IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

In re:	)	Chapter 11
MERCY HOSPITAL, IOWA CITY, IOWA, *et al.*,	)	Case No. 23-00623 (TJC)
Debtors.	)	(Jointly Administered)

DEBTORS' MOTION FOR ENTRY OF ORDER (I)(A) APPROVING BIDDING PROCEDURES FOR THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS, (B) AUTHORIZING THE DEBTORS TO PROVIDE STALKING HORSE BID PROTECTIONS, (C) SCHEDULING AN AUCTION AND APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (D) APPROVING THE ASSUMPTION AND ASSIGNMENT PROCEDURES AND (E) SCHEDULING A SALE HEARING AND APPROVING THE FORM AND MANNER OF NOTICE THEREOF; (II)(A) APPROVING THE SALE OF THE DEBTORS' ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES AND (B) APPROVING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (III) GRANTING RELATED RELIEF

COMES NOW, Mercy Hospital, Iowa City, Iowa ("Mercy") and certain of its affiliates and subsidiaries, as debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the "Debtors"), hereby move (the "Motion") for entry of an order substantially in the form attached hereto as **Exhibit A** granting the relief described below. In support thereof, the Debtors rely upon the *Declaration of Mark E. Toney in Support of Chapter 11 Petitions and First Day Pleadings* (the "First Day Declaration").[1] In further support of the Motion, the Debtors respectfully represent as follows:

RELIEF REQUESTED

1. By this Motion, the Debtors request entry of the Bidding Procedures Order, substantially in the form attached hereto as **Exhibit A**:

[1] Capitalized terms used but not otherwise defined in this Motion shall have the meanings ascribed to them in the First Day Declaration.

(a) approving bidding procedures, substantially in the form attached to the Bidding Procedures Order as Exhibit 1 (the "Bidding Procedures"), to be used in connection with the sale (the "Sale") of substantially all of the Debtors' assets (collectively, the "Assets");

(b) authorizing the Debtors to provide a break-up fee and expense reimbursement to the State of Iowa, on behalf of the State University of Iowa (the "Stalking Horse Bidder");

(c) scheduling an auction (the "Auction") for the Assets and scheduling the hearing to approve the Sale;

(d) approving the form and manner of notice of the proposed sale hearing, substantially in the form attached to the Bidding Procedures Order as **Exhibit 2** (the "Sale Notice");

(e) authorizing procedures governing the potential assumption and assignment of the Debtors' executory contracts and unexpired leases in connection with the Sale (each a "Potential Assumed Contract" and together, the "Potential Assumed Contracts");

(f) approving the form and manner of notice to each relevant non-debtor counterparty to a Potential Assumed Contract of (A) the Debtors' calculation of the amount necessary to cure any defaults required to be cured under section 365 of the Bankruptcy Code under an applicable Potential Assumed Contract and (B) certain other information regarding the potential assumption and assignment of Potential Assumed Contracts in connection with the Sale, substantially in the form attached to the Bidding Procedures Order as **Exhibit 3** (the "Potential Assumption and Assignment Notice"); and

(g) granting related relief.

2. Concurrent with the ongoing marketing of the Acquired Assets, the Debtors and the Stalking Horse Bidder executed that certain Asset Purchase Agreement, dated as of August 7, 2023 (as amended, supplemented, or modified prior to the date hereof, the "Stalking Horse Agreement")[2], attached as **Exhibit B** to this Motion and pursuant to which the Debtors have agreed to sell substantially all of their Assets, subject to higher and better offers.

[2] To the extent there are any discrepancies between the Stalking Horse Agreement and any summary of terms set forth in this Motion, the terms of the Stalking Horse Agreement shall prevail.

JURISDICTION AND VENUE

3. The United States Bankruptcy Court for the Northern District of Iowa (the "Court") has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the Public Administrative Order referring bankruptcy cases entered by the United States District Court for the Northern District of Iowa. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and the Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

4. The statutory predicates for the relief requested in this Motion are sections 105(a), 363, 365, 503(b), and 507(a)(2) of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004, and 6006(a) of the Federal Rules of Bankruptcy Procedures (the "Bankruptcy Rules").

5. The Debtors confirm their consent to the entry of a final order by the Court in connection with the Motion in the event that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

BACKGROUND

I. The Chapter 11 Cases

6. On August 7, 2023 (the "Petition Date"), each Debtor commenced a case by filing a petition for relief under chapter 11 of the Bankruptcy Code (collectively, the "Chapter 11 Cases"). The Debtors have requested that these Chapter 11 Cases be jointly administered.

7. The Debtors continue to operate their businesses and manage their properties as debtors and debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

8. To date, the Office of the United States Trustee for the Northern District of Iowa (the "U.S. Trustee") has not appointed an official committee in these Chapter 11 Cases, nor has any trustee or examiner been appointed.

II. Background

9. The Debtors have commenced the Chapter 11 Cases to pursue the sale of all or substantially all of their assets pursuant to section 363 of the Bankruptcy Code to maximize the value of their estates and the recoveries of their stakeholders.

10. Soon to celebrate its 150th year of service, Mercy is a Catholic-based Iowa nonprofit corporation that operates an acute care community hospital (the "Hospital") and clinic located in Iowa City, Iowa. The Hospital currently has 194 licensed beds and operates an emergency room with over 30,000 visits per year. The Debtors, through the Hospital and its clinics, provide a broad range of other healthcare services, including cardiovascular care, bariatric care, high-definition robotic surgery, behavioral and mental health services, pain management, urological services, obstetrics and gynecological services, and many other forms of specialized care.

11. In addition to the Hospital, the Debtors own or operate 18 primary and specialty clinics through its subsidiary, Mercy Services. The off-campus clinic sites are located in various towns and communities in the surrounding geographic region, primarily south and east of Iowa City.

12. The Debtors' workforce is comprised of approximately 1,122 employees, including nurses, certified nursing assistants, licensed practical nurses, caregivers, janitorial workers, receptionists, corporate-level personnel, and other staff. Further, the Debtors employ over 90 physicians. With these employed providers, the medical staff is comprised of 365 individuals,

including voluntary community doctors and other contracted providers. All told, the Debtors are the fifth largest employer in Iowa City.

13. Additional information regarding the Debtors and these Chapter 11 Cases, including the Debtors' business operations, capital structure, financial condition, and the reasons for and objectives of these Chapter 11 Cases, is set forth in the First Day Declaration.

A. Initial Sale Efforts

14. In June 2021, the Debtors retained H2C Securities, Inc. ("H2C") as their investment banker to assist in the search for a long-term strategic partner. Following its retention, H2C collaborated with existing management to explore a range of potential transactions, including a merger, affiliation, partnership or other similar type of arrangement. In doing so, the Debtors with the assistance of H2C ran a process that would best enable a partnership with another healthcare provider and would maintain the Debtors' role as an essential healthcare provider to the community.

15. In particular, H2C prioritized potential candidates that would have the resources to maintain and continue the Debtors' operations and to manage their balance sheet liabilities. H2C initially identified a number of potential candidates that met the criteria above and would potentially be interested in partnering with a non-profit community hospital in Iowa City. In addition, on June 30, 2021, the Debtors announced to the organization and the market that the Debtors were seeking a long-term partner. During this time, three parties submitted initial indications of interest. One of these parties was the Stalking Horse Bidder.

16. H2C subsequently conducted management presentations (and prepared related materials) and otherwise engaged with each of the three entities that submitted indications of interest. In addition, the Debtors formed a strategic planning committee consisting of certain board

members and physicians to assess any potential transaction. After due diligence and considerable negotiations with two of the entities, the Debtors were unable to reach an agreement with any of the parties at that time.

B. The Stalking Horse Bidder Submits Offer to Debtors

17. In late 2022, the Debtors re-engaged with the Stalking Horse Bidder regarding a potential strategic acquisition of the Debtors. The Debtors spent significant resources in the winter months of late 2022 and early 2023, with the Stalking Horse Bidder conducting extensive due diligence on the Debtors. In early February 2023, the Stalking Horse Bidder submitted a draft stalking horse asset purchase agreement that contemplated a potential bankruptcy filing and asset sale.

18. Upon receiving the transaction documents from the Stalking Horse Bidder, the Debtors, through their then management team and financial advisors, met in-person in February 2023 with their largest bondholder Preston Hollow Community Capital, Inc. ("Preston Hollow"). At such meeting, Preston Hollow was informed of the offer from the Stalking Horse Bidder. Preston Hollow took the position that the Debtors should not engage with the Stalking Horse Bidder under the terms of the proposal because the proceeds would be insufficient to pay Preston Hollow's debt in full. And although the Debtors asked Preston Hollow on many occasions to speak directly with the Stalking Horse Bidder to encourage the Stalking Horse Bidder to increase or negotiate its offer, Preston Hollow refused. Recognizing the inherent risks in moving forward with a transaction that is not supported by the Debtors' bondholders, and in light of the desire of the Debtors to establish a productive working relationship with Preston Hollow, the Debtors broke off discussions with the Stalking Horse Bidder.

C. Additional Marketing Efforts

19. ToneyKorf Partners, LLC ("ToneyKorf Partners") was retained effective April 3, 2023, by the Debtors to provide interim management services to Mercy. ToneyKorf Partners, under the leadership of Mark E. Toney, engaged in near-daily discussions with Preston Hollow regarding key financial initiatives, operational stabilization actions and improvements, strategic partner discussions, and other critical developments.

20. The new management team again pursued new strategic partners. For instance, in the Spring of 2023, the Debtors and Preston Hollow began lengthy discussions with a potential strategic partner. The three parties jointly engaged a financial advisor to help assess and evaluate a strategic transaction for the Debtors. Such discussions, however, did not result in a viable transaction.

D. Terms of the Stalking Horse Bid

21. In July 2023, the Debtors re-initiated negotiations with the Stalking Horse Bidder on a potential path forward. After careful consideration, including an analysis of all viable alternatives, and following intensive negotiations with the Stalking Horse Bidder, the Debtors determined that filing the Chapter 11 Cases to effectuate a sale of substantially all of the Debtors' assets was the best option for the Debtors.

22. In particular, the Debtors and the Stalking Horse Bidder have agreed upon the Stalking Horse Agreement, which is subject to higher and better offers and approval of the Court. The Stalking Horse Agreement sets forth the terms upon which the Stalking Horse Bidder proposes to acquire the Assets, assume certain liabilities, and offer employment to the Debtors' employees. The Stalking Horse Agreement is attached hereto as **Exhibit B**.

23. In particular, the Stalking Horse Agreement provides for a purchase price of $20,000,000, and commits the Stalking Horse Bidder to assume significant liabilities (including

accrued vacation of the Debtors' employees), and pay cure amounts with respect to all contracts being assumed as part of the contemplated transaction. The Stalking Horse Bidder will provide a deposit in the amount of $2,000,000 (ten percent of the purchase price).

24. Following the closing, the Stalking Horse Bidder intends (i) to establish an advisory board for Mercy, to include primarily independent members of the community, with such composition, roles, and responsibilities to be agreed upon by the parties prior to closing; (ii) that Mercy will have its own Chief Administrative Officer with responsibility for Mercy's operations, who will report to the Chief Executive Officer of University of Iowa Health Care; and (iii) to make certain strategic and routine capital investments in the acquired facilities, including, in the Stalking Horse Bidder's sole determination, updating and/or replacing some or all the IT hardware, software and related equipment used at the facilities, subject to such investments meeting the Stalking Horse Bidder's business case criteria, including documented business need and financial feasibility.

25. To ensure continuity of care in the community, subject to any applicable law or accreditation requirements, the Stalking Horse Bidder has agreed that the medical staff members of the Hospital who are in good standing at the time of closing shall maintain medical staff privileges at the Hospital and that faculty appointment will not be required to be or remain on the medical staff at the Hospital. Following the closing of the transaction contemplated in the Stalking Horse Agreement, the Stalking Horse Bidder will determine a plan to best clinically integrate the Hospital's employed and affiliated physicians with the Stalking Horse Bidder's physician services so as to provide the best possible services to residents of the community while using physician resources most efficiently.

E. Bidding Procedures

i. Overview

26. Although the Debtors have already undergone a substantial marketing effort (as described herein), the Debtors propose to solicit potential qualified bids for the purchase of the Assets and conduct an Auction (if necessary). Therefore, the Assets will either be sold pursuant to the Stalking Horse Agreement with the Stalking Horse Bidder or a higher and better winning bid at the Auction.

27. The Debtors will continue the marketing process for the sale of their Assets. Specifically, the Debtors, with the assistance of H2C and their other advisors, intend to market the Assets to potential buyers, including, without limitation, those potential buyers previously approached, by (a) engaging potential buyers and investors that may have an interest in bidding for the Assets, (b) delivering updated materials to such interested parties, (c) managing and providing access to a data room of confidential information on the Assets to interested parties, and (d) providing customized information packets to potential purchasers as appropriate.

28. The Bidding Procedures are designed to promote a competitive and efficient sale process. If approved, the Bidding Procedures will allow the Debtors to solicit and identify bids from potential buyers that constitute the highest or otherwise best offer for the Assets on a schedule consistent with the deadlines under the Bidding Procedures and the Debtors' chapter 11 strategy.

29. The Bidding Procedures describe, among other things, procedures for parties to access due diligence, the manner in which bidders and bids become "qualified," the receipt and negotiation of bids received, the conduct of the Auction, if any, the selection and approval of the ultimately successful bidder, and the deadlines with respect to the foregoing Bidding Procedures.

30. The Bidding Procedures also provide that, in the event the Stalking Horse Bidder is not declared the winning bidder at the Auction and this Court approves an alternative transaction, the

Debtors will pay the Stalking Horse Bidder a break-up fee (the "Break-up Fee") and reasonable expenses incurred by the Stalking Horse Bidder prior to the conclusion of the Auction up to $400,000 (the "Expense Reimbursement"). The Break-up Fee will be in the amount of 4% of the Purchase Price (as defined in the Stalking Horse Agreement). Until paid, and only upon the approval, closing and funding of an Alternative Transaction (as defined in the Stalking Horse Agreement), the Break-Up Fee and Expense Reimbursement (collectively, the "Bid Protections") will be allowed as an administrative claim pursuant to sections 503(b), 507(a)(2) and/or 507(b) of the Bankruptcy Code.

31. In the event of an Auction, the Bidding Procedures provide that the initial overbid shall be in an amount equal to, or greater than, $21,300,000 (the "Initial Overbid") and minimum bid increments thereafter of $100,000.

32. The Bidding Procedures are reasonable and designed with the objective of generating the best value for the Assets, while affording the Debtors maximum flexibility to execute asset sales in a quick and efficient manner. The Debtors are confident that the Bidding Procedures and the other relief requested herein satisfy the requirements of section 363 of the Bankruptcy Code and will facilitate the sale of the Assets for the best value for the benefit of the Debtors and their stakeholders.

ii. Noticing Procedures

33. The Debtors propose the following noticing procedures (the "Noticing Procedures"):

(a) Sale Notice. Within three Business Days after entry of the Bidding Procedures Order, or as soon as reasonably practicable thereafter, the Debtors shall serve the Sale Notice by first-class mail upon the following parties or, in lieu thereof, their counsel, if known: (i) the Notice Parties (as defined herein); (ii) all entities known to have expressed an interest in a transaction with respect to the purchase of the Assets; (iii) the Internal Revenue Service; (iv) all known taxing authorities to which the Debtors are subject; (v) all entities known or reasonably believed to have asserted a Lien on any of the Assets; (vi) counterparties to the Debtors' executory contracts and unexpired leases; and (vii) those entities and individuals appearing

on the Debtors' creditor matrix. On or about the same date, the Debtors shall publish the Sale Notice on the Debtors' case information website at https://dm.epiq11.com/mercyhospital (the "Case Information Website")).

(b) Sale Objection Deadline. The deadline to file an objection with the Court to the Sale, and all objections relating to the Stalking Horse Bidder (if any), the conduct of the Auction or the Sale (collectively, the "Sale Objections") is **4:00 p.m.** (prevailing Central Time) on **September 20, 2023** (the "Sale Objection Deadline").

(c) Bid Deadline. Any individual or entity that desires to make a proposal, solicitation, or offer (each, a "Bid") shall transmit such proposal, solicitation, or offer via email (in pdf or similar format) so as to be **actually received** on or before **September 19, 2023 by 5:00 p.m.** (prevailing Central Time) (the "Bid Deadline") by the Debtors and their advisors specified in the Bidding Procedures. Any Bid must be submitted in writing and must conform to the Bid Requirements set forth in the Bidding Procedures.

(d) Notice of Determination of Qualified Bids. At least one Business Day prior to the Auction, the Debtors will (i) notify each Qualified Bidder (as defined in the Bidding Procedures) that has timely submitted a Qualified Bid (as defined in the Bidding Procedures) that its Bid is a Qualified Bid.

(e) Provisions Governing the Auction. If the Debtors receive no Qualified Bids other than that submitted by the Stalking Horse Bidder, the Debtors, in their sole discretion, shall (i) notify all Potential Bidders and the Court in writing that (A) the Auction is cancelled and (B) the Stalking Horse Bidder made the Successful Bid, and (ii) the Debtors shall seek authority at the Sale Hearing to consummate the transaction contemplated by the Stalking Horse Agreement. If the Debtors receive two (2) or more Qualified Bids, the Debtors will conduct the Auction.

(f) Notice of Auction Results. Promptly following the selection of the winning Bid and the back-up Bid, the Debtors shall file a notice identifying such Bids (the "Notice of Auction Results") with the Court and cause such notice to be published on the Case Information Website, which shall constitute definitive proof that the Debtors have closed the Auction.

34. The Noticing Procedures and Bidding Procedures constitute adequate and reasonable notice of the key dates and deadlines for the sale process, including, among other things, the applicable objection deadline, the Bid Deadline and the time and location of the Auction and the hearing before this Court to consider a potential sale (the "Sale Hearing"). Accordingly, the Debtors request that the Court find that the Noticing Procedures are adequate and appropriate under

the circumstances and comply with the requirements of Bankruptcy Rule 2002 and Local Bankruptcy Rule 2002-1.

F. Assumption and Assignment Procedures

35. In connection with the Sale, the Debtors anticipate that they will assume and assign to the winning bidder (or its designated assignee(s)) certain of the Potential Assumed Contracts pursuant to section 365(b) of the Bankruptcy Code. Accordingly, the Debtors hereby seek approval of the proposed Assumption and Assignment Procedures set forth herein, which, among other things, (a) outline the process by which the Debtors will serve notice to all contract counterparties regarding the proposed assumption and assignment, related cure claims, if any, and information regarding the winning bidder's adequate assurance of future performance and (b) establish objection and other relevant deadlines and the manner for resolving disputes relating to assumption and assignment of the Potential Assumed Contracts. The proposed Assumption and Assignment Procedures are as follows:

(a) Potential Assumed Contract List.

(i) No later than three Business Days after entry of the Bidding Procedures Order, the Debtors shall file with the Court a list of Potential Assumed Contracts (the "Potential Assumed Contract List").

(ii) If it is discovered that an executory contract or unexpired lease should have been included on the Potential Assumed Contract List but was not (such contract, a "Previously Omitted Contract"), or in the event that the Debtors seek to modify a Cure Cost (as defined below), the Debtors will promptly file with the Court a revised Potential Assumed Contract List.

(iii) Pursuant to section 2.5 of the Stalking Horse Agreement, the Stalking Horse Bidder at any time prior to the Sale Hearing may determine that any Potential Assumed Contract shall be assumed or not assumed by the Debtors. In the event of a dispute regarding assumption and assignment of, or the proposed Cure Costs (as defined herein) to be paid in respect of, any Potential Assumed Contract, the Stalking Horse Bidder shall have the right to designate any Potential Assumed Contract as an excluded contract at any time prior to the Closing Date (as defined in the Stalking Horse Agreement) in the event any such dispute is not resolved to the Stalking Horse Bidder's

satisfaction by entry of a final order of the Court (or upon the consensual resolution of such dispute as may be agreed to by the Stalking Horse Bidder and such counterparty to the Potential Assumed Contract).

(b) Potential Assumption and Assignment Notice. Simultaneously with the filing of the Potential Assumed Contract List (or any revised Potential Assumed Contract List), the Debtors will serve on each relevant contract counterparty the Potential Assumption and Assignment Notice, which shall identify the applicable cure amount (each a "Cure Cost"), if any, with respect to each Potential Assumed Contract that the Debtors believe is required to be paid to the applicable contract counterparty under section 365(b)(1)(A) and (B) of the Bankruptcy Code.

(c) Assumption and Assignment Objections.

(i) Objection Deadlines. Any contract counterparty may object to the proposed assumption or assignment of a Potential Assumed Contract, the Debtors' proposed Cure Cost, if any, or the ability of a Stalking Horse Bidder to provide adequate assurance of future performance (an "Assumption and Assignment Objection"). All Assumption and Assignment Objections must (A) be in writing, (B) comply with the Bankruptcy Code, Bankruptcy Rules, and Local Bankruptcy Rules, (C) state, with specificity, the legal and factual bases thereof, including, if applicable, the cure claims the contract counterparty believes is required to cure defaults under the relevant Assumed Contract and supporting materials evidencing the same, (D) be filed by no later than **4:00 p.m**. (prevailing Central Time) on **September 20, 2023** (the "Assumption and Assignment Objection Deadline"), and (E) be served on the Debtors' Advisors (as defined in the Bidding Procedures) and the Notice Parties.

(ii) Resolution of Assumption and Assignment Objections. The Court will hear and determine any properly and timely filed and served Assumption and Assignment Objection at the Sale Hearing. If such objection has not been resolved prior to the closing of the Sale (whether by an order of the Court or by agreement with the contract counterparty), the winning bidder(s) shall pay as soon as reasonably practicable after the closing date any disputed Cure Cost pursuant to an order of the Court or mutual agreement between the Debtors, the winning bidder(s) and the applicable contract counterparty.

(iii) Failure to File Timely Assumption and Assignment Objection. If a contract counterparty fails to properly and timely file and serve an Assumption and Assignment Objection in accordance with these Assumption and Assignment Procedures, the contract counterparty shall be forever barred from asserting any objection with regard to the assumption or assignment

of its Potential Assumed Contract and the contract counterparty will be deemed to have consented to the assumption by the Debtors and assignment to the winning bidder of the Potential Assumed Contract. Notwithstanding anything to the contrary in the Potential Assumed Contract or any other document, the Cure Costs set forth in the Potential Assumption and Assignment Notice in the absence of a timely filed Assumption and Assignment Objection shall be the only amount necessary to cure outstanding defaults under the applicable Potential Assumed Contract under section 365(b) of the Bankruptcy Code arising out of or related to any events occurring prior to the closing of the sale, whether known or unknown, due or to become due, accrued, absolute, contingent or otherwise, and the contract counterparty shall be forever barred from asserting any additional cure or other amounts with respect to such Potential Assumed Contract against the Debtors, the winning bidder, back-up bidder or the property of any of them.

(iv) Cure Costs: The Cure Costs fixed by the Bankruptcy Court with respect to any Potential Assumed Contract shall be paid by the winning bidder directly to the counterparty to such Potential Assumed Contract as promptly as practicable after approval of the assumption and assignment. Further, the winning bidder shall provide adequate assurance of future performance under the Potential Assumed Contract, as may be required by the Bankruptcy Court. In either event, the order approving assumption and assignment shall provide that upon payment of the applicable Cure Costs, such counterparty shall not have any remaining claim against the Debtors or their estates related to any default under any such Potential Assumed Contract.

(d) Post-Auction Adequate Assurance Objection. Following the Auction, the Debtors shall serve the Notice of Auction Results on each contract counterparty that received a Potential Assumption and Assignment Notice at the same time as such Notice of Auction Results is filed with the Court and published on the Case Information Website. Objections of any contract counterparty related solely to the identity of and adequate assurance of future performance provided by the winning bidder at Auction (an "Adequate Assurance Objection") must (i) be in writing, (ii) comply with the Bankruptcy Code, Bankruptcy Rules and Local Bankruptcy Rules, (iii) state, with specificity, the legal and factual bases thereof, (iv) be filed by no later than the Sale Hearing or, if earlier, fourteen days following service of the Notice of Auction Results (the

"Adequate Assurance Objection Deadline"), and (v) be served on the Debtors' Advisors and the Notice Parties.

(e) Reservation of Rights. The inclusion of a Potential Assumed Contract, or Cure Costs with respect thereto, on a Potential Assumption and Assignment Notice or the Potential Assumed Contract List shall not constitute or be deemed a determination or admission by the Debtors, the winning bidder(s), or any other party in interest that such contract or lease is an executory contract or unexpired lease within the meaning of the Bankruptcy Code. The Debtors reserve all of their rights, claims and causes of action with respect to each Potential Assumed Contract listed on the Potential Assumption and Assignment Notice and Potential Assumed Contract List. The Debtors' inclusion of any Potential Assumed Contract on the Potential Assumption and Assignment Notice and Potential Assumed Contract List shall not be a guarantee that such Potential Assumed Contract ultimately will be assumed or assumed and assigned.

BASIS FOR RELIEF REQUESTED AND APPLICABLE AUTHORITY

I. The Bidding Procedures are Fair, Appropriate and Should Be Approved

36. The Bidding Procedures are specifically designed to promote what courts have deemed to be the paramount goal of any proposed sale of property of a debtor's estate: maximizing the value of sale proceeds received by the estate. *See Burtch v. Ganz (In re Mushroom Co.)*, 382 F.3d 325, 339 (3d Cir. 2004) (finding that a debtor had a fiduciary duty to maximize and protect the value of the estate's assets); *In re Food Barn Stores, Inc.*, 107 F.3d 558, 564–65 (8th Cir. 1997) (recognizing that the main goal of any proposed sale of property of a debtor's estate is to maximize value). Courts uniformly recognize that procedures established for the purpose of enhancing competitive bidding are consistent with the fundamental goal of maximizing value of a debtor's estate. *See Calpine Corp. v. O'Brien Envtl. Energy, Inc. (In re O'Brien Envtl. Energy, Inc.)*, 181

F.3d 527, 537 (3d Cir. 1999)(*O'Brien*) (noting that bidding procedures that promote competitive bidding provide a benefit to a debtor's estate); *Official Comm. of Subordinated Bondholders v. Integrated Res. Inc. (In re Integrated Res. Inc.)*, 147 B.R. 650, 659 (S.D.N.Y. 1992) (observing that bidding procedures "encourage bidding and . . . maximize the value of the debtor's assets").

37. The Bidding Procedures provide for an orderly, uniform, and appropriately competitive process through which interested parties may submit offers to purchase the Debtors' Assets. The Debtors have structured the Bidding Procedures to promote active bidding by interested parties and to obtain the highest or otherwise best offer reasonably available for such Assets. Additionally, the Bidding Procedures will allow the Debtors to conduct the Auction in a fair and transparent manner that will encourage participation by financially capable bidders with demonstrated ability to consummate a timely sale. Courts have approved procedures similar to the proposed Bidding Procedures in connection with chapter 11 asset sales. *See Cycle Force Group, LLC*, No. 21-00571-als11 (Bankr. S.D. Iowa); *Foods, Inc. dba Dahl's Foods*, No. 14-02689-11 (Bankr. S.D. Iowa); *Newton Mfg. Co.*, No. 15-01128-11 (Bankr. S.D. Iowa); *Wellman Dynamics Corp.*, No. 16-01825-als11 (Bankr. S.D. Iowa); *Sivyer Steel Corp.*, No. 18-00507-als11 (Bankr S.D. Iowa). Accordingly, the Bidding Procedures should be approved because, under the circumstances, they are reasonable, appropriate and in the best interests of the Debtors, their estates and all parties in interest.

II. The Proposed Bid Protections Should Be Approved

38. "It has become increasingly common in section 363 sales of significant portions of an estate's assets for the prospective buyer to demand a breakup fee or other protection in the event that the sale is not consummated." 3 COLLIER ON BANKRUPTCY § 363.03[7] (15th rev. ed. 2002). Bankruptcy courts have identified at least two instances in which bidding incentives and protections may benefit the estate. First, a break-up fee or expense reimbursement may be necessary

to preserve the value of the estate if assurance of the fee "promote[s] more competitive bidding, such as by inducing a bid that otherwise would not have been made and without which bidding would have been limited." *AgriProcessors, Inc. v. Iowa Quality Beef Supply Network, L.L.C.* (*In re Tama Beef Packing, Inc.*) 290 B.R. 90, 97 (8th Cir. BAP 2003) (*Tama I*) (quoting *O'Brien*, 181 F.3d at 533). Second, if the availability of the break-up fee and expense reimbursement were to induce a bidder to research the value of the debtors and convert the value to a dollar figure 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.*; *see also In re Reliant Energy Channel View LP*, 594 F.3d 200, 206-08 (3d Cir. 2010).

39. Further in *Wintz Companies*, the United States Bankruptcy Appellate Panel of the Eighth Circuit held that when considering break-up fees, "the test is whether the bankruptcy court, in its discretion, properly determines that the proposed fee, and the transaction as a whole, make economic sense and are in the best interest of the bankruptcy estate and its creditors." *In re Wintz Companies*, 230 B.R. 840, 846–47 (B.A.P. 8th Cir. 1999), aff'd, 219 F.3d 807 (8th Cir. 2000); *see also In re SpecialtyChem Prods. Corp.*, 372 B.R. 434, 439 (E.D.Wis. 2007) (Break-up fees are allowed when they "(1) arise[] from a transaction with the debtor-in-possession; and (2) [are] beneficial to the debtor-in-possession in the operation of the business").

40. The Eighth Circuit in *Reagan* also allowed for a break-up fee when it considered situations in which break-up fees are useful during a sale. *In re Reagan*, 403 B.R. 614, 619 (B.A.P. 8th Cir. 2009), aff'd, 374 F. App'x 683 (8th Cir. 2010). In *Reagan*, the Court stated, "[s]talking horse bids may generate interest in the assets and create a sense of confidence in the value of the assets among prospective buyers who might assume that a willing buyer has conducted due diligence. *Id.* at 618 n.3. In the event that the stalking horse bidder is outbid, courts often approve break-up fees to compensate

the stalking horse for the 'cost' of showing its hand before the auction, conducting due diligence and otherwise facilitating the creation of a market. *Id*. (citations omitted).

41. In *Tama* I, the United Stated Bankruptcy Appellate Court in the Eighth Circuit used the *O'Brien* analysis from the Third Circuit Court of Appeals. *Tama I.,* 290 B.R. at 96. The Court analyzed three established tests used to determine whether break-up fees are permitted: (1) the business judgment test; (2) the best interests of the estate test; and (3) the administrative claim test. *Id.* at 97. The Court in *Tama I* agreed with the Third Circuit's rationale that there is no justification for applying a break-up fee any different than an application for administrative expenses. *Id.* Therefore, in *Tama I*, the Bankruptcy Appellate Court for the Eighth Circuit reviewed the following nine factors set forth by the Third Circuit in *O'Brien* as relevant in deciding whether to award a break-up fee:

> (a) the presence of self-dealing or manipulation in negotiating the break-up fee;
>
> (b) the reasonableness of the break-up fee relative to the purchase price;
>
> (c) whether the unsuccessful bidder placed the estate property in a "sales configuration mode" to attract other bidders to the auction;
>
> (d) the ability of the request for a break-up fee to serve to attract or retain a potentially successful bid, establish a bid standard or minimum for other bidders, or attract additional bidders;
>
> (e) the correlation of the fee to a maximum of value of the debtor's estate;
>
> (f) the support of the principal secured creditors and creditors' committees for the break-up fee;
>
> (g) the benefits safeguard to the debtor's estate; and
>
> (h) the substantial adverse impact of the break-up fee on unsecured creditors where such creditors oppose the break-up fee.

See id.; see also O'Brien, 181 F.3d at 536.

42. The proposed Break-up Fee falls squarely within the *O'Brien* factors. Further, the Break-up Fee is reasonable in relation to the size of the proposed sale and under the facts and uncertainties of this transaction. Such Break-Up Fee is an amount similar to break-up fees or expense reimbursements approved in other Chapter 11 cases. *See, e.g.*, *In re: Otter Tail Ag Enters., LLC*., 2011 WL 231274 (Bankr.D.Minn. Jan. 7, 2011) (approving a fee of $1 million or 1.59% of the stated purchase price); *In re President Casinos, Inc.*, 314 B.R. 786, 789 (Bankr. E.D. Mo. 2004) (approving a break-up fee of $250,000.00 as part of the purchase and sale Agreement); *In re ContinentalAFA Dispensing Co.*, 416 B.R. 661, 663 (Bankr. E.D. Mo. 2009) (approving a break-up fee of 3.6% of the purchase price); *In re Foods, Inc*., No. 14-02689-11 (Bankr. S.D. Iowa Dec. 03, 2014) (approving a break-up fee of $315,000 as reasonable); *In re Bertucci's Holdings, Inc.,* Case No. 18-10894 (MFW) (Bankr. D. Del. May 7, 2018) (approving break-up fee of $750,000 or 4.4% of the cash portion of the purchase price and expense reimbursement up to $245,000); *In re The Weinstein Co. Holdings LLC*, Case No. 18-10601 (MFW) (Bankr. D. Del. April 6, 2018) (approving break-up fee of 3% of cash purchase price or $9.3 million and expense reimbursement of up to 1.5% of the cash purchase price ($4.650 million), with right to seek an amount up to 2% of the cash purchase price ($6.2 million) if the sale hearing is delayed.

43. Break-up fees are a fair and reasonable percentage of the proposed purchase price. *In re Tama Beef Packing, Inc*., 321 B.R. 496, 497–98 (B.A.P. 8th Cir. 2005) (*Tama II*). In *Tama II*, the Court distinguished between break-up fees and simple administrative expenses by stating, "break-up fees often surface, i.e., in conjunction with a 'stalking horse's' unsuccessful bid. Depending on the circumstances and the terms of the transaction, an unsuccessful stalking horse bidder may seek reimbursement of its actual expenses or it may seek a break-up fee which is designed to compensate the unsuccessful bidder for the risk and costs incurred in advancing the competitive bidding process." *Id.*; *see also In re President Casinos, Inc*., 314 B.R. 786, 789 (Bankr. E.D. Mo. 2004) ("A break-up

fee that is greater than the actual cost and expenses of the prospective purchaser should constitute a fair and reasonable percentage of the proposed purchase price, and should be reasonably related to the risk, effort, and expenses of the prospective purchaser.").

44. Here, the Break-up Fee is a fair and reasonable percentage of the proposed purchase price (4%), and is reasonably related to the proposed purchaser's risks, efforts, and expenses. *See In re Tama Beef Packing, Inc.,* 312 B.R. 192, 194 (Bankr. N.D. Iowa 2004), cited approvingly but reversed on other grounds, *Tama II*, 321 B.R. at 498 ("In the context of bankruptcy law, the average range of reasonableness for break-up fees and expenses is 1-4% of the purchase price, although a few courts have found higher percentages to be reasonable."). Courts in other jurisdictions have routinely approved similar break-up fees. *See, e.g., In re Specialty Retail Shops Holding Corp,* No. 19-80064-TLS (Bankr. D. Neb. Jan. 17, 2019) (approving a 3% breakup fee and $1,000,000 million expense reimbursement in connection with a $60,000,000 sale); *In re Agspring Mississippi Legion, LLC,* No. 21-11238 (CTG) (Bankr. D. De. Oct. 14, 2021) (approving a breakup fee of $915,000 and expense reimbursement of $610,000 in connection with a $30,500,000 sale); *In re Nortel Networks Inc.*, Case No. 09-10138 (KG) (Bankr. D. Del. Feb. 27, 2009) (approving $650,000 break-up fee and up to $400,000 expense reimbursement in connection with $17.65 million sale, or 5.9% of the total purchase price); *In re Global Home Products,* Case No. 06-10340 (KG) (Bankr. D. Del. July 14, 2006) (approving a break-up fee of 3.3%, or $700,000.00, in connection with approximately $21,000,000 sale); *In re Filene's Basement, Inc., et al.,* Case No. 09-11525 (MFW) (Bankr. D. Del., May 15, 2009) (approving break-up fee and expense reimbursement of 3.68%, or $810,000.00 in connection with sale of debtor's assets for purchase price of $22,000,000.00); *In re Point Blank Solutions, Inc., et al.,* Case No. 10-11255 (PJW) (Bankr. D. Del. Oct. 5, 2011) (approving break-up and expense reimbursement of 3.75% or

$750,000.00 in connection with sale of debtor's assets for purchase price of $20,000,000.00). The presence of the Break-up Fee confers a benefit on the Debtors' estates.

45. The Bid Protections contemplated by the Bidding Procedures also satisfy the *O'Brien* factors in that the Break-Up Fee enables the Debtors to secure an adequate floor for the assets and insist that competing bids be materially higher or otherwise better than the bid of the Stalking Horse Bidder—a clear benefit to the Debtors' estates. The Bid Protections have been negotiated by the Stalking Horse Bidder and are a requirement of the Stalking Horse Agreement. Without the Court authorizing the Debtors to offer the Bid Protections, the Debtors might lose the opportunity to obtain the highest or otherwise best offer for the assets and would potentially lose the downside protection that could be afforded by the existence of a Stalking Horse Bidder.

46. Finally, the Break-up Fee does not hamper any other party's ability to offer a higher or better bid for the Assets. Given the size of the Break-up Fee relative to the anticipated total amount of consideration provided for the Assets, and relative to the "overbid" requirements set forth in the Bidding Procedures, the fee is not so large as to have a "chilling effect" on other prospective bidders' interest in the Assets. *See In re Wintz Companies,* 230 B.R. at 847; *Tama I.*, 290 B.R. at 96.

47. Furthermore, because the timely sale of the Assets is required and the Auction process is the most beneficial means for the Debtors' estates to maximize the value of the assets, the Bid Protections constitute actual and necessary costs and expenses of preserving the Debtors' estates.

48. Accordingly, the Debtors submit that the Bid Protections have a sound business purpose, are fair and appropriate under the circumstances, and should be approved.

III. The Proposed Sale Satisfies the Requirements of Section 363 of the Bankruptcy Code

49. Ample authority exists for approval of the sale contemplated by this Motion. Section 363 of the Bankruptcy Code provides, in relevant part, that "[t]he trustee, after notice and

a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Although that provision does not specify a standard for determining when it is appropriate for a court to authorize the use, sale or lease of property of a debtor's estate, courts have approved the authorization of a sale of a debtor's assets if such sale is based upon the sound business judgment of the debtor. *See, e.g.*, *Meyers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996) (citing *In re Schipper*, 933 F.2d 513, 515 (7th Cir. 1991)); *In re Chateaugay Corp.*, 973 F.2d 141, 143 (2d Cir. 1992); *Stephen Indus., Inc. v. McClung*, 789 F.2d 386, 389-390 (6th Cir. 1986); *Committee of Equity Security Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983).

50. Courts typically consider the following factors in determining whether a proposed sale satisfies this standard: (a) whether a sound business justification exists for the sale; (b) whether adequate and reasonable notice of the sale was provided to interested parties; (c) whether the sale will produce a fair and reasonable price for the property; and (d) whether the parties have acted in good faith. *See In re Decora Indus., Inc.*, 2002 WL 32332749, at *2 (D. Del. May 20, 2002) (citing *In re Delaware & Hudson Ry. Co.*, 124 B.R. 169, 176 (D. Del. 1991)). Where a debtor demonstrates a valid business justification for a decision, it is presumed that "in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company." *Integrated Res*., 147 B.R. at 656 (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (De1.1985)).

A. The Debtors Have Demonstrated a Sound Business Justification for the Proposed Sale

51. A sound business purpose for the sale of a debtor's assets outside the ordinary course of business exists where such sale is necessary to preserve the value of the estate for the benefit of creditors and interest holders. *See, e.g.*, *In re Abbotts Dairies of Pa., Inc.*, 788 F.2d 143,

147–48 (3d Cir. 1986); *Food Barn Stores*, 107 F.3d at 564–65 (recognizing the paramount goal of any proposed sale of property of estate is to maximize value).

