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Debtors In Possession

8 **UNITED STATES BANKRUPTCY COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

10 In re  
11 VERITY HEALTH SYSTEM OF  
CALIFORNIA, INC., *et al.*,  
12 Debtors and Debtors In Possession.

Lead Case No. 2:18-bk-20151-ER

Jointly administered with:  
Case No. 2:18-bk-20162-ER;  
Case No. 2:18-bk-20163-ER;  
Case No. 2:18-bk-20164-ER;  
Case No. 2:18-bk-20165-ER;  
Case No. 2:18-bk-20167-ER;  
Case No. 2:18-bk-20168-ER;  
Case No. 2:18-bk-20169-ER;  
Case No. 2:18-bk-20171-ER;  
Case No. 2:18-bk-20172-ER;  
Case No. 2:18-bk-20173-ER;  
Case No. 2:18-bk-20175-ER;  
Case No. 2:18-bk-20176-ER;  
Case No. 2:18-bk-20178-ER;  
Case No. 2:18-bk-20179-ER;  
Case No. 2:18-bk-20180-ER;  
Case No. 2:18-bk-20181-ER;

- 13  Affects All Debtors
- 14  Affects O'Connor Hospital
- 15  Affects Saint Louise Regional Hospital
- 16  Affects St. Francis Medical Center
- 17  Affects St. Vincent Medical Center
- 18  Affects Seton Medical Center
- 19  Affects O'Connor Hospital Foundation
- 20  Affects Saint Louise Regional Hospital  
Foundation
- 21  Affects St. Francis Medical Center of Lynwood  
Foundation
- 22  Affects St. Vincent Foundation
- 23  Affects St. Vincent Dialysis Center, Inc.
- 24  Affects Seton Medical Center Foundation
- 25  Affects Verity Business Services
- 26  Affects Verity Medical Foundation
- 27  Affects Verity Holdings, LLC
- 28  Affects De Paul Ventures, LLC
- Affects De Paul Ventures - San Jose Dialysis,  
LLC

Chapter 11 Cases  
Hon. Judge Ernest M. Robles

**DEBTORS' EMERGENCY MOTION FOR THE ENTRY OF AN  
ORDER: (I) ENFORCING THE ORDER AUTHORIZING THE  
SALE TO STRATEGIC GLOBAL MANAGEMENT, INC;  
(II) FINDING THAT THE SALE IS FREE AND CLEAR OF  
CONDITIONS MATERIALLY DIFFERENT THAN THOSE  
APPROVED BY THE COURT; (III) FINDING THAT THE  
ATTORNEY GENERAL ABUSED HIS DISCRETION IN  
IMPOSING CONDITIONS ON THAT SALE; AND (IV)  
GRANTING RELATED RELIEF; MEMORANDUM OF POINTS  
AND AUTHORITIES AND DECLARATIONS IN SUPPORT  
THEREOF**

Hearing Date and Time:

Date: TBD  
Time: TBD  
Place: Courtroom 1568,  
255 E. Temple Street  
Los



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**EMERGENCY MOTION**

1  
2 Pursuant to Rule 9075-1 of the Local Bankruptcy Rules of the United States Bankruptcy  
3 Court for the Central District of California (the “LBR”), Rule 6004 of the Federal Rules of  
4 Bankruptcy Procedure (the “Bankruptcy Rules”), §§ 105, 362, 363, 525 of title 11 of the United  
5 States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”),<sup>1</sup> and 28 U.S.C. § 1334(e), Verity  
6 Health System Of California, Inc. (“VHS”) and the above-referenced affiliated debtors, the debtors  
7 and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11  
8 bankruptcy cases (the “Cases”), hereby move, on an emergency basis (the “Motion”), for the entry  
9 of an order: (i) enforcing this Court’s previous order [Docket No. 2306] authorizing the sale  
10 (“SGM Sale”) of the Debtors’ assets to Strategic Global Management, Inc. (“SGM”); and (ii)  
11 finding that the SGM Sale is free and clear of the conditions imposed by the California Attorney  
12 General (the “Attorney General”) that are materially different (the “Additional Conditions”) than  
13 the conditions in the asset purchase agreement (the “SGM APA”) [Docket No. 2305-1]; or,  
14 alternatively, (iii) finding that the Attorney General abused his discretion imposing the conditions  
15 under applicable nonbankruptcy law; and (iv) granting such other and further relief as the Court  
16 deems just and proper. The sale order approving the SGM Sale (the “Sale Order”), the conditions  
17 issued by the Attorney General (the “2019 Conditions”), the Additional Conditions, in redline  
18 format, and the SGM APA, are attached to the annexed Memorandum of Points and Authorities  
19 (the “Memorandum”) as Exhibits “A,” “B,” “C,” and “D,” respectively. Certain correspondence  
20 between the Debtors, SGM, and the Attorney General is attached to the Memorandum as Exhibit  
21 “E.”

22 The Debtors request that the relief sought be granted on an emergency basis because the  
23 Debtors will suffer immediate and irreparable harm without the relief requested in this Motion.  
24 Indeed, absent relief, the Debtors’ sale to SGM of its four remaining hospitals (collectively, the  
25 “Hospitals”) will collapse, which would result in the loss of access to critical healthcare in  
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1 underserved communities, the loss of thousands of jobs, and the loss of anticipated recoveries to  
2 creditors. Simply put, the Additional Conditions would unwind the heroic efforts of constituents  
3 who have diligently worked to maintain the Hospitals throughout these cases and spent countless  
4 hours and funds working with SGM to close the SGM Sale. Even a delay in the closing will  
5 significantly impact these Cases because the Debtors (i) are operating at a loss of approximately  
6 \$450,000 per day, imposing significant costs upon the estates and upon creditors, (ii) seek to  
7 confirm their plan of liquidation by the end of the year, and (iii) are required to meet the milestone  
8 under the cash collateral agreement that the Plan go effective in 2019 and have no alternative  
9 financing source.

10 The Additional Conditions threaten the SGM sale. The Additional Conditions trigger  
11 SGM's termination rights under the APA unless the Debtors obtain a supplemental order from this  
12 Court finding that the Additional Conditions are an "interest in property" for purposes of § 363(f),  
13 and that the Hospitals can be sold free and clear of the Additional Conditions without the  
14 imposition of any other conditions. *See* Exhibit "D," SGM APA, Section 8.6. SGM has repeatedly  
15 informed the Debtors and the Attorney General that the Additional Conditions are "deal killers."  
16 *See* Exhibit "E." To illustrate the magnitude of the economic impact of the Additional Conditions,  
17 *two* of the Additional Conditions alone would have the economic impact of increasing the effective  
18 purchase price by over 50 percent to nearly a billion dollars. The economic impact of compliance  
19 with the other Additional Conditions are in the tens of millions of dollars. In essence, the  
20 Additional Conditions would render the SGM APA and this Court's Sale Order meaningless. Such  
21 result is inconsistent with § 363, this Court's exclusive jurisdiction over property of the Debtors'  
22 estates, and fundamental purposes of the Bankruptcy Code.

23 The SGM APA specifically contemplates the Debtors will challenge promptly any  
24 conditions materially different from those to which SGM agreed. *See* Exhibit D, SGM APA §§

25 \_\_\_\_\_  
26 {continued from previous page}

27 <sup>1</sup> All references to "§" are to sections of the Bankruptcy Code; all references to "LBR" are to  
28 provisions of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central  
District of California.

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1 8.6, 9.3. Failure to challenge timely the imposition of Additional Conditions may result in  
2 termination of the SGM Sale. *Id.* The Debtors and SGM met with representatives of the Attorney  
3 General regularly to encourage imposition of conditions consistent with Schedule 8.6. *See* Adcock  
4 Dec. and Levy-Biehl Dec. Further, the Debtors negotiated vigorously with additional  
5 constituencies (including the Official Committee of Unsecured Creditors, the Pension Benefit  
6 Guaranty Corporation, and labor unions) to secure their support of the SGM Sale, which were  
7 provided to the Attorney General before the 2019 Conditions were issued. Nevertheless, the  
8 Attorney General has imposed conditions on the SGM Sale inconsistent with Schedule 8.6 after  
9 taking the maximum amount of time provided by statute to review the transaction and constituent  
10 input. *See* Exhibit “B.” Given the Attorney General’s long delay in reviewing the SGM Sale, the  
11 Debtors must challenge the Additional Conditions on an expedited basis to ensure that the SGM  
12 Sale closes, the Hospitals stay open to provide essential patient care, thousands of jobs are not lost  
13 and assets of the estates are preserved.

14 The Attorney General will not suffer prejudice if the Court grants this Motion for expedited  
15 relief. As noted above, the Attorney General considered the 2019 Conditions for 135 days prior to  
16 their issuance on September 25, 2019. During that time, the Debtors and SGM have made  
17 abundantly clear that any departure from the conditions in Schedule 8.6 to the SGM APA would  
18 threaten the SGM Sale. *See, e.g.,* Exhibit “E.” Further, the Attorney General is amply familiar  
19 with the issues raised herein, having briefed the same in several bankruptcy cases in this District,  
20 including in the Debtors’ Cases. *See* Docket No. 463; *In re Gardens Reg’l Hosp. & Med. Ctr., Inc.*,  
21 No. 2:16-bk-17463-ER, Doc. No. 752 (Bankr. C.D. Cal. Apr. 24, 2017); *In re Victor Valley Cmty.*  
22 *Hosp.*, No. 8:12-bk-12896-CB, Doc. No. 1804 (Bankr. C.D. Cal. Sept. 27, 2011). Accordingly, the  
23 Debtors respectfully request that the Court grant the Motion for an emergency hearing because the  
24 proposed expedited hearing will not prejudice the Attorney General and is in the best interests of  
25 the Debtors’ estates and creditors.

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1 I.

2 **SUMMARY OF REQUESTED RELIEF**

3 Concurrently herewith, the Debtors have filed a motion seeking the entry of an order:  
4 (i) enforcing this Court’s previous order [Docket No. 2306] authorizing the SGM Sale; and (ii)  
5 finding that the SGM Sale is free and clear of the Additional Conditions, pursuant to §§ 105, 362,  
6 363, and 525, and 28 U.S.C. § 1334(e); or, alternatively, (iii) finding that the Attorney General  
7 abused his discretion imposing the 2019 Conditions under applicable nonbankruptcy law; and (iv)  
8 granting such other and further relief as the Court deems just and proper.

9 The Motion is based upon §§ 105, 362, 363, and 525, 28 U.S.C. § 1334, Bankruptcy Rule  
10 6004, LBR 9075-1(a), California Corporations Code §§ 5914 *et seq.*, and the California Code of  
11 Regulations, title 11, § 999.5, the attached Memorandum of Points and Authorities, the *Declaration*  
12 *of Richard Adcock in Support of Emergency First-Day Motions* [Docket No. 8], the Declarations of  
13 Richard G. Adcock (the “Adcock Decl.”), Peter Baronoff (the “Baronoff Decl.”), Peter C.  
14 Chadwick (the “Chadwick Decl.”), and Hope R. Levy-Biehl (the “Levy-Biehl Decl.”) filed  
15 concurrently herewith, the arguments and statements of counsel to be made at the hearing on the  
16 Motion, and any other admissible evidence properly brought before the Court. The Debtors request  
17 that the Court take judicial notice of all documents filed with the Court in these Cases that relate to  
18 the SGM Sale and the prior sale of the hospitals to Santa Clara County, as appropriate, in support  
19 of the Motion.

20 II.

21 **RESPONSES**

22 Any party opposing or responding to the Motion may present such response (the  
23 “Response”) at any time before or at the hearing on the Motion. *See* LBR 9075-1(a)(8). A  
24 Response must be a complete written or oral statement of all reasons in opposition to the Motion or  
25 in support, declarations and copies of all evidence on which the responding party intends to rely,  
26 and any responding memorandum of points and authorities. Pursuant to LBR 9013-1(h), the failure  
27 to file and serve a timely objection to the Motion may be deemed by the Court to be consent to the  
28 relief requested herein.

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**III.**

**SERVICE OF MOTION**

Counsel to the Debtors will serve this Motion, the attached Memorandum of Points and Authorities, the Adcock Decl., the Baronoff Decl., the Chadwick Decl., Levy-Biehl Decl., and any notice required by the Court on: (i) the California Attorney General; (ii) the Official Committee of Unsecured Creditors; (iii) the Debtors' prepetition secured creditors; (iv) SGM; (iv) the Office of the United States Trustee; and (v) any other parties on the Limited Service List set forth in the *Order Granting Emergency Motion of Debtors for Order Limiting Scope of Notice* [Docket No. 132]. To the extent necessary, the Debtors request that the Court waive compliance with LBR 9075-1(a)(6) and approve service (in addition to the means of services set forth in such LBR) by overnight delivery.

**IV.**

**RESERVATION OF RIGHTS**

Nothing contained herein is intended or shall be construed as: (i) an admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; or (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder.

**V.**

**PRAYER**

WHEREFORE, for all the foregoing reasons and such additional reasons as may be advanced at or prior to the hearing regarding this Motion, the Debtors respectfully request that the Court hold a hearing on an emergency basis to consider the Debtors request for an order (i) finding that (a) the SGM Sale is free and clear of the Additional Conditions imposed by the Attorney General, or alternatively, (b) the Attorney General has abused his discretion in imposing the Additional Conditions, and (ii) granting such other and further relief as the Court deems just and proper.

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**MEMORANDUM OF POINTS AND AUTHORITIES**

1  
2 Verity Health System of California, Inc. (“VHS”) and the affiliated debtors, the debtors and  
3 debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 bankruptcy  
4 cases (the “Cases”), hereby move (the “Motion”) for the entry of an order: (i) enforcing this Court’s  
5 previous order [Docket No. 2306] (the “Sale Order”) authorizing the sale (“SGM Sale”) of the  
6 Debtors’ assets to Strategic Global Management, Inc. (“SGM”); and (ii) finding that the SGM Sale  
7 is free and clear of the conditions (the “2019 Conditions”) imposed by the California Attorney  
8 General (the “Attorney General”) that are materially different (the “Additional Conditions”) than  
9 the conditions in the asset purchase agreement (the “SGM APA”) [Docket No. 2305-1], pursuant to  
10 §§ 105, 362, 363, and 525 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the  
11 “Bankruptcy Code”) and 28 U.S.C. § 1334(e);<sup>1</sup> or, alternatively, (iii) finding that the Attorney  
12 General abused his discretion imposing the 2019 Conditions under applicable nonbankruptcy law;  
13 and (iv) granting such other and further relief as the Bankruptcy Court deems just and proper.

14 The Motion is based on the *Declaration of Richard Adcock in Support of Emergency First-*  
15 *Day Motions* [Docket No. 8] (the “First-Day Declaration”), the Declarations of Richard G. Adcock  
16 (the “Adcock Decl.”), Peter Baronoff (the “Baronoff Decl.”), Peter C. Chadwick (the “Chadwick  
17 Decl.”), and Hope R. Levy-Biehl (the “Levy-Biehl Decl.”) filed concurrently herewith, the  
18 arguments and statements of counsel to be made at the hearing on the Motion, the record in the  
19 Debtors’ Cases and any other judicially noticeable facts, and other admissible evidence properly  
20 brought before the Court. The Sale Order, the 2019 Conditions, the Additional Conditions, in  
21 redline format, and the SGM APA, are attached hereto as Exhibits “A,” “B,” “C,” and “D,”  
22 respectively. Certain correspondence between the Debtors, SGM, and the Attorney General is  
23 attached hereto as Exhibit “E.”

24 In further support of the Motion, the Debtors respectfully state as follows:  
25

26 <sup>1</sup> All references to “§” are to sections of the Bankruptcy Code; all references to “Bankruptcy  
27 Rules” are to provisions of the Federal Rules of Bankruptcy Practice; all references to “LBR”  
28 are to provisions of the Local Bankruptcy Rules of the United States Bankruptcy Court for the  
Central District of California.



I.

**INTRODUCTION**

Nearly five months after this Court entered the Sale Order authorizing the Debtors to sell their four remaining general acute care hospitals (the “Hospitals”) to SGM, the Attorney General issued the 2019 Conditions that effectively increase the purchase price in the SGM APA by over \$300 million. The imposition of the Additional Conditions in the 2019 Conditions would destroy the sale of the Hospitals to the only buyer willing to buy them, SGM, and would result in the loss of access to critical healthcare in underserved communities, the loss of thousands of jobs, and the loss of anticipated recoveries to creditors. The Debtors’ estates and their constituents have already borne operating losses of approximately \$450,000, per day, waiting for the Attorney General to issue his decision. Moreover, the Debtors, SGM and third parties have expended tremendous efforts to prepare for and close the SGM Sale in reliance on the Sale Order. These tireless efforts have taken a significant amount of time and resources and simply cannot be undone.

The Debtors are mindful that the Hospitals have struggled for decades and that the 2015 conditions imposed by the Attorney General (the “2015 Conditions”) locked the Hospitals into financial and operational obligations that made success impossible (the Debtors lost hundreds of millions of dollars since the 2015 Conditions were imposed). Chapter 11 presented the last and only viable option to save the Hospitals. The Attorney General cannot strip the Debtors of the protections afforded by the Bankruptcy Code, which is, in essence, the impact of the 2019 Conditions if they are enforced.

In addition to the fact that the imposition of the Additional Conditions would be devastating to patients, the communities the Hospitals serve, thousands of employees and stakeholders in these cases, the Additional Conditions cannot be upheld because they contravene the Bankruptcy Code, the Court’s jurisdiction, and fundamental purposes of the Bankruptcy Code.

Specifically, the Court should enforce the Sale Order and find that that the Debtors are authorized to the sell the Hospitals without imposition of the Additional Conditions because:

- *Section 363(f) authorizes the Court to sell the Debtors’ assets free and clear of the Additional Conditions which are an “interest in property;”*





1 3. As of the Petition Date, VHS, the Verity Hospitals, and their affiliated entities  
2 (collectively, “Verity Health System”) operated as a nonprofit health care system, with  
3 approximately 1,680 inpatient beds, six active emergency rooms, a trauma center, eleven medical  
4 office buildings, and a host of medical specialties, including tertiary and quaternary care. *See* First-  
5 Day Decl., at 4, ¶ 12. The scope of the services provided by the Verity Health System is  
6 exemplified by the fact that in 2017, the Verity Hospitals provided medical services to over 50,000  
7 inpatients and approximately 480,000 outpatients. *Id.*, at 4, ¶ 12.

8 4. Additional background facts on the Debtors, including an overview of the Debtors’  
9 business, information on the Debtors’ capital structure and additional events leading up to these  
10 chapter 11 Cases, are set forth in the First-Day Declaration.

11 5. On September 14, 2018, the Office of the United States Trustee appointed the  
12 Committee [Docket No. 197].

13 **B. The Daughters of Charity and the 2015 Conditions**

14 6. The Verity Hospitals were originally owned and operated by the Daughters of  
15 Charity of St. Vincent de Paul, Province of the West (the “Daughters of Charity”), to support the  
16 mission of the Catholic Church through a commitment to the sick and poor. The Daughters of  
17 Charity began their healthcare mission in California in 1858 with the opening of Los Angeles  
18 Infirmary, now known as SVMC. The Daughters of Charity expanded its hospitals to San Jose in  
19 1889 and San Francisco in 1893. The Daughters of Charity ministered to ill, poverty-stricken  
20 individuals for more than 150 years.

21 7. In June 2001, the Daughters of Charity Health System (“DCHS”) was formed. In  
22 2002, DCHS commenced operations and was the sole corporate member of the Verity Hospitals,  
23 which at that time were California nonprofit religious corporations.

24 8. Between 1995 and 2015, the Verity Hospitals incurred substantial operating losses.  
25 During that time period, Daughters of Charity and DCHS attempted to find a solution which would  
26 resolve the operating losses, either through a sale of some or all of the Verity Hospitals, or a merger  
27 with a more financially sound partner. In 2013, DCHS unsuccessfully solicited purchase offers for  
28 OCH, SLRH, and Seton.

1 9. Throughout 2014, DCHS explored offers to sell the system and, in October of 2014,  
2 entered into an agreement with Prime Healthcare Services and Prime Healthcare Foundation  
3 (collectively, “Prime”) to sell the health system. A condition of such sale was approval by the  
4 Attorney General.

5 10. In early 2015, the Attorney General consented to the sale to Prime, but subject to  
6 certain conditions, which, in Prime’s view, were so onerous that it could not proceed with the  
7 transaction. Accordingly, Prime terminated the transaction. The history of this failed transaction  
8 and the process for Attorney General review is more fully set forth in *Prime Healthcare Services,*  
9 *Inc., et al. v. Harris*, 216 F. Supp. 3d 1096, 1101-06 (S.D. Cal. 2016).

10 11. In 2015, DCHS again marketed the health system for sale, and, again, focused on  
11 offers that maintained the system as a whole, including the assumption of all existing obligations.  
12 In July 2015, the DCHS Board of Directors selected BlueMountain Capital Management LLC  
13 (“BlueMountain”), a private investment firm, to recapitalize its operations and transition leadership  
14 of the health system to the new Verity Health System (the “BlueMountain Transaction”).

15 12. In connection with the BlueMountain Transaction, the DCHS and its sole member,  
16 Daughters of Charity Ministry Services Corporation, certain funds managed by BlueMountain and  
17 Integrity Healthcare, LLC (a management company was formed to manage VHS for BlueMountain  
18 under a new management agreement) entered into a System Restructuring and Support Agreement  
19 (the “Restructuring Agreement”). Under the Restructuring Agreement, VHS and the Verity  
20 Hospitals were converted from religious corporations to public benefit corporations. BlueMountain  
21 agreed to make a capital infusion of \$100 million, arrange loans for another \$160 million to the  
22 system, and manage operations, with an option to buy the health system at a future time. DCHS’  
23 name was changed to Verity Health System.

24 13. On December 3, 2015, the Attorney General approved the BlueMountain  
25 Transaction, subject to the 2015 Conditions. The 2015 Conditions were imposed for periods  
26 ranging from 5 to 15 years. Generally, the terms of the 2015 Conditions included (i) transfers of  
27 control, (ii) maintenance of health services, (iii) required participation in Medicare and Medi-Cal  
28 programs, (iv) community benefit programs, (v) charity care levels, (vi) county contracts, (vii) local

1 governing boards, (viii) medical staff compliance, (ix) assumption of hundreds of millions of  
2 dollars of pension obligations, and (x) annual attestation of compliance.

3 14. In the 2015 Conditions, VHS was expressly required to make capital expenditures of  
4 at least \$180 million over 5 years, and to meet accelerated time lines for making the Verity  
5 Hospitals seismic compliant. Each hospital had specific requirements as to services that had to be  
6 maintained or even expanded. For example, SVMC was required to maintain an emergency room  
7 with eight stations, including six fast track stations, 19 acute rehab beds, and 30 ICU beds, among  
8 other things. It was also required to provide \$400,000 of charity care annually and provide  
9 community benefit programs of at least \$1 million annually. SVMC was required to maintain  
10 Medi-Cal contracts with LA Care Health Plan and various commercial plan contracts. All of the  
11 Verity Hospitals had similar obligations imposed.

12 15. Despite BlueMountain's infusion of cash and retention of various consultants and  
13 experts to assist in improving cash flow and operations, the health system continued to incur losses.  
14 It soon became apparent that the problems facing the Verity Health System were too large to solve  
15 without a formal court supervised restructuring.

16 **C. The Bankruptcy Cases**

17 16. The Debtors commenced these Cases to protect the original legacy of the Daughters  
18 of Charity to the maximum extent possible by retiring debt incurred over the past 18 years and  
19 selling the hospital facilities to enable the continued operation of the Verity Hospitals under new  
20 ownership and leadership free from the historical losses and operational uncertainties. The  
21 Debtors' strategy contemplated a Court-supervised sale of some or all of the Verity Hospitals, and  
22 related facilities, and a comprehensive resolution of the Debtors' financial obligations through a  
23 court approved plan of reorganization.

24 17. In June 2018, the Debtors engaged Cain Brothers, a division of KeyBanc Capital  
25 Markets ("Cain"), to identify potential buyers of some or all of the Verity Hospitals and related  
26 assets and commenced discussions with those potential buyers. Cain prepared a Confidential  
27 Investment Memorandum, organized an online data site to share information with potential buyers  
28 and contacted over 181 strategic and financial buyers beginning in July 2018 to solicit their interest

1 in exploring a transaction regarding the Verity Hospitals. As a result of its broad marketing  
2 process, Cain received sixteen indications of interest, or other proposals, and continued to develop  
3 potential sales of some or all of the Verity Hospitals.

4 18. At the commencement of the cases, the Debtors obtained court approval for a debtor  
5 in possession financing facility with up to \$185 million of availability from Ally Bank subject to a  
6 borrowing base (the “DIP Facility”). The DIP Facility was secured by substantially all of the  
7 Debtors’ assets and also provides for super priority administrative priority status for all obligations  
8 under the facility. The DIP financing enabled Debtors to operate the Verity Hospitals while they  
9 continued their efforts to find a purchaser for their assets and to reach agreements with key  
10 constituents. As discussed below, the Debtors have repaid their DIP financing obligations and are  
11 funding operations through the consensual use of cash collateral.

12 **D. The SCC Sale**

13 19. On December 27, 2018, the Bankruptcy Court entered the *Order (A) Authorizing the*  
14 *Sale of Certain of the Debtors’ Assets to Santa Clara County Free and Clear of Liens, Claims,*  
15 *Encumbrances, and Other Interests; (B) Approving the Assumption and Assignment of an*  
16 *Unexpired Lease Related Thereto; and (C) Granting Related Relief* [Docket No. 1153], approving a  
17 sale of OCH, SLRH, and related assets, to Santa Clara County (the “SCC Sale”).

18 20. The SCC Sale closed on February 28, 2019. After payment of certain cure costs,  
19 closing costs and other items, the net remaining proceeds were approximately \$184.38 million,  
20 which are held in four sale proceeds account. An additional \$23.35 million is held in escrow (the  
21 “Post-Closing Escrow”) by First American Title Insurance Company, the escrow agent. The Post-  
22 Closing Escrow was established pursuant to the terms of the SCC APA, as security for the Debtors’  
23 post-closing obligations and expires in February 2020.

24 21. The Attorney General vigorously opposed the SCC Sale, insisting that either the  
25 2015 Conditions applied to SCC or that the SCC Sale was subject to his review. This Court  
26 rejected both arguments, and overruled his objections. *See* Docket Nos. 1146, 1153. The Attorney  
27 General appealed, but voluntarily dismissed the appeal after the Debtors filed a motion to dismiss  
28

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1 as moot pursuant to § 363(m). *See* Case No. 2:19-cv-00133-DMG, Docket No. 40, 41 (C.D. Cal.  
2 Feb. 1, 2019).

3 **E. The SGM Sale**

4 22. On January 17, 2019, the Debtors filed the Debtors' *Notice Of Motion And Motion*  
5 *for the Entry of (I) an Order (1) Approving Form of Asset Purchase Agreement for Stalking Horse*  
6 *Bidder and For Prospective Overbidders to Use, (2) Approving Auction Sale Format, Bidding*  
7 *Procedures and Stalking Horse Bid Protections, (3) Approving Form of Notice to be Provided to*  
8 *Interested Parties, (4) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest*  
9 *Bidder and (5) Approving Procedures Related to the Assumption of Certain Executory Contracts*  
10 *and Unexpired Leases; and (II) an Order (A) Authorizing the Sale of Property Free and Clear of*  
11 *All Claims, Liens and Encumbrances* (the "Sale and Bidding Procedures Motion") [Docket No.  
12 1279].

13 23. On February 19, 2019, the Court held a hearing on the Sale and Bidding Procedures  
14 Motion and thereafter entered an order approving the Sale and Bidding Procedures Motion (the  
15 "Bidding Procedures Order") [Docket No. 1572]. SGM served as the Stalking Horse Bidder under  
16 the terms of the Bidding Procedures Order. The Bidding Procedures Order also approved the SGM  
17 APA as modified therein.

18 24. There were two "Qualified Bidders" (as defined in the Bidding Procedures Order)  
19 for partial bids for different Hospitals (one for SVMC and one for SFMC) and no Qualified Full  
20 Bid. After consultation with the Consultation Parties as defined in the Bidding Procedures Order,  
21 the Debtors determined to not conduct either a Partial Bid of Full Bid auction, as set forth in the  
22 *Notice That No Auction Shall Be Held Re Debtors' Motion and Motion for the Entry of (I) An*  
23 *Order (1) Approving Form of Asset Purchase Agreement for Stalking Horse Bidder and for*  
24 *Prospective Overbidders; (2) Approving Auction Sale Format, Bidding Procedures and Stalking*  
25 *Horse Bid Protections; (3) Approving Form of Notice to Be Provided to Interested Parties; (4)*  
26 *Scheduling a Court Hearing to Consider Approval of the Sale to the Highest Bidder; and (5)*  
27 *Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired*  
28 *Leases; and (II) an Order (A) Authorizing the Sale of Property Free and Clear of All Claims, Liens*



1 *and Encumbrances* [Docket No. 2053] (the “No-Auction Notice”) filed by the Debtors on April 4,  
2 2019.

3 25. Accordingly, under the terms of the SGM APA and the Bidding Procedures Order,  
4 no auction was held and the Debtors declared SGM as the “winning bidder” of the Hospitals. No-  
5 Auction Notice at 2.

6 26. On May 2, 2019, the Bankruptcy Court entered the *Order (A) Authorizing The Sale*  
7 *Of Certain Of The Debtors' Assets To Strategic Global Management, Inc. free And Clear Of Liens,*  
8 *Claims, Encumbrances, And Other Interests; (B) Approving The Assumption And Assignment Of*  
9 *An Unexpired Lease Related Thereto; And (C) Granting Related Relief* [Docket No. 2306] (the  
10 “Sale Order”), approving the SGM Sale. The closing of the SGM Sale is subject to review by the  
11 Attorney General and satisfaction of certain other closing conditions. The Debtors expect the SGM  
12 Sale to close in the fourth quarter of 2019.

13 27. SGM has agreed to continue to operate the Hospitals and abide by the vast majority  
14 of the 2015 Conditions, as set forth in Schedule 8.6 to the SGM APA.

