmental Concern;

ERISA: the Employment Retirement Income Security Act of 1974, as amended;

ERISA Affiliate: any entity (whether or not incorporated) that would be treated together with the Seller or any of its Affiliates as a "single employer" within the meaning of Section 414 of the Code;

Escrow Agent: the title insurance agency selected by the Buyer to provide the title insurance described in Section 7.7;

Excluded Assets: defined in Section 2.2;

Excluded Deposits/Prepays: defined in Section 2.1(k)

Excluded Liabilities: any and all liabilities of Seller other than the Assumed Liabilities, whether known or unknown, fixed or contingent, recorded or unrecorded;

Excluded Parking Lot: the real property described in Schedule 2.2(h);

Excluded Patient Records: all patient records other than Included Patient Records, which Excluded Patient Records, for purposes of clarity, would include any patient records unrelated to operation of the Hospital such as those related to Seller's operation of the former St. Joseph's Hospital;

Final Order: an order, judgment or other decree of any Governmental Authority as to which (a) the operation or effect has not been reversed, stayed, modified or amended, (b) no appeals or motions for reconsideration are pending, and (c) any and all appeal periods have expired.

Force Majeure Event. Strikes, lock-outs, labor troubles, inability to procure materials, failure of power, Laws, riots, insurrection, war, acts of terrorism, military or usurped power, sabotage, unusually severe weather, fire or other casualty, or other reason of a like nature beyond the reasonable control of a party;

GAAP: the generally accepted accounting principles in the United States;

Governmental Authorities: all agencies, authorities, bodies, boards, commissions, courts, instrumentalities, legislatures and offices of any nature whatsoever of any federal, state, county, district, municipal, city, foreign or other government or quasi-government unit or political subdivision, and private arbitration panels or dispute resolution makers;

Government Reimbursement Programs: federal and state Medicare, Medicaid and CHAMPUS programs, and similar or successor programs with or for the benefit of Governmental Authorities;

Hired Employees: those employees of Seller who accept Buyer's offer of employment as of the Closing Date;

Holdback: defined in Section 2.5(c);

Holdback Claims: defined in Section 2.5(c)

Holdback Escrow Agreement: an agreement substantially in the form attached hereto as Exhibit E;

Hospital: defined in the Recitals;

Hospital Operations: the Hospital and all related businesses and systems necessary for the operation or support of the Hospital, but expressly excluding any business, services, systems or other operations attributable to the Seller's former St. Joseph's Hospital except to the extent that, after the closure of St. Joseph's Hospital, such services, systems or other operations were performed at the Hospital (as defined herein);

Included Patient Records: defined in Section 2.1(h);

Instrument: defined in Section 2.1(k);

Intellectual Properties: all marks, names, trademarks, service marks, patents, patent rights, assumed names, logos, copyrights, trade secrets and similar intangibles (including variants thereof and applications therefor);

Interim Management Agreement: defined in Section 5.17;

Laws: defined in Section 3.15(a);

Legal Requirements: with respect to any Person, all statutes, ordinances, codes, rules, regulations, restrictions, orders, judgments, orders, writs, injunctions, decrees, licenses, permits, registrations, determinations, awards or other approvals or authorizations of any Governmental Authority having jurisdiction over such Person or any of such Person's assets or businesses in effect as of the Closing Date;

Management Certified Financial Statements: (a) the consolidated balance sheet of Seller and its Affiliates as of December 30, 2016, (b) the consolidated statement of operations, and consolidated statement of net assets for the period commencing July 1, 2016 and ending

December 31, 2016, and (c) the monthly operating reports of the Seller filed with the Bankruptcy Court for March, April and May of 2017, and any subsequent monthly operating reports filed by the Seller prior to Closing;

Material Adverse Effect: any event, change, circumstance, effect, or state of facts that, alone or in combination, is materially adverse to (a) the business, financial condition or results of operations of the Hospital, taken as a whole, or (b) the ability of a Party to perform its or their obligations under the Agreement or any documents required hereunder or to consummate the Transactions; provided, however, that "Material Adverse Effect" shall not include the effect of any event, change, circumstance, or state of facts arising out of or attributable to any of the following, either alone or in combination, (i) the filing of the Bankruptcy Case, (ii) the markets in which the Hospital operates generally, (iii) general economic or political conditions (including those affecting the securities markets), (iv) the public announcement of the Agreement or of the consummation of the Transactions, (v) acts of war (whether or not declared), sabotage or terrorism, military actions or the escalation thereof or other force majeure events occurring after the date hereof, or (vi) any changes in applicable laws, regulations or accounting rules;

Materials of Environmental Concern: chemicals, pollutants, contaminants, wastes (including medical waste, infectious and chemotherapeutic waste), toxic substances, radioactive materials and radioactive sources, petroleum and petroleum products, including hazardous wastes under the Resource, Conservation and Recovery Act, 42 U.S.C. § 6903 *et seq.*, hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.*, hazardous air pollutants under the Clean Air Act, 42 U.S.C. § 7401 *et seq.*, regulated substances under the Land Recycling and Environmental Remediation Standards Act of 1995, 35 P.S. § 6026.101 *et seq.*, each as amended, and asbestos, polychlorinated biphenyls and urea formaldehyde;

Multiemployer Plan: defined in ERISA Sec. 3(37);

Orphans' Court: defined in Section 5.15;

Orphans' Court Approval: defined in Section 5.15;

Outside Closing Date: defined in Section 8.4(a)(i)

Permitted Real Property Encumbrances: (a) liens for real estate Taxes, water and sewer rents and other lienable services that are apportioned as provided in Section 2.7, including special assessments; (b) the standard or printed exceptions contained in the form of owner's policy issued by Buyer's title insurance company; (c) an exception for any state of facts or other matters which would be shown by a survey; (d) any and all present and future laws, ordinances, restrictions, requirements, resolutions, orders, rules and regulations of any Governmental Authority, as now or hereafter existing or enforced (including those related to zoning and land use); (e) possible additional tax assessments for new construction and/or major improvements; (f) any exceptions caused by Buyer or any of its agents, employees or contractors; and (g) any recorded or unrecorded covenants, conditions, restrictions, rights of way and easements which would not materially interfere with the use of the Real Property in the manner in which it is presently being used;



Person: any individual, company, body corporate, association, partnership, limited liability company, firm, joint venture, trust, trustee or Governmental Authority;

Post-Closing Expenditures: defined in Section 5.4;

Procedures Order: the order of the Bankruptcy Court, described in Section 5.3(f) and attached hereto as Exhibit B;

Purchase Price: defined in Section 2.5;

Purchased Inventory: defined in Section 2.1(c);

Real Property: the real property owned by Seller on which the Hospital is located and all other real property owned by Seller and used in connection with operation of the Hospital, as more particularly described on Schedule 2.1(a), together with all buildings, improvements and fixtures thereon and all appurtenances and rights thereto, but excluding any real property associated with the "Excluded Parking Lot" as further described on Schedule 2.2(h);

Restricted Funds: defined in Section 2.1(i);

Sale Hearing: defined in Section 5.3(f);

Sale Motion: defined in Section 5.3(f);

Seller Cure Limit: defined in Section 2.8;

Seller Indemnified Persons: defined in Section 9.2;

Tail Coverage: An endorsement made a part of all primary and excess claims-made medical professional liability insurance policies in force as of the Closing Date that cover Seller and/or any physician employee or physician extender of Seller (or any physician for whom Seller otherwise is obligated to provide such insurance) in connection with operation of the Hospital and Seller's related operations (the "Policies"), extending the terms and conditions of the Policies that are in effect on the Effective Date, and providing an unlimited period of time following the Policies' expiration during which the Policies' coverage will be extended for claims relating to professional acts, errors or omissions, occurring during the Policies' effective period that are made against Seller and presented to the insurer after the Policies have expired, as well as all applicable Mcare submissions, reporting and necessary surcharges pertaining to such endorsements;

Tax: any income, unrelated business income, excess benefits, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Code Sec. 59A), customs duties, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, stamp, sales, use, transfer, registration, unclaimed property, value added, alternative or add-on minimum, estimated or other tax, assessment, charge, levy or fee of any kind whatsoever, including payments or services in lieu of Taxes, interest and penalties on and additions to all of

the foregoing, which are due or alleged to be due to any Taxing Authority or Governmental Authority, whether disputed or not;

Tax Return: any return, declaration, report, claim for refund, information return or other document (including any related or supporting schedule, statement or information or amended return) filed or required to be filed in connection with the determination, assessment or collection of any Tax of any party or the administration of any laws, regulations, or administrative requirements relating to any Tax;

Taxing Authority: the appropriate federal, state, local or foreign governmental entity or other authority responsible for the administration of any Tax;

Tenant Leases: defined in Section 3.6(g);

Title Policy: defined in Section 7.7;

Transactions: defined in the Recitals; and

Unions: means the National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO, and its Affiliate District 1199C; the International Union, Security, Police and Fire Professionals of America and its Amalgamated Local 506; the United Nurses of Pennsylvania, National Union of Hospital and Healthcare Employees, AFSCME, AFL-CIO; and the Pennsylvania Social Services Union Local 668, SEIU.

1.2. Certain References. As used in this Agreement, and unless the context requires otherwise:

(a) references to “include” or “including” mean including without limitation; and

(b) references in this Agreement to the “knowledge” of Seller or variants thereof (including “best knowledge”) mean the actual knowledge, after reasonable inquiry, of each of the Persons whose names or positions are set forth in Schedule 1.2. The phrase “reasonable inquiry,” as used in this definition, may include communication in connection with the operation of Seller and shall not be confined to matters contemplated by this Agreement.

## 2. Sale of Acquired Assets and Related Matters.

2.1. Sale of Acquired Assets. Subject to the terms and conditions of this Agreement, at Closing the Seller shall sell, assign, convey, transfer and deliver to Buyer the Seller’s right, title and interest in the Acquired Assets and Buyer shall purchase Seller’s right, title and interest in and to the Acquired Assets, free and clear of all claims, interests and Encumbrances other than the Permitted Real Property Encumbrances and Assumed Liabilities. As used herein, the term “Acquired Assets” means all of Seller’s right, title and interest in any property used by the Seller in Hospital Operations other than the Excluded Assets, including without limitation the following:

(a) the Real Property described on Schedule 2.1(a);

(b) all equipment, including vehicles, owned by Seller or leased by Seller pursuant to a Capital Lease for use in Hospital Operations, including that listed in Schedule 2.1(b), including computer equipment, security, transportation and telecommunications systems, including all telephone and fax numbers and Seller's website rights;

(c) all janitorial, maintenance, shop, office and other supplies, drugs, food and other disposables owned by Seller for use in Hospital Operations as of the Closing Date (the "Purchased Inventory");

(d) Seller's interests in the Assumed Contracts;

(e) licenses, permits, registrations and other approvals or authorizations (including pending approvals or authorizations) of Governmental Authorities, to the extent assignable, relating to the ownership and business of Hospital or other Hospital Operations, but limited to those licenses, permits, registrations and other approvals or authorizations listed on Schedule 2.1(e), which schedule will be delivered by Buyer within thirty (30) days following the Effective Date and will be subject to the consent of Seller, not to be unreasonably withheld (to the extent listed on Schedule 2.1(e) and consented to by Seller, the "Transferred Licenses"). Buyer shall be responsible to take all necessary steps, at Buyer's expense and with reasonable cooperation from Seller, to effect the contemplated transfers;

(f) **RESERVED;**

(g) to the extent assignable and transferable, all Intellectual Properties used in connection with the Hospital Operations, including all computer software, programs and similar systems licensed for use in conjunction with the Hospital Operations of Seller, including those described in Schedule 2.1(b), to the extent assignable;

(h) all original patient records of Seller related to operation of the Hospital (the "Included Patient Records"), and personnel records for current employees of the Hospital, and all policies and procedures manuals and quality assurance records of the Hospital to the extent located at the Hospital on the Closing Date, provided, however, that Included Patient Records shall not include patient records relating to the operations of St. Joseph's Hospital, whether or not such operations were conducted at the Hospital location and whether or not such records are located at the Hospital on the Closing Date;

(i) to the extent they are assignable and transferable, all other books, records, files, papers and other documents (in whatever form, including computer files and software), including all inventory, sales and marketing records and all patient lists, customer lists and supplier lists, and literature related to the Hospital Operations;

(j) only those Employee Benefit Plans listed on Schedule 2.1(j) ("Assumed Employee Benefit Plans"), if any;

(k) all deposits, prepaid expenses and claims for refunds, advances, prepaid lease expenses, and security deposits arising under or related to the Assumed Contracts, and rights to offset in respect thereof, other than the deposits and prepaid expenses listed on Schedule 2.1(k) hereto (the "Excluded Deposits/Prepays");

(l) all insurance claims and proceeds thereof arising in connection with property damage to the Acquired Assets occurring prior to the Closing Date except to the extent, in the case of proceeds, received by the Seller prior to the Closing Date and expended on the repair or restoration of the Acquired Assets prior to the Closing Date;

(m) **RESERVED;**

(n) **RESERVED;**

(o) general intangibles pertaining to the Hospital Operations of Seller, including goodwill;

(p) all records and such other documentation and files which comprise the Hospital's organized medical staff records, hereinafter the "Medical Staff Bylaws;" provided, however, the inclusion of Medical Staff Bylaws in the Acquired Assets shall not obligate Buyer to such Medical Staff Bylaws nor result in Buyer becoming a party to the Medical Staff Bylaws; and

(q) any asset, at the election of Buyer (which election may be exercised at any time after Closing), that was acquired by Seller for use in connection with Hospital Operations under the Consolidation Agreement.

Notwithstanding the foregoing, Buyer shall have the right, upon written notice given to Seller before Closing, to exclude any or all of the assets listed above from the definition of Acquired Assets and any assets so excluded shall be Excluded Assets. No election to revise the Acquired Assets hereunder by Buyer shall alter the Purchase Price.

2.2. Excluded Assets. Notwithstanding the generality of Section 2.1, the following assets (the "Excluded Assets") are not a part of the sale and purchase contemplated by this Agreement and are excluded from the Acquired Assets:

(a) all cash, accounts receivable, Excluded Deposits/Prepays, and any rights to reimbursement attributable solely to services provided prior to the Closing Date, including, without limitation, any pay-for-performance incentives paid by CBH and Medicaid cost adjustments to the extent attributable to periods prior to the Closing Date;

(b) Inventory disposed of or exhausted after the Effective Date and prior to the Closing Date in the ordinary course of operating the Hospital;

(c) Seller's interests in Contracts other than Assumed Contracts;

(d) any Employee Benefit Plans not listed on Schedule 2.1(j);

(e) all right, title and interest of Seller in and to all current insurance policies, if any, and all insurance policies providing Tail Coverage;

(f) any other assets excluded by written notice given to Seller before the Closing Date; and

(g) any and all claims and causes of action of Seller including without limitation all Medicare cost report claims and appeals, whether arising under the Bankruptcy Code or otherwise, other than insurance claims described in Section 2.1(l) hereof and all Excluded Deposits/Prepays;

(h) any real property associated with the "Excluded Parking Lot" as further described on Schedule 2.2(h);

(i) all Excluded Patient Records; and

(j) any other assets of Seller that are unrelated to Hospital Operations only to the extent not expressly included in the Acquired Assets pursuant to Section 2.1 above.

2.3. Assumed Liabilities. Effective upon Closing, the Buyer shall assume (a) all obligations of Seller arising on or after the Closing Date under the Assumed Contracts and the Assumed Employee Benefit Plans, (b) vacation, holiday and sick leave accumulations of the Hired Employees, but only to the extent listed on Schedule 5.5(a), to be attached to this Agreement pursuant to Section 5.5(a) hereof, and related Taxes thereon, and (c) other Seller obligations, if any, described on Schedule 2.3 to this Agreement (the foregoing are collectively referred to as the "Assumed Liabilities"). At least ten (10) days prior to the Sale Hearing, Buyer will provide Seller with a completed form of Schedule 2.3, which schedule will list all liabilities of Seller that the Buyer, in its sole discretion, shall have agreed to assume at Closing in addition to the Seller liabilities identified in subsections (a), (b) and (c) above.

2.4. Excluded Liabilities. Under no circumstance shall Buyer assume or be obligated to pay, and none of the Acquired Assets shall be or become liable for or subject to any of the Excluded Liabilities, including the following, which shall be and remain liabilities of Seller:

(a) Subject to Section 5.12(b) hereof, liabilities or obligations of Seller for Taxes in respect of any period, including periods ending on or prior to the Closing Date or resulting from the consummation of the Transactions;

(b) liabilities or obligations associated with any Excluded Assets;

(c) liabilities or obligations associated with any and all indebtedness of Seller for borrowed money;

(d) liabilities or obligations arising out of any Contract that is not an Assumed Contract;

(e) liabilities or obligations arising out of Environmental Claims (whether asserted prior to or after Closing) for acts or omissions which occurred or accrued prior to the Closing Date;

(f) any liability of Seller, or with respect to any transactions entered into or any facts existing with respect to the Hospital prior to the Closing Date, relating to any overpayment from a Governmental Authority or any violation of any law, regulation or

ordinance at any time, including, but not limited to, the federal Anti-Kickback Statute (42 U.S.C. § 1320(a) *et seq.*), the Ethics in Patient Referrals Act (42 U.S.C. § 1395nn *et seq.*), and the False Claims Act (31 U.S.C. § 3729 *et seq.*);

(g) all liabilities relating to any oral agreements or understandings with referral sources, unless reduced to writing and expressly assumed by Buyer as an Assumed Contract; and

(h) except to the extent specifically assumed by Buyer pursuant to this Agreement, liabilities or obligations to Seller's employees relating to periods prior to Closing, including liabilities or obligations arising under or with respect to any Employee Benefit Plan, severance pay program or arrangement, EEOC claims, unfair labor practice, and wage and hour practice, and liabilities or obligations arising under the Worker Adjustment and Retraining Act, 29 U.S.C. §§2101-2109 as a result of acts or omissions of Seller prior to Closing; and

(i) Any other liability relating to the Hospital Operations or other operations of Seller that accrued or occurred prior to Closing unless expressly assumed hereby.

2.5. Purchase Price; Deposits; Holdback.

(a) The purchase price of the Acquired Assets shall be TEN MILLION DOLLARS (\$10,000,000.00), subject to the terms and conditions of this Agreement (the "Purchase Price").

(b) Buyer shall pay the following deposits to the Escrow Agent, in cash or by wire transfer of immediately available funds:

(i) ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) upon execution of this Agreement; and

(ii) ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00) within two (2) business days of entry of the Procedures Order;

(collectively, the "Deposits"). The Deposits shall be held by the Escrow Agent in the Escrow Agent's trust account pursuant to the terms of the Deposit Escrow Agreement and will not generate interest payable to either the Seller or the Buyer. Subject to Section 8.4 and the Escrow Agreement, at the Closing, the Deposit shall be released to the Seller and applied against the Purchase Price.

(c) The "Holdback" shall be SIX HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$625,000.00), shall be paid over to and held and disbursed by the Escrow Agent pursuant to the Holdback Escrow Agreement and shall secure Seller's obligations to Buyer, or to any Buyer Indemnified Person, including, without limitation, any indemnification liability pursuant to Article 9 of this Agreement (the "Holdback Claims"). Buyer shall not be required to apply the Holdback to the payment of any liabilities of Seller with respect to any matter which is subject to the Seller's indemnification obligations under Article 9, whether arising before or after the Closing Date, and irrespective of when asserted or finally determined.