52. As explained above and in the First Day Declaration, a strong business justification exists for the sale of the assets. An expeditious sale of the assets is required to maximize the value of the Debtors' assets and recoveries for the Debtors' stakeholders.

B. The Noticing Procedures Are Reasonable and Appropriate

53. The Noticing Procedures described above and in the Bidding Procedures are reasonably calculated to provide all of the Debtors' known creditors and all other parties in interest with adequate, timely notice of, among other things, the proposed sale, Bidding Procedures, the Bid Deadline, the Auction, and the Sale Hearing. Additionally, the Sale Notice and proposed service thereof is in compliance with Local Rule 6004-1.

C. The Proposed Bidding Procedures Will Produce a Fair and Reasonable Purchase Price for the Assets

54. The proposed Bidding Procedures will produce a fair and reasonable purchase price for the Assets.

55. The Bidding Procedures are designed to facilitate a robust and competitive bidding process. The Debtors are poised to commence a competitive bidding process to maximize the value of the assets sold at the Auction. The Bidding Procedures provide an appropriate framework for the Debtors to review, analyze, and compare all Bids to determine which Bids are in the best interests of the Debtors' estates and their stakeholders, while allowing the Debtors appropriate degrees of discretion to determine the winning bidder. A sale governed by the Bidding Procedures undoubtedly will serve the important objectives of obtaining not only a fair and reasonable purchase price for the Assets, but also the highest or otherwise best value for the Assets, which will inure to the benefit of all parties in interest in the Chapter 11 Cases.

D. The Winning Bidder Should Be Entitled to the Protections of Section 363(m) of the Bankruptcy Code

56. Section 363(m) of the Bankruptcy Code protects a good faith purchaser's interest in property purchased from a debtor notwithstanding that the sale conducted under section 363(b) is later reversed or modified on appeal. Specifically, section 363(m) of the Bankruptcy Code states the following: "The reversal or modification on appeal of an authorization under [section 363(b) of the Bankruptcy Code] . . . does not affect the validity of a sale . . . entity that purchased . . . such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale . . . were stayed pending appeal." 11 U.S.C. § 363(m). Section 363(m) fosters the "policy of not only affording finality to the judgment of the bankruptcy court, but particularly to give finality to those orders and judgments upon which third parties rely." *Cinicola v. Scharffenberger*, 248 F.3d 110, 121 n.13 (3d Cir. 2001) (quoting *Pittsburgh Food & Beverage, Inc. v. Ranallo*, 112 F.3d 645, 647–48 (3d Cir. 1997)); *see also Allstate Ins. Co. v. Hughes*, 174 B.R. 884, 888 (S.D.N.Y. 1994) ("Section 363(m) . . . provides that good faith transfers of property will not be affected by the reversal or modification on appeal of an unstayed order, whether or not the transferee knew of the pendency of the appeal.").

57. While the Bankruptcy Code does not define "good faith," the Third Circuit has held that "the phrase encompasses one who purchases in 'good faith' and for 'value.'" *Abbotts Diaries*, 788 F.2d at 147 (explaining that to constitute lack of good faith, a party's conduct in connection with the sale must usually amount to fraud, collusion between the purchaser and other bidders or the trustee or an attempt to take grossly unfair advantage of other bidders); *see also In re Bedford Springs Hotel, Inc.*, 99 B.R. 302, 305 (Bankr. W.D. Pa. 1989); *In re Perona Bros., Inc.*, 186 B.R. 833, 839 (D.N.J. 1995).

58. In other words, a party would have to show fraud or collusion between the buyer and the debtor in possession, the trustee or other bidders to demonstrate a lack of good faith. *See Kabro Assocs. of West Islip, LLC v. Colony Hill Assocs. (In re Colony Hill Assocs.)*, 111 F.3d 269, 276 (2d Cir. 1997) ("Typically, the misconduct that would destroy a [buyer]'s good faith status at a judicial sale involves fraud, collusion between the [buyer] and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.") (quoting *In re Rock Indus. Mach. Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978)). Due to the absence of a bright-line test for good faith, the determination is based on the facts of each case, with a focus on the "integrity of [a bidder's] conduct in the course of the sale proceedings." *In re Pisces Leasing Corp.*, 66 B.R. 671, 673 (E.D.N.Y. 1986) (quoting *Rock Indus. Mach. Corp.*, 572 F.2d at 1998).

59. The Debtors submit that a winning bidder under the Bidding Procedures (whether or not the Stalking Horse Bidder), would be a "good faith purchaser" within the meaning of section 363(m) of the Bankruptcy Code. It is expected that, as is customary, qualified bidders will engage counsel and other professional advisors to represent their respective interests in determining the terms of their Bids and with respect to the sale process generally.

60. Further, as set forth above, the Bidding Procedures are designed to produce a fair and transparent competitive bidding process. Each qualified bidder participating in the Auction must confirm that it has not engaged in any collusion with respect to the bidding or the sale of any of the assets. Any asset purchase agreement with a winning bidder executed by the Debtors will be negotiated at arm's length and in good faith. Accordingly, the Debtors seek a finding that any winning bidder (including the Stalking Horse Bidder) is a good faith purchaser and is entitled to the full protections afforded by section 363(m) of the Bankruptcy Code.

61. Based on the foregoing, the Debtors submit that they have demonstrated that the proposed Sale is a sound exercise of the Debtors' business judgment and should be approved as a good faith transaction.

IV. The Assets Should Be Sold Free and Clear of Liens, Claims, Interests, and Encumbrances Under Section 363(f) of the Bankruptcy Code

62. In the interest of attracting the best offers, the Assets will be sold free and clear of any and all liens, claims, interests, and other encumbrances, in accordance with section 363(f) of the Bankruptcy Code, with any such liens, claims, interests, and encumbrances attaching to the proceeds of the applicable sale. Section 363(f) of the Bankruptcy Code authorizes a debtor to sell assets free and clear of liens, claims, interests, and encumbrances if any one of the following conditions is satisfied:

(a) applicable non-bankruptcy law permits sale of such property free and clear of such interest;

(b) such entity consents;

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

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

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

11 U.S.C. § 363(f); *see also In re Kellstrom Indus., Inc.*, 282 B.R. 787, 793 (Bankr. D. Del. 2002) ("Section 363(f) is written in the disjunctive, not the conjunctive, and if any of the five conditions are met, the debtor has the authority to conduct the sale free and clear of all liens."); *Citicorp Homeowners Servs., Inc. v. Elliot (In re Elliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988) (same).

63. Section 363(f) of the Bankruptcy Code is supplemented by section 105(a) of the Bankruptcy Code, which provides that "[t]he Court may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]." 11 U.S.C. §

105(a); *see also Volvo White Truck Corp. v. Chambersburg Beverage, Inc. (In re White Motor Credit Corp.)*, 75 B.R. 944, 948 (Bankr. N.D. Ohio 1987) ("Authority to conduct such sales [free and clear of claims] is within the court's equitable powers when necessary to carry out the provisions of [the Bankruptcy Code].").

64. The Debtors submit that the Sale of the Assets free and clear of liens, claims, interests and encumbrances will satisfy one or more of the requirements under section 363(f). To the extent a party objects to the sale on the basis that it holds a prepetition lien or encumbrance on the assets, the Debtors believe that (i) that such interest is a lien and the price at which such property is to be sold is greater than the value of all liens on such property, under section 363(f)(3) of the Bankruptcy Code; (ii) any such party could be compelled to accept a monetary satisfaction of such claims, under section 363(f)(5) of the Bankruptcy Code, or (iii) that such lien is in bona fide dispute, under section 363(f)(4) of the Bankruptcy Code.

65. In particular, several courts have held that the phrase "money satisfaction of such interest" in subsection (f)(5) means a payment constituting less than full payment of the underlying debt. *See In re Gulf States Steel, Inc. of Ala.*, 285 B.R. 497, 508 (Bankr. N.D. Ala. 2002) ("Section 363(f)(5) does not require that the sale price for the [p]roperty must exceed the value of the interests, but rather, only that the mechanism exists to address extinguishing the lien or interest without paying such interest in full.") (citing *In re Grand Slam U.S.A., Inc.*, 178 B.R. 460, 463 (E.D. Mich. 1995)); *In re Healthco Int'l, Inc.*, 174 B.R. 174, 176 (Bankr. D. Mass. 1994). In other words, under section 363(f)(5), a property can be sold free and clear of liens if a legal or equitable proceeding exists (such as an applicable mechanism under the Bankruptcy Code) under which a lienholder can be compelled to accept less than full payment in satisfaction of its lien.

66. Courts have also held that the word "value" as it is used in section 363(f)(3) equates with the word "value" as it is used in section 506(a) of the Bankruptcy Code, meaning the value of any lien would be limited to the amount by which the claim is actually secured. *See, e.g., In re Bos. Generating, LLC*, 440 B.R. 302, 332 (Bankr. S.D.N.Y. 2010); *In re Terrace Gardens Park P'ship*, 96 B.R. 707, 712-713 (Bankr. W.D. Tex. 1989); *In re Oneida Lake Dev., Inc.*, 114 B.R. 352, 356-357 (Bankr. N.D.N.Y. 1990); *In re WPRV–TV, Inc.*, 143 B.R. 315, 320 (D.P.R. 1991); *Milford Group, Inc. v. Concrete Step Units, Inc. (In re Milford Group, Inc.)*, 150 B.R. 904, 906 (Bankr. M.D. Pa. 1992); *In re Collins*, 180 B.R. 447, 450–51 (Bankr. E.D. Va. 1995).

67. Moreover, the Debtors will send the Sale Notice to any known purported prepetition lienholders. If such lienholders do not object to the proposed sale, then their consent should reasonably be presumed. Accordingly, the Debtors request that, unless a party asserting a prepetition lien, claim or encumbrance on any of the Assets timely objects to this Motion, such party shall be deemed to consent to any Sale approved at the Sale Hearing. *See Hargave v. Twp. of Pemberton*, 175 B.R. 855, 858 (Bankr. D.N.J. 1994) (highlighting that by not objecting to a sale motion, a creditor is deemed to consent to the relief requested).

68. The purpose of a sale order authorizing the transfer of assets free and clear of all claims, liens and encumbrances would be defeated if claimants could thereafter use the transfer as a basis to assert claims against a purchaser arising from a seller's pre-sale conduct. Moreover, without such assurances, potential bidders may choose not to participate in the Auction, or may submit reduced Bid amounts, to the detriment of the Debtors' stakeholders. Accordingly, the Debtors request that the Court authorize the sale of the assets free and clear of any liens, claims, interests, and encumbrances (with the exception of permitted encumbrances and assumed liabilities), in accordance with section 363(f) of the Bankruptcy Code, subject to such liens, claims,

interests, and encumbrances attaching to the proceeds thereof in the same order of relative priority, with the same validity, force, and effect as prior to such.

V. The Assumption and Assignment Procedures Should Be Approved

69. Section 365(a) of the Bankruptcy Code provides 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). Courts employ the business judgment standard in determining whether to approve a debtor's decision to assume or reject an executory contract or unexpired lease. *See, e.g.*, *In re Market Square Inn, Inc.*, 978 F.2d 116, 121 (3d Cir. 1992) (noting that assumption or rejection of lease "will be a matter of business judgment by the bankruptcy court"); *In re HQ Global Holdings, Inc.*, 290 B.R. 507, 511 (Bankr. D. Del. 2003) (finding that a debtor's decision to assume or reject an executory contract is governed by business judgment standard and may only be overturned if the "decision was the product of bad faith, whim or caprice") (citations omitted). The "business judgment" test in this context only requires that a debtor demonstrate that assumption or rejection of an executory contract or unexpired lease benefits the estate. *See Sharon Steel Corp. v. Nat'l Fuel Gas Distrib. Corp*., 872 F.2d 36, 39-40 (3d Cir. 1989).

70. Here, any assumption of the Potential Assumed Contracts is an exercise of the Debtors' sound business judgment because the transfer of such contracts is necessary to the Debtors' ability to obtain the best value for their assets. The assumption and assignment of Potential Assumed Contracts will be a critical component of the value of any Bid (just as it is in the Stalking Horse Agreement). Given that consummation of the Sale is critical to the Debtors' efforts to maximize value for their estates and stakeholders, the Debtors' assumption of Potential Assumed Contracts is an exercise of sound business judgment and, therefore, should be approved.

71. The consummation of any Sale involving the assignment of a Potential Assumed Contract will be contingent upon the Debtors' compliance with the applicable requirements of

section 365 of the Bankruptcy Code. In particular, the Debtors' assumption and assignment of any Potential Assumed Contract will be contingent upon payment of the Cure Costs and effective only upon the closing of an applicable sale. As set forth above, the Debtors propose to file with the Court and serve on each contract counterparty a Potential Assumption and Assignment Notice, which will set forth the Debtors' good faith calculations of Cure Costs, if any, with respect to each contract listed. Contract counterparties will have a meaningful opportunity to raise any objections to the proposed assumption of their respective Contracts prior to closing of the Sale.

72. Further, section 365(k) of the Bankruptcy Code provides that assignment by the debtor to an entity of a contract or lease "relieves the trustee and the estate from any liability for any breach of such contract or lease occurring after such assignment. 11 U.S.C. § 365(k). Pursuant to Section 365(k), the Debtors will therefore be relieved from any liability for any breach of any Potential Assumed Contract after an assignment to the winning bidder. As such, the assumption of any Potential Assumed Contract constitutes an exercise of the Debtors' sound business judgment.

73. Pursuant to section 365(f)(2) of the Bankruptcy Code, a debtor may assign an executory contract if "adequate assurance of future performance by the assignee of such contract or lease is provided." The meaning of "adequate assurance of future performance" depends on the facts and circumstances of each case, but should be given "practical, pragmatic construction." *Carlisle Homes, Inc. v. Azzari (In re Carlisle Homes, Inc.)*, 103 B.R. 524, 538 (Bankr. D.N.J. 1988) (citation omitted); *see also In re Natco Indus., Inc.*, 54 B.R. 436, 440 (Bankr. S.D.N.Y. 1985) (explaining that adequate assurance of future performance does not mean an absolute assurance that debtor will thrive and pay rent); *In re Bon Ton Rest. & Pastry Shop, Inc.*, 53 B.R. 789, 803 (Bankr. N.D. Ill. 1985) (finding that, "[a]lthough no single solution will satisfy every

case, the required assurance will fall considerably short of an absolute guarantee of performance"). Among other things, adequate assurance may be provided by evidencing the assignee's financial health and experience in managing the type of enterprise or property assigned. *See In re Bygaph, Inc.*, 56 B.R. 596, 605–06 (Bankr. S.D.N.Y. 1986) (highlighting that adequate assurance of future performance is present when the prospective assignee of a lease has financial resources and has expressed willingness to devote sufficient funding to the business to give it a strong likelihood of succeeding).

74. Here, as set forth above and in the Bidding Procedures, for a Bid to qualify as a Qualified Bid, a potential bidder must include with its Bid information regarding its ability (and the ability of its designated assignee, if applicable) to perform under any contracts proposed to be assumed. Each affected contract counterparty will have an opportunity to object to the ability of the winning Bidder to provide adequate assurance as set forth herein. To the extent necessary, the Debtors will present facts at the Sale Hearing to hear an Assumption and Assignment Objection to show the financial wherewithal, willingness and ability of the winning bidder to perform under the Potential Assumed Contracts.

75. In addition, to facilitate the assumption and assignment of Potential Assumed Contracts, the Debtors further request that the Court find that all anti-assignment provisions contained therein, whether such provisions expressly prohibit or have the effect of restricting or limiting assignment of such Assumed Contract, to be unenforceable and prohibited pursuant to section 365(f) of the Bankruptcy Code.

IMMEDIATE AND UNSTAYED RELIEF IS NECESSARY

76. The Court may grant the relief requested in the Motion immediately if the "relief is necessary to avoid immediate and irreparable harm." Fed. R. Bankr. P. 6003; *see also In re First*

NLC Fin. Servs., LLC, 382 B.R. 547, 549 (Bankr. S.D. Fla. 2008) (holding that Rule 6003 permits entry of retention orders on an interim basis to avoid irreparable harm). In the context of preliminary injunctions, the Third Circuit has interpreted the language "immediate and irreparable harm" to refer to a continuing harm which cannot be adequately redressed by final relief on the merits and for which money damages are inadequate. *See*, *e.g.*, *Norfolk S. Ry. Co. v. City of Pittsburgh*, 235 F. App'x 907, 910 (3d Cir. 2007) (citing *Glasco v. Hills*, 558 F.2d 179, 181 (3d Cir. 1977)). The harm also must be actual and imminent, not speculative or unsubstantiated. *See*, *e.g.*, *Acierno v. New Castle Cty.*, 40 F.3d 645, 653-55 (3d Cir. 1994). The Debtors submit that, for the reasons already set forth herein, the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors.

77. The Debtors also request that the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). As described above, the relief that the Debtors seek in the Motion is necessary for the Debtors to operate without interruption and to preserve value for their estates. Accordingly, the Debtors respectfully request that the Court waive the fourteen-day stay imposed by Bankruptcy Rule 6004(h), as the exigent nature of the relief sought herein justifies immediate relief. Moreover, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a).

RESERVATION OF RIGHTS

78. Nothing in the Motion should be construed as (a) authority to assume or reject any executory contract or unexpired lease of real property, or as a request for the same; (b) an admission as to the validity, priority, or character of any claim or other asserted right or obligation,

or a waiver or other limitation on the Debtors' ability to contest the same on any ground permitted by bankruptcy or applicable non-bankruptcy law; (c) a promise or requirement to pay any claim or other obligation; or (d) granting third-party-beneficiary status, bestowing any additional rights on any third party, or being otherwise enforceable by any third party.

NOTICE

79. The Debtors will provide notice of the Motion to: (a) the U.S. Trustee; (b) the Internal Revenue Service; (c) the Iowa Department of Revenue; (d) the United States Attorney for the Northern District of Iowa; (e) the Centers for Medicare & Medicaid Services; (f) the parties included on the Debtors' consolidated list of their 30 largest unsecured creditors; (g) counsel for the Master Trustee and Trustee; (h) counsel for the Bondholder Representative; (i) counsel for the Stalking Horse Bidder; (j) counsel for any statutory committee appointed in the Chapter 11 Cases; (k) the Federal Trade Commission; and (l) all parties entitled to notice pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties"). The Debtors submit that no other or further notice is required.

NO PRIOR REQUEST

80. No previous request for the relief sought herein has been made to this or any other court.

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors respectfully request that this Court enter the Bidding Procedures Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein, and granting such other and further relief as the Court may deem just and proper.

Dated: Cedar Rapids, Iowa
August 9, 2023

NYEMASTER GOODE, P.C.

/s/ Roy Leaf
Roy Leaf, AT0014486
625 1st Street SE, Suite 400
Cedar Rapids, IA 52401-2030
Telephone: (319) 286-7002
Facsimile: (319) 286-7050
Email: rleaf@nyemaster.com

- and -

MCDERMOTT WILL & EMERY LLP
Felicia Gerber Perlman (admitted *pro hac vice*)
Daniel M. Simon (admitted *pro hac vice*)
Emily C. Keil (admitted *pro hac vice*)
444 West Lake Street, Suite 4000
Chicago, IL 60606
Telephone: (312) 372-2000
Facsimile: (312) 984-7700
Email: fperlman@mwe.com
dsimon@mwe.com

- and -

Jack G. Haake (admitted *pro hac vice*)
2501 North Harwood Street, Suite 1900
Dallas, TX 75201
Telephone: (214) 295-8000
Facsimile: (972) 232-3098
Email: jhaake@mwe.com

Proposed Counsel for Debtors and Debtors-in-Possession

EXHIBIT A

Bidding Procedures Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

In re:	)	Chapter 11
MERCY HOSPITAL, IOWA CITY, IOWA, *et al.*,	)	Case No. 23-00623 (TJC)
Debtors.	)	(Jointly Administered)

[PROPOSED] ORDER (A) APPROVING BIDDING PROCEDURES FOR THE SALE OF THE DEBTORS' ASSETS, (B) APPROVING STALKING HORSE BID PROTECTIONS, (C) SCHEDULING AN AUCTION FOR, AND HEARING TO APPROVE, THE SALE OF THE DEBTORS' ASSETS, (D) APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (E) APPROVING CONTRACT ASSUMPTION AND ASSIGNMENT PROCEDURES, AND (F) GRANTING RELATED RELIEF

Upon consideration of the motion (the "Motion")[1] of the above-captioned debtors and debtors-in-possession (the "Debtors") for the entry of an order (this "Bidding Procedures Order"): (i) authorizing and approving the Bidding Procedures, in connection with the sale of the Assets, (ii) authorizing the Debtors to grant the Bid Protections, (iii) scheduling the Auction and the Sale Hearing, (iv) authorizing and approving the Noticing Procedures, (v) approving the Assumption and Assignment Procedures, and (vi) granting related relief, in each case, as more fully described in the Motion; and the Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of the Chapter 11 Cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and the Court having found that the Debtors provided appropriate notice

[1] Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Motion.

of the Motion and the opportunity for a hearing on the Motion under the circumstances; and the Court having reviewed the Motion and the First Day Declaration and having heard the statements in support of the relief requested therein at a hearing before the Court; and the Court having determined that the legal and factual bases set forth in the Motion and at the hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor; **THE COURT HEREBY FINDS THAT**:

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, and to the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. § 1334. This proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue is proper in this district and in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are sections 105(a), 363(b) and (f), and 365 of title 11 of the United States Code (the "Bankruptcy Code") and Federal Rules of Bankruptcy Procedure 2002(a)(2), 6004(a), (b), (c), (e) and (f), 6006(a) and (c), 9006, 9007, and 9014.

C. The Debtors' proposed Noticing Procedures are (i) appropriate and reasonably calculated to provide all interested parties with timely and proper notice, (ii) in compliance with all applicable requirements of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, and (iii) adequate and sufficient under the

circumstances of the Chapter 11 Cases, and no other or further notice is required. A reasonable opportunity to object or be heard regarding the relief requested in the Motion (including, without limitation, with respect to the Bidding Procedures and the Bid Protections) has been afforded to all interested persons and entities, including, but not limited to, the Notice Parties.

D. The Bidding Procedures in the form attached hereto as Exhibit 1 are fair, reasonable and appropriate and are designed to maximize creditor recoveries from a Sale of the Assets.

E. The Debtors have demonstrated a compelling and sound business justification for the Court to enter this Order and thereby: (i) approve the Bidding Procedures, (ii) authorize the Bid Protections, (iii) set the dates of the Bid Deadline, Auction (if needed), Sale Objection Deadline, Sale Hearing and other deadlines set forth in the Bidding Procedures, (iv) approve the Noticing Procedures and the forms of notice, and (v) approve the Assumption and Assignment Procedures and the forms of relevant notice. Such compelling and sound business justification, which was set forth in the Motion, the First Day Declaration and on the record at the Bidding Procedures Hearing, are incorporated herein by reference and, among other things, form the basis for the findings of fact and conclusions of law set forth herein.

F. The Bid Protections are fair and reasonable given, among other things, the size and nature of the Sale and the efforts that will be expended by a proposed purchaser, and is a material inducement for, and a condition of, a proposed purchaser's entry into an asset purchase agreement. The Break-up Fee constitutes actual and necessary costs and expenses of preserving the Debtors' estates. In addition,

because the Stalking Horse Agreement creates a floor for any additional bids, the Stalking Horse Bidder will provide considerable value to the Debtors' estates.

G. Except for the Stalking Horse Bidder, no other party submitting an offer or Bid or a Qualified Bid shall be entitled to any expense reimbursement or breakup, termination, or similar fee, or post-petition claim, including any administrative expense claim or substantial contribution claim under section 503 of the Bankruptcy Code or otherwise, and by submitting a Bid, a bidder (other than the Stalking Horse Bidder, if any) shall be deemed to waive any right with respect thereto.

H. The legal and factual bases set forth in the Motion and the First Day Declaration establish just cause for the relief granted herein. Entry of this Order is in the best interests of the Debtors and their estates, creditors, interest holders and all other parties in interest herein.

I. The Assumption and Assignment Procedures, including notice of proposed Cure Costs, are reasonable and appropriate and consistent with section 365 of the Bankruptcy Code and Bankruptcy Rule 6006. The Assumption and Assignment Procedures have been tailored to provide an adequate opportunity for all non-Debtor parties to the Potential Assumed Contracts to raise any objections to the proposed assumption and assignment, the Cure Costs or the proposed adequate assurance of future performance.

J. The Bidding Procedures and Sale Notice satisfy the requirements of Local Rule 6004-1.

Thus, on the basis of the foregoing, it is hereby **ORDERED, ADJUDGED, AND DECREED EFFECTIVE IMMEDIATELY THAT:**

1. The Motion is granted as set forth herein.

2. All objections to the Motion solely as it relates to the relief requested therein that have not been adjourned, withdrawn or resolved (and all reservations of rights included therein) are overruled in all respects on the merits.

3. The Bidding Procedures, in the form attached hereto as **Exhibit 1**, are approved in their entirety and fully incorporated into this Order and the Debtors are authorized, but not directed, to take any and all actions necessary or appropriate to implement the Bidding Procedures. The failure to specifically include a reference to any particular provision of the Bidding Procedures in this Order shall not diminish or impair the effectiveness of such provision.

4. **Bid Protections**: In the event the Stalking Horse Bidder is not declared the Winning Bidder (as defined in the Bid Procedures) and this Court approves an Alternative Transaction (as defined in the Stalking Horse Agreement), the Debtors are authorized and directed to pay the Stalking Horse Bidder the Break-up Fee and the Expense Reimbursement immediately upon the closing of such Alternative Transaction. Until paid, and only upon the approval, closing and funding of an alternative transaction, the Break-Up Fee and Expense Reimbursement will be allowed as an administrative claim pursuant to sections 503(b), 507(a)(2) and 507(b) of the Bankruptcy Code.

5. **Schedule**: The schedule of events set forth below relating to the Bidding Procedures is hereby approved in its entirety:

10:30 A.M. (prevailing Central Time) on August 31, 2023	• Hearing to consider entry of the Bidding Procedures Order
Within three Business Days after entry of the Bidding Procedures Order	• Deadline to File Sale Notice and Potential Assumed Contract List
Within three Business Days after entry of the Bidding Procedures Order	• Deadline for Debtors to file Potential Assumption and Assignment Notice

4:00 pm (prevailing Central Time) on September 20, 2023	• Assumption and Assignment Objection Deadline • Sale Objection Deadline
5:00 pm (prevailing Central Time) on September 19, 2023	Bid Deadline
10:00 am (prevailing Central Time) on September 22, 2023	• Auction (if necessary), to be held at the offices of McDermott Will & Emery LLP, 444 W. Lake Street, Suite 4000, Chicago, Illinois 60606 (or such other place as communicated by the Debtors to the parties) and via the Zoom virtual teleconference platform
Prior to the Sale Hearing on [September 27], 2023, or, if earlier, fourteen days following service of the Notice of Auction Results	• Adequate Assurance Objection Deadline
[□] (prevailing Central Time) on [September 27], 2023	• Sale Hearing

6. **Noticing Procedures**. The Noticing Procedures as set forth in this Order and the Motion, including the form of Sale Notice attached hereto as **Exhibit 2**, are hereby approved. Within three business days after entry of this Order, the Debtors shall serve the Sale Notice by first-class mail upon the Notice Parties (as defined in the Motion). On the same date, the Debtors will publish the Sale Notice on the Case Information Website. Service of the Sale Notice on the Notice Parties in the manner described in the Order constitutes good and sufficient notice of the Auction and the Sale Hearing. No other or further notice is required.

7. **Assumption and Assignment Procedures**: The Assumption and Assignment Procedures, including the form of Potential Assumption and Assignment Notice attached hereto as **Exhibit 3**, are approved in their entirety.

8. **Sale and Assumption and Assignment Objections**. Objections to the Sale and Assumption and Assignment Objections must (a) be in writing, (b) state, with specificity, the legal

and factual bases thereof, (c) comply with the Bankruptcy Code, Bankruptcy Rules and Local Bankruptcy Rules, (d) be filed with the Court by no later than **4:00 p.m.** (prevailing Central Time) on **September 20, 2023**, and (e) be served on the Debtors' Advisors (as defined in the Bidding Procedures) and the Notice Parties. If a timely objection to the Sale or an Assumption and Assignment Objection is received and such objection cannot otherwise be resolved by the parties, such objection shall be heard at the Sale Hearing or such other date as the Court may determine.

9. Adequate Assurance Objections must (a) be in writing, (b) state, with specificity, the legal and factual bases thereof, (c) comply with the Bankruptcy Code, Bankruptcy Rules and Local Bankruptcy Rules, (d) be filed by no later than the Sale Hearing or, if earlier, fourteen days following service of the Notice of Auction Results, and (e) be served on the Debtors' Advisors and the Notice Parties. If a timely Adequate Assurance Objection is received and such objection cannot otherwise be resolved by the parties, such objection shall be heard at the Sale Hearing or such other date as the Court may determine.

10. If a contract counterparty fails to properly and timely file and serve an Assumption and Assignment Objection or an Adequate Assurance Objection, the contract counterparty shall be forever barred from asserting any objection with regard to the assumption or assignment of its Potential Assumed Contract and the contract counterparty will be deemed to have consented to the assumption by the Debtors and assignment to the Winning Bidder of the Potential Assumed Contract. In such an event, the Cure Costs set forth in the Potential Assumption and Assignment Notice shall be the only amount necessary to cure outstanding defaults under the applicable Potential Assumed Contract under section 365(b) of the Bankruptcy Code arising out of or related to any events occurring prior to the closing of the Sale, whether known or unknown, due or to become due, accrued, absolute, contingent or otherwise, and the contract counterparty shall be

forever barred from asserting any additional cure or other amounts with respect to such Potential Assumed Contract against the Debtors, the Winning Bidder, back-up bidder or the property of any of them.

11. **Bid Deadline**. As further described in the Bidding Procedures, the Bid Deadline (as defined in the Bidding Procedures) shall be at **5:00 pm** (prevailing Central Time) on **September 19**, **2023**.

12. **Auction**. In the event the Debtors receive, on or before the Bid Deadline, one or more Qualified Bids (as defined in the Bidding Procedures), an Auction shall be conducted at the offices of McDermott Will & Emery LLP, 444 W. Lake Street, Suite 4000, Chicago, Illinois 60606 and via the Zoom teleconference virtual platform at **10:00 am** (prevailing Central Time) on **September 22**, **2023**, or such later time on such day or such other place as the Debtors shall notify all Qualified Bidders. The Debtors are authorized to conduct the Auction in accordance with the Bidding Procedures.

13. **Cancellation of Auction**. If the Debtors receive no Qualified Bids other than that submitted by the Stalking Horse Bidder, the Debtors, in their sole discretion, shall (a) notify the Bankruptcy Court in writing that (i) the Auction is cancelled and (ii) the Stalking Horse Agreement is the Successful Bid and (b) the Debtors shall seek authority at the Sale Hearing to consummate the transaction with the Stalking Horse Bidder contemplated by the Stalking Horse Agreement.

14. **Sale Hearing**. The Sale Hearing shall be held before this Court at [•] (prevailing Central Time) on **[September 27]**, **2023**, or such other date and time that the Court may later direct: provided, however, that the Sale Hearing may be adjourned, from time to time, without further notice to creditors or parties in interest other than by filing a notice on the Court's docket.

15. **Notice of Auction Results:** Promptly following the selection of the Winning Bid and the Back-Up Bid (as defined in the Bidding Procedures), the Debtors shall (i) file the Notice of Auction Results with the Court; (ii) publish such notice on the Case Information Website, which shall constitute definitive proof that the Debtors have closed the Auction; and (iii) serve the Notice of Auction Results on each contract counterparty that received a Potential Assumption and Assignment Notice.

16. **Potential Assumed Contract List**: Within three business days of entry of this Order, the Debtors shall file with the Court, and cause to be published on the Case Information Website, the Potential Assumed Contract List. If it is discovered that a Potential Assumed Contract should have been included on the Potential Assumed Contract List but was not, or in the event that the Debtors seek to modify Cure Costs, the Debtors will promptly file with the Court a revised Potential Assumed Contract List.

17. Simultaneously with the filing of the Potential Assumed Contract List with the Court, the Debtors shall also serve the Potential Assumption and Assignment Notice on each relevant contract counterparty. The Winning Bidder shall promptly provide public adequate assurance information with any confidential information redacted to any contract counterparty that requests it from the contracts provided on the Potential Assumption and Assignment Notice. The contract counterparties shall not use any adequate assurance information for any purpose other than to (a) evaluate whether adequate assurance requirements under Bankruptcy Code section 365(f)(2)(B) and, if applicable, Bankruptcy Code section 365(b)(3), have been satisfied and (b) to support any objection to adequate assurance filed by the contract counterparty.

18. Pursuant to the Stalking Horse Agreement, the Stalking Horse Bidder at any time prior to the Sale Hearing may determine that any Potential Assumed Contract shall be assumed or

not assumed by the Debtors. In the event of a dispute regarding assumption and assignment of, or the proposed Cure Costs to be paid in respect of, any Potential Assumed Contract, the Stalking Horse Bidder shall have the right to designate any Potential Assumed Contract as an excluded contract at any time prior to the Closing Date (as defined in the Stalking Horse Agreement) in the event any such dispute is not resolved to the Stalking Horse Bidder's satisfaction by entry of a final order of this Court (or upon the consensual resolution of such dispute as may be agreed to by the Stalking Horse Bidder and such counterparty to the Potential Assumed Contract).

19. **Cure Costs**: The Cure Costs fixed by the Bankruptcy Court with respect to any Potential Assumed Contract shall be paid by the winning bidder directly to the counterparty to such Available Contract as promptly as practicable after approval of the assumption and assignment. Further, the Winning Bidder shall provide adequate assurance of future performance under the Potential Assumed Contract, as same is required by the Bankruptcy Court. In either event, the sale order approving assumption and assignment shall provide that upon payment of the applicable Cure Costs, such counterparty shall not have any remaining claim against the Debtors or their estates related to any default under any such Potential Assumed Contract.

20. The Debtors are authorized to take all such actions as are necessary or appropriate to implement the terms of this Order.

21. Compliance with the notice provisions set forth herein shall constitute sufficient notice of the Debtors' proposed sale of the Debtors' assets free and clear of liens, claims, interests and encumbrances, pursuant to section 363(f) of the Bankruptcy Code and otherwise, and except as set forth in this Order, no other or further notice of the sale shall be required to be provided by the Debtors.

22. Except as otherwise provided in this Order or the Bidding Procedures, the Debtors further reserve the right, in its discretion and subject to the exercise of its business judgement (after consultation with the Consultation Parties (as defined in the Bidding Procedures), to: (a) determine which bidders are Qualified Bidders; (b) determine which Bids are Qualified Bids; (c) determine which Qualified Bid is the highest or otherwise best Bid and which is the next highest or otherwise best proposal; (d) reject any Bid (other than the Stalking Horse Agreement) that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bidding Procedures or the Bankruptcy Code, or (iii) contrary to the best interests of the Debtors and their estates; (d) impose additional terms and conditions with respect to all potential bidders; (e) extend the deadlines set forth herein; (f) continue or cancel the Auction and/or the Sale Hearing; (g) modify or terminate the Bidding Procedures in any manner in the interest of improving the results or recovery for the Debtors and their estates, (h) waive terms and conditions set forth in the Bidding Procedures, (i) extend any of the deadlines or other dates set forth herein or in the Bidding Procedures, (j) adjourn the Auction and/or Sale Hearing; and/or (k) subject to the terms of the Stalking Horse Agreement, terminate discussions with any and all prospective purchasers (except for the Stalking Horse Bidder) at any time and without specifying the reasons therefor, in each case without further notice but in each case to the extent not materially inconsistent with these Bidding Procedures and the Bidding Procedures Order.

23. Nothing in this Order or the Bidding Procedures shall require the Debtor to take any action, or to refrain from taking any action, with respect to the Bidding Procedures, to the extent that the Debtors determine, or based on the advice of counsel, that taking such action, or refraining from taking such action, as applicable, is required to comply with applicable law or their fiduciary duties under applicable law.

24. All persons or entities that participate in the bidding process or the Auction shall be deemed to have knowingly and voluntarily submitted to the exclusive jurisdiction of this Court with respect to all matters related to the terms and conditions of the Assets, the Auction, and any transaction contemplated herein.

25. This Order shall be binding on the Debtors, including any chapter 7 or chapter 11 trustee or other fiduciary appointed for the estates of the Debtors.

26. Any Bankruptcy Rule (including, but not limited to, Bankruptcy Rule 6004(h), 6006(d), 7062 or 9014) or Local Rule that might otherwise delay the effectiveness of this Order is hereby waived, and the terms and conditions of this Order shall be effective and enforceable immediately upon its entry.

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

28. Proper, timely, adequate, and sufficient notice of the Motion has been provided in accordance with and satisfaction of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules and no other or further notice of the Motion or the entry of this Order shall be required.

29. To the extent any provisions of this Order are inconsistent with the Motion or the Bidding Procedures, the terms of this Order shall control.

30. Nothing in the Motion or this Order or the relief granted (including any actions taken or payments made by the Debtors pursuant thereto) shall be construed as (a) authority to assume or reject any executory contract or unexpired lease of real property, or as a request for the same, (b) an admission as to the validity, priority, or character of any claim or other asserted right or obligation, or a waiver or other limitation on the Debtors' ability to contest the same on any ground permitted by bankruptcy or applicable non-bankruptcy law, (c) a promise or requirement

to pay any claim or other obligation, or (d) granting third-party-beneficiary status, bestowing any additional rights on any third party, or being otherwise enforceable by any third party.

31. The Court finds and determines that the requirements of Bankruptcy Rule 6003 are satisfied, and that the relief requested in the Motion is necessary to avoid immediate and irreparable harm.

32. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon entry hereof.

33. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated and entered this ____ day of _____, 2023.

_____
Honorable Thad J. Collins, Chief Judge

Prepared and Submitted By:
Roy Leaf, AT0014486
625 1st Street SE, Suite 400
Cedar Rapids, IA 52401-2030
Telephone: (319) 286-7002
Facsimile: (319) 286-7050
Email: rleaf@nyemaster.com

- and –

Felicia Gerber Perlman (admitted *pro hac vice*)
Daniel M. Simon (admitted *pro hac vice*)
Emily C. Keil (admitted *pro hac vice*)
444 West Lake Street, Suite 4000
Chicago, Illinois 60606
Telephone: (312) 372-2000
Facsimile: (312) 984-7700
Email: fperlman@mwe.com
dsimon@mwe.com

- and -

Jack G. Haake (admitted *pro hac vice*)
2501 North Harwood Street, Suite 1900
Dallas, TX 75201
Telephone: (214) 295-8000
Facsimile: (972) 232-3098
Email: jhaake@mwe.com

Proposed Counsel for Debtors and Debtors-in-Possession

EXHIBIT 1

Bidding Procedures

On August 7, 2023 (the "Petition Date"), Mercy Hospital, Iowa City, Iowa, Mercy Services Iowa City, Iowa, and Mercy Iowa City ACO, LLC (together, the "Debtors") each filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code") in the United States Bankruptcy Court for the Northern District of Iowa (the "Court").

The Debtors are seeking to sell all or substantially all of their assets for the highest or best offer. On [___], 2023, the Bankruptcy Court entered an order [Docket No. [__]] (the "Bidding Procedures Order"), which, among other things, authorized the Debtors to solicit bids and approved these bidding procedures (the "Bidding Procedures") for the consideration of the highest or otherwise best price for all or substantially all of the Debtors' assets, on the terms and conditions set forth herein.