15 28. Section 8.6 of the SGM APA is titled: “Attorney General Provisions.” It provides  
16 the following:

17 Purchaser recognizes that the transactions contemplated by this  
18 Agreement may be subject to review and approval of the CA AG.  
19 Purchaser agrees to close the transactions contemplated by this  
20 Agreement so long as any conditions imposed by the CA AG are  
21 substantially consistent with the conditions set forth, as Purchaser  
22 Approved Conditions, in Schedule 8.6. In the event the CA AG  
23 imposes conditions on the transactions contemplated by this  
24 Agreement, or on Purchaser in connection therewith, which are  
25 materially different than the Purchaser Approved Conditions set  
26 forth on Schedule 8.6 (the “Additional Conditions”), Sellers shall  
27 have the opportunity to file a motion with the Bankruptcy Court  
28 seeking the entry of an order (“Supplemental Sale Order”) finding  
that the Additional Conditions are an “interest in property” for  
purposes of 11 U.S.C. § 363(f), and that the Assets can be sold free  
and clear of the Additional Conditions without the imposition of any  
other conditions, which would adversely affect the Purchaser. For  
purposes of this Section 8.6, Additional Conditions which  
individually or collectively impose a direct or indirect cost to  
Purchaser of \$5 million, or more, shall be conclusively deemed to be  
“materially different.” If Sellers determine not to seek such

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1 Supplemental Sale Order, or fail to obtain such Supplemental Sale  
2 Order within 60 days of the Attorney General’s imposition of  
3 Additional Conditions, Purchaser shall be entitled to terminate this  
4 Agreement and receive the return of its Good Faith Deposit. If  
5 Sellers timely obtain such Supplemental Sale Order from the  
6 Bankruptcy Court or another court, Purchaser shall have a period of  
7 21 business days from the entry of such order (the “Evaluation  
8 Period”) to determine, in the exercise of the Purchaser’s reasonable  
9 business judgment and in consultation with Purchaser’s financing  
10 sources, whether to proceed to consummate the transactions  
11 contemplated by this Agreement; provided, however, (i) Purchaser  
12 shall not terminate or provide notice of termination of the Stalking  
13 Horse APA based on the Seller’s failure to satisfy the condition set  
14 forth under this Section 8.6 until the expiration of the Evaluation  
15 Period as may be extended herein, and (ii) the Evaluation Period  
16 may be extended by the Debtors, in consultation with the  
17 Consultation Parties, by up to 90 days for any appeal properly  
18 perfected with respect to the Supplemental Sale Order (the  
19 “Extended Evaluation Periods”). For the avoidance of doubt, if the  
20 Debtors or any of the Consultation Parties dispute the reasonableness  
21 of the exercise of the Purchaser’s business judgment, such dispute  
22 shall be determined by the Bankruptcy Court only in the context of  
23 an adversary proceeding. If, at the conclusion of the Extended  
24 Evaluation Periods, such Supplemental Sale Order has not become a  
25 final, non-appealable order and Purchaser determines not to proceed,  
26 Purchaser shall have the right within ten (10) business days after the  
27 conclusion of the Extended Evaluation Periods to terminate this  
28 Agreement and receive the return of its Good Faith Deposit. Sellers  
shall provide Purchaser with prompt written notice of the conclusion  
of the Extended Evaluation Periods and whether the Supplemental  
Sale Order has become a final, non-appealable order. For purposes  
of this Section 8.6, “a final, non-appealable order” shall include a  
Supplemental Sale Order (i) which has been affirmed or the appeal  
of which has been dismissed by any appellate court and for which  
the relevant appeal period has expired (other than any right of appeal  
to the U.S. Supreme Court), or (ii) which has been withdrawn by the  
appellant. If the Supplemental Sale Order becomes a final, non-  
appealable order prior to the expiration of the Evaluation Period or,  
if applicable, the Extended Evaluation Periods, Purchaser shall  
consummate the Sale provided that all other conditions to closing  
have been satisfied. During any Evaluation Period or Extended  
Evaluation Periods, Purchaser shall reasonably cooperate in any  
efforts to render the Supplemental Sale Order a final, non-appealable  
order, including timely taking reasonable steps in preparation for  
closing of the transactions described in this Agreement; provided,  
however, Purchaser shall not be obligated to expend more than  
\$500,000. For the avoidance of doubt, neither this provision, nor any  
of the rights granted to the Purchaser herein, shall constitute a waiver

1 of any party in interest's right to argue that any appeal from the Sale  
2 Order should be dismissed on statutory, Constitutional or equitable  
mootness grounds."

3 **F. The Debtors and SGM Have Expended Substantial Time and Resources to Close the**  
4 **SGM Sale**

5 29. As discussed above, SGM and third parties have expended tremendous efforts to  
6 prepare for and close the SGM Sale in reliance on the Sale Order. These tireless efforts have taken  
7 a significant amount of time and resources and simply cannot be undone. By way of example: (i)  
8 the Debtors sent "WARN notices" to approximately 4,900 employees, pursuant to the federal  
9 Worker Adjustment and Retraining Notification Act of 1988; (ii) thousands of counterparties to  
10 executory contracts and unexpired leases, including physicians, have relied on the Sale Order and  
11 continued to provide services in reliance on the finality of that Sale Order; (iii) the Debtors and  
12 SGM have spent months facilitating an efficient close of the sale, with approximately 20 different  
13 workstreams, meeting at least weekly to ensure a smooth transition of operations; (iv) government  
14 agency personnel, including the California Department of Public Health and the Board of  
15 Pharmacy, have been diligently processing SGM's change of ownership applications for licenses  
16 and permits in reliance on the finality of the Sale Order; (v) the Debtors, SGM, and each of the  
17 Debtors' six unions spent months successfully negotiating and finalizing modified collective  
18 bargaining agreements; (vi) the medical groups affiliated with the Debtors have sent termination  
19 notices to their remaining physicians; (vii) the Debtors and SGM have coordinated changes in  
20 insurance coverages and insurance policies to ensure seamless coverage for employees and  
21 patients, and (viii) the Debtors have created plans to shut off certain services after the close of the  
22 SGM Sale. *See* Adcock Decl. ¶ 7.

23 **G. The Debtors' Cash Collateral Agreement**

24 30. On September 6, 2019, the Court entered the *Final Order (A) Authorizing Continued*  
25 *Use of Cash Collateral, (B) Granting Adequate Protection, (C) Modifying Automatic Stay, and (D)*  
26 *Granting Related Relief* [Docket No. 3022] (the "Supplemental Cash Collateral Order") granting  
27 the Debtors motion for use of cash collateral [Docket No. 2962, 2968] (the "Supplemental Cash  
28 Collateral Motion"). The Supplemental Cash Collateral Order authorized the Debtors' consensual

1 use of cash collateral pursuant to an agreement with certain of its secured lenders (the “Cash  
2 Collateral Agreement”). Pursuant to the Cash Collateral Agreement, the Debtors are obligated to  
3 meet certain milestones, including plan confirmation by December 15, 2019 and a plan effective  
4 date on or before December 31, 2019. *See* Supp. Cash Collateral Mot. at 24. Further, termination  
5 of the SGM APA would result in an event of default under the Cash Collateral Agreement. *See id.*  
6 In each case, the success of the SGM Sale bears directly on the Debtors’ ability to fund operations  
7 and timely meet its plan confirmation milestones.

8 **H. The Debtors’ Plan and Confirmation Timeline**

9 31. On September 3, 2019, the Debtors filed the *Debtors’ Chapter 11 Plan of*  
10 *Liquidation (Dated September 3, 2019* [Docket No. 2993] (the “Plan”) and their related disclosure  
11 statement [Docket No. 2994] (the “Disclosure Statement”). As more fully described in the  
12 Disclosure Statement and below, the Debtors’ Plan provides for deemed consolidation of the  
13 Debtors for purposes of implementation of the Plan and the distribution of the proceeds of the two  
14 sale transactions in accordance with the Bankruptcy Code’s distribution and classification  
15 provisions. Such treatment is supported by the facts of these cases and applicable law.

16 **I. The Attorney General Review Process**

17 32. For years, the Debtors engaged in dialogue with the Attorney General about the  
18 Debtors’ financial challenges and the future of the Hospitals, including, for example, a July 2018  
19 meeting in anticipation of the Debtors’ bankruptcy filings conducted by the Debtors’  
20 representatives and Deputy Attorney General Wendi Horwitz. *See* Levy-Biehl Decl. ¶ 3.

21 33. On February 15, 2019, the Debtors’ representatives met with Attorney General  
22 Xavier Becerra and Melanie Fontes Rainer, Special Assistant Attorney General, in Sacramento to  
23 discuss the pending SCC Sale and the forthcoming auction and sale of the Hospitals. *See* Levy-  
24 Biehl Decl. ¶ 5.

25 34. Beginning in early April 2019, the Debtors’ special healthcare regulatory counsel,  
26 Nelson Hardiman LLP, engaged with Deputy Attorney General Scott Chan in anticipation of  
27 submitting a notice and requesting approval of the SGM Sale. These discussions and exchanges  
28 were regular and ongoing, and addressed, among other things, the substantive and procedural

1 requirements for the submission and review as well as the review timeline. At all times, the  
2 Debtors consistently requested an expedited review of the submission in light of their significant  
3 operating losses and cash flow challenges. *See Levy-Biehl Decl.* ¶ 7.

4 35. By letter dated May 7, 2019, the Debtors provided notice to, and requested written  
5 consent from, the Attorney General for the proposed SGM Sale pursuant to California Corporations  
6 Code § 5914 and title 11 of the California Code of Regulations, § 999.5. *See Levy-Biehl Decl.* ¶¶  
7 7, 8. On May 13, 2019, the Debtors supplemented their submission to the Attorney General, by  
8 including the filing made to the Federal Trade Commission pursuant to the Hart-Scott-Rodino  
9 Antitrust Improvements Act of 1976, as amended. *See Levy-Biehl Decl.* ¶ 9.

10 36. As outlined in the submission to the Attorney General—and discussed a number of  
11 times in writing, in person, and by email with various representatives of the Attorney General—the  
12 SGM Sale is critical. *Id.* at 8. The Debtors explained to the Attorney General that the SGM Sale is  
13 the only option to ensure that the Hospitals will survive their current financial challenges and be  
14 preserved as providers of essential health care services to their communities. *Id.*; *see also Notice of*  
15 *Submission of Debtors' Response to the Health Care Impact Statements and Conditions Proposed*  
16 *by JD Healthcare, Inc.* [Docket No. 2946].

17 37. The Debtors also explained to the Attorney General that (i) the 2015 Conditions  
18 accelerated the demise of the Verity Hospitals to the point that that only a Court supervised  
19 restructuring could save them, and (ii) conditions materially different than those in Schedule 8.6  
20 would ensure closure of the Hospitals. *See Adcock Decl.* ¶ 15; *see also Notice of Submission of*  
21 *Debtors' Response to the Health Care Impact Statements and Conditions Proposed by JD*  
22 *Healthcare, Inc.* [Docket No. 2946].

23 38. Throughout the process, the Debtors' representatives engaged in ongoing  
24 discussions with the Attorney General's office, and requested, among other things, an in-person  
25 meeting to review the submission, the transaction, and the expedited processing of the submission.  
26 *See Levy-Biehl Decl.* ¶ 10. The Attorney General denied these requests. *Id.*

27 39. The Attorney General's expert, JD Healthcare, conducted interviews with the  
28 Debtors' corporate and hospital personnel and other stakeholders in July 2019. *See Levy-Biehl*

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1 Decl. ¶ 11. On August 16, 2019, following these interviews and public hearings, JD Healthcare  
2 released its Health Care Impact Statements on the proposed sale of SFMC and SVMC. *Id.* On  
3 August 19, 2019, JD Healthcare released its Health Care Impact Statement for Seton. *Id.* The  
4 Health Care Impact Statements set forth the expert’s proposed conditions on the SGM Sale.

5 40. On August 16, 2019, the Attorney General requested that the Debtors and SGM  
6 submit responses to the proposed conditions detailing the conditions that were “deal breakers” to  
7 the SGM Sale. On August 21, 2019, SGM submitted its response to the Health Care Impact  
8 Statements. On August 23, 2019, the Debtors submitted their response. *See* correspondence  
9 attached hereto as Exhibit “E.”

10 41. During the week of August 26, 2019, Deputy Attorney General Scott Chan held  
11 public hearings at each of the Hospitals to solicit comments regarding the SGM Sale. *See* Adcock  
12 Decl. ¶ 12. At each public meeting, representatives of SGM and the Debtors made public  
13 statements detailing the economic impact of the conditions proposed by JD Healthcare and the  
14 economic situation confronting each Hospital; urging the Attorney General to consider economic  
15 factors when issuing his conditions; and reiterating that any conditions exceeding those in Schedule  
16 8.6 of the SGM APA could result in the termination of the SGM Sale and the closure of the  
17 Hospitals. *Id.*; *see also* Levy-Biehl Decl. ¶ 13.

18 42. On September 6, 2019, the Attorney General’s office met with SGM representatives  
19 to discuss the proposed SGM Sale and the proposed conditions. *See* Levy-Biehl Decl. ¶ 14. On  
20 September 19, 2019, the Attorney General’s office met with representatives of SGM and the  
21 Debtors for the same purpose. *Id.* On September 23, 2019, the Attorney General conducted  
22 another telephonic meeting with SGM and the Debtors. During each meeting, SGM consistently  
23 informed the Attorney General’s office that SGM would not proceed with the transaction if the  
24 Attorney General imposed conditions beyond those SGM agreed to accept in Schedule 8.6. *Id.*

25 **J. The 2019 Attorney General Conditions**

26 43. On September 25, 2019, the Attorney General conditionally consented to the SGM  
27 Sale. The Attorney General’s conditional consent is subject to the 2019 Conditions. *See* Exhibit  
28 “B.” The 2019 Conditions include numerous Additional Conditions that are materially different

1 than those SGM contractually agreed to in Schedule 8.6. *See* Exhibit “C,” which is a redline  
2 reflecting the deletion of the conditions in the 2019 Conditions that are materially different than the  
3 conditions in Schedule 8.6; *see also* Baronoff, Decl. ¶ 7.

4 44. The 2019 Conditions require, among other things, that SGM continue to operate the  
5 Hospitals and maintain various services, clinics and contractual arrangements for a period of time  
6 greater than the period of time that Debtors would have been obligated under the 2015 Conditions  
7 if the Debtors had the ability to continue to operate the Hospitals. *See* Adcock, Decl. ¶ 9. The  
8 2019 Conditions are also materially different than those to which SGM agreed in Schedule 8.6  
9 because the Additional Conditions impose, among other things, greater requirements for charity  
10 care expenditures, community benefit expenditures, capital expenditures, and do not account for the  
11 substantial shift in charity care needs following the implementation of the Affordable Care Act.  
12 *Id.*; *see also* Exhibit “C.”

13 45. Importantly, SGM only agreed to close the SGM Sale if the conditions imposed by  
14 the Attorney General’s office were not “materially different” than the conditions SGM agreed to in  
15 Section 8.6. *See* APA, Section 8.6, at 32, 33, Docket No. 2305-1; *see also* *See* Baronoff, Decl. ¶ 5.  
16 Additionally, SGM has repeatedly told the Debtors that multiple lenders have informed SGM that  
17 they would not agree to finance the SGM Sale if the conditions were not consistent with Schedule  
18 8.6, which makes the SGM Sale nearly impossible to close. *See* Adcock, Decl. ¶ 16.

19 46. To avoid the impact of the Additional Conditions on the SGM Sale, the Debtors  
20 must seek an order enforcing the Sale Order, finding that the SGM Sale is free and clear of the  
21 2019 Conditions, and limiting the SGM Sale to only those conditions to which SGM contractually  
22 agreed to assumed in Schedule 8.6 of the SGM APA.

23 **K. The Economic Impact of the Additional Conditions**

24 47. The Additional Conditions have a significant impact on the economic viability of  
25 the Hospitals and effectively increase, by more than 50%, the purchase price in the SGM APA. By  
26 way of example only, the 2019 Conditions would require SVMC to remain operated and  
27 maintained as a licensed general acute care hospital (as defined in California Health and Safety  
28 Code Section 1250) through December 2024, whereas Schedule 8.6 provides that SVMC will do so

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1 through December 2020. The reported Financial Statements of SVMC reflect that, in fiscal year  
2 2019 (ended June 30, 2019), SVMC lost approximately \$65 million which was an 18% and 103%  
3 increase over the fiscal years 2018 and 2017, respectively. *See* Chadwick Decl., at ¶ 6. Assuming  
4 operating losses at SVMC can be maintained at fiscal 2019 levels (a highly optimistic assumption),  
5 SGM would likely incur additional estimated losses totaling \$260 million through December 2024  
6 because of the Additional Conditions. *Id.* Moreover, the \$260 million loss would likely need to be  
7 financed. *Id.* Using an average interest rate of 5% for four years of debt service would result in  
8 estimated incremental financing charges totaling approximately \$25 million. *Id.* Accordingly, this  
9 2019 Condition alone would place a potential burden on the buyer of at least \$285 million beyond  
10 that contemplated in Section 8.6.

11 48. The Charity Care requirement presents another example of the significant economic  
12 impact of the 2019 Conditions when compared with Schedule 8.6. The 2019 Conditions require  
13 that SGM to provide an annual amount of Charity Care at St. Francis equal to or greater than  
14 \$12,793,435 for a period of six fiscal years, which is at least \$4,793,435, per year more than SGM  
15 has agreed to provide, pursuant to Section 8.6 for a period of seven years.<sup>2</sup> *See* Chadwick Decl. ¶  
16 7; *see also* 2019 Conditions, Exhibit “B.” After adjusting for the one-year shorter required duration  
17 of this 2019 Condition, the estimated incremental cost to the buyer would be nearly \$20 million in  
18 total over the six years. *See* Chadwick Decl. ¶ 7. The 2019 Conditions provide for additional  
19 increases in Charity Care amounts for St. Vincent and Seton, as well as increases across all four  
20 Hospitals in Community Benefit Service amounts. *Id.*

21 49. In summary, the total financial impact of just the these two examples of 2019  
22 Conditions would require SGM to incur additional losses of approximately \$305 million beyond  
23 those contemplated by Schedule 8.6. *See* Chadwick Decl. ¶¶ 8, 9. When compared to the SGM  
24 APA purchase price of \$610 million, these represent a 50% increase in the price for the sale of  
25

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26 <sup>2</sup> The Charity Care Condition imposed by the Attorney General is also \$6.4 million dollars *more*  
27 than SFMC provided in Fiscal Year 2019. Thus, the Attorney General is actually requiring an  
28 increase in charity care being provided by SFMC.



1 these distressed assets. *Id.* The magnitude of these losses calls into question the viability of the  
2 acquisition.

3 50. The imposition of the Additional Conditions would result in the termination of the  
4 SGM Sale, unless the Debtors obtain the supplemental order required in Section 8.6 of the APA.  
5 *See* Baronoff, Decl. ¶ 7. If the SGM Sale does not close, the most likely outcome is that at least  
6 three of the Hospitals will have to close. *See* Adcock, Decl. ¶ 9. Altogether, between July 1, 2018  
7 and June 30, 2019, the Hospitals had more than 34,000 inpatient admissions and 312,000 outpatient  
8 visits. *Id.* If the Hospitals are closed, all of those patients would be forced to find alternative  
9 providers for treatment, perhaps at greater distances than they are now required to travel for  
10 treatment at the Hospitals. For example, Seton Coastsides is the only emergency room facility on  
11 the Pacific Coast between Daly City and Santa Cruz. *Id.* Additionally, Seton Coastsides has 116  
12 skilled nursing facility (“SNF”) beds and, if Seton Coastsides were closed, those residents would be  
13 forced to be relocated significant distances to find alternative facilities. *Id.* The risk of negative  
14 outcomes for emergency room patients increases as the distance, and therefore the time, required to  
15 obtain treatment, increases. In addition to the difficulty in finding alternative facilities for the SNF  
16 patients, the impact of transfer trauma on this population could be significant. *Id.*

17 **IV.**

18 **ARGUMENT**

19 **A. THE SALE ORDER EFFECTUATED A SALE OF THE DEBTORS’ ASSETS FREE  
20 AND CLEAR OF THE ADDITIONAL CONDITIONS**

21 **1. Section 363 Authorizes the Court to Sell the Debtors’ Assets Free and Clear of  
22 Interests**

23 The Court authorized the Debtors to sell assets to SGM pursuant to §§ 363(b) and (f).  
24 Section 363(b)(1) provides that the Debtors “may use, sell, or lease, other than in the ordinary  
25 course of business, property of the estate.” 11 U.S.C. § 363(b)(1). The Bankruptcy Code provides  
26 that a sale pursuant to § 363(b)(1) must satisfy one of five alternative tests to be “free and clear of  
any interest in such property of an entity other than the estate”:

- 27 (1) applicable nonbankruptcy law permits sale of such property free  
and clear of such interest;  
28 (2) such entity consents;

- 1 (3) such interest is a lien and the price at which such property is to  
2 be sold is greater than the aggregate value of all liens on such  
3 property;  
4 (4) such interest is in bona fide dispute; or  
5 (5) such entity could be compelled, in a legal or equitable  
6 proceeding, to accept a money satisfaction of such interest.

7 11 U.S.C. § 363(f).

8 Here, the Sale Order expressly provides that the SGM Sale was approved “free and clear of  
9 all liens, claims, interests, rights of setoff, recoupment, netting and deductions, rights of first offer,  
10 first refusal and any other similar contractual property, legal or equitable rights and any successor  
11 or successor-in-interest liability theories” pursuant to §§ 363(b) and (f). *See* Sale Order, ¶ G at 7.  
12 On this basis, and as set forth more fully below, the Sale Order effectuated the SGM Sale free and  
13 clear of the Additional Conditions.

14 **2. The Additional Conditions Constitute an Interest in Property Subject to the**  
15 **“Free and Clear” Language in Section 363**

16 **a. Case Law Makes Clear That The Debtors Can Sell Their Hospitals Free**  
17 **And Clear Of “Interest In Property.”**

18 The Bankruptcy Code does not define “interest in property” as that term is used in § 363(f).  
19 *See, e.g., Precision Indus., Inc. v. Qualitech Steel SBQ, LLC*, 327 F.3d 537, 545 (7th Cir. 2003)  
20 (“The Bankruptcy Code does not define ‘any interest,’ and in the course of applying section 363(f)  
21 to a wide variety of rights and obligations related to estate property, courts have been unable to  
22 formulate a precise definition.”). The majority of courts interpret the phrase “interest in property”  
23 broadly to include both *in rem* interests in property as well as “other obligations that may flow from  
24 ownership of the property.” *Folger Adam Sec., Inc. v. DeMatteis v. MacGregor JV*, 209 F.3d 252,  
25 258 (3d Cir. 2000); *see also In re Leckie Smokeless Coal Co.*, 99 F.3d 573, 582 (4th Cir. 1996)  
26 (“Congress did not expressly indicate that . . . it intended to limit the scope of section 363(f) to *in*  
27 *rem* interests, strictly defined, and we decline to adopt such a restricted reading of the statute  
28 here.”).

29 The majority of courts have coalesced around a single approach: interests in property are  
30 obligations connected to or arising from the property being sold. *See, e.g., In re Trans World*  
31 *Airlines, Inc.*, 322 F.3d 283, 290 (3d Cir. 2003) (finding that “interests in property [are] within the

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1 meaning of section 363(f) in the sense that they *arise from the property being sold*)” (emphasis  
2 added); *Leckie Smokeless Coal Co.*, 99 F.3d at 582 (finding that certain claims constituted  
3 “interests in . . . assets within the meaning of section 363(f)” where there was “a relationship  
4 between (1) the Fund’s and Plan’s rights to demand premium payments from Appellees and (2) the  
5 *use to which Appellees put their assets*”) (emphasis added); *Folger Adam Sec., Inc.*, 209 F.3d at  
6 259 (“[A]ny interest’ is intended to refer to *obligations that are connected to, or arise from, the*  
7 *property being sold.*”) (emphasis added); *Indiana State Police Pension Trust v. Chrysler LLC (In re*  
8 *Chrysler LLC)*, 576 F.3d 108, 124 (2d Cir. 2009), *granting cert. and vacating as moot*, 558 U.S.  
9 1087 (2009) (“We agree with *TWA* and *Leckie* that the term any interest in property encompasses  
10 those *claims that arise from the property being sold.*”) (emphasis added) (quotations omitted);  
11 *Precision Indus., Inc.*, 327 F.3d at 545 (“the term ‘any interest’ as used in section 363(f) is  
12 sufficiently broad to include Precision’s possessory interest as a lessee”); *Myers v. U.S.*, 297 B.R.  
13 774, 781 (S.D. Cal. 2003) (“The court finds that Plaintiff’s claim for personal injury does *arise*  
14 *from the property being sold*, i.e. the contracts to transport toxic materials.”) (emphasis added); *In*  
15 *re Grumman Olson Indus., Inc.*, 467 B.R. 694, 702 (S.D.N.Y. 2012) (“[I]t is now generally  
16 agreed—including in this Circuit—that this provision may more broadly extinguish claims that  
17 ‘arise from the property being sold.’”).<sup>3</sup>

18 The Fourth Circuit decision in *Leckie Smokeless Coal Co.* is instructive. In *Leckie*, the  
19 debtors—coal mine operators—were obligated to contribute to retiree benefit plans pursuant to the

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21 <sup>3</sup> The breadth of case law supporting this construction cannot be understated. *See also In re La*  
22 *Paloma Generating Co.*, No. 16-12700, 2017 WL 5197116, \*4 (Bankr. D. Del. Nov. 9, 2017)  
23 (holding that emission surrender obligations under California law are an interest in property); *In*  
24 *re Vista Marketing Group Ltd.*, 557 B.R. 630 (Bankr. N.D. Ill. 2016) (fee surcharge assessed  
25 against purchaser but calculated entirely on debtor’s use of sewer facilities was an interest in  
26 property); *United Mine Workers of Am. Combined Benefit Fund v. Walter Energy, Inc.*, 551  
27 B.R. 631, 641 (N.D. Ala. 2016) (Coal Act obligations imposed on buyer were interests in  
28 property); *In re Christ Hospital*, 502 B.R. 158 (Bankr. D.N.J. 2013) (tort claims asserted  
against purchaser of nonprofit hospital were interests in property); *WBQ P’ship v. Va. Dep’t of*  
*Med. Assistance Servs. (In re WBQ P’ship)*, 189 B.R. 97, 104–05 (Bankr. E.D. Va. 1995)  
(state’s right to recapture depreciation is an “interest” as used in § 363(f)); *In re Aurora Gas,*  
*LLC*, No. A16–00130, 2017 WL 4325560 (Bankr. D. Alaska Sep. 26, 2017).

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1 Coal Industry Retiree Health Benefit Act of 1992, 26 U.S.C. §§ 9701-9722 (the “Coal Act”). *See*  
2 *Leckie Smokeless Coal Co.*, 99 F.3d at 575-76. Under the Coal Act, the successor to an operator  
3 was jointly and severally liable with the operator for payment of premiums. *See id.* at 576-77.  
4 Following the debtors’ bankruptcy filing, the benefit plans opposed a proposed asset sale free and  
5 clear of successor liability for Coal Act premium payment obligations. *See id.* at 577. The  
6 bankruptcy court approved the sale free and clear, and, on appeal, the Fourth Circuit affirmed,  
7 concluding that the right to collect future premiums constituted interests in the assets transferred by  
8 the sale. *See id.* at 582. The Fourth Circuit explained that the benefit plans’ right to collect  
9 premiums under the Coal Act

10 are grounded, at least in part, in the fact that those very assets have  
11 been employed for coal-mining purposes: if Appellees had never  
12 elected to put their assets to use in the coal-mining industry, and had  
13 taken up business in an altogether different area, the Plan and Fund  
14 would have no right to seek premium payments from them. Because  
15 there is therefore a relationship between (1) the Fund’s and Plan’s  
16 rights to demand premium payments from Appellees and (2) the use  
17 to which Appellees put their assets, we find that the Fund and Plan  
18 have interests in those assets within the meaning of section 363(f).

19 *Id.* The relationship drawn by the Fourth Circuit between the prepetition obligation and the  
20 purchaser’s use of assets for the same purposes as the debtor is cited repeatedly in cases finding  
21 that regulatory obligations are interests subject to § 363(f).

22 Similarly, a debtor’s experience rating—the historic metric by which state regulators  
23 determine tax or insurance rates—may not be imputed to a purchaser of the debtor’s assets. *See,*  
24 *e.g., In re Old Carco, LLC*, 538 B.R. 674 (Bankr. S.D.N.Y. 2015).<sup>4</sup> In *Old Carco, LLC*, the  
25 purchaser of substantially all of the debtor’s assets sought an order finding that the sale order  
26 prohibited Indiana and Illinois from using the debtor’s experience rating to calculate the

27 \_\_\_\_\_  
28 <sup>4</sup> A long line of experience rating cases reach the same conclusion as *Old Carco, LLC* along  
similar analytical lines. *Mass. Dept. of Unemployment Assistance v. OPK Biotech, LLC (In re*  
*PBBPC, Inc.)*, 484 B.R. 860 (B.A.P. 1st Cir. 2013); *In re Tougher Indus., Inc.*, No. 06-12960,  
2013 WL 1276501 (Bankr. N.D.N.Y. Mar. 27, 2013); *In re USA United Fleet, Inc.*, 496 B.R. 79  
(Bankr. E.D.N.Y. 2013); *In re ARSN Liquidating Corp. Inc.*, No. 14-11527, 2017 WL 279472  
(Bankr. D.N.H. Jan. 20, 2017).

1 purchaser's unemployment insurance tax rate. *See* 538 B.R. at 677. The state statutes in issue  
2 authorized regulators to compute tax rates "based, in part, on the employer's historical claims  
3 paying experience, generally reaching back three years." *Id.* at 679. Thus, the purchaser's tax rate  
4 was subject to increase based on the amount of benefits paid to workers discharged during the  
5 debtor's operations. *See id.* at 679-80. The bankruptcy court concluded that the experience rating  
6 constituted an interest in the assets sold because

7 [t]he States' rights to use Old Chrysler's Experience Rating arises  
8 from New Chrysler's acquisition of its assets and the continuation of  
9 its business. Had New Chrysler started the same business from  
10 scratch with new assets, the States could not use Old Chrysler's  
11 Experience Rating to compute its tax rate. Furthermore, New  
Chrysler's increased liability is directly related to Old Chrysler's  
discharge of persons it employed in its business; these discharged  
employees never worked for New Chrysler.