(d) Within five (5) business days after the date which is nine (9) months after the Closing Date, Buyer shall in writing to the Escrow Agent, with copy to Seller, instruct the Escrow Agent to release to Seller the amount, if any, of the then remaining unapplied balance of the Holdback; provided, however, that if any Holdback Claim liability that is within the coverage of the Holdback is claimed by Buyer, but a dispute between Buyer and Seller with respect thereto has not been resolved before the remaining balance of the Holdback is due and payable to Seller, Buyer may direct the Escrow Agent to continue to hold such amount until a final resolution of such dispute. The unused portion of any such further-withheld amount of the Holdback, if any, shall be the subject of a release instruction letter from Buyer to Escrow Agent with copy to Seller promptly following the resolution of any such claim.

(e) The Purchase Price (reflecting the adjustments, prorations, and cost and expense allocations provided in Sections 2.6, 2.7 and 5.12), less the Holdback to be paid to the Escrow Agent, less the Deposits shall be paid by Buyer to Seller at the Closing in cash or by wire transfer of immediately available funds.

(f) No payment from the Holdback shall be made unless and until: (1) the Buyer has delivered to Seller a Holdback Claims notice pursuant to Section 2.5(c) hereinabove setting forth in reasonable detail and with reasonable documentation the Holdback Claims, and (2) Seller has consented to the asserted Holdback Claims, which consent shall not be unreasonably withheld. In the event Seller does not consent to the payment of the Holdback Claims or any part thereof, the Parties shall submit any such disputed Holdback Claims for binding arbitration before the American Arbitration Association in Philadelphia, PA with each party paying its own fees and costs.

2.6. Certain Adjustments to the Purchase Price. The amount of the Purchase Price payable at the Closing shall be adjusted in respect of the following:

(a) The amount of the Purchase Price shall be decreased by the amount the net book value of the Purchased Inventory, as properly booked as of the Closing Date, is less than SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), subject to a pre-Closing inventory by the parties. Such pre-Closing inventory shall be conducted using methods of valuation and counting that are consistent with Seller's past practices, as reflected in Management Certified Financial Statements and in Seller's books and records.

(b) RESERVED.

(c) The amount of the Purchase Price shall be reduced by the dollar value of all vacation, holiday and sick leave accumulations of the Hired Employees listed on Schedule 5.5(a), and related Taxes thereon, assumed by Buyer pursuant to Section 2.3. Schedule 5.5(a) shall be updated as of Closing based on the final list of Hired Employees.

(d) The amount of the Purchase Price shall be reduced by the amount, if any, of the net prorated amounts attributed to the Seller but to be paid by Buyer under Section 2.7.

2.7. Prorations. At Closing, Buyer and Seller shall prorate real estate and personal property lease payments, real estate and personal property Taxes and other assessments, plus all other income and expenses (including utilities) with respect to the Hospital Operations of Seller

which are normally prorated upon a sale of assets of a going concern. Proration shall be calculated on a per diem basis, with Seller responsible for all the above Taxes, payments and other assessments which accrue on and prior to the Closing Date, and Buyer responsible for all the above Taxes, payments and assessments which accrue after the Closing Date. Buyer shall timely pay both the Buyer's and Seller's portion of the above Taxes, payments and other assessments to the Taxing Authority or other Person to which payment is due. If any payment in lieu of Taxes made by Seller prior to Closing is credited against real estate Taxes for which Buyer will be liable, the amount of such credit (prorated) will be paid to Seller upon its receipt by Buyer. Notwithstanding the foregoing to the contrary, on the Closing Date, Buyer shall pay the Seller cash equal to all cash security deposits held as of the Closing Date by a third party to secure Seller's obligations, including performance under an Assumed Contract, or otherwise provided by Seller in connection with an Acquired Asset or Assumed Liability.

2.8. Designation and Assignment of Assumed Contracts, Cure Payments and Cure Escrow. At least thirty-five (35) days prior to the Sale Hearing, the Buyer will provide the Seller with a completed form of Schedule 2.8. Schedule 2.8 will list all Contracts of Seller, including Employee Benefit Plans and Collective Bargaining Agreements (if any), which the Buyer, in its sole discretion, shall have designated for assignment by the Seller to the Buyer at Closing. Prior to the Closing, the Buyer shall have the right, in its sole discretion, to delete Contracts from Schedule 2.8. At Closing, Seller shall assign to Buyer those Contracts on Schedule 2.8 that have been approved for assumption and assignment pursuant to the Approval Order and not thereafter deleted by the Buyer from Schedule 2.8 (the "Assumed Contracts"). To the extent the amount of the required Cure Payments for Assumed Contracts have been allowed by Final Order prior to the Closing Date (the "Closing Date Liquidated Cure Payments"), such amount shall be paid to the counter-party to such Assumed Contract on the Closing Date. The Closing Date Liquidated Cure Payments shall be paid: (a) by the Seller, until the total of such payments by the Seller equal FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) (the "Seller Cure Limit"), and (b) by the Buyer, to the extent the Closing Date Liquidated Cure Payments exceed the Seller Cure Limit. To the extent the amount of the required Cure Payment for any Assumed Contract has not been allowed by Final Order prior to the Closing Date, the maximum cure amount claimed by the counter-party (the "Disputed Cure Amount") shall be paid to the Escrow Agent, who shall invest the Disputed Cure Amount in accordance with the terms of the Cure Escrow Agreement and who shall hold and distribute the Disputed Cure Amount and interest and gains thereon in accordance with the terms of the Cure Escrow Agreement. The Disputed Cure Amount shall be paid to the Escrow Agent: (x) by the Seller, to the extent, if any, by which the Seller Cure Amount exceeds the Closing Date Liquidated Cure Payments, and (y) by the Buyer, to the extent the Disputed Cure Amounts exceed the amounts paid by the Seller to the Escrow Agent. Promptly following final determination and allowance of all or any portion of a Disputed Cure Amount, an amount equal to the difference, if any, between the Disputed Claim Amount of the applicable counter-party and the allowed portion of such Disputed Claim Amount shall be promptly paid by the Escrow Agent to Buyer, until all amounts paid by Buyer to the Escrow Agent have been returned to Buyer and, thereafter, shall be returned to Seller. During all times on and after the first date when the unresolved Disputed Cure Amounts plus the amounts paid by Seller at Closing on account of Closing Date Liquidated Cure Payments are less than the Seller Cure Limit, Seller shall control the defense and settlement of all Disputed Cure Amounts. Otherwise, unless waived by Buyer, Buyer shall control the defense and settlement of all Disputed Cure Amounts. During any period when Buyer is in control of the defense and



settlement of Disputed Cure Amounts, Seller shall provide reasonable cooperation to Buyer in providing such defense and, until the total of the amounts paid by Seller at Closing on account of Closing Date Liquidated Cure Payments and amounts distributed by the Claims Escrow Agent on account of Disputed Cure Claims allowed after the Closing date exceeds the Seller Cure Limit, Buyer shall not enter into any settlement without the consent of the Seller, which consent shall not be unreasonably withheld or delayed.

2.9. Non-Assignment of Assets. Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to assign or transfer and shall not effect the assignment or transfer of any asset identified in Sections 2.1(e), (f), or (g) if, and to the extent, such asset is not assignable or transferable under the Bankruptcy Code or other Legal Requirement. To the extent any such asset is not assignable or transferrable under the Bankruptcy Code or other Legal Requirement, Seller and Buyer will use their commercially reasonable efforts to obtain the approval, authorization or consent of, or the granting or issuance of any license or permit by, any third party (each such action, a "Necessary Consent") as Buyer may reasonably request; provided, however, that Seller shall not be obligated to pay any material consideration therefor to any third party from whom consent or approval is requested or to initiate any litigation or legal proceedings to obtain any such consent or approval. If a Necessary Consent is not obtained, or if an attempted assignment of such asset would be ineffective or would adversely affect the rights of Seller thereunder so that Buyer would not in fact receive all such rights, Seller and Buyer will cooperate in a mutually agreeable arrangement, to the extent feasible and at no material expense to Seller, so that Buyer obtains the benefits and assume the obligations thereunder in accordance with this Agreement.

2.10. Further Conveyance of Acquired Assets. From time to time following the Closing:

(a) Seller and Buyer shall, and shall cause their respective Affiliates to, execute, acknowledge and deliver all such further conveyances, notices, assumptions, releases and other instruments, and shall take such further actions, as may be reasonably necessary or appropriate to assure fully to Buyer and its respective successors or assigns, all of the properties, rights, titles, interests, estates, remedies, powers and privileges intended to be conveyed to Buyer under this Agreement and to assure fully to Seller and its Affiliates and their successors and assigns, the assumption of the liabilities and obligations intended to be assumed by Buyer under this Agreement, and to otherwise make effective the Transactions.

(b) From time to time following the Closing, and subject to Legal Requirements, Seller shall cause their Affiliates to, make available to Buyer any personnel records that were not transferred to Buyer pursuant to Section 2.1(g), as reasonably necessary for Buyer to transition Hired Employees into Buyer's records.

2.11. Inpatients as of the Closing. Seller shall be entitled to all payments for services provided to patients up to and including 11:59 p.m. on the date preceding the Closing Date, and Buyer shall be entitled to all payments for services provided thereafter. Any payment received by Buyer or Seller that includes amounts properly attributable to the other shall promptly be remitted to the other, together with all applicable documentation for same.

(a) With respect to patients of the Hospital who are hospitalized (either inpatient, emergency, observation or otherwise) and have not been discharged as of 11:59 p.m. on the day before the Closing Date ("Straddle Patients"), Buyer will bill the patient or the third party payor, as applicable, for all services rendered upon the Straddle Patients' discharge, including for those services rendered by the Seller prior to the Closing (such payments with respect to Straddle Patients are herein referred to as "Straddle Payments"). Seller shall provide all medical and financial information to Buyer to permit Buyer to perform the required billing. Upon receipt of any reimbursement monies in respect of Straddle Payments, deductibles applicable to such payments and all co-insurance applicable to Straddle Patient accounts, Buyer shall prepare a calculation setting forth with respect to such Straddle Patient, the total Straddle Patient days, the Seller's straddle ratio and the Buyer straddle ratio. Seller and its representatives shall have the right to review the records of Buyer with respect to such calculations from time to time upon written request. Within thirty (30) days of receipt of any Straddle Payment, net of deductibles applicable to such payments or co-insurance applicable to Straddle Patient accounts, Buyer shall pay to Seller an amount equal to the sum of any Straddle Payment, deductibles applicable to such payments and co-insurance applicable to Straddle Patient accounts multiplied by the Seller Straddle Ratio. For the sake of clarity and by way of an example (assuming for the sake of simplicity that no deductibles or co-insurance applied), if Buyer received \$1,000 in reimbursement for a Straddle Patient who was hospitalized for 30 days, 16 days of which were prior to the Closing Date, the Total Straddle Patient Days would be 30, the Buyer Straddle Ratio would be 0.46667 (14/30), the Seller Straddle Ratio would be 0.53334 (16/30) and Buyer would be obligated to pay to Seller the amount of \$533.34.

(b) In the event of any claims denial with respect to any Straddle Patient relating to services provided prior to the Closing, Buyer may, at its sole election and by written notice to Seller, offset against the payment to Seller of any other portion of a Straddle Payment or require Seller to promptly (and in no event later than 30 days after delivery of such notice) pay Buyer the amount of such claims denial, provided that such amount has been set off by the applicable payor against amounts otherwise payable to Buyer. In determining the amount of the offset or Seller payment obligation pursuant to this Section 2.11, Buyer shall multiply the amount of the claim which has been denied and offset by the payor against amounts otherwise payable to Buyer by the Seller Straddle Ratio.

(c) With respect to the filing of any cost reports or claims for reimbursement or payment as contemplated by this Section 2.11, Buyer and Seller agree to use commercially reasonable efforts to cooperate in the making of such filings and to provide, at reasonable times and upon reasonable notice, the right to review such filings (including review reasonably prior to the submission of such filings), to the party not responsible for the preparation and submission of such filings and, if applicable, the right to participate in the defense and settlement of any applicable audits.

### 3. Representations and Warranties of Seller.

Seller makes the following representations and warranties to Buyer on and as of the Effective Date and shall be deemed to make them again at and as of the Closing. Seller represents and warrants to Buyer as follows:

3.1. Organization. NPHS is duly organized and subsisting under the laws of the Commonwealth of Pennsylvania.

3.2. Powers; Consents; Absence of Conflicts. Subject to entry of the Approval Order and Orphans' Court Approval, Seller has the requisite power and authority, to enter into this Agreement and to perform its obligations hereunder, and to conduct its business as now being conducted. Except as described in Schedule 3.2 (which shall be updated by Seller, solely as to clause (c) of this Section 3.2, following delivery of Schedule 2.8 to the Seller), the execution, delivery and performance by Seller of this Agreement and the consummation of the Transactions (a) are within Seller's corporate powers, (b) are not in contravention of any Legal Requirement or of the terms of its articles of incorporation, bylaws and other governing documents, if any, as amended to date, (c) do not conflict with or result in a material breach of any Contract that is not an Assumed Contract to which Seller is a party or by which it is bound (except to the extent that the actions taken by Seller with respect to the filing of the Bankruptcy Case constitute a breach or default under any such agreement), and (d) have been duly authorized by all appropriate corporate and member action.

3.3. Binding Agreement. Subject to entry of the Approval Order and Orphans' Court Approval, this Agreement and all instruments and agreements hereunder to which Seller is or becomes a party are (or upon execution will be) valid and legally binding obligations of Seller, enforceable against Seller in accordance with the respective terms hereof or thereof.

3.4. Financial Statements and Undisclosed Liabilities.

(a) Seller has delivered the Management Certified Financial Statements in existence as of the date hereof to the Buyer. Except to the extent disclosed on Schedule 3.4(a), the Management Certified Financial Statements (including any notes thereto) are or, if not yet in existence as of the date hereof, will be true, complete and accurate and fairly present the financial condition and results of operations of the Hospital as of the respective dates thereof and for the periods therein referred to, all prepared in accordance with Seller's consistent accounting practices in its ordinary course of business, and, with respect to the consolidated balance sheet, statement of operations and statement of net assets, in accordance with GAAP, and, with respect to the monthly operating reports, in accordance with applicable requirements of the Bankruptcy Code.

(b) Seller has delivered, or shall cause to be delivered by no later than July 10, 2017, the unaudited balance sheet of Seller with respect to the stand-alone Hospital Operations as at May 31, 2017 (including the notes thereto, if any, the "Balance Sheet") to Buyer. Except to the extent disclosed on Schedule 3.4(b), Seller has no material liability of any nature (whether absolute, accrued, contingent or otherwise) that is not reflected on the Balance Sheet other than current liabilities (within the meaning of GAAP) incurred since the date thereof that are neither material in amount nor inconsistent with any of the representations or warranties of Seller made herein.

(c) The Balance Sheet reflects reserves or other appropriate provisions at least equal to reasonably anticipated liabilities (including, without limitation, all liabilities to any third party payor), and losses and expenses of Seller as of the respective dates thereof, including,

without limitation, those with respect to contractual reserves, bad debts, unsalable inventories, salaries, vacation pay, plans and programs for the benefit of present and former employees, and amounts payable to third party payors for all prior periods, except for such failures to reserve or make other appropriate provisions which would not adversely affect the Acquired Assets or Buyer's ability to acquire, own and operate the Acquired Assets as contemplated hereunder.

3.5. Equipment. Schedule 2.1(b) sets forth, to Seller's knowledge, all the equipment constituting any part of the Acquired Assets. Seller has delivered to Buyer a depreciation schedule as of the date of the Balance Sheet which takes into consideration all the equipment associated with, or constituting any part of the Hospital Operations or the Acquired Assets.

3.6. Real Property. Except as disclosed in Schedule 3.6:

(a) Set forth on Schedule 2.1(a) is a true, correct, and complete list of each parcel of real property owned by Seller used in connection with the Hospital Operations excluding real property associated with the Excluded Parking Lot. Set forth on Schedule 3.6(a) is a true, correct, and complete list of each parcel of real property leased, occupied or otherwise used by Seller in connection with the Hospital Operations. Seller has good and marketable title to the Real Property owned by it, free and clear of all interests and other matters affecting title except for (i) Permitted Real Property Encumbrances and (ii) the additional Encumbrances set forth on Schedule 3.6(a) hereto, each of which will be satisfied on the Closing Date and/or divested by operation of the Approval Order.

(b) Seller has not received, as of the Effective Date, any notice from the holder of any mortgage presently encumbering any Real Property, any insurance company which has issued a policy currently in effect with respect to Seller or from any board of fire underwriters (or other body exercising similar functions) claiming any defects or deficiencies in the Real Property requiring the performance of any repairs, alterations or other work to the Real Property which has not been accomplished.

(c) As of the Effective Date, no municipal or other governmental improvements located on the Real Property are in the course of construction or installation. As of the Effective Date, all assessments, affecting the Real Property, for street paving, curbing, sanitary sewers, storm sewers and other municipal or other governmental improvements which have been constructed or installed have been paid for and will not hereafter be assessed. Set forth on Schedule 3.6(c) is a list of all agreements with municipal authorities regarding payments or services in lieu of taxes, copies of which have been provided to Buyer.

(d) As of the Effective Date, there is no change in any municipal Law pending or threatened which would materially interfere with the primary use of any Real Property.

(e) As of the Effective Date, no condemnation proceeding or other proceedings in the nature of eminent domain ("Taking") is pending in connection with the Real Property and, to Seller's knowledge, no Taking has been threatened by any governmental agency, authority or instrumentality.

(f) No portion of the Real Property is located within an area designated as a flood hazard area or an area which will require the purchase of flood insurance for the obtaining of any federally insured or federally related loan. No portion of the Real Property is located in any area that has been delineated as constituting a "wetland" or "other water of the United States" or "waters of the United States" or "waters of the Commonwealth of Pennsylvania" (other than ground water) or in a "coastal zone" as defined under federal, state or local Law. No portion of the Real Property is located in any conservation or historic district.

(g) Schedule 3.6(g) contains a complete and correct list of all of the leases, tenancies, licenses and other agreements, as amended to date, for the use or occupancy of any portion of the Real Property in effect on the Effective Date (the "Tenant Leases"), setting forth, with respect to each (i) the name of the tenant; and (ii) the date of the Tenant Leases and the date of all written amendments or modifications thereof in Seller's possession or otherwise known to Seller. A copy of each such Tenant Lease and written amendments or modifications thereof in Seller's possession or otherwise known to Seller has been made available to Buyer.

(h) No tenant under any of the Tenant Leases has any right or option to acquire the Real Property or any portion thereof, and there are no outstanding agreements with any other party granting any right or creating any obligation to acquire the Real Property or any portion thereof or any interest therein.

(i) All buildings, plants, and structures constituting Acquired Assets are wholly within the boundaries of the Real Property and do not encroach upon the property of, or otherwise conflict with the property rights of, any other Person and the improvements on the adjoining land do not encroach onto the Real Property or any part thereof.

(j) All of the buildings on the Real Property are free of material defects of any kind. All of the Real Property (including, without limitation, the appliances, the plumbing, heating and electric systems, the cesspools and septic systems, and the elevators, if any) is in good order, condition and repair.

### 3.7. Environmental Matters.

(a) Except as set forth on Schedule 3.7 hereto:

(i) Seller has operated the Hospital and the Acquired Assets in compliance in all respects with all applicable Environmental Laws and all permits issued pursuant to Environmental Laws or otherwise;

(ii) Seller has obtained all permits required under all applicable Environmental Laws necessary to operate the Hospital;

(iii) Seller is not the subject of any outstanding order, notice, directive, or other writing from or contract with any Governmental Authority respecting (i) Environmental Laws, (ii) remedial action or (iii) any release or threatened release, in each case, relating to the operation of the Hospital or to any Acquired Asset, nor is Seller aware of any pending or threatened order, notice, directive, or other writing from or contract with any Governmental Authority, nor are

Seller in possession of any information which would lead to the issuance of any such order, notice, directive, or other writing from or contract with any Governmental Authority, in each such case(s) where such order, notice, directive, violation or other matters identified in this section would have a Material Adverse Effect; and

(iv) Seller has not received any written communication or other notice alleging that Seller may be in violation of any Environmental Law, or any permit issued pursuant to any Environmental Law, or may have any liability under any Environmental Law, in each case related to the Hospital or to any Acquired Asset, nor is Seller aware of any information that indicates a Hospital violation of Environmental Law, in each such case(s) where such violation would have a Material Adverse Effect.