These Bidding Procedures describe, among other things: (i) the procedures for bidders to submit bids for substantially all of the assets of the Debtors (the "Assets"); (ii) the manner in which bidders and bids become Qualified Bidders and Qualified Bids, respectively (each as defined below); (iii) the negotiation of bids received; (iv) the conduct of the auction with respect to the Assets; and (v) the ultimate selection of the Accepted Bid (as defined below). The Bidding Procedures set forth the process by which the Debtors are authorized to conduct a marketing and auction (the "Auction") process for the sale (the "Sale") of the Assets.

To facilitate the Sale, the State of Iowa, on behalf of the State University of Iowa (the "Stalking Horse Bidder") and the Debtors have executed that certain Asset Purchase Agreement, dated as of August 7, 2023 (as amended, supplemented or otherwise modified from time to time prior to the date hereof, the "Stalking Horse Agreement")[1], pursuant to which the Stalking Horse Bidder has agreed to purchase the Purchased Assets (as defined in Section 2.1 of the Stalking Horse Agreement), subject to the terms and conditions set forth therein. The Debtors are conducting an ongoing marketing process to obtain the highest or otherwise best bid for the Assets. The bid contained in the Stalking Horse Agreement is subject to higher and better offers submitted in accordance with the terms of the Bidding Procedures and, as such, the Stalking Horse Agreement is designated the "stalking-horse" bid for the Assets (the "Stalking Horse Bid").

I. KEY DATES AND DEADLINES

10:30 A.M. (prevailing Central Time) on August 31, 2023	Hearing to consider entry of the Bidding Procedures Order
Within three Business Days after entry of the Bidding Procedures Order	Deadline to File Sale Notice and Potential Assumed Contract List
Within three Business Days after entry of the Bidding Procedures Order	Deadline for Debtors to file Potential Assumption and Assignment Notice

[1] To the extent there are any discrepancies between the Stalking Horse Agreement and any summary of terms set forth in these Bidding Procedures, the terms of the Stalking Horse Agreement shall prevail.

4:00 pm (prevailing Central Time) on September 20, 2023	Assumption and Assignment Objection Deadline
4:00 pm (prevailing Central Time) on September 20, 2023	Sale Objection Deadline
5:00 pm (prevailing Central Time) on September 19, 2023	Bid Deadline
10:00 am (prevailing Central Time) on September 22, 2023	Auction (if necessary), to be held at the offices of McDermott Will & Emery LLP, 444 W. Lake Street, Suite 4000, Chicago, Illinois 60606 (or such other place as communicated by the Debtors to the parties) and via the Zoom virtual teleconference platform
Prior to the Sale Hearing on [September 27], 2023, or, if earlier, fourteen days following service of the Notice of Auction Results	Adequate Assurance Objection Deadline
[•] (prevailing Central Time) on [September 27], 2023	Sale Hearing

II. SUBMISSIONS TO THE DEBTORS; CONSULTATION PARTIES

A. Debtors Notice Information

All submissions to the Debtors required or permitted to be made under the Bidding Procedures must be directed to each of the following persons or entities unless otherwise provided (collectively, the "Debtors' Advisors"):

(1) Debtors: Mercy Hospital, Iowa City, Iowa, 500 E. Market Street, Iowa City, Iowa 52240, c/o. ToneyKorf Partners, LLC, 1595-14 North Central Avenue, Valley Stream, NY 11580, Attn.: Mark E. Toney (mtoney@toneykorf.com), James R. Porter (jporter@toneykorf.com), and Christopher P. Karambelas (ckarambelas@toneykorf.com).

(2) Debtors' Proposed Counsel: (i) McDermott Will & Emery LLP, 444 W. Lake Street, Suite 4000, Chicago, Illinois 60606, Attn.: Felicia Gerber Perlman, (fperlman@mwe.com) and Daniel Simon (dsimon@mwe.com)); and (ii)

Nyemaster Goode, P.C., First Street SE, Suite 400, Cedar Rapids, Iowa 52401, Attn.: Roy R. Leaf (rleaf@nyemaster.com).

(3) Debtors' Proposed Investment Banker: H2C Securities Inc., 3344 Peachtree Road Northeast, Suite 900 Atlanta, Georgia 30326, Attn.: C. Richard Bayman (rbayman@h2c.com) and Drew Orman (dorman@h2c.com).

B. **Consultation Parties**

Throughout the Sale Process, the Debtors and their advisors will consult with the legal and financial advisors for any official committee appointed in these Chapter 11 Cases and any other party of interest or stakeholder that the Debtors, in their sole discretion, chooses to consult with as is otherwise necessary or appropriate (collectively, the "Consultation Parties").

For the avoidance of doubt, any consultation rights afforded to the Consultation Parties by these Bidding Procedures or the Bidding Procedures Order shall not in any way limit the Debtors' discretion and shall not include the right to veto any decision made by the Debtors in the exercise of their reasonable business judgment.

III. POTENTIAL BIDDERS

To participate in the bidding process or otherwise be considered for any purpose under the Bidding Procedures, a person or entity interested in consummating a Transaction (a "Potential Bidder") must deliver or have previously delivered to the Debtors and each of their advisors the following documents and information (unless the Debtors, in their business judgment and in consultation with the Consultation Parties, choose to waive any of the following requirements for any Potential Bidder):

A. a statement and other factual evidence demonstrating, to the Debtors' satisfaction, that the Potential Bidder has a bona fide interest in purchasing any or all of the Assets and is likely to be able to submit a Qualified Bid (as defined below) by the Bid Deadline (as defined below);

B. a description of any connections between (1) the Potential Bidder and its affiliates and related persons and (2) the Debtors and their primary creditors as identified by the Debtors;

C. an executed confidentiality agreement on terms acceptable to the Debtors (a "Confidentiality Agreement"), to the extent not already executed;

D. identification of the Potential Bidder and any principals and representatives thereof who are authorized to appear and act on such Potential Bidder's behalf for all purposes regarding the contemplated transaction; and

E. (1) the most current audited and latest unaudited financial statements (the "Financials") of the Potential Bidder; or (2) if the Potential Bidder is an entity formed for the purpose of acquiring the Assets, (a) Financials of the Potential

Bidder's equity holder(s) or such other form of financial disclosure as is acceptable to the Debtors and their advisors in their discretion and (b) a written commitment acceptable to the Debtors and the Debtors' Advisors of the Potential Bidder's equity holder(s) to be responsible for the Potential Bidder's obligations in connection with the transaction.

After receipt of an executed Confidentiality Agreement, the Debtors shall, upon written request by the Potential Bidder, provide each Potential Bidder reasonable due diligence information, access and inspection rights, as soon as reasonably practicable after such request, including access to the Debtors' on-line data room, if any; provided, however, that the Debtors (after consultation with the Consultation Parties) may decline to provide such information or access to Potential Bidders who, at such time and in the Debtors' reasonable business judgment have not established, or who raised doubt, that such Potential Bidder intends in good faith to, or has the capacity to, consummate the Sale. The Debtors shall not furnish, and shall have no obligation to furnish, any confidential and/or non-public information relating to the Assets or the Debtor (collectively, "Confidential Information"), or grant access to the Debtors' online data room, to (i) any person that does not qualify as a Potential Bidder or (ii) to Potential Bidders who, at such time and in the Debtors' reasonable business judgment, after consultation with the Consultation Parties, have not established, or who have raised doubt, that such Potential Bidder intends in good faith to, or has the capacity to, consummate the Sale. The Debtors shall not be obligated to furnish information of any kind whatsoever to any person that is not approved by the Debtors as a Potential Bidder.

Each Potential Bidder shall comply with all reasonable requests for additional information and due diligence access requested by the Debtors or the Debtors' Advisors regarding the ability of Potential Bidders to consummate the Sale. Failure by a Potential Bidder to comply with such reasonable requests for additional information and due diligence access may be a basis for the Debtors to determine (after consultation with the Consultation Parties) that such Potential Bidder is not a Qualified Bidder or that a bid made by such Potential Bidder is not a Qualified Bid.

IV. BREAK-UP FEE AND EXPENSE REIMBURSEMENT AMOUNT

To provide the Stalking Horse Bidder with an incentive to participate in a competitive process and to compensate the Stalking Horse Bidder for (i) performing substantial due diligence and incurring the expenses related thereto and (ii) entering into the Stalking Horse Agreement with the knowledge and risk that arises from participating in the sale and subsequent bidding process, the Debtors have agreed, and the Court has approved in the Bidding Procedures Order, that, in the event the Stalking Horse Bidder is not declared the Winning Bidder (as defined herein) at the Auction, and upon the Court's approval and the subsequent closing of an alternative transaction, the Debtors will pay the Stalking Horse Bidder a break-up fee (the "Break-up Fee") in the amount of 4% of the Purchase Price (as defined in the Stalking Horse Agreement) and reasonable expenses incurred by the Stalking Horse Bidder prior to the conclusion of the Auction up to $400,000 (the "Expense Reimbursement"). Until paid, and only upon the approval, closing and funding of an alternative transaction, the Break-Up Fee and Expense Reimbursement (collectively, the "Bid Protections") will be allowed as an administrative claim pursuant to sections 503(b), 507(a)(2) and 507(b) of the Bankruptcy Code. The Break-up Fee and Expense Reimbursement shall be paid to

the Stalking Horse Bidder by Debtors immediately following the closing of such Alternative Transaction (as defined in the Stalking Horse Agreement). No further or additional order from the Court shall be required to give effect to payment of the Break-up Fee and Expense Reimbursement. As set forth below, payment of the Bid Protections (to the extent payable under the Stalking Horse Agreement and Bidding Procedures Order) shall be a component of any Qualified Bid submitted by a Qualified Bidder (other than the Stalking Horse Bidder).

V. BID DEADLINE AND BID REQUIREMENTS

A. Bid Deadline

A Potential Bidder that desires to make a proposal, solicitation, or offer (each, a "Bid") shall transmit such proposal, solicitation, or offer via email (in pdf or similar format) so as to be **actually received** on or before **September 19, 2023 by 5:00 p.m.** (prevailing Central Time) (the "Bid Deadline") by the Debtors and the Debtors Advisors specified above.

B. Bid Requirements

Potential Bidders must submit a Bid in writing, and such Bid must satisfy the following requirements (collectively, the "Bid Requirements"), unless otherwise modified by the Debtors, in their discretion, after consultation with the Consultation Parties:

(1) Bid Deadline. A Bid must be received no later than the Bid Deadline.

(2) Purchase Price. The consideration proposed by a Bid may include cash and/or other consideration acceptable to the Debtors in an amount of no less than $21,300,000, which comprises the Stalking Horse Bid purchase consideration, plus the Break-Up Fee, plus the Expense Reimbursement, plus an initial bid increment amount of $100,000; provided, that each Bid's cash component must equal at least the sum of the Expense Reimbursement plus the Break-Up Fee. Each Bid must clearly set forth the terms of any proposed transaction, including and identifying separately any cash and non-cash components of the proposed transaction consideration, including, for example, any liabilities to be assumed by the Potential Bidder.

(3) Deposit. Each Bid, including any Credit Bid (as defined herein) must be accompanied by a cash deposit in the amount equal to 10% of the aggregate value of the cash and non-cash consideration of the Bid (with the deposit amount for the non-cash consideration determined by the Debtors in their business judgment) to be held in an escrow account to be identified and established by the Debtors (the "Deposit"); provided, that the Debtors reserve the right (i) to modify the amount of the Deposit in their discretion in an amount of not less than 5% of the aggregate value of the cash and non-cash consideration and (ii) to request an additional Deposit in the event a Potential Bidder increases the amount of its Bid; and provided, further, that the Stalking Horse Bidder shall provide the Deposit in

accordance with the terms and the timing set forth in section 2.6(a) of the Stalking Horse Agreement.

(4) Marked Agreement. A Bid must include an executed asset purchase agreement (a "Competing APA"), together with all exhibits and schedules (the "Transaction Documents"), pursuant to which the Potential Bidder proposes to effectuate the contemplated transaction, which Competing APA must be similar in form and substance to the Stalking Horse Agreement and be marked to reflect the differences between the Stalking Horse Agreement and the Potential Bidder's Competing APA, including, without limitation, specification of the proposed purchase price, any assumed liabilities, and any changes to any exhibits or schedules to the Competing APA. A Bid must identify with particularity each and every condition to closing and all executory contracts and unexpired leases to be assumed and assigned pursuant to the Transaction Documents. The Transaction Documents must include a commitment to close by no later than the closing date provided in the Stalking Horse Agreement. A Bid should propose a contemplated transaction involving all or substantially all of the Assets; provided, however, that the Debtors in their discretion (following consultation with the Consultation Parties), may consider proposals for less than substantially all the Assets so long as the economic value of such a proposal provides an economic value to the Debtors' estates that is greater than the Stalking Horse Bid, provided, that the Debtors will evaluate all Bids, in their reasonable business judgment (upon consultation with the Consultation Parties), to determine whether such Bid or combination of Bids maximizes the value of the Debtors' estates as a whole in light of any factors regarding such Bid which the Debtors, in their discretion, determine are appropriate to be considered in evaluating Bids.

(5) Back-Up Bidder Commitment. A Bid must include a written commitment by the applicable Potential Bidder to serve as a Back-Up Bidder (as defined below) in the event that such Potential Bidder's Bid is not selected as the Winning Bid.

(6) Proof of Financial Ability to Perform. A Bid must include written evidence that the Debtors conclude, in consultation with the Consultation Parties, demonstrates that the Potential Bidder has the necessary financial ability to close the proposed Transaction. Such information must include the following:

(i) contact names and telephone numbers for verification of financing sources;

(ii) evidence of the Potential Bidder's internal resources and, if applicable, proof of unconditional fully executed and effective financing commitments from one or more reputable sources in an aggregate amount equal to the

cash portion of such Bid (including, if applicable, the payment of cure amounts), in each case, as are needed to close the transaction;

(iii) a description of the Potential Bidder's pro forma capital structure; and

(iv) any other financial disclosure or credit-quality support information or enhancement reasonably requested by the Debtors demonstrating that such Potential Bidder has the ability to close the proposed transaction.

(7) Healthcare Experience. Each Potential Bidder must provide information on the Potential Bidder's prior experience owning/operating comparable facilities or such other applicable experience.

(8) Purpose. Each Potential Bidder must state that the Bid includes an offer by the Potential Bidder to purchase some or all of the Assets and state which Assets with reasonable specificity. Each Acceptable Bid must clearly identify the following: (i) contracts to be assumed, including cure amounts to be paid, if any, and parties responsible for payment thereof; (ii) the liabilities, if any, to be assumed; (iii) leases of equipment or real property to be assumed, including cure amounts to be paid, if any, and parties responsible for payment thereof; and (iv) which employees or groups thereof will be offered employment. Each Bid must set forth each regulatory and third-party approval needed to consummate the Sale and the time period within which the Potential Bidder expects to receive such regulatory and third-party approvals and those actions that a Potential Bidder will take to ensure receipt of such approvals as promptly as possible.

(9) Irrevocable. All Bids must be irrevocable until the Debtors' selection of the Winning Bid (as defined below) and Back-Up Bid; provided, that the Bids selected as either the Winning Bid or the Back-Up Bid (defined below) must be irrevocable and remain open for acceptance by the Debtors until three (3) business days after the closing of the transaction with the Winning Bidder or the Back-Up Bidder, as applicable.

(10) Committed Financing. To the extent that a Bid is not accompanied by evidence of the Potential Bidder's capacity to consummate the transaction set forth in its Bid with cash on hand, each Bid must include committed financing documented to the Debtors' satisfaction, after consultation with the Consultation Parties, that demonstrates that the Potential Bidder has received sufficient debt and/or equity funding commitments to satisfy the Potential Bidder's purchase price and other obligations under its Bid. Such funding commitments or other financing must be unconditional and must not be subject to any internal approvals, syndication requirements, diligence, or credit committee approvals, and shall have covenants and conditions acceptable to the Debtors.

(11) Unconditional Offer / Contingencies. A statement that the Bid is formal, binding, and unconditional and is not subject to any further due diligence or financing

contingency and is irrevocable until three (3) business days after the closing of the transaction with the Winning Bidder or the Back-Up Bidder, as applicable.

(12) Identity. Each Bid must fully disclose the identity of each entity that will be bidding or otherwise participating in connection with such Bid (including each equity holder or other financial backer of the Potential Bidder, including if such Potential Bidder is an entity formed for the purpose of consummating the proposed transaction contemplated by such Bid), and the complete terms of any such participation. Under no circumstances shall any undisclosed principals, equity holders, or financial backers be associated with any Bid. Each Bid must also include contact information for the specific person(s), counsel and other advisors whom the Debtors' Advisors should contact regarding such Bid. Nothing herein shall preclude multiple Potential Bidders from submitting a joint Bid, subject to the Debtors' prior written consent to such submission and the disclosure requirements set forth herein.

(13) Adequate Assurance. Each Bid must contain evidence acceptable to the Debtors in their discretion (following consultation with the Consultation Parties) that the Potential Bidder has the ability to comply with section 365 of the Bankruptcy Code, including providing adequate assurance of such Potential Bidder's ability to perform future obligations arising under the contracts and leases proposed in its Bid to be assumed by the Debtors and assigned to the Potential Bidder, in a form that will permit the immediate dissemination of such evidence to the counterparties to such contracts and leases the (the "Adequate Assurance Information"). Adequate Assurance Information may include: (i) the specific name of the proposed assignee, and the proposed name under which the proposed assignee intends to operate, (ii) a corporate organizational chart or similar disclosure identifying ownership and control of the proposed assignee of the applicable contracts and leases; (iii) audited or unaudited financial statements, tax returns, bank account statements or annual reports; (iv) financial projections, calculations, and/or financial pro-formas prepared in contemplation of purchasing the applicable contracts and leases; (v) the proposed assignee's experience in operating healthcare and patient-care facilities; (vi) a contact person for the proposed assignee; and/or (vii) any other documentation that the Debtors may further request. The Debtors shall promptly transmit the Adequate Assurance Information provided by any Potential Bidder to counsel for the counterparty of any applicable unexpired leases or contracts with respect to such Bid. All Bidders are deemed to consent to the transmission of such evidence of adequate assurances of future performance to counsel for the applicable counterparty, as provided herein, and as set forth in the Bidding Procedures Order.

(14) Authorization. Each Bid must contain evidence that the Potential Bidder has obtained authorization or approval from its board of directors (or a comparable governing body acceptable to the Debtors) with respect to the submission of its Bid and the closing of the transaction contemplated in such Bid.

(15) As-Is, Where-Is. Each Bid must include a written acknowledgement and representation that the Potential Bidder: (1) has had an opportunity to conduct any

and all due diligence regarding the transaction (including the Assets and Assumed Liabilities) prior to making its Bid; (2) has relied solely upon its own independent review, investigation, and/or inspection of any documents or Assets in making its Bid; (3) did not rely upon any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied by operation of law, or otherwise, by the Debtors or the Debtors' Advisors or other representatives regarding the proposed transaction or the completeness of any Bid, the Assets, the financial performance of the Assets or the physical condition of the Assets, the Assumed Liabilities, or the completeness of any information provided in connection therewith or the Auction.

(16) No Fees Payable to Potential Bidder. Except with respect to the Bid Protections available to the Stalking Horse Bidder in accordance with the Stalking Horse Agreement, a Bid may not request or entitle the Potential Bidder to any break-up fee, termination fee, expense reimbursement or similar type of payment. Moreover, by submitting a Bid, a Potential Bidder shall be deemed to waive the right to pursue any break-up fee, termination fee, expense reimbursement or similar type of payment, or substantial contribution claim under section 503 of the Bankruptcy Code related in any way to the submission of its Bid or the Bidding Procedures.

(17) Specific Performance. Each Bid must include a written commitment and agreement from the Potential Bidder that, should the Bid be chosen as the Winning Bid or Back-Up Bid, the Potential Bidder agrees that (i) irreparable harm to the Debtors and their estates would result from the Potential Bidder's failure to consummate the transaction set forth in the Bid and Competing APA; and (ii) the Debtors in their discretion, in addition to any other remedies available to them at law, in equity, or otherwise, are entitled to specific performance to enforce the Bid and Competing APA.

(18) Certification. Each Bid must include a written oath signed by the Potential Bidder pursuant to 28 U.S.C. section 1746 that, under penalty of perjury and the penalties set forth in 18 U.S.C. sections 151-158, affirms that the information provided by the Potential Bidder to the Debtors is true and correct to the best of the Potential Bidder's knowledge and belief and that the Bid is being made for no improper purpose (the "Certification").

By submitting its Bid, each Potential Bidder is agreeing, and shall be deemed to have agreed, to abide by and honor the terms of the Bidding Procedures and to refrain from submitting a Bid or seeking to reopen the Auction after conclusion of the Auction. **The submission of a Bid shall constitute a binding and irrevocable offer to acquire the Assets as reflected in such Bid.**

VI. DESIGNATION OF QUALIFIED BIDDERS

A Bid will be considered a "Qualified Bid," and each Potential Bidder that submits a Qualified Bid will be considered a "Qualified Bidder," if the Debtors determine, in their discretion, following consultation with the Consultation Parties, that such Bid:

a. satisfies the Bid Requirements set forth above; and

b. is reasonably likely (based on availability of financing, antitrust or other regulatory issues, experience, and other considerations) to be consummated, if selected as the Winning Bid, within a time frame acceptable to the Debtors.

On or before **September 21, 2023**, the Debtors, following consultation with the Consultation Parties, will notify each Qualified Bidder whether such party is a Qualified Bidder and shall provide the Consultation Parties and the Stalking Horse Bidder with a copy of each Qualified Bid.

If, following consultation with Consultation Parties, any Bid is determined by the Debtors not to be a Qualified Bid, the Debtors will refund such Potential Bidder's Deposit on the date that is five (5) Business Days after the Bid Deadline, or as soon as is reasonably practicable thereafter. The Debtors reserve the right (following consultation with the Consultation Parties) to work with any Potential Bidder in advance of the Auction to cure any deficiencies in a Bid that is not initially deemed a Qualified Bid.

Between the date that the Debtors notify a Potential Bidder that it is a Qualified Bidder and the Auction (if necessary), the Debtors may discuss, negotiate, or seek clarification of any Qualified Bid from a Qualified Bidder. Without the prior written consent of the Debtors, a Qualified Bidder may not modify, amend, or withdraw its Qualified Bid, except for proposed amendments to increase the Qualified Bidder's purchase price, or otherwise improve the terms of, the Qualified Bid, during the period that such Qualified Bid remains binding as specified in these Bidding Procedures; provided, that any Qualified Bid may be improved at the Auction as set forth herein. Any improved Qualified Bid must continue to comply in all respects with the requirements for Qualified Bids set forth in these Bidding Procedures.

Notwithstanding anything herein to the contrary, the Debtors reserve the right, following consultation with the Consultation Parties, (a) to work with Potential Bidders to aggregate two or more Bids into a single consolidated Bid prior to the Bid Deadline or (b) to work with Qualified Bidders to aggregate two or more Qualified Bids into a single Qualifying Bid prior to the conclusion of the Auction. No bidders, Potential Bidders, or Qualified Bidders may aggregate any Bids without the Debtors' prior consent.

Notwithstanding anything herein to the contrary, the Stalking Horse Agreement submitted by the Stalking Horse Bidder is a Qualified Bid, and the Stalking Horse Bidder is a Qualified Bidder.

VII. DESIGNATION OF BACK-UP BIDDER

If for any reason the Winning Bidder fails to consummate the Qualified Bid within the time permitted after the entry of the Sale Order approving the Sale to the Winning Bidder, then the Qualified Bidder or Qualified Bidders with the next-highest or otherwise second-best Bid (each, a "Back-Up Bidder"), as determined by the Debtors after consultation with the Debtors' Advisors and the Consultation Parties, at the conclusion of the Auction and announced at that time to all the Qualified Bidders participating and present at the Auction, will automatically be deemed to have

submitted the highest or otherwise best Bid or Bids (each, a "Back-Up Bid"), and the Debtors will be authorized, but not required, to consummate the transaction pursuant to the Back-Up Bid as soon as is commercially reasonable without further order of the Court upon at least 24 hours advance notice, which notice will be filed with the Court.

Upon designation of the Back-Up Bidder at the Auction, the Back Up Bid must remain open until the earlier of (1) the closing of the Winning Bid notwithstanding any outside date set forth in such Back-Up Bidder's proposed purchase agreement and (2) 120 days following the closing of the Auction.

VIII. RIGHT TO CREDIT BID

Any party with a valid, undisputed and properly perfected security interest (the "Secured Party") in any of the Assets may credit bid all or a portion of the value of such Secured Creditor's allowed secured claims at the Auction to the extent that such secured claims are valid and undisputed, pursuant to, and in accordance with, section 363(k) of the Bankruptcy Code or other applicable law, except as otherwise limited for cause (the "Credit Bid"). A Credit Bid may be applied only to reduce the cash consideration with respect to the Assets in which the Secured Party submitting the Credit Bid holds a valid, undisputed, properly perfected security interest with respect to which there are no other more senior security interests. Each Secured Party shall be obligated to comply with the Bid Requirements. Each Secured Party making a Credit Bid, in the event that it is the Winning Bidder or the Back-Up Bidder shall be obligated and required to pay all Bid Protections owed to the Stalking Horse Bidder in cash in accordance with the Bidding Procedures, the Bidding Procedures Order and the Stalking Horse Agreement and the Debtors are authorized to use the cash Deposit and/or cash portion of such Winning Bid to pay the Bid Protections in accordance with the Bidding Procedures, Bidding Procedures Order, and the Stalking Horse Agreement. To the extent that any Bid or Credit Bid includes Assets in which the Secured Party does not hold a valid, undisputed, properly perfected security interest, such Secured Party must provide evidence of their ability to consummate the transaction with additional cash on hand, including committed financing and/or equity funding commitments sufficient to satisfy the purchase price and any other obligations of the Bid to the Debtors' sole satisfaction in their reasonable business judgment (after consultation with the Consultation Parties). In no circumstances shall any Credit Bids impair or otherwise affect the Stalking Horse Bidder's entitlement to the benefits of the Bidding Procedures, Bid Protections and any other related protections granted under the Bidding Procedures, Bidding Procedures Order or the Stalking Horse Agreement. Notwithstanding anything to the contrary contained herein, the Debtors and all other parties reserve the right to object to any credit bid submitted under section 363(k) of the Bankruptcy Code.

IX. AUCTION

If the Debtors receive at least two Qualified Bids, an Auction shall be conducted at the offices of McDermott Will & Emery LLP, 444 W. Lake Street, Suite 4000, Chicago, Illinois 60606 (or such other place as communicated by the Debtors to the parties) and via the Zoom teleconference virtual platform at **10:00 am** (prevailing Central Time) on **September 22, 2023**, or such later time, day or such other place as the Debtors shall notify all Qualified Bidders. The

Auction shall be conducted according to the procedures set forth in section IX.A-F of the Bidding Procedures (the "Auction Procedures").

Auction Procedures

A. **General Provisions**. The Debtors, with the assistance of the Debtors' Advisors, shall direct and preside over any Auction. At the commencement of the Auction, the Debtors (1) may announce procedural and related rules governing the Auction, including time periods available to all Qualified Bidders to submit any successive Bid(s); and (2) shall describe the terms of the highest or otherwise best Qualified Bid, as determined in the Debtors' sole business judgment after consultation with the Consultation Parties (the "Baseline Bid"). The determination of which Qualified Bid constitutes the Baseline Bid and which Qualified Bid constitutes the Winning Bid (as defined herein) shall take into account any factors the Debtors (in consultation with the Consultation Parties) reasonably deem relevant to the value or other determination of the Qualified Bid to the Debtors' estates, which may include, among other things: (i) the amount of such Qualified Bid; (ii) the risks and timing associated with consummating such Qualified Bid and the likelihood of the Qualified Bidder's ability to close the transaction; (iii) the number, type, and nature of any revisions to the form of the Stalking Horse Agreement; (iv) the tax consequences of such Qualified Bid; and (v) the net economic effect of any changes to the value to be received by the Debtors' estates from the transaction contemplated by such Qualified Bid.

Only incremental Bids that comply with the terms set forth in section X.B of the Bidding Procedures shall be considered "Overbids."

Only Qualified Bidders, the Debtors, the Consultation Parties and each of their respective legal and financial advisors, and any other parties specifically invited or permitted to attend by the Debtors, shall be entitled to attend the Auction, and the Qualified Bidders shall appear at the Auction in person and may speak or bid themselves or through duly authorized representatives. Except as otherwise permitted by the Debtors, only Qualified Bidders shall be entitled to bid at the Auction.

The Debtors have the right to request any additional information that will allow the Debtors to make a reasonable determination as to a Qualified Bidder's financial and other capabilities to consummate the transactions contemplated by their proposal and any further information that the Debtors believe is reasonably necessary to clarify and evaluate any Bid (including any Credit Bid) made by a Qualified Bidder during the Auction.

The Debtors may announce at the Auction modified or additional procedures for conducting the Auction or otherwise modify the Bidding Procedures.

B. **Terms of Overbids**: "Overbid" means any bid made at the Auction by a Qualified Bidder subsequent to the Debtors' announcement of the Baseline Bid. Each Overbid must comply with the following conditions:

(1) Minimum Overbid Increment. Any Overbid to the initial Baseline Bid at the start of the Auction shall be in increments of no less than a value equal to $100,000.

(2) Conclusion of Each Overbid Round. Upon the solicitation of each round of Overbids, the Debtors may announce a deadline (as the Debtors may, in their business judgment, extend from time to time, the "Overbid Round Deadline") by which time any Overbids must be submitted to the Debtors.

(3) Overbid Alterations. An Overbid may contain alterations, modifications, additions, or deletions of any terms of the Bid no less favorable to the Debtors' estates than any prior Qualified Bid or Overbid, as determined in the Debtors' business judgment, but shall otherwise comply with the terms of these Bidding Procedures.

(4) No Round-Skipping. Round-skipping, as described herein, is explicitly prohibited. To remain eligible to participate in the Auction, in each round of bidding, (i) each Qualified Bidder must submit a Bid in such round of bidding that is a higher or otherwise better offer than the immediately preceding Bid submitted by a Qualified Bidder in such round of bidding and (ii) to the extent a Qualified Bidder fails to bid in such round of bidding or to submit a Bid in such round of bidding that is a higher or otherwise better offer than the immediately preceding Bid submitted by a Qualified Bidder in such round of bidding, as determined by the Debtors in their reasonable business judgment, such Qualified Bidder shall be disqualified from continuing to participate in the Auction.

(5) Announcing Highest Bid. With respect to the Auction, the Debtors shall, subsequent to each Overbid Round Deadline, announce whether the Debtors in consultation with the Consultation Parties have identified (1) in the initial Overbid round, an Overbid as being higher or otherwise better than the Baseline Bid in respect of the Assets that are the subject of the Auction or (2) in subsequent rounds, an Overbid as being higher or otherwise better than the Overbid previously designated by the Debtors as the prevailing highest or otherwise best Bid (the "Prevailing Highest Bid"). The Debtors shall describe to all Qualified Bidders the material terms of any new Overbid designated by the Debtors as the Prevailing Highest Bid.

C. **Consideration of Overbids**. The Debtors reserve the right, in their business judgment, to adjourn the Auction one or more times upon consultation with the Consultation Parties, to, among other things, (1) facilitate discussions between the Debtors and the Qualified Bidders, (2) allow Qualified Bidders to consider how they wish to proceed, and (3) provide Qualified Bidders the opportunity to provide

the Debtors with such additional evidence as the Debtors, in their business judgment, may require that the Qualified Bidder has sufficient internal resources or has received sufficient non-contingent debt and/or equity funding commitments to consummate the proposed transaction at the prevailing Overbid amount.

D. **Rejection of Bids**. The Debtors, in their reasonable business judgment, in consultation with the Consultation Parties, may reject, at any time before entry of an order of the Court approving a Winning Bid (or Back-Up Bid, as applicable), any Bid that the Debtors determine is (1) inadequate or insufficient, (2) not in conformity with the requirements of the Bankruptcy Code and/or the Bidding Procedures, or (3) contrary to the best interests of the Debtors, their estates, their creditors, and other stakeholders.

E. **Closing the Auction**. The Auction shall continue until there is only one Qualified Bid that the Debtors determine, in their discretion following consultation with the Consultation Parties, to be the highest or otherwise best Qualified Bid for the Assets. Such Qualified Bid shall be declared the "Winning Bid," and such Qualified Bidder, the "Winning Bidder." The Auction shall not close unless and until all Qualified Bidders have been given a reasonable opportunity to submit an Overbid at the Auction to the then Prevailing Highest Bid. Such acceptance by the Debtors of such Winning Bid is conditioned upon approval by the Court of such Winning Bid. For the avoidance of doubt, nothing in these Bidding Procedures shall prevent the Debtors from exercising their fiduciary duties under applicable law.

Promptly following the selection of the Winning Bidder and the Back-Up Bid, the Debtors shall file with the Notice of Auction Results with the Court, which shall constitute definitive proof that the Debtors have closed the Auction. As soon as reasonably practicable after closing the Auction, the Debtors shall finalize definitive documentation to implement the terms of the Winning Bid, and, as applicable, cause such definitive documentation to be filed with the Court.

F. **No Collusion; Good-Faith Offer**. Each Qualified Bidder participating at the Auction will be required to confirm on the record at the Auction that (1) it has not engaged in any collusion, within the meaning of section 363(n) of the Bankruptcy Code with respect to any bids submitted or not submitted in connection with the Sale, and (2) it reaffirms its Certification that the Qualified Bid is a good-faith *bona fide* offer, and it intends to consummate the proposed transaction if selected as the Winning Bidder or the Back-Up Bid.

X. "AS IS, WHERE IS."

Except as otherwise provided in the Stalking Horse Agreement, consummation of any transaction will be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Debtors or their estates, except as specifically accepted or agreed to by the Debtors in the Transaction Documents. Except as specifically accepted or agreed to by the Debtors, all of the Debtors' right, title, and interest in and to the respective Assets will be

transferred, free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests in accordance with section 363(f) of the Bankruptcy Code.

By submitting a Bid, each Potential Bidder will be deemed to acknowledge and represent that it (a) has had an opportunity to conduct adequate due diligence regarding the Assets prior to making its Bid, (b) has relied solely on its own independent review, investigation, and inspection of any document including, without limitation, executory contracts and unexpired leases, in making its Bid, and (c) did not rely on or receive from any party any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied by operation of law, or otherwise, with respect to the Assets or the completeness of any information provided in connection with the transaction or the Auction.

XI. RESERVATION OF RIGHTS

The Debtors reserve their rights to modify these Bidding Procedures, upon consultation with the Consultation Parties, in their reasonable business judgment in any manner that will best promote the goals of these Bidding Procedures or impose at or prior to the Auction, additional customary terms and conditions on a transaction, including, without limitation: (A) extending any of the deadlines or other dates set forth in these Bidding Procedures; (B) cancelling, continuing or adjourning the Auction and/or the Sale Hearing; (C) imposing additional terms and conditions with respect to all Potential Bidders; (D) rejecting any Bid or Qualified Bid (other than the Stalking Horse Agreement) that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bidding Procedures or the Bankruptcy Code, or (iii) contrary to the best interests of the Debtors and their estates; (E) determining which Potential Bidder is a Qualified Bidder and/or Winning Bidder and which Bid is a Qualified Bid, Winning Bid and/or Back-up Bid; (F) modify or terminate the Bidding Procedures in any manner in the interest of improving the results or recovery for the Debtors and their estates, (G) waive terms and conditions set forth in the Bidding Procedures, and/or (H) subject to the terms of the Stalking Horse Agreement, terminate discussions with any and all prospective purchasers and Potential Bidders (except for the Stalking Horse Bidder) at any time and without specifying the reasons therefor, in each case without further notice but in each case to the extent not materially inconsistent with these Bidding Procedures and the Bidding Procedures Order

XII. CONSENT TO JURISDICTION.

All Potential Bidders and Qualified Bidders at the Auction shall be deemed to have consented to the exclusive jurisdiction of the Court and waived any right to a jury trial in connection with any disputes relating to the Auction or the construction and enforcement of these Bidding Procedures.

XIII. SALE HEARING.

A hearing to consider approval of the Sale (the "Sale Hearing"), pursuant to which the Debtors and the Winning Bidder will consummate the transaction (the "Approved Transaction"), will be held on **[September 27], 2023 at [•] [_].m. (prevailing Central Time)** before Hon. Thad J. Collins, United States Bankruptcy Judge, in the United States Bankruptcy Court for the Northern District of Iowa, located at 111 7th Avenue SE, Cedar Rapids, Iowa 52401.

The Sale Hearing may be continued to a later date by the Debtors by sending notice prior to, or making an announcement at, the Sale Hearing. No further notice of any such continuance will be required to be provided to any party.

XIV. RETURN OF DEPOSITS

The Deposit of the Winning Bidder shall be applied to the purchase price of the Approved Transaction at closing. The Deposits for each Qualified Bidder shall be held in one or more escrow accounts on terms acceptable to the Debtors in their sole discretion and shall be returned (other than with respect to each Winning Bidder and each Back-Up Bidder) on the date that is three (3) business days after the Auction, or as soon as is reasonably practicable thereafter; provided, however, that the Stalking Horse Agreement shall govern the treatment of the Stalking Horse Bidder's Deposit.

If a Winning Bidder fails to consummate a proposed transaction because of a breach by such Winning Bidder, the Debtors shall be free to consummate the proposed transaction with the applicable Back-Up Bidder without the need for an additional hearing or order of the Court; provided, however, that the Stalking Horse Agreement shall govern the treatment of the Stalking Horse Bidder's Deposit. To the extent the Debtors do not consummate the proposed transaction with the Back-Up Bidder due to the closing of the transaction with the Winning Bidder, the Back-Up Bidder's deposit shall be refunded within three (3) calendar days of the closing of the Approved Transaction.

XV. FIDUCIARY DUTIES

Notwithstanding anything to the contrary in the Bidding Procedures or any document filed with or entered by the Court, nothing in the Bidding Procedures or the Bidding Procedures Order shall require a Debtor or its board of directors, board of managers, or similar governing body to take any action or to refrain from taking any action with respect to any transaction or the Bidding Procedures to the extent such Debtor or governing body determines in good faith, in consultation with counsel, that taking or failing to take such action, as applicable, would be inconsistent with applicable law or its fiduciary obligations under applicable law.

* * *

EXHIBIT 2

Form of Sale Notice

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

In re:	)	Chapter 11
MERCY HOSPITAL, IOWA CITY, IOWA, *et al.*,	)	Case No. 23-00623 (TJC)
Debtors.	)	(Jointly Administered)

NOTICE OF SALE, BIDDING PROCEDURES, AUCTION AND SALE HEARING

PLEASE TAKE NOTICE that the above-captioned debtors and debtors in possession (collectively, the "Debtors") each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the Northern District of Iowa (the "Court") on August 7, 2023 (the "Petition Date").

PLEASE TAKE FURTHER NOTICE that, on August 9, 2023, the Debtors filed a motion (the "Sale Motion")[1] with the Court seeking entry of orders, among other things, approving (a) procedures for the solicitation of bids in connection with the proposed sale of substantially all of the Debtors' assets (the "Sale"), subject to the submission of higher or otherwise better offers in an auction process (the "Auction"), (b) the form and manner of notice related to the Sale, and (c) procedures for the assumption and assignment of contracts and leases in connection with the Sale.

PLEASE TAKE FURTHER NOTICE that, on [□], 2023, the Court entered an order (the "Bidding Procedures Order") approving, among other things, the Bidding Procedures, which establish the key dates and times related to the Sale and the Auction. All interested bidders should carefully read the Bidding Procedures Order and the Bidding Procedures in their entirety.[2]

Contact Persons for Parties Interested in Submitting a Bid

The Bidding Procedures set forth the requirements for submitting a Qualified Bid, and any person interested in making an offer to purchase the Assets must comply strictly with the Bidding Procedures. Only Qualified Bids will be considered by the Debtors, in accordance with the Bidding Procedures.