12 *Id.* at 684-85. Significantly, this "continuation of business" test is repeated throughout cases  
13 addressing interests in property. *See, e.g., Trans World Airlines, Inc.*, 322 F.3d at 290 ("Had TWA  
14 not invested in airline assets, which required the employment of the EEOC claimants, those  
15 successor liability claims would not have arisen."); *PBBPC, Inc.*, 484 B.R. at 869 ("the record  
16 reflects that the transfer of an employer's contribution rate to a successor asset purchaser is really  
17 an attempt to recover the money that the predecessor employer would have paid if it had continued  
18 in business"); *Leckie Smokeless Coal Co.*, 99 F.3d at 582 (finding no liability would arise "if  
19 [purchasers] had never elected to put their assets to use in the coal-mining industry, and had taken  
20 up business in an altogether different area"); *accord Chrysler LLC*, 576 F.3d at 126.

21 **b. The Additional Conditions Are An Interest In Property For At Least**  
22 **Three Reasons.**

23 Applying the same analysis, it is clear that the 2019 Conditions are interests in property  
24 within the meaning of § 363(f) for at least three reasons. Before discussing these reasons, the  
25 Debtors reiterate that their argument only focuses on the Additional Conditions since SGM  
26 contractually agreed to be bound by the conditions in Schedule 8.6.

27 **First**, as this Court has recognized, the Additional Conditions the Attorney General seeks to  
28 impose on SGM are premised on the Debtors' operations. Specifically,

1 [t]he Conditions provide that any owner of the Hospital must furnish  
2 specified levels of emergency services, intensive care services,  
3 cardiac services, and various other services. The required service  
4 levels were derived ***based upon the historical experience of the***  
5 ***prior operator.***

6 *In re Verity Health Sys. of Cal., Inc.*, 598 B.R. 283, 293 (Bankr. C.D. Cal. 2018) (Robles, J.)  
7 (emphasis added). Thus, for example, the Additional Conditions’ purported imposition of  
8 “charitable care obligations are connected to and arise from the Assets being sold . . . [because]  
9 [h]ad the Assets not originally been earmarked for charitable purposes, the Attorney General could  
10 not seek to impose continuing charitable care obligation.” *In re Gardens Reg’l Hosp. & Med. Ctr.,*  
11 *Inc.*, 567 B.R. 820, 826 (Bankr. C.D. Cal. 2017) (Robles, J.), *appeal dismissed*, No. 17-03708,  
12 2018 WL 1229989 (C.D. Cal. Jan. 19, 2018). The Additional Conditions constitute an interest in  
13 property to the extent they are premised or calculated based on the historical operations of the  
14 Debtors.

15 ***Second***, the Attorney General’s statutory authority to impose the Additional Conditions  
16 arises from the Debtors’ operation of its assets as nonprofit acute care hospitals. The California  
17 statutory scheme grants the Attorney General authority to consent to the sale of a nonprofit health  
18 facility to a for-profit corporation. *See* CAL. CORP. CODE § 5914(a)(1)(A) (providing that a  
19 nonprofit corporation operating or controlling a health facility must obtain the consent of the  
20 Attorney General before entering into a transaction to “[s]ell, transfer, lease, exchange, option,  
21 convey, or otherwise dispose of, its assets to a for-profit corporation”); *see also id.* § 5917  
22 (authorizing the Attorney General to condition any transaction described in CAL. CORP. CODE §  
23 5914). The California statute ***does not*** allow the Attorney General to impose similar conditions on  
24 SGM—a for-profit entity—had it “started the same business from scratch with new assets.” *Old*  
25 *Carco*, 538 B.R. at 684. As with the experience rating cases, it is the Debtors’ “prior ownership  
26 and use” of the assets transferred by the SGM Sale that gives the Attorney General “a contingent  
27 right” to impose conditions on the Debtors under California law. *USA United Fleet, Inc.*, 496 B.R.  
28 at 87. Accordingly, the Additional Conditions constitute interests in property because they arise  
from the Debtors’ prior ownership and use of the assets as nonprofit acute care hospitals.

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1            *Third*, the Attorney General’s authority to review the transaction arises from SGM’s  
2 continuation of the Debtors’ business as a health facility. *See* CAL. CORP. CODE § 5914(a)(1)  
3 (applying only to a sale of the assets of a nonprofit corporation that “operates or controls a health  
4 facility”). Under California law, the Debtors’ assets subject to the SGM Sale qualify as health  
5 facilities to the extent they are operating general acute care hospitals. *See* CAL. HEALTH & SAFETY  
6 CODE § 1250(a). By way of example, in *Gardens Regional Hospital and Medical Center, Inc.*, this  
7 Court found that a sale of closed general acute care hospitals did not fall within the ambit of the  
8 Attorney General’s regulatory authority because “the Assets being sold do not include an operating  
9 hospital.” *See* 567 B.R. at 827. Here, however, SGM intends to purchase the Debtors’ assets as  
10 operating acute care hospitals and continue their operations post-closing. As this Court has  
11 observed, the Attorney General’s authority to impose the Additional Conditions on SGM under  
12 California Corporations Code, §§ 5914 *et seq.*, is “grounded, at least in part, in the fact that those  
13 very assets have been employed for” acute care hospital purposes. *Leckie Smokeless Coal Co.*, 99  
14 F.3d at 582; *see also Gardens Reg’l Hosp. & Med. Ctr., Inc.*, 567 B.R. at 826 (“The Attorney  
15 General’s claim to regulatory authority is similar to the regulatory interests asserted in *PBBPC* and  
16 *Leckie Smokeless Coal*, and therefore constitutes an ‘interest in . . . property’ for purposes of  
17 § 363(f).”). Accordingly, the Additional Conditions constitute interests in property because the  
18 Attorney General’s authority to impose the Additional Conditions is conditioned on their operation  
19 as health facilities upon the closing of the SGM Sale.

20            **3. The SGM Sale Should Be Authorized Free and Clear of the Additional**  
21            **Conditions Pursuant to Section 363(f)**

22            The Debtors are authorized to consummate the SGM Sale free and clear of the 2019  
23 Conditions because the SGM Sale satisfies the disjunctive sub-factors of § 363(f). *See* 11 U.S.C.  
24 363(f); *see also Pinnacle Rest. at Big Sky, LLC v. CH SP Acquisitions (In re Spanish Peaks Hldgs.*  
25 *II, LLC)*, 872 F.3d 892, 897 (9th Cir. 2017). For practical purposes, the analysis below references  
26 the Additional Conditions, given that SGM contractually agreed to be bound by the conditions in  
27 Schedule 8.6.  
28

1                   a.       **California Law Allows the Sale of Nonprofit Health Facilities Without**  
2   **the Imposition of Additional Conditions (§ 363(f)(1))**

3                   The Bankruptcy Code permits the sale of property free and clear of interests if “such a sale  
4 would be *legally permissible*.” *In re Spanish Peaks Hldgs. II, LLC*, 872 F.3d at 900 (emphasis  
5 added); *see also* 11 U.S.C. § 363(f)(1) (permitting sales free and clear of interests if “applicable  
6 nonbankruptcy law permits the sale of such property free and clear of such interest”). Thus, absent  
7 a specific statutory requirement, the purchaser of an asset assumes no associated liabilities of the  
8 seller, including successor liability. *See Myers v. U.S.*, 297 B.R. at 784 (“As a general rule, under  
9 California law a purchaser does not assume the seller’s liability.”). Under § 363(f)(1), the Debtors  
10 can sell the Hospitals free and clear of the Additional Conditions because *neither* the Attorney  
11 General’s statutory basis for imposing the Additional Conditions *nor* California common law  
12 impose successor liability. *See In re Verity Health Sys. Of Cal., Inc.*, 598 B.R. at 296 (Bankr. C.D.  
13 Cal. 2018) (Robles, J.) (“Provisions within the Conditions are enforceable only to the extent they  
14 are supported by California law.”)

15                   The California Corporations Code does not authorize the Attorney General to impose  
16 successor liability on the assets of a health facility. California law imposes upon the seller the  
17 obligation to notify the Attorney General of a sale and to obtain his consent to such sale. *See CAL.*  
18 *CORP. CODE* § 5914(a)(1) (“Any nonprofit corporation that . . . operates a health facility . . . shall be  
19 required to providing written notice to, and obtain the written consent of, the Attorney General”  
20 prior to entering into a sale transaction.); *see id.* § 5917 (granting the Attorney General discretion to  
21 “consent to, give conditional consent to, or not consent to any agreement or transaction). But, the  
22 statute *does not* grant the Attorney General authority to impose conditions on the assets subject to  
23 the transaction. Indeed, the Attorney General was previously unable to identify any provision of  
24 applicable “California law entitling him to enforce successorship liability under the circumstances  
25 of this case.” *In re Verity Health Sys. of Cal., Inc.*, 598 B.R. at 296 (finding that “[t]he Attorney  
26 General’s reliance upon provisions purporting to make the Conditions binding upon all successors,  
27 regardless of the circumstances under which such successors acquiring the Hospitals, is an  
28 impermissible attempt to expand his regulatory authority over the Hospitals”).



1 In *La Paloma Generating, Co.*, a bankruptcy court granted a sale pursuant to § 363(f)(1)  
2 after finding that the applicable California regulatory scheme governing the transfer of cap and  
3 trade liabilities in the sale of electrical generation facilities did not impose successor liability. *See*  
4 No. 16-12700, 2017 WL 5197116 (Bankr D. Del. Nov. 9, 2017). The court concluded that, as here,  
5 the regulatory scheme did not impose successor liability because it imposed liabilities on entities  
6 rather than the assets subject to the transaction. *See id.* at \*7 (“[T]he Regulation does not dictate . .  
7 . substitution and assumption of liability. In no way does Section 95835(b)(8) impugn liability on  
8 the purchase of the Covered Entity’s assets.”). Here, similarly, the California Corporations Code  
9 does not impose any statutory successor liability because the obligations are limited to the seller  
10 rather than the assets transferred pursuant to a sale.

11 Further, the SGM Sale does not implicate any of the four grounds to impose successor  
12 liability under California law. Under California law,

13 the purchaser does not assume the seller’s liabilities unless (1) there  
14 is an express or implied agreement of assumption, (2) the transaction  
15 amounts to a consolidation or merger of the two corporations, (3) the  
16 purchasing corporation is a mere continuation of the seller, or (4) the  
transfer of assets to the purchaser is for the fraudulent purpose of  
escaping liability for the seller’s debts.

17 *Ray v. Alad Corp.*, 19 Cal. 3d 22, 28 (1977); *see also City of San Diego v. Nat’l Steel &*  
18 *Shipbuilding Co.*, No. 09-2275, 2011 WL 5104624, at \*4 (S.D. Cal. Oct. 27, 2011). None of the  
19 four grounds is present here. SGM has not expressly or impliedly agreed to assume the Debtors’  
20 obligations under the 2015 Conditions (except to the extent contracted in the SGM APA). The  
21 Court specifically found that the transfer was at arm’s length and in good faith rather than for any  
22 fraudulent purpose. *See Sale Order*, ¶¶ D-E at 6-7 (“[T]he Transaction being consummated  
23 pursuant to and in accordance with the APA is not being consummated, for the purpose of  
24 hindering, delaying or defrauding creditors of the Debtors.”). Finally, the transaction is not a  
25 consolidation, merger, or mere continuation because SGM has provided non-stock consideration  
26 and SGM and the Debtors have different officers, directors, or stockholders. *See, e.g., Alad Corp.*,  
27 19 Cal. 3d at 28-29 (citing *Econ. Refining & Serv. Co. v. Royal Nat. Bank of N.Y.*, 20 Cal. App. 3d  
28 434 (Cal. Ct. App. 1971); *Malone v. Red Top Cab Co.* 16 Cal. App. 2d 268, 272-274 (1936);

1 *Shannon v. Samuel Langston Co.* 379 F. Supp. 797, 801 (W.D. Mich. 1974)). Accordingly, the  
2 Debtors may sell the Hospitals free and clear of the Additional Conditions because nonbankruptcy  
3 law does not impose successor liability notwithstanding the contrary provisions in the Additional  
4 Conditions.

5 **b. The Additional Conditions Are Subject to A Bona Fide Dispute (§**  
6 **363(f)(4))**

7 The Debtors may sell the Hospital free and clear of the Additional Conditions because the  
8 Attorney General’s authority to impose the Additional Conditions is in bona fide dispute. *See* 11  
9 U.S.C. § 363(f)(4). The phrase “bona fide dispute” is not defined by the Bankruptcy Code. *See*  
10 *Atlas Mach. & Iron Works, Inc. v. Bethlehem Steel Corp.*, 986 F.2d 709, 715 (4th Cir. 1993)  
11 (“Although courts have not agreed on a precise definition of ‘bona fide dispute,’ it entails some sort  
12 of meritorious, existing conflict.”) (citations omitted). Courts find a “bona fide dispute” when  
13 “there is an objective basis for either a factual or legal dispute as to the validity of the asserted  
14 interest.” *In re Taylor*, 198 B.R. 142, 147 (Bankr. D.S.C. 1996). An objective legal basis for  
15 dispute may arise under bankruptcy or nonbankruptcy law. *See In re L.L. Murphrey Co.*, No. 12-  
16 03837-8-JRL, 2013 WL 2451368 (Bankr. E.D.N.C. June 6, 2013) (finding bona fide dispute as to  
17 validity of a creditor’s lien subject to avoidance under § 544(a)(3)). Importantly, it is not necessary  
18 that the court resolve the dispute or its merits. *See id.* (“This standard does not require that the  
19 Court resolve the underlying dispute or determine the probable outcome of the dispute, but merely  
20 whether one exists.”).

21 Here, the Additional Conditions are subject to bona fide dispute under bankruptcy and  
22 nonbankruptcy law. As set forth in this Motion, the Debtors dispute the Attorney General’s  
23 authority to issue conditions impose successor liability contrary to the provisions of California law,  
24 the Bankruptcy Code, and the Sale Order. Further, as discussed more fully below, the Debtors  
25 dispute whether the Attorney General abused his discretion in imposing the Additional Conditions  
26 without adequate support. In each instance, the Court need not determine the relative merits of the  
27 disputes, and, instead, need only find that the disputes raised by the Debtors are bona fide. In each  
28

1 case, the Debtors' disputes as to the Additional Conditions support a sale free and clear of the  
2 Additional Conditions under § 363(f)(4).

3 **c. The Attorney General Can Be Compelled to Accept A Money**  
4 **Satisfaction in the Event of Noncompliance with the Additional**  
5 **Conditions (§ 363(f)(5))**

6 Section 363(f)(5) permits a sale free and clear if (i) the nondebtor could be compelled to  
7 accept a money satisfaction of the interest in property (ii) in a proceeding that could be brought.  
8 *See In re PW, LLC*, 391 B.R. 25, 41 (B.A.P. 9th Cir. 2008). An interest in property is subject to  
9 satisfaction for purposes of § 363(f)(5) if it imposes a calculable monetary obligation. *See In re*  
10 *Vista Marketing Grp. Ltd.*, 557 B.R. at 635 (“[O]ne would be hard-pressed to present a clearer  
11 example of a situation where the interest-holder could be compelled to accept a money satisfaction  
12 of its interest under subsection (f)(5) than the calculable monetary obligation asserted by the  
13 District in its surcharge bill and disconnection notice.”); *see also In re Trans World Airlines, Inc.*,  
14 322 F.3d 283, 290 (3d Cir. 2003) (interests in property such as travel vouchers and EEOC claims  
15 may be reduced to a specific monetary value for purposes of § 365(f)(5)).

16 Here, many of the Additional Conditions are subject to satisfaction by the payment of  
17 money. For example, certain Additional Conditions require charity care of a specific monetary  
18 value. *See* Exhibit “C.” The Attorney General has historically (including in the Debtors' own  
19 experience) allowed health facilities to satisfy any charity care deficiency by paying funds to  
20 satisfy shortfalls to other purposes or entities. *See, e.g., First-Day Decl.*, ¶ 108 at 28 (“[A]s a result  
21 of a shortfall in the fiscal year 2017 charity care requirement for certain hospitals, VHS was  
22 required to make an additional contribution to the Retirement Plans of \$7,619,000 in October  
23 2017.”); *see also In re WBQ P'ship*, 189 B.R. at 107 (finding § 363(f)(5) satisfied where state's  
24 right of recapture upon sale of nursing home could constitute a claim against the debtors subject to  
25 hypothetical cramdown).

26 Indeed, there is no dispute that the Attorney General allows unsatisfied charity care  
27 contributions to be satisfied by the payment of money. In the 2015 Conditions, the Attorney  
28 General expressly allowed the Debtors to satisfy any shortfall by paying an amount equal to the  
charity care shortfall to some other purpose. For example, with regard to St. Francis, the 2015

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1 Conditions expressly allowed satisfaction of the Charity Care Condition by payment of 50% of the  
2 shortfall to employee pension plans and 50% of the shortfall to capital expenditures for  
3 maintenance of the facilities. *See* Docket No.256-1, Exhibit A, at 9. Allowing payment of monies  
4 to other entities to satisfy a shortfall in providing charity care is not unique to these hospitals. A  
5 review of the Attorney General’s website describing nonprofit hospital transactions is replete with  
6 such examples. *See* <https://oag.ca.gov/sites/all/files/agweb/pdfs/charities/nonprofithosp/>. For  
7 example, in a decision on January 9, 2019, regarding Parkview Hospital, the Attorney General  
8 approved the proposed transaction with the condition that if there was a shortfall in the charity care  
9 required, that shortfall could be satisfied by the payment of “an amount equal to the deficiency to  
10 one or more tax-exempt entities that provide direct health care services to residents in the  
11 Hospital’s service area.”

12 Further, the 2019 Conditions make clear that the Attorney General can enforce satisfaction  
13 of these monetary obligations in a hypothetical legal proceeding. *See In re WBQ P’ship*, 189 B.R.  
14 at 107 (holding that nursing home sale was free and clear of state department’s right to recover  
15 depreciation overpayments and emphasizing “‘hypothetical’ satisfaction, since §  
16 363(f)(5) authorizes a sale if the interest holder ‘*could be* compelled, in a legal or equitable  
17 proceeding, to accept a money satisfaction of such interest’”) (emphasis in original). The Attorney  
18 General specifically reserves his right to enforce the 2019 Conditions “to the fullest extent provided  
19 by law” and that, “[i]n addition to any legal remedies the Attorney General may have, the Attorney  
20 General shall be entitled to specific performance, injunctive relief, and such other equitable  
21 remedies a court may deem appropriate for breach of any of these Conditions.” *See* Exhibit “B.”  
22 As with the Debtors’ prior satisfaction of the Charity Care Condition, payment of money was  
23 sufficient to “extinguish” entirely the Debtors’ obligation to comply with the Charity Care  
24 Condition. *See, e.g., In re Hassen Imports P’ship*, 502 B.R. 851, 861 (C.D. Cal. 2013) (finding that  
25 § 363(f)(5) “only authorizes sale free and clear when money payment is given in exchange for the  
26 extinguished interest”). Accordingly, as noted by the Attorney General, monetary conditions may  
27 be satisfied in a hypothetical legal proceeding.

28

1 Accordingly, the Attorney General can be compelled to accept monetary satisfaction of the  
2 Additional Conditions that impose calculable monetary obligations sufficient to sell the Hospitals  
3 free and clear of the Additional Conditions. For the foregoing reasons, the Sale Order effectuated a  
4 sale free and clear of the 2019 Conditions except for those SGM agreed to assume by contract as  
5 set forth in Schedule 8.6.

6 **d. The Additional Conditions Contravene The Purposes of § 363(f) to the**  
7 **Extent They Purport to Impose Successor Liability on SGM.**

8 California law does not authorize the Attorney General to impose successor liability on the  
9 purchaser of a health care facility because the statute only makes reference to the obligations of the  
10 seller rather than the assets sold. *See* discussion, *supra*; *see also In re La Paloma Generating, Co.*,  
11 No. 16-12700, 2017 WL 5197116 (Bankr. D. Del. Nov. 9, 2017); CAL. CORP. CODE § 5914.  
12 Further, the Debtors may sell the Hospitals free and clear of any successor liability assuming,  
13 *arguendo*, that the Conditions impose successor liability on SGM.

14 Courts favor a broader reading of § 363 in two instances where imposition of successor  
15 liability would compromise the fundamental purposes of bankruptcy sales. *First*, “allowing sales  
16 of debtor assets free and clear of liabilities of the debtor induces a higher sale price for the assets,  
17 thereby maximizing the value of the estate and maximizing potential recovery to creditors.”  
18 *Grumman Olson Indus. Inc.*, 467 B.R. at 703; *see also Douglas v. Stamco*, 363 Fed. Appx. 101,  
19 102-03 (2d Cir. 2010) (“to the extent that the ‘free and clear’ nature of the sale . . . was a crucial  
20 inducement in the sale’s successful transaction . . . the potential chilling effect of allowing a tort  
21 claim subsequent to the sale would run counter to a core aim of the Bankruptcy Code”); *Indiana*  
22 *State Police Pension Trust*, 576 F.3d at 126 (“The possibility of transferring assets free and clear of  
23 existing tort liability was a critical inducement to the Sale.”); *In re PBBPC, Inc.*, 484 B.R. at 870  
24 (rejecting imposition of experience rating where “the possibility of transferring assets free and clear  
25 of successor liability was a critical inducement to the sale”) (quotations omitted); *Myers v. U.S.*,  
26 297 B.R. at 781 (finding sale order sold assets free and clear of successor liability and positing  
27 “who would ever purchase assets at a bankruptcy proceeding if the successor liability were not  
28 limited, despite the plain wording of the bankruptcy court order?”). As discussed in detail, above,

1 imposition of the Additional Conditions have serious financial consequences for the SGM Sale that  
2 undercut the free and clear nature of the SGM Sale and served as a critical inducement for the only  
3 bidder on the Debtors' Hospital assets. Accordingly, the Debtors may sell the Hospitals free and  
4 clear of any successor liability imposed by the Additional Conditions under § 363.

5 **Second**, allowing a claimant to pursue an asset purchaser in bankruptcy “would subvert the  
6 Bankruptcy Code’s priority scheme, by allowing a low-priority, unsecured claim to leapfrog over  
7 other creditors in the bankruptcy.” *See, e.g., In re Grumman Olson Indus. Inc.*, 467 B.R. 694, 703  
8 (S.D.N.Y 2012); *see also In re Trans World Airlines, Inc.*, 322 F.3d 283, 291 (3d Cir. 2003) (“Even  
9 were we to conclude that the claims at issue are not interests in property, the priority scheme of the  
10 Bankruptcy Code supports the transfer of TWA’s assets free and clear of the claims.”); *Myers*, 297  
11 B.R. at 781 (finding a sale order that *excluded* “successor liability” from the interests stripped  
12 under § 363(f) nevertheless effectuated a sale of the assets free and clear of successor liability  
13 because, to hold otherwise, “would allow unsecured creditors to receive greater protection and  
14 more priority than secured claims”). The Additional Conditions allow the Attorney General to  
15 impose monetary obligations on SGM to continue providing services such as charity care that were  
16 financially infeasible for the Debtors.

17 **B. COMPLIANCE WITH § 363(d)(1) DOES NOT LIMIT THE DEBTORS’ RIGHT TO**  
18 **SELL ITS ASSETS FREE AND CLEAR UNDER § 363(f).**

19 Section 363(d)(1) provides that the Debtors must sell the Hospitals in accordance with  
20 nonbankruptcy law applicable to nonprofit transactions, and § 363(f) authorizes the Debtors to sell  
21 the Hospitals free and clear of interests in property. These two sections are easily construed under  
22 several applicable principles of statutory construction.

23 First, each statutory provision should be read by reference to the whole act. *See John*  
24 *Hancock Mut. Life Ins. Co. v. Harris Trust & Sav. Bank*, 114 S. Ct. 517, 523 (1993); *Pavelic &*  
25 *Leflore v. Marvel Entm’t Grp.*, 493 U.S. 120, 123-24 (1989); *Mass. v. Morash*, 490 U.S. 107, 114-  
26 15 (1989). Second, the Court should avoid interpreting a provision of the Bankruptcy Code in a  
27 way inconsistent with the policy of another provision of the Bankruptcy Code. *See United Sav.*  
28 *Ass’n v. Timbers of Inwood Forest Assocs.*, 484 U.S. 365, 371 (1988). Finally, specific provisions

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1 targeting a particular issue apply instead of provisions more generally covering the issue. *See*  
2 *Morton v. Mancari*, 417 U.S. 535, 550-51 (1974) (a general statute will not be held to have  
3 repealed by implication a more specific one unless there is “clear intention otherwise”); *U.S. v.*  
4 *Novak*, 476 F.3d 1041, 1054 (9th Cir. 2007) (recognizing “the elementary tenet of statutory  
5 construction that a general statute will not alter a more specific one”) (quotations omitted). This  
6 tenet applies with equal force to interpretation of competing provisions of the Bankruptcy Code.  
7 *See Law v. Seigel*, 571 U.S. 415, 421 (2014) (resolving conflict between §§ 105(a) and 522 by  
8 “application of the axiom that a statute’s general permission to take actions of a certain type must  
9 yield to a specific prohibition found elsewhere”).

10 Applying these principles, the requirement to act in accordance with nonbankruptcy law  
11 does not abrogate the Debtors’ authority to sell free and clear of the Additional Conditions under  
12 the more specific provisions of § 363(f), particularly when the Additional Conditions would render  
13 the terms of the SGM APA and the Sale Order meaningless.

14 Section 363(f) provides specific grounds to conduct sales free and clear of interests in  
15 property that is not limited by a nonprofit debtor’s general obligation, under § 363(d)(1), to comply  
16 with nonbankruptcy law. Section 363 provides that nonprofit debtors must generally comply with  
17 applicable nonbankruptcy law in conducting sales under § 363(b). Section 363(d)(1) provides that  
18 a nonprofit debtor may sell assets of the estate pursuant to § 363(b) “only in accordance with  
19 nonbankruptcy law applicable to the transfer of property by” such nonprofit debtor. 11 U.S.C.  
20 363(d)(1). This general requirement in § 363(d)(1) makes no reference to § 363(f), which sets forth  
21 the specific bases by which a debtor may obtain approval of a sale under § 363(b) free and clear of  
22 any interest in such property. Without a “clear intention otherwise,” the general requirement that a  
23 nonprofit debtor comply with nonbankruptcy law does not repeal by implication the specifics of  
24 free and clear sales under § 363(f), including the Debtors’ rights to sell assets free and clear of  
25 successor liability. *See Morton*, 417 U.S. at 550-51. Simply put, § 363(d)(1) does not grant the  
26 Attorney General the unfettered right to impose conditions without regard to this Court’s exclusive

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1 jurisdiction over the Debtors' assets and any other provisions of the Bankruptcy Code. *See, e.g.*,  
2 §§ 363(f), 525, 541; *see also* 28 U.S.C. § 1334(e).<sup>5</sup>

3 Even if the provisions were in conflict, applicable law authorizing the Attorney General to  
4 review and condition sales of health facilities is not inconsistent with the successor liability  
5 limitations set forth in § 363(f). As discussed above, applicable California law does not impose  
6 successor liability on the SGM Sale because the obligations are imposed on the seller of a health  
7 facility rather than the assets themselves. *See, e.g., In re La Paloma Generating, Co.*, 2017 WL  
8 5197116, at \*7 (“[T]he Regulation does not dictate . . . substitution and assumption of liability. In  
9 no way does Section 95835(b)(8) impugn liability on the purchase of the Covered Entity’s  
10 assets.”).

11 Accordingly, the general requirements of § 363(d)(1) are not in conflict with the Debtors’  
12 authority to sell assets free and clear of successor liability under § 363(f). The Debtors complied  
13 with the requirements of nonbankruptcy law and received the Attorney General’s conditional  
14 approval of the SGM Sale. Nonbankruptcy law does not impose successor liability on SGM, and,  
15 \_\_\_\_\_

16 <sup>5</sup> The Attorney General has previously argued that he may enforce conditions on the sale of a  
17 nonprofit hospital, pursuant to police and regulatory powers designed to protect the health and  
18 safety of the community. *See* Docket No. 463, at 7 (the “Prior Response”). However, unlike  
19 § 362(b)(4), § 363 has no exception for governmental entities acting pursuant to police or  
20 regulatory powers. The Congress is presumed to act intentionally and purposely when it includes  
21 language in one section but omits it in another. *Keene Corp. v. United States*, 508 U.S. 200, 208  
22 (1993) (“where Congress includes particular language in one section of a statute but omits it in  
23 another [...] it is generally presumed that Congress acts intentionally and purposely in the disparate  
24 inclusion or exclusion.”) (quoting *Russello v. United States*, 464 U.S. 16, 23 (1983)). Even if such  
25 an exception were to apply, as the Attorney General concedes in the Prior Response, preemption of  
26 state law is most likely where the state statute carves an exception out of the Bankruptcy Code, or  
27 where the state statute is concerned with economic regulation rather than protecting the public  
28 health and safety. Prior Response, at 7, lines 1-15 (citing *Baker & Drake, Inc. v. Pub. Serv.  
Comm’n of Nevada*, 35 F.3d 1348, 1353 (9th Cir. 1994)). Both situations exist here. First, the  
interpretation suggested by the Attorney General carves a huge exception out of the Bankruptcy  
Code, basically allowing him to ignore both the plain language of the federal laws, and the practical  
implications of his interpretation. Second, although the state statute discusses that a sale to a for-  
profit “may affect the availability of community health care services,” Prior Response, at 7, lines  
23-24 (citing CAL. CORP. CODE, Ch. 9, Note §1m Stats 1996, ch. 1105), the Attorney General has  
*no* general oversight over health facilities in California or over acute care hospitals in particular.  
Rather, his review is predicated on the regulation of a kind of business—nonprofits—and therefore  
falls neatly into economic regulations.

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1 to the extent the Additional Conditions impose successor liability, the Debtors may sell free and  
2 clear under § 363(f) while still complying with their general obligations under § 363(d)(1).

