



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

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THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 14, 2017


United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

IN RE:	§	CHAPTER 11
	§	
FOUNDATION HEALTHCARE, INC.,	§	CASE NO. 17-42571-rfn-11
	§	Lead Case
DEBTOR.	§	
	§	Complex Case
-----	§	Jointly Administered

IN RE:	§	CHAPTER 11
	§	
UNIVERSITY GENERAL HOSPITAL, LLC,	§	CASE NO. 17-42570
	§	
DEBTOR.	§	Complex Case
	§	Jointly Administered
-----	§	Under Lead Case

**INTERIM ORDER (1) AUTHORIZING SECURED POST-PETITION FINANCING;
(2) AUTHORIZING THE USE OF CASH COLLATERAL; (3) GRANTING SECURITY
INTERESTS, SUPERPRIORITY CLAIMS, AND OTHER
ADEQUATE PROTECTION; (4) MODIFYING THE AUTOMATIC STAY;
AND (5) SCHEDULING A FINAL HEARING**

On June 22, 2017, University General Hospital, LLC (“UGH”) and Foundation Healthcare, Inc. (“FHI”), as debtors and debtors-in-possession (each a “Debtor” and, collectively, the “Debtors”) in the above-captioned cases (collectively, the “Cases”), filed the *Motion for Interim and Final Orders (1) Authorizing Secured Post-Petition Financing; (2) Authorizing the Use of Cash Collateral; (3) Granting Security Interests, Superpriority Claims, and Other Adequate Protection; (4) Modifying the Automatic Stay; and (5) Scheduling a Final Hearing* (the “Motion”). In the Motion, the Debtors requested, *inter alia*, entry of this interim order (this “Interim Order”) pursuant to sections 105, 361, 362, 363, and 364 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”), and in accordance with Rules 2002, 4001, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”):

(i) authorizing, the Debtors to obtain (a) on an interim basis, up to **\$450,000.00** in post-petition financing (the “Interim DIP Financing”), and (b) on a final basis, up to an aggregate total amount of **\$1,250,000.00** in post-petition financing (the “Final DIP Financing” and, collectively with the Interim DIP Financing, the “DIP Financing”), and approving the postpetition financing promissory note in substantially the form attached hereto as **Exhibit A** (as the same may be amended, modified, supplemented, or restated from time to time pursuant to the terms of this Interim Order or the Final Order (as hereinafter defined), the “DIP Note” and, together with any other documents, notes, certificates, and instruments executed in connection therewith, collectively, the “Postpetition Financing Documents”) payable to Texas Capital Bank, National Association, as administrative agent (the “DIP Agent”);

(ii) authorizing, on an interim basis, the Debtors to use Cash Collateral (as hereinafter defined) pursuant to and in accordance with the terms of this Interim Order;

(iii) approving the Debtors’ grant of mortgages, security interests, liens and superpriority claims to the DIP Agent, for and on behalf of the DIP Lenders (as hereinafter defined) (including a priority claim pursuant to section 364(c)(1) of the Bankruptcy Code, liens pursuant to sections 364(c)(2) and (3) of the Bankruptcy Code, and priming liens pursuant to section 364(d) of the Bankruptcy Code to the extent provided herein);

(iv) approving the Debtors' grant of mortgages, security interests, liens and superpriority claims and other protections in order to provide adequate protection to the Prepetition Agent (as hereinafter defined), for an on behalf of the Prepetition Lenders (as hereinafter defined);

(v) modifying the automatic stay to the extent necessary to implement and effectuate the Postpetition Financing Documents and this Interim Order; and

(vi) scheduling a final hearing (the "Final Hearing") to consider entry of a final order (the "Final Order") granting the relief requested in the Motion on a final basis.

The Court, having considered the Motion, and having held an interim hearing on the Motion on July 5, 2017 (the "Interim Hearing"), and having considered the evidence presented or proffered and the statements and representations of the parties on the record at the Interim Hearing; and all objections, if any, to the entry of this Interim Order having been resolved or overruled; and after due deliberation and consideration and sufficient cause appearing therefor;

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACTS AND CONCLUSIONS OF LAW:¹

A. The Chapter 11 Cases. On June 21, 2017 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Texas (this "Court").

B. Debtors-in-Possession. The Debtors continue to manage their properties as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. To date, no trustee or examiner has been appointed in the Cases.

C. Jurisdiction and Statutory Support. This Court has jurisdiction over the Cases, the Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Consideration of the Motion is a core proceeding under 28 U.S.C. § 157(b). The statutory

¹ This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052.

predicates for the relief requested herein are sections 105, 361, 362, 363 and 364 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001 and 9014, and the Local Rules of this Court (the “Local Rules”).

D. Committee Formation. To date, no official committee (a “Committee”) of unsecured creditors, equity interest holders, or other parties in interest has been appointed in the Cases.

E. Notice. Pursuant to Bankruptcy Rules 2002, 4001, and 9014, the Debtors served copies of the Motion on June 22, 2017 and copies of the notice of the Interim Hearing on June 23, 2017, to all creditors and parties in interest entitled to such notice, including: (i) the Office of the United States Trustee for this District (the “U.S. Trustee”), (ii) those creditors holding the twenty (20) largest unsecured claims against each of the Debtors’ estates, (iii) Texas Capital Bank, National Association and its counsel, and (iv) all parties who are known or reasonably believed, after reasonable inquiry, to have asserted any lien, encumbrance, claim, or other interest in the assets of the Debtors. Under the circumstances, such notice of the Interim Hearing and the emergency relief requested in the Motion is due, proper, and sufficient notice and complies with Bankruptcy Rules 2002 and 4001 and the Local Rules, and no other or further notice of the Interim Hearing or the relief granted in this Interim Order is necessary or required.

F. Cash Collateral. For purposes of this Interim Order, the term “Cash Collateral” shall mean all property of the Debtors that constitutes cash collateral in which the Prepetition Lenders have an interest as provided in section 363(a) of the Bankruptcy Code, and shall include, without limitation:

- (i) all cash proceeds arising from the collection, sale, lease or other disposition, use or conversion of any property upon which the Prepetition Agent and/or

Prepetition Lenders hold a lien or a replacement lien, whether as part of their pre-petition collateral or pursuant to an order of the Court or applicable law or otherwise, and whether such property that has been converted to cash existed as of the commencement of these Cases or arose or was generated thereafter; and

- (ii) all of the respective deposits, refund claims and rights of the Debtors upon which the Prepetition Agent and/or Prepetition Lenders hold a lien or replacement lien, whether as part of their pre-petition collateral or pursuant to an order of the Court or applicable law or otherwise.

G. Debtors' Stipulations. Without prejudice to the rights of parties in interest as set forth in Paragraph 20, below, the Debtors admit, stipulate, acknowledge, and agree, except as otherwise noted (collectively, Paragraphs G(1) through G(7) hereof shall be referred to herein as the "Debtors' Stipulations") that:

- (1) Pre-Petition Loan Documents. Pursuant to that certain Credit Agreement, dated as of December 31, 2015, (as has been or may be amended, supplemented, or restated from time to time, the "Credit Agreement"), among FHI,² as borrower, Texas Capital Bank, National Association, as Administrative Agent (the "Prepetition Agent"), and the lenders from time to time party to the Credit Agreement³ (collectively, the "Prepetition Lenders"), the Prepetition Lenders made certain loans to FHI, which loans are evidenced by, without limitation, that certain Promissory Note dated as of December 31, 2015, executed by FHI and payable to the Prepetition Agent, for and on behalf of the Prepetition Lenders (as has been or may be amended, supplemented or restated from time to time, the "FHI Note"). Contemporaneously with the extension of the loans by the Prepetition Lenders to FHI under the Credit Agreement, FHI made a loan in the principal amount of \$12,605,000.00 to UGH (the "Intercompany Loan"). The Intercompany Loan is evidenced by that certain Intercompany Promissory Note dated December 31, 2015 (the "Intercompany Note"). UGH's obligations to FHI under the Intercompany Note are secured by that certain Intercompany Security Agreement dated December 31, 2015 (the "Intercompany Security Agreement" and, together with the Intercompany Note and all related documents, agreements, notes, and financing statements, collectively, the "Intercompany Indebtedness").