---

[1] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Sale Motion.

[2] To the extent of any inconsistencies between the Bidding Procedures and the summary descriptions of the Bidding Procedures in this notice, the terms of the Bidding Procedures shall control in all respects.

Any interested bidder should contact, as soon as practicable:

H2C Securities Inc., 3344 Peachtree Road Northeast, Suite 900 Atlanta, Georgia 30326, Attn.: C. Richard Bayman (rbayman@h2c.com)**.**

Obtaining Additional Information

Copies of the Sale Motion, the Bidding Procedures and the Bidding Procedures Order, as well as all related exhibits, including all other documents filed with the Court, are available free of charge on the Debtors' case information website, https://dm.epiq11.com/mercyhospital.

Important Dates and Deadlines[3]

(i) **Bid Deadline**. The deadline to submit a Qualified Bid is **5:00 p.m. (prevailing Central Time) on September 19, 2023**.

(ii) **Auction**. In the event that the Debtors timely receive a Qualified Bid in addition to the Qualified Bid of the Stalking Horse Bidder and subject to the satisfaction of any further conditions set forth in the Bidding Procedures, the Debtors intend to conduct an Auction for the Assets. The Auction, if one is held, will commence at **10:00 a.m. (prevailing Central Time) on September 22, 2023**, at the offices of McDermott Will & Emery LLP, 444 W. Lake Street, Chicago, Illinois 60606 (or such other place as communicated by the Debtors to the parties) and via the Zoom teleconference platform.

(iii) **Assumption and Assignment and Sale Objections Deadline**. The deadline to file an objection with the Court to the Sale, and all objections relating to the Stalking Horse Bidder (if any), including adequate assurance of future performance, the conduct of the Auction or the Sale (collectively, the "Sale Objections") is **4:00 p.m. (prevailing Central Time) on September 20, 2023** (the "Sale Objection Deadline").

(iv) **Adequate Assurance Objection Deadline**: Any contract counterparty may file an objection related solely to the identity of and adequate assurance of future performance provided by the winning bidder at Auction (an "Adequate Assurance Objection") by no later than the Sale Hearing or, if earlier, fourteen days following service of the Notice of Auction Results (the "Adequate Assurance Objection Deadline").

(v) **Sale Hearing**. A hearing (the "Sale Hearing") to consider the proposed Sale will be held before the Court at **[□] a.m. (prevailing Central Time) on**

[3] The following dates and deadlines may be extended by the Debtors or the Court pursuant to the terms of the Bidding Procedures and the Bidding Procedures Order.

[September 27], 2023, or such other date as determined by the Court, at 824 North Market Street, Wilmington, Delaware 19801.

Filing Objections

Sale Objections and Adequate Assurance Objections, if any, must (a) be in writing, (b) state, with specificity, the legal and factual bases thereof, (c) be filed with the Court by no later than **the Sale Objection Deadline** or the **Adequate Assurance Objection Deadline**, as the case may be, (d) comply with the Bankruptcy Code, Bankruptcy Rules and Local Bankruptcy Rules and (e) be served on the Debtors' Advisors and the Notice Parties (both as defined in the Bidding Procedures Order and/or Bidding Procedures).

CONSEQUENCES OF FAILING TO TIMELY ASSERT AN OBJECTION

Any party or entity who fails to timely make an objection to the Sale on or before the Sale Objection Deadline in accordance with the Bidding Procedures Order and this Notice shall be forever barred from asserting any objection to the Sale, including with respect to the transfer of the assets free and clear of all liens, claims, encumbrances and other interests.

NO SUCCESSOR LIABILITY

For more information on the Debtors' business or their products, refer to the First Day Declaration (available on the Debtors' case information website). Upon Court approval, the Sale will be free and clear of, among other things, any claim arising from any conduct of the Debtors prior to the closing of the Sale, whether known or unknown, whether due or to become due, whether accrued, absolute, contingent or otherwise, so long as such claim arises out of or relates to events occurring prior to the closing of the Sale. Accordingly, as a result of the Sale, the Winning Bidder will not be a successor to any of the Debtors by reason of any theory of law or equity, and the Winning Bidder will have no liability, except as expressly provided in their Purchase Agreement, for any liens, claims, encumbrances and other interests against or in any of the Debtors under any theory of law, including successor liability theories.

[Remainder of This Page Intentionally Left Blank]

Dated: Cedar Rapids, Iowa
[●], 2023

NYEMASTER GOODE, P.C.

/s/ DRAFT
Roy Leaf, AT0014486
625 1st Street SE, Suite 400
Cedar Rapids, IA 52401-2030
Telephone: (319) 286-7002
Facsimile: (319) 286-7050
Email: rleaf@nyemaster.com

– and –

MCDERMOTT WILL & EMERY LLP
Felicia Gerber Perlman (admitted *pro hac vice*)
Daniel M. Simon (admitted *pro hac vice*)
Emily C. Keil (admitted *pro hac vice*)
444 West Lake Street, Suite 4000
Chicago, Illinois 60606
Telephone: (312) 372-2000
Facsimile: (312) 984-7700
Email: fperlman@mwe.com
dsimon@mwe.com

Proposed Counsel for Debtors and Debtors-in-Possession

EXHIBIT 3

Form of Potential Assumption and Assignment Notice

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

In re:	)	Chapter 11
MERCY HOSPITAL, IOWA CITY, IOWA, *et al.*,[1]	)	Case No. 23-00623 (TJC)
Debtors.	)	(Jointly Administered)

NOTICE OF ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS OR UNEXPIRED LEASES AND CURE COSTS

PLEASE TAKE NOTICE that the above-captioned debtors and debtors in possession (collectively, the "Debtors") each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Northern District of Iowa (the "Court") on August 7, 2023 (the "Petition Date").

PLEASE TAKE FURTHER NOTICE that, on August 9, 2023, the Debtors filed a motion (the "Sale Motion")[2] with the Court seeking entry of orders, among other things, approving (a) procedures for the solicitation of bids in connection with the proposed sale of substantially all of the Debtors' assets (the "Sale"), subject to the submission of higher or otherwise better offers in an auction process (the "Auction"), (b) the form and manner of notice related to the Sale, and (c) procedures for the assumption and assignment of contracts and leases in connection with the Sale (the "Assumption and Assignment Procedures").

PLEASE TAKE FURTHER NOTICE that, on [□] 2023, the Court entered an order (the "Bidding Procedures Order") approving, among other things, the Bidding Procedures, which establish the key dates and times related to the Sale, the Auction, and the Assumption and Assignment Procedures.

PLEASE TAKE FURTHER NOTICE that, upon the closing of the Sale, the Debtors intend to assume and assign to the Winning Bidder the Potential Assumed Contracts. A schedule listing the Potential Assumed Contracts (the "Potential Assumed Contract List") is attached hereto and may also be accessed free of charge on the Debtors' case information website, https://dm.epiq11.com/mercyhospital. In addition, the Cure Costs if any, necessary for the assumption and assignment of the Potential Assumed Contracts are set forth on the Potential Assumed Contract List. ***Each Cure Cost listed on the Potential Assumed Contract List represents all liabilities of any nature that the Debtors believe they have arising under a Potential Assumed***

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or business identification number, as applicable, are: Mercy Hospital, Iowa City, Iowa (0391), Mercy Services Iowa City, Inc. (1044), and Mercy Iowa City ACO, LLC (9472). The location of Mercy's corporate headquarters and the Debtors' service address is 500 E. Market Street, Iowa City, IA 52245.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Bidding Procedures Order.

Contract prior to the closing of the Sale, whether known or unknown, whether due or to become due, whether accrued, absolute, contingent or otherwise, so long as such liabilities arise out of or relate to events occurring prior to the closing of the Sale. If you believe your Cure Costs are listed with an incorrect amount on the Potential Assumed Contract List, you must object in accordance with the procedures described in this Notice.

YOU ARE RECEIVING THIS NOTICE BECAUSE YOU HAVE BEEN IDENTIFIED AS A CONTRACT COUNTERPARTY TO A POTENTIAL ASSUMED CONTRACT.

The assumption and assignment of the Potential Assumed Contracts on the Potential Assumed Contract List is not guaranteed and is subject to approval by the Court and the Debtors' or the Winning Bidder's right to not designate a Potential Assumed Contract on the Potential Assumed Contract List as an assumed contract.

Obtaining Additional Information

Copies of the Sale Motion, the Bidding Procedures and the Bidding Procedures Order, as well as all related exhibits, including all other documents filed with the Court, are available free of charge on the Debtors' case information website, located at https://dm.epiq11.com/mercyhospital.

Upon request by a counterparty under any Potential Assumed Contract, counsel to the Winning Bidder shall provide, by electronic mail, public Adequate Assurance Information (as defined in the Bidding Procedures).

Important Dates and Deadlines[3]

(i) **Auction**. In the event that the Debtors timely receive a Qualified Bid in addition to the Qualified Bid of the Stalking Horse Bidder and subject to the satisfaction of any further conditions set forth in the Bidding Procedures, the Debtors intend to conduct an Auction for the Assets. The Auction, if one is held, will commence at **10:00 a.m. (prevailing Central Time) on September 22, 2023** at the offices of McDermott Will & Emery LLP, 444 W. Lake Street, Chicago, Illinois 60606 (or such other place as communicated by the Debtors to the parties) and via the Zoom teleconference platform.

(ii) **Assumption and Assignment Objections Deadline**. The deadline to file an objection with the Court to the proposed assumption and assignment of an Assumed Contract (an "Assumption and Assignment Objection"), including any objection relating to the Cure Costs or adequate assurance of the Stalking Horse Bidder's future ability to perform, is **4:00 p.m.**

[3] The following dates and deadlines may be extended by the Debtors or the Court pursuant to the terms of the Bidding Procedures and the Bidding Procedures Order.

(prevailing Central Time) on September 20, 2023 (the "Assumption and Assignment Objection Deadline").

(iii) **Adequate Assurance Objection Deadline**: Any contract counterparty may file an objection related solely to the identity of and adequate assurance of future performance provided by the winning bidder at Auction (an "Adequate Assurance Objection") by no later than the Sale Hearing or, if earlier, fourteen days following service of the Notice of Auction Results (the "Adequate Assurance Objection Deadline").

(iv) **Sale Objections Deadline**. The deadline to file an objection with the Court to the Sale, and all objections relating to the Winning Bidder, the conduct of the Auction or the Sale (collectively, the "Sale Objections") is **4:00 p.m. (prevailing Central Time) on September 20, 2023** (the "Sale Objection Deadline").

(v) **Sale Hearing**. A hearing (the "Sale Hearing") to consider the proposed Sale will be held before the Court [□] **a.m. (prevailing Central Time) on [September 27], 2023**, or such other date as determined by the Court.

Filing Assumption and Assignment Objections

Pursuant to the Assumption and Assignment Procedures, an Assumption and Assignment Objection must (a) be in writing, (b) comply with the Bankruptcy Code, Bankruptcy Rules and Local Bankruptcy Rules, (c) state, with specificity, the legal and factual bases thereof, including, if applicable, the Cure Costs that the contract counterparty believes is required to cure defaults under the relevant Potential Assumed Contract, (d) be filed by no later than the **Assumption and Assignment Objection Deadline**, and (e) be served on the Notice Parties (as defined in the Sale Motion).

Adequate Assurance Objections, if any, must (a) be in writing, (b) state, with specificity, the legal and factual bases thereof, (c) be filed with the Court by no later than the **Adequate Assurance Objection Deadline**, (d) comply with the Bankruptcy Code, Bankruptcy Rules and Local Bankruptcy Rules and (e) be served on the Debtors' Advisors and the Notice Parties (both as defined in the Bidding Procedures Order and/or Bidding Procedures).

Sale Objections, if any, must (a) be in writing, (b) state, with specificity, the legal and factual bases thereof, (c) be filed with the Court by no later than the **Sale Objection Deadline**, (d) comply with the Bankruptcy Code, Bankruptcy Rules and Local Bankruptcy Rules, and (e) be served on the Notice Parties.

CONSEQUENCES OF FAILING TO TIMELY ASSERT AN OBJECTION

Any contract counterparty to a Potential Assumed Contract who fails to timely make an objection to the proposed assumption and assignment of such contract or lease on or before the Assumption and Assignment Objection Deadline or the Adequate Assurance Objection Deadline in accordance with the Assumption and Assignment Procedures, the Bidding Procedures Order

and this Notice shall be deemed to have consented to the assumption and assignment of such Potential Assumed Contract and to the Cure Costs set forth in the Potential Assumption and Assignment Notice with respect to such Potential Assumed Contract, if any, and forever barred from asserting any objection or claims against the Debtors, the Winning Bidder(s), or the property of any such parties, relating to the assumption and assignment of such contract or lease, including asserting additional Cure Costs with respect to such contract or lease. Notwithstanding anything to the contrary in such contract or lease, or any other document, the Cure Claims set forth in the Potential Assumption and Assignment Notice shall be controlling and will be the only amount necessary to cure outstanding defaults under the applicable Potential Assumed Contract under section 365(b) of the Bankruptcy Code arising out of or related to any events occurring prior to the closing of the Sale, whether known or unknown, whether due or to become due, whether accrued, absolute, contingent or otherwise.

Any party or entity who fails to timely make an objection to the Sale on or before the Sale Objection Deadline in accordance with the Bidding Procedures Order shall be forever barred from asserting any objection to the Sale, including with respect to the transfer of the assets free and clear of all liens, claims, encumbrances and other interests.

[*Remainder of This Page Intentionally Left Blank*]

Dated: Cedar Rapids, Iowa
[●], 2023

NYEMASTER GOODE, P.C.

/s/ DRAFT
Roy Leaf, AT0014486
625 1st Street SE, Suite 400
Cedar Rapids, IA 52401-2030
Telephone: (319) 286-7002
Facsimile: (319) 286-7050
Email: rleaf@nyemaster.com
– and –

MCDERMOTT WILL & EMERY LLP
Felicia Gerber Perlman (admitted *pro hac vice*)
Daniel M. Simon (admitted *pro hac vice*)
Emily C. Keil (admitted *pro hac vice*)
444 West Lake Street, Suite 4000
Chicago, Illinois 60606
Telephone: (312) 372-2000
Facsimile: (312) 984-7700
Email: fperlman@mwe.com
dsimon@mwe.com

Proposed Counsel for Debtors and Debtors-in-Possession

EXHIBIT B

Stalking Horse Agreement

Execution Version

ASSET PURCHASE AGREEMENT

BY AND AMONG

MERCY HOSPITAL, IOWA CITY, IOWA

MERCY SERVICES IOWA CITY, INC., AND

MERCY IOWA CITY ACO, LLC

AS SELLERS

AND

STATE OF IOWA, ON BEHALF OF THE STATE UNIVERSITY OF IOWA,

AS BUYER

August 7, 2023

TABLE OF CONTENTS

Page No.

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT is entered into as of August 7, 2023 (the "***Effective Date***"), by and among (i) Mercy Hospital, Iowa City, Iowa, an Iowa non-profit corporation ("***Mercy Hospital***"); (ii) Mercy Services Iowa City, Inc., an Iowa corporation ("***Mercy Services***"); (iii) Mercy Iowa City ACO, LLC, an Iowa limited liability company ("***MIC ACO***" and collectively with Mercy Hospital and Mercy Services, "***Sellers***" and each, a "***Seller***"); and (iv) State of Iowa, on behalf of the State University of Iowa ("***Buyer***"). Sellers and Buyer are collectively referred to as the "***Parties***" and each individually as a "***Party***."

RECITALS

WHEREAS, Sellers own and operate an acute care hospital in Iowa City, Iowa known as "Mercy Hospital" (the "***Hospital***") and certain other health care facilities and clinics identified on Exhibit A (together with the Hospital, the "***Seller Facilities***") and since the Hospital first opened its doors in 1873, it has grown over the generations and provides award-winning care that has been recognized on a national level in furtherance of its mission to transform the health of its communities and its vision to set the standard for a personalized and radically convenient system of health services;

WHEREAS, each Seller has filed or will file a voluntary petition (collectively, the "***Bankruptcy Case***") pursuant to Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Iowa (the "***Bankruptcy Court***");

WHEREAS, in furtherance of Seller's historical vision and mission, each Seller desires to sell and assign to Buyer, and Buyer desires to purchase from the applicable Seller, all of the Purchased Assets on the terms and conditions set forth herein, free and clear of all Encumbrances (other than Permitted Encumbrances) in accordance with Sections 105, 363, and 365 and other applicable provisions of the Bankruptcy Code and the Bankruptcy Rules; and

WHEREAS, the execution and delivery of this Agreement and Sellers' ability to consummate the transactions set forth in this Agreement are subject to, among other things, the entry of the Sale Order (as defined herein) by the Bankruptcy Court under, *inter alia*, Sections 105, 363, and 365 of the Bankruptcy Code, approving the sale of the Purchased Assets to Buyer.

NOW, THEREFORE, in consideration of the promises, covenants, representations, and warranties hereinafter set forth, the Parties agree as follows:

ARTICLE I - DEFINITIONS

1.1 Definitions.

As used in this Agreement, the following terms have the following meanings (unless otherwise expressly provided herein):

"***Abstracts***" is defined in Section 5.17.

"***Accounts Receivable***" means all accounts, notes, interest and other receivables of each Seller, and all claims, rights, interests and proceeds related thereto, arising from the rendering of services to inpatients and outpatients at the Seller Facilities, billed and unbilled, recorded and unrecorded (including any accounts previously written off or charged off as bad debts), for services provided by the Seller Facilities whether payable by private pay patients or Third-Party Payors, or by any other source, including the right to receive an amount equal to the value of all accounts receivable arising from the rendering of services and provision

of medicine, drugs, and supplies to patients at the Seller Facilities relating to Medicare, Medicaid, TRICARE, and other third-party patient claims of Sellers due from beneficiaries or governmental Third-Party Payors.

"***Accrued Vacation***" means obligations and liabilities with respect to accrued but unused vacation leave (including employer FICA and any other estimated employer taxes thereon).

"***Acquired Seller Facilities***" means those Seller Facilities identified on Exhibit B.

"***Actions***" means any claim, cause of action, litigation, action, suit, arbitration, proceeding, investigation, audit, inquiry, or right in action that has been brought by any Person.

"***Affiliate***" means, with respect to a Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such Person. The term "***control***" used in the preceding sentence means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person whether through ownership of equity interests, by Contract or otherwise.

"***Agreement***" means this Asset Purchase Agreement, as from time to time amended, restated, modified, or otherwise supplemented in accordance with its terms, including the Exhibits and Schedules attached hereto.

"***Allocation Schedule***" is defined in Section 9.2(b).

"***Alternative Transaction***" means the sale, transfer, or other disposition, directly or indirectly, including through an asset sale, share sale, merger, or other similar transaction, including any plan of reorganization or plan of liquidation, or resulting from an auction, of any material portion of the Purchased Assets or all or substantially all of the equity interests of any Seller or any Subsidiary or parent company owning any Purchased Assets, in a single transaction or a series of transactions, with one or more persons other than Buyer and/or its Affiliates.

"***Article III Schedules***" is defined in ARTICLE III.

"***Assignment and Assumption***" is defined in Section 2.9(c).

"***Assumed Contracts***" is defined in Section 2.5(a).

"***Assumed Liabilities***" is defined in Section 2.3.

"***Available Contracts***" is defined in Section 2.5(a).

"***Auction***" is defined in Section 8.2.

"***Avoidance Actions***" means any and all causes of action to avoid a transfer of property or an obligation incurred by any of Sellers arising under sections 542, 544, 545, and 547 through and including 553 of the Bankruptcy Code.

"***Bankruptcy Case***" is defined in the Recitals of this Agreement.

"***Bankruptcy Code***" means Title 11 of the United States Code, Sections 101, *et seq.* (11 U.S.C. § 101, *et seq*.).

"***Bankruptcy Court***" is defined in the Recitals of this Agreement.

"***Bankruptcy Rules***" means the Federal Rules of Bankruptcy Procedure.

"***Bid Deadline***" is defined in Section 8.2.

"***Bid Procedures***" is defined in Section 8.1.

"***Bid Protections***" is defined in Section 8.3.

"***Bill of Sale***" is defined in Section 2.9(b).

"***Break-Up Fee***" is defined in Section 8.3.

"***Business Transaction***" is defined in Section 5.14.

"***Buyer***" is defined in the Preamble.

"***Buyer Plans***" is defined in Section 5.9(b).

"***Capital Lease Liability***" means the aggregate amount of all obligations with respect to capital leases that are designated as Assumed Contracts as of the Closing Date pursuant to Section 2.5(a).

"***Cash Purchase Price***" is defined in Section 2.6(b).

"***Closing***" is defined in Section 2.8.

"***Closing Date***" is defined in Section 2.8.

"***Closing of Financials***" is defined in Section 5.13.

"***Closing Time***" is defined in Section 2.8.

"***CMS***" means the Centers for Medicare and Medicaid Services.

"***Code***" means the Internal Revenue Code of 1986, as amended.

"***Contract***" means any contract, agreement, insurance policy, capitalized lease, license, sublicense, lease, sublease, sales order, purchase order, instrument, or other binding commitment, whether written or oral.

"***Corridor Radiology***" is defined in Section 2.1(p).

"***Cure Amounts***" means the amount required to be paid with respect to each Assumed Contract to cure all defaults under such Assumed Contract to the extent required by Section 365 of the Bankruptcy Code and to otherwise satisfy all requirements imposed by Section 365 of the Bankruptcy Code in order to effectuate, pursuant to the Bankruptcy Code, the assumption by Sellers and assignment to Buyer of each such Assumed Contract. Schedule 1.1(a) sets forth the estimated Cure Amounts as of the Effective Date.

"***Cure Notice***" is defined in Section 2.5(b).

"***Deeds***" is defined in Section 2.9(n).

"***Deposit***" is defined in Section 2.6(a).

"***Deposit Escrow Agreement***" is defined in Section 2.6(a).

"***Effective Date***" is defined in the Preamble.

"***Employee Benefit Plans***" means collectively, each "employee pension benefit plan" and "employee welfare benefit plan" as those terms are defined in Section 3(2) and 3(1) of ERISA (whether or not subject to ERISA), employment, change in control, stock option or other equity-based compensation, phantom equity, employee stock ownership, employee stock purchase, deferred compensation, severance pay, vacation, bonus or other incentive or other benefit or compensation agreement, arrangement, Contract, plan, program or policy, currently maintained by, sponsored in whole or in part by, or contributed to by any of Sellers or their Affiliates or with respect to which any of Sellers or their Affiliates have any liability for the benefit of any current or former employees and their respective dependents, spouses, or other beneficiaries.

"***Encumbrances***" means any and all mortgages, claims, liens, interests, pledges, security interests, leases, subleases, licenses, rights of way, easements, rights of first refusal, options, restrictions, covenants, reservations or similar matters (including successor liability to the fullest extent permitted by Law), whether or not of record, or encroachments of any nature whatsoever, or any conditional sale contracts, title retention contracts, or other agreements or arrangements to give or to refrain from giving any of the foregoing, whether secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, contingent or non-contingent, material or non-material, known or unknown.

"***End Date***" is defined in Section 7.1(e).

"***Environmental Laws***" mean all Laws concerning pollution, public or worker health and safety, and protection of the environment.

"***ERISA***" means the Employee Retirement Income Security Act of 1974, as amended.

"***Escrow Agent***" is defined in Section 2.6(a).

"***Excluded Assets***" is defined in Section 2.2.

"***Excluded Contracts***" is defined in Section 2.5(a).

"***Excluded Liabilities***" is defined in Section 2.4.

"***Excluded Seller Facilities***" means those Seller Facilities identified on Exhibit C.

"***Expense Reimbursement***" is defined in Section 8.3.

"***Facility Employees***" means each individual employed by Sellers and providing services to the Seller Facilities, including employees who are on leave of absence.

"***Facility IP***" means all of the Intellectual Property used in the operation of the Seller Facilities, including such Intellectual Property owned by Sellers or other Intellectual Property which is used by Sellers in the operation of the Seller Facilities but owned by a third party.

"***Final Order***" means an order of the Bankruptcy Court that has not been reversed, modified, or stayed, and as to which the time for appeal has expired, and the deadline for filing any motion or petition for review, rehearing or certiorari has expired, and as to which no appeal, motion or petition for review, rehearing or certiorari is pending. An order or judgment shall be deemed a Final Order, notwithstanding the possibility that a motion may be filed relating to such order or judgment pursuant to Bankruptcy Code

§502(j), Bankruptcy Rule 3008, Bankruptcy Rules 9023 and 9024, Federal Rule of Civil Procedure 59 and 60, or any analogous statute or rule.

"***Finance Team***" is defined in Section 5.13.

"***Fundamental Representations***" means the representations and warranties set forth in Section 3.1 (Corporate Capacity, Authority and Consents), Section 3.2 (Binding Agreement), Section 3.3 (Subsidiaries), Section 3.4 (Assets), Section 3.6 (Regulatory Compliance), Section 3.20 (Brokers), and Section 3.21 (Affiliate Transactions).

"***Governing Documents***" means, for any Person, such Person's Articles of Incorporation, Certificate of Formation, Certificate of Limited Partnership, Bylaws, Partnership Agreement, Limited Liability Company Agreement, or other similar documents relating to the formation and/or governance of the business and affairs of such Person.

"***Governmental Authority***" means any federal, state, local, foreign, or municipal government; any governmental or quasi-governmental authority; and any body exercising or entitled to exercise any administrative, executive, judicial, regulatory, legislative, or taxing authority, including any arbitrator (public or private).

"***Government Patient Receivables***" shall mean all accounts receivable with respect to Government Reimbursement Programs arising from the rendering of services and provision of medicine, drugs and supplies to patients at the Acquired Seller Facilities.

"***Government Reimbursement Programs***" shall mean any programs funded or administered by a Governmental Authority, or contractor(s) thereof, for the purpose of paying for health care services. Such programs include Medicare, Medicaid, TRICARE, and similar or successor programs with or for the benefit of designated federal or state residents.

"***Healthcare Laws***" means, collectively, any and all Laws governing the licensure or regulation of healthcare providers, professionals, facilities, or payors or otherwise governing or regulating the provision of, or payment for, healthcare services, the sale of controlled substances or other pharmaceuticals, medical devices or supplies and the like. Without limiting the generality of the foregoing, Healthcare Laws include Section 1128B(b) of the Social Security Act, as amended; 42 U.S.C. § 1320a-7b(b), commonly referred to as the "Federal Anti-Kickback Statute"; the Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58; Section 1877 of the Social Security Act, as amended; the Medicare statute, 42 U.S.C. §§ 1395-1395lll, including without limitation 42 U.S.C. § 1395nn and related regulations, commonly referred to as the "Stark Law"; the federal False Claims Act, 31 U.S.C. § 3729 et seq.; the Medicaid statute, 42 U.S.C. §§ 1396-1396v; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; the mandatory and permissive exclusion authorities, 42 U.S.C. § 1320a-7; the Civil Monetary Penalties Law, 42 U.S.C. §§ 1320a-7a; the administrative False Claims Law, 42 U.S.C. § 1320a-7b(a); the Conditions for Medicare Payment, 42 C.F.R. Part 424; the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended by the Health Information Technology for Economic and Clinical Health Act, enacted as Title XIII of the American Recovery and Reinvestment Act of 2009, Public Law 111-5; the Patient Protection and Affordable Care Act; the Health Care Fraud Enforcement Act of 2009; the Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq.; the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq.; any state or local statutes or regulations concerning the dispensing and sale of controlled substances; all Laws relating to the provision of, or billing or payment for health care items or services, or relating to health care information and all applicable amendments, implementing regulations, rules, ordinances, judgments, and orders; any similar state and local statutes, regulations, rules, ordinances, judgments, and orders; and all applicable federal, state, and local licensing, certificate of need, regulatory and reimbursement statutes, corporate practice of

medicine and physician fee splitting regulations, rules, ordinances, orders, and judgments applicable to healthcare service providers.

"***HHS***" means the U.S. Department of Health and Human Services.

"***Hospital***" is defined in the Recitals of this Agreement.

"***Initial Overbid***" is defined in Section 8.3.

"***Intellectual Property***" means all intellectual property or proprietary rights arising under the Laws of any jurisdiction throughout the world, including (i) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents, patent applications, and patent disclosures, together with all reissues, divisions, continuations, continuations-in-part, renewals, extensions, and foreign counterparts and equivalents thereof, (ii) all trademarks, service marks, logos, trade names, corporate names, and other source identifiers whether registered or unregistered (as the case may be), as well as all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (iii) registrations for internet domain names, (iv) all rights protected by copyright law, including rights in registered and unregistered works of authorship, all rights to copy, distribute, modify, publicly perform, and publicly display such works, and all applications, registrations, and renewals in connection therewith, (v) all rights in trade secrets and confidential information, (vi) all rights in software, data, and collections of data, and (vii) all rights in websites, social media accounts, social media hashtags and identifiers, and all content used in or relating to the same.

"***Interim Period***" is defined in Section 5.1.

"***Inventory***" means all inventories of supplies, drugs, food, janitorial and office supplies, and other disposables and consumables located at the Seller Facilities or used in connection with the operation of the Seller Facilities.

"***IRS***" means the Internal Revenue Service.

"***Knowledge***" of Sellers (and any similar expression, including the expression "Sellers' Knowledge") means, as to a particular matter, the actual knowledge after due inquiry of: (i) Thomas Clancy, Chief Executive Officer; (ii) Mark Toney, Chief Restructuring Officer; (iii) Jim Porter, Chief Financial Officer; (iv) Chris Karambelas, Senior Vice President, Operations; (v) Chad Kruse, Director of Compliance and Policy; (vi) Kim Volk, VP of Patient Care Services and Chief Nursing Officer; (vii) Justine Bierman, Executive Director, Information Technology; (viii) Anthony Corley, CPA, Controller; and (ix) Peg Brubaker, Chief Human Resources Officer.

"***Landlord Estoppels***" is defined in Section 2.9(s).

"***Latest Balance Sheet***" is defined in Section 3.19(a).

"***Law***" means any federal, state, local or other statute, law (including common law), constitution, ordinance, regulation, rule, or Order of any Governmental Authority.

"***Leased Real Property***" is defined in Section 2.1(c).

"***Leases***" is defined in Section 2.1(f).

"***Lookback Date***" means January 1, 2017.

"***MAAP Liability***" means any amount owed by any Seller to CMS or its designee in respect of Medicare Accelerated and Advance Payments, including any repayment obligations pursuant to any loan, repayment plan, or deferred payment plan related thereto.

"***Material Adverse Effect***" means a change, development, event, or occurrence that has or would reasonably be expected to have, individually or in the aggregate, a material adverse effect on the financial condition, properties, assets, liabilities, business, or results of operations of the Acquired Seller Facilities, taken as a whole, or would adversely affect the ability of Sellers to execute or deliver this Agreement, to perform any of their obligations under this Agreement, or to consummate any of the transactions contemplated by this Agreement. Notwithstanding the foregoing, a Material Adverse Effect shall not include any change, development, event or occurrence resulting from: (i) any actual or proposed change in Law or accounting standards or the interpretation or implementation thereof; (ii) any change that is generally applicable to the healthcare industry or the acute care hospital industry in the State of Iowa; (iii) the entry into this Agreement or the announcement or pendency of the transactions contemplated hereby; (iv) any action taken by Sellers or their Affiliates that is required to be taken by this Agreement; (v) any omission to act or action taken with the express prior written consent of Buyer; (vi) any change in general business, economic, geopolitical or financial market conditions; (vii) any national or international political event or occurrence, including acts of war or terrorism; (viii) any natural disaster or calamity; or (ix) any matters arising in connection with the filing or prosecution of the Bankruptcy Case; except, with respect to the foregoing clauses (i), (ii), (vi), (vii), and (viii), if such change, development, event or occurrence has or would reasonably be expected to have a disproportionate effect on the operation of the Acquired Seller Facilities relative to other businesses operating in the industry in which the Acquired Seller Facilities operate.

"***Material Contract***" is defined in Section 3.8(a).

"***Medicare Provider Number***" is defined in Section 5.11(a).

"***Mercy Foundation***" is defined in Section 2.2(k).

"***Mercy Hospital***" is defined in the Preamble.

"***MIC ACO***" is defined in the Preamble.

"***Mercy Services***" is defined in the Preamble.

"***Minimum Overbid Increment***" is defined in Section 8.3.

"***MS-DRG***" is defined in Section 5.11(e).

"***MS-DRG Patients***" is defined in Section 5.11(e).

"***MS-DRG Straddle Patients***" is defined in Section 5.11(e)(i).

"***National Provider Identifier***" means the unique 10-digit identifier assigned to a healthcare provider by the National Plan and Provider Enumeration System.

"***OIG***" means the Office of the Inspector General of HHS.

"***Order***" means any award, writ, injunction, judgment, order, ruling, decision, directive, settlement, or similar determination entered, issued, made, or rendered by any Governmental Authority.

"***Ordinary Course of Business***" shall mean the operation of the Acquired Seller Facilities in the ordinary course consistent with past practice as well as (and subject to) the Bankruptcy Case and all Orders entered in connection therewith.

"***Owned Real Property***" is defined in Section 2.1(a).

"***Party***" is defined in the Preamble.

"***Payor Agreements***" is defined in Section 3.14(b).

"***Permits***" means all licenses, permits, franchises, certificates, rights, registrations, approvals, authorizations, consents, provider numbers, waivers, exemptions, releases, variances, certificates of authority, accreditations, or Orders issued by any Governmental Authority.

"***Permitted Encumbrances***" means any (i) Encumbrances that relate to Taxes, assessments and governmental charges or levies not yet due or payable; (ii) mechanic's, materialman's and similar statutory liens for sums incurred in the Ordinary Course of Business not yet due and payable; (iii) leasehold interests of the owners of Leased Real Property, (iv) zoning regulations and other Laws affecting the Real Property which are imposed by any Governmental Authority having jurisdiction over such Real Property (but excluding violations thereof); (v) existing easements, covenants, conditions, rights-of-way, restrictions and other encumbrances (other than monetary liens) set forth in the Title Commitment(s) which, taken individually or as a whole, do not materially impair the present ownership, use or operations of the Owned Real Property for their current use, in Buyer's reasonable discretion; (vi) with respect to the Leased Real Property, (A) the terms, conditions, and provisions of Real Property Leases, (B) any lien, Encumbrance, or other matter affecting title to the fee estate underlying such Leased Real Property that does not materially affect the permitted use of the Leased Real Property, (C) Encumbrances in favor of lessors under Real Property Leases, or encumbering the interests of such lessors (or other holders of superior interests), and (D) any right, title or interest of a lessor, sublessor or licensor under any of the Real Property Leases; and (vii) those Encumbrances listed on Schedule 1.1(b), in each case other than any liens existing as of the Closing with respect to Taxes, assessments, charges or levies imposed by a Governmental Authority. For the avoidance of doubt, the Encumbrances disclosed on Schedule 3.4(a) shall not be deemed Permitted Encumbrances.

"***Person***" means an individual, corporation, partnership, limited liability company, limited liability partnership, joint venture, trust, association, or organization, including any Governmental Authority.

"***Personal Property***" is defined in Section 2.1(e).

"***Personal Property Leases***" is defined in Section 2.1(f).

"***Petition Date***" is defined in Section 8.2.

"***PIP Payments***" is defined in Section 5.11(e)(iii).

"***Post-Closing Receivables***" is defined in Section 5.11(d).

"***Pre-Closing Receivables***" is defined in Section 5.11(c).

"***Prepaid Assets***" means all advance payments, prepayments, prepaid expenses and deposits which were made with respect to the operation of the Seller Facilities or the Purchased Assets, including deposits for leases and utilities, but excluding any deposits or other prepayments for leases that are Excluded Contracts.

"***Proceeding***" means any contest, application, assessment, suit, demand, claim, grievance, complaint, inquiry, notice of violation, hearing, request for information, audit, or investigation, at law or in equity, whether civil, criminal, administrative, by or before any Governmental Authority, arbitrator or mediator, or notice of any of the foregoing.

"***Purchase Price***" is defined in Section 2.6(b).

"***Purchased Assets***" is defined in Section 2.1.

"***Real Property***" is defined in Section 2.1(c).

"***Real Property (Landlord) Leases***" is defined in Section 2.1(d).

"***Real Property Leases***" is defined in Section 2.1(d).

"***Real Property (Tenant) Leases***" is defined in Section 2.1(c).

"***Record Retention Period***" means, with respect to each Acquired Seller Facility, the number of years which the applicable Seller is required to maintain medical records under applicable Law.

"***Representatives***" means, with respect to any Person, the officers, directors, principals, employees, agents, auditors, advisors, legal counsel, bankers and other representatives of such Person.

"***Restrictive Covenants***" is defined in Section 5.15(b).

"***Retained Facility Employees***" is defined in Section 5.9(a).

"***Sale Hearing***" means any hearing set by the Bankruptcy Court to approve a sale pursuant to this Agreement.

"***Sale Motion***" means the motion, supporting papers, notices and form of orders, all in form and substance reasonably acceptable to Buyer in its reasonable discretion, seeking approval and entry of the Sale Procedures Order and the Sale Order.

"***Sale Order***" means a Final Order of the Bankruptcy Court, in form and substance acceptable to Sellers and Buyer, *inter alia*, (i) approving the sale of the applicable Purchased Assets to Buyer free and clear of any and all Encumbrances (other than Permitted Encumbrances), (ii) approving the assumption and assignment of the Assumed Contracts to Buyer, and (iii) finding that Buyer is a "good faith purchaser" for purposes of Section 363(m) of the Bankruptcy Code.

"***Sale Procedures Hearing***" means any hearing set by the Bankruptcy Court to approve entry of the Sale Procedures Order.

"***Sale Procedures Order***" is defined in Section 8.1.

"***Seller***" is defined in the Preamble.

"***Seller 401(k) Plans***" is defined in Section 5.9(b).

"***Seller Billing Numbers***" is defined in Section 5.11(b).

"***Seller Church Plan***" means the Mercy Hospital, Iowa City, Iowa Employees' Pension Plan, as amended and restated effective January 1, 2016.

"***Seller Cost Reports***" is defined in Section 5.16(a).

"***Seller Facilities***" is defined in the Recitals.

"***Sellers' Transition Receivables***" is defined in Section 5.11(e)(vii).

"***Straddle Patients***" is defined in Section 5.11(e).

"***Subsidiary***" means, with respect to any Person, any corporation, partnership, limited liability company, joint venture or other legal entity of any kind of which such Person (either alone or through or together with one or more of its other Subsidiaries), owns, directly or indirectly, 50% or more of the capital stock or other equity interests the holders of which are (a) generally entitled to vote for the election of the board of directors or other governing body of such legal entity or (b) generally entitled to share in the profits or capital of such legal entity.

"***Tax***" means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, social security (or similar), intangible, escheat, unclaimed or abandoned property, national insurance, unemployment, disability, real property, personal property, sales, use, transfer, registration, value-added, alternative or add on minimum, estimated or other tax levy, duty, impost or similar charge imposed or collected by any Governmental Authority, including any interest, penalty or addition thereto, whether disputed or not.

"***Tax Returns***" means any return, report, statement, form or other document (including elections, declarations, amendments, schedules, information returns or attachments thereto) filed or required to be filed with any Governmental Authority with respect to Taxes.

"***Third-Party Payor***" means any Person (including the Government Reimbursement Programs, any entity authorized to provide health insurance (or property, casualty, or life insurance covering health benefits) in the State of Iowa, any health maintenance organization, or any employer authorized in accordance with applicable Law to self-insure its workers' compensation risk) that pays for or reimburses at least a portion of the healthcare expenses of its beneficiaries.

"***Title Commitments***" is defined in Section 5.17.

"***Title Company***" means First American Title Insurance Company, unless otherwise agreed by the Parties.