(v) No actions, activities, circumstances, conditions, events or incidents, including the release, emission, discharge or disposal of any Materials of Environmental Concern have occurred at the Real Property or in connection with transportation or disposal of Materials of Environmental Concern from the Hospital that could form the basis of any Environmental Claim against Seller or the Hospital.

(vi) There are not now, nor to Seller's knowledge have there ever been, any underground or aboveground storage tanks containing Materials of Environmental Concern at, on or beneath the Real Property.

(vii) There are no asbestos containing materials, including friable asbestos containing materials, at the Real Property or at any of the physical plants constituting a portion of the Acquired Assets.

(viii) Any asbestos containing materials at the Real Property or at any of the physical plants constituting a portion of the Acquired Assets have been managed and are being managed in compliance, in all material respects, with obtained all permits required under all applicable Environmental Laws.

(b) All asbestos inspection reports, asbestos abatement closeout documentation, asbestos abatement monitoring reports, asbestos management plans or other documentation concerning or related to asbestos containing materials or the inspection, management or abatement thereof at the Real Property, to the extent necessary to operate the Hospital, except where the failure to have such reports are in Seller's possession or control, are identified on Schedule 3.7.

(c) All environmental reports, assessments or compliance audits in Seller's possession or control that refer or relate to the ownership or operation of the Hospital, the Real Property or the Acquired Assets are identified on Schedule 3.7.

(d) Seller has provided Buyer with complete copies of all written information in its possession or control pertaining to the matters set forth in this Section 3.7, including complete copies of all environmental permits, licenses, registrations or other approvals or

authorizations described on Schedule 3.8, any asbestos documentation identified on Schedule 3.7, and the environmental reports, assessments or audits identified on Schedule 3.7.

3.8. Permits and Licenses. Schedule 3.8 contains an accurate list of all material licenses, permits, registrations and other approvals or authorizations (including pending approvals or authorizations) of Governmental Authorities owned or held by Seller relating to the ownership or development of Hospital Operations, all of which are in good standing and not subject to challenge. The Hospital is duly licensed as a private psychiatric hospital with a capacity of sixty five (65) persons licensed by the Pennsylvania Department of Human Services.

3.9. Employees and Employee Benefits.

(a) Seller has provided to Buyer a complete list (as of the date set forth therein) of the names, positions, current annual salaries or wage rates, and bonus and other compensation arrangements, including accrued vacation, sick leave or paid time off of all employees of Seller employed in the Hospital Operations or the other operations of Seller related thereto (indicating whether each employee is part-time or full-time, their exempt status classification, visa status, if any, and, if such employee is not actively at work, the reason therefor).

(b) There is no pending or, to Seller's knowledge, threatened employee strike, work stoppage or slowdown or labor dispute.

(c) Schedule 3.9(c) contains a complete and correct list of all Employee Benefit Plans.

(d) To the extent applicable with respect to each Assumed Employee Benefit Plan, Seller has delivered to Buyer, true, complete, and correct copies of the following: (i) where the Employee Benefit Plan has been reduced to writing, the plan document together with all amendments; (ii) where the Employee Benefit Plan has not been reduced to writing, a written summary of all plan terms; (iii) where applicable, copies of any trust agreement or other funding arrangements, custodial agreements, insurance policies and contracts, administrative service agreements, adoption agreements, any investment management or investment advisory agreement and other similar agreements, each now in effect or required in the future as a result of the Transactions or otherwise; (iv) copies of any and all summary plan descriptions, summaries of material modifications, all handbooks, manuals, and other written communications (or a description of any oral communications) relating to such Assumed Employee Benefit Plan; (v) collective bargaining agreements and similar documents governing employment policies, practices, and procedures; (vi) Forms 5500 as filed for the three most recent plan years (and any schedules, financial statements, and attachments thereto); (vii) contracts with service providers, with insurers providing benefits for participants or liability insurance for fiduciaries and other parties in interest and bonding; (viii) where applicable, actuarial valuations and reports related to any Employee Benefit Plan with respect to the most recently completed plan year; (ix) most recent IRS determination letter for all plans qualified under Code Section 401(a) or, if applicable, the opinion or advisory letter from the IRS; (x) the most recent nondiscrimination tests performed under the application Sections of the Code; (xi) copies of any notices, communications, letters or other correspondence from the IRS, United States Department of

Labor ("DOL"), Pension Benefit Guaranty Corporation ("PBGC") or other Governmental Authority relating to an Employee Benefit Plan as well as copies of all communications to participants with respect to participation in, or benefits under any Employee Benefit Plan, including any IRS or DOL required communications.

(e) Neither the Seller nor any of its ERISA Affiliates has (i) incurred or reasonably expects to incur, either directly or indirectly, any liability under Title I or Title IV of ERISA or related provisions of the Code relating to an Employee Benefit Plan; (ii) failed to timely pay premiums to the PBGC; (iii) withdrawn from any Employee Benefit Plan which is a multiemployer plan under Section 3(37) of ERISA or a "multiple employer plan" as defined in Section 413(c) of the Code; (iv) engaged in any transaction which would give rise to liability under Section 4069 or Section 4212(c), respectively, of ERISA; or (v) engaged in any transaction described in Section 4204 of ERISA which may give rise to potential withdrawal liability.

(f) With respect to each Employee Benefit Plan (i) no such plan is a "multiemployer plan", as such term is defined in Section 3(37) of ERISA, (ii) no such plan is subject to Title IV of ERISA, Sections 302 or 303 of ERISA or Sections 412 or 436 of the Code, (iii) no such plan is a multiple employer plan as defined in Section 413(c) of the Code, (iv) no action has been initiated by the PBGC to terminate any such plan or to appoint a trustee or receiver for any such plan, and (v) no "reportable event" as defined in Section 4043 of ERISA has occurred with respect to any such plan.

(g) With respect to each Assumed Employee Benefit Plan no unsatisfied liabilities to participants, the IRS, the DOL, or to any other person or entity have been incurred as a result of the termination of any Assumed Employee Benefit Plan.

(h) All reports and information required to be filed with the DOL, IRS, any other governmental agency or with plan participants and their beneficiaries with respect to each Assumed Employee Benefit Plan have been filed and all annual reports (including Form 5500 series) of such Assumed Employee Benefit Plans were certified without qualification by each such Employee Benefit Plan's accountants.

(i) All Assumed Employee Benefit Plans may, without liability, be amended, terminated or otherwise discontinued except as specifically prohibited by federal law.

(j) Any bonding required under ERISA with respect to any Assumed Employee Benefit Plan has been obtained and is in full force and effect and no funds held by or under the control of Seller are plan assets.

(k) No Assumed Employee Benefit Plan provides benefits, including retiree, death, welfare or medical benefits, beyond termination of service or retirement other than (i) coverage mandated by law or (ii) death or retirement benefits under an Employee Pension Benefit Plan qualified under Section 401(a) of the Code.

(l) Except as disclosed on Schedule 3.9(l), Seller has not made a written or oral representation to any current or former employee promising or guaranteeing any employer paid continuation of medical, dental, life or disability coverage for any period of time beyond retirement or termination of employment.



(m) Each Assumed Employee Benefit Plan which is a “deferred compensation plan” within the meaning of Code Section 409A and the guidance thereunder has been administered in compliance with Code Section 409A and each such plan has been limited to a select group of management or highly compensated employees. Neither Seller nor any of its ERISA Affiliates has any obligation to gross-up, indemnify or otherwise reimburse any individual for any excise taxes, interest or penalties incurred pursuant to application of the provisions of Section 409A of the Code.

(n) No Employee Benefit Plans are maintained for the benefit of employees who primarily render services outside the United States of America.

(o) There has been no amendment to, announcement by Seller or any of its ERISA Affiliates relating to, or change in, employee participation or coverage under any Employee Benefit Plan or collective bargaining agreement that would increase the annual expense of maintaining such plan above the level of expense incurred for the most recently completed fiscal year of Seller with respect to any director, officer, employee, independent contractor or consultant, as applicable. Neither Seller nor any of its ERISA Affiliates has any commitment or obligation or has made any representations to any director, officer, employee, independent contractor or consultant, whether or not legally binding, to adopt, amend, modify or terminate any Employee Benefit Plan or any collective bargaining agreement.

(p) Each Employee Benefit Plan has been administered in compliance in all material respects with its terms, and is in compliance in all material respects with the applicable provisions of ERISA, the Code and all other Legal Requirements (including, without limitation, the Age Discrimination in Employment Act (“ADEA”), Part G of Subtitle I of ERISA and Section 4980B of the Code (collectively, “COBRA”), the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Patient Protection and Affordable Care Act of 2010, as amended (“ACA”) and any regulations or rules promulgated thereunder), and all filings, disclosures and notices required by ERISA, the Code, ADEA, COBRA, HIPAA and the ACA and any other Legal Requirements have been timely made; (ii) all contributions to, and payments from, each Employee Benefit Plan which may have been required to be made in accordance with such Employee Benefit Plan have been timely made (including without limitation any insurance premiums due under an insurance policy related to an Employee Benefit Plan); (iii) all contributions to all Employee Benefit Plans, and all payments under the Employee Benefit Plans, except those to be made from a trust qualified under Section 401(a) of the Code, required to be made for any period ending before the date hereof have been paid, or if such contributions or payments were not required to have been made on or before the date hereof, are properly accrued and reflected on the books of account of the Seller; (iv) during the period for which the relevant statute of limitations remains open there have been no inquiries, proceedings, claims or suits pending or, to the knowledge of Seller, threatened by any governmental agency or authority or by any participant or beneficiary against any of the Employee Benefit Plans (other than routine claims for benefits thereunder), the applicable plan sponsor or plan administrator, or against any fiduciary of any of such Employee Benefit Plan; (v) within the three (3) years prior to the date of this Agreement, no Employee Benefit Plan has been the subject of an application or filing under, or is a participant in, an amnesty, voluntary compliance, self-correction or similar program sponsored by the IRS or the DOL; (vi) each Employee Pension Benefit Plan which is intended to be “qualified” within the meaning of Sections 401(a), 403(b) or 457 of the Code is and has from

its inception been so qualified, and any trust created pursuant to any such Employee Pension Benefit Plan is exempt from federal income tax under the Code and the IRS has, to the extent applicable, issued each such Employee Pension Benefit Plan a favorable determination letter which is currently applicable, or with respect to any prototype or volume submitter plan, can rely on an opinion letter from the IRS to the prototype or volume submitter plan sponsor; (vii) to the knowledge of Seller, no circumstance or event exists which would cause the termination of the tax-qualified status of any such Employee Pension Benefit Plan or the loss of the tax-exempt status of any related trust, or which would cause the imposition of any liability, penalty or tax under ERISA or the Code with respect to any Assumed Employee Benefit Plan; (viii) nothing has occurred with respect to any Employee Benefit Plan that has subjected or would reasonably be expected to subject Seller or any of its ERISA Affiliates or, with respect to any period on or after Closing, Buyer, to a penalty under Section 502 of ERISA or to tax or penalty under Section 4975 of the Code, and (ix) Seller is not and will not be liable for a "shared responsibility" penalty under Section 4980H of the Code and the guidance promulgated thereunder.

(q) The consummation of the Transactions will not, either alone or together with any other payment made in connection with the Transactions, or required to be made under an Employee Benefit Plan as in effect immediately prior to the Closing, in the event of a termination of employment within the one year period immediately following the Closing, (i) entitle any employee of the Seller to severance pay, unemployment compensation or any other payment from the Seller, (ii) accelerate the time of payment or vesting, or increase the amount of compensation due to any such employee of the Seller, (iii) increase the amount payable under, or result in, any other material obligation pursuant to any Employee Plan, (iv) result in "excess parachute payments" within the meaning of Section 280G(b) of the Code; or (v) require a "gross-up" or other payment to any disqualified individual within the meaning of Section 280G(c) of the Code. To the extent applicable, Seller has made available to Buyer true and complete copies of any calculations under Section 280G of the Code prepared (whether or not final) with respect to any disqualified individual in connection with the Transactions.

(r) Seller has not incurred any liability with respect to any payment, or obligation to make a payment, to any employee, arising out of the contemplated Transaction. No employee of Seller or any ERISA Affiliate is party to, or is otherwise bound by, any agreement or arrangement with any Person which limits or adversely affects the performance of his or her duties or the ability of Seller to operate the Hospital (including any confidentiality, non-competition or proprietary rights agreements).

(s) Neither Seller nor any ERISA Affiliate has made, or purported to make, any commitment to any employees in respect of any possible employment or increases in compensation by Buyer following the Closing.

(t) All employees of the Company and independent contractors of the Company (if any) have been properly classified as such for all purposes, including but not limited to tax purposes and eligibility for or participation in any Employee Benefit Plan.

3.10. Litigation and Proceedings.

(a) Schedule 3.10 contains an accurate list and summary description of all claims, actions, suits, litigation, arbitration, mediations, investigations and other proceedings pending against or otherwise affecting Seller, the Hospital Operations or the Acquired Assets. If necessary, based upon a change in circumstances, Seller shall deliver to Buyer an updated Schedule 3.10 as of the Closing Date.

(b) There are no actions, suits, litigation, arbitration, mediations, investigations or other proceedings (including *qui tam* actions) pending, affecting or threatened against Seller, the Hospital or the Acquired Assets, which, if adversely determined, would have a Material Adverse Effect on (i) the ability of any party hereto to consummate the Transactions, or (ii) the ability of Buyer to operate the Hospital after the Closing Date in the manner described in this Agreement.

3.11. Taxes.

(a) Except with respect to the IRS 990 Form for the fiscal year ending June 30, 2016, which Seller shall file prior to the Closing Date, Seller has timely filed or caused to be timely filed with the appropriate Taxing Authority, all Tax Returns required to be filed by or on behalf of Seller (taking into account any valid extensions of time for filing). Seller has timely paid in full or caused to be timely paid in full all Taxes due and payable by Seller (whether or not shown as due and payable on any Tax Return). All such Tax Returns are true, correct and complete in all material respects. There are no liens for Taxes upon Seller or its assets, except liens for current Taxes not yet due and payable. Seller has not granted any waiver of any statute of limitations with respect to, or any extension of a period for the assessment of, any Taxes. Seller is not is the beneficiary of any extension of time within which to file any Tax Return that has not been filed.

(b) There is no action, suit, proceeding, investigation, audit, claim, assessment or judgment now pending against Seller in respect of any Tax, and no notification of an intention to examine or notice of deficiency or proposed adjustment for any amount of any Tax of Seller has been received by Seller or, to the knowledge of Seller, is threatened, by any Taxing Authority. No claim has been made by a Taxing Authority in a jurisdiction where Seller does not file Tax Returns such that it is or may be subject to taxation by that jurisdiction.

(c) There is no Tax sharing or allocation agreement, arrangement or contract with any Person pursuant to which Seller would have liability for Taxes of another Person following the Closing. Seller (i) has never been a member of any consolidated, combined or unitary group of corporations for which it could be liable for Taxes of any other person pursuant to Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Tax law) and (ii) does not have any liability for the Taxes of any other Person by reason of being a successor or transferee by merger, liquidation or similar transaction. Seller has no liability for Taxes of another Person for any Tax period.

(d) Seller has timely withheld and timely paid to the appropriate Taxing Authority all Taxes that Seller was required to withhold and pay to a Taxing Authority, and has

timely filed all information returns or reports, including, without limitation, Forms 1099 and W-2, and has accurately reported all information required to be reported on such returns or reports.

(e) Seller has properly and timely imposed, collected and paid all sales or similar Taxes with respect to any product or service sold by Seller, as required under the applicable laws of each applicable Taxing Authority.

(f) Seller has not been a participant in or material advisor (within the meaning of Section 6112 of the Code) to any "reportable transaction" as defined in Section 6707A of the Code or within the meaning of Treasury Regulations Section 1.6011-4 (or any predecessor provision) or any analogous or comparable provision of state, local or foreign law.

(g) Seller has been continuously recognized by the Internal Revenue Service as an organization described in Section 501(c)(3) of the Code that is exempt from federal income tax under Section 501(a) of the Code, and as an organization that is other than a "private foundation" under Section 509(a)(1) of the Code, at all times since Seller's 1990 tax year.

(h) For purposes of this Section 3.11, any reference to Seller shall include any predecessor or subsidiary of Seller (if any).

(i) There is no action pending by any Governmental Authority to revoke any federal, state or local tax exemption of Seller.

3.12. Brokers and Finders. Except as described on Schedule 3.12, neither Seller, nor any officer, trustee, director, employee or agent of Seller, has engaged any finder or broker in connection with the Transactions.

3.13. Inventory. The Purchased Inventory is of a quality usable in the ordinary course of business consistent with Hospital's past practices. The Purchased Inventory will provide (a) sufficient medical supplies (other than drugs) of the nature included in the Purchased Inventory to enable Buyer to operate the Hospital in the ordinary course for fifteen (15) days following the Closing Date, and (b) sufficient drugs and food of the nature included in the Purchased Inventory to enable Buyer to operate the Hospital in the ordinary course for seven (7) days following the Closing Date.

3.14. Investments; Affiliates. Schedule 3.14 lists all Affiliates of Seller and all other corporations and other entities in which Seller is a member, or owns, directly or indirectly, 25% or more of any class of capital stock or other equity interest, and indicates, with respect to the equity securities of each such entity, the number of shares, or other equity interests, of each class authorized, the number outstanding, and the number owned or controlled, directly or indirectly, by Seller. For each Affiliate of a Seller that is a nonprofit membership corporation, Seller is the sole member of such corporation. For each other Affiliate of a Seller, all of the shares of capital stock or other equity interests of such Affiliate are duly and validly authorized, issued and outstanding, fully paid and nonassessable, and all such equity interests owned by Seller are owned free and clear of any claim, lien, encumbrance, or agreement with respect thereto.

3.15. Compliance with Laws.

(a) Except as disclosed on Schedule 3.15(a), Seller is, and during the period of any applicable statute of limitations has been, in compliance in all material respects with all federal, state and local statutes, ordinances, regulations, laws, judgments and decrees of any court or governmental entity or agency applicable to Seller, the failure of which would have a Material Adverse Effect on the Acquired Assets or on Buyer's ability to acquire, own and operate the Acquired Assets as contemplated hereunder (collectively, "Laws"). During the period of any applicable statute of limitations, Seller has not received any notice, order or other communication from any government or governmental agency or instrumentality (federal, state, local or foreign) of any alleged, actual or potential violation of or failure to comply with any material Law and, to the best of Seller's knowledge, no event has occurred or circumstance exists that may constitute or result in (with or without notice or lapse of time) a violation by Seller, or a failure by Seller to comply with, any material Law.

(b) Without limiting the scope of Section 3.18(a), (i) Seller has complied in all material respects with all applicable Laws with respect to the employment or recruitment by it of physicians, dentists, podiatrists, chiropractors, and other healthcare personnel, including, without limitation, the Laws of the Commonwealth of Pennsylvania with respect to the employment of professionals by non-professionals, and Laws with respect to the payment for, or referral of, services to be reimbursed by funds provided by Medicare or Medicaid, and (ii) no employee or agent of Seller has engaged in any activities that are prohibited under Federal Medicare and Medicaid statutes, 42 U.S.C. §§ 1302a-7, 1320a-7(a), 1320a-7b and 1395nn, or the regulations promulgated pursuant to such statutes or related state or local statutes or regulations, or which are prohibited by rules of professional conduct. Seller has previously provided to Buyer a description of all current and pending investigations of Seller and its employees known to Seller.