² FHI, through certain of its subsidiaries, is the indirect owner of approximately 90% of the membership interests of UGH.

³ As of the Petition Date, those Prepetition Lenders were Texas Capital Bank, N.A., INTRUST Bank, and LegacyTexas.

Documents”), pursuant to which UGH granted FHI a security interest encumbering substantially all of UGH’s assets. FHI’s obligations to the Prepetition Agent and Prepetition Lenders under the Credit Agreement and FHI Note were secured by, among other things, a pledge of FHI’s interest in the Intercompany Indebtedness Documents. Additionally, FHI assigned the Intercompany Note to the Prepetition Agent on December 31, 2015. The Credit Agreement, FHI Note, and related security agreements, deeds of trust, and other agreements and documents executed in connection with the Credit Agreement, together with any amendments and restatements thereto, are collectively referred to herein as the “FHI Indebtedness Documents.”

- (2) Prepetition Lenders’ Retention of Collateral in Partial Satisfaction of Debt. Pursuant to that certain Notice and Agreement to Retain Collateral in Partial Satisfaction of Obligations, dated effective as of June 15, 2017 (“the “Collateral Retention Agreement”), among UGH, FHI, each of the other Obligated Parties (as defined in the Credit Agreement) party thereto, the Prepetition Agent and the Prepetition Lenders, the Prepetition Agent, for and on behalf of the Prepetition Lenders, retained certain assets of FHI, including the Intercompany Indebtedness, in partial satisfaction of the indebtedness under the FHI Indebtedness Documents.
- (3) Pre-Petition Indebtedness. As of the Petition Date, the Prepetition Agent has asserted that the aggregate amount of not less than \$6,284,895.28 was due and owing by FHI to the Prepetition Lenders under the FHI Indebtedness Documents plus accrued but unpaid interest (including pre-petition default interest) and all other fees, expenses, charges, and other amounts due under the Credit Agreement (collectively, the “FHI Prepetition Indebtedness”). As of the Petition Date, after taking into account the transactions described in the Collateral Retention Agreement, the Prepetition Agent has asserted that the aggregate amount of not less than approximately \$7,622,000.00 was due and owing by UGH to the Prepetition Lenders under the Intercompany Indebtedness Documents, plus accrued but unpaid interest (including pre-petition default interest) and fees and all other fees, expenses, charges, and other amounts due under the Intercompany Indebtedness Documents (collectively, the “UGH Prepetition Indebtedness” and, collectively with the FHI Prepetition Indebtedness, the “Prepetition Indebtedness”). For purposes of this Interim Order, the Prepetition Indebtedness shall include the principal of, and all interest, fees, expenses, and other charges owing under or in connection with the FHI Indebtedness Documents and/or Intercompany Indebtedness Documents (including any reasonable attorneys’, accountants’, and financial advisors’ fees). The liens and security interests granted to the Prepetition Agent, for and on behalf of the Prepetition

Lenders, pursuant to the FHI Indebtedness Documents and/or Intercompany Indebtedness Documents, as well as any security interests, liens, mortgages, pledges, and other interests in the Prepetition Collateral (as hereinafter defined) granted by the Debtors to the Prepetition Lenders under any other agreements, shall be referred to collectively herein as the “Prepetition Liens.”

- (4) Cash Collateral. All Cash Collateral now in the possession, custody, or control of the Debtors, or in which the Debtors will obtain an interest during the pendency of these Cases, constitutes the Cash Collateral (as defined in section 363(a) and/or 552 of the Bankruptcy Code) of the Prepetition Lenders. The Debtors have no interest, directly or indirectly, in any cash that is not Cash Collateral.
- (5) Valid and Binding Obligations. The Prepetition Indebtedness constitutes the legal, valid and binding obligations of the respective Debtor, enforceable in accordance with its terms, and no portion of the Prepetition Indebtedness or any payments made to the Prepetition Agent, for and on behalf of the Prepetition Lenders, or applied to the obligations owing under the FHI Indebtedness Documents and/or Intercompany Indebtedness Documents prior to the Petition Date, is subject to avoidance, subordination, recharacterization, recovery, offset, counterclaim, defense or Claim (as defined in the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law.
- (6) Validity and Priority of Pre-Petition Liens. The Prepetition Liens constitute valid, binding, enforceable and perfected first priority liens encumbering substantially all of the Debtors’ assets, in each case as more particularly set forth in the FHI Indebtedness Documents and the Intercompany Indebtedness Documents, as applicable (the “Prepetition Collateral”), including Cash Collateral, that are not subject to avoidance or subordination (except insofar as such liens are subordinate to (i) any liens existing on the Petition Date that are valid, properly perfected, unavoidable, and senior to the Prepetition Liens, and except as otherwise set forth in this Interim Order and/or the FHI Indebtedness Documents and/or Intercompany Indebtedness Documents, as applicable, (ii) the DIP Liens (as hereinafter defined), and (iii) the Replacement Liens (as hereinafter defined), in accordance with the provisions of this Interim Order) pursuant to the Bankruptcy Code or applicable non-bankruptcy law.
- (7) Venue. Venue of the Cases and the Motion in this Court is proper pursuant to 28 U.S. §§ 1408 and 1409.

H. Immediate Need for DIP Financing and Use of Cash Collateral. The Debtors have an immediate need for the proposed DIP Financing and use of Cash Collateral in order to fund the Debtors' operations and administer and preserve the value of the Debtors' estates. The Debtors' ability to immediately obtain sufficient working capital and liquidity through the DIP Financing and use of Cash Collateral is vital to preserve and maximize the value of the Debtors' assets and properties. The permission granted herein for the Debtors to obtain the DIP Financing and use of Cash Collateral is necessary to preserve the Debtors and their estates. Accordingly, the Court concludes that entry of this Interim Order is in the best interest of the Debtors' estates and creditors.

I. Debtors Unable to Obtain Financing on More Favorable Terms. The Debtors have been unable to obtain, on more favorable terms and conditions than those set forth in this Interim Order and the Postpetition Financing Documents, any of the following: (i) unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense, (ii) credit for money borrowed with priority over any and all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, (iii) credit for money borrowed secured solely by a Lien (as defined in section 101(37) of the Bankruptcy Code) on property of the estate that is not otherwise subject to a Lien, or (iv) credit for money borrowed secured by a junior Lien on property of the estate which is subject to a Lien. The Debtors are unable to obtain the DIP Financing except on the terms and conditions set forth in this Interim Order and the Postpetition Financing Documents, despite seeking same from other sources.