"***Title Policy***" is defined in Section 2.9(q).

"***Transaction Agreements***" means each of this Agreement, the Assignment and Assumptions, the Bills of Sale, and the Escrow Agreement.

"***Transactions***" means, collectively, the transactions contemplated by the Transaction Agreements.

"***Transfer Consent***" is defined in Section 2.5(e).

"***Transfer Taxes***" is defined in Section 9.2(a).

"***Transferred Employees***" is defined in Section 5.9(a).

"***Transition Period***" is defined in Section 5.11(b).

"***Transition Services***" is defined in Section 5.11(e).

"***Vacation Liability***" is defined in Section 5.9(a).

"***WARN Act***" is defined in Section 3.12.

ARTICLE II - TRANSACTIONS AT CLOSING

2.1 Purchase and Sale.

Subject to the terms and conditions of this Agreement, at the Closing and effective as of the Closing Time, each Seller shall sell, assign, transfer, and deliver to Buyer, and Buyer shall acquire, all of each Seller's right, title, and interest to the following assets (all such assets other than the Excluded Assets, the "***Purchased Assets***"), free and clear of any and all Encumbrances other than the Permitted Encumbrances:

(a) all of the real property owned in fee, together with all plant, buildings, structures, installments, improvements, fixtures, betterments, and additions situated thereon, identified on Schedule 2.1(a) (collectively, the "***Owned Real Property***"), including all of Sellers' rights, privileges, and easements appurtenant to and for the benefit of the Owned Real Property, and all of Sellers' development rights relating to the Owned Real Property, easements, rights of way, or appurtenances of Sellers relating to or used in connection with the ownership, operation, use, occupancy, or enjoyment of the Owned Real Property;

(b) all construction in progress related to the Acquired Seller Facilities and recorded on the books and records of Seller;

(c) all of the leasehold interests of each Seller in all real property that is leased to each Seller as lessee or tenant identified on Schedule 2.1(c) (collectively, the "***Leased Real Property***" and together with the Owned Real Property, the "***Real Property***") pursuant to any lease, sublease, occupancy agreement, or other contractual obligation (collectively, the "***Real Property (Tenant) Leases***");

(d) all of the interests of each Seller as lessor in and to each lease, sublease, or other contractual obligation under which the Real Property is occupied or used by a third party, including, without limitation, the lessor's interest in any and all agreements and guaranties relating to such leases, subleases, occupancy agreements, or other contractual obligations as identified on Schedule 2.1(d) (collectively, the "***Real Property (Landlord) Leases***" and together with the Real Property (Tenant) Leases, the "***Real Property Leases***");

(e) all of the tangible personal property owned or, to the extent assignable or transferrable by the applicable Seller, leased, subleased, or licensed, by each Seller and used in connection with the operation of the Seller Facilities, including, without limitation, equipment, furniture, furnishings, fixtures, machinery, tools, supplies, telephones, office equipment, and leasehold improvements (the "***Personal Property***");

(f) all of the interests of each Seller as lessee in and to each lease, sublease, license, or other contractual obligation under which the Personal Property is used by each Seller with respect to the operation of the Seller Facilities, to the extent such lease, sublease, license, or other contractual obligation is an Assumed Contract (collectively, the "***Personal Property Leases***" and together with the Real Property Leases, the "***Leases***");

(g) all Inventory used in connection with the operation of the Seller Facilities (other than the portions of Inventory disposed of, or expended, as the case may be, by Sellers after the Effective Date and prior to the Closing in the Ordinary Course of Business);

(h) all Prepaid Assets;

(i) all intangible personal property owned by Sellers and primarily used in connection with the operation of the Seller Facilities, including all right, title, and interest in and to all Facility IP, together with (i) all registrations and applications to register, and all rights to register, any of the foregoing, together with all renewals, extensions, and foreign counterparts of, and other registrations or applications claiming priority to, any of the foregoing, (ii) all royalties, income, and payments now owing or in the future due to the owner of any of the foregoing with respect to any of the foregoing, (iii) all damages and rights to sue and enforce any of the foregoing, including any damages and rights to sue for any past, present, or future infringement, dilution, misappropriation, or violation of any of the foregoing, (iv) all other proprietary rights and interests in any of the foregoing, (v) all data relating to any of the foregoing in any form or medium, and (vi) all copies and tangible embodiments of any of the foregoing, in any form or medium;

(j) computer software, programs and hardware or data processing equipment, data processing system manuals and licensed software materials that are used in connection with the operation of one or more of the Seller Facilities;

(k) all financial and operational records used in connection with the operation of the Seller Facilities (including all equipment records, construction plans and specifications, medical and administrative libraries, documents, catalogs, books, records, files, and operating manuals);

(l) all medical staff and personnel records relating to medical staff members and Facility Employees providing services at or with respect to the Seller Facilities or who accept employment with Buyer in accordance with Section 5.9 of this Agreement (including, without limitation, peer review materials);

(m) all patient and medical records used in connection with the operation of the Seller Facilities;

(n) all insurance proceeds relating to the physical condition of the Purchased Assets, to the extent not expended on the repair or restoration of the Purchased Assets prior to the Closing;

(o) the Assumed Contracts;

(p) to the extent transferable, subject to Section 2.7(b), Mercy Hospital's membership interest in Corridor Radiology, LLC, an Iowa limited liability company ("***Corridor Radiology***"), and all of Mercy Hospital's rights attendant thereto under the Operating Agreement of Corridor Radiology, LLC, dated October 1, 2012, as amended;

(q) to the extent transferable, all Permits held by Sellers relating to the ownership, development, or operation of the Acquired Seller Facilities, including the Medicare and Medicaid provider agreements for the Acquired Seller Facilities;

(r) all claims or causes of action relating to or arising from any of the Purchased Assets, including, without limitation, any Avoidance Actions relating to or arising from any of the Purchased Assets;

(s) all telephone and facsimile numbers, post office boxes and directory listings used in connection with the Acquired Seller Facilities;

(t) to the extent transferable, Sellers' National Provider Identifiers relating to the Acquired Seller Facilities;

(u) all other rights, properties and assets of Sellers which are primarily used in connection with the operation of the Acquired Seller Facilities; and

(v) the assets, properties, and rights identified on Schedule 2.1(v).

2.2 Excluded Assets.

The Purchased Assets shall specifically exclude the following assets, rights, business, claims, or properties of Sellers (collectively, the "***Excluded Assets***"):

(a) all current and non-current cash and cash equivalents, securities, investments, endorsements, bond funds and other funds created by bond indentures, financial assurances, and certificates of deposits (including, for the avoidance of doubt, any such assets held by Mercy Foundation);

(b) all Accounts Receivable for services rendered prior to the Closing Date, including Pre-Closing Receivables and Sellers' Transition Receivables;

(c) all intercompany receivables between Sellers and any of their respective Affiliates;

(d) all claims or receivables on account of employee advances;

(e) all of Sellers' assets owned, used or held for use by Sellers solely in connection with the operation of any Excluded Seller Facility or any healthcare facility or clinic other than the Acquired Seller Facilities;

(f) all of the real property, together with all plant, buildings, structures, installments, improvements, fixtures, betterments and additions situated thereon, associated with the Excluded Seller Facilities;

(g) assets and liabilities under medical malpractice risk pools, any self-insured trust, and workers compensation and employee retirement programs;

(h) except as specified in Section 5.10(d), all of Sellers' or any of their Affiliates' proprietary manuals, marketing materials, policy and procedure manuals, standard operating procedures and marketing brochures, data and studies or analyses not used at the Acquired Seller Facilities;

(i) all Excluded Contracts;

(j) the Intellectual Property set forth on Schedule 2.2(j);

(k) except as set forth in Section 2.1(p), any membership interest, capital stock, interest as a non-profit corporate member, partnership interest, limited liability company interest, or other equity or ownership interest held by any Seller in any other Person, including, for the avoidance of doubt, (i) Mercy Hospital's interest as the sole corporate member of Mercy Hospital Foundation, an Iowa non-profit corporation ("***Mercy Foundation***"); (ii) Mercy Hospital's interest as the sole member of MIC ACO; (iii) Mercy Hospital's capital stock in Mercy Services; (iv) Mercy Hospital's membership interest in Iowa City Ambulatory Surgical Center, L.L.C., an Iowa limited liability company; (v) Mercy Hospital's membership interest in Eastern Iowa Rehabilitation Hospital, LLC, an Iowa limited liability company; (vi) Mercy Services' membership interest in Progressive Rehabilitation Associates, L.L.C., an Iowa limited liability company; and (vii) Mercy Services' membership interest in Melrose Retirement Community, L.L.C., an Iowa limited liability company.

(l) the sponsorship of and all assets maintained pursuant to or in connection with any Employee Benefit Plan or any other benefit or compensation plan, program, policy, Contract, agreement or arrangement at any time maintained, sponsored or contributed or required to be contributed to by any of Sellers or any of their Affiliates or with respect to which any of Sellers or any of their Affiliates has any current or contingent liability or obligation, including, for the avoidance of doubt, the Seller Church Plan;

(m) all minute books and organizational records relating to Sellers and their Affiliates and all other books and records (including personnel records) that a Seller is required by Law to retain in its possession; provided, that copies of such books and records shall be made available to Buyer upon reasonable request to the extent permitted by applicable Law;

(n) all insurance policies and rights thereunder (including any prepaid expenses with respect to insurance policies);

(o) those pharmaceuticals that cannot, by Law, be sold by Sellers to Buyer;

(p) all claims, rights, interests, and proceeds with respect to state or local Tax payments, refunds, and credits (including but not limited to property Tax refunds and charity Tax credits) related to the operations of the Seller Facilities or the Purchased Assets with respect to periods ending prior to the Closing Time, and the right to pursue appeals of same;

(q) except set forth in Section 2.1(r), all claims, causes of action, choses in action, rights of recovery, rights of set off, and rights of recoupment of Sellers and their Affiliates with respect to periods prior to the Closing Time, and any payments, awards or other proceeds resulting therefrom;

(r) all avoidance, recovery, subordination, or other claims, actions or remedies that may be brought by or on behalf of Sellers, their bankruptcy estates, or other authorized parties-in-interest under the Bankruptcy Code or applicable non-bankruptcy Law, including claims, actions, or remedies under §§ 502, 510, 542, 544, 545, and 547 through and including 553 and 724(a) of the Bankruptcy Code or under similar local, state, federal or foreign statutes and common law, including fraudulent-transfer Laws;

(s) all religious artifacts;

(t) the rights of Sellers and their Affiliates under this Agreement;

(u) any receipts or receivables (i) relating to supplemental, disproportionate share or waiver payments, or Medicaid GME funding with respect to time periods prior to the Closing Time; (ii) relating to the Seller Cost Reports or Agency Settlements (whether resulting from an appeal by Sellers or otherwise) and other risk settlements with respect to time periods prior to the Closing Time, (iii) which result from Sellers' pursuit of one or more appeals pertaining to Medicare, Medicaid (including, without limitation, disproportionate share hospital program payments) or TRICARE with respect to periods prior to the Closing Time, (iv) relating to participation in any group purchasing organization (including any Tax refunds, rebates or fee sharebacks for purchases made prior to Closing) with respect to periods prior to the Closing Time, (v) with respect to "meaningful use" attestations, (vi) relating to Federal disaster awards with respect to time periods prior to the Closing Time; (vi) with respect to Medicaid funding adjustments with respect to time periods prior to the Closing Time; or (vii) relating to employee retention credits with respect to time periods prior to the Closing Time; and

(v) the assets, properties, and rights set forth on Schedule 2.2(v).

2.3 Assumed Liabilities.

Subject to the terms and conditions of this Agreement, at the Closing and effective as of the Closing Time, Sellers shall assign to Buyer and Buyer shall assume, perform and discharge only the following liabilities, obligations, and duties of Sellers relating to the operation of the Acquired Seller Facilities (all such liabilities, collectively, the "***Assumed Liabilities***"):

(a) all liabilities, obligations, and duties of Sellers under the Assumed Contracts solely to the extent arising from and after the Closing Date (but excluding, without limitation, any liability or obligation relating to or arising out of such Assumed Contracts as a result of any breach by a Seller under such Assumed Contracts occurring prior to the Closing);

(b) all Cure Amounts;

(c) all liabilities, obligations, and duties with respect to the Real Property Leases solely to the extent arising from and after the Closing Date (but excluding any liability or obligation relating to or arising out of the Real Property Leases as a result of any breach by a Seller under such Real Property Leases occurring prior to the Closing);

(d) the Vacation Liability;

(e) the Capital Lease Liability; and

(f) other specifically assumed liabilities set forth in Schedule 2.3(f).

2.4 Excluded Liabilities.

Buyer does not assume, and under no circumstances shall Buyer be obligated to pay, discharge, perform or assume any debt, obligation, expense or liability of Sellers or any Affiliates thereof other than the Assumed Liabilities (such debts, obligations, expenses, or liabilities other than Assumed Liabilities, collectively, the "***Excluded Liabilities***"). Without limiting the foregoing, Buyer does not assume or agree to pay, discharge, perform or assume the debts, obligations, expenses, or liabilities of Sellers with respect to, arising out of or relating to the following Excluded Liabilities:

(a) any liabilities owed by a Seller to an Affiliate of Seller;

(b) any liabilities arising from any of the Excluded Assets;

(c) all trade and accounts payable;

(d) (i) all Tax liabilities of Sellers whenever incurred, and (ii) all Tax liabilities relating to the Purchased Assets for any taxable period (or portion thereof) ending on or prior to the Closing Date;

(e) all indebtedness for borrowed money of Sellers (for avoidance of doubt, other than the Capital Lease Liability);

(f) all guarantees of third-party indebtedness made by Sellers and reimbursement obligations to guarantors of Sellers' obligations or under letters of credit;

(g) all liabilities for overpayments owed to any Third-Party Payor, including, without limitation, those arising out of fraudulent or negligent billing practices and those resulting from or relating to any violation of Law or Contract with a Third-Party Payor, in each case to the extent arising from or relating to services provided before the Closing;

(h) all liabilities arising out of or relating to any actual or alleged noncompliance by any Seller or any Affiliate of a Seller with any Law;

(i) (i) all Proceedings pending on or before the Closing Date against Sellers or to the extent against or giving rise to liabilities or obligations of the Seller Facilities (even if instituted after the Closing Date) and (ii) all liabilities arising out of any Action commenced against any Seller or any predecessor or Affiliate of Sellers after the Closing, in each case, to the extent arising out of or relating to acts or omissions of Sellers prior to Closing;

(j) all liabilities related to any malpractice claims or claims for negligence, recklessness, or willful, wanton, or intentional acts or omissions arising out of or relating to any services provided prior to Closing by any Seller, any Facility Employee, or any healthcare professional providing services at, for, or on behalf of any Seller Facility;

(k) all liabilities or obligations to any current or former corporate member or owner of capital stock or other equity interests of Sellers or any securities convertible into, exchangeable or exercisable for shares of capital stock or other equity interests of Sellers, any current or former holder of indebtedness for borrowed money of Sellers or, in respect of obligations for indemnification or advancement of expenses, any current or former officer or director of Sellers;

(l) the sponsorship of and any current or contingent liabilities or obligations at any time arising under, pursuant to, or in connection with any Employee Benefit Plan or any other benefit or compensation plan, program, policy, Contract, agreement, or arrangement at any time maintained, sponsored or contributed to or required to be contributed to by any of Sellers or any of their Affiliates, or with respect to which any of Sellers or any of their Affiliates has any current or contingent liability or obligation (including, for the avoidance of doubt, the sponsorship of and any current or contingent liabilities or obligations at any time arising under the Seller Church Plan);

(m) all liabilities pursuant to the WARN Act relating to any action or inaction of Sellers prior to or upon the Closing;

(n) subject to Section 2.7(c), all MAAP Liability of Sellers;

(o) except with respect to the Vacation Liability assumed by Buyer pursuant to Section 5.9(a), all liabilities and obligations arising from events occurring or conditions existing or occurring prior to the Closing Date relating to Facility Employees including, without limitation, accrued salaries, wages, vacation leave, sick leave, payroll Taxes, retirement plan payables, and any obligations relating to any Employee Benefit Plan, liability for any Equal Employment Opportunity Commission claim, wage and hour claim, unemployment compensation claim or workers' compensation claim or personnel policy, or claim for on-the-job injuries;

(p) all liabilities with respect to employment, termination of employment, compensation, severance, and employee benefits of any nature owed to any Facility Employee or any other current or former officer, manager, director, member, employee, or independent contractor (or any of their respective dependents or beneficiaries) of a Seller or any of its Affiliates relating to or arising out of such individual's employment or service (or the termination of employment or service) with a Seller or any of its Affiliates or any of its predecessors, whether or not such individual becomes a Transferred Employee, including, without limitation, any obligation to pay or provide any Facility Employee or other current or former officer, manager, director, member, employee, or independent contractor (or any of his or her respective dependents or beneficiaries) of a Seller or any of its Affiliates, any severance or change in control payments, transaction bonuses, retiree benefits, salary, wages, or commissions;

(q) all costs, fees, and expenses incurred by Sellers in connection with the administration of the Bankruptcy Case or the negotiation, execution, and consummation of the transactions contemplated by this Agreement, including all liabilities for any legal, accounting, investment banking, reorganization, restructuring (including bankruptcy administrative expenses), brokerage, or similar fees or expenses incurred by Sellers in connection with, resulting from or attributable to the transactions contemplated by this Agreement or the Bankruptcy Case;

(r) all liabilities of Sellers or any predecessor or Affiliate of Sellers based upon such Person's acts or omissions occurring after the Closing;

(s) all liabilities of Sellers to Buyer, its Affiliates, and their respective agents, advisors, and representatives under the Transaction Agreements or otherwise;

(t) all liabilities arising out of the ownership or operation of the Purchased Assets, Seller Facilities, or the Business relating to Environmental Laws, to the extent arising from facts, conditions, or circumstances first caused or first created prior to the Closing; and

(u) all liabilities or obligations to the extent relating to the ownership, possession, or use of the Excluded Assets, including executory Contracts and Real Property Leases that are not Assumed Contracts, or the ownership, possession, or use of the Purchased Assets to the extent arising prior to the Closing.

2.5 Assignment of Contracts.

(a) Schedule 2.5(a) sets forth a list of all executory Contracts and Real Property Leases relating to the Acquired Seller Facilities or the Purchased Assets to which one or more of Sellers are party (the "***Available Contracts***"), which Schedule 2.5(a) may be updated from time to time prior to the Sale Hearing to add or remove any Contracts inadvertently included or excluded from such schedule. Prior to the Sale Procedures Hearing, Buyer, in its sole discretion by written notice to Sellers, shall designate in writing which Available Contracts Buyer preliminarily wishes Sellers to assume and assign to Buyer (the "***Assumed Contracts***"), subject to the right of Buyer, at any time prior to the Sale Hearing, to determine that any Available Contract shall be an Assumed Contract or an Excluded Contract. All Available Contracts of Sellers that are listed on Schedule 2.5(a) and which Buyer does not designate in writing for assumption shall not be considered Assumed Contracts or Purchased Assets and shall automatically be deemed "***Excluded Contracts***."

(b) Within three (3) business days of entry of the Sale Procedures Order, Seller shall file with the Bankruptcy Court and serve upon all counterparties to the Assumed Contracts a notice (the "***Cure Notice***"), in form and substance satisfactory to Buyer, setting forth the Cure Amounts for all such Assumed Contracts and providing such counterparties with an opportunity to object to such Cure Amounts or to Buyer's Assumption and Assignment of such Assumed Contracts.

(c) In the event of a dispute regarding assumption and assignment of, or the proposed Cure Amount to be paid in respect of, any Contract proposed to be an Assumed Contract as set forth in Schedule 2.5(a), Buyer shall have the right to designate any Assumed Contract as an Excluded Contract at any time prior to the Closing Date in the event any such dispute is not resolved to Buyer's satisfaction by entry of a Final Order of the Bankruptcy Court (or upon the consensual resolution of such dispute as may be agreed by Buyer and such counterparty). Upon an election by Buyer to designate such previously Assumed Contract as an Excluded Contract in accordance herewith, Buyer shall have no liability or other obligation whatsoever to Sellers or the counterparty to such contract, until such contract has been assumed and assigned by order of the Bankruptcy Court.

(d) To the maximum extent permitted by the Bankruptcy Code, Sellers shall use commercially reasonable efforts to assume and transfer and assign all Purchased Assets to Buyer pursuant to Sections 363 and 365 of the Bankruptcy Code as of the Closing Date, including taking all actions required by the Bankruptcy Court to obtain a Final Order containing a finding that the proposed assumption and assignment of the Assumed Contracts to Buyer satisfies all applicable requirements of Section 365 of the Bankruptcy Code.

(e) Sellers shall transfer and assign all Assumed Contracts to Buyer, and Buyer shall assume all Assumed Contracts from Sellers, as of the Closing Date pursuant to the Sale Order. Except as to Assumed Contracts assigned pursuant to Section 365 of the Bankruptcy Code, this Agreement shall not constitute an agreement to assign any Purchased Asset or any right thereunder if an attempted assignment, without the consent of a third party or Governmental Authority (each, a "***Transfer Consent***"), would constitute a breach or in any way adversely affect the rights of Buyer or Sellers thereunder and Buyer shall assume no obligations or liabilities under any such Purchased Asset except as set forth in the last sentence of this Section 2.5(e). Sellers shall advise Buyer in writing at least five (5) business days prior to the Closing with respect to any Purchased Asset which Sellers know or have substantial reason to believe will or may not be subject to assignment to Buyer hereunder at the Closing. Without in any way limiting Sellers' obligation to obtain all consents and waivers necessary for the sale, transfer, assignment, and delivery of the Assumed Contracts and the Purchased Assets to Buyer hereunder, if such Transfer Consent is not obtained or such assignment is not attainable pursuant to Section 365 of the Bankruptcy Code, to the extent permitted and subject to any approval of the Bankruptcy Court that may be required, Sellers and Buyer will cooperate in a mutually agreeable arrangement under which Buyer would obtain the rights and benefits and assume the obligations thereunder in accordance with this Agreement.

(f) At Closing, (i) Sellers shall, pursuant to the Sale Order and the Assignment and Assumptions and other transfer and assignment documents reasonably requested by Buyer, assume and assign, or cause to be assigned, to Buyer (the consideration for which is included in the Purchase Price) each of the Assumed Contracts that is capable of being assumed and assigned, (ii) subject to Section 2.5(b), Buyer shall pay promptly all Cure Amounts (if any) in connection with such assumption and assignment (as set forth in this Agreement, any filing with the Bankruptcy Court, as agreed to by Buyer and the contract counterparty, or as determined by the Bankruptcy Court), and (iii) Buyer shall assume and perform and discharge the Assumed Liabilities (if any) under the Assumed Contracts, pursuant to the Sale Order and the Assignment and Assumptions.

2.6 Purchase Price and Other Commitments.

(a) **Deposit.** Buyer shall deposit (or cause the deposit of) Two Million Dollars ($2,000,000) (the "***Deposit***") within two business days following the Effective Date pursuant to that certain Escrow Agreement of even date herewith among the Title Company ("***Escrow Agent***"), Mercy Hospital and Buyer (the "***Deposit Escrow Agreement***"). At the Closing, the Deposit shall be credited towards payment of the Purchase Price and paid to Sellers. If this Agreement is terminated by Sellers prior to Closing pursuant to Section 7.1(d) or Section 7.1(i), then within two business days of such termination, Mercy Hospital and Buyer shall deliver a joint written instruction to Escrow Agent authorizing Escrow Agent to release from escrow the entire Deposit, by wire transfer of immediately available funds to an account designated by Mercy Hospital to Escrow Agent, to be retained by Mercy Hospital. In all other circumstances, if this Agreement is terminated in accordance with the terms of this Agreement prior to Closing, then within two (2) business days of such termination, Mercy Hospital and Buyer shall deliver a joint written instruction to Escrow Agent authorizing Escrow Agent to release all funds held in escrow, including any interest or earnings thereon, to Buyer by wire transfer of immediately available funds to an account designated by Buyer.

(b) **Purchase Price.** At the Closing, the aggregate consideration to be paid by Buyer for the Purchased Assets (the "***Purchase Price***"), in addition to the assumption of the Assumed Liabilities, shall be an amount equal to cash (the "***Cash Purchase Price***") in the amount of Twenty Million Dollars ($20,000,000), minus (A) the amount of the Deposit, plus (B) the Cure Amounts.

(c) **Hospital Operations**. Following the Closing, Buyer intends (i) to establish an advisory board for the Hospital, to include primarily independent members of the community, with such composition, roles, and responsibilities to be agreed upon by the Parties prior to Closing; (ii) that the Hospital will have its own Chief Administrative Officer with responsibility for the Hospital's operations; and (iii) to make certain strategic and routine capital investments in the Acquired Seller Facilities, including, in Buyer's sole determination, updating and/or replacing some or all the IT hardware, software and related equipment used at the Acquired Seller Facilities, subject to such investments meeting Buyer's business case criteria, including documented business need and financial feasibility.

(d) **Medical Staff**. To ensure continuity of care in the community, subject to any applicable Law or accreditation requirements, Buyer agrees that, following the Closing, the medical staff members of the Hospital who are in good standing as of the Closing Date shall maintain medical staff privileges at the Hospital as of the Closing and that faculty appointment will not be required to be or remain on the medical staff at the Hospital. At the Closing, the medical staff will be subject to the medical staff bylaws of the Hospital then in effect, as amended from time to time. Following the Closing, the Hospital will maintain an open medical staff, and medical staff admitting privileges will remain in place under the existing medical staff bylaws of the Hospital; provided, however, that the medical staff bylaws of the Hospital may be modified, in Buyer's reasonable discretion, to better align with the medical staff bylaws of Buyer to ensure that processes and information-sharing between medical staffs are as consistent as reasonably possible. Further, following the Closing, Buyer will determine a plan to best clinically integrate the Hospital's employed and affiliated physicians with Buyer's physician services so as to provide the best possible services to residents of the community while using physician resources most efficiently.

(e) **Charity Care**. Following the Closing, Buyer will not discriminate in the provision of services at the Hospital on the basis of a patient's ability to pay and will ensure that the Hospital will continue its charity care policies and procedures or implement commensurate policies that are consistent with Buyer's charity care policies.

2.7 Adjustments to Acquired Seller Facilities and Purchased Assets.

(a) Notwithstanding anything to the contrary set forth in this Agreement, Buyer may, in Buyer's sole discretion and at any time prior to Closing, (i) remove any Seller Facility from Exhibit B, and any such removed Seller Facility shall at that time become an Excluded Seller Facility and will be deemed included on Exhibit C; and (ii) designate any asset, right, or property of any Seller as an Excluded Asset, notwithstanding the inclusion of such asset, right, or property as a Purchased Asset pursuant to this Agreement. In each case, Buyer shall deliver written notice to Sellers of its election to remove such Seller Facility from Exhibit B or designate such asset, right, or property as an Excluded Asset (as applicable) in accordance with the provisions of Section 9.9.

(b) If Buyer is not able to acquire Mercy Hospital's membership interest in Corridor Radiology (including all governance rights of Mercy Hospital therein) at the Closing for any reason, including, without limitation, the failure to obtain any approval, authorization, or consent of any third party, then Sellers will promptly remit to Buyer any proceeds (less out-of-pocket expenses reasonably related to the collection thereof) that any Seller receives in connection with the disposition of Mercy Hospital's membership interest in Corridor Radiology, whether such proceeds are received before or after the Closing Date.

(c) In the event that the Sale Order does not transfer the Purchased Assets free and clear of the MAAP Liability, and Seller receives any funds described in Section 2.2(u), Seller shall remit such amounts received (less out-of-pocket expenses reasonably related to the collection thereof) to Buyer, up to, and solely to the extent of, the amount of the MAAP Liability attaching to Buyer or for which Buyer becomes responsible.

2.8 Closing.

Subject to the terms and conditions of this Agreement, the consummation of the transactions contemplated pursuant to this Agreement (the "***Closing***") shall take place at the offices of Buyer on the later of (a) five (5) business days after satisfaction of the conditions set forth in ARTICLE VI (other than those conditions that by their nature are to be satisfied at the Closing but subject to the satisfaction of such conditions at the Closing), and (b) such other time or place as Buyer and Sellers may agree (the "***Closing Date***"). The Closing shall be deemed to have occurred and to be effective as between the Parties as of 12:01 a.m. Iowa City, Iowa time on the Closing Date (the "***Closing Time***"). The Closing will take place remotely by electronic mail or other electronic exchange of documents, among and between the Parties and/or their respective counsel.

2.9 Actions of Sellers at Closing.

At the Closing and unless otherwise waived in writing by Buyer, Sellers shall deliver or cause to be delivered to Buyer the following:

(a) the Purchased Assets, by making the Purchased Assets available to Buyer at their present location;

(b) a Bill of Sale in the form attached as Exhibit D (the "***Bill of Sale***"), executed by each Seller in favor of Buyer;

(c) an Assignment and Assumption Agreement in the form attached as Exhibit E (the "***Assignment and Assumption***"), executed by each Seller in favor of Buyer;

(d) copies of resolutions duly adopted by the Board of Directors (or similar governing body) of each Seller authorizing and approving such Seller's execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement, duly certified by an officer of each Seller;

(e) certificates of existence and good standing of each Seller from the state of its incorporation or formation, each dated the most recent practicable date prior to the Closing Date;

(f) a non-foreign affidavit of each Seller, dated as of the Closing Date, in form and substance consistent with the Treasury Regulations issued pursuant to Section 1445 of the Code stating that such Seller is not a "foreign person" as defined in Section 1445 of the Code;

(g) certificates of title with respect to any vehicles included in the Purchased Assets duly executed by the applicable Seller;

(h) certificates of an officer of Mercy Hospital certifying the satisfaction of the conditions to Closing set forth in Section 6.2(a) and Section 6.2(b);

(i) certificates of incumbency for the respective officers of Sellers executing this Agreement and the other Transaction Agreements;

(j) fully executed termination agreements for all management agreements (other than any management agreements that Buyer has designated as an Assumed Contract pursuant to Section 2.5(a)) with respect to the operation of the Acquired Seller Facilities, in a form reasonably satisfactory to Buyer and in full force and effect;

(k) transition services agreement(s) between Seller and Buyer or Buyer's designee for wind-down of Sellers' operations following the Closing, each in form and substance satisfactory to Buyer and Seller (the "***Transition Services Agreements***"), executed by Seller and the applicable counterparties thereto;

(l) copies of all medical records for the applicable Record Retention Period prior to the Closing and a patient index relating to the Acquired Seller Facilities, in each case in digital or electronic format;

(m) to the extent required by applicable Law, the Drug Enforcement Administration (DEA) Powers of Attorney in a form satisfactory to Buyer, executed by or on behalf of Sellers in favor of Buyer;

(n) with respect to each parcel of Owned Real Property, one or more special warranty deeds from the applicable Seller, as grantor, in favor of Buyer, as grantee, in recordable form, subject only to the Permitted Encumbrances (the "***Deeds***");

(o) with respect to each parcel of Owned Real Property, a Declaration of Value statement from the applicable Seller reporting the consideration paid by Buyer to the applicable Seller in connection with said parcel of Owned Real Property;

(p) with respect to each parcel of Owned Real Property, if applicable, a Groundwater Hazard Statement from the applicable Seller;

(q) with respect to the Owned Real Property, one or more duly executed title affidavits in form reasonably required by the Title Company to issue an extended coverage ALTA Owner's Policy of Title Insurance in favor of Buyer (the "***Title Policy***"), subject only to the Permitted Encumbrances;

(r) with respect to the Owned Real Property, such other affidavits, transfer tax and documentary stamp documents, and other documents reasonably required by the Title Company to record the Deeds in the applicable jurisdictions and to issue the Title Policy;

(s) with respect to each Real Property (Tenant) Lease, a duly executed Landlord's Estoppel in substantially the form attached hereto as Exhibit F (the "***Landlord Estoppels***");

(t) an updated detailed patient census list dated no earlier than three (3) days prior to the Closing Date; and

(u) a certified copy of the Sale Order.

2.10 Actions of Buyer at Closing.

At the Closing and unless otherwise waived in writing by Sellers, Buyer shall deliver or cause to be delivered to Sellers the following:

(a) the Cash Purchase Price, by wire transfer of immediately available funds to an account designated in writing by Mercy Hospital;

(b) the Bill of Sale, executed by Buyer;

(c) the Assignment and Assumption, executed by Buyer;

(d) a certificate of an officer or duly authorized representative of Buyer certifying the satisfaction of the conditions to Closing set forth in Section 6.3(a) and Section 6.3(b);

(e) certificates of incumbency for the officer of Buyer executing this Agreement and the other Transaction Agreements; and

(f) the Transition Services Agreements, executed by Buyer.

ARTICLE III - REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the Schedules to this ARTICLE III ("***Article III Schedules***"), as of (i) the Effective Date and the Closing Date, with respect to representations and warranties that are not qualified by an Article III Schedule, (ii) the Sale Procedures Hearing date and the Closing Date, with respect to representations and warranties that are qualified by an Article III Schedule, and (iii) as of the date specified therein with respect to any representation or warranty speaks as of another date, Sellers represent and warrant to Buyer the following:

3.1 Corporate Capacity, Authority and Consents.

Each Seller is duly organized and validly existing in good standing under the Laws of the state of its formation or incorporation with the requisite organizational power and authority to enter into this Agreement and each of the Transaction Documents, to perform its respective obligations hereunder and thereunder, to own, lease, and operate its properties and to conduct its business as now being conducted. Each Seller is duly qualified or licensed to do business as a foreign entity and is in good standing in each jurisdiction in which the nature of the business conducted by it makes such qualification or licensing necessary, except where the failure to be so duly qualified, licensed, and in good standing would not, individually or in the aggregate, have a Material Adverse Effect. Sellers have made available to Buyer a complete and correct copy of the Governing Documents of each Seller as in effect on the Effective Date. Subject to the entry of the Sale Procedures Order or the Sale Order, the execution, delivery, and performance of this Agreement and all other Transaction Agreements to which any Seller is or will become a party and the actions to be taken by each Seller in connection with the consummation of the Transactions:

(a) are within the organizational powers of such Seller, are not in contravention of applicable Law or the terms of the applicable Governing Documents;

(b) except as otherwise expressly herein provided or as set forth in Schedule 3.1(b), do not require any approval or consent of, or filing with, any Governmental Authority;

(c) will not violate any Order or Law to which such Seller or any of the Purchased Assets are subject;

(d) will not, with or without notice or lapse of time or both, result in any material breach or contravention of, nor permit the acceleration of the maturity of or termination of or constitute a default under, the terms of any Material Contract to which any Seller is a party or otherwise bound; and

(e) will not result in the creation or imposition of any Encumbrance other than Permitted Encumbrances on any properties or material assets of Sellers.

3.2 Binding Agreement.

The execution, delivery, and performance of this Agreement and each of the Transaction Documents to which each Seller is or will become a party by each Seller and the consummation of the transactions contemplated hereby and thereby have been, or will be when delivered, duly authorized and approved by all requisite entity action of such Seller. No other corporate or organizational proceedings on the part of Sellers are necessary to approve and authorize the execution and delivery of the Transaction Documents to which Sellers are a party and the consummation of the transactions contemplated thereby. Subject to the entry of the Sale Order, this Agreement and each other Transaction Agreement to which each Seller is or will become a party are and will constitute the valid and legally binding obligations of such Seller, and are and will be enforceable against such Seller in accordance with the respective terms hereof or thereof, except as enforceability 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.

3.3 Subsidiaries.

Except as set forth on Schedule 3.3, Sellers have no Subsidiaries and do not own any interests in any other Person.

3.4 Assets.

(a) Sellers own valid and marketable title to, or possess valid leasehold interests in, all of the Purchased Assets. One or more Sellers have sole custody and control of all of the Purchased Assets, except with respect to any Permitted Encumbrances or as otherwise set forth on Schedule 3.4(a).

(b) Subject to the entry of the Sale Order, the Purchased Assets are free and clear of all Encumbrances except Permitted Encumbrances.

(c) Except as would not materially impair the present ownership, use, or operations of the Purchased Assets, the Purchased Assets are in good operating condition and repair (ordinary wear and tear excepted) and are fit for use in the Ordinary Course of Business.

(d) The Purchased Assets are sufficient for the continued conduct of the Acquired Seller Facilities after the Closing in substantially the same manner as currently conducted and constitute all of the assets, including all Contracts, Permits and properties, necessary to operate the Acquired Seller Facilities as presently conducted.

3.5 Licenses and Accreditations.

(a) Sellers hold all Permits required to be held by them to own, occupy, and operate the Acquired Seller Facilities as they are currently being operated, including, without limitation, all pharmacies, laboratories, and other ancillary service lines located at the Acquired Seller Facilities or operated for the benefit of the Acquired Seller Facilities for which a Seller is required to hold separate Permits. Schedule 3.5(a) sets forth a list of such Permits (collectively, the "***Material Permits***"), and the corresponding number of licensed beds (if applicable), that are material to the ownership and operation of the Acquired Seller Facilities, copies of which have been made available to Buyer, and all of which are valid and in full force and effect. All of the Material Permits are valid, binding and in full force and effect. Schedule 3.5(a) sets forth a list of all survey and inspection deficiencies of the Acquired Seller Facilities that have been identified by any Governmental Authority and are yet to be corrected. Sellers and the Acquired Seller Facilities, as applicable, are, and at all times since the Lookback Date have been, in material compliance with the terms of the Material Permits. There are no agreements entered into by any Seller

relating to any Material Permit that preclude or materially limit Sellers from operating the Acquired Seller Facilities and carrying on the operations of the Acquired Seller Facilities as currently conducted. There is no pending or, to the Knowledge of Sellers, threatened Proceeding by or before any Governmental Authority to revoke, cancel, rescind, suspend, materially modify, or refuse to renew the Material Permits. No event has occurred and no facts exist with respect to any Material Permit that would allow or is reasonably likely to result in the suspension, revocation, or termination of same, nor have Sellers or the Acquired Seller Facilities received any written notice or other communication regarding any material violation of any Material Permit. Sellers have delivered or made available to Buyer accurate and complete copies of all survey reports, deficiency notices, plans of correction, and related correspondence received by Sellers or the Acquired Seller Facilities since the Lookback Date in connection with the Permits owned or held by Sellers.

(b) Sellers hold all certificates of need and similar approvals necessary for Sellers to own and operate the Acquired Seller Facilities and the Purchased Assets and to carry on the operations as currently conducted. Sellers and the Acquired Seller Facilities, as applicable, are, and at all times since the Lookback Date have been, in material compliance with the terms and conditions of any such certificates of need and similar approvals. Each such certificate of need is valid and in good standing and not subject to meritorious challenge.

(c) Schedule 3.5(c) sets forth an accurate and complete list of all Joint Commission accreditations and other accreditations held by Sellers with respect to the Acquired Seller Facilities. All such accreditations are and shall be current and in full force and effect as of the Effective Date and as of the Closing Date. Except as otherwise disclosed in Schedule 3.5(c), no event has occurred or other fact exists with respect to such accreditations that allows, or after notice or the lapse of time or both, would allow, for the revocation, material limitation or termination of any such accreditations. There is no pending or, to Sellers' Knowledge, threatened Proceeding by any accrediting body to revoke, cancel, rescind, suspend, restrict, materially modify, or not renew any such accreditation. Sellers have delivered a copy of each Acquired Seller Facility's most recent Joint Commission accreditation reports and any reports, documents, or correspondence relating thereto to Buyer.

3.6 Regulatory Compliance.

(a) Except as set forth on Schedule 3.6(a), Sellers, the Acquired Seller Facilities, and the Purchased Assets are, and at all times during the 10-year period preceding the Effective Date have been, in compliance in all material respects with all applicable Laws including all Healthcare Laws. During the 10-year period preceding the Effective Date, no Seller has received any notice from any Governmental Authority regarding any actual or alleged violation of, or failure on the part of any Seller to comply in all material respects with, any applicable Law.