(c) Without limiting the scope of Section 3.18(a), neither Seller nor, to the best of Seller's knowledge, any officer, director, employee, agent or representative of Seller, has made, directly or indirectly, with respect to the business of Seller, any illegal political or illegal charitable contributions, payments from corporate funds not recorded on the books and records of Seller, payments from corporate funds that were falsely recorded on the books and records of Seller, payments from corporate funds to governmental officials in their individual capacities for the purpose of affecting their action or the action of the government they represent to obtain favorable treatment in securing businesses or licenses or to obtain special concessions, illegal payments from corporate funds to obtain or retain business, or payment of remuneration in violation of any applicable fraud and abuse statute.

(d) Seller is, and at all times has been, in possession of all authorizations necessary to own, lease or operate its assets and properties and to carry on its business. To the best knowledge of Seller, the authorizations currently in effect are in full force and effect without any default or violation thereunder by Seller or by any other party thereto. Seller is, and at all times has been, in compliance in all material respects with all authorizations applicable to it or to the conduct or operation of its business or the use of any of its assets or properties, the failure of which would have a Material Adverse Effect on the Acquired Assets or on Buyer's ability to acquire, own and operate the Acquired Assets as contemplated hereunder and, except as

disclosed in Schedule 3.15(d), all such authorizations may be assigned to Buyer without the consent or approval of any Person, government or governmental agency or instrumentality (federal, state, local or foreign). Seller has not received any notice that any such authorization currently in effect may be revoked or may not in the ordinary course be renewed upon its expiration or that by virtue of the transactions contemplated hereby that any such authorization may be revoked or may not be granted, renewed or transferred to Buyer.

3.16. Participation in Medicare and Medical Assistance.

(a) The Hospital is qualified for participation in the Medicaid program, has a current and valid provider contract with such program, is in compliance in all material respects with the conditions of participation in such program, and has received all approvals or qualifications necessary for capital reimbursement for the Hospital under such program. The Girard Medical Center private psychiatric hospital was first licensed on March 11, 2016 and has not yet been enrolled to participate in Medicare. Prior to the closing of the Seller's St. Joseph's Hospital services on March 14, 2016, all of the Seller's healthcare programs operating under the St. Joseph's Hospital license, including healthcare operations of the Hospital at such time, were qualified for participation in the Medicare and TriCare/CHAMPUS programs, had then current and valid provider contracts with such programs, were in compliance in all material respects with the conditions of participation in such programs, and had received as necessary or required any approvals or qualifications necessary for capital reimbursement under such programs. A listing of the NPI numbers and Medical Assistance provider numbers for the Hospital and all physicians and physician extenders employed by Seller is set forth on Schedule 3.16(a). All billing practices of Seller during the past six (6) years to all third party payors, including the Medicare, Medical Assistance and TriCare/CHAMPUS programs and private insurance companies, if, when and as applicable, have been in compliance with all applicable laws, regulations and policies of such third party payors and the Medicare, Medical Assistance and TriCare/CHAMPUS programs, and Seller has not billed or received any payment or reimbursement in excess of amounts allowed by law, except for amounts that have been refunded to the applicable third party payors. Seller has not, and none of its employees have, been excluded from participation in the Medicare, Medicaid or TriCare/CHAMPUS programs, nor is any such exclusion threatened.

(b) Except as set forth on Schedule 3.16, Seller (i) is not a party to a Corporate Integrity Agreement with the Office of Inspector General of the United States Department of Health and Human Services, (ii) does not have any reporting obligations pursuant to any settlement agreement entered into with any Governmental Authority, (iii) has not been, within the past six (6) years, the subject of any governmental payer program investigation conducted by any Governmental Authority, (iv) has not been, within the past six (6) years a defendant in any qui tam/False Claims Act litigation, (v) has not been, within the past six (6) years, been served with or received any search warrant, subpoena, civil investigative demand, or, contact letter or telephone or personal contact by or from any federal or state enforcement agency, and (vi) has not, during the past six (6) years, received any written complaints from any employee, independent contractor, vendor, physician or other person or organization that would indicate that Seller has violated any law applicable to the Hospital or the Acquired Assets. Seller is not subject to, or a beneficiary of, any outstanding loan, grant or loan guarantee pursuant to the Hill Burton Act.

(c) Except as disclosed in Schedule 3.16, the cost and other reports of Hospital for Medicare and Medicaid payments and reimbursement for all reporting years from June 30, 2015 through June 30, 2016, respectively, have been audited and fully settled. All Medicare and Medicaid cost reports of Hospital through the reporting years ended June 30, 2015 through June 30, 2017, respectively, were filed when due and all such reports were complete, accurate and in compliance in all material respects with all applicable Laws. Except as disclosed in Schedule 3.16, there is no dispute (nor is there any basis for any such dispute) between Seller and any Governmental Authority or the Medicare fiscal intermediary regarding such cost reports. All liabilities and contractual adjustments of Seller under Medicare, Blue Cross and other reimbursement programs have been properly reflected and adequately reserved for on Seller's financial statements as of the date thereof. Except as disclosed in Schedule 3.16, there are no claims of any kind or nature by any third party payor plan pending or, to the best knowledge of Seller, threatened, against Seller.

3.17. Title. Upon transfer of the Acquired Assets to Buyer at the Closing as contemplated by this Agreement, Buyer shall acquire good and valid title thereto, subject to the interest of any lessor under any Assumed Contract and/or licensor in any of the Acquired Assets, free and clear of all claims, interests and Encumbrances, except Assumed Liabilities and Permitted Real Property Encumbrances.

3.18. List of Properties, Contracts, etc. Schedule 3.18 contains a complete and accurate list of each Contract related to the Hospital Operations to which Seller is a party or by which Seller or any of a Seller's assets is bound, except Contracts set forth in Schedule 3.6(g). A complete and accurate copy of each Contract listed on Schedule 3.18 has been made available to Buyer.

3.19. Relationships With Affiliated Persons. Except as disclosed in Schedule 3.19, no current individual Affiliate of the Seller, nor any member of the immediate family of any current individual Affiliate (collectively "Affiliated Persons") has, or has had, any interest in any property (whether real, personal or mixed and whether tangible or intangible) used in or pertaining to any of businesses of Seller relating to operation of the Hospital.

3.20. Absence of Certain Changes and Events. Except as disclosed in Schedule 3.20, and except as contemplated by this Agreement and as otherwise arising as a result of the commencement of the Bankruptcy Cases, since the date of the Balance Sheet, Seller has conducted its business in the ordinary course consistent with past practice, and there has not been any:

(a) declaration or payment of any distribution or payment in respect of the membership or ownership interest in Seller, or any repurchase or redemption of any such interests;

(b) amendment to the Articles of Incorporation, Bylaws, or other organizational documents of Seller;

(c) material increase by Seller of any bonuses, salaries, or other compensation (except for payment of salary and increases thereto in the ordinary course

consistent with past practice) to any member, shareholder, director, trustee, officer or employee or entry into (or amendment of) any employment, severance or similar agreement with any member, shareholder, director, trustee, officer or employee;

(d) adoption of, change in or increase in the payments to or benefits under any Employee Benefit Plan or labor policy;

(e) borrowing or incurring of any indebtedness, obligation or liability, contingent or otherwise, except current indebtedness incurred in the ordinary course of business;

(f) loan or advance made to any Person except for advances not material in amount made in the ordinary course of business;

(g) other than in the ordinary course of business, the sale, assignment, conveyance, lease, or other disposition of any asset or property of Seller that would, if held by Seller at the Closing, constitute an Acquired Asset;

(h) cancellation or waiver of any claims or rights that would, if transferred to Buyer at the Closing, constitute an Acquired Asset with a value to Seller in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000) (either individually or collectively); or

(i) change in the accounting methods, principles or practices followed by Seller or its Affiliates or any change in any of the assumptions underlying, or methods of calculating, any bad debt, contingency or other reserve.

3.21. Medical Staff Credentials. The Hospital is in material compliance with respect to its obligations under the Hospital's Medical Staff Bylaws, the Health Care Quality Improvement Act, and the applicable rules and regulations of all applicable accrediting and similar bodies, including with respect to the following: (a) reviewing the credentials of the medical staff of the Hospital; (b) acting upon applications for appointment and reappointment to the medical staff of the Hospital, including the grant of specifically delineated clinical privileges; and (c) initiating and taking corrective action with respect to members of the medical staff of the Hospital, including "fair hearing" and appeals procedures.

3.22. Books and Records. The books and records of Seller, including financial records and books of account, are complete and accurate in all material respects and have been maintained in accordance with sound business practices. To the extent such books and records constitute financial records or books of account, they fairly present revenues, expenses, assets and liabilities, all in a manner that will allow the preparation of financial statements that comply with GAAP.

3.23. Intellectual Properties, Computer Software. Except as described in Schedule 23, and except for customary licensing fees payable under the Assumed Contracts, Seller has the right to use, free and clear of any royalty or other payment obligations, claims of infringement or other liens, (i) all Intellectual Properties used or needed by Seller in the Hospital Operations, and (ii) all computer software, programs and similar systems owned by or licensed under Assumed Contracts to Seller and used in the conduct of the Hospital Operations. Seller is not in material conflict with or in material violation or infringement of, nor has Seller received



would not have a notice alleging any conflict with or violation or infringement of, any rights of any other Person with respect to any Intellectual Properties or computer software, programs or similar systems. To Seller's knowledge, no other Person is in conflict with or in violation or infringement of Seller's rights in such Intellectual Properties or computer software, programs or similar systems.

3.24. Insurance.

(a) Schedule 3.24(a) contains a complete and accurate list of all policies and binders of insurance (including, without limitation, property, casualty, liability, professional liability, life, health, accident, workers' compensation and disability insurance and bonding arrangements) owned by or maintained for the benefit of Seller or under which Seller or any member, shareholder, director, trustee, officer or employee thereof is a party or is covered in connection with the Hospital Operations.

(b) Schedule 3.24(b) describes each contract or arrangement, other than a policy of insurance or a third party payor contract that provides for the transfer to, or sharing of any risk by Seller in connection with the Hospital Operations.

(c) Schedule 3.24(c) sets forth, to the best knowledge of Seller, by year for the current policy year and each of the five preceding policy years:

(i) a summary of the loss experience under each policy required to be disclosed under subparagraph (a) above;

(ii) a statement describing all claims under each such insurance policy for an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000) (FIFTY THOUSAND DOLLARS (\$50,000) in the case of property and auto insurance), which sets forth: (A) the name of the claimant; (B) the description of the policy by insurer, type of insurance, and period of coverage; and (C) the amount and a brief description of the claim; and

(iii) a statement describing the loss experience for all claims that were self-insured, including the number and aggregate cost of such claims.

(d) Schedule 3.24(d) describes all obligations of Seller to provide insurance coverage to third parties (such as, for example, under leases or service agreements) and identifies the policy under which such coverage is provided.

(e) Schedule 3.24(e) describes any self-insurance or loss retention arrangements by or affecting Seller, including any reserves established thereunder.

(f) Except as disclosed in Schedule 3.24(f):

(i) All policies to which Seller is a party or that provide coverage to Seller or a trustee or director thereof: (A) are valid, outstanding, and enforceable; and (B) are sufficient for compliance in all material respects with all Laws and Contracts to which Seller is a party or by which Seller is bound.

(ii) Seller has not received (A) any refusal of coverage or any notice that a defense will be afforded with reservation of rights; (B) any notice that an issuer of any insurance policy has filed for protection under applicable bankruptcy laws or is otherwise in the process of liquidating or has been liquidated; (C) any notice of cancellation or any other indication that any insurance policy is no longer in full force and effect or that the issuer of any policy is not willing or able to perform its obligations thereunder; or (D) any notice from an insurer to discontinue any coverage afforded to Seller or a director, trustee, officer or employee of Seller.

(iii) Seller has paid all premiums due, and has otherwise performed its obligations, under each policy listed or required to be listed in Schedule 3.24(a).

(iv) Seller has given timely notice to the insurer of all claims.

3.25. Assumed Contracts. Each Assumed Contract was made in the ordinary course of business, is in full force and effect and is valid, binding and enforceable against the parties thereto in accordance with its terms and may, pursuant to the Approval Order and the Orphans' Court Approval, without default or breach thereunder, be assigned to Buyer without any consent, approval or waiver from any Person except as set forth on Schedule 3.25 hereto. Upon payment of any applicable Cure Payments, no condition will exist and no event will have occurred which with notice or lapse of time would constitute a default under any Assumed Contract, other than defaults of the type identified in Section 365(b)(2) of the Bankruptcy Code, or a basis for delay, nonperformance, termination, modification or acceleration of maturity or performance by any counter-party thereto.

3.26. Condition of Assets. Seller makes no representations or warranties with respect to the condition of the Acquired Assets which Buyer agrees to purchase "as is, where is." Schedule 3.26 hereto is Seller's current deferred capital goods and systems replacement and maintenance schedule which includes an accurate and complete listing, with reasonable detail, of all current repair, maintenance and other capital requirements with respect to the Acquired Assets or otherwise with respect to the Hospital, Hospital Operations and improvements to real property.

3.27. Disclosure. No representation or warranty by Seller in this Agreement, nor any certificate, schedule, statement, exhibit, document or instrument furnished or to be furnished to Buyer pursuant hereto or in connection with this Agreement, contains or will contain any untrue statement of a material fact, or omits or will omit to state a material fact required to be stated herein or therein as necessary to make any statement herein or therein not misleading.

#### 4. Representations And Warranties of Buyer.

Buyer and MBHS separately each make the following representations and warranties to Seller on and as of the Effective Date and shall be deemed to make them again at and as of the Closing. Buyer and MBHS represent and warrant to Seller as follows:

4.1. Organization. MBHS and Buyer are each a Delaware limited liability company duly organized and validly existing in good standing under the laws of Delaware.

4.2. Corporate Powers; Consents; Absence of Conflicts, Etc. MBHS and Buyer each have the requisite power and authority to conduct their respective business as now being conducted, to enter into this Agreement, and to perform their respective obligations hereunder. The execution, delivery and performance by MBHS and Buyer of this Agreement and the consummation of the Transactions:

(a) are within its corporate powers and are not in contravention of the terms of their respective governing documents, as amended to date, and have been approved by all requisite corporate action;

(b) except as otherwise expressly herein provided, do not require any approval or consent of, or filing with, any Governmental Authority bearing on the validity of this Agreement;

(c) do not conflict with or result in any breach or contravention of any material agreement to which either MBHS or Buyer is a party or by which either is bound; and

(d) do not violate any Legal Requirement to which MBHS or Buyer may be subject.

4.3. Binding Agreement. This Agreement and all instruments and agreements hereunder to which MBHS or Buyer is or becomes a party are (or upon execution will be) valid and legally binding obligations of MBHS or Buyer as applicable, enforceable against it in accordance with the respective terms hereof and thereof, except as enforceability against them may be restricted, limited or delayed by applicable bankruptcy or other laws affecting creditors' rights generally and except as enforceability may be subject to general principles of equity.

4.4. Brokers and Finders. Neither MBHS, Buyer, nor any Affiliate thereof, nor any officer, director, employee or agent thereof, has engaged any finder or broker in connection with the Transactions.

5. Interim and Post-Closing Covenants of the Parties.

5.1. Hospital Operations Pending Closing. From the Effective Date until the Closing Date, and except as otherwise expressly provided in this Agreement, and except as a result of the commencement of the Bankruptcy Case, or as may otherwise be required by the Bankruptcy Court and/or the Orphans' Court, Seller agrees to conduct the Hospital Operations and Seller's other operations in substantially the same manner as they have heretofore, and not make, without the prior written consent of Buyer, which approval may be withheld by Buyer in its sole discretion, any material change in personnel, operations, finances, accounting policies, or real or personal property of the Hospital Operations or other operations of Seller.

5.2. Negative Covenants of Seller. Without the prior written consent of Buyer, which approval may be withheld by Buyer in its sole discretion, Seller shall not, between the date hereof and the Closing: (a) dissolve, liquidate or merge or affiliate with any other entity; (b) enter into any Contract or modify or terminate any existing Contract that would have a Material Adverse Effect, other than in the ordinary course of business; (c) create, assume or permit to exist any encumbrance upon any of the Acquired Assets that cannot be removed or

eliminated prior to the Closing Date; or (d) take any action outside the ordinary course of business of the Hospital.

5.3. Affirmative Covenants of Seller. Between the date of this Agreement and the Closing, Seller shall:

(a) maintain the Hospital Operations and other related operations of Seller, including the grounds and physical plant, in substantially the state of repair, order and condition as on the date hereof, reasonable wear and tear excepted;

(b) maintain in full force and effect all Licenses, currently in effect with respect to the Hospital and other related operations of Seller;

(c) maintain in full force and effect the insurance policies and binders currently in effect with respect to the Hospital Operations and other related operations of Seller;

(d) utilize commercially reasonable efforts to preserve intact the present business organization of the Hospital Operations and other related operations of Seller; keep available the services of present employees and agents, and any other employees and agents employed in connection with the Hospital and other related operations of Seller; and maintain Seller's relations and goodwill with the suppliers, patients, employees, affiliated personnel and anyone having business relating to the Hospital or other related operations of Seller;

(e) maintain all of the books and records relating to the Hospital and other related operations of Seller in accordance with its past practices in all material respects;

(f) on the Effective Date, file a motion (or motions) with the Bankruptcy Court, in form and substance satisfactory to the Buyer, (the "Sale Motion") seeking (i) entry of an order (the "Procedures Order") (A) establishing procedures for potential competing offers to purchase the Acquired Assets (the "Auction Procedures"), and (B) designating the Buyer as the "stalking horse" bidder for the Acquired Assets and entitling the Buyer to its reasonably documented actual out-of-pocket fees and expenses (including legal, accounting and other fees and expenses), up to \$200,000, incurred in connection with the negotiation and documentation of this Agreement, the performance by the parties of their respective obligations under this Agreement and the monitoring of, and participation in, the Bankruptcy Case to the extent reasonably related to the sale by the Seller of the Offered Assets (as defined in the Sale Motion), plus 3% of the sale price if the Debtor sells all or substantially all of the Acquired Assets in a transaction or a series of transactions with one or more persons other than the Buyer in accordance with the Procedures Order, with such amounts being payable upon the closing or consummation of such alternate transaction(s), and (ii) setting a hearing (the "Sale Hearing") to consider entry of an order (the "Approval Order") approving the Transactions;

(g) within five (5) days of receipt from Buyer of Schedule 2.8, provide notice to the counter-parties to all Contracts listed on Schedule 2.8, in form and substance satisfactory to the Buyer (the "Assumption and Assignment Notices"), (i) advising each such counter-party that its Contract with the Seller has been designated for assumption by Seller and assignment to the Buyer pursuant to the terms of this Agreement, (ii) stating the Cure Payment which the Seller contends will be due to such counter-party upon assumption, (iii) including as an attachment a

copy of the applicable Contract and advising the applicable counter-party that unless such counter-party objects, such attached Contract will be determined by the Bankruptcy Court to be a complete and accurate copy of the Contract between such counter-party and the Seller, and (iv) advising such counter-party that the Bankruptcy Court will consider Seller's request to assume such Contract and assign it to the Buyer at the Sale Hearing and of the deadline for any objections to such assumption and assignment;

(h) on or prior to the Closing Date, purchase and obtain Tail Coverage to take effect as of the Closing Date;

(i) provide the Buyer with drafts of all pleadings to be filed with any Governmental Authority relating to the sale contemplated by this Agreement at least two (2) business days in advance of filing and as filed copies of all such pleadings immediately after filing; and

(j) serve notices of all pleadings on creditors of Seller and on all parties in interest, as required by, and within the time periods provided under, the Bankruptcy Code and all orders of the Bankruptcy Court;

5.4. Post-Closing Capital Expenditures. Buyer shall expend or invest an amount up to FIVE MILLION DOLLARS (\$5,000,000) during the thirty-(30)-month period following the Closing Date to address the capital needs of the Hospital with respect to required investment in physical plant, equipment, strategic programming and other areas that Buyer deems appropriate ("Post-Closing Expenditures"), the final amount of which Post-Closing Expenditures shall be within the sole discretion of Buyer.