J. Conditional Consent to DIP Financing and Use of Cash Collateral. The Debtors acknowledge and agree that substantially all of the Debtors' assets are subject to the Prepetition

Liens. The Prepetition Agent has objected and does not consent to the Debtors' use of the Prepetition Collateral, including Cash Collateral, and the granting of liens under section 364(d) of the Bankruptcy Code, except on the terms provided for in this Interim Order. The DIP Agent and the Prepetition Agent have stipulated and agreed to the Debtors' use of the proceeds of the DIP Financing and Cash Collateral, respectively, during the term of this Interim Order exclusively in accordance with the terms, conditions and limitations set forth in this Interim Order, the budget attached hereto as **Exhibit B** (the "Budget"), and the Postpetition Financing Documents. The Prepetition Agent, for and on behalf of the Prepetition Lenders, is entitled, pursuant to sections 361, 362(d), and 363 of the Bankruptcy Code, to adequate protection for the Debtors' use of the Prepetition Collateral, including Cash Collateral, and to protect against the diminution in value of the Prepetition Lenders' interest in the Prepetition Collateral for any reason, including from the use, sale, or lease thereof.

K. Business Judgment/Fair and Reasonable Terms/Good Faith. The terms and conditions set forth in this Interim Order are fair, just, and reasonable under the circumstances, are ordinary and appropriate for secured financing to debtors-in-possession, reflect the Debtors' exercise of their prudent business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and fair consideration. The DIP Agent and DIP Lenders have acted in good faith in agreeing to extend, and in consenting to the extension of, the DIP Financing to the Debtors in accordance with this Interim Order and the Postpetition Financing Documents. The agreements and arrangements authorized in this Interim Order and the Postpetition Financing Documents have been negotiated at arms' length with all parties represented by experienced counsel, have been entered into in good faith, and are enforceable in

accordance with their terms. Any credit extended and loans made to the Debtors by the DIP Lenders pursuant to this Interim Order shall be deemed to have been extended in good faith, as that term is used in section 364(e) of the Bankruptcy Code.

L. Good Cause. Good cause has been shown for the entry of this Interim Order. Among other things, entry of this Interim Order will permit the Debtors to pursue an orderly wind down and liquidation of their business through a liquidating chapter 11 plan. The financing arrangement authorized hereunder is necessary, essential, and appropriate and is in the best interest of, and will benefit, the Debtors, their creditors, and the Debtors' bankruptcy estates, as its implementation will, among other things, provide the Debtors with the necessary liquidity to (i) avoid immediate and irreparable harm to the Debtors and their bankruptcy estates; and (ii) preserve and maximize the value of the Debtors' assets.

M. Entry of Order. Sufficient cause exists for immediate entry of this Interim Order notwithstanding Bankruptcy Rule 6004(h). This Interim Order is entered pursuant to, and shall be construed and be consistent with, sections 363 and 364 of the Bankruptcy Code and Bankruptcy Rules 4001(b)(2) and (c)(2) to prevent immediate and irreparable harm to the Debtors and their estates.

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

1. Motion Granted. The Motion is hereby granted on an interim basis on the terms set forth in this Interim Order. Any objections to the entry of this Interim Order that have not been previously resolved or withdrawn, including any reservations of rights therein, are hereby overruled on their merits.

2. Authorization for Interim DIP Financing and Approval of Postpetition Financing Documents. Subject to the terms and conditions of this Interim Order, the Debtors are hereby authorized to (a) enter into and be bound by the Postpetition Financing Documents and perform the Debtors' obligations in accordance with, and subject to, the terms and conditions thereof, and (b) obtain the Interim DIP Financing pursuant to this Interim Order and the Postpetition Financing Documents up to a maximum outstanding principal amount of **\$450,000.00** on an interim basis. The Debtors are authorized to enter into such non-material modifications and amendments to the Postpetition Financing Documents without further Court order or notice to any other party as may be agreed upon in writing by the Debtors and the DIP Agent. Upon entry of this Interim Order, the Postpetition Financing Documents shall constitute valid and binding obligations of the Debtors, their estates, and their respective successors and assigns (including, without limitation, any successor trustee or other estate representative in any subsequent or superseding case(s)), and shall be fully enforceable in accordance with their terms. In furtherance of the foregoing and without further approval of this Court, the Debtors are authorized and directed to perform all acts and to execute and deliver all instruments and documents that the DIP Agent determines to be reasonably required or necessary for the Debtors' performance of their obligations under this Interim Order and the Postpetition Financing Documents. Notwithstanding any provision of this Interim Order to the contrary, the DIP Lenders shall not have any obligation or commitment under this Interim Order or the other Postpetition Financing Documents until all conditions precedent provided for in the Postpetition Financing Documents have been satisfied or waived.

3. Interim DIP Financing Advance. Upon the entry of this Interim Order and execution and delivery to the DIP Agent of the DIP Note by each of the Debtors, the DIP Lenders shall advance the Interim DIP Financing upon draw requests by the Debtors in accordance with the Budget and the terms of this Interim Order. Such Interim DIP Financing draw requests shall be: (i) limited to an amount not more than the amount necessary or required to fund expenses pursuant to the Budget for the two (2) Budget weeks commencing as of such Interim DIP Financing draw request; (ii) limited to not more than one draw request per week; and (iii) in an amount not less than \$5,000.00 per request. The Debtors' obligation to repay the Interim DIP Financing and all other obligations of the Debtors under this Interim Order and the Postpetition Financing Documents shall be referred to collectively herein as the "DIP Obligations."

4. Use of Cash Collateral and Interim DIP Financing Proceeds. The Debtors shall be permitted to use Cash Collateral and the proceeds of the Interim DIP Financing solely for the purposes set forth in the Budget, and only up to the respective aggregate amount of disbursements set forth in the Budget for any week during the term of this Interim Order (the "Financing Period"), subject to the Permitted Variance (as hereinafter defined). The Debtors shall not use the Interim DIP Financing or use, sell, or expend, directly or indirectly, the Prepetition Collateral, the Postpetition Collateral (as hereinafter defined) or the Cash Collateral except pursuant to the Budget and upon the terms and conditions set forth in this Interim Order and the Postpetition Financing Documents. The Prepetition Lenders' consent to the Debtors' use of Cash Collateral pursuant to the Budget shall not be deemed to be consent to any further or other use of the Prepetition Collateral, the Postpetition Collateral or Cash Collateral.

5. Compliance With Budget. The Debtors' aggregate expenditures under the Budget shall be tested weekly on a cumulative basis (i.e., the sum of all actual amounts expended for the current week and all previous weeks in the Budget cannot exceed the sum of all budgeted disbursements for such cumulative period). On or prior to 4:00 p.m. prevailing Central time on each Wednesday during the Financing Period, the Debtors shall prepare and deliver to counsel for the DIP Agent and counsel for any Committee appointed in the Cases, a written reconciliation (by line item and on a cumulative basis) of the actual collections and disbursements for the immediately preceding week with the budgeted collection and disbursements set forth in the Budget. The Budget may be amended from time to time by written agreement between the DIP Agent and the Debtors, without further order of the Court, provided that the amended budget shall be filed with the Court and served on the parties listed on the Debtors' Master Service List and no objections are filed to such amended budget within three (3) business days of such filing; in which case, such amended budget shall become the Budget under this Interim Order and the Postpetition Financing Documents.