(b) During the 10-year period preceding the Effective Date, Sellers have not been investigated by any Governmental Authority with respect to any alleged violation of Law, nor has any Seller or any of the Acquired Seller Facilities received any written, or to Sellers' Knowledge, oral communication from a Governmental Authority, Third-Party Payor, or other Person alleging that any Seller, any of the Acquired Seller Facilities, or any of the Purchased Assets are not in material compliance with any Law, other than statements of deficiencies from a Governmental Authority received in the Ordinary Course of Business.

(c) Without limiting the generality of the foregoing, during the 10-year period preceding the Effective Date, Sellers have not, directly or indirectly, offered, paid or received, or made arrangements to offer, pay or receive, any remuneration, in cash or in kind, to any past, present or potential customers, past or present suppliers, patients, medical staff members, contractors or Third-Party Payors in order to obtain business or payments from such Persons that would reasonably be expected to subject Sellers to any material damage or penalty in any civil, criminal, or governmental litigation or proceeding. During the 10-

year period preceding the Effective Date, none of the officers, directors, agents, or managing employees (as such term is defined in 42 U.S.C. §1320a-5(b)) of Sellers has been excluded from any Third-Party Payor program or been subject to sanction or been convicted of a crime in connection with any state or federal healthcare program or under any Healthcare Laws, nor is any such exclusion or conviction pending or, to the Knowledge of Sellers, threatened.

(d) There are no pending or, to the Knowledge of Sellers, threatened disciplinary or corrective actions or appeals involving physician applicants, active medical staff members, or affiliated health professionals under the medical staff bylaws at any Seller Facility. Sellers have made available to Buyer copies of the bylaws, rules, and regulations of the medical staff of each Seller Facility maintaining the same and its executive committee. Notwithstanding the foregoing provisions, Sellers shall not be required to disclose any information pursuant to this Section 3.6(d) where such disclosure is prohibited by Law or such disclosure would, or could reasonably be expected to, jeopardize any applicable privilege or protection including, without limitation, peer review or any other privilege which is available under applicable Law. No medical staff members of any Seller Facilities have had their privileges revoked, suspended, or reduced since the Lookback Date.

(e) Sellers have not, at any time during the 10-year period preceding the Effective Date, made and are not in the process of making a voluntary self-disclosure under the Self-Referral Disclosure Protocol established by the Secretary of HHS pursuant to Section 6409 of the Patient Protection and Affordable Care Act, under the self-disclosure protocol established and maintained by the OIG, or under any United States Attorney or other Governmental Authority. No such self-disclosure made by any Seller (regardless of when made) remains unresolved or could lead to any future liability or obligation for any Seller or Buyer.

3.7 Compliance Program.

The Acquired Seller Facilities have implemented compliance programs and have conducted their operations in material accordance with such compliance programs. Sellers have made available to Buyer copies of the Acquired Seller Facilities' current compliance program materials, including: all program descriptions; compliance officer and committee descriptions; compliance committee meeting minutes and reports for the last two years; compliance policies; hotline and other logs or databases of compliance issues, reviews or investigations for the last two years; training and education materials; auditing and monitoring protocols; reporting mechanisms; and disciplinary policies. No Seller (a) has reporting obligations pursuant to any settlement agreement entered into with any Governmental Authority, (b) is a party to a Corporate Integrity Agreement with the OIG, (c) since the Lookback Date, has been served with any search warrant, subpoena, or civil investigative demand from any Governmental Authority related to participation in any Governmental Reimbursement Program, or (d) has been to such Seller's Knowledge a defendant in any *qui tam*/False Claims Act litigation. For purposes of this Agreement, the term "compliance program" refers to provider programs of the type described in the compliance guidance published by the OIG applicable to Hospital's operations.

3.8 Material Contracts.

(a) Schedule 3.8(a) sets forth a complete list as of the Effective Date of the following Contracts to which a Seller is a party, in each case relating in whole or in part to one or more of the Acquired Seller Facilities (such Contracts set forth or required to be set forth on Schedule 3.8(a), the "***Material Contracts***" and each a "***Material Contract***"): (i) Contracts involving the lease of equipment or personal property that require payments by or to a Seller of greater than $50,000 during the remaining term or on an annual basis and any other capitalized lease obligations; (ii) employment Contracts; (iii) Contracts with respect to patents, trademarks, trade names, or service names; (iv) collective bargaining agreements; (v) partnership or joint venture agreements, and any other Contracts relating to the ownership of, investments in or loans and advances to any Person, including minority equity investments; (vi) Contracts containing a covenant

on the part of a Seller not to compete or which provide for "exclusivity" or any similar requirement in favor of any Person other than Sellers; (vii) Contracts with any hospitals, ambulatory surgery centers, or other healthcare facilities; (viii) Contracts with any physicians, physician groups, or other providers of healthcare services; (ix) any other Contracts that involve payments, performance of services or provision of items in an amount exceeding $50,000 or that cannot be canceled by the applicable Seller, without penalty, on ninety (90) days' notice or less; (x) Contracts relating to the acquisition or disposition by any Seller outside the Ordinary Course of Business of any material assets or any material business (whether by merger, sale or purchase of stock, sale or purchase of assets or otherwise) to the extent any actual or contingent material obligations of any Seller thereunder remain in effect; (xi) Contracts with any Governmental Authority; (xii) Contracts relating to the settlement of any Proceeding which imposes any material payment or other material obligations on any Seller after the Effective Date; (xiii) Contracts relating to borrowed money or other indebtedness or the mortgaging, pledging or otherwise placing an Encumbrance on any material asset or group of material assets of any Seller or any letter of credit arrangements, or any guaranty therefor; (xiv) powers of attorney or other similar Contracts or grant of agency; (xv) Contracts (A) providing for the license or provision of any Intellectual Property for use in connection with any of the Acquired Seller Facilities (excluding Contracts for the licensing of any generally commercially-available, off-the-shelf software from third parties not exceeding $100,000), or (B) relating to the development of any Intellectual Property for use in connection with any of the Acquired Seller Facilities, or the settlement of any Intellectual Property-related dispute with respect to any of the Acquired Seller Facilities; or (xvi) any other Contracts that are otherwise material to the assets, operations or financial condition of any Seller. Sellers have made available to Buyer true and correct copies of all of the Material Contracts, in each case, together with all amendments, waivers or other changes thereto and Schedule 3.8(a) contains an accurate and complete description of all material terms of all oral Contracts referred to therein.

(b) Except as set forth on Schedule 3.8(b), each Material Contract is in full force and effect and there are no defaults thereunder on the part of any party thereto, and no Seller is in material default in the performance, observance, or fulfillment of any of its obligations, covenants or conditions contained in any Material Contract to which it is a party or by which it or its property is bound, except as a result of the commencement of the Bankruptcy Case, the insolvency or financial condition of a Seller or any other reason set forth in Section 365(b)(2) or 365(e)(1) of the Bankruptcy Code. Each Material Contract was entered into at arm's length and in the Ordinary Course of Business and, subject to the Sale Order and the assignment of each Material Contract by the applicable Seller in accordance with applicable Law, is a valid and binding obligation of the applicable Seller and, to the Knowledge of Sellers, the other parties thereto and is in full force and effect in accordance with its terms.

3.9 Real Property.

(a) Schedule 2.1(a) sets forth a true and complete list of all Owned Real Property. Sellers have good and marketable title in fee simple to all Owned Real Property, free and clear of all Encumbrances other than the Permitted Encumbrances. Schedule 2.1(d) identifies each of the Real Property (Landlord) Leases and the non-Seller parties thereto. Sellers have made available to Buyer true and complete copies of all such Real Property (Landlord) Leases. Except as set forth in Schedule 2.1(d), there are no tenants or other Persons occupying any space in the Owned Real Property.

(b) Schedule 2.1(c) sets forth a description of all of Sellers' leasehold interests in the Leased Real Property and identifies each of the Real Property (Tenant) Leases and the non-Seller parties thereto. Sellers have made available to Buyer true and complete copies of all of such Real Property (Tenant) Leases. Except as set forth in Schedule 2.1(c), Sellers do not lease, license or otherwise occupy any other property as tenant, licensee or otherwise, other than the Leased Real Property.

(c) Except as otherwise set forth in Schedule 3.9(c), (i) each Real Property Lease is in full force and effect and is the valid, binding and enforceable obligation of the applicable Seller and, to the

Knowledge of Sellers, the other parties thereto in accordance with its terms; (ii) no Seller has given or received written notice of any material default under a Real Property Lease that currently remains outstanding and uncured, except as a result of the commencement of the Bankruptcy Case, the insolvency or financial condition of a Seller or any other reason set forth in Section 365(b)(2) or 365(e)(1) of the Bankruptcy Code; (iii) no party to any Real Property Lease has exercised any termination rights with respect thereto; (iv) subject to the entry of the Sale Order, the assignment of the Real Property Leases to Buyer or any Affiliate thereof shall not require the consent of any other party to such Real Property Leases, will not result in a breach of or default under any Real Property Lease, or otherwise cause such Real Property Lease to be legal, valid, binding, enforceable, and in full force and effect on identical terms following the Closing; (v) Sellers' current possession and quiet enjoyment of the Leased Real Property under such Real Property (Tenant) Leases has not been disturbed; (vi) Sellers do not currently owe any outstanding and unpaid brokerage commissions or finder's fees with respect to any of the Real Property Leases; (vii) no party to any Real Property Lease is an Affiliate of any Seller; and (viii) there are no liens or encumbrances on the leasehold estate or interest created by any such Real Property Lease other than Permitted Encumbrances.

(d) There do not exist any actual or, to the Knowledge of Sellers, threatened condemnation or eminent domain proceedings that materially affect any Real Property, and no Seller has received any notice, oral or written, of the intention of any Governmental Authority to take or use any Real Property.

(e) There are no contractual or legal restrictions that preclude or restrict the ability to use any Real Property by Sellers for the current use of such Real Property. There are no material latent defects or material adverse physical conditions affecting the Real Property. All buildings, fixtures, improvements and other structures on the Real Property are adequately maintained and are in good operating condition and repair for the requirements of the use as currently conducted.

(f) None of the Owned Real Property or any condition or activity thereon, any buildings, fixtures, improvements and other structures located thereon, or the current use, operation or maintenance thereof is (A) in violation of any applicable Law, (B) in violation of the terms of any restrictive covenant or other encumbrance. To the extent that the use and operation of any Owned Real Property is a non-conforming use as of the Closing Date, the right to continue such non-conforming use is not restricted or terminated upon the consummation of the Transactions. All easements, cross easements, licenses, air rights, and rights-of-way or other similar property interests, whether express or implied, if any, necessary for the full utilization of the Owned Real Property for its current uses and purposes have been obtained and are in full force and effect without default thereunder. The Owned Real Property has a legal right of access to and from such parcel. Neither the Owned Real Property nor any part thereof are subject to any purchase options or other similar rights in favor of third parties. There are no material encroachments on the Owned Real Property and the improvements on the Owned Real Property do not encroach upon any easement area or any adjoining land or adjoining street.

(g) Sellers have made available to Buyer copies of all title abstracts, title opinions, title policies, title commitments, surveys, and all other material documents bearing on the status of title to the Owned Real Property in their possession or control.

3.10 Insurance.

Attached as Schedule 3.10 is a list and description of all insurance policies, including all self-funded plans or trusts, maintained by or for the benefit of any Seller or with respect to any of the Acquired Seller Facilities, including an indication of whether each such policy is "occurrence based" or "claims made". All such policies and plans or trusts are in full force and effect with no premium or contribution arrearage.

3.11 Intentionally Omitted.

3.12 Employee Relations.

There is no pending or, to the Knowledge of Sellers, threatened employee strike, work stoppage, walkout, lockout, picketing or other material labor dispute concerning or involving the Facility Employees, and no such event has occurred since the Lookback Date. Except as set forth on Schedule 3.12, (a) no Seller is a party to or bound by any collective bargaining agreement or other Contract or bargaining relationship with any labor union, labor organization, or employee representative body, and no such agreement or relationship is currently being negotiated with respect to the Facility Employees; (b) since the Lookback Date, no written or, to Sellers' Knowledge, oral demand has been made for recognition by a labor organization by or with respect to any Facility Employees; (c) no union organizing activities by or with respect to any Facility Employees are taking place, and to the Knowledge of Sellers, no such activities have taken place since the Lookback Date; and (d) none of the Facility Employees is represented by any labor union or organization in connection with their employment with Sellers. Sellers have satisfied any notice and bargaining obligations with any labor union, labor organization, or employee representative body as required by applicable Law, collective bargaining agreement, or Contract in connection with the Transactions. Since the Lookback Date, Sellers have promptly, thoroughly and impartially investigated all employment discrimination and sexual harassment allegations of, or against, any Facility Employee and, with respect to each such allegation with potential merit, Sellers have taken prompt corrective action in accordance with applicable Law. Except as would not result in material liability, (i) each individual who is performing or since the Lookback Date has performed services for the business and who is or was classified and treated by Sellers as an independent contractor or other non-employee service provider is and was properly classified and treated as such for all applicable purposes, and (ii) since the Lookback Date, Sellers have fully and timely paid all wages, salaries, wage premiums, commissions, bonuses, severance payments, expense reimbursements, fees, and other compensation that has come due and payable to Facility Employees and other workers providing services to the business under applicable Law, Contract, or policy. Since the Lookback Date, Sellers have not failed to provide advance notice of layoffs or terminations as required by the Worker Adjustment and Retraining Notification Act of 1988, as amended, and all similar state or local Laws (the "***WARN Act***"), and no actions that would require notice pursuant to the WARN Act are currently contemplated, planned, or announced. Schedule 3.12 sets forth a list of involuntary terminations by Sellers in the ninety (90) days immediately preceding the Closing Date, including location, date, and number of employees impacted. The Facility Employees are sufficient in number and skill to allow Buyer to operate the business after the Closing Date in substantially the same manner as it was operated by Sellers immediately prior to the Closing.

3.13 Litigation and Proceedings.

Except as set forth on Schedule 3.13, there are no and since the Lookback Date there have been no Actions pending or, to the Knowledge of Sellers, threatened against any of the Sellers or their Affiliates or any of their respective properties or assets, including the Purchased Assets, at law or in equity, or before or by any Governmental Authority. With respect to the Seller Facilities, no Seller has received written notice of, and there are no, Orders of a court of competent jurisdiction outstanding against any Seller or any of their respective properties or assets that materially restrict the operation of the Seller Facilities. There is no Action pending or, to the Knowledge of Sellers, threatened against Sellers or their Affiliates which seeks to prevent or delay consummation of the Transactions, seeks damages in connection with Transactions or would impair the ability of Sellers to perform their obligations under this Agreement.

3.14 Third-Party Reimbursement.

(a) The Acquired Seller Facilities are certified to participate in the Medicare, Medicaid, and TRICARE programs with valid and current provider or supplier agreements under such programs. Except

as set forth on Schedule 3.14(a), the Acquired Seller Facilities are in compliance with the terms and conditions of participation in the Medicare, Medicaid, and TRICARE programs and are not subject to any pending or, to the Knowledge of Sellers, threatened Actions with respect to participation in such programs, other than routine audits and investigations conducted through the Medicare Recovery Audit Contractor programs. Schedule 3.14(a) sets forth a list of all National Provider Identifiers and all provider numbers of Sellers with respect to the Acquired Seller Facilities under the Government Reimbursement Programs.

(b) Schedule 3.14(b) sets forth a list of all agreements between any Seller, on the one hand, and any Third-Party Payor, on the other hand ("***Payor Agreements***"). Sellers have delivered or made available accurate and complete copies of all such Payor Agreements to Buyer. Sellers are in material compliance with the terms, conditions, and provisions of the Payor Agreements including, without limitation, requirements related to dual eligibility. No events or facts exist that jeopardize the validity or enforcement of, or the continued reimbursement under (in accordance with the terms thereof), any Payor Agreement. There is no Proceeding pending, or, to Sellers' Knowledge, threatened, involving a Government Reimbursement Program or other Third-Party Payor, that involves a Seller or an Acquired Seller Facility's participation in any Government Reimbursement Programs or other Third-Party Payor programs. Neither Sellers nor, to Sellers' Knowledge, any of their employees, officers, or directors have committed a violation of any Law relating to Government Reimbursement Programs or other Third-Party Payor programs.

(c) Since the Lookback Date, Sellers and their Affiliates have timely filed all cost reports in respect of the Seller Facilities, and such reports accurately reflect, in all material respects, the information to be included thereon. Copies of all such cost reports filed by or on behalf of a Seller since the Lookback Date have been provided or made available to Buyer. Except as set forth on Schedule 3.14(c), there are no pending Actions, adjustments or audits relating to such cost reports. Sellers are not subject to any pending but unassessed Medicare or Medicaid claim payment adjustments, except to the extent Sellers have established reserves for such adjustments in accordance with Sellers' accounting policy for establishing any such reserves and that are reflected on the consolidated financial statements of Sellers.

3.15 Tax Liabilities.

(a) All Tax Returns including, without limitation, income Tax Returns, payroll Tax Returns, unemployment Tax Returns and franchise Tax Returns, for periods prior to and including the Closing Date which are required to be filed by Sellers with any Governmental Authority in respect of Sellers have been timely filed in the manner provided by Law, and each Tax Return is correct and complete in all material respects and accurately reflects in all material respects the Tax liabilities of Sellers for the periods or other matters covered by such Tax Return.

(b) Except as set forth on Schedule 3.15(b), all Taxes owing by Sellers have been paid when due and there is no pending tax examination or audit or other Proceeding of, nor any action, investigation or claim asserted against Sellers by any taxing authority in respect of Sellers.

(c) Since the Lookback Date, no claim has been made in writing by a Governmental Authority in a jurisdiction where Sellers do not file Tax Returns that any Seller is or may be subject to taxation by that jurisdiction.

(d) None of Sellers or Buyer will be required to include any amount in taxable income for any Tax period (or portion thereof) ending after the Closing Date, including pursuant to Section 481, as a result of transactions or events occurring, sales or receipts received, or accounting methods employed, prior to the Closing.

(e) Sellers have not waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency.

(f) No Seller (i) has been a member of an affiliated group filing a consolidated federal income Tax Return or any state, local, or non-U.S. equivalent thereof, or (ii) has liability for the Taxes of any Person under Section 1.1502-6 of the Treasury Regulations (or any similar provision of state, local, or foreign Law), as a transferee or successor, or by contract, or otherwise.

(g) There are no Encumbrances for Taxes (other than Taxes to be paid at Closing and the Permitted Encumbrances) upon any of the Purchased Assets.

3.16 Absence of Changes.

Except as expressly contemplated by this Agreement, as disclosed in the Financial Statements, as required in connection with the Bankruptcy Case or as otherwise disclosed in the Article III Schedules, (i) no Material Adverse Effect has occurred since June 30, 2022, and (ii) no Seller has, since June 30, 2022, (a) amended or restated, or approved the amendment or restatement of, the Governing Documents of such Seller; (b) made, revoked or changed any material Tax election or method of Tax accounting, entered into any settlement or compromise of any material Tax liability, surrendered any right to claim a material Tax refund, entered into any closing agreement relating to Taxes, consented to any claim or assessment relating to Taxes or waived or extended the statute of limitations for any such claim or assessment; (c) settled or compromised any material pending or threatened Action; (d) sold, transferred, leased, optioned, or otherwise disposed of any material assets except in the Ordinary Course of Business; (e) granted or incurred any obligation for any increase in the compensation of any of the Facility Employees (except (x) as required by applicable Law or the terms of an Employee Benefit Plan or (y) in the Ordinary Course of Business); (f) received any written notice from any Governmental Authority of any material liability, potential liability or claimed liability based on any violation of Law by a Seller; (g) instituted any material change in a Seller's accounting practices or methods (except as required by applicable Law or GAAP); (h) made any loans, advances, or capital contributions to, or investments in, any other Person; (i) other than in the Ordinary Course of Business, terminated, entered into, amended in any material respect, or waived any material rights under, any Assumed Contract; (j) offered any new discount, rebate, chargeback, credit, or other financial or contractual incentive outside the Ordinary Course of Business; (k) (A) delayed or postponed the payment of any accounts payable or commissions or agreed or negotiated with any party to extend the payment date of any accounts payable or commissions other than in the Ordinary Course of Business, or (B) accelerated the collection of (or discount) any accounts or notes receivable other than in the Ordinary Course of Business; (l) incurred, created, or became obligated with respect to any liabilities or obligations which constitute Assumed Liabilities outside the Ordinary Course of Business; (m) pledged any Purchased Assets or ownership or membership interests of any Seller in any of the Acquired Seller Facilities as collateral; (n) discharged any current or non-current liabilities relating to the Acquired Seller Facilities which constitute Assumed Liabilities other than in the Ordinary Course of Business and on terms according to existing loan and/or note agreements of Sellers; (o) implemented any employee layoffs, early retirement programs, reductions in force, or other voluntary or involuntary employment termination programs affecting employees that could require notice under the WARN Act; (p) entered into, terminated, or modified any collective bargaining agreement or other Contract with any labor union, labor organization, or other employee representative body; or (q) agreed or committed in writing or orally to take any of the foregoing actions.

3.17 Intellectual Property; Data Privacy and Security.

(a) Except as set forth on Schedule 3.17(a): (i) Sellers have not received any written notice that the conduct of the business of the Seller Facilities is infringing on or has misappropriated or otherwise violated the Intellectual Property rights of any Person, and, to Sellers' Knowledge, the conduct of the

business of the Seller Facilities has not infringed, misappropriated, or otherwise violated the Intellectual Property rights of any Person, and (ii) to Sellers' Knowledge, there is no infringement or misappropriation, or other violation by any Person of the Facility IP.

(b) Schedule 3.17(b) includes a true and complete list of all registered, issued, or applied for Intellectual Property included in the Facility IP (including domain name registrations). All such Facility IP is subsisting and, to Sellers' Knowledge, valid and enforceable. Sellers own all right, title and interest in and to such Facility IP, free and clear of any Encumbrances, other than Permitted Encumbrances. Except as set forth in Schedule 3.17(b), the Facility IP includes all Intellectual Property owned by or licensed to Sellers or their Affiliates and used in connection with, or necessary to operate, the Seller Facilities.

(c) Since the Lookback Date, Sellers have used commercially reasonable efforts (i) to protect, maintain, and preserve the Facility IP, including the confidentiality of the material trade secrets that are included in the Facility IP, and (ii) to secure ownership of any Intellectual Property developed by employees or contractors in the course of their employment with, or engagement by, Sellers in connection with the business of the Seller Facilities.

(d) Sellers use, and at all times since the Lookback Date have used, commercially reasonable efforts to protect the confidentiality, integrity, and security of the information technology and network and communications equipment, systems, software, and infrastructure owned by the Sellers or provided by Affiliates or third parties and primarily used in connection with the Seller Facilities (the "***Facilities Systems***") and to prevent any unauthorized use, access, interruption, or modification of the Facilities Systems. Except as set forth in Schedule 3.17(d), such Facilities Systems (i) are sufficient for the current needs of the business of the Seller Facilities, and (ii) are in sufficiently good working condition to support the operation of the business of the Seller Facilities as presently conducted. Since the Lookback Date, there have been no unauthorized intrusions, failures, breakdowns, continued substandard performance, or other adverse events affecting any such Facilities Systems that have caused any substantial disruption of or interruption in or to the use of such Facilities Systems or to the business of the Seller Facilities. Sellers and their Affiliates maintain commercially reasonable disaster recovery and business continuity plans, procedures, and facilities in connection with the operation of the business of the Seller Facilities, have taken commercially reasonable steps in compliance therewith, and have taken commercially reasonable steps to test such plans and procedures on a periodic basis.

(e) Sellers comply with, and at all times since the Lookback Date have complied with, in all material respects, all of the following, in each case to the extent relating to data privacy, protection, or security, consumer protection, security breach notification, or to the collection, use, processing, storage, protection, security, transfer, or disposal of personally identifiable information, protected health information, or other sensitive or protected data: (i) all applicable Laws and any related security breach notification requirements; (ii) Sellers' own respective rules, policies, and procedures; (iii) industry standards applicable to the industries in which the Seller Facilities operate or to which the Seller Facilities are otherwise subject (including the Payment Card Industry Data Security Standard, if applicable); and (iv) applicable provisions of Contracts to which any Seller is bound (collectively, the "***Data Security Requirements***"). Neither the execution nor delivery of this Agreement nor the consummation of the Closing will result in a material breach or material violation of, or constitute a material default under, any Data Security Requirement. Since the Lookback Date, no Seller (to the extent related to the business of the Seller Facilities) has experienced any incident in which confidential or sensitive information, payment card data, personally identifiable information, protected health information, or other protected information relating to individuals was or may have been stolen or improperly accessed, including any breach of security and no Seller has been the subject of any claim, proceeding, or investigation by a Governmental Authority with respect thereto.

3.18 Environmental.

(a) With respect to the Purchased Assets, Sellers are, and since the Lookback Date have been, in compliance in all material respects with all Environmental Laws, which compliance has included obtaining and complying in all material respects with all Permits required pursuant to Environmental Laws.

(b) Sellers, with respect to the Purchased Assets, have not received any written notice regarding any actual or alleged material violation of, or material liability under, Environmental Laws, which remains unresolved.

(c) With respect to the Purchased Assets, to the Sellers' Knowledge, no Seller or any other Person to the extent giving rise to liability for Sellers, has disposed of, released, exposed any Person to, or owned or operated any facility or property contaminated by any hazardous or toxic substance, material, or waste in a manner that has given or would give rise to any material liabilities (contingent or otherwise) of any Seller pursuant to any Environmental Law.

(d) Sellers have made available to Buyer copies of all material environmental audits, assessments, and reports and all other material documents bearing on environmental, health or safety liabilities in their possession or control relating to the Purchased Assets.

3.19 Financial Statements.

(a) Sellers have made available to Buyer (i) the audited consolidated balance sheet of Sellers with respect to the Seller Facilities as of June 30, 2020, June 30, 2021, and June 30, 2022, and the related statements of income and cash flows (or the equivalent) for the fiscal years then ended; and (ii) the unaudited consolidated balance sheet of Sellers with respect to the Seller Facilities as of January 31, 2023 (the "***Latest Balance Sheet***"), and the related statements of income and cash flows (or the equivalent) for the seven (7)-month period then ended (collectively, the "***Financial Statements***"). Each of the Financial Statements (including in all cases the notes thereto, if any) is accurate and complete, is consistent with the books and records of Sellers (which, in turn, are accurate and complete in all material respects), fairly presents, in all material respects, the financial condition and operating results of Sellers and has been prepared in accordance with GAAP consistently applied throughout the periods covered thereby, subject in the case of the unaudited financial statements to normal year-end adjustments and the absence of footnote disclosures (none of which footnote disclosures would, alone or in the aggregate, be materially adverse to the business, operations, assets, liabilities, financial condition, operating results, value, cash flow, or net worth of Sellers taken as a whole).

(b) Except as set forth on Schedule 3.19(b), Sellers do not have or will not have any obligation or liability (whether accrued, absolute, contingent, unliquidated, or otherwise, whether or not known to Sellers, whether due or to become due and regardless of when or by whom asserted) arising out of any transaction entered at or prior to the date hereof, or any action or inaction at or prior to the date hereof, or any state of facts existing at or prior to the date hereof, other than (a) liabilities reflected on the Latest Balance Sheet, (b) liabilities and obligations which have arisen after the date of the Latest Balance Sheet in the Ordinary Course of Business (none of which is a liability for breach of contract, breach of warranty, tort, infringement, violation of law, claim or lawsuit), (c) obligations under Material Contracts (but not liabilities for any breach of any such Material Contracts occurring on or prior to the Closing Date) and (d) liabilities and obligations that would not be material to the Purchased Assets.

3.20 Brokers.

Except for H2C Securities Inc. and Toney Korf, no Person is entitled to any brokerage, financial advisory, finder's, or similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Sellers.

3.21 Affiliate Transactions.

Except as disclosed on Schedule 3.21, no officer, director, governing body member, stockholder, partner, or Affiliate, as applicable, of any Seller or any predecessor or Affiliate of any Seller or any individual related by marriage or adoption to any such individual or any entity in which any such Person owns any beneficial interest is a party to any agreement, Contract, commitment or transaction with any Seller or has any interest in the Purchased Assets or any property, real or personal or mixed, tangible or intangible of any Seller or owns, or licenses (whether or not to Sellers), any assets or properties (tangible or intangible) used in the operation of the Seller Facilities or provides any service to the Seller Facilities.

3.22 Bank Accounts.

Schedule 3.22 lists all bank accounts, safety deposit boxes, and lock boxes (designating each authorized signatory with respect thereto) of each Seller.

ARTICLE IV - REPRESENTATIONS AND WARRANTIES OF BUYER

As of the Effective Date and as of the Closing Date, except as set forth in the Schedules to this ARTICLE IV, Buyer represents and warrants to Sellers the following:

4.1 Capacity, Authority, and Consents.

Buyer is validly existing under the Laws of the State of Iowa with the requisite power and authority to enter into this Agreement, to perform its obligations hereunder and to conduct its business as now being conducted. The execution, delivery, and performance of this Agreement and all other agreements referenced herein to which Buyer is or will become a party and the actions to be taken by Buyer in connection with the consummation of the transactions contemplated herein:

(a) are within the powers of Buyer, are not in contravention of applicable Law, and have been duly authorized by all appropriate action;

(b) except as otherwise expressly provided herein or as set forth on Schedule 4.1(b), do not require any approval or consent of, or filing with, any third party or any Governmental Authority;

(c) except as otherwise expressly provided herein, will not result in any material breach or contravention of, nor permit the acceleration of the maturity of or termination of or constitute a default under, the terms of any material indenture, mortgage, contract, agreement, or other instrument to which Buyer is a party or otherwise bound that could be reasonably expected to materially impair Buyer's ability to fulfill its obligations under this Agreement; and

(d) will not violate any Law to which Buyer is subject.

4.2 Binding Agreement.

This Agreement and all other Transaction Agreements to which Buyer is or will become a party pursuant to this Agreement are and will constitute the valid and legally binding obligations of Buyer, and are and will be enforceable against Buyer in accordance with the respective terms hereof or thereof, except

as enforceability 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.

4.3 Litigation and Proceedings.

There are no Actions pending or, to Buyer's knowledge, threatened against Buyer, or any governing Persons thereof, at Law or in equity, or before or by any Governmental Authority, which seeks to prevent or delay consummation of the Transactions, seeks damages in connection with Transactions, or would impair the ability of Buyer to perform its obligations under this Agreement.

4.4 Availability of Funds.

Buyer has the ability to obtain funds in cash in amounts equal to the Purchase Price and will at the Closing have immediately available funds in cash which are sufficient to pay the Purchase Price and to pay any other amounts payable pursuant to this Agreement and to consummate the transactions contemplated by this Agreement.

4.5 Representations of Sellers.

Buyer acknowledges that it is purchasing the Purchased Assets on an "AS IS, WHERE IS" basis, and that Buyer is not relying on any representation or warranty (expressed or implied, oral or otherwise) made on behalf of Sellers other than as expressly set forth in ARTICLE III.

ARTICLE V - COVENANTS OF THE PARTIES

5.1 Access.

From and after the Effective Date until the Closing or the earlier termination of this Agreement (the "***Interim Period***"), Sellers shall (a) provide Buyer and its Representatives reasonable access upon reasonable notice to and, as applicable, the right to inspect, the plants, properties, employees, books, and records of the Seller Facilities and (b) furnish Buyer with such additional financial and operating data and other information as to the business and properties of the Seller Facilities as reasonably requested, including copies of the updated Financial Statements within thirty (30) days following each calendar month during the Interim Period; provided, however, that such access shall be coordinated through persons as may be designated in writing by Sellers for such purpose. Notwithstanding the foregoing, all disclosures of information shall be consistent with all common interest agreements, joint defense agreements, and any other confidentiality or nondisclosure agreements entered into between the Parties. Buyer's right of access and inspection shall be exercised during normal business hours and in such a manner as not to interfere unreasonably with the operations of the Seller Facilities.

5.2 Delivery and Updates of Schedules.

Except with respect to the Article III Schedules that are contemplated under Sections 3.5, 3.6, 3.7, 3.13, and 3.14, which shall be delivered by Sellers as of the Effective Date contemporaneously with the execution of this Agreement, Sellers shall deliver all Article III Schedules in a form acceptable to Buyer no later than two (2) business days prior to the Sale Procedures Hearing (the "***Initial Schedules***"). For the avoidance of doubt, no Initial Schedule will be deemed to be a part of this Agreement unless Buyer accepts such Initial Schedule in writing. After the Sale Procedures Hearing and no later than five (5) business days prior to the Closing Date, Sellers shall supplement or update any and all Article III Schedules with respect to any matter of which Sellers become aware which would cause a breach or inaccuracy of the representations and warranties set forth herein. No supplemental or amended disclosures pursuant to this Section 5.2 shall (x) be deemed to amend or supplement any of the Article III Schedules contemplated

hereby, (y) be deemed to have cured any breach of any representation or warranty or covenant made in this Agreement or to satisfy any condition, or (z) limit or otherwise affect the remedies available hereunder to Buyer.

5.3 Operating Covenants.

During the Interim Period, except with the prior written consent of Buyer (which consent shall not be unreasonably withheld, conditioned, or delayed) or as required by this Agreement, applicable Law, or a Bankruptcy Court Order, each Seller shall:

(a) carry on its businesses in respect of the Seller Facilities and the Purchased Assets in the Ordinary Course of Business in all material respects;

(b) perform its obligations relating to or affecting the Seller Facilities and the Purchased Assets in all material respects in the Ordinary Course of Business (including timely payment of accounts payable, purchasing and maintaining appropriate levels of Inventory based, with respect to such Inventory, on historical practices, maintenance of Sellers' books and records, performing all material maintenance and repairs, making capital expenditures and collecting Accounts Receivable);

(c) keep in full force and effect current insurance policies, self-funded plans or trusts or other comparable insurance relating to or affecting the Seller Facilities and the Purchased Assets; and

(d) use its commercially reasonable efforts to (i) comply in all material respects with all Laws applicable to the Seller Facilities and the Purchased Assets, (ii) keep in force all Permits necessary for the operation of the Seller Facilities and the Purchased Assets, (iii) maintain and preserve its business organizations intact and retain the current Facility Employees (excluding terminations of employment in the Ordinary Course of Business other than with respect to the senior management of any Seller Facility), and (iv) maintain its relationships and goodwill with physicians, suppliers, customers and others having business relations with the Seller Facilities.

5.4 Negative Covenants.

During the Interim Period, except as required by Law or as expressly contemplated by this Agreement or as ordered by the Bankruptcy Court, Sellers shall not, with respect to the Seller Facilities, the Purchased Assets or the Assumed Liabilities, without the prior written consent of Buyer (which consent shall not be unreasonably withheld, conditioned, or delayed):

(a) amend, terminate, or enter into any Contract, except with respect to any such Contract that is amended, terminated, or entered into in the Ordinary Course of Business and that, over the term of such Contract involves less than $50,000 or can be terminated without cause by a Seller on ninety (90) days' notice or less without penalty;

(b) increase compensation payable or to become payable, increase benefits provided to, make any bonus payment to, or otherwise enter into one or more bonus agreements with, any Facility Employee, except (i) as required by applicable Law, Contract, or the terms of an Employee Benefit Plan, (ii) in the Ordinary Course of Business in accordance with existing personnel policies and consistent with prior practice, or (iii) with respect to any retention bonuses which are to be paid in full prior to the Closing Date and for which Buyer will assume no liability or obligations with respect thereto;

(c) sell, assign, lease or otherwise transfer or dispose of any Purchased Asset, any ownership interests of Sellers in any of the Seller Facilities, or any property, plant, or equipment used in connection with the operation of the Seller Facilities, in each case except in the Ordinary Course of Business; or

(d) take any action that, if taken after December 31, 2020, would violate Section 3.16 in any material respect.

5.5 Bankruptcy Court Approval; Executory Contracts.

(a) Sellers and Buyer acknowledge that this Agreement and the sale of the Purchased Assets and the assumption of the Assumed Liabilities are subject to (i) the receipt of higher and/or better bids at or prior to the auction (if any), and (ii) the entry of the Sale Order. Buyer acknowledges that Sellers must take reasonable steps to demonstrate that they have sought to obtain the highest or otherwise best price for the Purchased Assets, including giving notice thereof to the creditors of Sellers and other interested parties, providing information about the Purchased Assets to prospective bidders, entertaining higher and/or better offers from such prospective bidders, and, in the event that additional qualified prospective bidders desire to bid for the Purchased Assets, conducting an auction in accordance with the Sale Procedures Order.

(b) If Buyer is the successful bidder for the Acquired Seller Facilities, Sellers shall use commercially reasonable efforts to gain approval by the Bankruptcy Court of the purchase and sale of the Purchased Assets and the assumption and assignment of all Assumed Contracts contemplated hereby to the extent required by Sections 363 and 365 and all other applicable provisions of the Bankruptcy Code within the terms of the Sale Procedures Order and Sale Order.

(c) Sellers shall make reasonable good faith efforts to consult and cooperate with Buyer regarding (i) any material pleadings, motions, notices, statements, applications, schedules, reports, or other papers to be filed or submitted by Sellers in connection with or related to this Agreement (including, without limitation, any pleadings relating to the Sale Procedures Order or Sale Order), (ii) any discovery taken in connection with the Sale Order (including any depositions), and (iii) any hearing relating to the Sale Order, including the submission of any evidence, including witnesses testimony, in connection with such hearing.

5.6 Approvals.

(a) Sellers and Buyer shall each use commercially reasonable efforts to obtain all authorizations, consents, actions, orders, and approvals of, and to give all notices to and make all filings with, all Governmental Authorities and third parties that are, may be or become necessary for their execution and delivery of, and the performance of their obligations under, this Agreement and the consummation of the Transactions, and will cooperate fully with the other Parties in promptly seeking to obtain all such authorizations, consents, actions, orders, and approvals, giving such notices, and making such filings.

(b) Notwithstanding anything to the contrary in this Agreement, each of the Parties will consult with and consider in good faith the other Parties in connection with any filing, communication, defense, litigation, negotiation, or strategy and, to the extent reasonably practicable and to the extent permitted by Law, give the other Parties the opportunity to attend and participate in any material meeting or conference with any Governmental Authority either in person or by telephone or videoconference, or, in connection with any proceeding by a private party, with any other Person relating to any antitrust Law regarding the Transactions. If there is a disagreement among the Parties about antitrust strategy as it relates to the Transactions, Buyer's decision shall control.

5.7 Notices.

Without limiting the Parties' representations or warranties in this Agreement, Sellers, on the one hand, and Buyer, on the other hand, shall promptly notify the other of (provided, that any matters disclosed in any such notice and/or update (and not pursuant to Section 5.2) shall not be deemed to have (i) amended this Agreement, including any Article III Schedules, (ii) qualified any representations and warranties of

Sellers or Buyer, as applicable, or (iii) cured any misrepresentation or breach of the representations or warranties or satisfied any conditions of Sellers or Buyer, as applicable, that otherwise might have existed hereunder by reason of such matter):

(a) any notice or other communication received from any Person alleging that the consent of such Person is or may be required in connection with the Transactions;

(b) any material notice or other material communication received from any Governmental Authority in connection with the Transactions;

(c) any Proceeding commenced relating to the Seller Facilities or Purchased Assets of which it receives notice or any other fact, circumstance, event or action, the existence, occurrence or taking of which, individually or in the aggregate, (i) would reasonably be expected to have a Material Adverse Effect or a material adverse effect on Buyer's ability to consummate the Transactions, (ii) has resulted in, or would reasonably be expected to result in any material breach of a representation or warranty made by a Party hereunder not being true and correct, or (iii) would reasonably be expected to result in the failure of any of the conditions set forth in 5.17 to be satisfied; and

(d) any Proceeding which in any manner challenges or seeks to prevent, enjoin, alter, or materially delay the Transactions.