3 **C. THE ATTORNEY GENERAL CANNOT INTERFERE WITH THE COURT’S**  
4 **EXCLUSIVE JURISDICTION OVER PROPERTY OF THE ESTATES.**

5 Section 1334(e) of title 28 of the United States Code grants federal district courts—and, by  
6 jurisdictional grant, pursuant to 28 U.S.C. § 157(a), bankruptcy courts within each district—  
7 exclusive jurisdiction of all property of the debtor and its estate, “wherever located.” 28 U.S.C. §  
8 1334(e); 11 U.S.C. § 157(a); *see also Hong Kong and Shanghai Banking Corp. v. Simon (In re*  
9 *Simon)*, 153 F.3d 991 (9th Cir. 1998) (district court in which bankruptcy case is commenced has  
10 exclusive *in rem* jurisdiction over all estate property); *see also Central Va. Cmty College v. Katz*,  
11 546 U.S. 356, 126 S. Ct. 990 (2006) (A “critical feature of every bankruptcy proceeding [is] the  
12 exercise of exclusive jurisdiction over all of the debtor’s property.”). Moreover, in the context of  
13 adjudicating the rights of in a bankruptcy estate, even against the Attorney General, the power of  
14 the bankruptcy court includes the “power to issue compulsory orders to facilitate the administration  
15 and distribution of the res.” *Id.* The Supreme Court was clear in *Katz* that the Court’s power was  
16 not limited to *in rem* beyond the “mere adjudication of rights in a res” and extended to proceedings  
17 “necessary to effectuate the *in rem* jurisdiction of the bankruptcy courts.” *Id.* Therefore, under  
18 *Katz*, the Court also has the power to issue orders necessary to effectuate the Sale Order, including  
19 issuing orders that the SGM Sale is free and clear of the Additional Conditions.

20 Here, the Court has exclusive jurisdiction over the Hospitals because they are indisputably  
21 “property of the estates” pursuant to § 541. *See* § 541. The Court’s exclusive jurisdiction limits  
22 the Attorney General’s attempt to impose restrictions on the Hospitals. Moreover, the states’ right  
23 to regulate an operating debtor in possession under 28 U.S.C. § 959(b) does not limit this Court’s  
24 jurisdiction or give the state the right to interfere in the sale of the Debtors’ Hospitals. *See Hillis*  
25 *Motors v Hawai’i Auto Dealers Assn.*, 997 F.2d 581, 592 (9th Cir 1993) (holding that state action  
26 to involuntarily dissolve a corporation for non-payment of franchise fees and filings violated the  
27 automatic stay as an act to control property of the estate under § 362(a)(3) and was not excepted by  
28 §362 (b)(4) or (5) or 28 U.S.C. § 959(b)).

1 **D. THE ADDITIONAL CONDITIONS VIOLATE § 525 BECAUSE THEIR EXPRESS**  
2 **PURPOSE IS TO REQUIRE SGM TO UNDERTAKE THE SAME OBLIGATIONS**  
3 **THE DEBTORS CAN NO LONGER ACCOMPLISH.**

4 Imposition of the Additional Conditions constitutes impermissible discrimination against  
5 the Debtors and SGM, as a debtor-associate, pursuant to § 525. Section 525(a) grants the Debtors  
6 protection against discriminatory treatment by governmental unit on account of the Debtors'  
7 insolvency. *See* 11 U.S.C. § 525(a).

8 One of the leading case interpreting § 525 is the United States Supreme Court's decision  
9 in *Federal Communications Commission v. NextWave Communications, Inc.* 537 U.S. 293 (2003)  
10 ("NextWave"). In *NextWave*, the Federal Communications Commission (the "FCC") cancelled  
11 certain licenses owned by the debtor, but denied that the proximate cause for its cancellation of the  
12 licenses was the failure to make payments due to the FCC. Instead, the FCC contended that § 525  
13 did not apply because it had a valid regulatory motive for the cancellation. The Supreme Court  
14 held that the FCC's motive was "irrelevant" because "[s]ection 525 means nothing more or less  
15 than that the failure to pay a dischargeable debt must alone be the proximate cause of the  
16 cancellation—the act or event that triggers the agency's decision to cancel, whatever the agency's  
17 ultimate motive in pulling the trigger may be." *NextWave*, 537 U.S. at 301-02. The FCC  
18 contended that NextWave's license obligations to the commission were not "debt[s] that [are]  
19 dischargeable" in bankruptcy. *Id.* at 302. The FCC argued that regulatory requirements, such as a  
20 full and timely payment condition, are not properly classified as "debts" under the Bankruptcy  
21 Code. The Supreme Court dismissed this argument, finding that "a debt is a debt even when the  
22 obligation to pay it is a regulatory condition." *Id.* at 303. The FCC also argued that NextWave's  
23 obligations were not "dischargeable" in bankruptcy because bankruptcy courts did not have the  
24 jurisdictional authority to alter regulatory obligations. *Id.* Noting that dischargeability is not tied to  
25 the existence of such authority, the Supreme Court found that a preconfirmation debt is  
26 dischargeable unless it falls within an express exception to discharge. *Id.*

27 In *In re Aurora Gas, LLC*, the bankruptcy court addressed whether the State of Alaska  
28 violated § 525(a) by effectively conditioning the sale of gas leases on the purchaser's assumption of  
unpurchased liabilities. *See* No. 16-00130, 2017 WL 4325560 (Bankr. D. Alaska Sept. 26, 2017).

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1 The debtor formerly operated nine oil and gas wells leased from the state. *See id.* at \*1. During the  
2 course of the bankruptcy case, the debtor determined that it would not be able to sell three of the  
3 wells leased on state lands and could not afford to completely plug and abandon the wells. *See id.*  
4 The debtor, thus, began the process of temporarily plugging the wells and obtained approval to  
5 reject the leases. *See id.* The debtor secured an offer to purchase five of the remaining oil and gas  
6 leases for \$100,000, subject, however, to review and approval by the state. *See id.* The bankruptcy  
7 court entered an order granting authority to assume and assign the leases and sell related assets free  
8 and clear of claims and interests. *See id.* at \*2. Subsequently, the state imposed conditions on the  
9 sale that required the purchaser either agree to (i) a bond in the amount of \$200,000 and an  
10 agreement to plug and abandon the three unpurchased wells, or (ii) a bond in the amount of \$6  
11 million. *See id.*

12 The bankruptcy court held that the imposition of the conditions violated § 525(a). The  
13 bankruptcy court noted that “the State does not deny that the Decision was an attempt to collect  
14 [the debtor’s] debt for the [nonoperating] leases. Rather, it defends its action as necessary to  
15 provide for the plugging and abandonment of the wells which the debtor will not be able to  
16 accomplish.” *Id.* at \*4. The court concluded that the state “effectively denied the debtor’s transfer  
17 of five of its . . . leases because it insists on recovering the debtor’s . . . plug and abandonment  
18 liability.” *Id.* at \*5. Indeed, the \$6 million bonding requirement made clear that the state’s intent  
19 was to recover on the debtor’s potentially dischargeable liabilities rather than the “proper exercise  
20 of the agency’s discretion in discharge of its statutory duties.” *See id.* (“There is nothing in the  
21 Decision to support the [state’s] conclusion that it will cost \$1,000,000 to plug and abandon each  
22 well.”).

23 The Additional Conditions are no different than those addressed by the bankruptcy court in  
24 *Aurora Gas* because they impose upon SGM the very same levels of services, charity care, and  
25 other obligations imposed on the Debtors by the 2015 Conditions. The Additional Conditions  
26 repeatedly obligate SGM to maintain licensure and services “at no less than current” levels that  
27 correspond directly to the Debtors’ postpetition services. *See* Exhibit “B” (“The term ‘current’ or  
28 ‘currently’ throughout this document means as of January 1, 2019.”) (2019 Conditions, at 2, n.2).

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1 As discussed above, § 363(f) allows the Debtors to sell their assets free and clear of the  
2 Attorney General’s interests in imposing Additional Conditions. These interests are dischargeable  
3 within the meaning of § 525(a) even if the Debtors will not receive a discharge under their Plan.  
4 *See Aurora Gas, LLC*, 2017 WL 4325560, at \*6 (“The State has not identified any exception within  
5 § 523(a) for the debtor’s prepetition liability for plugging and abandoning the [nonoperating] wells.  
6 Nothing within § 525(a) requires that the debtor actually obtain a discharge, only that the debt be  
7 dischargeable.”); *FCC v. NextWave Pers. Commc’ns Inc.*, 537 U.S. at 303 (“A preconfirmation  
8 debt is dischargeable unless it falls within an express exception to discharge.”). Further, as with  
9 *Aurora Gas*, the Additional Conditions will “effectively den[y] the [Debtors’] transfer of” their  
10 hospital assets because the Attorney General “insists on recovering” from SGM the same  
11 obligations imposed on the Debtors under the 2015 Conditions. The Additional Conditions must be  
12 denied as violative of § 525(a) because the Debtors’ inability to continue the same services  
13 following the conclusion of these Cases are “the proximate cause” of the Attorney General’s  
14 Additional Conditions. *See NextWave Pers. Commc’ns Inc.*, 537 U.S. at 301-02.

15 **E. THE ATTORNEY GENERAL ABUSED HIS DISCRETION IN IMPOSING THE**  
16 **ADDITIONAL CONDITIONS.**

17 **1. The Court Has Authority to Review Whether the Attorney General Abused His**  
18 **Discretion in Imposing the Additional Conditions.**

19 If the Court does not find the Additional Conditions are cut off by § 363, the Debtors ask  
20 that the Court review the Attorney General’s decision under applicable nonbankruptcy law.  
21 Section 1221(e) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005,  
22 Pub. L. No. 109-8, § 1221(e) (2005), makes clear that the applicable nonbankruptcy law should be  
23 interpreted by this Court and should not be referred to a state court. *In re HHH Choices Health*  
24 *Plan, LLC*, 554 B.R. 697, 700-01 (Bankr. S.D.N.Y. 2016) (“While a transfer [of nonprofit assets]  
25 must comply with the substantive requirements of state law. . . . any determination that would be  
26 made by a state court, . . . in the absence of a bankruptcy case, is now a determination to be made  
27 by [the bankruptcy court], and not by the state court.”).

28 The Attorney General has discretion under applicable state law to deny, consent to, or  
conditionally approve a transaction. However, that discretion is limited and subject to judicial

1 review. Under state law, the Court has the power to overrule the Attorney General’s decision  
2 imposing conditions inconsistent with Section 8.6 of the SGM APA. *Del Riccio v. Superior Court*,  
3 115 Cal. App. 2d 29, 31 (1952) (“In the exercise of equitable jurisdiction the court undoubtedly has  
4 broad discretionary powers to take whatever action is necessary in the interests of justice in order  
5 that its decrees will not fail to accomplish their purpose.”); *see also* Cal. Code Civ. Proc., § 187.  
6 That power extends even to reviewing discretionary decisions for abuse of discretion. *Lamb v.*  
7 *Webb* (1907) 151 Cal. 451, 454 (the trial court has the power to compel the Attorney General to act  
8 where the Attorney General abused its discretion); accord *City of Campbell v. Mosk*, 197 Cal. App.  
9 2d 640, 645 (1961).

10 Judicial review of most public agency decisions is obtained either by: (1) a writ of  
11 ordinary/traditional mandamus, pursuant to C.C.P. § 1085; or (2) a writ of administrative  
12 mandamus, pursuant to C.C.P. § 1094.5. *See Friends of the Old Trees v. Dep’t of Forestry & Fire*  
13 *Prot.*, 61 Cal. Rptr. 2d 297, 303 (Cal. Ct. App. 1997). Ordinary mandate under C.C.P. § 1085 is a  
14 traditional remedy by which a court compels an inferior tribunal to perform a legally required duty.  
15 Administrative mandate under C.C.P. §1094.5 is a statutory remedy which enables a petitioner to  
16 challenge an administrative decision after an adjudicatory hearing in which the agency performs a  
17 fact finding function. Parties are entitled to seek both in the same action. *See Conlan v. Bonta*, 102  
18 Cal. App. 4th 745, 751-52 (2002). Moreover, C.C.P. §§ 1085 and 1094.5, subd. (f) are identical in  
19 authorizing courts to issue a writ of mandate to compel the performance of an act “which the law  
20 specially enjoins.”

21 Under C.C.P. § 1094.5, the Court “begin[s] its review with a presumption of the correctness  
22 of administrative findings, and then, after affording the respect due to these findings, exercise[s]  
23 independent judgment in making its own findings.” *Fukuda v. City of Angels*, 977 P.2d 693, 701  
24 (Cal. 1999); *see Benetatos v. City of Los Angeles*, 186 Cal. Rptr. 3d 46, 56 (Cal. Ct. App. 2015)  
25 (“the independent judgment test is applied to review administrative decisions that will drive an  
26 owner out of business or significantly injure the business’s ability to function”).

27 Alternatively, for traditional mandamus under C.C.P. § 1085, the Court reviews the  
28 administrative action to determine whether it “was arbitrary, capricious, or entirely lacking in

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1 evidentiary support, contrary to established public policy, unlawful or procedurally unfair.” *Id.*  
2 (quotations omitted). “Although mandate will not lie to control a public agency’s discretion, that is  
3 to say, force the exercise of discretion in a particular manner, it will lie to correct abuses of  
4 discretion.” *Id.* (quotations omitted). “Abuse of discretion is established if the ... order or decision  
5 is not supported by the findings, or the findings are not supported by the evidence.” *Wollmer v.*  
6 *City of Berkeley*, 193 Cal. App. 4th 1329, 1338 (2011) (citing Cal. Code Civ. Proc., § 1094.5, subd.  
7 (b).) Moreover, the Court should not give deference to the Attorney General’s interpretation of  
8 State law. *County of San Diego v. State of Cal.* 15 Cal. 4th 68, 109 (1997). Because public  
9 agencies and officials “have a duty to comply with applicable state statutes and local ordinances,”  
10 failure to do so is an abuse of discretion that is “arbitrary, capricious, or lacking in evidentiary  
11 support *Bright Dev. v. City of Tracy* 20 Cal. App. 4th 783 (1993).

12           Regardless of which standard applies here, the Attorney General’s conduct does not pass  
13 muster under either statute. The Attorney General’s decision to impose many, if not all, of the  
14 Additional Conditions, is not supported by findings or evidence. *See Topanga Assn. for a Scenic*  
15 *Community v. County of Los Angeles*, 11 Cal. 3d 506, 515 (1974) (“[I]mplicit in section 1094.5 is a  
16 requirement that the agency which renders the challenged decision must set forth findings to bridge  
17 the analytic gap between the raw evidence and ultimate decision or order.”). The Attorney General  
18 has given no consideration whatsoever to the economic impact of the 2019 Conditions on the  
19 continued existence of the Hospitals. Although Attorney General’s review of the SGM Sale was  
20 undertaken pursuant to a statute that purports to seek to preserve healthcare for the community, it is  
21 undisputed that the 2019 Conditions imposed by the Attorney General will have the singular result  
22 of destroying the SGM Sale and closing hospitals. There could not be a clearer example of an  
23 abuse of discretion. *Honchariw v. City of Stanislaus* 218 Cal. App. 4th 1019, 1027 (2013); *see*  
24 *also Bob Jones Univ. v. United States* 461 U.S. 574, 586 (1983) (a well-established canon of  
25 statutory construction provides that literal language should not defeat the plain purpose of the  
26 statute).

27  
28

1           **2. The Scope of the Court’s Review on Writ of Mandamus**

2           Judicial review of most public agency decisions is obtained by a writ of: (1) ordinary or  
3 traditional mandamus, per C.C.P. § 1085; or (2) administrative mandamus, per C.C.P. § 1094.5.  
4 *See Friends of the Old Trees v. Dep’t of Forestry & Fire Prot.*, 61 Cal. Rptr. 2d 297, 303 (Cal. Ct.  
5 App. 1997).

6           The applicable type of mandate is determined by the nature of the administrative action or  
7 decision, in that quasi-legislative or ministerial acts are reviewed by ordinary mandate, while quasi-  
8 judicial acts are reviewed by administrative mandate. *Id.* “Generally speaking, a legislative action  
9 is the formulation of a rule to be applied to all future cases, while an adjudicatory act involves the  
10 actual application of such a rule to a specific set of existing facts.” *Id.* (quotation omitted). More  
11 specifically, traditional mandate is used to review agency action when the agency was not required  
12 to hold a hearing, whereas administrative mandamus reviews final administrative orders from a  
13 proceeding “in which by law a hearing is required to be given, evidence is required to be taken, and  
14 discretion in the determination of facts is vested in the inferior tribunal[.]” *Id.* (quoting C.C.P.  
15 § 1094.5(a)).

16           Here, when evaluating the proposed transaction, the Attorney General was required to hold  
17 a hearing, take evidence, and utilize discretion in his determination of existing facts. Indeed,  
18 California Corporations Code § 5916 explicitly requires that “[p]rior to issuing any written decision  
19 referred to in Section 5915 . . . the Attorney General shall conduct one or more public meetings,  
20 one of which shall be in the county in which the facility is located, to hear comments from  
21 interested parties.” *See Sierra Club v. State Bd. of Forestry*, 7 Cal. 4th 1215, 1235 (1994) (section  
22 1095.4 hearing requirement satisfied where the Board of Forestry is required to hold a public  
23 hearing to review timber harvesting plan and determine if it conforms to the rules and regulations  
24 of the board and the Forest Practice Act).

25           In addition to being required to receive public input, the Attorney General’s conditional  
26 consent must also only have been determined after considering “relevant factors,” such as the ten  
27 enumerated ones set forth in California Corporations Code § 5917. These factors include the  
28 Attorney General’s receipt and review of evidence supporting whether the transaction is “fair and

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1 reasonable to the nonprofit corporation,” at “fair market value,” and “in the public interest.” CAL.  
2 CORP. CODE § 5917. As part of this evidentiary review, the Attorney General is authorized to  
3 contract with experts and consultants (and has done so here). *See* CAL. CORP. CODE § 5919. As a  
4 result, the Attorney General’s conditional consent is an adjudicatory administrative decision, and  
5 the standard of review in this proceeding must be administrative mandamus.<sup>6</sup> *See Friends of the*  
6 *Old Trees*, 61 Cal. Rptr. 2d at 304–05 (Section 1094.5 review required where the statutes governing  
7 the Department of Forestry & Fire Protection’s approval of a timber harvest plan provides  
8 numerous opportunities for public and agency input, even though the “Department is not required  
9 to hold a trial-type hearing.”); *see also Ebbetts Pass Forest Watch v. Dep’t of Forestry & Fire*  
10 *Prot.*, 20 Cal. Rptr. 3d 808, 814 (Cal. Ct. App. 2004) (public meetings to review timber harvest  
11 plan satisfy section 1094.5 standard).

12 Not only does the § 1094.5 framework apply, the scope of the Court’s judicial review is  
13 necessarily the “independent judgment rule,” because the Attorney General’s conditional consent  
14 “substantially affects” Verity’s “fundamental vested right.” *See, e.g., Mann v. Dep’t of Motor*  
15 *Vehicles*, 90 Cal. Rptr. 2d 277, 283 (Cal. Ct. App. 1999). Due to the separation of powers doctrine,  
16 deprivation of an entity’s or individual’s fundamental rights by an agency cannot evade judicial  
17 protection. *See Bixby v. Pierno*, 481 P.2d 242 (Cal. 1971) (“By carefully scrutinizing  
18 administrative decisions which substantially affect vested, fundamental rights, the courts of  
19 California have undertaken to protect such rights, and particularly the right to practice one’s trade  
20 or profession, from untoward intrusions by the massive apparatus of government.”). Thus, “[i]f the  
21 decision of an administrative agency will substantially affect such a right, the trial court not only  
22 examines the administrative record for errors of law but also exercises its independent judgment  
23 upon the evidence disclosed” in a *de novo* review. *Id.*

24 \_\_\_\_\_  
25 <sup>6</sup> This is in sharp contrast to the inapplicable §1085 standard involving only ministerial acts: “[a]  
26 ministerial act is an act that a public officer is required to perform in a prescribed manner in  
27 obedience to the mandate of legal authority and without regard to his own judgment or opinion  
concerning such act’s propriety or impropriety, when a given state of facts exists.” *Schwartz v.*  
*Poizner*, 113 Cal. Rptr. 3d 610, 614 (Cal. Ct. App. 2010) (quotations omitted).

28



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1 Whether an administrative decision substantially affects fundamental vested rights is  
2 determined on a case-by-case basis, in which this Court must consider “whether the affected right  
3 is deemed to be of sufficient significance to preclude its extinction or abridgement by a body  
4 lacking *judicial* power.” *Interstate Brands v. Unemployment Ins. Appeals Bd.*, 608 P.2d 707, 713  
5 n.5 (Cal. 1980) (emphasis in original). In this case, the Attorney General’s conditional consent has  
6 the practical effect of closing at least three of the Hospitals, forever. In that sense, it is  
7 indistinguishable from administrative decisions involving the revocation of a professional license  
8 or business permit, which, for decades, courts have consistently held to affect a fundamental right.  
9 *See, e.g., Oxford Preparatory Acad. v. Chino Valley Unified Sch. Dist.*, 249 Cal. Rptr. 3d 726, 730–  
10 31 (Cal. Ct. App. 2019), *reh’g denied* (July 29, 2019), *review filed* (Aug. 20, 2019) (charter school  
11 “has a fundamental vested right to continue operating”); *Coe v. City of San Diego*, 208 Cal. Rptr.  
12 3d 73, 81 (Cal. Ct. App. 2016) (“a decision to revoke a nude entertainment business permit  
13 involves a fundamental vested right.”); *The Termo Co. v. Luther*, 86 Cal. Rptr. 3d 687, 697 (Cal.  
14 Ct. App. 2008) (“The implementation of the Order and Decision would have the effect not only of  
15 shutting down a business that has been in existence for 20 years or more, but also of terminating the  
16 right to produce oil—an extraordinarily valuable resource, especially in the current economic era. .  
17 . . Certainly, a fundamental vested right is at issue.”); *Bauer v. City of San Diego*, 89 Cal. Rptr. 2d  
18 795, 804 n.14 (Cal. Ct. App. 1999); *Goat Hill Tavern v. City of Costa Mesa*, 8 Cal. Rptr. 2d 385,  
19 391 (Cal. Ct. App. 1992) (“the right to continue operating an established business in which [the  
20 owner] has made a substantial investment” is a “fundamental vested right.”). Indisputably, the  
21 Debtors’ rights to preserve its Hospitals—such that they can continue providing healthcare and  
22 lifesaving procedures to the community they serve—are fundamental, vested, and abridged  
23 substantially by the Attorney General’s 2019 Conditions.

24 The Attorney General may attempt to cast the Debtors’ rights in a purely economic light,  
25 incorrectly arguing that the Debtors merely assert the right to sell its businesses. *Cf. SP Star*  
26 *Enterprises, Inc. v. City of Los Angeles*, 93 Cal. Rptr. 3d 152, 162 (Cal. Ct. App. 2009). But, the  
27 rights threatened by the Attorney General’s decision are the survival of three Hospitals upon which  
28 the public undisputedly depends. *Benetatos v. City of Los Angeles*, 186 Cal. Rptr. 3d 46, 56 (Cal.

1 Ct. App. 2015) (“The substantial evidence test has been applied to review administrative decisions  
2 that restrict a property owner’s return on his property, or which increase the cost of doing business,  
3 or reduce profits, because such decisions impact mere economic interests rather than fundamental  
4 vested rights. In contrast, the independent judgment test is applied to review administrative  
5 decisions *that will drive an owner out of business or significantly injure the business’s ability to*  
6 *function.*”) (emphasis added).

7 As a result, in this proceeding, this Court “begin[s] its review with a presumption of the  
8 correctness of administrative findings, and then, after affording the respect due to these findings,  
9 exercise[s] independent judgment in making its own findings.” *Fukuda v. City of Angels*, 977 P.2d  
10 693, 701 (Cal. 1999).

11 In addition, “[w]here the court finds that there is relevant evidence that, in the exercise of  
12 reasonable diligence, could not have been produced or that was improperly excluded at the hearing  
13 before respondent . . . the court may admit the evidence at the hearing on the writ without  
14 remanding the case.” C.C.P. § 1094.5(e); *see also Tiholiz v. Northridge Hosp. Found.*, 199 Cal.  
15 Rptr. 338, 343 (Cal. Ct. App. 1984) (permitting admission of newly discovered evidence in the  
16 form of declarations, finding that “a litigant has a fundamental interest at stake in procedural  
17 fairness, including but not limited to an interest in the compilation of an accurate hearing record”).

18 Even if traditional mandamus applies, the Attorney General’s conditional consent  
19 constitutes an abuse of his discretion. The Debtors are “beneficially interested” to seek a writ of  
20 mandate, in that its particular right to sustain the Hospitals is direct and substantial, especially  
21 given the undisputed public need for these hospitals. *Citizens for Amending Proposition L v. City*  
22 *of Pomona*, 239 Cal. Rptr. 3d 750, 763–64 (Cal. Ct. App. 2018), *reh’g denied* (Nov. 28, 2018).  
23 Under § 1085, the trial court reviews an administrative action to determine whether an agency’s  
24 action “was arbitrary, capricious, or entirely lacking in evidentiary support, contrary to established  
25 public policy, unlawful or procedurally unfair.” *Id.* (quotations omitted). “Although mandate will  
26 not lie to control a public agency’s discretion, that is to say, force the exercise of discretion in a  
27 particular manner, it will lie to correct abuses of discretion.” *Id.* (quotations omitted).

28

1 Because public agencies and officials “have a duty to comply with applicable state statutes  
2 and local ordinances,” failure to do so is an abuse of discretion that is “arbitrary, capricious, or  
3 lacking in evidentiary support.” *Id.* at 774.

4 There are also exceptions to the general rule precluding the consideration of extra-record  
5 evidence in traditional mandamus actions, where such evidence provides background information  
6 regarding the quasi-legislative agency decision, to establish whether the agency fulfilled its duties  
7 in making the decision, or to assist the trial court in understanding the agency’s decision. *Outfitter*  
8 *Properties, LLC v. Wildlife Conservation Bd.*, 143 Cal. Rptr. 3d 312, 322 (Cal. Ct. App. 2012).

9 **3. The Attorney General Failed to Assure Preservation of the Hospitals for Their**  
10 **Communities**

11 As set forth above, the Attorney General’s discretion to issue conditions of approval of a  
12 sale of a nonprofit hospital to a for profit entity is circumscribed by (i) California Corporations  
13 Code § 5917, and (ii) the Attorney General’s general statutory and common law obligations to  
14 preserve and/or redirect the charitable assets for public benefit. *See, e.g.*, CAL. GOV’T CODE §  
15 12598. Although the Attorney General is not a technical fiduciary to such assets, *see Restatement*  
16 *of the Law of Charitable Nonprofit Organizations Principles of the Law of Nonprofit Organizations*  
17 § 5.01 TD (2017), and although the Attorney General, in the normal course, is not empowered to  
18 substitute its judgment for that of the trustees of the charitable assets, the Attorney General’s role in  
19 overseeing a nonprofit hospital sale becomes virtually that of a fiduciary to such assets during the  
20 sale process. This virtual status results from the multiple layers of statutory and common law  
21 requirements imposed on the Attorney General’s decision making, and the Attorney General’s  
22 arrogation of the right to impose contractual post-sale restrictions on then for-profit assets (which  
23 in fact imposes the Attorney General’s judgment over that of the successor hospital administrator).

24 Here, the Attorney General, in conditionally approving the SGM Sale, has accepted that the  
25 Hospitals are no longer sustainable as part of a nonprofit enterprise. There were no nonprofit  
26 bidders for the Hospitals. Once the Attorney General has determined that the Hospitals cannot be  
27 maintained as nonprofit, the Attorney General’s duties are to (i) ensure that the facility is  
28 monetized at a fair market value to the nonprofit seller of the facility, *see CAL. CORP. CODE §*

1 5917(c), and (ii) ensure that the monies received from the sale of the facility are preserved for  
2 charitable use by redirecting them under appropriate *cy pres* guidelines, *see* CAL. GOV'T CODE §  
3 12598(a).

4 The Hospitals, once sold, are no longer charitable assets, so the Attorney General's power  
5 and his right of oversight of these Hospitals ceases. The 2019 Conditions represent the Attorney  
6 General's attempt to subvert California Corporations Code § 5917 and extend his continuing  
7 control over non-charitable health care assets. The Attorney General cannot commit such an end-  
8 run around the statutory limitations to his decision making discretion. Importantly, any continuing  
9 control over the Hospitals is a result solely of a contract entered into between the Attorney General  
10 and SGM.

11 One of the paramount obligations of the Attorney General is to preserve charitable assets.  
12 This obligation is embodied in California Government Code § 12598(a), which provides that “[t]he  
13 primary responsibility for supervising charitable trusts in California, . . . . *for protection of assets*  
14 *held by charitable trusts* and public benefit corporations, resides in the Attorney General.”  
15 (emphasis added). It is also one of the factors set forth by the Legislature in California  
16 Corporations Code § 5917(h). *See* CAL. CORP. CODE § 5917(h) (“The agreement or transaction  
17 may create a significant effect on the availability or accessibility of health care services to the  
18 affected community.”).

19 The Attorney General is duty-bound to ensure that the Hospitals survive, and, thus, cannot  
20 impair availability or access of the community to health care facilities. The Attorney General  
21 breached his obligation to act in a manner to preserve the charitable assets by imposing the  
22 Additional Conditions with full knowledge that such conditions would result in the closure of at  
23 least 3 Hospitals. *See* Exhibit “E;” see also Baronoff Decl. ¶ 7. The Attorney General's actions  
24 will have destroyed, not preserved, the charitable assets. Such action clearly controverts the  
25 Attorney General's discretion. Agency decisions, such as those of the Attorney General here, are  
26 subject to judicial review and can be reversed if the court finds that the agency's discretionary  
27 choice is an abuse of discretion. *See Motor Vehicle Mfrs. Assn. of the U.S. v. State Farm Mut. Auto*  
28 *Ins. Co.*, 463 U.S. 29 (1983); *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216, 271



**DECLARATION OF RICHARD G. ADCOCK**

1  
2 I, Richard G. Adcock, declare that I have personal knowledge of the facts set forth in this  
3 declaration, and I would competently testify to them under oath if called as a witness.

4 1. I am, and have been since January 2018, the Chief Executive Officer of Verity  
5 Health System of California, Inc. (“VHS”). Prior thereto, I served as VHS’s Chief Operating  
6 Officer since August 2017.

7 2. I have extensive senior-level experience in the nonprofit healthcare arena, especially  
8 in the areas of healthcare delivery, hospital acute care services, health plan management, product  
9 management, acquisitions, integrations, population health management, budgeting, disease  
10 management and medical devices. I have meaningful experience in both the technology and  
11 healthcare industries in the areas of product development, business development, mergers and  
12 acquisitions, marketing, financing, strategic and tactical planning, human resources, and  
13 engineering.