5.5. Employee Matters.

(a) Buyer shall offer employment to substantially all of the active employees of Seller providing services at the Hospital as of the Closing Date, such offer of employment to be (i) on terms and conditions comparable to similarly-situated employees in the market, but in no event on terms and conditions more favorable than the terms and condition applicable to the then current comparable employees of Buyer or its Affiliates, and (ii) contingent upon the results of Buyer's hiring practices, including, without limitation, customary background checks and employee interviews. Seller shall permit Buyer to have access to Seller's personnel files in order to assist Buyer in determining those employees to whom such offer of employment will be made. At least five (5) days prior to the date of the Sale Hearing, Buyer shall deliver to Seller a written list of those employees to whom Buyer will offer employment. Buyer shall give all Hired Employees credit for their vacation, holiday and sick pay as listed on Schedule 5.5(a), which Schedule 5.5(a) shall be updated by Seller at least three (3) days prior to the Closing Date.

(b) On or after the Closing Date, the Assumed Employee Benefit Plans, if any, may, at Buyer's election and subject to the provisions of the Code and the terms of such Employee Benefit Plans, continue to be maintained separately, amended, consolidated, frozen or terminated.

(c) With respect to Buyer's Employee Pension Benefit Plans, Hired Employees shall receive, for purposes of eligibility to participate only (and specifically not for

purposes of vesting or benefit accrual) under Buyer's Employee Pension Benefit Plans, credit for all service with Seller credited to each such Hired Employee under Seller's Employee Pension Benefit Plans and shall be eligible for, and commence participation in, Buyer's Employee Pension Benefit Plans in accordance with their terms as of the first (1st) day they are otherwise eligible under the terms of the applicable plan following the Closing Date.

(d) With respect to Buyer's Employee Welfare Benefit Plans which provide medical, dental or eye care coverages, Hired Employees shall receive, for purposes of eligibility to participate in any such Buyer Employee Welfare Benefit Plan, credit for all service with Seller and Buyer shall waive, to the extent it may do so under any of Buyer's Employee Welfare Benefit Plans, any pre-existing condition exclusions and permit Hired Employees to commence participation in such applicable Buyer Employee Welfare Benefit Plan in accordance with its terms.

(e) With respect to Employee Welfare Benefit Plans or applicable payroll plans of Buyer which provide for vacation pay, holiday pay and sick pay, Hired Employees shall receive credit for all service with Seller for purposes of determining eligibility for, and levels of participation in, such applicable Buyer Employee Welfare Benefit Plan or applicable payroll plans in accordance with its terms.

(f) Seller agrees not to communicate to any employees of Seller any information regarding Buyer's intentions with respect to continuation of employment under Buyer and the terms and conditions of such continued employment, except to the extent that such communication is approved in advance by Buyer.

5.6. Access to and Provision of Additional Information; Due Diligence.

(a) From the Effective Date until the Closing Date, Seller shall provide to Buyer full and complete access to and the right to inspect the Acquired Assets, Real Property, physical plant, books and records of Seller relating to the Hospital Operations and other operations of Seller, and will furnish to Buyer all material information concerning the Hospital Operations and other operations of Seller not otherwise disclosed pursuant to this Agreement, and such additional financial, operating and other data and information regarding the Hospital Operations as Buyer may from time to time reasonably request, provided such data and information are in the possession and/or control of Seller. Seller shall permit Buyer to inspect the Inventory upon Buyer's request to determine whether the condition contained in Section 3.13 hereof shall be satisfied on the Closing Date.

(b) From the Effective Date until the Closing Date, Seller shall cause its officers and employees to confer on a regular and frequent basis with one or more representatives of Buyer and to answer Buyer's questions regarding matters relating to the conduct of the Hospital Operations and the status of Transactions. Seller shall notify Buyer in writing of any material changes in the operations, financial condition or prospects of the Hospital or other operations of Seller and of any complaints, investigations, hearings or adjudicatory proceedings (or communications indicating that the same may be contemplated) of any Person and shall keep Buyer reasonably informed of such matters.

(c) Without limiting the generality of the foregoing, Buyer will proceed with all due diligence to conduct such investigations with respect to the Hospital Operations as it deems to be reasonably necessary in connection with its purchase thereof, including, but not limited to, zoning investigations, soil studies, environmental assessments, asbestos inspections, seismic assessments, wetlands reports, investigations of the Hospital's books and records and structural inspections (the "Due Diligence Review"); provided, however, that Buyer shall, except as otherwise required by Legal Requirements, maintain the confidentiality of any documents or information obtained by it during the course of its Due Diligence Review. Buyer shall conduct such Due Diligence Review in a manner that will not interfere with the business or operations of Seller, or harm or damage the Acquired Assets or any of the property located on the Real Property. Buyer shall restore the same to its condition prior to any such Due Diligence Review immediately after conducting such review and repair immediately any damage thereto caused by Buyer or any of its agents, employees or contractors. Buyer agrees not to conduct any drilling or boring at the Real Property without the prior written consent of Seller, which consent shall not be unreasonably withheld. The provisions of this Section 5.6(c) shall survive the Closing and the termination of this Agreement.

(d) Buyer agrees to indemnify, defend and hold Seller harmless from and against any liabilities, losses, claims, demands, costs, expenses (including reasonable attorneys' fees and litigation costs) and judgments of any nature arising or alleged to arise from or in connection with any injury to, or death of, any person or loss or damage to property resulting from Buyer's negligent acts or omissions in connection with any Due Diligence Review or any activities conducted by Buyer or any of its agents, employees or contractors pursuant to this Section 5.6. The provisions of this Section 5.6(d) shall survive the Closing and the termination of this Agreement.

(e) For a period of forty-five (45) days after the Effective Date of this Agreement (the "Due Diligence Period"), Buyer shall have the right, at its sole discretion, for any reason or no reason, to terminate this Agreement by giving Seller written notification of such election.

5.7. Post-Closing Maintenance of and Access to Information.

(a) The parties acknowledge that after Closing each party may need access to information or documents in the control or possession of another party for the purposes of concluding the Transactions, Tax Returns or audits, compliance with the Government Reimbursement Programs and other Legal Requirements, and the prosecution or defense of third party claims. Accordingly, each party shall keep, preserve and maintain in the ordinary course of business, and as required by Legal Requirements and relevant insurance carriers, all books, records (including patient medical records), documents and other information in the possession or control of such party and relevant to the foregoing purposes until at least the earlier of (i) expiration of any applicable statute of limitations or extensions thereof, and (ii) entry of an order of the Bankruptcy Court closing the Bankruptcy Case.

(b) Each party shall cooperate fully with, and make available for inspection and copying by, the other party, its employees, agents, counsel and accountants and/or Governmental Authorities, upon written request and at the expense of the requesting party, such

books, records documents and other information to the extent reasonably necessary to facilitate the foregoing purposes. In addition, each party shall cooperate with, and shall permit and use its best efforts to cause its respective former and present directors, officers and employees to cooperate with, the other party on and after Closing in furnishing information, evidence, testimony and other assistance in connection with any action, proceeding, arrangement or dispute of any nature with respect to the subject matters of this Agreement and pertaining to periods prior to the Closing Date.

(c) Upon Buyer's receipt of appropriate consents and authorizations, Seller shall be entitled to copies, as permitted by law and at Seller's sole risk and expense, of any patient or other records in the possession of Buyer that relate to events or periods prior to Closing for purposes of pending litigation involving matters to which such records refer, as certified in writing prior to removal by counsel retained by Seller in connection with such litigation.

(d) The exercise by Seller of any right of access granted herein shall not materially interfere with the business operations of Buyer.

(e) To the extent that Seller may be obligated or required by law to retain any records, including Included Patient Records, being transferred to Buyer hereunder, Seller hereby appoints Buyer as Seller's records custodian, which appointment Buyer hereby accepts, to retain such records for Seller in accordance with applicable Law and this Section.

(f) Following the Effective Date, the Parties shall attempt to negotiate the terms of a billing and collection agreement, pursuant to which, following the Closing, Buyer would bill on behalf of Seller, and attempt to collect, the accounts receivable of Seller arising prior to the Closing Date in return for agreed-upon compensation. If the parties are unable to agree upon the terms of such a billing and collection agreement prior to the Closing Date, then for a period of eighteen (18) months following the Closing Date, or for such shorter period of time as Seller may request, at any time, in writing upon ten (10) days prior notice to Buyer, Buyer shall lease to Seller space at the Hospital, reasonably sufficient to permit Seller and/or its agents to bill and collect such accounts receivable, and at agreed-upon rental rates, and Buyer shall grant Seller or their agents reasonable access to the billing and collection systems located at the Hospital as of the Closing Date for such purposes; provided, however, that Buyer shall be permitted to structure such arrangement in a manner that will not materially affect Buyer's ability to operate the Hospital following the Closing.

5.8. Governmental Authority Approvals; Consents to Assignment. From the Effective Date until the Closing Date, Seller shall promptly:

(a) cooperate with and assist Buyer's efforts to obtain prior to Closing all consents, approvals, authorizations and clearances of Governmental Authorities required of it to consummate the Transactions, including but not limited to submission of information to the Pennsylvania Office of Attorney General as necessary;

(b) cooperate with and assist Buyer in its submission of licensure applications with the Department of Human Services' Office of Mental Health and Substance



Abuse Services and the Pennsylvania Department of Drug and Alcohol Programs, including but not limited to obtaining approval letters as necessary from the Philadelphia Department of Behavioral Health and Intellectual Disability Services and any other Governmental Authority;

(c) provide such information and communications to Governmental Authorities as the other party or such Persons may reasonably request; and

(d) assist and cooperate with Buyer and other parties to obtain all consents, licenses, permits, approvals, authorizations and clearances of Governmental Authorities that Buyer reasonably deems necessary or appropriate, and to prepare any document or other information reasonably required of it by any such Persons to consummate the Transactions.

5.9. Allocation of Purchase Price. The Purchase Price shall be allocated among the Acquired Assets in accordance with IRS Form 8594, Asset Acquisition Statement Under Section 1060, as completed and attached hereto as Schedule 5.9. In the event of an adjustment to the Purchase Price, Seller hereby agrees to amend the allocation set forth in Schedule 5.9 in accordance with any written request, notice or other determination given by Buyer to Seller, unless Seller reasonably determines (and notifies Buyer) that the allocation requested by Buyer is contrary to law. The allocation set forth in Schedule 5.9, as the same may be amended in accordance with this Section, shall, for federal and state income tax purposes, be binding on the Seller and Buyer. Seller and Buyer shall file their respective Tax Returns in accordance with such allocation and shall not take any position inconsistent with such allocation, unless Seller or Buyer, as the case may be, reasonably determines (and notify the other parties to this Agreement) that such allocation is contrary to applicable Legal Requirements.

5.10. Further Acts and Assurances. At any time and from time to time at and after the Closing, upon request of Buyer, Seller shall do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such further acts, deeds, assignments, transfers, conveyances, powers of attorney, confirmations and assurances as Buyer may reasonably request to more effectively convey, assign and transfer to and vest in Buyer, its successors and assigns, full legal right, title and interest in and actual possession of the Acquired Assets, to confirm Seller's capacity and ability to perform its post-Closing covenants and agreements under this Agreement, and to generally carry out the purposes and intent of this Agreement. Seller shall also furnish Buyer with such information and documents in its possession or under its control, or which Seller can execute or cause to be executed, as will enable Buyer to prosecute any and all petitions, applications, claims and demands relating to or constituting a part of the Acquired Assets.

5.11. Casualty and Condemnation. If, at any time prior to Closing or earlier termination of this Agreement, the Acquired Assets or any portion thereof are destroyed or materially damaged by fire or any other casualty (a "Casualty") or any Governmental Authority commences any condemnation proceeding or other proceeding in eminent domain with respect to all or any portion of the Real Property (a "Condemnation"), Seller shall give written notice of each such Casualty or Condemnation, as applicable, to Buyer promptly after the occurrence of such Casualty or Condemnation. If the cost to repair the damage resulting from such Casualty would equal or exceed ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) or if the Condemnation or the Casualty would materially impair the value of the Acquired Assets, Buyer

shall have the right to elect, by providing written notice to Seller within thirty (30) days after Purchaser's receipt of written notice of such Casualty, to terminate this Agreement. If Buyer elects not to terminate this Agreement notwithstanding any such Casualty or Condemnation, Buyer shall receive a credit against the Purchase Price equal to the sum of (a) the amount of any insurance proceeds or condemnation awards actually collected by Seller as a result of any such damage or destruction or condemnation occurring after the Effective Date, and (b) in the event of a casualty, the amount of any insurance deductible (but not in excess of the cost to repair the damage). Any insurance proceeds or condemnation awards which have not been collected as of the Closing Date shall be assigned to Buyer. Notwithstanding the foregoing, if Seller has expended any funds prior to the Closing for the restoration or repair of the Acquired Assets, the credit against the Purchase Price provided above in this Section shall be reduced by the amounts expended by Seller; provided that either (x) such expenditures were deemed necessary by Seller, in its reasonable discretion, in order to ensure patient safety or the continued operation of the Hospital in the ordinary course, or (y) Seller obtained the prior written consent of Buyer to such expenditures, such consent not to be unreasonably withheld. Seller shall promptly notify Buyer in writing concerning any expenditure of funds pursuant to this Section. To the extent the sums expended by Seller exceed the amount of the credit against the Purchase Price, the proceeds and awards assigned to Buyer shall be reduced by the amount necessary to reimburse Seller for the difference.

5.12. Costs and Expenses.

(a) Except as otherwise expressly set forth in this Agreement, all expenses of the preparation of this Agreement and of the purchase of the Acquired Assets set forth herein, including counsel, accounting, brokerage and investment advisor fees and disbursements, shall be borne by the respective party incurring such expense, whether or not such transactions are consummated.

(b) Buyer shall pay all sales and use Taxes arising out of the transfer of the Acquired Assets, the cost of Buyer's and any lender's title insurance policies, if any, the cost of recording the deeds and any mortgages created by Buyer at Closing, the cost of Buyer's land title survey of the Real Property, and the cost of all appraisals and environmental, engineering and other professional studies undertaken by Buyer. All real estate transfer Taxes in respect of the Real Property, if any, shall be paid one-half (1/2) by Seller and one-half (1/2) by Buyer.

5.13. Fulfillment of Conditions. Each party will execute and deliver at Closing each agreement, instrument or other document that such party is required by this Agreement to execute and deliver as a condition to Closing, and will take all commercially reasonable steps necessary or desirable and proceed diligently and in good faith to satisfy each other condition to the obligations of the parties contained in this Agreement, to the extent that satisfaction of such condition is within the control of such party.

5.14. Payments Received or to be Received. Seller and Buyer covenant and agree to remit to the other, with reasonable promptness, any payments received, which payments are on or in respect of accounts receivable owned by (or are otherwise payable to) the other. In addition, and without limitation, in the event of a determination by any governmental or third-party payor that payments to Seller or the Hospital resulted in an overpayment or other

determination that funds previously paid by any program or plan to Seller or the Hospital must be repaid, Seller shall be responsible for repayment of said monies (or defense of such actions) if such overpayment or other repayment determination was for services rendered prior to the Closing Date and Buyer shall be responsible for repayment of said monies (or defense of such actions) if such overpayment or other repayment determination was for services rendered after the Closing Date. In the event that, following Closing, Buyer suffers any offsets against reimbursement under any third-party payor or reimbursement programs due to Buyer, relating to amounts owing under any such programs by Seller, Seller shall promptly upon demand from Buyer pay to Buyer the amounts so billed or offset. The foregoing requirements shall be further subject to the terms and conditions of the Interim Management Agreement.

5.15. Orphans' Court Approval. Seller shall file in the Orphans' Court Division of the Court of Common Pleas having venue and jurisdiction over the charitable assets of Seller ("Orphans' Court") all petitions, and take all other actions, necessary or appropriate to obtain the Orphans' Court approval of the Transactions contemplated by this Agreement in the form and manner required by Pennsylvania law. Seller shall provide proper notice to the Attorney General, and to all other parties entitled to receive notice under Pennsylvania law or otherwise, of such filings with and other actions before the Orphans' Court. Seller shall make such filings, take such actions and deliver such notices as soon as practicable after the date hereof but in no event later than any time deadline imposed by Pennsylvania law in light of the Closing Date, and Seller shall use its commercially reasonable best efforts to diligently pursue and obtain Orphans' Court approval to all actions required by Seller in order to consummate the transactions contemplated by this Agreement ("Orphans' Court Approval"). Prior to filing any petition or other filing with the Orphans' Court or providing any notice thereof to the Attorney General, Seller shall deliver a copy of such petition or other filing and notice to Buyer, and Seller shall not file such petition or other filing nor deliver such notice to the Attorney General without receiving the prior written consent of Buyer to the form and content of such petition or other filing and notice, which shall not be unreasonably withheld. Seller shall keep Buyer timely informed as to Seller's progress in obtaining Orphans' Court Approval and as to the substance of each hearing before or correspondence with the Orphans' Court and of each meeting and correspondence, if any, with the Attorney General with respect to this Agreement. Seller shall notify Buyer, as far in advance as practical, of any hearings before the Orphans' Court or meetings with Orphans' Court personnel or the Attorney General, and Seller shall use Seller's commercially reasonable best efforts to permit Buyer or its representatives to attend any such hearings or meetings, and Seller hereby consent to Buyer's participation in such hearings and meetings. Seller shall deliver to Buyer copies of all filings, analyses, presentations, memoranda, correspondence, opinions, orders and proposals, together with any and all attachments, exhibits or schedules thereto, (a) Seller proposes to file with or submit to the Orphans' Court or the Attorney General, and Seller shall not file or deliver the same with or to the Orphans' Court or the Attorney General without receiving the prior written consent of Buyer to the form and content thereof, which consent Buyer shall not unreasonably withhold, condition or delay, and/or (b) Seller receives from the Orphans' Court or the Attorney General or any Master or consultant retained by the Orphans' Court or the Attorney General immediately upon Seller's receipt of any of the same.

5.16. Non-Competition; Confidentiality.

(a) During the period commencing on the Closing Date and ending on the fifth (5th) anniversary of the Closing Date, Seller shall not: (i) engage in the operation of, or offer, directly or indirectly, anywhere within a sixty (60) mile radius of the Hospital, a psychiatric hospital or any other facility, institution or other provider that offers mental health, behavioral and/or substance use disorder treatment programs or other services and special programs for persons with behavioral medical disorders, including, without limitation, hospital and outpatient clinic programs, homeless programs, outpatient drug and alcohol services, outpatient mental health services and residential-level mental health services, or any of the other businesses or services currently provided by Seller in connection with the Hospital (collectively, "Competing Activities"); (ii) be or become a stockholder, partner, owner, officer, director, trustee, member or employee or agent of, or a consultant to or give financial or other assistance to, any Person engaging in or considering engaging in any such Competing Activities; (iii) seek in competition with the business of Buyer or any Affiliate of Buyer to induce orders from or do business with any customer of Buyer or any Affiliate of Buyer; (iv) solicit, or contact with a view to the engagement or employment by any person or entity of, any person who is an employee of Buyer or any Affiliate of Buyer; or (v) seek to contract with or engage (in such a way as to adversely affect or interfere with the business of Buyer or any affiliate of Buyer) any Person who has been contracted with or engaged to manufacture, assemble, supply or deliver products, goods, materials or services to Buyer or any affiliate of Buyer. The duration of the covenants described in this Section shall be extended by a period of time equal to the number of days, if any, during which Seller is in violation of any of the provisions hereof.