5.8 Post-Closing Filings and Access to Information.

(a) After the Closing, each of Sellers and Buyer shall promptly deliver to the other Parties upon reasonable notice copies of any post-Closing filings, financial statements, or reports that may be required to be prepared and delivered to any Governmental Authority as a result of the consummation of the transactions described herein, in each case at the sole cost and expense of the requesting Party or Parties.

(b) Each of Sellers and Buyer acknowledges that, subsequent to the Closing, Sellers may need access to information or documents in the control or possession of Buyer for the purposes of concluding the transactions herein contemplated, audits, compliance with Laws, and the prosecution or defense of third-party claims. Accordingly, Buyer shall, for a period of seven (7) years after the Closing, and indefinitely with respect to any Governmental Authority or third-party claims, maintain in accordance with retention requirements under applicable Law and make reasonably available to Sellers and their respective Representatives and/or Governmental Authorities, upon written request and reasonable advance notice and at the expense of Sellers, such documents and information as may be available relating to the Acquired Seller Facilities for periods prior to the Closing Date to the extent necessary to facilitate concluding the transactions herein contemplated, audits, compliance with Laws, and the prosecution or defense of claims (other than claims between the Parties). Each Party shall cooperate with the other in connection with the handling of any such post-Closing matters as may reasonably be requested.

5.9 Employee Matters.

(a) Effective as of the day prior to the Closing Date, Sellers or their Affiliates shall terminate the employment of all of the Facility Employees currently employed by Sellers or their Affiliates (except for those Facility Employees identified on Schedule 5.9) (the "***Retained Facility Employees***"), and Buyer, subject to all applicable Buyer policies, including the completion of a satisfactory background screening, will make offers of employment, for employment effective as of the day following the Closing Date, to substantially all Facility Employees (other than the Retained Facility Employees) who are in active status and currently in good standing. Employee offers will be made according to the compensation terms set by Buyer, applicable collective bargaining agreements in effect at the time of Closing, and all applicable Laws. Each employee will be reviewed for appropriate classification within Buyer's employment policies and

procedures, and will be classified accordingly. All employees who accept employment with Buyer (the "***Transferred Employees***") shall be eligible for benefits offered by Buyer to employees of that employee's classification. With respect to each Transferred Employee, Buyer shall assume Sellers' or their Affiliates' liability to such Transferred Employee for any personal time, holiday time, and Accrued Vacation as of the Closing Date, up to a maximum of 384 hours per employee (the "***Vacation Liability***"), by granting to each Transferred Employee, as of the date of hire with Buyer, an amount of accrued vacation with Buyer that is equal to the accrued personal time, holiday, and Accrued Vacation hours balance of such Transferred Employee as of the Closing Date (but no more than 384 hours for any Transferred Employee).

(b) Buyer shall use commercially reasonable efforts to cause each of the benefit plans maintained by Buyer in which Transferred Employees are eligible to participate following the Closing (the "***Buyer Plans***") that is a group health plan in which any Transferred Employee becomes eligible to participate in the plan year in which the Closing occurs to waive all limitations as to pre-existing conditions and waiting periods for such plan year with respect to participation and coverage requirements for any Transferred Employees and their eligible dependents.

(c) Buyer shall not assume any obligations of Sellers related to any of Sellers' or their Affiliates' Employee Benefit Plans or any other benefit or compensation plan, program, policy, Contract, agreement or arrangement at any time maintained, sponsored or contributed or required to be contributed to by any of Sellers or any of their Affiliates or with respect to which any of Sellers or any of their Affiliates has any current or contingent liability or obligation. Sellers and their Affiliates shall be solely responsible for satisfying the continuation coverage requirements of Section 4980B of the Code for all individuals who are "M&A qualified beneficiaries" as such term is defined in Treasury Regulation §54.4980B-9.

(d) Nothing in this Section 5.9, express or implied, shall confer upon any Person other than the Parties any rights or remedies, including any third-party beneficiary rights, or shall be construed to (i) establish, amend, terminate or modify any compensation or benefit plan, program, policy, Contract, agreement or arrangement; (ii) limit the ability of Buyer or any of its Affiliates to amend, modify or terminate any compensation or benefit plan, program, policy, Contract, agreement or arrangement; (iii) create any right in any Transferred Employee or any other Person to any employment or service with Buyer or any of its Affiliates or to any particular term or condition of employment or service with Buyer or any of its Affiliates; or (iv) limit the ability of Buyer or any of its Affiliates to terminate the employment or service of any Person at any time and for any or no reason.

5.10 Misdirected Payments; Transitional Matters.

(a) Sellers agree that Buyer, from and after the Closing Date, shall have the right and authority to collect for Buyer's own account the proceeds generated by the operation of the Purchased Assets from and after the Closing Time which shall be transferred to Buyer as provided herein.

(b) Any asset (including payments of Accounts Receivable for the Seller Facilities, Pre-Closing Receivables, or Sellers' Transition Receivables) or liability, all other remittances, and all mail and other communications, that are determined by this Agreement to be or otherwise relate to the Excluded Assets and that is or comes into the possession, custody, or control of Buyer shall forthwith be transferred, assigned, or conveyed by Buyer to Sellers as promptly as reasonably practicable. Such communications shall include Notices of Program Reimbursement or similar notices of payment settlements, payment demands, or other documents from Third-Party Payors. Without limiting the generality of the foregoing, and subject to the terms of this Agreement, to the extent there are any misdirected funds forwarded to Buyer by any third parties, which misdirected funds are paid in respect of the performance of services or sale of goods by or on behalf of the Seller Facilities prior to the Closing Date, Buyer shall remit such misdirected funds, or cause such misdirected funds to be remitted, to Sellers within twenty (20) days after receipt thereof, to an account(s) designated by Sellers. Until such transfer, assignment, and conveyance, Buyer

shall not have any right, title or interest in or obligation or responsibility with respect to such asset or liability except that Buyer shall hold such asset in trust for the benefit of Sellers. Buyer shall have no right to set-off such funds against other obligations asserted by Buyer to be owed by Sellers hereunder or under any Transaction Agreement.

(c) Any asset or any liability, all other remittances, and all mail and other communications that are determined by this Agreement to be or otherwise relate to the Purchased Assets, and that is or comes into the possession, custody, or control of Sellers (or their successors-in-interest or assigns, or their respective Affiliates) shall forthwith be transferred, assigned or conveyed by Sellers (or their respective successors-in-interest or assigns and their respective Affiliates) to Buyer as promptly as reasonably practicable. Without limiting the generality of the foregoing, and subject to the terms of this Agreement, to the extent there are any misdirected funds forwarded to Sellers (or their successors-in-interest or assigns, or their respective Affiliates) by any third parties, which misdirected funds are paid in respect of the performance of services by or on behalf of the Acquired Seller Facilities from and after the Closing Date, Sellers shall remit such misdirected funds, or cause such misdirected funds to be remitted, to Buyer within twenty (20) days after receipt thereof, to an account(s) designated by Buyer. Until such transfer, assignment, and conveyance, Sellers (and their successors-in-interest and assigns and their Affiliates) shall not have any right, title, or interest in or obligation or responsibility with respect to such asset or liability except that Sellers shall hold such asset in trust for the benefit of Buyer. Sellers shall have no right to set-off such funds against other obligations asserted by Sellers to be owed by Buyer hereunder or under any Transaction Agreement.

(d) For a period of one hundred eighty (180) days after the Closing Date, Sellers shall permit Buyer to use the policy and procedure manuals of Sellers that relate to or affect patient care and safety at the Acquired Seller Facilities; provided, however, that Buyer (i) shall, as soon as reasonably practicable after the Closing Date, work to adopt or implement its own policy and procedure manuals that relate to or affect patient care and safety at the Acquired Seller Facilities; (ii) shall indicate that such policies and procedure manuals as used by Buyer in the operation of the Acquired Seller Facilities are policies and procedures of Buyer; and (iii) acknowledges that Sellers do not make any representations or warranties with respect to the content of such manuals.

5.11 Billing and Collection; Allocation of Certain Payments.

(a) Buyer and Sellers will cooperate with each other to take the steps necessary to allow Buyer (or its designated billing agent) to bill Medicare electronically on and after the Closing Date and for Buyer to obtain access to remittance advices and other related materials in connection with any such post-Closing claims submitted by Buyer for services rendered at the Acquired Seller Facilities on and after the Closing Date; provided, however, that Buyer acknowledges and agrees that Sellers may continue to use the Medicare provider number for the Hospital as assigned by CMS (the "***Medicare Provider Number***") after the Closing Date for a period of ninety (90) days to bill for Pre-Closing Receivables.

(b) Each Seller grants to Buyer a license to use such Seller's billing identification information (which information shall include, without limitation, such Seller's name, Medicare and related Medicaid and TRICARE provider numbers, NPIs, federal employer identification numbers, and such other information as may be reasonably necessary) (collectively, "***Seller Billing Numbers***") for purposes of submitting claims to Medicare, Medicaid, and TRICARE. Each such license shall be effective (i) for purposes of Medicare, until CMS and the applicable Medicare Administrative Contractor approve Buyer's Medicare change of ownership application and issue approval acknowledging that Buyer may be reimbursed for claims submitted using Buyer's billing identification information; and (ii) for purposes of Medicaid and any other Government Programs, until the applicable Medicaid program(s) or program agent(s) approves Buyer's provider enrollment application and/or approves assignment of the applicable provider contract and issues the appropriate notice acknowledging that Buyer may be reimbursed by the

applicable Medicaid or other Government Reimbursement Program for claims submitted using Buyer's identification information (the longer of such periods, the "***Transition Period***"). During the Transition Period, Sellers (or their Affiliates) shall not act to: (A) terminate any of their billing identification information except as required by applicable Law; (B) close any accounts used by Sellers as of the Closing Date for purposes of receiving reimbursement; or (C) cancel any electronic funds transfer agreements with respect to Medicare, Medicaid, TRICARE, or any other Government Reimbursement Program. All accounts receivable and monies collected in the name of Buyer or the Acquired Seller Facilities pursuant to this Section 5.11(b) for services rendered by Buyer on or after the Closing Date shall belong to Buyer. During the Transition Period and for a period of thirty (30) days thereafter, Sellers shall afford Buyer and its representatives with view-only access to all deposit accounts into which any Medicare, Medicaid, or TRICARE payments or reimbursements are deposited.

(c) To the extent that payments received by any Party for medical, surgical, behavioral, diagnostic, or other professional health services rendered and medicine, drugs, and supplies provided either specifically indicate on the accompanying remittance advice or other supporting documentation, or if the Parties otherwise agree, that they relate to the patients discharged by the Seller Facilities prior to the Closing Date (the "***Pre-Closing Receivables***"), the payments shall be retained by Sellers or forwarded by Buyer to Sellers or their designee by Buyer in accordance with Section 5.10(b) (and until so paid, shall hold in trust for the benefit of Sellers).

(d) To the extent that payments received by any Party for medical, surgical, behavioral, diagnostic, or other professional health services rendered and medicine, drugs, and supplies provided either specifically indicate on the accompanying remittance advice or other supporting documentation, or if the Parties otherwise agree that they relate to the patients admitted at the Acquired Seller Facilities on or after the Closing Date (the "***Post-Closing Receivables***"), the payments shall be retained by Buyer or forwarded to Buyer or their designee by Sellers in accordance with Section 5.10(c) (and until so paid, shall hold in trust for the benefit of Buyer).

(e) As of the Closing Date, Buyer intends to take assignment of Mercy Hospital's Medicare Provider Number with respect to Hospital. Buyer and Sellers each agree to remit to the other the other's allocable share (calculated pursuant to the procedures set forth in this Section 5.11(e)) of payments received by it from patients, Third-Party Payors, or other Persons with respect to Government Patient Receivables and other accounts receivable relating to the rendering of services and provision of medicine, drugs, and supplies ("***Transition Services***") to patients whose medical care is paid for, in whole or in part, by Medicare, Medicaid, TRICARE, or any other Third-Party Payor who pays on a Medicare Severity Diagnosis Related Group ("***MS-DRG***"), case rate, or other similar arrangement, and who are admitted to the Hospital before the Closing Date but who are not discharged until after the Closing Date ("***Straddle Patients***"). Payments pursuant to this Section 5.11(e) shall be made in accordance with Section 5.11(e)(v).

(i) With respect to any Medicare, Medicaid, TRICARE, and other diagnostic related group Straddle Patient, as soon as practicable after the Closing Date, Sellers shall deliver to Buyer a statement itemizing patients of the Hospital whose medical care is paid for, in whole or in part, by any Third-Party Payor who pays on a MS-DRG, case rate, or other similar basis (the "***MS-DRG Straddle Patients***"). Sellers' portion of the collections for each such MS-DRG Straddle Patient shall be (I) the amount equal to the payments actually received by any of the Parties in respect of such MS-DRG Straddle Patient multiplied by a fraction, the numerator of which shall be the total days the MS-DRG Straddle Patient was an inpatient prior to the Closing Date, and the denominator of which shall be the total days the MS-DRG Straddle Patient was an inpatient at Seller Facilities, minus (II) any deposits, deductibles, or co-payments made by such MS-DRG Straddle Patient to Sellers that constitute Excluded Assets. Any payments received by Buyer in respect of Sellers' portion such collections shall be remitted to Sellers in accordance with Section 5.11(e)(v). Buyer's portion of the collections for each such MS-DRG Straddle Patient shall be the aggregate amount of payments actually received by any of the Parties with respect to

such MS-DRG Straddle Patient minus the portion allocated to Sellers in accordance with the immediately preceding sentence. Any payments received by Sellers relating to Buyer's allocable share of such claims shall be remitted to Buyer in accordance with Section 5.11(e)(v).

(ii) With respect to collections for cost-based Straddle Patients, Sellers shall be allocated an amount equal to (I) the payments actually received by any of the Parties in respect of each cost-based Straddle Patient (including any deposits, deductibles, or co-payments that constitute the Excluded Assets) multiplied by a fraction, the numerator of which shall be the total number of days prior to the Closing Date on which Sellers provided the Transition Services to such patient, and the denominator of which shall be the total number of days with respect to such patient's stay at the Hospital, minus (II) any deposits, deductibles, or co-payments made by such cost-based Straddle Patient to Sellers that constitute the Excluded Assets. Any payments received by Buyer in respect of Sellers' portion such collections shall be remitted to Sellers in accordance with Section 5.11(e)(v). Buyer's portion of the collections for each such cost-based Straddle Patient shall be the aggregate amount of payments actually received by any of the Parties with respect to such Straddle Patient minus the portion allocated to Sellers in accordance with the immediately preceding sentence. Any payments received by Sellers relating to Buyer's allocable share of such claims shall be remitted to Buyer in accordance with Section 5.11(e)(v).

(iii) If Buyer receives any periodic interim payments ("***PIP Payments***") from the Medicare or Medicaid program or costs paid for on a pass-through basis, such as capital costs, associated with the operations of the Hospital relating solely to periods prior to the Closing Date, Buyer shall tender the amount applicable to the period prior to the Closing Date to Sellers within ten (10) business days of receipt. Likewise, if Sellers receive from Medicare or Medicaid any PIP Payments or pass-through costs associated with the operations of Hospital relating solely to periods on or after the Closing Date, Sellers shall tender the same to Buyer within ten (10) business days of receipt. It is the intent of the Parties that Buyer and Sellers shall receive PIP Payments and pass-through cost payments (including capital costs) applicable to the period of time the Hospital are owned by such Party.

(iv) If any Party receives any amount from patients, Third-Party Payors, or other Persons based on a "per case" reimbursement methodology which does not constitute a Government Patient Receivable, and which relates to services rendered wholly or partially by the other Party, the Party receiving such amount shall remit to such other Party in accordance with Section 5.11(e)(v) the other Party's allocable share of such amount, determined in the manner provided in Section 5.11(e)(i) as if such patient were a MS-DRG Straddle Patient for which the Hospital was being reimbursed based on a diagnostic related group methodology. If any Party receives any amount from patients, Third-Party Payors, or other Persons which do not constitute Government Patient Receivables and which relate to services rendered wholly or partially by the other Party, whether resulting from payments based on capitation or other methodology, the Party receiving such amount shall remit the other Party's allocable share of such payment to such other Party in accordance with Section 5.11(e)(v). If any Party receives any amount not otherwise described in this Section 5.11(e) from any Person which, under the terms of this Agreement, belongs to the other Party, the Party receiving such amount shall remit such amount to the other Party in accordance with Section 5.11(e)(v).

(v) Payments owed by Buyer to Sellers or by Sellers to Buyer under this Section 5.11(e) (other than amounts governed by Section 5.11(e)(iii)) shall be made bi-monthly, on the tenth (10th) day of each month, for payments received by Sellers or Buyer, as applicable, on or between the sixteenth (16th) day and the last day of the previous month, and on the twenty-fifth (25th) day of each month, for payments received by Sellers or Buyer, as applicable, on or between the first (1st) day and fifteenth (15th) day of that month, in each case accompanied by copies of remittances and other supporting documentation as is reasonably requested by the other Party. For purposes of the preceding sentence, a payment will be deemed to be "received" by a Party on the later of (A) the date that cash is received into the applicable Party's bank account or the applicable Party receives a check in respect of the applicable

payment or (B) the date that the applicable Party receives the remittance advice in respect of the applicable payment. Any other payments required to be made by Sellers to Buyer or by Buyer to Sellers as a result of (I) a notice of program reimbursement with respect to the operations of Seller Facilities or (II) other notice from a Governmental Reimbursement Program or other Third-Party Payor with respect to Transition Services shall be made within ten (10) days after the receipt of any such notice, as applicable.

(vi) The Parties acknowledge that all charges for outpatient services rendered at the Acquired Seller Facilities shall be made (A) by Sellers for all periods prior to the Closing Date and (B) by Buyer for all periods on and after the Closing Date.

(vii) The amounts payable to Sellers under this Section 5.11(e) are referred to herein as the "***Sellers' Transition Receivables***."

(f) Sellers will cause their lenders to (i) acknowledge and agree that they do not have any lien or security interest in the Post-Closing Receivables or any proceeds thereof, and will not include any deposits representing Post-Closing Receivables made to Sellers' bank accounts as collateral for any lien or security interest that their lender may have against Sellers or any Affiliate of Sellers, and (ii) file an amendment to each UCC-1 financing statement filed by their lender which includes the Post-Closing Receivables or any proceeds thereof as collateral under such financing statement, which amendment shall remove and delete the Post-Closing Receivables or any proceeds thereof from the collateral description under each such financing statement.

(g) Buyer shall reasonably cooperate with Sellers for a period of one hundred and twenty (120) days after the Closing Date in Sellers' efforts to collect all Accounts Receivable for services rendered prior to the Closing Date, including Pre-Closing Receivables to be paid over to Sellers in accordance with Section 5.11 and Sellers' Transition Receivables. Any such amounts shall be retained by Sellers or forwarded by Buyer to Sellers or their designee in accordance with Section 5.10(b) (and until so paid, shall hold in trust for the benefit of Sellers).

(h) Buyer shall use commercially reasonable efforts to provide to Sellers and their Representatives all information reasonably available to it identifying the source of the amounts of any Accounts Receivable for services rendered prior to the Closing Date, including Pre-Closing Receivables and Sellers' Transition Receivables, so as to permit Sellers to correctly apply such amounts to their accounts receivable. In addition, upon reasonable request, Buyer shall permit Sellers and their Representatives (at Sellers' sole cost) to audit, access, and copy any of their records relating thereto; *provided* that any such audit, access, and copy shall be conducted during normal business hours and in a manner so as not to interfere unreasonably with the conduct of the business of Buyer.

5.12 Waiver of Bulk Sales Law Compliance.

Buyer hereby waives compliance by Sellers with the requirements, if any, of Article 6 of the Uniform Commercial Code as in force in the State of Iowa and all other similar Laws applicable to bulk sales and transfers.

5.13 Closing of Financials.

Sellers shall cause their business and finance Representatives after the Closing Time (the "***Finance Team***") to complete (or take such action as shall be necessary for Buyer or Sellers to complete) the standardized closing of Sellers' financial records for the Seller Facilities through the Closing Date including, without limitation, the closing of general ledger account reconciliations (collectively, the "***Closing of Financials***"). Sellers shall cause the Finance Team to use their good faith efforts to complete the Closing of Financials by no later than the date which is thirty (30) days after the Closing Date.

5.14 Exclusivity.

If an auction is conducted for any of the Purchased Assets and Buyer is the successful bidder at the conclusion of such auction, or if no Qualified Competing Bid (as defined in the Sale Procedures Order) is received on or before the Bid Deadline, then from and after the conclusion of the auction or the Bid Deadline, as applicable, no Seller shall, and Sellers shall cause each of their respective Affiliates and Representatives not to, directly or indirectly, (i) submit, solicit, initiate, encourage, or discuss any proposal or offer from any Person (other than Buyer and its Affiliates in connection with the transactions contemplated hereby) or enter into any agreement or accept any offer relating to or consummate any purchase or sale of any Purchased Assets (other than the purchase and sale of inventory in the Ordinary Course of Business) or any similar transaction or business combination involving the Seller Facilities or the Purchased Assets (each of the foregoing transactions, a "***Business Transaction***"), or (ii) furnish any information with respect to, assist or participate in or facilitate in any other manner any effort or attempt by any Person (other than Buyer and its Affiliates) to do or seek to do any of the foregoing. Sellers agree to notify Buyer immediately if any Person makes any proposal, offer, inquiry, or contact with respect to a Business Transaction. Notwithstanding anything to the contrary herein, this Section 5.14 shall not require any of the Sellers or its board of directors, board of managers, or similar governing body to take any action or to refrain from taking any action with respect to a Business Transaction to the extent such Seller or governing body determines in good faith, in consultation with counsel, that taking or failing to take such action, as applicable, would be inconsistent with applicable law or its fiduciary obligations under applicable law.

5.15 Confidentiality; Restrictive Covenants.

(a) Following the Closing, Sellers shall maintain as confidential and shall not use or disclose (except to their Affiliates and Representatives or as requested or required by Law or as authorized in writing by Buyer) (i) any information or materials relating to the Acquired Seller Facilities or Sellers' operation thereof, and (ii) any materials developed by Buyer or any of their Representatives. Except as otherwise permitted and provided above, in the event any Seller is requested or required by Law to disclose any such confidential information, such Seller shall promptly notify Buyer (to the extent not prohibited by Law) in writing, which notification shall include the nature of the legal requirement and the extent of the required disclosure, and shall reasonably cooperate with Buyer (at Buyer's sole cost and expense) to obtain a protective order and otherwise preserve the confidentiality of such information consistent with applicable Law. Information subject to the confidentiality obligations in this Section 5.15(a) does not include any information which (x) is or becomes generally available to or known by the public (other than as a result of its disclosure in breach of this Agreement), or (y) becomes available on a non-confidential basis from a Person who is not actually known by Sellers to be bound by a confidentiality agreement with Buyer or its Affiliates, or who is not otherwise prohibited by a duty of confidentiality to Buyer from transmitting the information. Notwithstanding anything to the contrary in this Section 5.15(a), nothing in this Agreement shall restrict Sellers' (A) use of the confidential information described in this Section 5.15(a) or (B) disclosure of such confidential information to any of their Affiliates or Representatives, in each case, in connection with any claims brought by or against Sellers in connection with this Agreement (including claims between the Parties hereto).

(b) Each Seller hereby acknowledges that it is familiar with such Seller's trade secrets and with other confidential information relating to the Seller Facilities. Each Seller acknowledges and agrees that Buyer may be irreparably damaged if it were to provide services to or otherwise participate in the business of any Person competing with Sellers in a similar business and that any such competition by such Seller (or its subsidiaries, parents, and each of their respective officers, directors, employees, Affiliates and assigns) may result in a significant loss of goodwill by Buyer. Each Seller further acknowledges and agrees that the covenants and agreements set forth in this Section 5.15 were a material inducement to Buyer to enter into this Agreement and to perform its obligations hereunder, and that Buyer would not obtain the

benefit of the bargain set forth in this Agreement as specifically negotiated by the parties hereto if any Seller breached the provisions of this Section 5.15. Therefore, each Seller agrees, in further consideration of the amounts to be paid hereunder, that until the fifth anniversary of the Closing, such Seller shall not (and shall cause its subsidiaries, parents, and each of their respective officers, directors, employees, Affiliates and assigns not to) directly or indirectly (i) own any interest in, build, or operate an acute care hospital or inpatient or outpatient hospital facility within a radius of twenty (20) miles from any of the Acquired Seller Facilities or (ii) use, or permit any other Person to use, any Intellectual Property of any Seller (including, without limitation, names or logos) in connection with the ownership or operation of any health care facility or business in the State of Iowa. Such Seller acknowledges that the geographic area, scope, and duration of the restrictions set forth above are reasonable and necessary to protect the goodwill of the Acquired Seller Facilities being sold by Sellers pursuant to this Agreement.

(c) Each Seller further agrees that during the Interim Period and following the Closing until the fifth anniversary of the Closing it shall not (and shall cause its Affiliates and subsidiaries not to) directly, or indirectly through another Person, (i) induce or attempt to induce any employee of the Acquired Seller Facilities to leave the employ of the Acquired Seller Facilities, or in any way interfere with the relationship between Buyer, the Acquired Seller Facilities and any employee thereof, or (ii) hire any person who was an employee of the Acquired Seller Facilities at any time during the one (1)-year period immediately prior to the date on which such hiring would take place; provided, however, that solicitations in general advertisements (and the hiring of persons other than employees with a title of vice president, director and above, who respond to such general advertisements) which do not target such persons shall not constitute a breach of this Section 5.15(c).

(d) If, at the time of enforcement of the covenants contained in Sections 5.15(b) and 5.15(c) (the "***Restrictive Covenants***"), a court shall hold that the geographic area, scope, or duration of the restrictions stated herein are unreasonable under circumstances then existing, the Parties agree that the maximum geographic area, scope, or duration reasonable under such circumstances shall be substituted for the stated geographic area, scope, or duration and that the court shall be allowed and directed to revise the restrictions contained herein to cover the maximum geographic area, scope, or duration permitted by Law. Sellers have consulted with legal counsel regarding the Restrictive Covenants and based on such consultation have determined and each hereby acknowledges that the Restrictive Covenants are reasonable in terms of duration, scope, and area restrictions and are necessary to protect the substantial investment in the Acquired Seller Facilities made by Buyer hereunder. If any Seller or a member, owner, Subsidiary, parent of a Seller or any of its respective Affiliates, assigns, or Representatives breaches, or threatens to commit a breach of, any of the Restrictive Covenants, Buyer shall have the right and remedy, which is in addition to, and not in lieu of, any other rights and remedies available to Buyer or any of its Affiliates at Law or in equity, to seek to have the Restrictive Covenants specifically enforced by any court of competent jurisdiction, it being agreed that any breach or threatened breach of the Restrictive Covenants may cause irreparable injury to Buyer and that money damages may not provide an adequate remedy to Buyer. In the event of any breach or violation by any Seller of any of the Restrictive Covenants, the time period of such covenant shall be tolled until such breach or violation is resolved.

5.16 Cost Reports.

(a) Sellers, at their own cost and expense, will prepare and timely file all cost reports relating to the Seller Facilities for periods ending at or prior to the Closing Time or required as a result of the consummation of the Transactions, including, without limitation, terminating cost reports relating to the Medicare, Medicaid, TRICARE, and Third-Party Payors which settle on a cost report basis (the "***Seller Cost Reports***").

(b) Buyer shall forward to Sellers any and all correspondence relating to any Seller Cost Reports within ten (10) business days after receipt by Buyer. Buyer shall remit any receipts of funds relating

to Seller Cost Reports or the settlement thereof promptly after receipt by Buyer (and in all events within ten (10) business days) and shall forward to Sellers any demand for payments relating to Seller Cost Reports or the settlement thereof within ten (10) business days after receipt by Buyer.

(c) Sellers shall forward to Buyer any and all correspondence relating to Buyer's cost reports and Seller Cost Reports within ten (10) business days after receipt by Sellers. Sellers shall remit any receipts of funds relating to Buyer's cost reports or the settlement thereof promptly after receipt by Sellers (and in all events within ten (10) business days) and shall forward to Buyer any demand for payments related to Buyer's cost reports or the settlement thereof within ten (10) business days after receipt by Sellers.

(d) Sellers shall retain all rights to and obligations in respect of Seller Cost Reports and settlements thereof to the extent relating to periods ending at or prior to the Closing Time including any amounts receivable or payable in respect of such reports. Such rights shall include, without limitation, the right to appeal any Medicare, Medicaid, and TRICARE determinations relating to such Seller Cost Reports.

(e) Buyer, upon reasonable notice, during normal business hours and at the sole cost and expense of Sellers, will reasonably cooperate with Sellers in regard to the preparation, filing, handling, and appeals of Seller Cost Reports or the settlement thereof. Sellers, upon reasonable notice, during normal business hours and at the sole cost and expense of Buyer, will reasonably cooperate with Buyer in regard to the preparation, filing, handling, and appeals of Buyer's cost reports. Notwithstanding the foregoing, except as required by law, Sellers shall not open, re-file, or amend any Seller Cost Report without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned, or delayed. Sellers shall retain the originals of Seller Cost Reports, correspondence, work papers, and other documents relating to Seller Cost Reports and settlements thereof for the time periods prescribed by Law. Sellers will furnish copies of the Seller Cost Reports, correspondence, work papers and other documents to Buyer upon reasonable request. After the Closing Date, Sellers will reasonably cooperate with Buyer, at the sole cost and expense of Buyer, to the extent that Buyer has questions about, or otherwise needs pertinent information relating to, the Seller Cost Reports. Sellers, at their own cost and expense, will timely prepare and file any other required reports for the Seller Facilities under state and local law with respect to any reportable period ending prior to the Closing Time.

5.17 Title Abstracts and Surveys.

Within thirty (30) days of the Effective Date, Sellers shall provide, at Sellers' cost and expense, updated title abstracts continued through the Effective Date of this Agreement and to the Title Company for each parcel of Owned Real Property (the "***Abstracts***"). The abstract continuations shall be performed by an abstractor selected by Sellers, and subject to Buyer's reasonable prior approval. The Title Company will then review and perform any supplemental title searches as necessary, in order to deliver current ALTA title commitments (the "***Title Commitments***") to Buyer for Buyer's review and approval. At Buyer's cost and expense, Buyer may obtain new or updated ALTA land title surveys for one or more parcels of Owned Real Property. At or prior to Closing, Sellers must take action to fulfill all requirements indicated in the Title Commitments in order to permit Title Company to issue the Title Policy and must take all action necessary to terminate or release, to Buyer's satisfaction, any matters disclosed in the Title Commitments that are not Permitted Encumbrances. Without limiting the foregoing, prior to Closing, Sellers shall provide such documentation and take such other actions as may be reasonably necessary to evidence Mercy Hospital's ownership of any parcels of Owned Real Property that are titled in the name of Mercy Facilities, Inc. such that the Title Company can issue the Title Policy and Mercy Hospital can transfer such parcels to Buyer as of the Closing.

5.18 Email Addresses.

Sellers and Buyer shall cooperate in good faith to establish a system to ensure that emails directed to Transferred Employees at their email addresses existing immediately prior to the Closing shall be accessible to the Transferred Employees, either directly or through a technical redirection process to new email addresses. Sellers shall maintain this system for a period of one (1) year from the Closing, or such shorter period as the Parties may agree. Sellers hereby grant to Buyer an exclusive, irrevocable, royalty-free license for the Transferred Employees to continue to use their pre-existing email addresses for such one-year period. Sellers agree that they will not reassign the email address for any Transferred Employee for a period of two (2) years after the expiration of the license granted pursuant to this Section 5.18. For the avoidance of doubt, the content of any emails, as well as any and all attachments thereto, shall be treated as confidential information that is subject to Section 5.15(a). Further, Sellers agree that they shall not, and they shall cause the employees, officers, directors, and representatives of Sellers and Sellers' Affiliates not to, access or view the contents of such emails and/or attachments.

ARTICLE VI - CONDITIONS TO CLOSING

6.1 Conditions to Obligations of Buyer and Sellers.

The obligations of Buyer and Sellers to consummate the Closing are subject to the satisfaction, on or before the Closing, of each of the following conditions unless waived in writing by each of the Parties:

(a) There must not be issued and in effect on the Closing Date any Order or Law restraining, enjoining, or otherwise prohibiting or making illegal the consummation of the Transactions.

(b) The Bankruptcy Court shall have entered the Sale Order, which shall (i) be in full force and effect, (ii) not be subject to any stay or appeal, (iii) not have been materially modified without the written consent of Buyer and Sellers (not to be unreasonably withheld, conditioned, or delayed), (iv) not have been reversed or vacated, and (v) unless waived by Buyer, shall be a Final Order.

6.2 Conditions to Obligations of Buyer.

The obligations of Buyer to consummate the Transactions are subject to the satisfaction, on or prior to the Closing Date, of each of the following further conditions unless (but only to the extent) waived in writing by Buyer:

(a) The representations and warranties of Sellers contained in ARTICLE III other than the Fundamental Representations shall be true and correct in all respects (other than in Section 3.16(i) without giving effect to any limitation or qualification as to "materiality" or "Material Adverse Effect" set forth therein) on and as of the Closing Date (except for representations and warranties that expressly speak only as of a specified date, which need only be true and correct as of such date), except for the failure of such representations and warranties to be true and correct which would not, in the aggregate, result in a Material Adverse Effect. Each Fundamental Representation shall be true and correct (without giving effect to any limitation or qualification as to "materiality" or "Material Adverse Effect" set forth therein) in all material respects on and as of the Closing Date (except for representations and warranties that expressly speak only as of a specified date, which need only be true and correct in all material respects as of such date).

(b) Sellers shall have performed in all material respects the covenants and agreements contained in this Agreement to be complied with or performed by Sellers on or before the Closing Date.

(c) Buyer shall have received each of the items set forth in Section 2.9.

(d) Since the Effective Date, there shall have been no Material Adverse Effect.

(e) There shall have been no material issues relating to Sellers' Medicare or Medicaid Cost Reports, Permits, or other compliance with Healthcare Laws resulting in a liability regarding the Purchased Assets, the Acquired Seller Facilities, or Sellers' operation of the Acquired Seller Facilities.

(f) The Acquired Seller Facilities shall be in good standing with all applicable non-governmental Third-Party Payors, and Buyer shall have received evidence or assurances, in form and substance satisfactory to Buyer, that Buyer will be able to include the Acquired Seller Facilities within the scope and purview of Buyer's contracts with all material non-governmental Third-Party Payors of Buyer as of or immediately following the Closing Date.

(g) There shall be no pending, ongoing, or threatened litigation regarding the Acquired Seller Facilities or Sellers' operation of the Acquired Seller Facilities that is not subject to the "free and clear" provisions of the Sale Order.

(h) Buyer shall have obtained documentation or other evidence reasonably satisfactory to Buyer that the Parties have obtained from applicable Governmental Authorities the approvals and consents necessary to issue the Material Permits in the name of Buyer to effect the transactions set forth in this Agreement and to enable Buyer to operate the Acquired Seller Facilities and Purchased Assets;

(i) Buyer shall have entered into transition services agreements with such material third parties as may be necessary to continue to operate the Acquired Seller Facilities following the Closing, each in form and substance satisfactory to Buyer;

(j) Other than Permitted Encumbrances, Sellers shall convey the Purchased Assets free and clear of all Encumbrances with respect to Sellers or the Purchased Assets, prior to or contemporaneous with the Closing, including, without limitation, the removal of such Encumbrances disclosed on Schedule 3.4(a); and

(k) The Title Company shall be irrevocably committed to issue the Title Policy in favor of Buyer (together with all endorsements and affirmative coverages required by Buyer and in an amount determined by Buyer), to be used after Closing as of the date and time of recording of the applicable Special Warranty Deed(s), insuring Buyer's interest in the Owned Real Property free and clear of all liens and Encumbrances other than the Permitted Encumbrances. The base premium for the extended ALTA coverage in favor of Buyer in the amount determined by Buyer, will be at Sellers' cost, and any endorsements to the Title Policy elected by Buyer will be at Buyer's cost.

6.3 Conditions to Obligations of Sellers.

The obligations of Sellers to consummate the Transactions described herein are subject to the satisfaction, on or prior to the Closing Date, of each of the following further conditions unless (but only to the extent) waived in writing by Sellers:

(a) The representations and warranties of Buyer contained in ARTICLE IV shall be true and correct in all respects (without giving effect to any limitation or qualification as to "materiality" set forth therein) on and as of the Closing Date (except for representations and warranties that expressly speak only as of a specified date, which need only be true and correct as of such date), except for the failure of such representations and warranties to be true and correct which would not, in the aggregate, result in a material adverse effect on Buyer's ability to consummate the Transactions.

(b) Buyer shall have performed in all material respects the covenants and agreements contained in this Agreement, the Sale Order, or the Sale Procedures Order to be complied with or performed by Buyer on or before the Closing Date.

(c) Sellers shall have received each of the items set forth in Section 2.10.

ARTICLE VII - TERMINATION

7.1 Grounds for Termination.

This Agreement may be terminated at any time prior to the Closing:

(a) by the mutual written consent of Sellers and Buyer;

(b) by Buyer, if any Seller breaches or fails to perform in any respect any of its representations, warranties, or covenants contained in this Agreement such that a condition in Section 6.1 or Section 6.2 is incapable of being satisfied before the End Date, and such breach either (i) is not capable of being cured on or before the End Date or (ii) has not been cured by Sellers to Buyer's reasonable satisfaction within fourteen (14) days of Buyer's written notice to Sellers of such breach, or if it otherwise becomes reasonably apparent that a condition in Section 6.1 or Section 6.2 is incapable of being satisfied before the End Date (whether or not resulting from a breach of this Agreement by Sellers); provided, that no cure period shall extend past the End Date; provided, further, that Buyer shall not have the right to terminate this Agreement pursuant to this Section 7.1(b) if Buyer is then in material breach of any of its representations, warranties, covenants, or agreements contained in this Agreement;

(c) by Buyer, if the Bankruptcy Court fails to enter the Bid Procedures Order in form and substance reasonably acceptable to Buyer designating Buyer as the "stalking horse" purchaser for the Acquired Assets and approving the Bid Protections;

(d) by Sellers, if Buyer breaches or fails to perform in any respect any of its representations, warranties, or covenants contained in this Agreement such that a condition in Section 6.1 or Section 6.3 is incapable of being satisfied before the End Date, and such breach either (i) is not capable of being cured on or before the End Date; or (ii) has not been cured by Buyer to Sellers' reasonable satisfaction within fourteen (14) days of Sellers' written notice to Buyer of such breach, or if it otherwise becomes reasonably apparent that a condition in Section 6.1 or Section 6.3 is incapable of being satisfied before the End Date (whether or not resulting from a breach of this Agreement by Buyer); provided, that no cure period shall extend past the End Date; provided, further, that Sellers shall not have the right to terminate this Agreement pursuant to this Section 7.1(d) if any Seller is then in material breach of any of representations, warranties, covenants, or agreements contained in this Agreement;

(e) by either Sellers, on the one hand, or Buyer, on the other hand, if the Closing has not occurred on or before February 29, 2024 (the "***End Date***"); provided, however, that the right to terminate this Agreement pursuant to this Section 7.1(e) shall not be available if the failure of the Party so requesting termination to fulfill any obligation under this Agreement shall have been the primary cause of the failure of the Closing to occur on or before the End Date;

(f) by Buyer, upon the appointment of a trustee or examiner with expanded powers pursuant to Section 1104 of the Bankruptcy Code, or upon the commencement of or at any point during any Proceeding (other than the Bankruptcy Case) relating to the Transactions that, in Buyer's reasonable discretion, is reasonably likely to (i) result in an Order precluding or prohibiting the consummation of the Transactions or (ii) require Buyer to incur material expenses to defend or otherwise respond to;

(g) by either Sellers, on the one hand, or Buyer, on the other hand, upon the dismissal of the Bankruptcy Case or the conversion of the Bankruptcy Case into a case under Chapter 7 of the Bankruptcy Code;

(h) by either Sellers, on the one hand, or Buyer, on the other hand, if, at the end of the auction contemplated by the Sale Procedures Order, Buyer's bid is not determined to be the winning bid or the next-best bid or back-up bid (as determined pursuant to the Sale Procedures Order);

(i) by Sellers if (i) all the conditions set forth in Section 6.1 and Section 6.2 have been satisfied (other than those conditions that by their nature or terms are to be satisfied at the Closing, but subject to satisfaction of those conditions at the Closing), (ii) Buyer is required to consummate the Closing pursuant to Section 2.8, (iii) Buyer fails to consummate the Closing within five (5) days following the date it was required to do so pursuant to Section 2.8, (iv) Sellers give irrevocable written notice to Buyer at least three (3) business days prior to such termination stating that Sellers will terminate this Agreement pursuant to this Section 7.1(i) if the Closing is not consummated within such three (3) business day period, (v) Sellers stood ready, willing and able to consummate the Closing during such three (3) business day period, and (vi) Buyer fails to consummate the Closing within such three (3) business day period; provided that Sellers shall not have the right to terminate this Agreement pursuant to this Section 7.1(i) if any Seller is then in material breach of any of its covenants, agreements, representations or warranties set forth in this Agreement;

(j) by Sellers if the Deposit is not timely paid by or on behalf of Buyer in accordance with Section 2.6(a); provided, however, that the right to terminate this Agreement under this Section 7.1(j) must be exercised, if exercisable, prior to the payment of the Deposit; or

(k) by Buyer if the Initial Schedules are not acceptable in its discretion.