14 3. Prior to VHS, from 2014 until 2017, I served as Executive Vice President and Chief  
15 Innovation Officer of Sanford Health, a large integrated health system headquartered in the  
16 Dakotas dedicated to health and healing. In this role, I was responsible for leading Sanford Health’s  
17 growth and innovation, in addition to direct operational oversight of the following related entities:  
18 Sanford Research, Sanford Health Plan; Sanford Foundation (a philanthropic fundraising  
19 foundation); Sanford Frontiers (a commercial and real estate company); Profile by Sanford (a  
20 scientific weight loss program); and Sanford World Clinic (which operates clinics in multiple  
21 countries).

22 4. From 2012 to 2017, I served as the President of Sanford Frontiers and had the  
23 responsibility of starting a new entity within Sanford Health focused on innovative ventures. From  
24 2008 to 2012, I served as Executive Vice President of Sanford Clinic. I was responsible both for (i)  
25 working directly with the President of the Clinic to the lead team of Vice Presidents in all aspects  
26 of management, and (ii) Sanford World Clinics operations, including the design, opening and  
27 operation of several global clinics. From 2006 to 2008, I served as the Vice President of Sanford  
28 Clinic and was responsible for leading strategic, operational and financial aspects within Sanford

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1 Clinic. From 2004 to 2006, I served as Director of Clinical Operations at Sanford Children’s  
2 Specialty Clinic and led the Pediatric Subspecialty Physician program and the clinical practice  
3 through all facets of the operation.

4 5. Prior to Sanford Health, I served as the Director of Engineering and Six Sigma  
5 Master Black Belt at GE Medical Systems, and before that served as the Vice President of Research  
6 and Development and the Co-Owner/Founder of Micro Medical Systems. I have a bachelor of  
7 science in business administration and a masters of business administration in healthcare  
8 management.

9 6. On May 2, 2019, the Court entered an order (the “Sale Order”) approving the sale of  
10 substantially all assets of Debtors’<sup>7</sup> remaining hospitals (St. Francis Medical Center (“SFMC”), St.  
11 Vincent Medical Center (“SVMC”) including the St. Vincent Dialysis Center (“SVDC”), and Seton  
12 Medical Center (“SMC”), including Seton Medical Center Coastside Campus (“SMCC”)  
13 (collectively the “Hospitals”), to Strategic Global Management, Inc. (“SGM”) for \$610 million (the  
14 “SGM Sale”), subject to certain adjustments, plus the payment of cure costs and assumption of  
15 certain liabilities, as more fully set forth in that certain asset purchase agreement (the “APA”)  
16 [Docket No. 2306].

17 7. The Debtors, SGM and third parties have expended tremendous efforts to prepare  
18 for and close the SGM Sale in reliance on the Sale Order. These tireless efforts have taken a  
19 significant amount of time and resources and simply cannot be undone. By way of example: (i) the  
20 Debtors sent “WARN notices” to approximately 4,900 employees, pursuant to the federal Worker  
21 Adjustment and Retraining Notification Act of 1988; (ii) thousands of counterparties to executory  
22 contracts and unexpired leases, including physicians, have relied on the Sale Order and continued  
23 to provide services in reliance on the finality of that Sale Order; (iii) the Debtors and SGM have  
24 spent months facilitating an efficient close of the sale, with approximately 20 different  
25 workstreams, meeting at least weekly to ensure a smooth transition of operations; (iv) government  
26 agency personnel, including the California Department of Public Health and the Board of

27 \_\_\_\_\_  
28 <sup>7</sup> “Debtors” collectively refers to VHS and its affiliated debtors in this proceeding.

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1 Pharmacy, have been diligently processing SGM’s change of ownership applications for licenses  
2 and permits in reliance on the finality of the Sale Order; (v) the Debtors, SGM, and each of the  
3 Debtors’ six unions spent months successfully negotiating and finalizing modified collective  
4 bargaining agreements; (vi) the medical groups affiliated with the Debtors have sent termination  
5 notices to their remaining physicians; (vii) the Debtors and SGM have coordinated changes in  
6 insurance coverages and insurance policies to ensure seamless coverage for employees and  
7 patients, and (viii) the Debtors have created plans to shut off certain services after the close of the  
8 SGM Sale. In addition, the Debtors have no further financing source.

9 8. Attached hereto as Exhibit “1” is a true and correct copy of a September 18, 2019  
10 letter from Chokri BenSaid, Director of the Hospital Division of the United Healthcare Workers  
11 West Service Employees International Union, Inc., to Deputy Attorney General Scott Chan,  
12 expressing support for the SGM Sale. Attached hereto as Exhibit “2” is a true and correct copy of a  
13 letter from Jennifer Lemmon, Collective Bargaining Director of the California Nurses Association,  
14 to Attorney General Becerra, to the same effect. Attached hereto as Exhibit “3” is a true and  
15 correct copy of a September 24, 2019 letter from Mark Shinderman, counsel for the official  
16 committee of unsecured creditors, to Attorney General Becerra, also expressing support for the  
17 SGM Sale.

18 9. I have reviewed the conditions (the “2019 Conditions”) set forth in the September  
19 25, 2019 report issued by the California Attorney General (the “Attorney General”) regarding the  
20 SGM Sale. The 2019 Conditions require, among other things, that SGM continue to operate the  
21 Hospitals and maintain various services, clinics and contractual arrangements for a period of time  
22 greater than the period of time that Debtors would have been obligated under the 2015 Conditions  
23 (defined below) if the Debtors had the ability to continue to operate the Hospitals. The 2019  
24 Conditions are also materially different than those to which SGM agreed in Schedule 8.6 because  
25 they impose additional conditions including, among other things, greater requirements for charity  
26 care expenditures, community benefit expenditures, capital expenditures, and do not account for the  
27 substantial shift in charity care needs following the implementation of the Affordable Care Act.

28



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1           10.     The 2019 Conditions are in large part the same as the proposed conditions  
2 (“Proposed Conditions”) set forth in the Initial Health Care Impact Statements prepared by JD  
3 Healthcare. Annexed hereto as Exhibit “E” is a true and correct copy of a letter from SGM’s  
4 counsel, Todd Swanson of Hooper, Lundy & Bookman, P.C., to Deputy Attorney General Scott  
5 Chan, explaining that SGM would not accept the Proposed Conditions to the extent they materially  
6 differ from Schedule 8.6 to the APA.

7           11.     I previously urged the Attorney General not impose conditions that would threaten  
8 to close the Hospitals or otherwise unwind stakeholders’ heroic efforts to save these Hospitals.  
9 This was detailed in my *Declaration filed in support of the Notice of Submission of Debtors’*  
10 *Response to the Health Care Impact Statements and Conditions Imposed By JD Healthcare, Inc.*  
11 [Docket No. 2946], a true and correct copy of which is annexed hereto as Exhibit “E”. It was also  
12 detailed in my August 23, 2019 letter to Deputy Attorney General Scott Chan, as true and correct  
13 copy of which is annexed hereto as Exhibit “E”.

14           12.     Further, during the week of August 26, 2019, Deputy Attorney General Scott Chan  
15 held public hearings at each of the Hospitals to solicit comments regarding the SGM Sale. I  
16 attended each of the public meetings in person. At each public meeting, representatives of SGM  
17 and the Debtors made public statements detailing the economic impact of the conditions proposed  
18 by the Attorney General’s expert, JD Healthcare, and the economic situation confronting each  
19 Hospital; urging the Attorney General to consider economic factors when issuing his conditions;  
20 and reiterating that any conditions exceeding those in Schedule 8.6 of the SGM APA could result in  
21 the termination of the SGM Sale and the closure of the Hospitals.

22           13.     As was the case with the Proposed Conditions, many of the 2019 Conditions are  
23 materially inconsistent with those to which SGM has agreed in Schedule 8.6, and do not take into  
24 consideration the negative economic impact of the 2019 Conditions and the conditions imposed on  
25 the Hospitals in 2015 (the “2015 Conditions”).

26           14.     Without regard to the economic and community realities, certain of the 2019  
27 Conditions force the Hospitals to maintain programs that not only suffer significant losses an  
28

1 annual basis, but are unnecessary because the same services (and in some instances, more  
2 comprehensive services) are already provided at other hospitals in the area.

3 15. The economic impact of the 2019 Conditions cannot be understated. As a hospital  
4 operator, I know from first-hand experience operating and overseeing the Hospitals that (i) the  
5 2015 Conditions were too burdensome, (ii) hampered the Hospitals ability to prosper, as discussed  
6 above, and (iii) accelerated the demise of these Hospitals. Verity, its employees, tens of thousands  
7 of vendors and other parties have made tireless efforts during the sale process to ensure high  
8 quality continued patient care and to take the necessary steps that would allow the Hospitals to be  
9 sold to a new operator that could successfully operate the Hospitals. The Bankruptcy Court has  
10 now approved the sale to SGM, which paves the way for these Hospitals and the communities they  
11 serve to continue the Hospitals' mission of quality patient care.

12 16. The Debtors did not receive any other qualified bid to purchase the Hospitals. Thus,  
13 there is no back-up bidder to purchase the Hospitals if the SGM Sale does not close. Additionally,  
14 SGM representatives have repeatedly told the Debtors that multiple lenders have informed SGM  
15 that they would not agree to finance the SGM Sale if the conditions were not consistent with  
16 Schedule 8.6, which makes the SGM Sale nearly impossible to close. Consequently, if the  
17 Additional Conditions were imposed, they would create an environment where it is likely no lender  
18 would be willing to finance the sale of the Hospitals to SGM, ensuring closure of at least three of  
19 the Hospitals.

20 17. Due to the Debtors' liquidity issues, unsustainable operating losses, and the absence  
21 of an interested viable purchaser, SVMC, Seton Medical Center, and Seton Coastside would need  
22 to be closed if the SGM Sale does not close. The closures of SVMC, Seton Medical Center, and  
23 Seton Coastside would result in the loss of approximately 2,900 jobs.

24 18. As to SFMC, the Debtors would likely attempt a private sale in the bankruptcy  
25 cases. I, however, foresee significant challenges to SFMC's sustainability and sale. Specifically,  
26 any new sale of SFMC would require additional time, which would result in an exorbitant amount  
27 of administrative and other expenses in these cases. By way of an example, the Debtors would  
28 need to find a new buyer after a marketing process, seek approval from the Court, and then await

1 yet another review by the Attorney General. To even accomplish the foregoing, it is likely that the  
2 Debtors would need to obtain debtor in possession financing to help fund operations, which would  
3 carry another layer of expense.

4 19. Consequently, even if the Debtors were able to sell SFMC in the event the SGM  
5 Sale failed, recoveries to creditors would be significantly reduced by hundreds of millions of  
6 dollars since (i) there would not be any proceeds from the sale of SVMC, Seton, and Seton  
7 Coastside, and (ii) the delay associated with the second sale of SFMC.

8 20. The Hospitals provide access to essential healthcare services in their communities.  
9 Faced with the possibility of losing the Hospitals in their entirety, rote application of the 2015  
10 Conditions should yield to the pragmatics of economics and demonstrable patient care and  
11 community need.

12 21. If the SGM transaction does not close, the Debtors, employees, pension holders,  
13 other stakeholders, and community members, would be exposed to significant and unrecoverable  
14 health care and economic loss.

15 22. If the SGM Sale fails, the most likely outcome is that at least three of the Hospitals  
16 will have to close. Altogether, between July 1, 2018 and June 30, 2019, the Hospitals had more  
17 than 34,000 inpatient admissions and 312,000 outpatient visits. If the Hospitals are closed, all of  
18 those patients would be forced to find alternative providers for treatment, perhaps at greater  
19 distances than they are now required to travel for treatment at the Hospitals. For example, Seton  
20 Coastside is the only emergency room facility on the Pacific Coast between Daly City and Santa  
21 Cruz. Additionally, Seton Coastside has 116 skilled nursing facility (“SNF”) beds and, if Seton  
22 Coastside were closed, those residents would be forced to be relocated significant distances to find  
23 alternative facilities. In my experience, the risk of negative outcomes for emergency room patients  
24 increases as the distance, and therefore the time, required to obtain treatment, increases.  
25 Additionally, in addition to the difficulty in finding alternative facilities for the SNF patients, the  
26 impact of transfer trauma on this population could be significant.

27 23. Further, among the other stakeholders which will be harmed by a failed SGM Sale  
28 are the vendors that have supported the Hospitals by providing credit terms throughout these cases.

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1 Under the SGM Sale, these creditors will receive payment for their support of the Hospitals during  
2 the sale process. A failed sale to SGM would put that at risk. In addition, there are thousands of  
3 vendors whose contracts will likely be assumed by SGM in the sale. Consequently, these vendors  
4 will be paid for their prepetition claims, an estimated total recovery for these vendors of \$50  
5 million. Even those vendors whose contracts are not assumed by SGM are still expected to receive  
6 millions of dollars of recoveries. In total, the failed sale to SGM would cost these vendors tens of  
7 millions of dollars in recoveries. Further, there would be a loss of future income for services  
8 provided to the operating Hospitals on a go-forward basis.

9 24. The Hospitals have approximately 4,900 employees. SGM has committed to retain  
10 “substantially all” employees of the Debtors, as set forth in the APA.

11 25. In the past week, the Debtors have finalized settlement agreements (the “Settlement  
12 Agreements”) with each and every union that is party to collective bargaining agreements (the  
13 “CBAs”) related to the Hospitals being sold to SGM. The Settlement Agreements provide, *inter*  
14 *alia*, for modification and assignment of the CBAs to SGM (along with waiver of any cure  
15 obligations of the Debtors), the treatment and allowance of certain claims, including severance for  
16 employees who are not offered employment, paid time off, and retiree health (for the few retirees  
17 who utilize the program) and the waiver of other claims. The Settlement Agreements are  
18 conditioned on Bankruptcy Court approval and on other important events, including Plan  
19 confirmation and closing of the sale to SGM for a purchase price that is not materially different  
20 from the amount contained in the SGM APA. The Debtors are in the process of finalizing pleading  
21 papers that will request Court approval of the Settlement Agreements and related relief, which it  
22 expects to file for expedited consideration presently.

23 26. The SGM Sale presents the Debtors’ stakeholders with the best possible alternative,  
24 and the failure of the SGM transaction will likely result in a loss of healthcare access for vulnerable  
25 populations, as well as jobs of thousands of employees.


26 ///

27 ///

28

1 I declare under penalty of perjury under the laws of the United States that the foregoing is  
2 true and correct.

3 Executed this 30th day of September, 2019, in Los Angeles, California.

4 

5 \_\_\_\_\_  
6 Richard G. Adcock

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

**Exhibit 1**

**Adcock Declaration**



UNITED HEALTHCARE  
WORKERS WEST  
SERVICE EMPLOYEES  
INTERNATIONAL  
UNION, CLC

Via U.S. Mail

September 18, 2019

Attorney General Xavier Becerra  
Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 94814-2919

Scott Chan, Deputy Attorney General  
State of California Department of Justice  
Office of the Attorney General  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102

**RE: Verity Health Systems, Inc. and Strategic Global Management, Inc.**

Dear Mr. Becerra and Mr. Chan,

The Service Employees International Union United Healthcare Workers West (SEIU-UHW), represents approximately 1,400 workers at St. Francis Medical Center and St. Vincent Medical Center. SEIU-UHW is writing in support of the sale transaction between Verity Health Systems, Inc. and Strategic Global Management, Inc. Given that Verity Health Systems has been in bankruptcy proceedings for over a year and Strategic Global Management was the only entity to submit a qualified bid for St. Francis Medical Center and St. Vincent Medical Center we believe this transaction is the best way to preserve jobs and patient care. Therefore, we urge a prompt closing of this sale.

Sincerely,

A handwritten signature in black ink, appearing to read "Chokri BenSaid", is positioned below the "Sincerely," text.

Chokri BenSaid  
Director, Hospital Division  
SEIU – UHW

Dave Regan - President  
Stan Lyles - Vice President

560 Thomas L. Berkley Way  
Oakland, CA 94612  
510-251-1250  
FAX 510-763-2680

5480 Ferguson Drive  
Los Angeles, CA 90022  
323-734-8399  
FAX 323-721-3538

**Exhibit 2**

**Adcock Declaration**





California  
Nurses  
Association



National  
Nurses  
United

OAKLAND  
155 Grand Avenue  
Oakland CA 94612  
phone: 800-287-5021  
fax: 510-663-1625

*A Voice for Nurses. A Vision for Healthcare.*

*Via U.S. Mail*

September 17, 2019

Attorney General Xavier Becerra  
Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 94814-2919

Scott Chan, Deputy Attorney General  
State of California Department of Justice  
Office of the Attorney General  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102

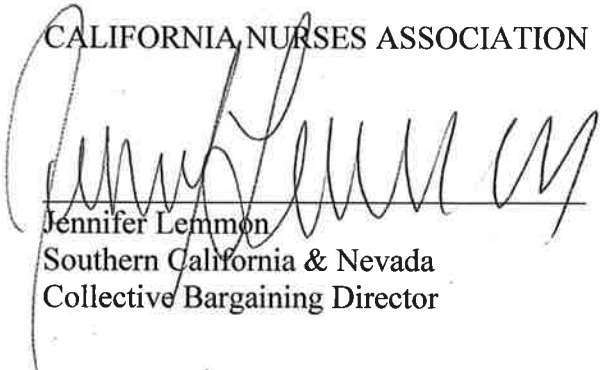
**RE: Verity Health Systems, Inc. and Strategic Global Management, Inc.**

Dear Mr. Becerra and Mr. Chan:

The California Nurses Association represents approximately 468 registered nurses at St. Vincent Medical Center and approximately 396 registered nurses at Seton Medical Center. CNA is writing in support of the sale transaction between Verity Health Systems, Inc. and Strategic Global Management, Inc. Given that Verity Health Systems has been in bankruptcy proceedings for over a year and Strategic Global Management was the only entity to submit a qualified bid for St. Vincent Medical Center and Seton Medical Center, we believe this transaction is the best way to preserve jobs and patient care. Therefore, we urge a prompt closing of this sale.

Sincerely,

CALIFORNIA NURSES ASSOCIATION

  
Jennifer Lemmon  
Southern California & Nevada  
Collective Bargaining Director

**Exhibit 3**

**Adcock Declaration**

# Milbank

**MARK SHINDERMAN**

*Partner*

2029 Century Park East, 33rd Floor | Los Angeles, CA 90067-3019

T: 424.386.4411

MShinderman@milbank.com | milbank.com

September 24, 2019

**VIA EMAIL**

The Honorable Xavier Becerra  
Attorney General, State of California  
1300 I Street  
Sacramento, CA 95814

Dear Attorney General Becerra:

The official committee of unsecured creditors (the “Committee”) of debtor Verity Health System (“Verity”), a statewide healthcare provider, represents the interests of Verity’s creditor constituency, including labor unions, retirees, and tort claimants, among others. The Committee is charged with the obligation to help maximize the recoveries of all unsecured creditor constituents.

Verity is rapidly depleting cash reserves such that prolonging the proceedings could result in the shuttering of healthcare facilities in underserved communities. Verity’s proposed sale of assets to Strategic Global Management, Inc., an affiliate of KPC, presents an opportunity to offer continued access to health care services for those communities served by Verity, while also providing an opportunity for unsecured creditors to obtain some recovery, albeit small (absent successful litigation with the secured creditors and others). The Committee is not aware of any alternative at this point that would accomplish these goals.

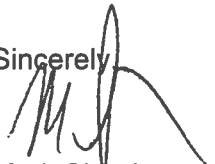
Time is of the essence and any delay in closing would be very costly. Verity estimates, and the Committee believes, that the cost of delay is almost \$5 million per week. Consequently, any further delay could eliminate unsecured creditor recoveries entirely.

#4810-3748-0337v2

MILBANK LLP

NEW YORK | LOS ANGELES | WASHINGTON, D.C. | SÃO PAULO | FRANKFURT  
LONDON | MUNICH | BEIJING | HONG KONG | SEOUL | SINGAPORE | TOKYO  
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Thank you for your consideration of the Committee's views and we look forward to further discussing this matter with you should you have any questions.

Sincerely,  
  
Mark Shinderman  
Milbank

#4810-3748-0337v2

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DECLARATION OF PETER BARONOFF

Peter Baronoff declares as follows:

1. I am currently the Chief Executive Officer of KPC Healthcare, Inc., which owns four hospitals in Orange County: The Orange County Global Medical Center, Southcoast Global Medical Center, Anaheim Global Medical Center, and Chapman Global Medical Center. I am also the Chief Executive Officer of Physicians for Healthy Hospitals, Inc., which owns Hemet Global Medical Center and Mennefee Global Medical Center. I am the Chief Executive Officer of Victor Valley Hospital Acquisition, Inc., which owns the Victor Valley Global Medical Center. All of the afore-said hospitals are acute care hospitals, and collectively referred to as “KPC”.

2. Following the commencement of the Chapter 11 cases for Verity Health Systems of California, Inc., et al (collectively “Verity”), I began discussions with Verity’s representatives regarding the possible acquisition by Strategic Global Management, Inc. (“SGM”), one of KPC’s affiliates, of one or more of the Verity hospitals. Over the course of the months beginning November 2018 and continuing into February 2019, I was directly involved in the negotiations on behalf of SGM in connection with SGM’s prospective acquisition of St. Vincent Medical Center, St. Vincent Dialysis Center, St. Francis Medical Center, and Seton Medical Center (including its Seton Medical Center Coastside campus) (“the SGM Hospitals”). These negotiations eventually led to the execution of an Asset Purchase Agreement between SGM and Verity for the SGM Hospitals (“APA”).

3. During the course of SGM’s negotiations with Verity, there were innumerable issues that the parties confronted, discussed, negotiated and ultimately resolved when the parties reached a final agreement on the terms of the APA. One of the most intensely negotiated subjects had to do with the prospective conditions that might be imposed by the California Attorney General (“Attorney General”) in connection with the proposed transfer of the SGM Hospitals to SGM. Based upon my prior experience with hospital acquisitions, both in connection with my employment at KPC and also in connection with my prior employment as an

executive of Promise Healthcare (“Promise”), I was well aware of the Attorney General’s approval process in connection with the sale of not for profit hospitals and with the precedent for the Attorney General to impose conditions on such sales. Indeed, I was personally involved, on behalf of Promise, in the Gardens Regional Hospital Chapter 11 case. Promise was a DIP lender and stalking horse bidder for Gardens Regional Hospital, but was ultimately outbid by SGM at the auction. When SGM terminated its purchase agreement, as a result of the imposition by the Attorney General of condition, which were deemed burdensome by SGM, that sale transaction was terminated and Gardens Regional Hospital was eventually closed.

4. Knowing that, in our case, SGM’s acquisition of the SGM Hospitals would undergo an approval process by the Attorney General, and knowing that the Attorney General might impose conditions that would not be acceptable to SGM, SGM recognized the importance of negotiating a provision in its Asset Purchase Agreement which would protect it from the possibility that the Attorney General would impose conditions on the transfer of the hospitals to SGM which would be burdensome from a financial standpoint and otherwise. Accordingly, SGM and Verity spent an enormous amount of time negotiating the provisions of what became Section 8.6 (and Schedule 8.6 referenced therein) of the APA. Without question, the negotiation of Section 8.6 was the most intensely negotiated provision of the APA. In fact, it was not until the morning of the hearing to approve SGM as the stalking horse purchaser, which took place on February 6, 2019, that the parties, with input from the Official Creditors Committee and other stakeholders, were able to agree on the final wording of Section 8.6.

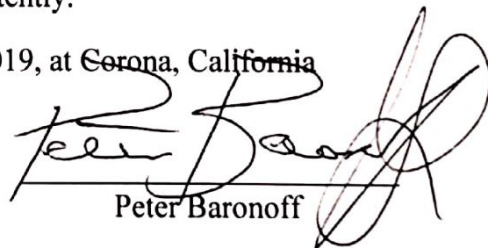
5. In essence, the parties agreed that if the Attorney General imposed “Additional Conditions” (as used in Section 8.6), SGM would not be obligated to close the sale unless Verity was able to procure from the Bankruptcy Court or another court, a supplemental sale order finding that the Additional Conditions are an “interest in property” for purposes of 11 U.S.C. § 363(f), and that the Assets can be sold free and clear of the Additional Conditions without the imposition of any other conditions. Section 8.6 also discusses certain time limits and finality requirements, as more specifically set forth therein.

6. The Additional Conditions referred to in Section 8.6 were those conditions which are materially different than the conditions approved by SGM in Schedule 8.6. Additional Conditions which individually or collectively impose a direct or indirect cost to SGM of \$5 million, or more, shall be conclusively deemed to be “materially different.”

7. On September 25, 2019, the Attorney General issued his decision with respect to the proposed transfer of the SGM Hospitals to SGM (“Decision”). We have carefully reviewed the Decision. The Attorney General’s Decision imposes numerous conditions on the transfer of the SGM Hospitals to SGM. Many of these conditions are “Additional Conditions” as that term is used in Section 8.6 of the APA. SGM has evaluated the Additional Conditions and has advised Verity that, based upon these Additional Conditions, SGM is invoking its rights under Section 8.6 of the APA. Accordingly, SGM has advised Verity that SGM will not close the purchase of the SGM Hospitals unless Verity is able to obtain the requisite court order within the time period provided for in Section 8.6.

8. I declare under penalty of perjury, of the laws of the United States of America, that all of the foregoing facts are true and correct and if sworn to testify concerning the contents of this Declaration I could and would do so competently.

Executed this 20<sup>th</sup> day of September, 2019, at Corona, California

  
Peter Baronoff

**PETER C. CHADWICK**

I, Peter C. Chadwick, declare, that if called as a witness, I would and could competently testify thereto, of my own personal knowledge, as follows:

1. I am a Managing Director of Berkeley Research Group, LLC (“BRG”) and am duly authorized to make this declaration (the “Declaration”) on behalf of BRG. I obtained a BA from Pennsylvania State University, and an MBA in Finance from Babson College, Olin School of Business. Before joining BRG, I was an Executive Director at Capstone Advisory Group, LLC. Prior to that, I was a Senior Managing Director at FTI Consulting. For more than twenty years, I have served as a chief restructuring officer, chief executive officer, chief operating officer, chief financial officer and as a financial advisor and trustee in complex restructuring matters. Among other things, I have significant experience in the healthcare arena and effectuating sale transactions.

2. On November 7, 2018, the Court entered an order employing BRG [Docket No. 785] as the financial advisors to Verity Health System of California, Inc. and the above-referenced debtors and debtors in possession (collectively, the “Debtors”), the above captioned chapter 11 cases (the “Cases”). I have diligently worked with the Debtors on every aspect of their Cases. In addition, I have been serving as Chief Financial Officer of Seton Medical Center since September 1, 2019.

3. Except as otherwise indicated herein, this Declaration is based upon my personal knowledge, my review of relevant documents or information provided to me by employees of BRG and the Debtors. In preparing this Declaration, I have relied on my experience as described above. I am also assisted by others at BRG who work at my direction in the preparation of the analysis and other information included herein. In addition, I reviewed the Debtors’ schedules and legal papers. In preparing this Declaration, I worked with persons at the Debtors’ facilities with factual knowledge of information upon which I have relied. If called upon to testify, I would testify competently to the facts set forth in this Declaration.

4. This Declaration is in support of the *Debtors’ Emergency Motion for the Entry of an Order (I) Enforcing the Order Authorizing the Sale to Strategic Global Management, Inc.; (II) Finding That the Sale Is Free and Clear of Conditions Materially Different Than Those Approved*



1 *by the Court; (III) Finding That the Attorney General Abused His Discretion in Imposing*  
2 *Conditions on That Sale; and (IV) Granting Related Relief (the “Motion”), and for all other*  
3 *purposes permitted by law. All capitalized terms not otherwise defined herein shall have the same*  
4 *meaning as in the Motion.*

5         5. I have reviewed the conditions (the “2019 Conditions”) set forth in the September  
6 25, 2019 report (the “Report”) issued by the California Attorney General (the “Attorney General”)  
7 regarding the proposed sale of St. Francis Medical Center (“SFMC”), St. Vincent Medical Center  
8 (“SVMC”), and Seton Medical Center, including its Daly City and Coastside Campuses (“Seton”)  
9 (collectively, the “Hospitals”), to Strategic Global Management, Inc. (“SGM”) and its affiliated  
10 entities, as reflected in that certain Asset Purchase Agreement (the “APA”). I have also compared  
11 the 2019 Conditions to Schedule 8.6 to the APA.

12         6. Several of the 2019 Conditions differ materially from Schedule 8.6 attached to the  
13 APA (the “Additional Conditions”). The Additional Conditions would have a significant impact  
14 on the economic viability of the Hospitals and increase the purchase price in the APA to nearly a  
15 billion dollars. By way of example only, the 2019 Conditions would require SVMC to remain  
16 operated and maintained as a licensed general acute care hospital (as defined in California Health  
17 and Safety Code Section 1250) through December 2024, whereas Schedule 8.6 provides that  
18 SVMC must be operated through December 2020. The reported Financial Statements of SVMC  
19 reflect that, in fiscal 2019 (ended June 30, 2019), SVMC lost approximately \$65 million which  
20 was an 18% and 103% increase over the fiscal years 2018 and 2017, respectively. Attached  
21 hereto as Exhibit “1” is a true and correct copy of excerpts from SVMC’s Financial Statements,  
22 which reflect this information. Assuming operating losses at SVMC can be maintained at fiscal  
23 2019 levels (a highly optimistic assumption), the buyer of the Hospitals would likely incur  
24 additional estimated losses totaling \$260 million. Moreover, the \$260 million loss would likely  
25 need to be financed. Using an average interest rate of 5% for four years of debt service would  
26 result in estimated incremental financing charges totaling approximately \$25 million.  
27 Accordingly, this 2019 Condition alone would place a potential burden on the buyer of at least  
28 \$285 million beyond that contemplated in Schedule 8.6.