6. Cash Management. The Debtors shall maintain the following debtor-in-possession accounts (collectively, the "DIP Accounts") and close all other deposit accounts of the Debtors, in each case in accordance with an entered order approving the *Debtors' Motion Pursuant to Sections 105(a), 345(b), 363(c), and 364(a) of the Bankruptcy Code for Authorization to (I) Continue to Use Existing Cash Management System, (II) Maintain Existing Bank Accounts, and (III) Waive Certain Deposit Guidelines* [Docket No.10]:

- a. UGH's existing deposit accounts at DIP Agent with account numbers ending 2837 (the "UGH Operating Account") and 2845;

- b. UGH's deposit account at AmegyBank ("Amegy") ending in account number 7558 (the "Amegy Account") for receipt and deposit of Medicare and other third party payor payments all of which are to be disbursed daily via auto-sweep to the UGH Operating Account; and
- c. FHI's existing deposit accounts at DIP Agent with account numbers ending 3512 (the "FHI Operating Account") and 4114.

The Debtors shall immediately segregate, remit and deposit all Cash Collateral in the Debtors' possession, custody or control or which the Debtors may receive in the future into the DIP Accounts. All Cash Collateral collected by the Debtors shall be immediately transferred by the Debtors to the DIP Accounts. The Debtors shall be prohibited from withdrawing or using funds from the DIP Accounts except as provided for in the Budget, this Interim Order, or pursuant to further order of the Court. The Debtors shall not open or use any bank accounts other than the DIP Accounts without the prior written consent of DIP Agent. The DIP Agent and Prepetition Agent, for the benefit of the DIP Lenders and Prepetition Lenders, shall have and maintain a perfected lien and security interest, with the respective priorities provided herein, in the DIP Accounts and all funds contained therein or evidenced thereby.

7. Term. Unless extended by written agreement of the Debtors and the DIP Agent, the term of this Interim Order and the Financing Period shall expire, all DIP Obligations shall be immediately due and payable in full, and the Debtors' authorization to use Cash Collateral and the proceeds of the Interim DIP Financing shall cease, on the earliest to occur of the following (the "Maturity Date"): (a) the Final Hearing (subject to an extension by agreement of the DIP Agent to the extent the Final Order is approved, but entry of the Final Order does not occur until after the date of the Final Hearing); (b) September 8, 2017 (the "Outside DIP Termination Date"); (c) the occurrence of an Event of Default (as hereinafter defined) under this Interim

Order or the Postpetition Financing Documents; (d) the sale of all or substantially all assets of the Debtors; or (e) confirmation of a chapter 11 plan in these Cases.

8. Interest on DIP Financing. The Interim DIP Financing shall bear interest at a non-default rate of six percent (6%) per annum. After the occurrence of an Event of Default, the Interim DIP Financing shall bear interest at a rate equal to ten percent (10%) per annum. Interest on the Interim DIP Financing shall accrue and be payable on the Maturity Date in accordance with the DIP Note.

9. Postpetition Interest on Prepetition Indebtedness. Without prejudice to the rights of the Prepetition Lenders under section 506(b) of the Bankruptcy Code, the Debtors will not be required to pay current interest on the outstanding balance of the Prepetition Indebtedness as part of, or during the term of, the DIP Financing. The Prepetition Lenders reserve all rights under section 506(b) of the Bankruptcy Code to assert, and expressly do not waive or limit, claims for post-petition interest, fees and all other amounts due under the FHI Indebtedness Documents and/or Intercompany Indebtedness Documents.

10. DIP Agent's Expenses. In consideration for the DIP Financing and use of Cash Collateral, the Debtors shall pay the DIP Agent's reasonable out-of-pocket expenses, including, without limitation, attorneys' fees and expenses of Haynes and Boone, LLP. The Debtors shall pay all such amounts monthly and within fourteen (14) business days after submission of invoices for review by the Debtors, the U.S. Trustee, and any Committee appointed in the Cases (collectively, the "Review Parties"), and no objections being raised as to the reasonableness of such fees by the Review Parties within such fourteen (14) business day period after submission of such invoices. In the event any of the Review Parties objects to the reasonableness of any

amounts set forth in such invoices within the fourteen (14) business day review period, such objections shall be resolved by the Court; provided, however, that the Debtors shall pay all portions of such invoices not subject to objection.

11. DIP Liens. To secure the Interim DIP Financing, the DIP Agent, for and on behalf of the DIP Lenders, is hereby granted, pursuant to sections 361(2), 363(c)(2), 363(m), 364(c)(2) and 364(d)(1) of the Bankruptcy Code, priming, first priority, continuing, valid, binding, enforceable, non-avoidable, and automatically perfected post-petition liens and security interests (each, a “DIP Lien”) in and on all of the Debtors’ and the Debtors’ bankruptcy estates’ real and personal property, tangible or intangible, whether now existing or hereafter acquired, and all proceeds, products, rents, revenues and profits thereof (excluding only avoidance causes of action, including actions arising under 11 U.S.C. §§ 506(c), 544, 545, 546, 547, 548, 549 and 550, and the proceeds of such actions) (collectively, the “DIP Collateral”), but subject and subordinate solely to Prior Liens (as defined below) and the Carve Out. As used herein, the term “Prior Liens” shall mean, without duplication, any non-avoidable, valid, enforceable and properly perfected liens and security interests in favor of any person or entity on or in the assets of the Debtors, as pre-petition debtors, which existed on the Petition Date and are not subject to section 552(a) of the Bankruptcy Code, but only to the extent such liens and security interests are superior in priority to the pre-petition liens and security interests of the Prepetition Lenders, after giving effect to any existing subordination or intercreditor arrangements. The DIP Liens shall be valid, enforceable and of senior priority notwithstanding the validity, enforceability, priority, avoidability or any other infirmity of the Prepetition Lenders’ pre-petition liens and security

interests. Nothing contained in this Interim Order shall constitute a determination of the priority or existence of any Prior Liens.

12. Replacement Liens. As adequate protection to the Prepetition Lenders for any diminution in value of the Prepetition Lenders' interests in the Prepetition Collateral, including Cash Collateral, resulting from the imposition of the automatic stay with respect to the Prepetition Collateral and/or the Debtors' use, sale or lease of the Prepetition Collateral during the Cases (the "Diminution in Value"), the Prepetition Agent, for and on behalf of the Prepetition Lenders, is hereby granted valid, perfected, first-priority (except as otherwise provided herein) additional and replacement security interests in and liens upon (collectively, the "Replacement Liens") all of the Debtors' right, title and interest in, to, and under (i) all assets in which the Prepetition Lenders hold validly perfected liens as of the Petition Date; and (ii) all of the Debtors' now owned and after-acquired real and personal property, assets and rights, of any kind or nature, wherever located, including, without limitation contracts, property, plant, equipment, general intangibles, documents, instruments, interests in leaseholds, patents, copyrights, trademarks, trade names, and all other intellectual property, capital stock of subsidiaries, cash, and cash collateral of the Debtors (whether maintained with the Prepetition Lenders or other financial institutions), any investment of such cash and cash collateral, inventory, accounts receivable, any cause of action existing as of the Petition Date (excluding avoidance or other causes of action arising under chapter 5 of the Bankruptcy Code), and the proceeds thereof (whether recovered by judgment, settlement or otherwise), any right to payment whether arising before or after the Petition Date, and the proceeds, products, rents and profits of all of the foregoing (collectively,

the “Adequate Protection Collateral”), but subject and subordinate solely to the DIP Liens, the Prior Liens, and the Carve Out.

13. Automatic Perfection of DIP and Replacement Liens. The DIP Liens and Replacement Liens granted by this Interim Order shall be, and hereby are, deemed duly perfected and recorded under all applicable federal, state and other laws as of the commencement of these Cases, and no notice, filing, mortgage recordation, possession, further order or other act shall be required to effect such perfection. To the extent that 11 U.S.C. § 362, or any applicable non bankruptcy law otherwise would restrict the granting, scope, enforceability, attachment, or perfection of the liens and security interests authorized or created in this Interim Order, or otherwise would impose filing or registration requirements with respect to such liens, such law is hereby preempted to the maximum extent permitted by the Bankruptcy Code, other applicable federal law, and the judicial power of the United States Bankruptcy Court.