In the event of termination by Buyer or Sellers pursuant to this Section 7.1, written notice thereof (describing in reasonable detail the basis therefor) shall be delivered to the other Parties.

7.2 Effect of Termination.

(a) Except as otherwise provided in this Section 7.2, in the event of a termination of this Agreement pursuant to Section 7.1, this Agreement shall forthwith become null and void and of no further force and effect (other than the provisions of Section 2.6(a) (Deposit), this ARTICLE VII (Termination), ARTICLE IX (General Provisions), and Section 8.3 (Bid Protections), all of which shall survive termination of this Agreement), and there shall be no liability on the part of any Party hereto or any of its Affiliates to any other Person resulting from, arising out of, relating to, or in connection with this Agreement or any other Transaction Agreement; provided, however, that nothing in the preceding sentence shall relieve any Party hereto from any liability for fraud or willful breach of this Agreement prior to termination, with "willful" meaning an intentional action or omission known and intended to be a breach hereof; provided, further, that in no event shall Buyer be required to (x) pay an aggregate amount in excess of the Deposit; or (y) pay any amount of monetary damages if Mercy Hospital has (A) received the Deposit following release of the Deposit to Mercy Hospital in accordance with the provisions of Section 2.6(a) or (B) the Closing has occurred (including pursuant to an order for specific performance in the circumstances permitted by Section 9.16).

(b) Without limiting Sellers' right to specific performance prior to termination of this Agreement solely to the extent provided in, and subject to the terms and conditions of, Section 9.16, Mercy Hospital's right to receive the Deposit from Buyer pursuant to, and subject to the terms and conditions of, Section 2.6(a) shall be the sole and exclusive remedy of any Seller against Buyer for any monetary damages suffered by any Seller, or any liability or obligation of any kind of Buyer, in each case, caused by, arising

out of, relating to, or in connection with (A) any breach or threatened or attempted breach of this Agreement or any Transaction Agreement, (B) any failure or threatened or attempted failure of Buyer to comply with their obligations under this Agreement or any other agreement, certificate or other document entered into between the parties pursuant to the terms of this Agreement, (C) any failure to consummate any of the transactions contemplated by this Agreement, or (D) this Agreement, any other agreement, certificate, or other document entered into between the Parties pursuant to the terms of this Agreement, the transactions contemplated hereby or the failure of any of the transactions contemplated hereby to be consummated or the termination of this Agreement, in each case, including in any litigation under any legal theory, whether sounding in law (whether for breach of contract, in tort or otherwise) or in equity (the items referred to in the foregoing clauses (A) through (D), the "***Potential Claims***"). No Seller shall be entitled to bring, and shall in no event support, facilitate, encourage, or take any action other than opposing, the bringing of, any litigation against Buyer or any of its Affiliates with respect to, arising out of, relating to, or in connection with any Potential Claim or otherwise with respect to the transactions contemplated by this Agreement and Sellers shall dismiss with prejudice any then pending litigation by any Seller against Buyer or any of its Affiliates as promptly as practicable after such termination (and in no event later than three (3) days following such termination).

ARTICLE VIII - BANKRUPTCY MATTERS

8.1 Sale Procedures Motion.

Within five (5) business days of the Effective Date, Sellers shall file a motion in form and substance acceptable to Buyer seeking entry of an Order (the "***Sale Procedures Order***"): (a) setting forth the deadlines, processes, and procedures that will be used to market and sell the Acquired Assets (the "***Bid Procedures***"); (b) designating Buyer as the "stalking horse" purchaser for the Acquired Assets; and (c) approving the Bid Protections.

8.2 Bid Procedures.

The Sale Procedures Order shall provide, among other things, that: (a) the deadline for prospective purchasers other than Buyer to submit a competing bid for some or all of the Acquired Assets (the "***Bid Deadline***") shall be no later than forty-five (45) days following the date on which the Bankruptcy Case is filed (the "***Petition Date***"); (b) that for any bid to be deemed a Qualified Competing Bid (as defined in the Sale Procedures Order) such bid, including any credit bid, must be in writing and accompanied by a cash deposit in an amount no less than 10% of the purchase price set forth in such bid as well as evidence of (i) the financial wherewithal of the bidder and (ii) the bidder's prior experience owning/operating comparable facilities or such other applicable experience; (c) in the event Sellers receive a Qualified Competing Bid on or before the Bid Deadline, Sellers shall hold an auction (the "***Auction***") to determine the winning bidder for the Acquired Assets no later than fifty (50) days after the Petition Date and shall provide written copies of all materials submitted by all bidders to all parties entitled to attend the Auction no later than two (2) business days prior to the Auction; (d) each bid must clearly set forth the purchase price in U.S. dollars to be paid for the proposed purchased assets, including identifying separately any cash and non-cash components, and the cash component of such purchase price shall equal at least the sum of the Bid Protections (defined below); (e) any Qualified Bidder (as defined in the Sale Procedures Order) who has a valid, perfected, and undisputed lien on any of the Proposed Purchased Assets (a "***Secured Creditor***") that seeks to credit bid all or a portion of the value of such Secured Creditor's claims, within the meaning of and subject to section 363(k) of the Bankruptcy Code, shall have the right to credit bid its secured claim only with respect to the collateral by which such Secured Creditor is secured; and (f) at least two (2) business days prior to the Auction, the Sellers will notify Buyer of the terms of the highest Qualified Bid and the identity of all Qualified Bidders that intend to participate in the Auction.

8.3 Bid Protections.

The Sale Procedures Order shall provide that, in the event Buyer is not declared the winning bidder at the Auction and the Bankruptcy Court approves an Alternative Transaction, Sellers shall be required to pay to Buyer a fee in the amount of 4% of the Purchase Price (the "***Break-Up Fee***") and reimbursable expenses incurred by Buyer prior to the conclusion of the Auction up to $400,000 (the "***Expense Reimbursement***"). Subject to approval of the Bankruptcy Court, the Break-Up Fee and Expense Reimbursement shall be allowed administrative expense claims against Sellers' bankruptcy estates pursuant to Sections 503(b), 507(a)(2), and 507(b) of the Bankruptcy Code. The Sale Procedures Order shall also provide, subject to the approval of the Bankruptcy Court, in the event of an auction, for an initial overbid protection in an amount equal to $21,300,000 (the "***Initial Overbid***") and minimum bid increments thereafter of $100,000 (the "***Minimum Overbid Increment***", together with the Initial Overbid, the Expense Reimbursement, and the Break-Up Fee, the "***Bid Protections***"). For the avoidance of doubt, the Bid Protections shall only constitute administrative expense claims upon the closing and funding of an Alternative Transaction and shall be paid to Buyer by Sellers immediately following the closing of such Alternative Transaction. No further or additional order from the Bankruptcy Court shall be required to give effect to such provisions relating to the terms of payment of the Break-Up Fee and Expense Reimbursement.

8.4 **Marketing Process**.

Between the time the Sale Procedures Motion is filed and either (i) the date the Auction is held or (ii) in the event no Qualified Competing Bid (as defined in the Sale Procedures Order) is submitted, the Bid Deadline, Sellers may contact, through whatever means are reasonable, other potential purchasers for the Acquired Assets and engage in discussions with such potential purchasers that would be higher and better than reflected in this Agreement.

8.5 **Sale Related Court Filings**.

Two (2) business days prior to filing any papers or pleadings in the Bankruptcy Case that relate primarily to this Agreement or Buyer, including all pleadings intended to be filed on the Petition Date, or as soon as reasonably practicable under the circumstances, Sellers shall provide Buyer with a copy of such papers or pleadings for review and comment; provided the foregoing shall in all events be consistent with this Agreement in all material respects. Sellers shall consider such changes thereto as reasonably requested by Buyer or its representatives.

ARTICLE IX - GENERAL PROVISIONS

9.1 Survival.

The Parties, intending to modify any applicable statute of limitations, agree that (a) the representations and warranties of the Parties contained in this Agreement and in any certificate delivered pursuant hereto shall terminate effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no liability on the part of, nor shall any claim be made by, any Party or any of their respective Affiliates in respect thereof, and (b) after the Closing, there shall be no liability on the part of, nor shall any claim be made by, any Party or any of its respective Affiliates in respect of any covenant or agreement to be performed prior to the Closing contained in this Agreement and in any certificate delivered pursuant hereto.

9.2 Certain Tax Matters.

(a) All transfer, documentary, sales, use, stamp, registration, and other such similar Taxes and fees, including penalties and interest, if any, (but exclusive of any income, gross receipts, franchise, capital

or similar Taxes), incurred in connection with this Agreement and the transactions contemplated herein (each a "***Transfer Tax***" and, collectively, "***Transfer Taxes***") shall be borne and paid by the respective Party upon which such Transfer Tax is imposed under applicable Law. Each Party agrees to cooperate with such other Parties in the timely completion, execution and filing of any documentation required or exemptions allowed by any local, state or other Governmental Authority in connection with the Transfer Taxes. Buyer and Sellers shall cooperate in providing each other with any appropriate certification and other similar documentation relating to exemption from Transfer Taxes (including any appropriate resale exemption certifications), as provided under applicable Law.

(b) Sellers and Buyer each agree that the Purchase Price (including for the Assumed Liabilities and any other items required to be taken into account for income Tax purposes) shall be allocated among the Purchased Assets purchased pursuant to this Agreement in accordance with Section 1060 of the Code and Schedule 9.2(b). Within sixty (60) days after Closing, Buyer shall provide to the Sellers a schedule (the "***Allocation Schedule***") allocating the Purchase Price in accordance with the foregoing and shall consider in good faith any reasonable comments provided by Sellers. Buyer and Sellers shall work in good faith to resolve any disputes related to the Allocation Schedule and if they cannot do so within a reasonable period of time such dispute shall be resolved by a nationally recognized accounting firm mutually selected by Buyer and Sellers. The costs of such accounting firm associated with resolving such dispute shall be borne equally by Buyer and Sellers. Buyer and Sellers each agree to file IRS Form(s) 8594 and all federal, state and local income Tax Returns in accordance with the Allocation Schedule, as finally determined, and none of them shall thereafter take an income Tax Return position inconsistent with such allocation unless such inconsistent position shall arise out of or through an audit or other inquiry or examination by the IRS or other Tax authority. Sellers and Buyer each agree to provide the other promptly with any other information required to complete the Allocation Schedule.

(c) Each Party shall be entitled to deduct and withhold from any amounts payable pursuant to this Agreement such amount as it is required to deduct and withhold with respect to the making of such payment under the Code or other applicable Tax Law. Any such amounts that are deducted or withheld shall be treated as having been paid to the Person in respect of which such deduction and withholding was made.

9.3 Additional Assurances.

The provisions of this Agreement shall be self-operative and shall not require further agreement by the Parties except as may be herein specifically provided to the contrary; provided, however, at the request of a Party, the other Party or Parties shall execute such additional instruments and take such additional action as the requesting Party may reasonably request to effectuate this Agreement. In addition, and from time to time after the Closing Date, Sellers and Buyer shall each execute and deliver such other instruments of conveyance and transfer, and take such other actions as any Party may reasonably request, to more effectively convey and transfer full right, title and interest to, vest in, and place Buyer in legal and actual possession of the Purchased Assets. This Agreement shall continue to be binding and shall not be invalidated by appointment of a trustee or examiner with expanded powers, confirmation of a plan, conversion, or dismissal.

9.4 Choice of Law; Jurisdiction.

(a) This Agreement and all disputes or controversies arising out of or relating to this Agreement or the Transactions (whether in contract or tort) shall be governed by and construed in accordance with the Laws of the State of Iowa, without regard to conflicts of law principles.

(b) Except as otherwise expressly provided in this Agreement or any of the other Transaction Agreements, and without limitation of any Party's right to appeal any Order of the Bankruptcy Court, (a) the

Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes arising out of or in connection with this Agreement or the Transactions or disputes relating hereto; and (b) any and all claims relating to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the Parties hereby consent and submit to the exclusive jurisdiction and venue of the Bankruptcy Court and irrevocably waive the defense of an inconvenient forum to the maintenance of any such Proceeding; provided, however, that if the Bankruptcy Case is closed, any Proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement, the other Transaction Agreements or the Transactions shall be brought in a federal court located in District of the Northern District of Iowa and that any cause of action arising out of this Agreement or any of the other Transaction Agreements shall be deemed to have arisen from a transaction of business in the State of Iowa, and each of the Parties hereby irrevocably consents to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such Proceeding and irrevocably waives, to the fullest extent permitted by Law, any objection that it may now or hereafter have to the laying of the venue of any such Proceeding in any such court or that any such Proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such Proceeding may be served on any Party anywhere in the world, whether within or without the jurisdiction of any such court.

9.5 WAIVER OF JURY TRIAL.

EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE OTHER TRANSACTION AGREEMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

9.6 Benefit, Assignment and Third-Party Beneficiaries.

Subject to provisions herein to the contrary, this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns; provided, however, that no Party may assign this Agreement without the prior written consent of the other Party except that Buyer may assign this Agreement and/or any of their rights hereunder to any Affiliate of Buyer or in connection with any subsequent disposition or transfer of all or any portion of the Purchased Assets in any form of transaction, without the prior written consent of Sellers. The Parties acknowledge that Buyer may assign ownership and title to certain of the Purchased Assets to certain designees of Buyer, such that more than one entity may own the Purchased Assets at Closing; provided, further, that no such assignment shall serve to release Buyer from their obligations or any liability hereunder. This Agreement is intended solely for the benefit of the Parties and is not intended to, and shall not, create any enforceable third-party beneficiary rights.

9.7 Cost of Transaction.

Except as expressly provided herein, all costs and expenses incurred in connection with negotiating, preparing, and executing the Transaction Agreements shall be paid by the Party incurring such cost or expense.

9.8 Waiver of Breach.

The waiver by any Party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to constitute, a waiver of any subsequent breach of the same or any other provision hereof. Any agreement on the part of any Party to any such waiver shall be valid only if set forth in a written instrument executed and delivered by a duly authorized officer on behalf of such Party.

9.9 Notice.

Any notice, demand, or communication required, permitted, or desired to be given hereunder shall be deemed effectively given when personally delivered with signed receipt, when delivered by facsimile or other electronic means with electronic confirmation of delivery (unless not delivered on a business day or delivered after 5:00 p.m. Central Time on a business day, in which case such delivery shall be deemed effective on the next succeeding business day), when delivered by overnight courier with signed receipt, or when delivered by registered United States mail, with postage prepaid and return receipt requested, addressed to the addresses below or to such other address as any Party may designate, with copies thereof to the respective counsel thereof as notified by such Party.

Buyer:
University of Iowa
Attn: Associate Vice President for Legal Affairs for UI Health Care
200 Hawkins Drive, 1349 JCP
Iowa City, Iowa 52242

With a copy (which shall not constitute notice) to:

Polsinelli PC
150 N. Riverside Plaza, Suite 3000
Chicago, Illinois 60606
Attn: Linas Grikis
Email: lgrikis@polsinelli.com

Sellers:
Mercy Hospital, Iowa City, Iowa
500 E. Market Street
Iowa City, Iowa 52245
Attn: Mark Toney

With a copy (which shall not constitute notice) to:

McDermott Will & Emery LLP
444 W. Lake Street, Suite 4000
Chicago, IL 60606-0029

Attn: Felicia Perlman, Megan Rooney, and Daniel Simon

9.10 Severability.

In the event any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason and in any respect, such invalidity, illegality, or unenforceability shall in no event affect, prejudice or disturb the validity of the remainder of this Agreement, which shall be and remain in full force and effect, enforceable in accordance with its terms, and such invalid, illegal, or unenforceable term automatically will be amended so that it is valid, legal and enforceable to the maximum extent permitted by applicable Law, but as close to the Parties' original intent as is permissible.

9.11 Interpretation.

In the interpretation of this Agreement, except where the context otherwise requires, (a) "including" or "include" does not denote or imply any limitation, (b) "$" refers to United States dollars, (c) the singular includes the plural, and vice versa, and each gender includes each other gender, (d) captions or headings are only for reference and are not to be considered in interpreting this Agreement, (e) "Section" refers to a section of this Agreement, unless otherwise stated in this Agreement, (f) "Exhibit" refers to an exhibit to this Agreement (which is incorporated herein by reference), unless otherwise stated in this Agreement, (g) "Schedule" refers to a schedule to this Agreement, unless otherwise stated in this Agreement and incorporates any attachments thereto (which are incorporated herein by reference), (h) all references to times are times in Iowa City, Iowa, (i) "day" refers to a calendar day unless expressly identified as a "business day," which means any day that is not a Saturday, Sunday, or official federal holiday in the United States, and (j) "made available to Buyer" or similar phrases means information included in a virtual data room maintained by Hammond Hanlon Camp LLC to which Buyer and its representatives have had access as of fifteen (15) business days prior to the Effective Date or Closing Date, as applicable.

9.12 Entire Agreement, Amendments and Counterparts.

This Agreement supersedes all previous contracts, agreements, and understandings between the Parties regarding the subject matter hereof and constitutes the entire agreement existing between or among the Parties respecting the subject matter hereof and no Party shall be entitled to benefits other than those specified herein. As between or among the Parties, no oral statements or prior written material not specifically incorporated herein shall be of any force and effect, and no Party is relying on any such oral statements or prior written material. All prior representations or agreements, whether written or oral, not expressly incorporated herein are superseded and no changes in or additions to this Agreement shall be recognized unless and until made in writing and signed by all Parties. This Agreement may be executed in counterparts, each and all of which shall be deemed an original and all of which together shall constitute but one and the same instrument. Signatures received via facsimile or other electronic transmission shall be accepted as originals.

9.13 Personal Liability.

This Agreement shall not create or be deemed to create or permit any personal liability or obligation on the part of any direct or indirect equity holder of any Party or any officer, director, employee, investor, or other Representative of any Party.

9.14 Disclosure Generally.

Notwithstanding anything to the contrary contained in the Article III Schedules or in this Agreement, the information and disclosures contained in any Article III Schedule shall be deemed to be disclosed and incorporated by reference in any other Schedule as though fully set forth in such Article III Schedule for which applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Article III Schedule shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement.

9.15 Public Announcements.

Prior to the commencement of the Bankruptcy Case, the Parties will cooperate in good faith to develop a joint communications strategy with respect to the Transactions. Except as required by Law or in connection with the Bankruptcy Case, no Seller nor Buyer shall issue any press release or public

announcement concerning this Agreement or the transactions contemplated hereby without obtaining the prior written approval of the other Parties hereto relating to the contents and manner of presentation and publication thereof, which approval will not be unreasonably withheld, delayed, or conditioned. Prior to making any public disclosure required by applicable Law, the disclosing Parties shall give the other Parties a copy of the proposed disclosure and reasonable opportunity to comment on the same. Notwithstanding the foregoing, Buyer shall not be restricted from making any public announcements or issuing any press releases after the Closing.

9.16 Specific Performance.

(a) Each of the Parties acknowledges and agrees that the other Parties would be damaged irreparably if any provision of this Agreement is not performed in accordance with its specific terms or is otherwise breached. Accordingly, subject to Section 9.16(b), Buyer agrees that Sellers will be entitled, and Sellers agree that Buyer will be entitled, to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and its terms and provisions in any action instituted in the Bankruptcy Court or any other court of the United States or any state thereof having jurisdiction over the Parties and the matter, subject to Section 9.4 and Section 9.5, in addition to any other remedy to which the non-breaching Party may be entitled, at law or in equity.

(b) Notwithstanding the foregoing, Sellers' right to obtain an injunction, specific performance, or other equitable relief of Buyer's obligation to consummate the Closing (but not the right of Sellers to obtain an injunction, specific performance, or other appropriate form of equitable relief, for any other reason) shall be subject to the requirement that (i) all of the conditions set forth in Sections 6.1 and 6.2 have been satisfied (other than those conditions that by their nature are to be satisfied at the Closing) and Buyer has failed to complete the Closing by the date the Closing is required to have occurred pursuant to Section 2.8 of this Agreement, and (ii) Sellers have irrevocably confirmed in a written notice delivered to Buyer that if specific performance is granted, Sellers stand ready, willing and able to consummate the Closing.

(c) For the avoidance of doubt, under no circumstances shall Sellers be entitled to receive both a grant of specific performance or other equitable remedies of the sort described in this Section 9.16 and any monetary damages, including payment or retention of all or any portion of the Deposit.

(Signature Pages Follow)

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

SELLERS:

Mercy Hospital, Iowa City, Iowa

By: Mark E. Toney
Name: Mark Toney
Title: Chief Restructuring Officer

Mercy Services Iowa City, Inc.

By: Mark E. Toney
Name: Mark Toney
Title: Authorized Signatory

Mercy Iowa City ACO, LLC

By: Mark E. Toney
Name: Mark Toney
Title: Chief Restructuring Officer

BUYER:

State of Iowa, on behalf of the State University of Iowa

Mark Braun
By:
Name: Mark Braun
Title: Executive Director, Board of Regents, State of Iowa

Exhibit A

SELLER FACILITIES

Facility	Name/Location	Designation	Description	Address
Mercy Hospital				
Hospital	Mercy Hospital	Owned	Acute Care Hospital	500 E. Market Street, Iowa City, IA 52245
Hospital – ED Parking and Entrance	Mercy Hospital	Owned	Acute Care Hospital Parking and Entrance	230 N. Gilbert Street, Iowa City, IA 52245
Mercy Medical Office Building II				
Medical Office Building	MOB II	Owned	Vacant/IT storage/Shell Basement/LINAC Vault	601 Bloomington St. Iowa City, IA 52245
Mercy Medical Plaza				
Medical Office Building	Mercy Medical Plaza (MOB I)	Owned	Bariatric Surgery Cancer Care Gastroenterology General Surgery Neurology Pulmonary and Sleep Medicine Cardiology Home Health	540 E. Jefferson St. Iowa City, IA 52245
Mercy Clinics				
Medical Office	Kalona	Owned	Family Medicine	503 3rd Street, Kalona, IA 52247
Medical Office	West Liberty	Owned	Family Medicine	1401 Crees Street, West Liberty, IA 52776
Medical Office	Williamsburg	Owned	Family Medicine	819 South Highland Street, Williamsburg, IA 52361
Medical Office	Mercy Services Tipton	Owned	Family Medicine	56 Cedar St, Tipton, IA 52772

Medical Office	Muscatine	Leased	Family Medicine	2104 Cedarwood Dr
Medical Office	Coralville	Leased	Pediatrics 1st Floor OB/GYN/Lab/Internal Med 2nd	2769 Heartland Dr
Medical Office	Coralville	Leased	Parking	2769 Heartland Dr
Medical Office	Iowa City	Leased	Family Practice Internal Medicine Occupational Health Basement	269 N 1st
Medical Office	Solon	Leased	Family Medicine	510 W Main St
Medical Office	West Branch	Leased	Family Medicine	206 Cookson Dr
Medical Office	Coralville	Leased	Family Medicine	2055 Oakdale Rd
Medical Office	Iowa City	Leased	Behavioral Health	1067 Ryan Ct
Medical Office	Iowa City	Leased	Urology	2943 Northgate Dr
Miscellaneous				
Parking - Parcel # 1010166009		Owned		North Dodge Street, Iowa City, IA 52245
Parking – Parcel #1010166008		Owned		E. Bloomington Street, Iowa City, IA 52245
Parking	Flat Lot	Owned		611 E. Market Street, Iowa City, IA 52245

Parking	Flat Lot	Owned		619 E. Market Street, Iowa City, IA 52245
Parking	Parking	Owned		127 North Dodge Street, Iowa City, IA 52245
Parking	Parking	Owned		209 North Dodge Street, Iowa City, IA 52245
Parking	Parking	Owned		629 E. Market Street, Iowa City, IA 52245
Lot - Parcel # 1010404003		Owned		North Dodge Street, Iowa City, IA 52245
Future parking bldg demolished in 2020		Owned		625 E. Market St, Iowa City, IA 52245
Future parking bldg demolished in 2019		Owned		603 E. Market St, Iowa City, IA 52245
Land – Parcel #0112126004		Owned		E. Rainbow Dr, West Liberty, IA 52776

Exhibit B

ACQUIRED SELLER FACILITIES

Facility	Name/Location	Designation	Description	Address
Mercy Hospital				
Hospital	Mercy Hospital	Owned	Acute Care Hospital	500 E. Market Street, Iowa City, IA 52245
Hospital – ED Parking and Entrance	Mercy Hospital	Owned	Acute Care Hospital Parking and Entrance	230 N. Gilbert Street, Iowa City, IA 52245
Mercy Medical Office Building II				
Medical Office Building	MOB II	Owned	Vacant/IT storage/Shell Basement/LINAC Vault	601 Bloomington St. Iowa City, IA 52245
Mercy Medical Plaza				
Medical Office Building	Mercy Medical Plaza (MOB I)	Owned	Bariatric Surgery Cancer Care Gastroenterology General Surgery Neurology Pulmonary and Sleep Medicine Cardiology Home Health	540 E. Jefferson St. Iowa City, IA 52245
Mercy Clinics				
Medical Office	Kalona	Owned	Family Medicine	503 3rd Street, Kalona, IA 52247
Medical Office	West Liberty	Owned	Family Medicine	1401 Crees Street, West Liberty, IA 52776
Medical Office	Williamsburg	Owned	Family Medicine	819 South Highland Street, Williamsburg, IA 52361
Medical Office	Mercy Services Tipton	Owned	Family Medicine	56 Cedar St, Tipton, IA 52772

Medical Office	Muscatine	Leased	Family Medicine	2104 Cedarwood Dr
Medical Office	Coralville	Leased	Pediatrics 1st Floor OB/GYN/Lab/Internal Med 2nd	2769 Heartland Dr
Medical Office	Coralville	Leased	Parking	2769 Heartland Dr
Medical Office	Iowa City	Leased	Family Practice Internal Medicine Occupational Health Basement	269 N 1st
Medical Office	Solon	Leased	Family Medicine	510 W Main St
Medical Office	West Branch	Leased	Family Medicine	206 Cookson Dr
Medical Office	Coralville	Leased	Family Medicine	2055 Oakdale Rd
Medical Office	Iowa City	Leased	Behavioral Health	1067 Ryan Ct
Medical Office	Iowa City	Leased	Urology	2943 Northgate Dr
Miscellaneous				
Parking - Parcel # 1010166009		Owned		North Dodge Street, Iowa City, IA 52245
Parking – Parcel #1010166008		Owned		E. Bloomington Street, Iowa City, IA 52245
Parking	Flat Lot	Owned		611 E. Market Street, Iowa City, IA 52245

Parking	Flat Lot	Owned		619 E. Market Street, Iowa City, IA 52245
Parking	Parking	Owned		127 North Dodge Street, Iowa City, IA 52245
Parking	Parking	Owned		209 North Dodge Street, Iowa City, IA 52245
Parking	Parking	Owned		629 E. Market Street, Iowa City, IA 52245
Lot - Parcel # 1010404003		Owned		North Dodge Street, Iowa City, IA 52245
Future parking bldg demolished in 2020		Owned		625 E. Market St, Iowa City, IA 52245
Future parking bldg demolished in 2019		Owned		603 E. Market St, Iowa City, IA 52245
Land – Parcel #0112126004		Owned		E. Rainbow Dr, West Liberty, IA 52776

Exhibit C

EXCLUDED SELLER FACILITIES

None.

Exhibit D

FORM OF BILL OF SALE

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and subject to the terms and conditions of that certain Asset Purchase Agreement dated as of [_____], 2023 (the "***Asset Purchase Agreement***") by and among Mercy Hospital, Iowa City, Iowa, an Iowa non-profit corporation ("***Mercy Hospital***"), Mercy Services Iowa City, Inc., an Iowa corporation ("Mercy ***Services***"), Mercy Iowa City ACO, LLC, an Iowa limited liability company ("***MIC ACO***" and collectively with Mercy Hospital and Mercy Services, "***Sellers***" and each, a "***Seller***") and State of Iowa, on behalf of the State University of Iowa ("***Buyer***" and, together with Sellers, the "***Parties***"), each Seller hereby unconditionally and irrevocably grants, bargains, transfers, sells, assigns, conveys, and delivers to Buyer, its successors and assigns forever, all of such Seller's rights, titles, and interests, in, to and under the Purchased Assets owned or leased by such Seller pursuant to this bill of sale, dated as of [•], 2023 (this "***Bill of Sale***") and subject to the terms of the Asset Purchase Agreement, free and clear of all Encumbrances other than Permitted Encumbrances, TO HAVE AND TO HOLD the Purchased Assets with all appurtenances thereto, effective at the Closing pursuant to the Asset Purchase Agreement.

A. Undefined capitalized terms herein are defined in the Asset Purchase Agreement.

B. Notwithstanding anything to the contrary contained herein, none of the Excluded Assets shall be included in the Purchased Assets.

C. This Bill of Sale shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns.

D. This Bill of Sale is being executed solely pursuant to the Asset Purchase Agreement to give effect to the transactions contemplated by the Asset Purchase Agreement. Nothing in this Bill of Sale, express or implied, is intended to or shall be construed to modify, expand or limit in any way the terms of the Asset Purchase Agreement. To the extent that any provisions of this Bill of Sale conflicts or is inconsistent with the terms of the Asset Purchase Agreement, the terms of the Asset Purchase Agreement shall govern.

E. Nothing in this Bill of Sale, express or implied, is intended or shall be construed to confer upon or give to, any person, firm or corporation other than Buyer and its successors and assigns any remedy or claim under or by reason of this instrument or any term, covenant or condition hereof, and all of the terms, covenants, conditions, promises and agreements in this instrument shall be for the sole and exclusive benefit of Buyer and its successors and assigns.

F. The provisions of ARTICLE IX of the Asset Purchase Agreement are hereby incorporated into this Bill of Sale, *mutatis mutandis*.

(Signature Page Follows)

IN WITNESS WHEREOF, this Bill of Sale is being executed and delivered by Sellers as of the date first written above.

SELLERS:

Mercy Hospital, Iowa City, Iowa

By:_____
Name:_____
Title: _____

Mercy Services Iowa City, Inc.

By:_____
Name:_____
Title: _____

Mercy Iowa City ACO, LLC

By:_____
Name:_____
Title: _____

BUYER:

State of Iowa, on behalf of the State University of Iowa

By:_____
Name:_____
Title:_____

Exhibit E

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement, dated as of [•], 2023 (this "***Agreement***"), is by and among Mercy Hospital, Iowa City, Iowa, an Iowa non-profit corporation ("***Mercy Hospital***"), Mercy Services Iowa City, Inc., an Iowa corporation ("Mercy ***Services***"), Mercy Iowa City ACO, LLC, an Iowa limited liability company ("***MIC ACO***" and collectively with Mercy Hospital and Mercy Services, "***Assignors***" and each, an "***Assignor***") and State of Iowa, on behalf of the State University of Iowa ("***Assignee***" and, together with Assignors, the "***Parties***").

RECITALS

A. Assignors and Assignee are parties to that certain Asset Purchase Agreement dated as of [_____], 2023 (the "***Asset Purchase Agreement***"), pursuant to which Assignee has agreed to purchase the Purchased Assets and assume the Assumed Liabilities on the terms and subject to the conditions of the Asset Purchase Agreement, including Sections 2.1 and 2.3 thereof; and

B. In accordance with the terms of the Asset Purchase Agreement, Assignors and Assignee have agreed to enter into this Agreement, providing for (a) Assignors' sale, conveyance, grant, assignment, transfer and delivery to Assignee of all of Assignors' right, title and interest in, under and to the Purchased Assets (including, without limitation, the Assumed Contracts), (b) Assignee's acceptance of such sale, conveyance, grant, assignment, transfer and delivery, and (c) Assignee's assumption of all of the Assumed Liabilities, in each case on the terms and subject to the conditions of the Asset Purchase Agreement.

AGREEMENT

The parties, intending to be legally bound, agree as follows:

1. Definitions. Undefined capitalized terms herein are defined in the Asset Purchase Agreement.

2. Assignment. Assignors hereby sell, convey, grant, assign, transfer and deliver to Assignee as of the date hereof, all of their right, title and interest in, under and to the Purchased Assets (including, without limitation, the Assumed Contracts) free and clear of all Encumbrances other than the Permitted Encumbrances in accordance with and subject to the terms and conditions of the Asset Purchase Agreement, effective at the Closing pursuant to the Asset Purchase Agreement (the "***Assignment***").

3. Acceptance and Assumption. Assignee hereby, effective at the Closing pursuant to the Asset Purchase Agreement, (a) purchases, acquires and accepts the sale, conveyance, grant, assignment, transfer and delivery of Assignors' right, title and interest in, under and to the Purchased Assets (including, without limitation, the Assumed Contracts) free and clear of all Encumbrances other than the Permitted Encumbrances, and (b) assumes and agrees to pay, perform and discharge when due, and shall be liable with respect to the Assumed Liabilities in accordance with and subject to the terms and conditions of the Asset Purchase Agreement. For the avoidance of doubt, Assignee does not, and will not by assumption of the Assumed Liabilities or acceptance of the Assignment, assume any Excluded Assets or Excluded Liabilities, all of which will remain the sole responsibility of Assignors as set forth in the Asset Purchase Agreement.

4. Parties in Interest. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

5. Terms of Asset Purchase Agreement. The scope, nature, and extent of the Assumed Liabilities are expressly set forth in the Asset Purchase Agreement. Nothing contained herein will itself change, amend, extend, or alter (nor should it be deemed or construed as changing, amending, extending, or altering) the terms or conditions of the Asset Purchase Agreement in any manner whatsoever. This instrument does not create or establish rights, liabilities or obligations not otherwise created or existing under or pursuant to the Asset Purchase Agreement. In the event of any conflict or inconsistency between the terms of the Asset Purchase Agreement and the terms of this Agreement, the terms of the Asset Purchase Agreement will govern.

6. Other Provisions. The provisions of ARTICLE IX of the Asset Purchase Agreement are hereby incorporated into this Agreement, *mutatis mutandis*.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

ASSIGNORS:

Mercy Hospital, Iowa City, Iowa

By:_____
Name:_____
Title: _____

Mercy Services Iowa City, Inc.

By:_____
Name:_____
Title: _____

Mercy Iowa City ACO, LLC

By:_____
Name:_____
Title: _____

ASSIGNEE:

State of Iowa, on behalf of the State University of Iowa

By:_____
Name:_____
Title:_____

Exhibit F

FORM OF LANDLORD ESTOPPEL

State of Iowa, on behalf of the State University of Iowa
[_____]
[_____]

_____ ___, 2023 (the "Effective Date")

Re: [Lease reference] (the "Lease") by and between _____ ("Landlord") and _____ ("Tenant") for the premises located at _____ (the "Premises").

To Whom It May Concern:

Landlord, having the power and authority to do so, hereby states, certifies and affirms to State of Iowa, on behalf of the State University of Iowa ("Buyer"), that the following statements are true, correct and complete as of the Effective Date:

1. The Lease contains the entire agreement between Landlord and Tenant with respect to the subject matter thereof, and has not been modified, amended, supplemented or superseded, except as specifically stated above.

2. The Lease is in full force and effect. There are no other agreements or understandings, whether written or oral, between Tenant and Landlord with respect to the Lease or the Premises.

3. Landlord is the fee owner of the Premises and no other person or entity has any ownership interest or rights, conditional or otherwise, in the fee interest in the Premises. The current address of the Premises is: _____.

4. No third party has any option or preferential right to purchase all or any part of the Premises or the fee interest in the Premises from Landlord.

5. Landlord has not assigned, conveyed, transferred, sold, encumbered or mortgaged its interest in the Premises, and there is no deed of trust, mortgage or other security instrument the foreclosure of which (or other exercise of rights pursuant thereto) would or could result in the termination of the Lease.

6. Landlord has not received written notice of any pending eminent domain proceedings or other governmental actions or any judicial actions of any kind against its interest in the Premises.

7. Landlord has received no written notice from any insurance company, fire underwriting bureau or from any federal, state or municipal agency, board, bureau or office requiring or recommending any repairs, replacements or alterations to the Premises.

8. No actions, whether voluntary or involuntary, are pending or threatened against, or contemplated by, Landlord under any bankruptcy, insolvency or similar laws of the United States or any state thereof.

9. To the best of Landlord's current actual knowledge (with no duty of investigation or inquiry whatsoever), both Tenant and Landlord have performed all of their respective obligations under the

Lease and Landlord has no current actual knowledge (with no duty of investigation or inquiry whatsoever) of any event which with the giving of notice, the passage of time or both would constitute a default under the Lease.

10. To the best of Landlord's knowledge, no disputes between Landlord and Tenant with respect to the Lease are presently pending. To the best of Landlord's knowledge, there are no defaults on behalf of Tenant, nor are there any defaults that with the passage of time would become known, except:_____.

11. The term of the Lease commenced on _____, and ends on _____. Tenant has ____ remaining options to extend the Lease term.

12. The current monthly Base Rent for the Premises is $_____, which has been paid through _____. The current monthly Additional Rent payments for the Premises is $_____, which has been paid through _____. The annual assessments payable by Tenant is $_____. Real estate taxes for the Premises are paid by [Landlord/Tenant] and are paid in full as of _____. The current monthly Ground Rent for the Premises is $_____, which has been paid through _____.

13. Landlord currently holds a Security Deposit under the Lease in the amount of $_____.

14. Use of the Premises by Buyer for medical office use will not violate the terms of the Lease or to the actual knowledge of Landlord, with no duty to investigate, any recorded instruments against the Premises.

15. The provisions of this Estoppel Certificate shall inure to the benefit of Buyer and their respective designee, successors and assigns. Landlord acknowledges that Buyer will act in reliance upon the truth and accuracy of the statements contained herein and that this Estoppel Certificate is delivered in connection with the purchase of certain interests in Tenant.

16. The undersigned is authorized to execute this Estoppel Certificate on behalf of Landlord.

IN WITNESS WHEREOF, Landlord has executed and delivered this Estoppel Certificate as of the Effective Date.

LANDLORD:

By:_____
Name:_____
Title:_____