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1           7. The Additional Conditions also impose certain charity care (“Charity Care”)  
2 requirements on SGM. The Charity Care requirement presents another example of the significant  
3 economic impact of the 2019 Conditions when compared with Schedule 8.6. The 2019  
4 Conditions require SGM to provide an annual amount of Charity Care at SFMC equal to or  
5 greater than \$12,793,435 for a period of six fiscal years, which is at least \$4,793,435, per year  
6 more than SGM has agreed to provide pursuant to Schedule 8.6 for a period of seven years. After  
7 adjusting for the one-year shorter required duration of this 2019 Condition, the estimated  
8 incremental cost to the buyer would be nearly \$20 million in total over the six years. The 2019  
9 Conditions provide for additional increases in Charity Care amounts for SVMC and Seton, as well  
10 as increases across all three Hospitals in Community Benefit Service amounts. Moreover, these  
11 Charity Care conditions would actually require the Hospitals to increase the Charity Care they  
12 provide above current levels.

13           8. In summary, the total financial impact of just these two examples of 2019  
14 Conditions would require SGM to incur additional losses of approximately \$305 million beyond  
15 those contemplated by Schedule 8.6. Attached hereto as Exhibit “2” is a chart reflecting the  
16 economic analysis set forth above. When compared to the buyer’s APA purchase price of \$610  
17 million, these represent a 50% increase in the price for the sale of these distressed assets. The  
18 magnitude of these losses calls into question the viability of the acquisition.

19           9. The two examples of 2019 Conditions addressed above were selected to illustrate  
20 the impact on the viability of the system and impact on sale. In fact, many of the other 2019  
21 Conditions materially diverge from Schedule 8.6, including those addressing cancer services and  
22 select uneconomic payor agreements. In addition, some of the 2019 Conditions diverge from the  
23 conditions under which VHS is currently required to operate (the “2015 Conditions”), including  
24 those addressing continuing liver transplant services and acting as a ST-Elevation Myocardial  
25 Infarction receiving center. The 2015 Conditions locked the Hospitals into financial obligations  
26 and operational obligations that made financial success impossible (the Debtors have lost  
27 hundreds of millions of dollars as a result of the implementation of the 2015 Conditions). The  
28 Hospitals’ adherence to the Additional Conditions (aside from the two specific examples

1 discussed in paragraphs 6-8 above) would add an additional burden of tens of millions of dollars  
2 in losses, further undermining the viability of the Hospitals.

3 I declare under penalty of perjury and of the laws in the United States of America, the  
4 foregoing is true and correct.

5 Executed this 30th day of September, 2019, in Los Angeles, California.

6 

7  
8 PETER C. CHADWICK  
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**Exhibit 1**

**Chadwick Declaration**

|  | FY2017                  | FY2018                  | FY2019                  |
|--|-------------------------|-------------------------|-------------------------|
| <b>REVENUE</b>   |                         |                         |                         |
| <b>Patient Revenue</b>                                       |                         |                         |                         |
| Inpatient Services   | \$1,031,722,636         | \$1,120,000,426         | \$979,692,248           |
| Outpatient Services  | 383,037,203             | 411,103,372             | 402,645,143             |
| <b>Gross Patient Revenue</b>                                 | <b>\$ 1,414,759,839</b> | <b>\$ 1,531,103,798</b> | <b>\$ 1,382,337,391</b> |
| <b>Deductions from Revenue</b>                               |                         |                         |                         |
| Contractual Adjustments                                      | 1,174,183,134           | 1,293,377,840           | 1,178,503,798           |
| Charity  | 7,976,081               | 5,548,555               | 3,991,237               |
| Other  | 17,232,577              | 15,584,788              | 17,122,307              |
| <b>Total Deductions</b>                                      | <b>\$ 1,199,391,792</b> | <b>\$ 1,314,511,183</b> | <b>\$ 1,199,617,341</b> |
| Pat. Rev, Net of Contractuals Allowances and Other Ded.      | 215,368,047             | 216,592,615             | 182,720,050             |
| Provision for Doubtful Accounts                              | 7,104,285               | 12,283,488              | 3,003,719               |
| <b>Net patient revenue</b>                                   | <b>\$ 208,263,762</b>   | <b>\$ 204,309,127</b>   | <b>\$ 179,716,331</b>   |
| Other Revenue  | 1,963,454               | 1,213,265               | 1,671,292               |
| <b>Total Net Revenue</b>                                     | <b>\$ 210,227,216</b>   | <b>\$ 205,522,392</b>   | <b>\$ 181,387,623</b>   |
| Premium Revenue  | 18,312,060              | 31,090,903              | 19,728,154              |
| Contributions  | 1,217,644               | 1,021,479               | 939,167                 |
| <b>Total Revenues</b>  | <b>\$ 229,756,920</b>   | <b>\$ 237,634,774</b>   | <b>\$ 202,054,945</b>   |
| <b>EXPENSES</b>  |                         |                         |                         |
| <b>Operating and Administrative</b>                          |                         |                         |                         |
| Salaries and Wages   | 76,453,029              | 86,207,418              | 84,278,891              |
| Registry Nursing   | 5,471,579               | 7,041,543               | 5,707,894               |
| Other Contract   | 1,482,844               | 563,584                 | 1,055,157               |
| Employee Benefits  | 22,346,934              | 20,619,577              | 23,178,513              |
| <b>Total Labor</b>   | <b>\$ 105,754,386</b>   | <b>\$ 114,432,122</b>   | <b>\$ 114,220,456</b>   |
| Medical Fees   | 4,936,536               | 5,585,232               | 5,346,478               |
| Supplies   | 48,264,174              | 52,175,517              | 41,735,262              |
| Purchased Services   | 58,529,533              | 77,992,667              | 59,339,626              |
| Insurance  | 2,217,126               | 2,408,853               | 2,362,620               |
| Utilities  | 4,239,356               | 4,268,399               | 4,892,640               |
| Depreciation   | 6,036,514               | 5,800,329               | 5,956,136               |
| Interest   | 3,074,678               | 2,750,781               | 2,677,934               |
| <b>Total Expenses</b>  | <b>\$ 233,052,303</b>   | <b>\$ 265,413,900</b>   | <b>\$ 236,531,152</b>   |
| <b>Operating Income Excl Corp Allocation/Management Fees</b> | <b>\$ (3,295,383)</b>   | <b>\$ (27,779,126)</b>  | <b>\$ (34,476,207)</b>  |
| Corp Allocation  | 28,553,827              | 27,063,467              | 30,319,534              |
| <b>Operating Income Incl Corp Allocation</b>                 | <b>\$ (31,849,210)</b>  | <b>\$ (54,842,593)</b>  | <b>\$ (64,795,741)</b>  |

Source: Internal financial statements

**Exhibit 2**

**Chadwick Declaration**

**A.) St. Vincent incremental years of operation**

2015 AG requirement: 5 years of operation from Dec 2015 - 1 additional year  
 2019 AG requirement: 5 years of operation from Dec 2019  
**Impact: 4 incremental years of operation**

Financial impact estimate:

|  | FY2017         | FY2018         | FY2019         |
|--|----------------|----------------|----------------|
| <b>St. Vincent</b>                     |                |                |                |
| Revenues                               | \$ 230         | \$ 238         | \$ 202         |
| Expenses                               | (233)          | (265)          | (237)          |
| Corp allocation (excl management fees) | (29)           | (27)           | (30)           |
| <b>Operating loss</b>                  | <b>\$ (32)</b> | <b>\$ (55)</b> | <b>\$ (65)</b> |
| % chg re FY2019                        | <b>103%</b>    | <b>18%</b>     |                |

**Cumulative 4-yr loss at FY2019 loss levels: \$ (259)**

Financing cost  
 Illustrative interest rate 5.0%  
**4-yrs of debt service \$ (26)**

**Potential burden of SV incremental years of operation \$ (285)**

**B.) St. Francis charity care**

2015 AG requirement: 11 years of charity care at \$16.6 million annual - 7 additional years  
 SGM 8.6 7 additional years of charity care at \$8 million annual  
 2019 AG requirement: 6 years of charity care at \$12.8 million  
**Impact: Incremental annual spend of \$4.8 million, one fewer year**

Financial impact estimate:

|  | Ann amt | Yrs | Cost             |
|--|---------|-----|------------------|
| St. Francis charity care approved by SGM               | 8.0     | 7   | \$ 56.0          |
| St. Francis charity care required - 2019               | 12.8    | 6   | \$ 76.8          |
| <b>Potential burden of SF incremental charity care</b> |         |     | <b>\$ (20.8)</b> |

**Total financial impact of certain AG additional conditions \$ (306)**

**SGM purchase price \$ 610**

**Effective % increase in the purchase price 50%**

**DECLARATION OF HOPE R. LEVY-BIEHL**

1  
2 I, Hope R. Levy-Biehl, declare that I have personal knowledge of the facts set forth in this  
3 declaration, and I would competently testify to them under oath if called as a witness.

4 1. I am an attorney at law licensed to practice before all courts in the State of  
5 California. I am a partner in the law firm of Nelson Hardiman LLP, attorneys for Verity Health  
6 System of California, Inc. (“VHS”).

7 2. This Declaration is in support of the *Debtors’ Emergency Motion for the Entry of an*  
8 *Order (I) Enforcing the Order Authorizing the Sale to Strategic Global Management, Inc.; (II)*  
9 *Finding That the Sale Is Free and Clear of Conditions Materially Different Than Those Approved*  
10 *by the Court; (III) Finding That the Attorney General Abused His Discretion in Imposing*  
11 *Conditions on That Sale; and (IV) Granting Related Relief* (the “Motion”), and for all other  
12 purposes permitted by law. All capitalized terms not otherwise defined herein shall have the same  
13 meaning as in the Motion.

14 3. Upon information and belief, I understand VHS has had an ongoing dialogue for  
15 several years with the California Attorney General about the financial challenges facing VHS and  
16 the future of the O’Connor Hospital (“OCH”), Saint Louise Regional Hospital (“SLRH”), St.  
17 Francis Medical Center (“SFMC”), St. Vincent Medical Center (“SVMC”), and Seton Medical  
18 Center, including its Daly City and Coastside Campuses (“Seton”). For example, I understand that  
19 in anticipation of filing for bankruptcy, VHS representatives met with Deputy Attorney General  
20 Wendi Horwitz in July of 2018.

21 4. On December 27, 2018, the Bankruptcy Court entered the *Order (A) Authorizing the*  
22 *Sale of Certain of the Debtors’ Assets to Santa Clara County Free and Clear of Liens, Claims,*  
23 *Encumbrances, and Other Interests; (B) Approving the Assumption and Assignment of an*  
24 *Unexpired Lease Related Thereto; and (C) Granting Related Relief* [Docket No. 1153], approving a  
25 sale of OCH and SLRH, and related assets, to Santa Clara County (the “SCC Sale”).

26 5. Upon information and belief, I understand VHS representatives subsequently met  
27 with Attorney General Xavier Becerra and Senior Advisor Becerra Melanie Fontes Rainer in  
28



1 Sacramento in February of 2019, to discuss the pending SCC Sale and the forthcoming auction and  
2 sale of SFMC, SVMC and Seton (collectively, the “Hospitals”).

3 6. On May 2, 2019, the Court entered the order (the “Sale Order”) approving the sale  
4 of substantially all assets of Debtors’ Hospitals, to Strategic Global Management, Inc. (“SGM”)  
5 for \$610 million (the “SGM Sale”), plus the payment of cure costs and assumption of certain  
6 liabilities, as more fully set forth in that certain asset purchase agreement (the “APA”) [Docket No.  
7 2306].

8 7. In anticipation of submitting a notice and request for approval of the SGM Sale to  
9 the Attorney General’s office, VHS representatives from Nelson Hardiman (including myself)  
10 engaged with Deputy Attorney General Scott Chan beginning in early April 2019. These  
11 discussions and exchanges were regular and ongoing, and addressed, among other things, the  
12 substantive and procedural requirements for the submission and review and the related timeline. At  
13 all times, VHS consistently requested an expedited review of the submission in light of its  
14 significant operating losses and cash flow challenges.

15 8. By letter dated May 7, 2019, VHS provided notice to, and requested written consent  
16 from, the Attorney General for the SGM Sale pursuant to California Corporations Code Section  
17 5914 and Title 11 of the California Code of Regulations, Section 999.5. *See* Docket No. 2379. As  
18 outlined in the submission and discussed a number of times in writing, in person and by email with  
19 various representatives of the Attorney General, the SGM Sale was critical and truly the only  
20 option to help ensure that the Hospitals would survive the current financial challenges facing them  
21 and be preserved as providers of essential health care services to the communities they serve.

22 9. The submission to the Attorney General, on May 7, 2019, was supplemented and  
23 completed on May 13, 2019, with the filing made to the Federal Trade Commission pursuant to the  
24 Hart-Scott-Rodino Antitrust Improvements Act 1976, as amended.

25 10. VHS representatives thereafter engaged in ongoing discussions with the Attorney  
26 General’s office, requesting, among other things, an in-person meeting to review the submission  
27 and transaction prior to the completion of its expert’s Health Care Impact Statements and the  
28 expedited processing of the submission. The Attorney General denied both requests.

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1           11.     The Attorney General retained JD Healthcare to prepare Health Care Impact  
2 Statements regarding the proposed sale of the Hospitals. After conducting interviews of certain  
3 corporate and hospital personnel of VHS and other stakeholders in July 2019, and in advance of the  
4 public hearings held by the Attorney General, JD Healthcare released its Health Care Impact  
5 Statements concerning the proposed sale of the Hospitals on August 16, 2019 and August 19, 2019.

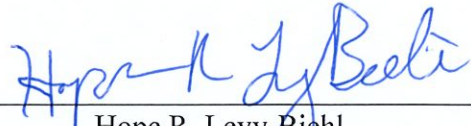
6           12.     By letter, dated August 21, 2019, SGM submitted its response to the Health Care  
7 Impact Statements and the embedded recommended conditions. By letter dated August 23, 2019,  
8 VHS submitted its response to these statements and conditions, which was also filed with the  
9 Bankruptcy Court. True and correct copies of these letters are annexed as Exhibit “E” to the  
10 Motion.

11           13.     In late August 2019, Deputy Attorney General Scott Chan, on behalf of the Attorney  
12 General, held public meetings relating to each affected hospital. I attended the public hearings  
13 regarding the sale of SFMC and SVMC. At each of the public meetings I attended, Rich Adcock of  
14 VHS, Peter Baronoff of SGM, and Sam Maizel of Dentons US LLP, each spoke directly and on the  
15 record about the economic issues raised by the potential conditions for each hospital, and urged the  
16 Attorney General to consider the economic implications of the conditions he would impose. Mr.  
17 Adcock and Mr. Baronoff made clear that the proposed transaction would be at risk, and therefore  
18 the continued operations of the Hospitals would be at risk, if the Attorney General imposed  
19 conditions which exceeded the conditions agreed to in Schedule 8.6. I understand Rich Adcock,  
20 Peter Baronoff and Sam Maizel made similar statements at the Seton public hearings.

21           14.     Following its receipt of the “deal breaker” letters and the public hearings, the  
22 Attorney General’s office met first with representatives from SGM on September 6, 2019, and  
23 subsequently with representatives of both SGM and VHS on September 19, 2019. Upon  
24 information and belief, I understand that at the meeting on September 19, 2019, SGM informed the  
25 Attorney General’s office that it would not proceed with the transaction if the Attorney General  
26 imposed conditions beyond those it agreed to accept in Schedule 8.6 to the APA.

27           I declare under penalty of perjury under the laws of the United States that the foregoing is  
28 true and correct.

1 Executed this 30th day of September, 2019, in Los Angeles, California.

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4 \_\_\_\_\_  
5 Hope R. Levy-Biehl

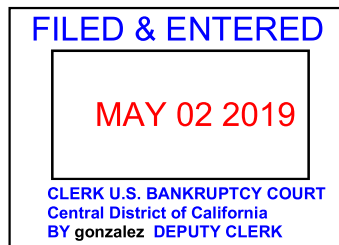
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**Exhibits to Memorandum of Points and Authorities**

**Exhibit A**

**Sale Order**

1 SAMUEL R. MAIZEL (Bar No. 189301)  
2 samuel.maizel@dentons.com  
3 TANIA M. MOYRON (Bar No. 235736)  
4 tania.moyron@dentons.com  
5 DENTONS US LLP  
6 601 South Figueroa Street, Suite 2500  
7 Los Angeles, California 90017-5704  
8 Tel: (213) 623-9300 / Fax: (213) 623-9924  
9 Attorneys for the Chapter 11 Debtors and  
10 Debtors In Possession



7 **UNITED STATES BANKRUPTCY COURT**  
8 **CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**  
9 **CHANGES MADE BY COURT**

10 In re  
11 VERITY HEALTH SYSTEM OF  
12 CALIFORNIA, INC., *et al.*,  
13 Debtors and Debtors In Possession.

14 Lead Case No. 2:18-bk-20151-ER

- 15 Jointly Administered With:  
16 Case No. 2:18-bk-20162-ER  
17 Case No. 2:18-bk-20163-ER  
18 Case No. 2:18-bk-20164-ER  
19 Case No. 2:18-bk-20165-ER  
20 Case No. 2:18-bk-20167-ER  
21 Case No. 2:18-bk-20168-ER  
22 Case No. 2:18-bk-20169-ER  
23 Case No. 2:18-bk-20171-ER  
24 Case No. 2:18-bk-20172-ER  
25 Case No. 2:18-bk-20173-ER  
26 Case No. 2:18-bk-20175-ER  
27 Case No. 2:18-bk-20176-ER  
28 Case No. 2:18-bk-20178-ER  
Case No. 2:18-bk-20179-ER  
Case No. 2:18-bk-20180-ER  
Case No. 2:18-bk-20181-ER

- 29  Affects All Debtors  
30  Affects Verity Health System of  
31 California, Inc.  
32  Affects O'Connor Hospital  
33  Affects Saint Louise Regional Hospital  
34  Affects St. Francis Medical Center  
35  Affects St. Vincent Medical Center  
36  Affects Seton Medical Center  
37  Affects O'Connor Hospital Foundation  
38  Affects Saint Louise Regional Hospital  
39 Foundation  
40  Affects St. Francis Medical Center of  
41 Lynwood Foundation  
42  Affects St. Vincent Foundation  
43  Affects St. Vincent Dialysis Center, Inc.  
44  Affects Seton Medical Center Foundation  
45  Affects Verity Business Services  
46  Affects Verity Medical Foundation  
47  Affects Verity Holdings, LLC  
48  Affects De Paul Ventures, LLC  
49  Affects De Paul Ventures - San Jose  
50 Dialysis, LLC

Hon. Judge Ernest M. Robles

**ORDER (A) AUTHORIZING THE SALE OF CERTAIN OF THE DEBTORS' ASSETS TO STRATEGIC GLOBAL MANAGEMENT, INC. FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (B) APPROVING THE ASSUMPTION AND ASSIGNMENT OF AN UNEXPIRED LEASE RELATED THERETO; AND (C) GRANTING RELATED RELIEF**

51 Debtors and Debtors In Possession.

**Hearing:**  
**Date:** April 17, 2019  
**Time:** 10:00 a.m.  
**Location:** Courtroom 1568  
255 E. Temple St., Los Angeles, CA

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1 This matter came before the Court on the *Motion For The Entry Of (I) An Order (1)*  
2 *Approving Form Of Asset Purchase Agreement For Stalking Horse Bidder And For Prospective*  
3 *Overbidders To Use, (2) Approving Auction Sale Format, Bidding Procedures And Stalking*  
4 *Horse Bid Protections, (3) Approving Form Of Notice To Be Provided To Interested Parties, (4)*  
5 *Scheduling A Court Hearing To Consider Approval Of The Sale To The Highest Bidder And (5)*  
6 *Approving Procedures Related To The Assumption Of Certain Executory Contracts And*  
7 *Unexpired Leases; And (II) An Order (A) Authorizing The Sale Of Property Free And Clear Of*  
8 *All Claims, Liens And Encumbrances* (the “Motion”) [Docket No. 1279], filed by Verity Health  
9 System of California, Inc. (“VHS”), and the above-referenced affiliated debtors and debtors in  
10 possession in the above-captioned chapter 11 bankruptcy cases (the “Debtors”), for the entry of  
11 an order, pursuant to §§ 105(a), 363, and 365 of title 11 of the United States Code (the  
12 “Bankruptcy Code”), Rules 2002, 6004, 6006, 9007, and 9014, and LBR 6004-1.<sup>1</sup>

13 At the previous hearing on the Motion on February 19, 2019 (the “Bidding Procedures  
14 Hearing”), the Court considered various objections (the “Premature Objections”) filed by: (i) St  
15 Vincent IPA Medical Corporation and Angeles IPA [Docket No. 1397]; (ii) the California  
16 Attorney General [Docket No. 1352]; (iii) MGH Painting Inc. [Docket No. 1358]; and (iv) Belfor  
17 USA Group, Inc. [Docket No. 1364]. The Court ruled that the Premature Objections were  
18 premature and preserved for the Sale Hearing, as set forth in order granting the Motion (the  
19 “Bidding Procedures Order”) [Docket No. 1572]. The Bidding Procedures Order also stated that  
20 objections filed by the U.S. Department of Health and Human Services and Centers for Medicare  
21 and Medicaid Services [Doc. No. 1346] and the California Department of Health Care Services  
22 [Doc. No. 1353] (the “Continued Objections”) were continued, as resolved by stipulations  
23 [Docket Nos. 1458 and 1473, respectively], approved by this Court’s orders [Docket Nos. 1465  
24 and 1483, respectively].

25  
26  
27 <sup>1</sup> Unless specified otherwise, all chapter and section references are to the Bankruptcy Code, 11  
28 U.S.C. §§ 101-1532, all “Rule” references are to the Federal Rules of Bankruptcy Procedure, and  
all “LBR” references are to the Local Bankruptcy Rules for the United States Bankruptcy Court  
for the Central District of California.

1 Any additional objections that were filed and overruled at the Bidding Procedures  
2 Hearing are not listed herein.

3 The Court, having reviewed the Memorandum [Docket No. 2115], the Declarations of  
4 Richard Adcock [Docket Nos. 8 and 1469] and James Moloney [Docket No. 2220] in support  
5 thereof, the *Notice To Counterparties To Executory Contracts And Unexpired Leases Of The*  
6 *Debtors That May Be Assumed And Assigned* [Docket No. 1704], the *Supplemental Notice To*  
7 *Counterparties To Executory Contracts and Unexpired Leases of The Debtors That May Be*  
8 *Assumed and Assigned* [Docket No. 1836], the *Second Supplemental Notice Re Notice to*  
9 *Counterparties to Executory Contracts and Unexpired Leases of the Debtors That May Be*  
10 *Assumed and Assigned* [Docket No. 2065] (together Docket Nos. 1704, 1836 and 2065 are the  
11 “Cure Notice”), the *Notice of Executory Contracts and Unexpired Leases Designated by Strategic*  
12 *Global Management, Inc. For Assumption and Assignment* [Docket No. 2131] (the “Designation  
13 Notice”), the *Notice That No Auction Shall Be Held Re Debtors’ Motion and Motion for the Entry*  
14 *of (I) An Order (1) Approving Form of Asset Purchase Agreement for Stalking Horse Bidder and*  
15 *for Prospective Overbidders; (2) Approving Auction Sale Format, Bidding Procedures and*  
16 *Stalking Horse Bid Protections; (3) Approving Form of Notice to Be Provided to Interested*  
17 *Parties; (4) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest Bidder;*  
18 *and (5) Approving Procedures Related to the Assumption of Certain Executory Contracts and*  
19 *Unexpired Leases; and (II) an Order (A) Authorizing the Sale of Property Free and Clear of All*  
20 *Claims, Liens and Encumbrances* [Docket No. 2053] (the “No-Auction Notice”), the objections  
21 filed by various counterparties to certain executory contracts and unexpired leases [Docket Nos.  
22 1788; 1804; 1819; 1830; 1849; 1850; 1852; 1853; 1856-1858; 1863; 1866; 1869; 1870; 1873-  
23 1877 1881; 1882; 1885; 1890-1892; 1904; 1926; 1930; 1933; 1940; 1946; 1948; 1949; 1953;  
24 1954; 1965; 2058; 2066; 2108; 2113; 2144; 2146; 2148, 2150, 2157, 2161, 2162] (the “Cure  
25 Objections”), the objection by the California Department of Health Care Services (the “DHCS”)  
26 [Docket No. 1879], the *Stipulation Continuing Hearing Regarding Creditors U.S. Department of*  
27 *Health and Human Services and California Department of Health Care Services* [Docket No.  
28

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1 2125], the *Limited Opposition of Belfor USA Group, Inc. to Debtors' Motion for an Order*  
2 *Authorizing the Sale of Property Free and Clear of All Claims Liens and Encumbrances* [Docket  
3 No. 2130], the *Objection of United Healthcare Insurance Company to Debtors' Motion for Order*  
4 *Approving Form of Asset Purchase Agreement for Stalking Horse Bidder, Etc.* [Docket No. 2145]  
5 filed United Healthcare Insurance Company, *SEIU-UHW's Objection and Reservation of Rights*  
6 *to Debtors' Sale Motion* filed by the Service Employees International Union, United Healthcare  
7 Workers-West [Docket No. 2147], the *Limited Objection and Reservation of Rights of United*  
8 *Nurses Associations of California to Motion of Debtors for Approval of Sale [of Remaining*  
9 *Hospital Assets to the Highest Bidder* [Docket No. 2155] filed by the United Nurses Association  
10 of California, the *Reservation of Rights of U.S. Bank National Association, As Series 2015 Note*  
11 *Trustee and as Series 2017 Note Trustee and as Series 2017 Note Trustee, with Respect to*  
12 *Debtors' Motion for Entry of (I) an Order (1) Approving Form of Asset Purchase Agreement for*  
13 *Stalking Horse Bidder and For Stalking Horse Bidder and for Prospective Overbidders (2)*  
14 *Approving Auction Sale Format, Bidding Procedures and Stalking Horse Bid Protections, (3)*  
15 *Approving Form of Notice to be Provided to Interested Parties, (4) Scheduling a Court Hearing*  
16 *to Consider Approval of the Sale to the Highest Bidder and (5) Approving Procedures Related to*  
17 *the Assumption of Certain Executory Contracts and Unexpired Leases and (II) an Order (A)*  
18 *Authorizing the Sale of Property Free and Clear of All Claims, Liens and Encumbrances* [Docket  
19 No. 2156] filed by U.S. Bank National Association, As Series 2015 Note Trustee and as Series  
20 2017 Note Trustee, the *Official Committee of Unsecured Creditors Response to the Debtors'*  
21 *SGM Sale Motion* [Docket No. 2164], the *Reservation of Rights of California Statewide*  
22 *Communities Development Authority to Motion of Debtors for Approval of Sale [of Remaining*  
23 *Hospital Assets] to the Highest Bidder* [Docket No. 2168] filed by the California Statewide  
24 Communities Development Authority, the Premature Objections, the Continued Objections, and  
25 any withdrawals thereof, the statements, arguments and representations of the parties made at the  
26 Sale Hearing; and the entire record of these cases; and the Court, having determined that the relief  
27 sought in the Motion is in the best interests of the Debtors, their estates, their creditors, and that  
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1 the legal and factual bases set forth in the Motion and presented at the Sale Hearing establish just  
2 cause for the relief granted herein and for the reasons set forth in the Court's tentative ruling  
3 [Docket No. 2221]; and all objections to the Motion, if any, having been withdrawn, continued or  
4 overruled; and for the reasons set forth in the Court's tentative ruling [Docket No. 2221], which  
5 the Court adopts as its final ruling and which is incorporated herein by reference; and after due  
6 deliberation and sufficient good cause appearing therefor:

7 **THE COURT HEREBY FINDS AND CONCLUDES THAT:<sup>2</sup>**

8 A. Jurisdiction and Venue. This Court has jurisdiction to hear and determine the  
9 Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter relates to the administration of the  
10 Debtors' bankruptcy estates and is accordingly a core proceeding pursuant to 28 U.S.C. § 157(b)  
11 (2) (A), (M), (N) and (O). Venue of these cases is proper in this District and in this Court  
12 pursuant to 28 U.S.C. §§ 1408 and 1409.

13 B. Statutory Predicates. The statutory predicates for the relief requested in the  
14 Motion are (i) §§ 105(a), 363(b), (f), (k), (l) and (m), and 365, (ii) Rules 2002(a)(2), 2002(c)(1)  
15 and (d), 6004 (a), (b), (c), (e), (f) and (h), 6006(a), (c) and (d), 9006, 9007, 9013 and 9014, and  
16 (iii) LBR 6004-1 and 9013-1.

17 C. Notice. As evidenced by the affidavits of service previously filed with the Court,  
18 the Debtors have provided proper, timely, adequate and sufficient notice with respect to the  
19 following: (i) the Motion and the relief sought therein, including the entry of this Sale Order and  
20 the transfer and sale of the assets (the "Purchased Assets"), as set forth in the Asset Purchase  
21 Agreement, dated January 8, 2019, a copy of which is attached as Exhibit "A" to Docket No.  
22 1279 (the "APA"); (ii) the Sale Hearing; (iii) the No-Auction Notice; and (iv) the assumption and  
23 assignment of the executory contracts and unexpired leases and proposed cure amounts owing  
24 under such executory contracts and unexpired leases (the "Cure Amounts"); and no further notice

25 \_\_\_\_\_  
26 <sup>2</sup> The findings and conclusions set forth herein constitute the Court's findings of fact and  
27 conclusions of law pursuant to Rule 7052, made applicable to this proceeding pursuant to Rule  
28 9014. To the extent that any of the following findings of fact constitute conclusions of law, they  
are adopted as such. To the extent that any of the following conclusions of law constitute  
findings of fact, they are adopted as such.

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1 of the Motion, the relief requested therein or the Sale Hearing is required. The Debtors have also  
2 complied with all obligations to provide notice of the Auction, the Sale Hearing, the proposed  
3 sale and otherwise, as required by the Bidding Procedures Order. A reasonable opportunity to  
4 object and to be heard regarding the relief provided herein has been afforded to parties-in-interest.

5 D. Arm's Length Transaction. The APA and other documents and instruments (the  
6 "Transaction Documents") related to and connected with this transaction (the "Transaction") and  
7 the consummation thereof were negotiated and entered into by the Debtors and Strategic Global  
8 Management, Inc. ("SGM"), as Purchaser under the APA without collusion, in good faith and  
9 through an arm's length bargaining process. Neither SGM nor any of its affiliates or  
10 representatives is an "insider" of the Debtors, as that term is defined in § 101(31). None of the  
11 Debtors, SGM, or their respective representatives engaged in any conduct that would cause or  
12 permit the APA, any of the other Transaction Documents or the Transaction to be avoided under  
13 § 363(n), or have acted in any improper or collusive manner. The terms and conditions of the  
14 APA and the other Transaction Documents, including, without limitation, the consideration  
15 provided in respect thereof, are fair and reasonable, and are not avoidable and shall not be  
16 avoided, and no damages may be assessed against SGM or any other party, as set forth in §  
17 363(n). The consideration provided by SGM is fair, adequate and constitutes reasonably  
18 equivalent value and fair consideration under the Bankruptcy Code and any other applicable laws  
19 of the United States or any of its jurisdictions or subdivisions, including the State of California.