14. Super-Priority Claims. In addition to its DIP Liens, the DIP Agent, for and on behalf of the DIP Lenders, is hereby granted a super-priority administrative claim with priority equivalent to a claim under section 364(c)(1) of the Bankruptcy Code in an aggregate amount equal to the Interim DIP Financing (the “DIP Super-Priority Claim”), which DIP Super-Priority Claim shall have priority over all other costs and expenses of administration of any kind, including, without limitation, those specified in, or ordered pursuant to, sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546(b), 546(c), 726, 1114 or any other provision of the Bankruptcy Code or otherwise, and shall at all times be senior to the rights of the Debtors and/or any successor trustee or other estate representative in these Cases, but subject in all respects to the Carve Out. In addition to its Replacement Liens, to the extent of any Diminution in Value,

the Prepetition Agent, for and on behalf of the Prepetition Lenders, shall have an allowed super-priority administrative expense claim in these Case and any successor case as provided in and to the full extent allowed by sections 503(b) and 507(b) of the Bankruptcy Code and otherwise (the “Adequate Protection Super-Priority Claim” and, together with the DIP Super-Priority Claim, collectively, the “Super-Priority Claims”), which Adequate Protection Super-Priority Claim shall have priority over all other costs and expenses of administration of any kind, including, without limitation, those specified in, or ordered pursuant to, sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546(b), 546(c), 726, 1114 or any other provision of the Bankruptcy Code or otherwise, and shall at all times be senior to the rights of the Debtors and/or any successor trustee or other estate representative in these Case, but subject to the DIP Super-Priority Claim and the Carve Out.

15. Carve Out. The DIP Liens, Replacement Liens, and Super-Priority Claims granted herein shall be subject to (a) all fees required to be paid to the Clerk of the Court and to the U.S. Trustee under 28 U.S.C. § 1930(a) plus interest pursuant to 31 U.S.C. § 3717; and (b) to the extent allowed by the Court at any time, and subject to the Budget, all accrued and unpaid fees, disbursements, costs and expenses of professionals or professional firms retained by Debtors accrued or incurred at any time before or on the date and time of the delivery by the DIP Agent of a Carve Out Trigger Notice (as hereinafter defined), whether allowed by the Court prior to or after delivery of a Carve Out Trigger Notice, plus fees, costs, and expenses incurred by the aforementioned professionals after the date of the Carve-Out Trigger Notice in an amount not to exceed \$100,000 in the aggregate; provided, however, that nothing in this Interim Order shall be construed to impair the right of any party to object to any fees, expenses, reimbursement or

compensation sought by any such professionals or any other person or entity (all such carve-outs referenced above, collectively, the “Carve Out”). The aforementioned Carve Out amount shall be reduced dollar for dollar by the amount of any retainer balance held by such professional or other person. Notwithstanding anything herein to the contrary, neither the Carve Out nor any proceeds of the DIP Financing, DIP Collateral, Prepetition Collateral, or Cash Collateral may be used by any party, including the Debtors or the Committee (if appointed), to (a) attempt to modify or otherwise alter any of the terms and conditions set forth in this Interim Order without the DIP Agent’s prior written consent, (b) object to, contest or raise any defense to the validity, perfection, priority, extent or enforceability of any amounts due, or the liens and claims granted by, this Interim Order, (c) assert, allege, bring or support any claim or cause of action, or the initiation or prosecution of any claim or cause of action, against the DIP Lenders or the Prepetition Lenders, including any cause of action under chapter 5 of the Bankruptcy Code or state law of any type or nature whatsoever, or (d) prevent, hinder, or otherwise delay the DIP Agent’s assertion, enforcement or realization on the DIP Collateral in accordance with this Interim Order. Upon entry of this Order, the amount of the Carve-Out in the Budget attributable to estate professional fees shall be funded, in full, into Debtors’ counsel’s IOLTA account; provided, however, that such funds shall not be applied to accrued fees and expenses of estate professionals except pursuant to order of this Court, whether on a fee application or interim compensation procedures.

16. No Surcharge. No costs or expenses of administration shall be imposed against the DIP Lenders, the Prepetition Lenders, the DIP Collateral, Adequate Protection Collateral, or Prepetition Collateral under section 506(c) of the Bankruptcy Code.

17. Modification of Stay. The automatic stay provided under section 362 of the Bankruptcy Code is hereby vacated and modified to the extent necessary to permit (a) the DIP Agent to commit all acts and take all actions necessary to implement this Interim Order and (b) all acts, actions, and transfers contemplated by this Interim Order.

18. Release. Subject only to the Investigation Period (as hereinafter defined), **the Debtors hereby release, acquit, and forever discharge the DIP Agent, DIP Lenders, Prepetition Agent, Prepetition Lenders, and each of their directors, officers, representatives, agents, attorneys, financial advisors, and controlling persons, in each case solely in their capacity as such, (collectively, the "Released Parties") from any and all claims, counterclaims, demands, controversies, costs, contracts, debts, sums of money, accounts, reckonings, bonds, bills, damages, obligations, liabilities, objections, actions, and causes of action of any nature, type or description, whether at law or equity, by common law or statute, in contract, for, or otherwise, known or unknown, asserted or unasserted, or suspected or unsuspected, other than claims arising from the gross negligence or willful misconduct of the Released Parties, that the Debtors ever had or now have against any of the Released Parties that may have arisen at any time on or prior to the date of this Interim Order (collectively, the "Released Claims").**

19. Waivers. The Debtors, on behalf of themselves and their estates, irrevocably waive, and any party-in-interest acting by, through or on behalf of any of the Debtors or their estates is barred from asserting or exercising, any right (a) to grant or impose, or request that the Court grant or impose, under section 364 of the Bankruptcy Code or otherwise, liens on or security interests in the DIP Collateral equal or superior to DIP Lenders' liens on and security

interests in such Postpetition Collateral; (b) to use proceeds of the DIP Financing, Cash Collateral or DIP Collateral in any way other than as expressly provided in this Interim Order; or (c) to return goods pursuant to section 546(h) of the Bankruptcy Code (or otherwise return goods on account of any pre-petition indebtedness) to any creditor of the Debtors or to consent to any creditor taking any setoff against any of its prepetition indebtedness based upon any such return pursuant to section 553 of the Bankruptcy Code or otherwise.

20. Investigation Period. **The findings contained in paragraph G(1) through G(6) above and the releases provided for in paragraph 18 above shall be binding upon (a) the Debtors (but not the Debtors' estates) immediately on entry of this Interim Order; and (b) all other parties in interest, including any Committee appointed in these Cases, unless (i) a party in interest (including any Committee appointed in these Cases) has filed an adversary proceeding or contested matter challenging the amount, validity, enforceability, perfection or priority of the Prepetition Indebtedness or the Prepetition Liens in respect thereof, or otherwise asserting any claims or causes of action against the Prepetition Agent and/or Prepetition Lenders on behalf of the Debtors' estates, on or before the later of 45 days after the entry of this Interim Order or 30 days after the appointment of such Committee (the "Investigation Period"); and (ii) the Court rules in favor of the plaintiff in any such timely filed adversary proceeding or contested matter and such ruling becomes a final order.**

21. No Lender Control. No act committed or action taken by the DIP Agent, DIP Lender, Prepetition Agent, or Prepetition Lenders under this Interim Order or otherwise shall be used, construed, or deemed to hold such parties to be in control of the Debtors, or the governance, management or operations of the Debtors for any purpose, without limitation, or to

be acting as a “responsible person” or “owner and operator” or a person in “control” with respect to the governance, management or operation of the Debtors or their businesses (as such terms, or any similar terms, are used in the Internal Revenue Code, Comprehensive Environmental Response, Compensation and Liability Act, Bankruptcy Code, each as may be amended from time to time, or any other federal or state statute, at law, in equity, or otherwise) by virtue of the interests, rights, and remedies granted to or conferred upon such parties under this Interim Order, including, without limitation, such rights and remedies as may be exercisable by such parties in connection with this Interim Order.