(b) Seller shall not, directly or indirectly through any Person, use in furtherance of any of its business affairs or otherwise and to the detriment of Buyer or any affiliate of Buyer, or disclose to any third party, any trade secret, customer list, supplier list, financial data, pricing or marketing policy or plan or any other proprietary or confidential information so long as the same is not publicly known (except an act required in connection with a Seller's disclosures under the Bankruptcy Code as contemplated hereunder or as required by any Law).

5.17. Interim Management Agreement. Buyer and Seller shall use their respective reasonable best efforts to agree upon and enter into on, or before, August 14, 2017, an interim management services agreement ("Interim Management Agreement"), which Interim Management Agreement would be executed by the parties prior to, and would become effective as of the later of (A) the fulfillment, satisfaction or waiver of all the conditions to Buyer's obligations to consummate the Transactions under Article 7, but excluding the conditions set forth in Section 7.9 and excluding any other conditions that require actions to be undertaken at, but not prior to, the Closing, and (B) the entry of an order by the Bankruptcy Court, in form and substance acceptable to the Buyer, approving the Interim Management Agreement with such entry having become a Final Order. The Interim Management Agreement would be conditioned upon, among other things, extensions of the Seller's right to use cash collateral and of the Seller's Debtor in Possession financing agreement for periods acceptable to the Buyer. The Interim Management Agreement would provide for, among other things, Buyer to, as of the effective date and subject to the terms and conditions of such Interim Management Agreement, all as would be set forth in more detail therein, assume responsibility for and authority over the

day-to-day operations of the Hospital prior to the Closing Date through use of Hospital's then current provider numbers, personnel, licensure/certification, Contracts and other assets, in return for which Buyer would assume financial responsibility for such operations, including the safe and orderly shut-down should it prove necessary, by funding certain operating losses and retaining certain operating income of the Hospital.

5.18. Adequate Assurance. Buyer agrees that it will promptly take such actions, including without limitation providing testimony, furnishing affidavits or other documents or information for filing with the Bankruptcy Court, as are reasonably requested by the Seller to assist in obtaining, with respect to all Assumed Contracts, a finding by the Bankruptcy Court of adequate assurance of future performance, as such term is used in section 365 of the Bankruptcy Code; provided, however, (a) the Buyer shall not be required to provide any confidential or proprietary information absent appropriate protections including confidentiality agreements and, if requested by the Buyer, the filing of such information under seal, and (b) the Buyer does not warrant or represent that the Bankruptcy Court will find that adequate assurance of future performance has been provided, and the failure of the Bankruptcy Court to find that adequate assurance of future performance has been provided shall not excuse the Seller from any of their obligations herein relating to the assumption and assignment of Contracts listed on Schedule 2.8 nor deprive Buyer of any rights, including termination rights and the right to enforce closing conditions, relating to such obligations of the Seller.

5.19. RESERVED.

5.20. Use of Controlled Substance Permits. To the extent permitted by applicable law, Buyer shall have the right, for a period not to exceed one hundred eighty (180) days following the Closing Date, to operate under the licenses and registrations of Seller relating to controlled substances and the operations of pharmacies, until Buyer is able to obtain such licenses and registrations for themselves. In furtherance thereof, Seller shall execute and deliver to the Buyer at or prior to the Closing one or more limited powers of attorney substantially in the form of Exhibit C hereto.

6. Conditions Precedent to Obligations of Seller.

The obligations of Seller to consummate the Transactions hereunder are subject to the satisfaction on or prior to the Closing Date of the following conditions unless waived in writing by Seller:

6.1. Representations and Warranties; Covenants; Required Actions.

(a) Each of the representations and warranties of Buyer contained in this Agreement that are qualified as to materiality shall be true and correct on and as of the Closing Date; and each of the other representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects on and as of the Closing Date.

(b) Each and all of the terms, covenants and agreements to be complied with or performed by Buyer on or before the Closing Date shall have been complied with and performed in all material respects, including the obligations of Buyer in Section 8.3.

6.2. Adverse Action or Proceeding. There shall not be in effect any order restraining, enjoining or otherwise preventing consummation of the sale of the Acquired Assets and the Transactions.

6.3. Entry of Approval Order and Orphans' Court Order. The Bankruptcy Court shall have entered the Approval Order and the Orphans' Court shall have provided the Orphans' Court Approval, each of which shall have become a Final Order; provided, however, that if Buyer waives the requirement that the Approval Order has become a Final Order, the Seller shall be deemed to have also waived such requirement.

7. Conditions Precedent to Obligations of Buyer.

The obligations of Buyer to consummate the Transactions hereunder are subject to the satisfaction on or prior to the Closing Date of the following conditions, unless waived in writing by Buyer:

7.1. Representations and Warranties; Covenants.

(a) Each of the representations and warranties of Seller contained in this Agreement that are qualified as to materiality shall be true and correct on and as of the Closing Date (as qualified by such materiality provision); and each of the other representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects on and as of the Closing Date. For purposes of determining whether the condition precedent described in this Section 7.1(a) has been met, all references to the knowledge of Seller included in any of the representations and warranties of Seller shall be deemed omitted.

(b) Each and all of the terms, covenants and agreements to be complied with or performed by Seller on or before the Closing Date shall have been complied with and performed, including the obligations of Seller in Section 8.2.

(c) Seller shall have purchased and obtained Tail Coverage.

(d) Since the Effective Date, there shall not have occurred any event, change or occurrence that has or could reasonably be expected to have a Material Adverse Effect on Seller, the Hospital or the Acquired Assets.

7.2. Pre-Closing Confirmations and Contractual Consents.

(a) Buyer shall have received documentation or other evidence reasonably satisfactory to Buyer that all consents, permits, approvals, authorizations and clearances of Governmental Authorities and other Persons required to consummate the Transactions, including, without limitation, consents or approvals (if any exist) from counter-parties to the Assumed Contracts necessary to assign such Assumed Contracts to Buyer and from any patients, Governmental Authorities or other third parties necessary to transfer the Included Patient Records to Buyer; and

(b) Each and all of the terms, covenants and agreements to be complied with or performed by Seller on or before the Closing Date shall have been complied with and performed, including the obligations of Seller in Section 8.2.

7.3. Adverse Action or Proceeding. No action or proceeding before any Governmental Authority shall have been instituted or threatened to restrain or prohibit the Transactions, and there shall not be in effect any order restraining, enjoining or otherwise preventing consummation of the sale of the Acquired Assets and the Transactions.

7.4. Entry of Orders/Approvals.

(a) The Bankruptcy Court shall have entered the Approval Order.

(b) The Approval Order shall have become a Final Order.

(c) The Orphans' Court shall have provided the Orphans' Court Approval and the Orphans' Court Approval shall have become a Final Order.

7.5. Deliveries at Closing. Seller shall have delivered to Buyer, in form reasonably acceptable to Buyer, deeds, bills of sale, assignment and assumption agreements or other instruments, consents and waivers by others, necessary or appropriate to transfer to and effectively vest in Buyer the Acquired Assets and all agreements, instruments, certificates or other documents required to be executed by Seller pursuant to this Agreement.

7.6. Collective Bargaining Agreements. Unless waived by Buyer, Buyer shall have entered into, at Buyer's option, new collective bargaining agreements with the Unions or amendments to such existing Collective Bargaining Agreements, in each case that become effective upon Closing and that contain such terms as are acceptable to Buyer, including terms that (a) provide for comparability to Buyer's anticipated overall salary and compensation package, and in no case result in compensation to Seller's employees in excess of compensation for comparable positions in Buyer's system, and (b) provide for work rules and workforce reduction agreements permitting an orderly and supported transition to a new organizational mode. If the Buyer shall have elected to enter into an amendment of an existing Collective Bargaining Agreement, such Collective Bargaining Agreement shall be added to Schedule 2.8 and the assumption of such Collective Bargaining Agreement, as amended, by Seller and assignment to the Buyer shall have been approved by Final Order of the Bankruptcy Court. To the extent any Collective Bargaining Agreement is not assumed and assigned to Buyer, effective upon Closing, rejection of such Collective Bargaining Agreement shall have been approved by Final Order of the Bankruptcy Court.

7.7. Title Insurance. Buyer shall have received either (a) an ALTA (or the local equivalent thereof) owner's policy of title insurance issued by Buyer's title company insuring title to the Real Property in an amount equal to the portion of the Purchase Price allocated to the Real Property pursuant to Section 5.9, containing such endorsements as Buyer may request and showing good and marketable title to the Real Property vested in Buyer free and clear of all liens except (i) Permitted Real Property Encumbrances, and (ii) any other matter approved by Buyer before the Closing Date (collectively "Title Policy"), or (b) the written commitments or binders

of the Buyer's title company to issue the Title Policy in the aforementioned condition within a reasonable time after the Closing Date.

7.8. Governmental Authorities. Buyer shall have received assurances, satisfactory to Buyer in its sole discretion, from, the Pennsylvania Office of Attorney General, the Pennsylvania Department of Human Services, the Pennsylvania Department of Drug and Alcohol Programs, the Centers for Medicare & Medicaid Services, the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services, and other applicable Governmental Authorities, as applicable, that are necessary or desirable in order to consummate the Transactions, including, without limitation, to the extent necessary to transfer to Buyer, or for Buyer to obtain new, licenses, permits, registrations and other approvals or authorizations of Governmental Authorities in connection with operation of the Hospital.

7.9. New Provider Numbers. Buyer shall have received new provider and/or billing numbers from all applicable third party and governmental payors and programs with respect to Hospital Operations.

7.10. Pennsylvania/Philadelphia Matching Investment Agreement. The Commonwealth of Pennsylvania and the City of Philadelphia shall have entered into an agreement with Buyer, or otherwise provided a binding commitment to Buyer effective at Closing, through themselves or their agencies and, in each case, in form and substance acceptable to Buyer, to match, dollar-for-dollar, on a combined basis, Buyer's Post-Closing Expenditures made pursuant to Section 5.4 up to a combined total of FIVE MILLION DOLLARS (\$5,000,000.00).

7.11. Community Behavioral Health Agreement. Community Behavioral Health ("CBH") shall have entered into an agreement with Buyer, effective on the Closing Date, in form and substance acceptable to Buyer, providing for, among other things, a six percent (6%) increase in the reimbursement rates for all services that are paid by or through CBH, effective on the date ("CBH Effective Date") of such agreement with Buyer or the date of such amendment to agreement with Seller, whichever is earlier and as applicable, which increase shall be based on the reimbursement rates paid by or through CBH to the Seller immediately prior to the CBH Effective Date; and

7.12. Transfer of Psychiatric Beds. Buyer shall have obtained a binding commitment from the Commonwealth of Pennsylvania and any applicable Governmental Authorities to, within twelve (12) months after the Closing Date, transfer twenty-four (24) licensed psychiatric beds from Norristown State Hospital to Buyer for use at the Hospital.

7.13. PBGC. Buyer shall have received assurance, satisfactory to Buyer in its good faith judgment, that Buyer will have no liability with respect to the Employee Pension Benefit Plan to either the Pension Benefit Guaranty Corporation, the Employee Pension Benefit Plan, any beneficiary of the Employee Pension Benefit Plan, or any other third party.

7.14. Licensing and Accreditation Surveys. Any and all survey results of the Hospital by licensing and accreditation agencies that Seller receives prior to the Closing Date shall be satisfactory to Buyer in Buyer's sole discretion, or Seller shall have submitted a plan of



correction in response to any such survey result that has been accepted by the applicable licensing or accrediting agency.

8. Closing; Termination of Agreement.

8.1. Closing. Subject to the satisfaction of the conditions set forth in Articles 6 and 7 hereof (or the waiver thereof by the party entitled to waive that condition), the closing of the Transactions (the "Closing") shall take place electronically or at such offices or other location mutually agreed upon by the parties effective at 12:01 a.m. Eastern Time on the Closing Date.

8.2. Action of Seller at Closing. At the Closing and unless otherwise waived in writing by Buyer, Seller shall deliver:

(a) to Escrow Agent, in immediately available funds, amounts required to be paid by Seller to the Escrow Agent on account of Disputed Cure Amounts pursuant to Section 2.8 hereof;

(b) to Buyer, special warranty deeds for the Real Property to be conveyed, under a free and clear order pursuant to 11 U.S.C. §363 which shall specifically provide the Bankruptcy Court has determined that the Buyer is a purchaser in good faith and is entitled to the protections of 11 U.S.C. §363(m), fully executed by Seller, in recordable form;

(c) to Buyer, one or more bills of sale in a form acceptable to Buyer, fully executed by Seller, conveying to Buyer title to all Acquired Assets other than the Real Property;

(d) to Buyer, one or more assignment and assumption agreements in a form acceptable to Buyer, fully executed by Seller, conveying to Buyer Seller's interests in the Assumed Contracts assumed by Buyer and by which Buyer assumes the future payment and performance of the Assumed Liabilities;

(e) to Buyer's title insurance company, an affidavit of the type customarily provided by Seller of real property to induce title companies to insure over certain "standard" or "preprinted" exceptions to title;

(f) to Buyer, copies of resolutions duly adopted by the board of directors or trustees of Seller and, if required, the members of Seller, authorizing and approving the execution and delivery of this Agreement and the consummation of the Transactions, certified as true and in full force and effect as of the Closing Date by the appropriate officers of Seller;

(g) to Buyer, certificates of the duly authorized President or a Vice President of Seller certifying that each of the representations and warranties of Seller contained in this Agreement that are qualified as to materiality is true and correct on and as of the Closing Date, that each of the other representations and warranties of Seller contained in this Agreement is true and correct in all material respects on and as of the Closing Date, and that each and all of the terms, covenant and agreements to be complied with or performed by Seller on or before the Closing Date have been complied with and performed;

(h) to Buyer, certificates of incumbency for the respective officers of Seller executing the Agreement and other Closing documents, dated as of the Closing Date;

(i) to Buyer, certificates of existence and good standing from the state in which Seller is incorporated or organized, each dated the most recent practical date prior to Closing;

(j) to Buyer, the Deposit Escrow Agreement, the Cure Escrow Agreement and the Holdback Escrow Agreement signed by the Seller and the Escrow Agent;

(k) to Buyer; the one or more limited powers of attorney substantially in the form of Exhibit C hereto signed by the Seller pursuant to Section 5.20; and

(l) to Buyer, such other instruments, agreements, certificates and documents as Buyer reasonably deems necessary to effect the Transactions.

8.3. Action of Buyer at Closing. At the Closing and unless otherwise waived in writing by Seller, Buyer shall deliver or cause to be delivered:

(a) to Seller, the Purchase Price, adjusted in accordance with Section 2.5 of this Agreement, less the Holdback and less the Deposits;

(b) to Escrow Agent, an instruction directing release of the Deposits to Seller;

(c) to Escrow Agent, in immediately available funds, amounts required to be paid by Buyer to the Escrow Agent on account of Disputed Cure Amounts pursuant to Section 2.8 hereof, if any;

(d) to Escrow Agent, in immediately available funds, amounts required to be paid by Buyer to the Escrow Agent on account of the Holdback, pursuant to Section 2.5(c) hereof;

(e) to Seller, one or more assignment and assumption agreements, fully executed by Buyer, in form and substance acceptable to Seller, pursuant to which Buyer shall assume Seller's interests in the Assumed Contracts and the future payment and performance of the Assumed Liabilities related thereto;

(f) to Seller, copies of resolutions duly adopted by the board of directors or governing body of Buyer authorizing and approving Buyer's execution and delivery of this Agreement and the Transactions, as applicable, certified as true and in full force and effect as of the Closing Date by an appropriate officer of Buyer;

(g) to Seller, certificates of the duly authorized President or a Vice President of Buyer certifying that each of the representations and warranties of Buyer contained in this Agreement that are qualified as to materiality is true and correct on and as of the Closing Date, that each of the other representations and warranties of Buyer contained in this Agreement is true and correct in all material respects on and as of the Closing Date, and that each and all of the

terms, covenants and agreements to be complied with or performed by Buyer on or before the Closing Date have been complied with and performed;

(h) to Seller, certificates of incumbency for the officers of Buyer executing this Agreement and other Closing documents, dated as of the Closing Date;

(i) to Seller, certificates of existence and good standing of Buyer from the state in which it is incorporated, dated the most recent practical date prior to Closing;

(j) to Seller, the Deposit Escrow Agreement, the Cure Escrow Agreement and the Holdback Escrow Agreement signed by the Buyer; and

(k) to Seller, such other agreements, instruments and documents as Seller reasonably deem necessary to effect the Transactions.

8.4. Termination Prior to Closing; Liquidated Damages.

(a) The Agreement may be terminated prior to the Closing as follows:

(i) by Buyer, if the Closing shall not have occurred by the close of business on October 31, 2017 or such later date as Buyer shall have established by written notice to Seller (the "Outside Closing Date"); provided, however, that if the Closing shall not have occurred on or before the Outside Closing Date due to a material breach of any representations, warranties, covenants or agreements contained in this Agreement by Buyer, then Buyer may not terminate this Agreement pursuant to this Section 8.4(a)(i).

(ii) by mutual written consent of Buyer and Seller.

(iii) by Buyer, if any condition to the obligations of Buyer set forth in Article 7 shall have become incapable of fulfillment other than as a result of a breach by Buyer of any covenant or agreement contained in this Agreement, and such condition is not waived by Buyer.

(iv) by Seller, if any condition to the obligations of Seller set forth in Article 6 shall have become incapable of fulfillment other than as a result of a breach by Seller of any covenant or agreement contained in this Agreement, and such condition is not waived by Seller.

(v) by Buyer, if there shall be a material breach by Seller of any representation or warranty, or any covenant or agreement contained in this Agreement which would result in a failure of a condition set forth in Article 7 and which breach has not been cured by the earlier of (A) ten (10) business days after the giving of written notice by Buyer to Seller of such breach and (B) the Outside Closing Date. For purposes of determining whether a material breach by Seller of any representation or warranty has occurred for purposes of this Section 8.4(a)(v), all references to the knowledge of Seller included in any such representation or warranty shall be deemed omitted.

(vi) by Seller, if there shall be a material breach by Buyer of any representation or warranty, or any covenant or agreement contained in this Agreement which would result in a failure of a condition set forth in Article 6 and which material breach has not been cured by the earlier of (A) ten (10) business days after the giving of written notice by Seller to Buyer of such breach and (B) the Outside Closing Date.

(vii) by Seller or Buyer if there shall be in effect a Final Order restraining, enjoining or otherwise prohibiting the consummation of the Transactions.

(viii) By Buyer, if (A) on the Effective Date, the Sale Motion is not filed with the Bankruptcy Court, or (B) the Bankruptcy Court does not enter the Procedures Order within ten (10) business days of the Effective Date, or the Approval Order within ninety (90) days of the Effective Date.

(ix) by Buyer, if (A) the Approval Order does not approve the assumption by the Seller and assignment to the Buyer of all of the Contracts listed on Schedule 2.8, except for any such Contract the lack of which, individually or collectively with all such Contracts that are not assigned to Buyer pursuant to the Approval Order, would not have a Material Adverse Effect on the Acquired Assets or on Buyer's ability to operate the Hospital, (B) an order is entered by the Bankruptcy Court denying the Sale Motion or approving the sale of any of the Acquired Assets to a Person other than Buyer, or (C) an order is entered by the Orphans' Court denying Orphans' Court Approval.