20 E. Good Faith Purchaser. SGM has proceeded in good faith and without collusion in  
21 all respects in connection with the sale process, in that: (i) SGM, in proposing and proceeding  
22 with the Transaction in accordance with the APA, recognized that the Debtors were free to deal  
23 with other interested parties; (ii) SGM agreed to provisions in the APA that would enable the  
24 Debtors to accept a higher and better offer; (iii) SGM complied with all of the provisions in the  
25 Bidding Procedures Order applicable to SGM; (iv) all payments to be made by SGM and other  
26 agreements entered into or to be entered into between SGM and the Debtors in connection with  
27 the Transaction have been disclosed; (v) the negotiation and execution of the APA and related  
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1 Transaction Documents were conducted in good faith and constituted an arm's length transaction;  
2 (vi) SGM did not induce or cause the chapter 11 filings by the Debtors; and (vii) the APA was not  
3 entered into, and the Transaction being consummated pursuant to and in accordance with the  
4 APA is not being consummated, for the purpose of hindering, delaying or defrauding creditors of  
5 the Debtors. SGM is therefore entitled to all of the benefits and protections provided to a good-  
6 faith purchaser under § 363(m). Accordingly, the reversal or modification on appeal of the  
7 authorization provided herein to consummate the Transaction shall not affect the validity of the  
8 Transaction, any terms or conditions of the Transaction or SGM's status as a "good faith"  
9 purchaser.

10 F. Justification for Relief. Good and sufficient reasons for approval of the APA and  
11 the other Transaction Documents and the Transaction have been articulated to this Court in the  
12 Motion and at the Sale Hearing, and the relief requested in the Motion and set forth in this Sale  
13 Order is in the best interests of the Debtors, their estates, and their creditors. The Debtors have  
14 demonstrated through the Motion and other evidence submitted at the Sale Hearing both (i) good,  
15 sufficient and sound business purpose and justification and (ii) compelling circumstances for the  
16 transfer and sale of the Purchased Assets as provided in the APA outside the ordinary course of  
17 business, and (iii) such transfer and sale is an appropriate exercise of the Debtors' business  
18 judgment and in the best interests of the Debtors, their estates, and their creditors.

19 G. Free and Clear. In accordance with §§ 363(b) and 363(f), the consummation of the  
20 Transaction pursuant to the Transaction Documents shall be a legal, valid, and effective transfer  
21 and sale of the Purchased Assets and, except with respect to the liens arising from the Special  
22 Assessments and the PACE Obligations (each as defined in §1.1(a)(iii) of the APA) assumed by  
23 SGM, shall vest in SGM, through the consummation of the Transaction, all of the Debtors' right,  
24 title, and interest in and to the Purchased Assets, free and clear of all liens, claims, interests, rights  
25 of setoff, recoupment, netting and deductions, rights of first offer, first refusal and any other  
26 similar contractual property, legal or equitable rights, and any successor or successor-in-interest  
27 liability theories (collectively, the "Encumbrances"). The Debtors have demonstrated that one or  
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1 more of the standards set forth in § 363(f)(1)-(5) have been satisfied. Those holders of  
2 Encumbrances who did not object, or who withdrew their objections, to the sale or the Motion are  
3 deemed to have consented pursuant to § 363(f)(2). Those holders of Encumbrances who did  
4 object fall within one or more of the other subsections of § 363(f). All holders of the  
5 Encumbrances in the Purchased Assets are adequately protected by having their respective  
6 Encumbrances attach to the Debtors' interests in the proceeds of the sale of the Purchased Assets  
7 under the APA (subject to any Challenge within the meaning of that certain *Final Order (I)*  
8 *Authorizing Postpetition Financing, (II) Authorizing Use of Cash Collateral, (III) Granting Liens*  
9 *and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection,*  
10 *(V) Modifying Automatic Stay, and (VI) Granting Related Relief* [Docket No. 409] (the "Final  
11 DIP Order") that has been, or may be, timely filed<sup>3</sup>), and any related documents or instruments  
12 delivered in connection therewith, whenever and wherever received (the "Sale Proceeds") to the  
13 extent and manner herein provided.

14 H. Prompt Consummation. The Debtors have demonstrated good and sufficient cause  
15 to waive the stay requirement under Rules 6004(h) and 6006(d). Time is of the essence in  
16 consummating the Transaction, and it is in the best interests of the Debtors and their estates to  
17 consummate the Transaction within the timeline set forth in the Motion and the APA. The Court  
18 finds that there is no just reason for delay in the implementation of this Order, and expressly  
19 directs entry of judgment as set forth in this Order.

20  
21 <sup>3</sup> The Final DIP Order granted to the Committee standing to file the requisite pleading to  
22 challenge the validity, enforceability and amount of the Prepetition Liens (each such proceeding  
23 or appropriate pleading commencing a proceeding or other contested matter, a "Challenge")  
24 within ninety (90) days from the formation of the Committee (the "Challenge Deadline"). See  
25 Final DIP Order ¶ 5(e). The Committee's investigation as to the Prepetition Liens remains  
26 ongoing. The Committee and the Prepetition Secured Creditors have entered into a number of  
27 stipulations (the "Challenge Stipulations") by which the Committee has acknowledged and  
28 stipulated to the validity, enforceability and perfection of the Prepetition Liens in certain  
collateral identified in the Challenge Stipulations, and by which the Challenge Deadline has been  
extended a number of times with respect to the validity, enforceability and perfection of the  
Prepetition Liens in any other collateral. The Challenge Deadline with respect to any Prepetition  
Liens for which the Committee has not stipulated pursuant to the Challenge Stipulations as to the  
validity, enforceability and perfection thereof is now May 13, 2019.

1 I. Assumption of Executory Contracts and Unexpired Leases. The Debtors have  
2 demonstrated that it is an exercise of their sound business judgment to assume and assign to SGM  
3 the Currently Identified Designated Contracts (as defined and identified in paragraph 15 below)  
4 and to the extent subsequently identified by SGM pursuant to paragraph 16 below, the  
5 Subsequently Identified Designated Contracts (as defined in paragraph 16 below) (the Currently  
6 Identified Designated Contracts and the Subsequently Identified Contracts are collectively  
7 referred to herein as the “Designated Contracts”) in connection with the consummation of the  
8 Transaction, and the assumption and assignment of the Designated Contracts is in the best  
9 interests of the Debtors and their estates.

10 J. Cure/Adequate Assurance. In connection with the Closing, and pursuant to the  
11 APA, unless otherwise ordered, any and all defaults existing on or prior to the Closing under any  
12 of the Designated Contracts will have been cured, within the meaning of § 365(b)(1)(A), by  
13 payment of the amounts and in the manner set forth below, unless otherwise agreed by SGM and  
14 the counterparty. SGM has provided or will provide adequate assurance of future performance of  
15 and under the Designated Contracts within the meaning of § 365(b)(1)(C) and § 365(f)(2)(B), and  
16 shall have no further obligation to provide assurance of performance to any counterparty to a  
17 Designated Contract. Pursuant to § 365(f), the Designated Contracts to be assumed by the  
18 Debtors (i.e., St. Francis Medical Center, a California nonprofit public benefit corporation (“St.  
19 Francis Medical Center”), St. Vincent Medical Center, a California nonprofit public benefit  
20 corporation (“St. Vincent Medical Center”), St. Vincent Dialysis Center, Inc., a California  
21 nonprofit public benefit corporation (“St. Vincent Dialysis Center”), and Seton Medical Center, a  
22 California nonprofit public benefit corporation (“Seton Medical Center”) (collectively, the  
23 “Hospitals”), VHS, and Verity Holdings LLC, a California limited liability company  
24 (“Holdings”), and assigned to SGM under the APA shall be assigned and transferred to, and  
25 remain in full force and effect for the benefit of, SGM, notwithstanding any provision in such  
26 Designated Contracts prohibiting their assignment or transfer. The Debtors have demonstrated  
27 that no other parties to any of the Designated Contracts has incurred any actual pecuniary loss  
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1 resulting from a default on or prior to the Closing under any of the Designated Contracts within  
2 the meaning of § 365(b)(1)(B).

3 K. Rejection of Executory Contracts and Unexpired Leases. The Debtors will have  
4 demonstrated that it is a reasonable and appropriate exercise of their sound business judgment for  
5 the Hospitals to reject all of their executory contracts and unexpired leases, excluding (i)  
6 Designated Contracts, (ii) any prepetition multiparty contract affecting more than one Debtor in  
7 addition to the Hospitals, (iii) any prepetition contract that is the subject of a Rule 9019 settlement  
8 motion prior to Closing, and (vi) any collective bargaining agreement, pension plan or health and  
9 welfare plan providing collectively bargained benefits to which a Hospital is a party or sponsor,  
10 which matters shall be scheduled for determination as provided in paragraph 33 below. Each  
11 such executory contract rejection is subject only to the conditions set forth in paragraphs 18, 31,  
12 and 32. The Debtors shall file an appropriate motion to reject such contracts, covered by this  
13 paragraph K, prior to Closing and shall request therein that the rejection be effective as of the  
14 Closing or as otherwise appropriate.

15 L. Highest or Otherwise Best Offer. The Debtors solicited offers and noticed the  
16 Auction in accordance with the provisions of the Bidding Procedures Order. The Auction was  
17 duly noticed, the sale process was conducted in a non-collusive manner and the Debtors afforded  
18 a full, fair and reasonable opportunity for any person or entity to make a higher or otherwise  
19 better offer to purchase the Purchased Assets. Other than SGM's Stalking Horse Bid, the Debtors  
20 received two Qualified Partial Bids by the Partial Bid Deadline and did not receive a Qualified  
21 Full Bid (as such terms are defined by the Bidding Procedures Order). The Debtors properly  
22 consulted with the Consultation Parties in selecting the SGM Stalking Horse Bid as the highest  
23 and best bid and in determining that no auction should be held (as such terms are defined in the  
24 Bidding Procedures Order), as set forth in their No-Auction Notice. The transfer and sale of the  
25 Purchased Assets to SGM on the terms set forth in the APA constitutes the highest or otherwise  
26 best offer for the Purchased Assets and will provide a greater recovery for the Debtors' estates  
27 than would be provided by any other available alternative. The Debtors' determination, in  
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1 consultation with the Consultation Parties (as defined in the Bidding Procedure Order), that the  
2 APA constitutes the highest or best offer for the Purchased Assets and to not conduct an auction  
3 constitutes a valid and sound exercise of the Debtors' business judgment.

4 M. No De Facto or Sub Rosa Plan of Reorganization. The sale of the Purchased  
5 Assets does not constitute a *de facto* or *sub rosa* plan of reorganization or liquidation because it  
6 does not propose to (i) impair or restructure existing debt of, or equity or membership interests in,  
7 the Debtors, (ii) impair or circumvent voting rights with respect to any plan proposed by the  
8 Debtors, (iii) circumvent chapter 11 safeguards, including those set forth in §§ 1125 and 1129, or  
9 (iv) classify claims or equity or membership interests.

10 N. Legal and Factual Bases. The legal and factual bases set forth in the Motion and at  
11 the Sale Hearing establish just cause for the relief granted herein.

12 **NOW THEREFORE, IT IS HEREBY ORDERED THAT:**

13 1. The relief requested in the Motion is GRANTED and APPROVED in all respects  
14 to the extent provided herein.

15 2. All objections with regard to the relief sought in the Motion that have not been  
16 withdrawn, waived, settled, or provided for herein or in the Bidding Procedures Order, including  
17 any reservation of rights included in such objections, are overruled on the merits with prejudice.  
18 To the extent of any inconsistency between this Sale Order and the Bidding Procedures Order, the  
19 terms of this Sale Order shall prevail.

20 3. Pursuant to §§ 105(a), 363(b), 363(f), and 365, the Transaction, including the  
21 transfer and sale of the Purchased Assets to SGM on the terms set forth in the APA, is approved  
22 in all respects, and the Debtors are authorized and directed to consummate the Transaction in  
23 accordance with the APA, including, without limitation, by executing all of the Transaction  
24 Documents (and any ancillary documents or instruments that may be reasonably necessary or  
25 desirable to implement the APA or the Transaction) and taking all actions necessary and  
26 appropriate to effectuate and consummate the Transaction (including the transfer and sale of the  
27 Purchased Assets) in consideration of the Purchase Price (as defined in § 1.1 of the APA) upon  
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1 the terms set forth in the APA, including, without limitation, assuming and assigning to SGM the  
2 Designated Contracts. The Debtors and SGM shall have the right to make any mutually  
3 agreeable, non-material changes to the APA, which shall be in writing signed by both parties,  
4 without further order of the Court provided, that after reasonable notice, the Official Committee  
5 of Unsecured Creditors (the "Committee"), the DIP Agent (as defined in the Final DIP Order  
6 defined below), and the Prepetition Secured Creditors (as defined in the Final DIP Order) do not  
7 object to such changes. Any timely objection by the aforementioned parties to any agreed non-  
8 material changes to the APA may be resolved by the Court on shortened notice.

9 4. As of the Closing, (i) the Transaction set forth in the APA shall effect a legal,  
10 valid, enforceable and effective transfer and sale of the Purchased Assets to SGM free and clear  
11 of all Encumbrances, except with respect to the liens arising from the Special Assessments and  
12 the PACE Obligations assumed by SGM, as further set forth in the APA and this Sale Order; and  
13 (ii) the APA, and the other Transaction Documents, and the Transaction, shall be enforceable  
14 against and binding upon, and not subject to rejection or avoidance by, the Debtors, any successor  
15 thereto including a trustee or estate representative appointed in the Bankruptcy Cases, the  
16 Debtors' estates, all holders of any Claim(s) (as defined in the Bankruptcy Code) against the  
17 Debtors, whether known or unknown, any holders of Encumbrances on all or any portion of the  
18 Purchased Assets, all counterparties to the Designated Contracts and all other persons and  
19 entities.

20 5. Encumbrances in and to Purchased Assets shall attach (subject to any Challenge  
21 within the meaning of the Final DIP Order that has been, or may be, timely filed) to the Sale  
22 Proceeds of such Purchased Assets with each such Encumbrance having the same force, extent,  
23 effect, validity and priority as such Encumbrance had on the Purchased Assets giving rise to the  
24 Sale Proceeds immediately prior to the Closing. For the avoidance of doubt, the foregoing force,  
25 extent, effect, validity and priority shall: (i) reflect the security interests, liens (including any  
26 Prepetition Replacement Liens arising for diminution of value, if any) and rights, powers and  
27 authorities that have been granted to the DIP Agent, the DIP Lender and to the Prepetition  
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1 Secured Creditors, as applicable, pursuant to the Final DIP Order, to the extent that (i) the rights  
2 granted to the Prepetition Secured Creditors with respect to §§506(c) and 552(b) by the Final DIP  
3 Order are not limited or modified as a result of the appeal from the Final DIP Order filed by the  
4 Committee on November 29, 2019; and/or (ii) any replacement liens or security interest granted  
5 to the Prepetition Secured Creditors by the Final DIP Order are not invalidated as a result of any  
6 Challenge within the meaning of the Final DIP Order that has been, or may be, timely filed. In  
7 addition, the Intercreditor Agreement (as defined in the Final DIP Order) shall apply with respect  
8 to the rights of the parties thereto in and to the Sale Proceeds and the Escrow Deposit Account, to  
9 the extent of and in accordance with its terms with all parties reserving all rights thereunder.

10 6. Subject to the fulfillment of the terms and conditions of the APA, this Sale Order  
11 shall, as of the Closing, be considered and constitute for all purposes a full and complete general  
12 assignment, conveyance, and transfer of the Purchased Assets and/or a bill of sale transferring all  
13 of the Debtors' rights, title and interest in and to the Purchased Assets to SGM. Consistent with,  
14 but not in limitation of the foregoing, each and every federal, state, and local governmental  
15 agency or department, except as stated herein, is hereby authorized and directed to accept all  
16 documents and instruments necessary and appropriate to consummate the transactions  
17 contemplated by the APA and approved in this Sale Order. A certified copy of this Order may be  
18 filed with the appropriate clerk and/or recorded with the appropriate recorder to cancel any  
19 Encumbrances of record.

20 7. Any person or entity that is currently, or on the Closing Date may be, in  
21 possession of some or all of the Purchased Assets is hereby directed to surrender possession of  
22 such Purchased Assets either to (a) the Debtors before the Closing or (b) to SGM or its designee  
23 upon the Closing, and to cooperate with the Debtors and SGM in the Debtors' and SGM's  
24 fulfillment of their obligations hereunder and pursuant to the APA.

25 8. The transfer of the Purchased Assets pursuant to the Transaction Documents shall  
26 be a legal, valid, and effective transfer and shall, in accordance with §§ 105(a) and 363(f), and  
27 upon consummation of the Transaction, including, without limitation, payment of the Purchase  
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1 Price to the Debtors, vest SGM with all right, title, and interest in the Purchased Assets, free and  
2 clear of all Encumbrances. Upon closing of the Transaction, SGM shall take title to and  
3 possession of the Purchased Assets, subject only to the Assumed Obligations, as set forth in the  
4 APA. The transfer of the Purchased Assets from the Debtors to SGM constitutes a transfer for  
5 reasonable equivalent value and fair consideration under the Bankruptcy Code and the laws of the  
6 State of California.

7 9. Following the Closing, no holder of any Encumbrance against the Debtors or upon  
8 the Purchased Assets shall interfere with SGM's respective rights in, title to or use and enjoyment  
9 of the Purchased Assets. All persons and entities are hereby forever prohibited and enjoined from  
10 taking any action that would adversely affect or interfere with the ability of the Debtors to sell  
11 and transfer the Purchased Assets to SGM, including the assumption and assignment of the  
12 Designated Contracts.

13 10. SGM shall not be deemed, as a result of any action taken in connection with, or as  
14 a result of the Transaction (including the transfer and sale of the Purchased Assets), to: (i) be a  
15 successor, continuation or alter ego (or other such similarly situated party) to the Debtors or their  
16 estates by reason of any theory of law or equity, including, without limitation, any bulk sales law,  
17 doctrine or theory of successor liability, or any theory or basis of liability, regardless of source of  
18 origin; or (ii) have, *de facto* or otherwise, merged with or into the Debtors; or (iii) be a mere  
19 continuation, *alter ego*, or substantial continuation of the Debtors. Other than the Assumed  
20 Liabilities, SGM is not assuming any of the Debtors' debts.

21 11. This Sale Order (i) shall be effective as a determination that, on Closing, all  
22 Encumbrances existing against the Purchased Assets before the Closing have been  
23 unconditionally released, discharged and terminated, and that the transfers and conveyances  
24 described herein have been effected, and (ii) shall be binding upon and shall govern the acts of all  
25 persons and entities. If, following a reasonable written request made by the Debtors, any person  
26 or entity that has filed financing statements or other documents or agreements evidencing any  
27 Encumbrances against the Purchased Assets shall not have delivered to the Debtors for use at or  
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1 in connection with Closing, in proper form for filing and executed by the appropriate parties,  
2 termination statements, instruments of satisfaction, releases of all Encumbrances which the  
3 person or entity has with respect to the Purchased Assets, then SGM and/or the Debtors are  
4 hereby authorized to execute and file such statements, instruments, releases and other documents  
5 on behalf of the person or entity with respect to such Purchased Assets. For the avoidance of  
6 doubt, such statements, instruments, releases and other documents shall not impair Encumbrances  
7 that attach (subject to any Challenge within the meaning of the Final DIP Order that has been, or  
8 may be, timely filed) to the Sale Proceeds or the terms of this Order, including, but not limited to  
9 paragraphs 5 and 13 hereof.

10 12. In accordance with the APA, concurrently with the Closing, SGM shall pay that  
11 portion of the Purchase Price due at Closing, by wire transfer of immediately available funds, to  
12 Debtors' Escrow Deposit Accounts (defined below), subject to the adjustments set forth in the  
13 APA. Any direct expenses of the Sale shall be disclosed by Debtors to the DIP Agent, the  
14 Prepetition Secured Creditors, and the Committee in advance of the Closing.

15 13. The terms and conditions of the Final DIP Order shall apply with respect to the  
16 Sale Proceeds and Escrow Deposit Accounts (defined herein). Without limiting the foregoing, the  
17 Debtors shall comply with paragraph 4 of the Final DIP Order in the following manner:

18 (a) the Debtors shall direct SGM, pursuant to the terms of the APA, to remit all Sale  
19 Proceeds to the separate accounts opened in the name of each Debtor for the Sale Proceeds (each  
20 such hereafter referred to as "Escrow Deposit Account");

21 (b) in giving direction to SGM pursuant to sub-paragraph (a), above, the Debtors shall  
22 exercise their reasonable business judgment, in good faith, and allocate the Sale Proceeds among  
23 the Escrow Deposit Accounts on the basis of the value of each Debtor's Purchased Assets as of  
24 the Closing (which allocation, for the avoidance of doubt, shall be subject to the reservations of  
25 rights in paragraph 4 of the Final DIP Order and paragraph 31 of the Bidding Procedures Order;  
26 provided further that nothing in this paragraph shall waive or limit any rights the Committee or  
27 the Prepetition Secured Creditors may have in connection with the confirmation of a proposed  
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1 chapter 11 plan for any of the Debtors' cases (including the right to seek to reallocate estate  
2 values and the Sale Proceeds);

3 (c) without limitation of the rights of the DIP Agent and DIP Lender under the DIP  
4 Financing Agreements and the Final DIP Order, no funds held in any Escrow Deposit Account  
5 shall be (i) commingled with any other funds of the applicable Debtor or any of the other Debtors  
6 or (ii) used by the Debtors for any purpose, except as provided in this Order, the DIP Credit  
7 Agreements or the Final DIP Order without further order of this Court, after reasonable notice  
8 under the circumstances to the DIP Agent, the Prepetition Secured Creditors and the Committee;  
9 and

10 (d) each Escrow Deposit Account shall be subject to a deposit account control agreement  
11 in favor of the DIP Agent and DIP Lender, and subject to, without limitation of the rights of the  
12 DIP Agent and DIP Lender under the DIP Financing Agreements and the Final DIP Order with  
13 respect to the Sale Proceeds and Escrow Deposit Account, including, without limitation,  
14 following the occurrence of an Event of Default or the Revolving Loan Termination Date (as  
15 defined in the DIP Credit Agreement), the Debtors shall not be permitted to use the funds held in  
16 any Escrow Deposit Account for any purpose, except as provided in paragraph 14, 15, 16, and 17  
17 of this Order, and to fund any Purchase Price adjustment in favor of the Purchaser, without first  
18 obtaining the consent of the DIP Agent, DIP Lender and the Prepetition Secured Creditors or  
19 obtaining an order of the Court pursuant to §§ 363 or 1129 after reasonable notice under the  
20 circumstances to the DIP Agent, the DIP Lender, the Prepetition Secured Creditors and the  
21 Committee and, if necessary, a hearing thereon; and

22 (e) for the avoidance of doubt, the rights of the Debtors, the Committee, and the  
23 Prepetition Secured Creditors as to the Sale Proceeds and any funds held in a Deposit Escrow  
24 shall be, except as set forth herein, as contemplated by Paragraph 4 of the Final DIP Order, and  
25 nothing in this Order shall be construed as altering, amending, waiving, or affecting in any way  
26 such rights. Concurrently with the Closing or as soon thereafter as is possible, and in accordance  
27 with the APA, SGM shall pay to the counter-parties to the Designated Contracts the cure amounts  
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1 set forth in the Cure Notice, or as otherwise agreed to by the Debtors, SGM and the applicable  
2 counter-parties thereto or ordered by this Court after a continued hearing on the Cure Objections  
3 (the “Designated Cure Amounts”). SGM has the right under the APA to remove any Contracts  
4 from the list of Designated Contracts up to seven (7) days prior to Closing, as also set forth in the  
5 *Order Approving Stipulation Regarding Designation Deadline Re Order (1) Approving Form Of*  
6 *Asset Purchase Agreement For Stalking Horse Bidder And For Prospective Overbidders, (2)*  
7 *Approving Auction Sale Format, Bidding Procedures And Stalking Horse Bid Protections*  
8 [Docket No. 1865].

9 14. To the extent that any of the contracts and/or leases, which give rise to the  
10 Designated Cure Amounts and are set forth in the Designation Notice and are not subsequently  
11 and timely removed by SGM under the APA and the *Order Approving Stipulation Regarding*  
12 *Designation Deadline Re Order (1) Approving Form Of Asset Purchase Agreement For Stalking*  
13 *Horse Bidder And For Prospective Overbidders, (2) Approving Auction Sale Format, Bidding*  
14 *Procedures And Stalking Horse Bid Protections* [Docket No. 1865] (the “Currently Identified  
15 Designated Contracts”) are executory contracts or unexpired leases (over which the Court is not  
16 making any such determination at this time), then in connection with the Closing, the Debtors  
17 shall be deemed to have assumed all such Currently Identified Designated Contracts (so that they  
18 are deemed part of the Designated Contracts) and to have assigned them to SGM, and SGM shall  
19 have assumed all obligations owing under all such Currently Identified Designated Contracts  
20 arising after and following the Closing. The Court shall resolve any and all disputes which may  
21 arise between the Debtors, SGM and any of the Currently Identified Designated Contract  
22 Counter-Parties over whether the Currently Identified Designated Contracts are executory  
23 contracts or unexpired leases and whether any of the Currently Identified Designated Contract  
24 Counter-Parties are entitled to an allowed claim against the Debtors which exceeds the  
25 Designated Cure Amounts (the “Assumption Dispute”).

26 15. In the event that the Court determines that any such counter-parties to the  
27 Currently Identified Designated Contracts (the “Currently Identified Designated Contract  
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1 Counter-Parties” and, individually, a “Currently Identified Designated Contract Counter-Party”)  
2 have an allowed cure claim against the Debtors which exceeds the Designated Cure Amounts (the  
3 “Excess Cure Amount”), the difference will be paid by SGM and shall not be the responsibility of  
4 the Debtors as more specifically set forth below; provided, however, that unless the Court makes  
5 such a determination on or before fifteen (15) days prior to Closing, and unless the Debtor, SGM  
6 and the Currently Identified Designated Contract Counter-Party agree otherwise, the Currently  
7 Identified Designated Contract which is the subject of such Assumption Dispute, shall be deemed  
8 a rejected contract within the meaning of § 1.11(a) of the APA as of ten (10) days prior to  
9 Closing, and SGM, except as provided below, shall have no obligation to assume such Currently  
10 Identified Designated Contract or to pay any Cure Amount or Excess Cure Amount in connection  
11 with such Currently Identified Designated Contract. To the extent an Assumption Dispute relates  
12 solely to the Cure Amount, the Debtors may, with SGM’s consent, assume and assign the  
13 applicable executory contract or unexpired lease at Closing and prior to the resolution of the  
14 Assumption Dispute by the Bankruptcy Court, provided, that either (a) the Bankruptcy Court has  
15 estimated the maximum cure payment, pursuant to 11 U.S.C. § 502(c), and SGM has remitted  
16 such amount to the Debtors to be held as sales proceeds in the Sale Proceeds Account for the  
17 relevant Debtor(s), or (b) SGM provides to the relevant Debtor(s) and non-Debtor counterparty a  
18 separate reasonably acceptable undertaking that SGM will promptly pay the maximum disputed  
19 cure amount in accordance with 11 U.S.C. § 365 (b)(1)(A) and (B) (or such smaller amount as  
20 may be fixed or estimated by the Bankruptcy Court or otherwise agreed to by such non-Debtor  
21 party and SGM). The Debtors shall pay and hereby are authorized to pay disputed cure amounts  
22 from the relevant Sales Proceeds Account(s) upon entry of a final order by this Court to the extent  
23 SGM remitted to Sellers the amount required by item (a) of this paragraph of the Order.

24 16. All of the Currently Identified Designated Contracts, to the extent they are  
25 executory contracts or unexpired leases and are not subsequently and timely removed by SGM  
26 under the APA and the *Order Approving Stipulation Regarding Designation Deadline Re Order*  
27 *(1) Approving Form Of Asset Purchase Agreement For Stalking Horse Bidder And For*  
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1 *Prospective Overbidders, (2) Approving Auction Sale Format, Bidding Procedures And Stalking*  
2 *Horse Bid Protections* [Docket No. 1865], or deemed a rejected contract within the meaning of §  
3 1.11(a) of the APA pursuant to paragraph 15 above, shall be part of the Designated Contracts that  
4 will be assumed by the Debtors and assigned to SGM at the Closing. In the event that SGM elects  
5 to add any other of the Debtors' executory contracts or unexpired leases to the list of Designated  
6 Contracts (the "Subsequently Identified Designated Contracts" and, individually, a "Subsequently  
7 Identified Designated Contract") under the APA and the *Order Approving Stipulation Regarding*  
8 *Designation Deadline Re Order (1) Approving Form Of Asset Purchase Agreement For Stalking*  
9 *Horse Bidder And For Prospective Overbidders, (2) Approving Auction Sale Format, Bidding*  
10 *Procedures And Stalking Horse Bid Protections* [Docket No. 1865], SGM shall notify the Debtors  
11 of any such Subsequently Identified Designated Contracts on or before thirty days before Closing,  
12 and the Debtors shall (i) file a notice with the Court identifying all such Subsequently Identified  
13 Designated Contracts and their respective cure amounts as agreed upon between the Debtors and  
14 SGM, and (ii) serve such notice by over-night mail on all counter-parties to the Subsequently  
15 Identified Designated Contracts (the "Subsequently Identified Designated Contract Counter-  
16 Parties"). All Subsequently Identified Designated Contracts shall be assumed by the Debtors and  
17 assigned to SGM at the Closing, with SGM to be obligated to pay all cure amounts owing to such  
18 Subsequently Identified Designated Contract Counter-Parties concurrently with the Closing, as  
19 set forth in the Debtors' notice, or as otherwise agreed to by the Debtors, SGM and the applicable  
20 counter-parties thereto, or ordered by the Court in accordance with paragraphs 34 and 36 below  
21 (the "Additional Cure Amounts"), so long as such amount as ordered by the Court is no greater  
22 than the amount agreed upon by SGM; and in the event the Additional Cure Amount is greater  
23 than the amount agreed upon by SGM, and SGM is not willing to pay the Additional Cure  
24 Amount, the Debtors shall not be required to pay the Additional Cure Amount(s) and the  
25 Subsequently Identified Designated Contract(s) shall be deemed a rejected contract within the  
26 meaning of § 1.11(a) of the APA pursuant to paragraph 15 above; provided, and for the avoidance  
27 of doubt, no collective bargaining agreement, pension plan or health and welfare plan providing  
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1 collectively bargained benefits to which a Hospital is a party or sponsor constitutes a Currently  
2 Identified Designated Contract or a Subsequently Identified Designated Contract for which SGM  
3 or the Debtors may be obligated to pay any cure amount.