22. Reporting. The Debtors shall provide the DIP Agent all written reports, appraisals and documentation reasonably requested by the DIP Agent.

23. Access. DIP Agent and its agents shall have access upon reasonable notice during normal business hours to the Debtors and the Debtors’ business premises and to the DIP Collateral and to review, appraise, and evaluate the physical condition of the DIP Collateral and to inspect the financial records and all other records of the Debtors relating to the operations of the Debtors. The Debtors shall fully cooperate with the DIP Agent regarding such review, evaluations, and inspections, and shall make its employees and professionals reasonably available to the DIP Agent and its professionals and consultants to conduct such reviews, evaluation, and inspections.

24. Reserved Rights; Additional Adequate Protection. Nothing in this Interim Order shall obligate the DIP Agent, DIP Lenders, Prepetition Agent, or Prepetition Lenders with respect to any plan of reorganization or sale which may be proposed in these Cases nor constitute a waiver of any right or remedy of the DIP Agent, DIP Lenders, Prepetition Agent, and

Prepetition Lenders, including the right to seek relief from stay, to seek conversion or dismissal of these Cases, or to oppose confirmation of any plan of reorganization or sale proposed in these Cases. The DIP Agent, DIP Lenders, Prepetition Agent, and Prepetition Lenders may apply to this Court for additional protection at any time, and nothing contained in this Interim Order shall prejudice or limit the rights of the DIP Agent, DIP Lenders, Prepetition Agent, and Prepetition Lenders to seek at any future time, adequate protection pursuant to sections 361, 362, 363 or 364 of the Bankruptcy Code, any relief from the automatic stay imposed by section 362 of the Bankruptcy Code or otherwise. Further, nothing in this Interim Order shall constitute an agreement or admission by the DIP Agent, DIP Lenders, Prepetition Agent, or Prepetition Lenders as to the adequacy of the protections granted, the value of the collateral, or the treatment of claims under any plan of reorganization. The provisions of this paragraph are without prejudice to the rights of the Debtors to oppose or object to any such prospective acts.

25. Events of Default. Each of the following shall constitute an event of default (“Event of Default”) under this Interim Order:

- (a) the Debtors shall attempt to vacate or modify this Interim Order over the objection of the DIP Agent;
- (b) the Debtors’ failure to obtain entry of the Final Order, in a form acceptable to the DIP Agent, on or before the date which is thirty (30) days after the Petition Date;
- (c) the Debtors shall institute any proceeding or investigation, or support same by any other person, challenging the status and/or validity of the Prepetition Indebtedness or Prepetition Liens;
- (d) the amount of Debtors’ actual expenditures exceed the approved expenditures, as set forth in the Budget, on a cumulative basis for the current and all prior weeks, by more than 10% (the “Permitted Variance”);

- (e) the entry of an order amending, supplementing, staying, vacating or otherwise modifying this Interim Order without the consent of the DIP Agent, or the filing of a motion for reconsideration by the Debtors with respect thereto;
- (f) the entry of an order, without the prior written consent of the DIP Agent, (i) converting either of these Cases to a case under chapter 7 of the Bankruptcy Code; (ii) dismissing either of these Cases; (iii) appointing a trustee or examiner with expanded powers (powers beyond those set forth in sections 1106(a)(3) and (4)) in these Cases; or (iv) granting relief from the automatic stay to any creditor (other than the DIP Lenders and Prepetition Lenders) holding or asserting a lien or asserting a reclamation claim with respect to any DIP Collateral;
- (g) the entry of an order, without the prior written consent of the DIP Agent, granting any motion in these Cases: (i) to obtain financing under section 364 of the Bankruptcy Code from any person or entity other than the DIP Lenders; (ii) to grant any lien or offering any collateral to any person or entity other than the DIP Agent and DIP Lenders; (iii) to recover from any portion of the Prepetition Collateral any costs or expenses of preserving or disposing of collateral under section 506(c) of the Bankruptcy Code;
- (h) the use of any Cash Collateral or DIP Financing proceeds for any purpose other than those set forth in the Budget;
- (i) the sale, transfer, or other disposition by the Debtors of any DIP Collateral without the prior written consent of the DIP Agent;
- (j) the Debtors' failure to pay any amount due under this Interim Order or the Postpetition Financing Documents pursuant to the terms and timing required by such Interim Order or Postpetition Financing Documents; or
- (k) the Debtors' failure to comply with any material provision, term, covenant or representation of this Interim Order or the Postpetition Financing Documents.

26. Effect of Event of Default. DIP Agent shall deliver notice of the occurrence of an Event of Default to counsel for the Debtors, counsel for the Committee (if any), and the office of the United States Trustee (such delivered notice shall constitute a "Carve Out Trigger Notice"). Upon the occurrence of an Event of Default, the DIP Agent may declare all outstanding principal

and interest on the Interim DIP Financing due and immediately payable and terminate any further commitment to extend credit under the DIP Financing arrangement. The Debtors and the Committee shall have seven (7) business days following receipt of written notice of the occurrence of an Event of Default to seek an emergency hearing before the Court for the sole purpose of contesting whether (a) an Event of Default has occurred, or (b) the noticed Event of Default has been cured. **Upon the expiration of such seven (7) business day period, unless the Court has determined either (a) that (i) an Event of Default has not occurred, or (ii) the noticed Event of Default(s) are subject to cure and have been cured, or (b) the Court sets an expedited hearing for such determination within such period but the date of the hearing is scheduled to occur after such period based on the Court's docket, the automatic stay shall be lifted without further order of this Court to allow DIP Agent to exercise any and all remedies customary for secured lenders, including set-off and foreclosure, in connection with the DIP Financing, subject only to the Carve Out.**

27. Notices. All written notices in connection with this Order shall be delivered by hand delivery, facsimile, electronic mail, or overnight courier as follows:

If to DIP Agent: Eli O. Columbus
HAYNES AND BOONE, LLP
2323 Victory Avenue, Suite 700
Dallas, Texas 75201
Phone: (214) 651-5000
Fax: (214) 651-5940
eli.columbus@haynesboone.com

If to Debtors: Vickie Driver
HUSCH BLACKWELL, LLP
2001 Ross Avenue, Suite 2000
Dallas, Texas 75201
Phone: (214) 999-6100

Fax: (214) 999-6170
vickie.driver@huschblackwell.com

28. No Marshaling. Neither the DIP Lenders nor the Prepetition Lenders shall be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the DIP Collateral, Adequate Protection Collateral, or Prepetition Collateral, as applicable.

29. Equities of the Case Waiver. The DIP Lenders and the Prepetition Lenders shall each be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code and the Debtors shall not assert the “equities of the case” exception under section 552(b) of the Bankruptcy Code as to the DIP Lenders or the Prepetition Lenders with respect to the proceeds, product, offspring or profits of any of the DIP Collateral, Adequate Protection Collateral, or Prepetition Collateral.