(x) By Buyer at any time during the Due Diligence Period as set forth in Section 5.6(e).

(xi) Automatically, and without further action by any Party, if (i) the Buyer is not the Successful Bidder or Backup Bidder (each as defined in the Procedures Order), or (ii) if the Buyer is the Backup Bidder, upon Closing with the Successful Bidder.

(b) Remedies in the Event of Default or Termination.

(i) If this Agreement is terminated pursuant to Section 8.4(a), except pursuant to Sections 8.4(a)(v) or (vi), (A) neither Seller nor Buyer shall be entitled to any damages, losses, or payment from the other party, and Seller and Buyer shall have no further obligation or liability of any kind to the other party, any of their Affiliates, or any third party on account of this Agreement, and (B) the Deposits shall be refunded in full to the Buyer.

(ii) If there shall be a material breach by Seller of any representation or warranty, or any covenant or agreement contained in this Agreement which would result in a failure of a condition set forth in Article 7 and which breach has not been cured by the earlier of (A) ten (10) business days after the giving

of written notice by Buyer to Seller of such breach and (B) the Outside Closing Date, Buyer may elect to (1) terminate this Agreement pursuant to Section 8.4(a)(v) hereof, in which case the sole remedy of Buyer shall be the immediate refund of all Deposits, or (2) enforce specific performance of this Agreement against the Seller including Buyer's reasonable costs and attorneys' fees and court costs actually incurred in connection therewith, as the sole remedy of Buyer.

(iii) If there shall be a material breach by Buyer of any representation or warranty, or any covenant or agreement contained in this Agreement which would result in a failure of a condition set forth in Article 6 and which breach has not been cured by the earlier of (A) ten (10) business days after the giving of written notice by Seller to Buyer of such breach and (B) the Outside Closing Date, the sole remedy of Seller shall be termination of this Agreement pursuant to Section 8.4(a)(vi) hereof and the retention of all Deposits. The Parties acknowledge and agree that if this Agreement is terminated by Seller pursuant to Section 8.4(a)(vi), the damages that Seller would sustain as a result of such termination would be difficult if not impossible to ascertain. Accordingly, the Parties agree that Seller shall retain the Deposits and all interest thereon as full and complete liquidated damages (and not as a penalty) as Seller's sole and exclusive remedy for such breach by Buyer; provided, however, that in addition to such rights, Seller shall retain all rights and remedies under this Agreement with respect to those obligations of Buyer which expressly survive such termination.

## 9. Indemnification.

9.1. Indemnification by Seller. Subject to this Article 9 and consummation of the Closing, Seller shall, to the extent permitted by law, indemnify, defend and hold harmless Buyer and its respective officers, directors, trustees, members, employees, agents, representatives and Affiliates (collectively, "Buyer Indemnified Persons") against and in respect of any and all Damages, (a) resulting from any liability, obligation, duty or contingency of or caused by Seller, whether arising before, on or after the Closing Date, except the Assumed Liabilities, or, without limiting the immediately preceding clause, (b) arising out of, based upon or otherwise in respect of (i) any inaccuracy in or breach of any representation or warranty of Seller made in or pursuant to this Agreement; (ii) any breach or nonfulfillment of any covenant or obligation of Seller contained in this Agreement; (iii) any Excluded Liability; or (iv) any operation or activity of the Hospital or Seller's other businesses prior to the Closing Date.

THE OBLIGATION OF SELLER TO INDEMNIFY BUYER INDEMNIFIED PERSONS UNDER THE ABOVE SECTION 9.1 SHALL NOT BE LIMITED OR COMPROMISED IN ANY MANNER BY THE ABSENCE IN THIS AGREEMENT OF A REPRESENTATION, WARRANTY OR COVENANT CONCERNING THE SUBJECT MATTER THAT RESULTED IN DAMAGES, OR BY ANY LIMITATIONS (INCLUDING, WITHOUT LIMITATION, LIMITATIONS AS TO KNOWLEDGE, TIME AND/OR MATERIALITY) CONTAINED IN A REPRESENTATION, WARRANTY OR COVENANT CONTAINED

HEREIN THAT DOES CONCERN THE SUBJECT MATTER THAT RESULTED IN DAMAGES.

9.2. Indemnification by Buyer. Subject to this Article 9 and consummation of the Closing, Buyer shall indemnify, defend and hold harmless Seller, Seller's officers, directors, trustees, members, employees, agents, representatives and Affiliates (collectively, "Seller Indemnified Persons"), against and in respect of any and all Damages arising out of, based upon or otherwise in respect of: (a) any inaccuracy in or breach of any representation or warranty of Buyer made in or pursuant to this Agreement; (b) any breach or nonfulfillment of any covenant or obligation of Buyer contained in this Agreement; (c) the Assumed Liabilities; and (d) liabilities and obligations (other than Excluded Liabilities) relating to the operation of the Hospital and use of the Acquired Assets by Buyer first arising on or after the Closing Date, the existence of which do not constitute a breach of any representation, covenant or warranty of Seller made in or pursuant to this Agreement.

9.3. Procedure For Indemnification - Third Party Claims.

(a) Within forty five (45) days after receipt by an indemnified party of written notice of the commencement of any proceeding against it to which the indemnification in this Article 9 relates, such indemnified party shall, if a claim is to be made against an indemnifying party under Article 9, give notice to the indemnifying party of the commencement of such proceeding.

(b) If any proceeding referred to in paragraph (a) above is brought against an Seller Indemnified Party and it gives notice to Buyer of the commencement of such proceeding, Buyer will be entitled to participate in such proceeding and, to the extent that it wishes, assume the defense of such proceeding with counsel reasonably satisfactory to the Seller Indemnified Party and, after notice from Buyer to the Seller Indemnified Party of its election to assume the defense of such proceeding, Buyer will not, as long as it diligently conducts such defense, be liable to the Seller Indemnified Party under Article 9 for any fees of other counsel or any other expenses with respect to the defense of such proceeding, in each case subsequently incurred by the Seller Indemnified Party in connection with the defense of such proceeding subject to the limitations contained in Section 9.1 hereof, other than reasonable costs of investigation. If Buyer assumes the defense of a proceeding, (A) it will be conclusively established for purposes of this Agreement that the claims made in that proceeding are within the scope of and subject to indemnification; and (B) no compromise or settlement of such claims may be effected by Buyer without the Seller Indemnified Party's consent unless (1) there is no finding or admission of any violation of law by the Seller Indemnified Party (or any Affiliate thereof) or any violation of the rights of any Person and no effect on any other claims that may be made against the Seller Indemnified Party, and (2) the sole relief provided is monetary damages that are paid in full by Buyer. The Seller Indemnified Party will have no liability with respect to any compromise or settlement of the claims underlying such proceeding effected without its consent. If notice is given to Buyer by a Seller Indemnified Party of the commencement of any proceeding for which such Seller Indemnified Party seeks indemnification hereunder and Buyer does not, within ten (10) days after such notice is received, give notice to the Seller Indemnified Party of Buyer's election to assume the defense of such proceeding, Buyer will be bound by any determination

made in such proceeding or any compromise or settlement effected by the Seller Indemnified Party.

(c) If any proceeding referred to in paragraph (a) above is brought against a Buyer Indemnified Party, Seller shall be entitled to participate in such proceeding at its own expense. However, the Buyer Indemnified Party shall, in all respects, control the defense and settlement of such proceeding and the Seller shall be liable for all fees and expenses incurred by the Buyer Indemnified Party and for any liability established by any order of a Governmental Authority of competent jurisdiction and for any liability established by any settlement or compromise agreed to by the Buyer Indemnified Party, in the exercise of its reasonable discretion.

9.4. Procedure for Indemnification - Other Claims. A claim for any matter not involving a third party claim may be asserted by notice to the party from whom indemnification is sought.

9.5. Seller Indemnification Claim Period. Except as may otherwise expressly be provided in this Agreement and in the absence of fraud or intentional misrepresentation by Seller, no claim for indemnification pursuant to Section 9.1(b)(i) shall be made unless a Damages claim arises and written notice pursuant to Sections 9.3 or 9.4 is delivered to Seller on or before the first anniversary of the Closing Date (the "Claims Close Date").

9.6. Buyer Indemnification Claim Period. Except as may otherwise expressly be provided in this Agreement and in the absence of fraud or knowing misrepresentation by Buyer, no claim for indemnification pursuant to Section 9.2(a) shall be made unless a Damages claim arises and written notice pursuant to Sections 9.3 or 9.4 is delivered to Buyer on or before the Claims Close Date.

9.7. Miscellaneous Indemnification Provisions.

(a) Disclosures made after the date hereof and any knowledge that is acquired about the accuracy or inaccuracy of or compliance with any representation, warranty, covenant or obligation set forth herein shall not in any manner affect rights to indemnification hereunder based on any such representation, warranty, covenant, or obligation. The waiver of any condition based on the accuracy of any representation or warranty, or compliance with any covenant or obligation, will not affect any right to indemnification based on such representations, warranties, covenants and obligations unless otherwise expressly agreed in writing by the party or parties entitled to the benefit thereto.

(b) In addition to Buyer's rights as to application of the Holdback as set forth in Section 2.5, Buyer shall have the right, upon ten (10) business days' written notice, to set-off, against any other amount which may be owed by Buyer to Seller, any amount owed by Seller to Buyer pursuant to this Article 9.

(c) In any litigation over the applicability of the indemnification provisions in this Article 9, the prevailing party shall be entitled to receive from the other party its costs and expenses incurred in pursuing such litigation.

10. General.

10.1. Survival of Representation and Warranties. The parties hereto agree that the representations and warranties contained in this Agreement shall survive until the date which is one (1) year from the Closing Date. The parties hereto agree that the covenants contained in this Agreement to be performed at or after the Closing shall survive the Closing hereunder, and each party hereto shall be liable to the other after the Closing for any breach thereof.

10.2. Headings and Captions. The headings and captions in this Agreement are included for convenience of reference only and shall not be construed to define or limit any of the provisions contained herein.

10.3. Consents, Approvals and Discretion. Except as herein expressly provided to the contrary, whenever this Agreement requires any consent or approval to be given by either party or either party must or may exercise discretion, such consent or approval shall not be unreasonably withheld or delayed and such discretion shall be reasonably exercised.

10.4. Choice of Law. This Agreement shall be governed by and construed in accordance with (a) the laws of the Commonwealth of Pennsylvania without regard to its conflicts of laws rules and (b) the Bankruptcy Code, as applicable.

10.5. Benefit; Assignment. Subject to provisions herein to the contrary, this Agreement shall inure to the benefit of and be binding upon the Parties and their respective legal representatives, successors and assigns. No Party may assign this Agreement without the prior written consent of the other Party; provided, however, that Buyer or MBHS may upon written notice to Seller delivered at any time prior to the Closing Date, assign any of their respective rights and obligations under this Agreement to any entity that is an Affiliate of Buyer or MBHS. In the event of any such assignment by MBHS, MBHS shall be jointly and severally liable for all obligations of such Affiliate assignee hereunder.

10.6. Third Party Beneficiary. The terms and provisions of this Agreement (including provisions regarding employee and employee benefit matters) are intended solely for the benefit of the Parties and their respective successors and permitted assigns and are not intended to confer third-party beneficiary rights upon any other Person. Any reference in this Agreement to one or more Employee Benefit Plans of Buyer includes provisions, if any, in such plans permitting their termination or amendment, and any covenant in this Agreement to provide any Employee Benefit Plan shall not be deemed or construed to limit Buyer's right to terminate or amend such plan of Buyer in accordance with its terms.

10.7. Waiver of Breach, Right or Remedy. The waiver by any party of any breach or violation by another party of any provision this Agreement or of any right or remedy permitted the waiving party in this Agreement (a) shall not waive or be construed to waive any subsequent breach or violation of the same provision (b) shall not waive or be construed to waive a breach or violation of any other provision, and (c) shall be in writing and may not be presumed or inferred from any party's conduct. Except as expressly provided otherwise in this Agreement, no remedy conferred by this Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be in addition to every other remedy granted in this Agreement or now or hereafter



existing at law or in equity, by statute or otherwise. The election of any one or more remedies by a party shall not constitute a waiver of the right to pursue other available remedies.

10.8. Notices. Any notice, demand or communication required, permitted or desired to be given hereunder shall be deemed effectively given if given in writing (a) on the date tendered by personal delivery, (b) on the date received by facsimile or other electronic means (including email or PDF), (c) on the date tendered for delivery by nationally recognized overnight courier, or (d) on the date tendered for delivery by United States mail, with postage prepaid thereon, certified or registered mail, return receipt requested, in any event addressed as follows:

If to Buyer: c/o Meridian Behavioral Health Systems, LLC  
9649 Masonwood Lane  
Brentwood, Tennessee 37027  
Attn: Wes Mason

with a copy to: Stevens & Lee, PC  
620 Freedom Business Center, Suite 200  
King of Prussia, PA 19406  
Attn: Robert Lapowsky

If to Seller: North Philadelphia Health System  
801 W. Girard Avenue  
Philadelphia, PA 19122  
Attn: George J. Walmsley III, President & CEO

with a copy to: Dilworth Paxson, LLP  
1500 Market Street  
Suite 3500E  
Philadelphia, PA 19102  
Attn: Lawrence G. McMichael

or to such other address or number, and to the attention of such other Person, as any party may designate at any time in writing in conformity with this Section.

10.9. Severability. If any provision of this Agreement is held or determined to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any party under this Agreement will not be materially and adversely affected thereby: (a) such provision will be fully severable; (b) this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof; (c) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom; and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

10.10. Entire Agreement; Amendment. This Agreement supersedes all previous contracts, agreements and understandings and constitutes the entire agreement of whatsoever kind or nature existing between or among the parties representing the within subject matter and no party shall be entitled to benefits other than those specified herein. As between or among the parties, any oral or written representation, agreement or statement not expressly incorporated herein, whether given prior to or on the Effective Date, shall be of no force and effect unless and until made in writing and signed by the parties on or after the Effective Date.

10.11. Counterparts. This Agreement may be executed and delivered in one or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. This Agreement may also be executed and delivered by facsimile (including electronic transmission or e-mail) with the same force and effect as if originally executed copies of this Agreement had been delivered by the parties hereto. If this Agreement is executed and delivered in counterparts or by a facsimile or otherwise, any party may thereafter require that both parties originally execute and deliver a sufficient number of additional copies of this Agreement so that each party may have two fully executed originals of this Agreement.

10.12. MBHS Guaranty. Except as may be expressly excepted or otherwise provided herein, MBHS hereby unconditionally and absolutely guarantees the timely performance and observation of Buyer for each and every obligation, covenant and agreement of Buyer arising out of, connected with, or related to, this Agreement or any ancillary documents hereto and any extension, renewal and/or modification thereof.

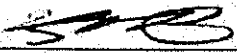
10.13. Schedules and Exhibits. Any schedule (other than schedules which, by the express terms hereof, are to be delivered at a later date) or exhibit referenced herein but not attached as of the date hereof, in the case of an exhibit, or completed, in the case of a schedule, shall be completed or attached, as applicable, on or before July 14, 2017. Unless otherwise expressly provided herein, the form of any such exhibit and the content of any such schedule must be satisfactory to the Buyer and the Seller, and, as applicable, if the Buyer and the Seller are unable to agree on the form of any such exhibit or the content of any such schedule by the date stated above (as such date may be extended by agreement of the Buyer and the Seller), this Agreement shall become null and void.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by  
their duly authorized officers as of the Effective Date.


MBH OF PENNSYLVANIA, LLC

By: \_\_\_\_\_

  
Name: Wes Mason  
Title: President

MERIDIAN BEHAVIORAL HEALTH  
SYSTEMS, LLC

By: \_\_\_\_\_

  
Name: Wes Mason  
Title: President

NORTH PHILADELPHIA HEALTH SYSTEM

By: \_\_\_\_\_

Name: George J. Walmsley III  
Title: President & CEO

[Signature Page to Asset Purchase Agreement]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by  
their duly authorized officers as of the Effective Date.

MBH OF PENNSYLVANIA, LLC

By: \_\_\_\_\_

Name: Wes Mason  
Title: President

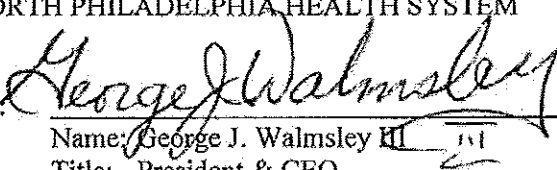
MERIDIAN BEHAVIORAL HEALTH  
SYSTEMS, LLC

By: \_\_\_\_\_

Name: Wes Mason  
Title: President

NORTH PHILADELPHIA HEALTH SYSTEM

By: \_\_\_\_\_

Name: George J. Walmsley   
Title: President & CEO

[Signature Page to Asset Purchase Agreement]

# **Exhibit A**

## **Approval Order**

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In Re: : CHAPTER 11  
:   
NORTH PHILADELPHIA HEALTH : CASE NO. 16-18931  
SYSTEM  
Debtor

ORDER UNDER 11 U.S.C. § 105(A), 363, 365, 503 AND 507  
AND FED. R. BANKR. P. 2002, 6004, 6006, 9008  
AND 9014 APPROVING ASSET PURCHASE  
AGREEMENT WITH MERIDIAN BEHAVIORAL HEALTH SYSTEMS, LLC AND  
MBH OF PENNSYLVANIA, LLC  
(B) AUTHORIZING SALE OF SUBSTANTIALLY ALL OF  
DEBTOR'S OPERATING ASSETS RELATED TO GIRARD MEDICAL CENTER FREE  
AND CLEAR OF LIENS, CLAIMS  
AND ENCUMBRANCES, (C) AUTHORIZING ASSUMPTION AND  
ASSIGNMENT OF CERTAIN OF THE DEBTOR'S EXECUTORY CONTRACTS  
AND UNEXPIRED LEASES, AND (D) GRANTING RELATED RELIEF

AND NOW, this \_\_\_\_ day of \_\_\_\_, 2017, upon the motion (D.I. \_\_\_\_ ) (the "Sale Motion")<sup>1</sup> of the Debtor, North Philadelphia Health System (the "Debtor") dated June \_\_, 2017, for, *inter alia*, entry of an order, pursuant to sections 105(a), 363, 365, 503 and 507 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004, 6006, 9008 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), (i) approving the sale by the Debtor to MBH of Pennsylvania, LLC (the "Buyer") of substantially all of the Debtor's operating assets related to Girard Medical Center ("Girard"), and (ii) authorizing the assumption by the Debtor and assignment to the Buyer of certain executory contracts, in each case free and clear of all liens, claims, encumbrances, rights of first refusal and other interests (except those expressly assumed by the Buyer), as more fully set forth in that certain Asset Purchase Agreement attached hereto as Exhibit "A" (as may be amended, supplemented or restated, the

<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Sale Motion or the Agreement (defined below) as applicable.

**“Agreement”**) dated as of June 27, 2017 between the Debtor, as seller, and the Buyer, as buyer, and (iii) granting certain related relief; and the Court having held a hearing on \_\_\_\_\_, 2017 (the **“Sale Hearing”**) to approve the Sale Motion; and the Court having reviewed and considered (a) the Sale Motion, (b) the objections to the Sale Motion, if any, and (c) the arguments of counsel made, and the evidence proffered or adduced at the Sale Hearing; and it appearing that the relief requested in the Sale Motion is in the best interests of the Debtor, its estate and creditors and other parties in interest; and upon the record of the Sale Hearing and after due deliberation thereon; and good cause appearing therefore,

IT IS HEREBY FOUND AND DETERMINED THAT:<sup>2</sup>

A. This Court has jurisdiction over the Sale Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding under 28 U.S.C. §157(b)(2)(A), (M), (N) and (O). The statutory predicates for the relief requested in this Sale Motion are Sections 105, 363, 365, 503 and 507 of the Bankruptcy Code.