30. Validity. If this Interim Order or any provisions of it are hereafter reversed, modified, vacated, or stayed by subsequent order of this Court or by any other court, such reversal, modification, vacatur, or stay shall not affect the validity of any obligations of the Debtors to the DIP Agent, DIP Lenders, Prepetition Agent, and Prepetition Lenders that are or were incurred by the Debtors pursuant to this Interim Order prior to the effective date of such reversal, modification, vacatur, or stay or the validity and enforceability of any security interest, lien, or priority authorized, created, affirmed, or granted herein. Notwithstanding such reversal, modification, vacatur, or stay, any obligation of the Debtors under this Interim Order arising prior to the effective date of such reversal, modification, vacatur, or stay shall be governed in all respect by the provisions of this Interim Order

31. Continuing Jurisdiction. This Court hereby expressly retains jurisdiction over all persons and entities, co-extensive with the powers granted to the United States Bankruptcy Court under the Bankruptcy Code, to enforce the terms of this Interim Order and to adjudicate any and all disputes in connection therewith.

32. No Parol Evidence. This Interim Order represents the final agreement between the DIP Agent, DIP Lenders, Prepetition Agent, and Prepetition Lenders and the Debtors and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreement of such parties. No unwritten oral agreements exist between such parties.

33. Order Binding on Successors. The provisions of this Interim Order shall be binding upon and inure to the benefit of the DIP Agent, DIP Lenders, Prepetition Agent, Prepetition Lenders, the Debtors, and their respective successors and assigns (including any trustee or other estate representative appointed as a representative of the Debtors' estates). Except as otherwise explicitly set forth in this Interim Order, no third parties are intended to be or shall be deemed third party beneficiaries of this Interim Order.

34. No Dismissal. If either of these Cases are dismissed, converted, otherwise superseded or substantively consolidated, the rights and remedies of the DIP Agent, DIP Lenders, Prepetition Agent, and Prepetition Lenders under this Interim Order shall remain in full force and effect as if the applicable Case(s) had not been dismissed, converted, superseded or consolidated. Furthermore, notwithstanding any such dismissal, conversion, supersession or substantive consolidation, all of the terms and conditions of this Interim Order, including, without limitation, the liens and the priorities granted hereunder, shall remain in full force and effect.

35. No Alternation of Order by Plan. The terms of this Interim Order shall not be altered, modified, extended, impaired, or affected by any plan of reorganization of the Debtors.

36. Effect of Modification of Order; Section 364(e) Protection. Having been found to be consenting to the Debtors' use of Cash Collateral and/or making post-petition extensions of credit and other financial accommodations to the Debtors in good faith, the DIP Lenders and Prepetition Lenders shall be entitled to the full protection of section 364(e) of the Bankruptcy Code with respect to the indebtedness and the liens and priorities created or authorized by this Interim Order in the event that this Interim Order or any authorization contained herein is stayed, vacated, reversed or modified on appeal. Each of the terms and conditions set forth in this Interim Order constitutes a part of the authorization under section 364 of the Bankruptcy Code, and is therefore subject to the protections contained in section 364(e) of the Bankruptcy Code. Any stay, modification, reversal or vacatur of this Interim Order shall not affect the validity of any indebtedness outstanding immediately prior to the effective time of such stay, modification or vacatur, or the validity or enforceability of any lien, priority, right, remedy, privilege, benefit or protection authorized hereby with respect to any such indebtedness. Notwithstanding any such stay, modification or vacatur, any indebtedness outstanding immediately prior to the effective time of such modification, stay or vacatur shall be governed in all respects by the original provisions of this Interim Order, and the DIP Lenders and Prepetition Lenders shall be entitled to all of the liens, priorities, rights, remedies, privileges, benefits and protections, including, without limitation, the security interests and priorities granted herein, with respect to the DIP Financing.

37. Underlined Headings. The headings used within this Interim Order are for the convenience of reference only, do not constitute a part hereof, and shall not affect the meaning or construction of any provision hereof.

38. Controlling Effect of This Order. In the event of any inconsistency between any other order entered by the Court or the Postpetition Financing Documents and this Interim Order, the terms of this Interim Order shall control.

39. Order Effective. This Interim Order shall be effective as of the date of signature or entry by the Court. Any applicable stay (including, without limitation, under Bankruptcy Rule 6004(h)) is hereby waived and shall not apply to this Interim Order.

40. Final Hearing. The Final Hearing on the Motion is scheduled before this Court on **July 18, 2017 at 9:30 a.m. Central time**. Any party in interest objecting to the entry of a final order granting the Motion on a final basis must submit any such objection in writing and file same with the Court and serve such objection on the Debtors, Debtors' counsel, the DIP Agent, and DIP Agent's counsel so as to be actually received by such parties no later than **July 14, 2017 at 4:00 p.m. Central time**.

END OF ORDER

EXHIBIT A

[DIP Note]

PROMISSORY NOTE

\$1,250,000.00

July ____, 2017

FOR VALUE RECEIVED, Foundation Healthcare, Inc., an Oklahoma corporation, and University General Hospital, LLC, a Texas limited liability company (collectively, the “Borrowers”), as debtors and debtors-in-possession in Bankruptcy Case Nos. 17-42570 and 17-42571 pending in the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division (collectively, the “Cases”), hereby promise to pay to the order of Texas Capital Bank, National Association, as Administrative Agent (the “DIP Agent”), the principal sum of up to ONE MILLION TWO HUNDRED FIFTY THOUSAND and No/100 DOLLARS (\$1,250,000.00), together with interest on so much thereof as is accrued at the applicable Pre-Default Rate or Default Interest Rate (as such terms are herein defined), on or before the Maturity Date (hereinafter defined) in lawful money of the United States of America, which shall at the time of payment be legal tender in payment of all debts and dues, public and private.

TERMS AND CONDITIONS

A. **Bankruptcy Court Approval.** The Borrowers’ entry into this Promissory Note and the financing contemplated hereunder shall not be effective until an order authorizing such financing has been entered in the Cases (such interim or final order, as applicable, the “DIP Order”). The terms of the DIP Order are incorporated herein by reference.

B. **Loan Advances.** The DIP Lenders (as such term is defined in the DIP Order) shall make loans to the Borrowers under this Promissory Note as provided in the DIP Order (each loan, an “Advance”).

C. **Computation of Interest.** Interest shall accrue at a non-default rate of six percent (6%) per annum (the “Pre-Default Rate”) from the date on which funds are advanced, regardless of the time of day, until all amounts due under this Promissory Note have been repaid. After the occurrence of an Event of Default (as such term is defined in the DIP Order), interest shall accrue at a rate equal to ten percent (10%) per annum (the “Default Interest Rate”). Interest shall accrue and be payable in full on the Maturity Date (as hereinafter defined). Interest shall be computed hereunder based on a 360-day year and paid for the actual number of days elapsed for any whole or partial month in which interest is being calculated.

D. **Maturity Date.** The entire outstanding principal balance hereof, together with all accrued interest thereon, shall be due and payable in full on the Maturity Date (as more particularly defined in the DIP Order, the “Maturity Date”).

E. **Security.** The Borrowers’ obligation to repay the outstanding balance of this Promissory Note shall be secured by the liens granted in the DIP Order and is subject to all other adequate protection and priorities afforded to the DIP Lenders in the DIP Order.

F. **Joint and Several Liability.** The representations, covenants, warranties and obligations of the Borrowers hereunder shall be joint and several.