B. Proper, timely, adequate and sufficient notice of the Sale Motion, the hearing on the Sale Motion and the Debtor’s assumption and assignment of the contracts listed on Exhibit “B” hereto (the **“Preliminary Assumed Contracts”**) to the Buyer has been provided in accordance with sections 102(1), 363, 365, 503 and 507 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006, 9008 and 9014 and the order of this Court dated \_\_\_\_\_, \_\_\_\_\_ (the **“Procedures Order”**), and no other or further notice of the Sale Motion, the hearing on the Sale Motion, or of the entry of this Order is required.

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<sup>2</sup> Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate.

C. A reasonable opportunity to object or be heard regarding the relief requested in the Sale Motion has been afforded to all interested persons and entities, including (i) the Office of the United States Trustee; (ii) those parties requesting notice under Bankruptcy Rule 2002; (iii) counsel to the Official Committee of Unsecured Creditors; (iv) counsel to The Bank of New York Mellon Trust Company, N.A; (v) counsel to Hunt Mortgage Group, LLC; (vi) counsel to the United States of America Department of Housing and Urban Development; (vii) all creditors listed on the matrix filed by the Debtor with the Court; (viii) all parties known by the Debtor to hold or assert liens against any of the Acquired Assets (as defined in the Agreement); (ix) the Local District Director for the United States of America Internal Revenue Service, (x) the United States Attorney for the Eastern District of Pennsylvania; (xi) the United States Environmental Protection Agency; (xii) the Pension Benefit Guaranty Corporation; (xiii) the Commonwealth of Pennsylvania Department of Revenue; (xiv) the Commonwealth of Pennsylvania Department of Environmental Protection; (xv) the Office of the Attorney General for the Commonwealth of Pennsylvania; (xvi) the Commonwealth of Pennsylvania Department of Labor and Industry; (xvii) the City Solicitor of the City of Philadelphia, (xviii) all counterparties to contracts with the Debtor; (xix) all parties that have filed an entry of appearance in this case, (xx) all parties that expressed an interest in acquiring the Acquired Assets and any additional persons that the Debtor believed may have had an interest in acquiring the Acquired Assets. The Debtor also caused notice of the Sale Motion to be published in the Philadelphia Inquirer and the Wall Street Journal or the New York Times.

D. The Debtor has full corporate power and authority to execute the Agreement and all other documents contemplated thereby and consummate the transactions contemplated therein and the sale of the Acquired Assets and assumption and assignment to the Buyer of the



Assumed Contracts (defined below) (collectively, the “Sale”) has been duly and validly authorized by all necessary corporate action of the Debtor and no consents or approvals, other than the approval of this Court and the Orphans Court Division of the Court of Common Pleas of Philadelphia County, are required for the Debtor to consummate such transactions.

E. The Buyer is not a successor to or mere continuation of the Debtor or its estate.

F. The bidding procedures established pursuant to the Procedures Order afforded a full, fair and reasonable opportunity for any entity to make a higher or better offer to purchase the Acquired Assets and Assumed Contracts and no higher or better offer has been made.

G. The Debtor has demonstrated that it is an exercise of its sound business judgment to assume and assign the Assumed Contracts and sell the Acquired Assets to the Buyer in connection with the consummation of the Agreement, and that approval of the Agreement and the Sale pursuant thereto is in the best interests of the Debtor, its estates, and its creditors.

H. The Sale must be completed immediately in order to preserve the Debtor’s going concern value and, as a result, good and sufficient business justification exists for the immediate sale of the Acquired Assets and assumption and assignment of the Assumed Contracts to the Buyer outside of a plan of reorganization.

I. The Buyer is not an insider, as that term is defined in the Bankruptcy Code, of the Debtor. Furthermore, no insiders of the Debtor are receiving or retaining any benefit, property or payments in connection with the Sale except to the extent (i) such insiders have allowed claims against the Debtor and, as a result, may participate in a distribution of Sale proceeds, (ii) such insiders are to be employed by the Buyer following closing, as disclosed on the record at the hearing on the Sale Motion, or (iii) otherwise disclosed on the record at the hearing on the Sale Motion.

J. The Agreement was negotiated, proposed and entered into by the Debtor and Buyer without collusion, in good faith, and as a result of arm's length bargaining. The Buyer is a good faith purchaser under section 363(m) of the Bankruptcy Code and, as such, is entitled to the protections afforded thereby. Neither the Debtor nor the Buyer has engaged in any conduct that would cause or permit the Agreement to be avoided under section 363(n) of the Bankruptcy Code.

K. In the absence of a stay pending appeal, the Buyer will be acting in good faith within the meaning of section 363(m) of the Bankruptcy Code in closing the transactions contemplated by the Agreement at any time after the entry of this Order, provided the Buyer shall not be obligated to close until all applicable conditions to closing under such Agreement have been satisfied or waived as provided in such Agreement.

L. The consideration provided by the Buyer for the Acquired Assets being purchased, including the Assumed Contracts, pursuant to the Agreement constitutes the best and highest offer for the Acquired Assets and the Assumed Contracts and reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession thereof, and the District of Columbia.

M. The Debtor may sell the Acquired Assets and Assumed Contracts free and clear of all liens, claims, encumbrances, rights of first refusal and other interests (including, without limitation, (i) that purport to give to any party a right or option to effect any forfeiture, modification or termination of the Debtor's or the Buyer's interest in the Acquired Assets and/or Assumed Contracts and, (ii) in respect of Taxes), because each entity with an interest in any of the Acquired Assets and/or Assumed Contracts has consented to the Sale, is deemed to have

consented to the Sale, has a claim which is subject to a bona fide dispute or could be compelled in a legal or equitable proceeding to accept a money satisfaction of such interest.

N. The Debtor has good title to the Acquired Assets and Assumed Contracts and, accordingly, the transfer of the Acquired Assets and Assumed Contracts to the Buyer pursuant to the Agreement will be a legal, valid, and effective transfer of the Acquired Assets and Assumed Contracts.

O. Neither the transfer of the Acquired Assets nor assignment of the Assumed Contracts pursuant to the Agreement will subject the Buyer to any liability (except those expressly assumed by the Buyer pursuant to the Agreement (the “**Assumed Liabilities**”)) for claims against the Debtor or the Debtor’s predecessors or affiliates of any kind or character, whether known or unknown, now existing or hereafter occurring, whether fixed or contingent, based, in whole or in part, directly or indirectly, on any theory of law, including, without limitation, any theory of successor, vicarious or transferee liability. Without limiting the general nature of the foregoing, neither the transfer of the Acquired Assets nor the assignment of the Assumed Contracts will subject the Buyer to any liability on account of any Employee Benefit Pension Plan (as defined in the Agreement) maintained by the Debtor, including any liability related to benefits, underfunding, termination and/or termination premiums, regardless when such claims are deemed to have accrued and regardless whether such would be considered “claims” as such term is defined in the Bankruptcy Code, to (i) the Pension Benefit Guaranty Corporation, (collectively, the “**PBGC Claims**”), or (ii) to any plan participant, beneficiary or any third party

P. The Buyer has provided adequate assurance of future performance under the Assumed Contracts, as required by Section 365(b)(1)(C) of the Bankruptcy Code.

Q. The copies of the Assumed Contracts attached to the Cure Notices (as defined in the Procedures Order) are full and complete copies of the Assumed Contracts and all amendments and modifications.

R. Upon the assumption and assignment of the Assumed Contracts, as provided herein, the Buyer shall succeed to all of the right, title and interest of the Debtor under the Assumed Contracts including, without limitation, the right to exercise renewal options which, pursuant to the terms of the applicable Assumed Contract, are not exercisable by assignees of the Debtor, the Court having found that such provisions constitute unenforceable restrictions on assignment pursuant to Section 365(f)(3) of the Bankruptcy Code.

NOW, THEREFORE, IT IS HEREBY ADJUDGED, ORDERED, AND  
DECREED THAT:

1. The Sale Motion, and the relief sought therein (including approval of the Sale) is granted, in all respects.
2. All objections to the Sale Motion or the relief requested therein that have not been withdrawn with prejudice, waived, or settled, and all reservations of rights included therein, are overruled on the merits.
3. The Agreement, and all of the terms and conditions thereof, are hereby approved.
4. Pursuant to sections 105(a), 363(b) and 365 of the Bankruptcy Code, the Debtor is authorized and directed to take all actions necessary to consummate the pursuant to and in accordance with the terms and conditions of the Agreement.
5. As of the date of closing under the Agreement (the "**Closing Date**"), the Preliminary Assumed Contracts that are not deleted from Schedule 2.8 of the Agreement by the Buyer prior to Closing (such contracts being the "**Assumed Contracts**"), shall be deemed to have been assumed by

the applicable Debtor and assigned to the Buyer pursuant to Section 365(f) of the Bankruptcy Code. The Debtor shall give written notice promptly after the Closing Date to counterparties to Preliminary Assumed Contracts that do not become Assumed Contracts that such Preliminary Assumed Contracts have not been assumed and assigned to the Buyer and, so, are not Assumed Contracts.

6. On the Closing Date, the Seller and, if applicable pursuant to Section 2.8 of the Agreement, the Buyer shall, (i) pay to the non-debtor party to each Assumed Contract as to which a liquidated cure amount (the “**Liquidated Cure Amount**”) is stated on Exhibit “B,” the amount of such Liquidated Cure Amount, and (ii) pay to the Escrow Agent an amount equal to the maximum cure amounts (the “**Maximum Unliquidated Cure Amounts**”) claimed by the non-debtor party to each other Assumed Contract, as such Maximum Unliquidated Cure Amounts are stated on Exhibit “B.” The amounts paid by the Seller and, if applicable, the Buyer to the Escrow Agent are hereafter referred to as the “**Disputed Cure Funds**.”

7. Upon payment of the Liquidated Cure Amounts to the applicable non-debtor parties, (i) all defaults under the related Assumed Contracts required to be cured pursuant to Section 365(b)(1)(A) of the Bankruptcy Code shall be deemed cured and all amounts due to the non-debtor parties to such Assumed Contracts pursuant to Section 365(b)(1)(B) on account of any pecuniary loss resulting from such defaults shall be deemed paid in full, and (ii) each non-debtor party to such Assumed Contracts shall be enjoined from (A) seeking to terminate such Assumed Contract or enforce any other remedies under such Assumed Contract against the Buyer on account of defaults by the Debtor, including defaults as to which, pursuant to Section 365(b)(1)(A) of the Bankruptcy Code, cure is not required, and (B) asserting that the copy of the Assumed Contract attached to the Cure Notice is not a full and complete copy of the applicable Assumed Contract, including all amendments and modifications.

8. Upon payment by the Seller of the Maximum Unliquidated Cure Amounts to the Escrow Agent, the non-debtor parties to such Assumed Contracts shall be (i) limited to recourse against the Disputed Cure Funds on account of all defaults under the related Assumed Contracts required to be cured pursuant to Section 365(b)(1)(A) of the Bankruptcy Code and all pecuniary loss resulting from such defaults due to such non-debtor party pursuant to Section 365(b)(1)(B) of the Bankruptcy Code, and (ii) enjoined from seeking (A) recourse against the Buyer on account of any defaults by the Debtor under the related Assumed Contracts required to be cured pursuant to Section 365(b)(1)(A) of the Bankruptcy Code and/or any pecuniary loss resulting from such defaults due to such non-debtor party pursuant to Section 365(b)(1)(B) of the Bankruptcy Code, and/or (B) to terminate such Assumed Contract or enforce any other remedies under such Assumed Contract against the Buyer on account of defaults by the Debtor, including defaults as to which, pursuant to Section 365(b)(1)(A) of the Bankruptcy Code, cure is not required.

9. Except for the Assumed Liabilities, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, upon the Closing under the Agreement, the Acquired Assets and the Assumed Contracts shall be free and clear of all (i) mortgages, security interests, conditional sale or other title retention agreements, pledges, liens, judgments, demands, encumbrances and claims (as that term is defined in the Bankruptcy Code), (ii) rights or options to effect any forfeiture, modification, repurchase, or termination of the Debtor's or Buyer's interest in the Assumed Contracts and/or Acquired Assets, regardless whether such are "claims" as that term is defined in the Bankruptcy Code, (iii) PBGC Claims, (iv) claims in respect of Taxes (including taxes as to which applicable returns have not yet been filed, whether or not overdue), (v) easements, restrictions, rights of first refusal or charges of any kind or nature, if any, including, but not limited to, any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership, regardless whether such are

“claims” as that term is defined in the Bankruptcy Code, and (vi) the HUD Covenant (collectively, items (i) to (vi) above are referred to as “**Interests**”), with all such Interests to attach to the Net Proceeds of Sale (defined below) in the order of its priority, with the same validity, force and effect (if any) which they now have against the Acquired Assets and Assumed Contracts, subject to any claims and defenses the Debtor may possess with respect thereto. The “**Net Proceeds of Sale**” is the Purchase Price, as adjusted pursuant to Section 2.6 of the Agreement, minus amounts distributed on account of Liquidated Cure Amounts, minus the Disputed Cure Funds, to the extent such Disputed Cure Funds are paid to counterparties to Assumed Contracts following allowance and payment of applicable cure amounts, and minus amounts paid to the Escrow Agent on account of the Holdback (the “**Holdback Escrow Funds**”), to the extent the Holdback Escrow Funds are paid to the Buyer pursuant to the terms of the Agreement and the Holdback Escrow Agreement. For the avoidance of doubt, neither the Disputed Cure Funds nor the Holdback Escrow Funds shall be property of the Debtor’s estate and no Interests shall attach to the Disputed Cure Funds or the Holdback Escrow Funds unless and until such funds are distributed to the Debtor pursuant to the terms of the Agreement and the Cure Escrow Agreement or the Holdback Escrow Agreement, as applicable.

10. All claims of the Buyer or any other Buyer Indemnified Party for indemnification under the terms of the Agreement shall be treated as administrative claims pursuant to Section 503 and 507 of the Bankruptcy Code provided, however, claims by the Buyer or any other Buyer Indemnified Party for indemnification as to which payment is sought from the Holdback Escrow Funds shall be determined and paid pursuant to the terms of the Holdback Escrow Agreement and, to the extent of any conflict between the terms of the Holdback Escrow Agreement relating to such determination and payment of claims and the Bankruptcy Code or Bankruptcy Rules, the terms of the Holdback Escrow Agreement shall control.

11. All persons are hereby enjoined from asserting, prosecuting or otherwise pursuing any claim against the Buyer to recover on any claims (regardless of when accrued and regardless whether meeting the definition of "claim" under the Bankruptcy Code) such person had, has or may have (other than an Assumed Liability) against (x) the Debtor, its estate, its principals, its shareholders, its members, the Acquired Assets or the Assumed Contracts, or (y) the Buyer in connection with the negotiation of, and any agreements contained in, related to or conditioned upon the Agreement.

12. As of the Closing Date, each of the Debtor's creditors is authorized and directed to execute such documents and take all other actions as may be necessary to release its Interests in or claims against the Acquired Assets and Assumed Contracts, if any, as such Interests or claims may have been recorded or may otherwise exist.

13. Each and every federal, state and local governmental agency or department be, and hereby is, directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Agreement.

14. If any person or entity that has filed financing statements or other documents or agreements evidencing Interests in or claims against the Acquired Assets or Assumed Contracts shall not have delivered to the Debtor prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction and releases of all Interests or claims which the person or entity has with respect to the Acquired Assets and/or Assumed Contracts, the Debtor and/or Buyer are hereby authorized to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Acquired Assets or Assumed Contracts. The foregoing notwithstanding, the provision of this Order authorizing the Sale free and clear of liens, claims and Interests shall be self-executing, and notwithstanding the failure of the Debtor, the Buyer or any other party to execute, file or obtain



releases, termination statements, assignments, consents or other instruments to effectuate, consummate and/or implement the provisions hereof or in the Agreement with respect to the Sale, all liens, claims and Interests in or against the Acquired Assets and Assumed Contracts shall be deemed divested on the Closing Date.

15. All entities that are presently, or on the Closing Date may be, in possession of some or all of the Acquired Assets are hereby directed to surrender possession of the Acquired Assets to the Buyer on the Closing Date.

16. As of the Closing Date, all agreements of any kind whatsoever and all orders of this Court entered prior to the date hereof shall be deemed amended and/or modified to the extent required to permit the consummation of the transactions contemplated by the Agreement.

17. Subject to further Court order and the terms of the Agreement, the Debtor is directed to take appropriate measures to maintain and preserve, until the earliest of (a) consummation of any plan for the Debtor, (b) conversion of the Debtor's chapter 11 case to a case under chapter 7 of the Bankruptcy Code, and (c) dismissal of the Debtor's bankruptcy case, the books, records, and any other documentation, including tapes or other audio or digital recordings and data in, or retrievable from, computers or servers relating to or reflecting the records held by the Debtor or its affiliates relating to the Debtor's business.

18. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may deny, revoke, suspend, or refuse to renew any permit, license, or similar grant relating to the operation of the Acquired Assets or the Assumed Contracts on account of the filing or pendency of this Bankruptcy Case or the consummation of the Sale.

19. No law of any state or other jurisdiction relating to bulk sales or similar laws shall apply in any way to the transaction contemplated by the Agreement, the Sale Motion, and this Order.

20. This Court shall retain jurisdiction (a) to enforce and implement the terms and provisions of the Agreement, all amendments thereto, any waivers and consents thereunder and each of the agreements executed in connection therewith, (b) to compel delivery of the Acquired Assets and Assumed Contracts to the Buyer, (c) to resolve any disputes arising under or related to the Agreement, except as otherwise provided therein, and (d) to interpret, implement and enforce the provisions of this Order.

21. Nothing contained in any plan confirmed in these cases or the order confirming any plan shall conflict with or derogate from the provisions of the Agreement or the terms of this Order. Further, the provisions of this Order and any actions taken pursuant hereto shall survive the entry of any order which may be entered confirming any plan or converting the Debtor's case from chapter 11 to a case under chapter 7 of the Bankruptcy Code.

22. The terms and provisions of the Agreement, together with the terms and provisions of this Order, shall be binding in all respects upon, and shall inure to the benefit of, each Debtor, its estate, its creditors, the Buyer and its affiliates, successors and assigns, and any affected third parties including, but not limited to, all persons asserting a claim against or Interest in the Debtor's estate or any of the Assumed Contracts and the Acquired Assets and any trustee appointed for the Debtor under any chapter of the Bankruptcy Code.

23. The Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto, in a writing signed by both parties, and in accordance with the terms thereof without further order of the Court, provided that any such modification, amendment or supplement is not material.

24. The failure specifically to include any particular provision of the Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Agreement be authorized and approved in its entirety.

25. The Buyer is a party in interest and shall have standing to appear and be heard on all issues related to or otherwise connected with this Order, the Sale or the Agreement.

26. Notwithstanding the provisions of Fed. R. Bankr. P. 6004 (h), 6006(d) and 7062, this Order shall be effective and enforceable immediately upon entry.

Dated: \_\_\_\_\_

BY THE COURT

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Honorable Magdeline D. Coleman  
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT "A"

ASSET PURCHASE AGREEMENT

EXHIBIT "B"

<u>CONTRACT DESCRIPTION</u>	<u>LIQUIDATED CURE AMOUNT</u>	<u>MAXIMUM UNLIQUIDATED CURE AMOUNT</u>