G. **Remedies for Default.** It is hereby expressly agreed that should any Event of Default occur as provided in the DIP Order, subject to the terms and conditions of the DIP Order and applicable law, the DIP Agent may declare all outstanding principal and interest due hereunder immediately due and payable and terminate any further commitment to extend credit under this Promissory Note and exercise any and all rights available to it, at law or in equity.

H. **Cumulative Remedies.** The remedies of the DIP Agent and DIP Lenders under this Promissory Note, or at law or in equity, shall be cumulative and concurrent, and may be pursued singly, successively or together in the DIP Agent's and DIP Lenders' discretion. The Borrowers shall pay all reasonable and necessary costs of collection, including reasonable attorneys' fees and legal expenses if this Promissory Note is not paid when due, whether or not legal proceedings are commenced.

I. **Usury Interest.** Notwithstanding any other provision herein, the aggregate interest rate charged with respect to any of the obligations created hereby, including all charges or fees in connection therewith deemed in the nature of interest under applicable law, shall not exceed the highest rate permitted by the laws of the United States of America or the laws of the State of Texas (the "Highest Lawful Rate"). If the rate of interest (determined without regard to the preceding sentence) under this Promissory Note at any time exceeds the Highest Lawful Rate, the outstanding indebtedness hereunder shall bear interest at the Highest Lawful Rate.

J. **Waivers.** Subject to the terms of the DIP Order, the Borrowers hereby waive presentment for payment, demand, protest and notice of dishonor and nonpayment of this Promissory Note and agree that no obligation hereunder shall be discharged by reason of any extension, indulgence, release or forbearance granted by any holder of this Promissory Note to any party now or hereafter liable hereon or any present or subsequent owner of any property, real or personal, which is now or hereafter security for this Promissory Note.

K. **Miscellaneous.** This Promissory Note shall be interpreted, construed and enforced according to the laws of the State of Texas. The terms and provisions hereof shall be binding upon and inure to the benefit of the Borrowers and the DIP Lenders (and the terms "Borrowers" and "DIP Lenders" shall be deemed to include), their respective heirs, executors, legal representatives, successors, successors-in-title and assigns, whether by voluntary action of the parties or by operation of law. This Promissory Note, including the DIP Order by reference, contains the entire agreement between the parties hereto relating to the subject matter hereof and thereof and all prior agreements relative hereto and thereto which are not contained herein or therein are terminated.

Foundation Healthcare, Inc. Tax Identification No.: _____

University General Hospital, LLC Tax Identification No.: _____

IN WITNESS WHEREOF, the Borrowers have executed this Promissory Note as of the date first above written.

FOUNDATION HEALTHCARE, INC.

an Oklahoma corporation

By: _____

Name: _____

Title: _____

UNIVERSITY GENERAL HOSPITAL, LLC

a Texas limited liability company

By: _____

Name: _____

Title: _____

EXHIBIT B

[Budget]

Foundation HealthCare, Inc. and University General Hospital, LLC
 Estimated 13-Week Wind Down Budget
 Prepared: June 8, 2017

	0	1	2	3	4	5	6	7	8	9	10	11	12	12-Week
	6/16/2017	6/23/2017	6/30/2017	7/7/2017	7/14/2017	7/21/2017	7/28/2017	8/4/2017	8/11/2017	8/18/2017	8/25/2017	9/1/2017	9/8/2017	Total
	Pre-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition
Receipts														
Patient Collections (1)	229,607	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000	-	30,000	30,000	-	270,000
Distributions	210,599	-	-	-	-	-	-	-	-	-	-	-	-	-
Non-Patient Collections	77,332	-	55,000	-	-	-	-	-	55,000	-	-	-	-	110,000
Total Receipts	517,538	35,000	35,000	35,000	35,000	35,000	35,000	35,000	90,000	90,000	30,000	30,000	-	380,000
Disbursements														
Utilities	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Board Of Director Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Debtors Tax Accountants	(50,000)	(12,800)	(12,800)	(12,800)	(12,800)	(12,800)	(12,800)	(12,800)	(12,800)	(12,800)	(12,800)	(12,800)	(12,800)	(128,000)
Data Storage and Removal	(2,200)	-	-	-	-	-	(7,000)	-	-	-	(7,000)	-	-	(31,000)
Medical Records Disposition	-	-	-	-	-	-	-	-	-	-	-	-	-	(100,000)
Ankura Consulting	(124,000)	-	-	(22,000)	(17,910)	(17,910)	(13,150)	(17,910)	(13,150)	(17,910)	(13,150)	(17,910)	(13,150)	(148,240)
Spectrum Consulting	(42,000)	-	-	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(50,000)
Misc.	(717)	-	-	(6,000)	(6,000)	(6,000)	(6,000)	(6,000)	(6,000)	(6,000)	(6,000)	(6,000)	(6,000)	(53,000)
Sales Tax	-	-	-	-	-	-	(30,000)	-	-	-	-	-	-	(30,000)
Debtor's Legal Counsel	(57,000)	-	-	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(200,000)
Noticing Agent	(30,000)	-	-	(15,000)	(15,000)	(15,000)	(10,000)	-	-	-	(10,000)	-	-	(35,000)
Accordias	(58,643)	-	-	(6,050)	(6,050)	(1,050)	-	(1,050)	(6,050)	-	(900)	-	(5,000)	(23,100)
Contract Employment	(3,000)	-	-	(25,000)	(10,000)	(10,000)	(10,000)	(15,000)	(3,500)	(2,000)	(2,000)	-	(2,000)	(52,500)
UMR	(65,000)	-	-	(60,000)	(15,000)	(15,000)	(15,000)	(15,000)	(15,000)	(15,000)	(15,000)	(15,000)	(218,000)	(398,000)
Lender - Legal Counsel	-	-	-	(20,500)	(20,500)	(20,500)	(20,500)	(20,500)	(20,500)	(20,500)	(20,500)	(20,500)	(20,500)	(205,000)
Lender - Financial Advisors	(88,382)	-	-	(20,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(110,000)
DIP Loan Fees - TBD	-	-	-	-	-	-	-	-	-	-	-	-	-	-
DIP Loan Interest	(1,368)	-	-	-	-	-	-	-	-	-	-	-	-	-
Other Bank Fees	-	-	-	-	-	-	-	-	(2,488)	-	-	-	(4,105)	(6,999)
Total Disbursements	(522,311)	(340,400)	(120,756)	(406)	(108,260)	(108,260)	(158,450)	(107,260)	(113,488)	(106,210)	(121,350)	(107,110)	(346,555)	(1,629,839)
Net Cash Flow	(4,773)	35,000	35,000	(340,400)	(30,756)	(73,260)	(158,450)	(72,260)	(23,488)	(106,210)	(91,350)	(77,110)	(346,555)	(1,249,839)
Cash Flow Reconciliation														
Beginning Cash Balance	5,521	-	35,000	70,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	5,521
Net Cash Flow	(4,773)	35,000	35,000	(340,400)	(30,756)	(73,260)	(158,450)	(72,260)	(23,488)	(106,210)	(91,350)	(77,110)	(346,555)	(1,249,839)
Funding - DIP Draw	-	-	-	420,400	30,756	73,260	158,450	72,260	23,488	106,210	91,350	77,110	196,555	1,249,839
Sweep - Pre-Petition Cash (2)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Ending Cash Balance	-	35,000	70,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	-	5,521

NOTES:
 (1) Post petition collections are estimated at the UGH foreclosure credit amount
 (2) Excess cash to be swept at filing