4 17. Upon the Closing, the Debtors are authorized and directed to assume, assign and/or  
5 transfer each of the Designated Contracts to SGM, including the Currently Identified Designated  
6 Contracts and any Subsequently Identified Designated Contracts (collectively, the “Contract Counter-  
7 Parties”). At the Closing, SGM shall pay the (i) Sale Proceeds, (ii) the Designated Cure Amounts  
8 identified in paragraph 13 above, (iii) the Excess Cure Amounts identified in paragraph 15 above, and  
9 (iv) the Additional Cure Amounts, subject to paragraph 15 above. Payment by SGM of such  
10 Designated Cure Amounts and Additional Cure Amounts are deemed the necessary and sufficient  
11 amounts to “cure” all “defaults” with respect to all such Currently Identified Designated Contracts and  
12 Subsequently Identified Designated Contracts under § 365(b). The foregoing payment shall (i) effect a  
13 cure of all defaults existing under all such Currently Identified Designated Contracts, and (ii)  
14 compensate all such Contract Counter-Parties for any actual pecuniary loss resulting from any such  
15 default. The Debtors shall then have assumed and assigned to SGM, effective as of the Closing, all of  
16 the Designated Contracts (comprised of both all Currently Identified Designated Contracts and all  
17 Subsequently Identified Designated Contracts, if any), and, pursuant to § 365(f), the assignment by the  
18 Debtors of all such Designated Contracts to SGM shall not be a default thereunder. After the payment  
19 of the Designated Cure Amounts and the Additional Cure Amounts, neither the Debtors nor SGM shall  
20 have any further liabilities to any Contract Counter-Parties, other than SGM’s obligations under the  
21 Designated Contracts that accrue and become due and payable after the Closing Date. In addition,  
22 adequate assurance of future performance has been demonstrated by or on behalf of SGM with respect  
23 to all of the Designated Contracts within the meaning of §§ 365(b)(1)(c), 365(b)(3) (to the extent  
24 applicable) and 365(f)(2)(B). For the avoidance of doubt, SGM shall not be liable for the payment of  
25 any liabilities or obligations arising from or related to (a) any executory contracts that the Debtors  
26 intend to reject by appropriate motion and which are not being assumed and assigned to SGM, (b) any  
27 multiparty contract affecting more than one Debtor in addition to one of the hospitals subject to the  
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1 Transaction, or (c) any collective bargaining agreement (“CBA”), pension plan, or health and welfare  
2 plan providing for collectively bargained for benefits to which a Hospital is a party or a sponsor, unless  
3 expressly assumed and assigned with SGM’s consent.

4 18. The Debtors intend, and are hereby authorized, to (A) reject, pursuant to § 365(a), all  
5 executory contracts to which one or more of the Hospitals are a party, excluding (i) Designated  
6 Contracts, and (ii) any prepetition multiparty contract affecting more than one Debtor in addition  
7 to one of the Hospitals, and, (B) reject and terminate, to the extent separately authorized by this  
8 Court, pursuant to §§ 1113, 1114, and any other applicable provision of the Bankruptcy Code,  
9 any collective bargaining agreement, pension plan or health and welfare plan providing  
10 collectively bargained benefits to which one of the Hospitals is a party or sponsor and that SGM  
11 does not assume.

12 19. All of the Contract Counter-Parties are forever barred, estopped, and permanently  
13 enjoined from (i) raising or asserting against the Debtors or SGM, or any of their property, any  
14 assignment fee, acceleration, default, breach, or claim of pecuniary loss, or condition to assignment,  
15 arising under or related to the Designated Contracts, existing as of the Closing, or arising by reason of  
16 the consummation of the Transaction contemplated by the APA, including, without limitation, the  
17 Transaction and the assumption and assignment of the Designated Contracts, including any asserted  
18 breach relating to or arising out of the change-in-control provisions in such Designated Contracts, or  
19 any purported written or oral modification to the Designated Contracts and (ii) asserting against SGM  
20 any claim, counterclaim, breach, or condition asserted or assertable against the Debtors existing as of  
21 the Closing or arising by reason of the transfer of the Purchased Assets, except for the Assumed  
22 Obligations.

23 20. Any provisions in any Designated Contracts that prohibit or condition the assignment  
24 of such Designated Contract or allow the counterparty to such Designated Contract to terminate,  
25 recapture, impose any penalty, condition on renewal or extension or modify any term or condition  
26 upon the assignment of such Designated Contract constitute unenforceable anti-assignment provisions

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1 that are void and of no force and effect with respect to the Debtors' assumption and assignment of such  
2 Designated Contract to SGM in accordance with the APA, pursuant to § 363(f).

3 21. The terms and provisions of this Sale Order, as well as the rights granted under the  
4 Transaction Documents, shall continue in full force and effect and are binding upon any successor,  
5 reorganized Debtors, or chapter 7 or chapter 11 trustee applicable to the Debtors, notwithstanding entry  
6 of any order of conversion or dismissal ~~any such conversion, dismissal or order entry~~. Nothing  
7 contained in any chapter 11 plan confirmed in the Debtors' cases or in any order confirming such a  
8 plan, nor any order dismissing the cases or converting the cases to a case under chapter 7, shall conflict  
9 with or derogate from the provisions of the APA, any documents or instruments executed in  
10 connection therewith, or the terms of this Sale Order, provided however, that in the event of a conflict  
11 between this Sale Order and an express or implied provision of the APA, this Sale Order shall govern.  
12 The provisions of this Sale Order and any actions taken pursuant hereto shall survive any conversion or  
13 dismissal of the cases and the entry of any other order that may be entered in the cases, including any  
14 order (i) confirming any plan of reorganization; (ii) converting the cases from chapter 11 to chapter 7;  
15 (iii) appointing a trustee or examiner in the cases; or (iv) dismissing the cases.

16 22. The Transaction contemplated by the APA and other Transaction Documents are  
17 undertaken without collusion and in "good faith," as that term is defined in § 363(m) of the Bankruptcy  
18 Code. SGM is a good faith purchaser within the meaning of § 363(m) and, as such, is entitled to the  
19 full protections of § 363(m). Accordingly, the reversal or modification on appeal of the authorization  
20 provided herein by this Sale Order to consummate the Transaction shall not affect the validity of the  
21 sale of the Purchased Assets to SGM. The APA and the Transactions contemplated thereby cannot be  
22 avoided under § 363(n).

23 23. The failure to specifically include any particular provision of the APA or the other  
24 Transaction Documents in this Sale Order shall not diminish or impair the effectiveness of such  
25 provisions, it being the intent of the Bankruptcy Court that the Transaction, the APA and the other  
26 Transaction Documents be authorized and approved in their entirety. Likewise, all of the provisions of  
27 this Sale Order are non-severable and mutually dependent.  
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1           24. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. §  
2 158(a). Notwithstanding Rules 6004(h), 6006(d), 7062, or 9014, if applicable, or any other LBR or  
3 otherwise, this Sale Order shall not be stayed for 14-days after the entry hereof, but shall be effective  
4 and enforceable immediately upon entry pursuant to Rule 6004(h) and 6006(d). Time is of the essence  
5 in approving the Transaction (including the transfer and the sale of the Purchased Assets).

6           25. The automatic stay in effect pursuant to § 362 is hereby lifted with respect to the  
7 Debtors to the extent necessary, without further order of this Court, to (i) allow SGM to deliver any  
8 notice provided for in the APA and Transaction Documents and (ii) allow SGM to take any and all  
9 actions permitted under the APA and Transaction Documents in accordance with the terms and  
10 conditions thereof.

11           26. Unless otherwise provided in this Sale Order, to the extent any inconsistency exists  
12 between the provisions of the APA and this Sale Order, the provisions contained in this Sale Order  
13 shall govern.

14           27. This Court shall retain exclusive jurisdiction to interpret, construe, and enforce the  
15 provisions of the APA and this Sale Order in all respects, and further, including, without limitation, to  
16 (i) hear and determine all disputes between the Debtors and/or SGM, as the case may be, and any other  
17 non-Debtor party to, among other things, the Designated Contracts concerning, among other things,  
18 assignment thereof by the Debtors to SGM and any dispute between SGM and the Debtors as to their  
19 respective obligations with respect to any asset, liability, or claim arising hereunder; (ii) compel  
20 delivery of the Purchased Assets to SGM free and clear of Encumbrances, except with respect to the  
21 liens arising from the Special Assessments and the PACE Obligations; (iii) compel the delivery of the  
22 Purchase Price or performance of other obligations owed to the Debtors; (iv) interpret, implement, and  
23 enforce the provisions of this Sale Order; and (v) protect SGM against (A) claims made related to any  
24 of the Excluded Liabilities (as defined in the APA), (B) any claims of successor or vicarious liability  
25 (or similar claims or theories) related to the Purchased Assets or the Designated Contracts, or (C) any  
26 Encumbrances asserted on or against SGM or the Purchased Assets.

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1           28.     Following the date of entry of this Sale Order, the Debtors and SGM are authorized to  
2 make changes to the APA and/or execute supplemental agreements implementing the transactions  
3 contemplated by the APA without the need for any further order of the Court provided that all such  
4 changes have been approved in writing by the Debtors, SGM, the Committee, the DIP Agent, and  
5 Prepetition Secured Creditors. Any other proposed changes to the APA or this Sale Order shall require  
6 a further order of the Court, after reasonable notice under the circumstances and a hearing.

7           29.     Notwithstanding any other provision of this Sale Order or any other Order of this  
8 Court, no sale, transfer or assignment of any rights and interests of a regulated entity in any federal  
9 license or authorization issued by the FCC shall take place prior to the issuance of FCC regulatory  
10 approval for such sale, transfer or assignment pursuant to the Communications Act of 1934, as  
11 amended, and the rules and regulations promulgated thereunder. The FCC's rights and powers to take  
12 any action pursuant to its regulatory authority, including, but not limited to, imposing any regulatory  
13 conditions on such sales, transfers and assignments and setting any regulatory fines or forfeitures, are  
14 fully preserved, and nothing herein shall proscribe or constrain the FCC's exercise of such power or  
15 authority to the extent not inconsistent with the applicable provisions of the Bankruptcy Code.

16           30.     To the extent the Purchased Assets contain records of the Verity Health System  
17 Retirement Plan A and Verity Health System Retirement Plan B (collectively, the "Pension  
18 Plans") or employment records of participants of the Pension Plans, SGM shall store, and  
19 preserve any such records until the Pension Benefit Guaranty Corporation ("PBGC") has  
20 completed its investigation regarding the Pension Plans and shall make such documents available  
21 to PBGC for inspection and copying. Such records include, but are not limited to, any Pension  
22 Plan governing documents, actuarial documents, and employment records (collectively, the  
23 "Pension Plan Documents"). The Debtors shall retain and not abandon any Pension Plan  
24 Documents that are not Purchased Assets no earlier than February 28, 2020, and shall make such  
25 documents available to the PBGC for inspection and copying.

26           31.     No later than May 13, 2019, either (i) the Debtors will file a notice of a resolution of  
27 the issues regarding the transfer and/or proposed assumption and assignment or rejection of the  
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1 Hospitals' Medi-Cal Provider Agreements or (ii) DHCS will file a supplemental objection to the  
2 proposed transfer of the Medi-Cal Provider Agreements. If necessary, the Debtors will file any reply  
3 to the supplemental objection no later than 4:00 p.m. (Pacific Time), on May 27, 2019, and a hearing  
4 will be held on the issues raised regarding the transfer and/or proposed assumption and assignment or  
5 rejection of the Medi-Cal Provider Agreements on June 5, 2019, at 10:00 a.m. (Pacific Time); and all  
6 parties' rights, claims, and defenses are preserved until that hearing. Nothing in this Sale Order shall  
7 apply to Medi-Cal Provider Agreements until and unless there is a Court order approving a settlement  
8 between the Debtors and the DHCS or a Court order resolving the DHCS's objections.

9 32. No later than May 13, 2019, either (i) the Debtors will file a notice of a resolution of  
10 the issues regarding the transfer and/or proposed assumption and assignment or rejection of the  
11 Hospitals' Medicare Provider Agreements or (b) HHS will file a supplemental objection to the  
12 proposed transfer of the Medicare Provider Agreements. If necessary, the Debtors will file any reply to  
13 the supplemental objection no later than 4:00 p.m. (Pacific Time), on May 27, 2019, and a hearing will  
14 be held on the issues raised regarding the transfer and/or proposed assumption and assignment or  
15 rejection of the Medicare Provider Agreements on June 5, 2019, at 10:00 a.m. (Pacific Time); and all  
16 parties' rights, claims, and defenses are preserved until that hearing. Nothing in this Sale Order shall  
17 apply to Medicare Provider Agreements until and unless there is a Court order approving a settlement  
18 between the Debtors and the HHS or a Court order resolving the HHS's objections.

19 33. In accordance with the terms of §§ 4.7 and 5.11 of the APA, the Debtors and SGM will  
20 negotiate regarding modification of applicable CBAs. To the extent the Debtors seek modification,  
21 rejection and/or termination of CBAs, they will comply with the requirements of § 1113, as applicable,  
22 and may do so before or after Closing under their discretion.

23 34. A continued hearing on the Cure Objections shall be held on June 5, 2019, at 10:00  
24 a.m. (Pacific Time). As to the Currently Identified Designated Contracts, by no later than May 22,  
25 2019, at 4:00 p.m. (Pacific Time), the Debtors shall file a notice containing a list of (a) the Cure  
26 Objections that have been resolved, and (b) the Cure Objections as to which Court intervention is  
27 required. As to the Cure Objections for which Court intervention is required, *pursuant to the Order*  
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1 *Approving Omnibus Stipulation Continuing Hearing on Certain Objections to Notice and*  
2 *Supplemental Notice of Contracts Designated for Assumption and Assignment [Docket No. 2183], the*  
3 *deadline for the Debtors to reply to the Cure Objections shall be May 29, 2019, at 4:00 p.m. (Pacific*  
4 *Time). ~~the following briefing schedule shall apply: (1) the Debtors' opposition to each outstanding~~*  
5 *~~Cure Objection shall be submitted by no later than May 22, 2019; and (2) the counterparties' reply in~~*  
6 *~~support of its Cure Objections shall be submitted by no later than May 29, 2019.~~ Nothing in this Sale*  
7 *Order constitutes a finding or determination on any Cure Objection. All Cure Objections are preserved*  
8 *until resolved either by agreement between the Debtors and the contract counterparty or further order*  
9 *of the Court.*

10 35. As to any executory contracts or unexpired leases that were listed on the Initial  
11 Designated Contract List, but not listed on any prior Cure Notice, any counterparty thereto may file an  
12 objection to the cure amount or assumption thereof by May 22, 2019, and all other provisions in  
13 paragraph 34 shall apply to resolution thereof.

14 36. As to Subsequently Identified Designated Contracts, (i) promptly upon SGM's  
15 identifying such contract(s), the Debtors shall file a notice with the Court identifying all Subsequently  
16 Identified Designated Contracts no later than 30 days prior to Closing and provide service thereof in  
17 accordance with paragraph 16, and (ii) to the extent that any Subsequently Identified Designated  
18 Contracts were not listed on a Cure Notice, counterparties subject to contracts who object to  
19 assumption and/or the proposed cure amounts must file an objection no later than 14 days prior to  
20 Closing, and any reply shall be filed no later than 7 days prior to Closing. To the extent that a  
21 negotiated resolution cannot be achieved, any objections filed in connection with the Subsequently  
22 Identified Designated Contracts shall be adjudicated by the Court, which shall resolve any and all  
23 disputed issues related to the objection(s).

24 37. The California Attorney General, the Debtors, the Consultation Parties (as defined in  
25 the Bid Procedures Order) and SGM, reserve all rights, arguments and defenses concerning the  
26 California Attorney General's authority, if any, to review the sale under California Corporations Code  
27 §§ 5914–5924 and California Code of Regulations on Nonprofit Hospital Transactions—Title 11,  
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1 Chapter 15, § 999.5, and any conditions issued thereto. Nothing in this Sale Order shall be construed  
2 as a waiver of the Attorney General's statutory and regulatory authority or other rights.

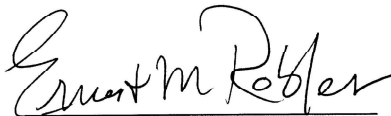
3 38. The Committee and the Prepetition Secured Creditors' rights, and their ability to  
4 participate and be heard at the hearings described in paragraphs 31 to 36 of this Sale Order, are hereby  
5 reserved. To the extent that the DIP Agent, DIP Lender, Prepetition Secured Creditors or the  
6 Committee desire to file pleadings related to such hearings, their respective times for filing an  
7 objection or response to any of the requests for relief described in paragraphs 31 to 37 herein shall be  
8 the same as granted to the Debtors pursuant to the notice in each such instance.

9 **IT IS SO ORDERED.**

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(213) 623-9300

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24 Date: May 2, 2019



Ernest M. Robles  
United States Bankruptcy Judge



**Exhibit B**

**2019 Conditions**



*XAVIER BECERRA*  
*Attorney General*

*State of California*  
**DEPARTMENT OF JUSTICE**

455 GOLDEN GATE AVENUE, SUITE 11000  
SAN FRANCISCO, CA 94102-7004

Public: (415) 510-4400  
Telephone: (415) 510-3430  
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E-Mail: Scott.Chan@doj.ca.gov

September 25, 2019

**VIA EMAIL AND US MAIL**

Hope R. Levy-Biehl  
1100 Glendon Avenue, 14th Floor  
Los Angeles, California 90024

hlevybiehl@nelsonhardiman.com

RE: Verity Health System of California, Inc. Notice of Proposed Transfer  
St. Francis Medical Center, St. Vincent Medical Center, and Seton Medical  
Center

Dear Ms. Levy-Biehl:

Under Corporations Code section 5914 et seq., and California Code of Regulations, title 11, section 999.5, the Attorney General has considered the proposed transaction submitted by Verity Health System of California, Inc. In coming to the decisions, described below, we have carefully considered the factors set forth in Corporations Code section 5917 and the applicable regulations, including whether the transaction is in the public interest and whether the transaction effects the availability or accessibility of health care services to the affected community. Our decision is based on the material contained in the notice, the information and documents subsequently submitted by the applicants, comments made by members of the public, discussions with the applicants, and the results of our investigation.

The Attorney General hereby conditionally consents to Verity Health System of California, Inc.'s proposed sale of the assets of St. Francis Medical Center, St. Vincent Medical Center, including its St. Vincent Dialysis Center, and Seton Medical Center to Strategic Global Management, Inc. and/or one or more of its affiliates. The Attorney General's conditional approval of the sale is subject to the attached conditions that are incorporated by reference herein.

Verity Health System of California, Inc. also requested, under Title 11 of the California Code of Regulations, Sec. 999.5(h), a modification of the Attorney General Conditions issued on December 3, 2015. Verity Health System of California, Inc. requested that the Attorney General modify and update the Attorney General's Conditions issued on December 3, 2015 as follows: (1) modify and update the volume of charity care and community benefits provided by the St. Francis Medical Center, St. Vincent Medical Center, and Seton Medical Center; (2) modify and update capital expenditures to credit Strategic Global Management for the expenditures Verity

September 25, 2019  
Page 2

Health System of California, Inc. has invested in the health system; (3) modify and eliminate the requirement that Strategic Global Management maintain cancer care at St. Francis Medical Center, St. Vincent Medical Center, and Seton Medical Center; and (4) modify and update the Conditions to conform to the present transaction and specific parties involved.

The Attorney General hereby denies, in part, and conditionally consents to Verity Health System of California, Inc.'s request for modification as reflected in the attached conditions that are incorporated by reference herein. The attached conditions serve as conditions for both the request for modification and the sale of the assets of St. Francis Medical Center, St. Vincent Medical Center, including its St. Vincent Dialysis Center, and Seton Medical Center as described in the second paragraph of this letter.

Sincerely,

[original signed]

SCOTT CHAN  
Deputy Attorney General

For XAVIER BECERRA  
Attorney General

cc: Kathryn F. Edgerton (Russo)  
kedgerton@nelsonhardiman.com

**Conditions to the Sale of St. Francis Medical Center<sup>1</sup> and Approval of the Asset Purchase Agreement by and among Verity Health System of California, Inc., Verity Holdings, LLC, St. Francis Medical Center, St. Vincent Medical Center, St. Vincent Dialysis Center, Inc., Seton Medical Center, and Strategic Global Management, Inc.**

**I.**

These Conditions shall be legally binding on Verity Health System of California, Inc., a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, St. Francis Medical Center, a California nonprofit public benefit corporation, St. Vincent Medical Center, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, St. Francis Medical Center Foundation, a nonprofit public benefit corporation, St. Vincent Foundation, a California nonprofit corporation, Seton Medical Center Foundation, a California nonprofit corporation, Verity Business Services, a California nonprofit public benefit corporation, Verity Medical Foundation, a California nonprofit public benefit corporation, St. Vincent de Paul Ethics Corporation, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Marillac Insurance Company, Ltd., a Cayman Islands corporation, DePaul Ventures, LLC, a California limited liability company, DePaul Ventures – San Jose ASC, LLC, a California limited liability company, DePaul Ventures – San Jose Dialysis, LLC, a California limited liability company, and Strategic Global Management, Inc., a California corporation, any other subsidiary, parent, general partner, limited partner, member, affiliate, successor, successor in interest, assignee, or person or entity serving in a similar capacity of any of the above-listed entities including, but not limited to, any entity succeeding thereto as a result of consolidation, affiliation, merger, or acquisition of all or substantially all of the real property or operating assets of St. Francis Medical Center, or the real property on which St. Francis Medical Center is located, any and all current and future owners, lessees, licensees, or operators of St. Francis Medical Center, and any and all current and future lessees and owners of the real property on which St. Francis Medical Center is located.

**II.**

The transaction conditionally approved by the Attorney General consists of the Asset Purchase Agreement dated January 8, 2019, by and among, Verity Health System of California, Inc., a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, St. Francis Medical Center, a California nonprofit public benefit corporation, St. Vincent Medical Center, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Seton Medical Center, a

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<sup>1</sup> Throughout this document, the term “St. Francis Medical Center” shall mean the general acute care hospital located at 3630 East Imperial Highway, Lynwood, CA 90262, and any other clinics, laboratories, units, services, or beds included on the license issued to St. Francis Medical Center by the California Department of Public Health, effective January 1, 2019, unless otherwise indicated.

California nonprofit public benefit corporation, and Strategic Global Management, Inc., a California corporation, and any agreements or documents referenced in or attached to as an exhibit or schedule and any other documents referenced in the Asset Purchase Agreement, including, but not limited to, the Sale Leaseback Agreement and Interim Management Agreement.

All the entities listed in Condition I, and any other parties referenced in the above agreements shall fulfill the terms of these agreements or documents and shall notify and obtain the Attorney General's approval in writing of any proposed modification or rescission of any of the terms of these agreements or documents. Such notifications shall be provided at least sixty days prior to their effective date in order to allow the Attorney General to consider whether they affect the factors set forth in Corporations Code section 5917 and obtain the Attorney General's approval.

### III.

For ten years from the closing date of the Asset Purchase Agreement, Verity Health System of California, Inc., Verity Holdings, LLC, Strategic Global Management, Inc., and all future owners, managers, lessees, licensees, or operators of St. Francis Medical Center shall be required to provide written notice to the Attorney General sixty days prior to entering into any agreement or transaction to do any of the following:

(a) Sell, transfer, lease, exchange, option, convey, manage, or otherwise dispose of St. Francis Medical Center;

(b) Transfer control, responsibility, management, or governance of St. Francis Medical Center. The substitution, merger or addition of a new member or members of the governing body of Strategic Global Management, Inc. that transfers the control of, responsibility for or governance of St. Francis Medical Center, shall be deemed a transfer for purposes of this Condition. The substitution or addition of one or more members of the governing body of Strategic Global Management, Inc., or any arrangement, written or oral, that would transfer voting control of the members of the governing body of Strategic Global Management, Inc. shall also be deemed a transfer for purposes of this Condition.

### IV.

For ten years from the closing date of the Asset Purchase Agreement, St. Francis Medical Center shall be operated and maintained as a licensed general acute care hospital (as defined in California Health and Safety Code Section 1250) and shall maintain and provide 24-hour emergency and trauma medical services at no less than current<sup>2</sup> licensure and designation with the same types and/or levels of services, including the following:

- a. 46 emergency treatment stations at a minimum;
- b. Designation as a Level II Trauma Center;

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<sup>2</sup> The term "current" or "currently" throughout this document means as of January 1, 2019.

- c. Designation as a 5150 Receiving Facility, as defined by the Welfare and Institutions Code, section 5150, for behavioral health patients under involuntary evaluation;
- d. Psychiatric evaluation team;
- e. Designation as an Emergency Department Approved for Pediatrics (EDAP);
- f. Designation as a Paramedic Base Station; and
- g. Certification as a Primary Stroke Center.

Strategic Global Management, Inc. must give one-year advance written notice to the Los Angeles County Emergency Medical Services Agency and the California Department of Public Health if St. Francis Medical Center seeks to reduce trauma or trauma-related care services or stop operating the Level II Trauma Center after ten years from the closing date of the Asset Purchase Agreement.

#### V.

For at least ten years from the closing date of the Asset Purchase Agreement, St. Francis Medical shall maintain Center on-call coverage contracts and/or comparable coverage arrangements with physicians at fair market value that are necessary to retain its qualification as a Level II trauma center. Trauma II designation requires 24-hour immediate coverage by general surgeons, as well as coverage by the specialties of orthopedic surgery, neurosurgery, anesthesiology, emergency medicine, radiology and critical care. Requirements for on-call and promptly available specialties include the following:

- a. Neurology;
- b. Obstetrics/gynecology;
- c. Ophthalmology;
- d. Oral or maxillofacial or head and neck;
- e. Plastic surgery;
- f. Reimplantation/microsurgery capability (this surgical service may be provided through a written transfer agreement); and
- g. Urology.

#### VI.

For at least ten years from the closing date of the Asset Purchase Agreement, St. Francis Medical Center shall maintain the following services at current licensure, types, and/or levels of services:

- a. Cardiac services, including three cardiac catheterization labs and the designation as a STEMI Receiving Center;
- b. Critical care services, including a minimum of 36 intensive care unit beds or 24 intensive care beds and 12 definitive observation beds;
- c. Neonatal intensive care services, including a minimum of 29 neonatal intensive care beds, and at minimum, maintaining a Level II NICU;
- d. Women's health services, including women's imaging services;
- e. Cancer services, including radiation oncology;

- f. Pediatric services, including a designated area with at least five general acute care beds for pediatric services;
- g. Orthopedic and rehabilitation services;
- h. Wound care services;
- i. Behavioral health services, including a minimum of 40 distinct part inpatient acute psychiatric beds; and
- j. Perinatal services, including a minimum of 50 perinatal beds.

Strategic Global Management, Inc. shall not place all or any portion of its above-listed licensed-bed capacity or services in voluntary suspension or surrender its license for any of these beds or services.

#### VII.

For at least ten years from the closing date of the Asset Purchase Agreement, St. Francis Medical Center shall maintain the same types and/or levels of women's healthcare services currently provided at the location below or a location within three miles of St. Francis Medical Center:

- a. Family Life Center at St. Francis Medical Center, located at 3630 E Imperial Highway, Lynwood, California.

#### VIII.

For at least five years from the closing date of the Asset Purchase Agreement, Strategic Global Management, Inc. shall either: (1) operate clinics (listed below) with the same number of physicians and mid-level provider full-time equivalents in the same or similar alignment structures, or (2) sell the clinics (listed below) with the same number of physician and mid-level provider full-time equivalents and require the purchaser(s) to maintain such services for 5 years from the closing date of the Asset Purchase Agreement and to participate in the Medi-Cal and Medicare programs as required in the conditions herein, or (3) ensure that a third party is operating the clinics (listed below) with the same number of physician and mid-level provider full-time equivalents and require the third party to maintain such services for 5 years from the closing date of the Asset Purchase Agreement and to participate in the Medi-Cal and Medicare programs as required in the conditions herein. For any of these options, each clinic can be moved to a different location within a three-mile radius of each clinic's current location, and St. Francis Medical Center can utilize an alternative structure in providing such services. The following clinics are subject to this condition:

- a. Pediatric services at Children's Counseling Center, 4390 Tweedy Ave, South Gate, California;
- b. The multi-specialty services, including wound care at Wound Care Center, 3628 E. Imperial Highway, Suite 103, Lynwood, California; and
- c. Orthopedic services at 3628 E. Imperial Highway, Suite 300, Lynwood, California.

#### IX.

For ten years from the closing date of the Asset Purchase Agreement, Strategic Global Management, Inc. shall:

- a) Be certified to participate in the Medi-Cal program at St. Francis Medical Center;
- b) Maintain and have Medi-Cal Managed Care contracts with the below listed Medi-Cal Managed Care Plans to provide the same types and levels of emergency and non-emergency services at St. Francis Medical Center to Medi-Cal beneficiaries (both Traditional Medi-Cal and Medi-Cal Managed Care) as required in these Conditions, on the same terms and conditions as other similarly situated hospitals offering substantially the same services, without any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage, unless the contract is terminated for cause or not extended or renewed by the Medi-Cal Managed Care Plan:
  - i) Local Initiative: L.A. Care Health Plan or its successor; and
  - ii) Commercial Plan: Health Net Community Solutions, Inc. or its successor.

If Strategic Global Management, Inc. questions whether it is being reimbursed on the same terms and conditions as other similarly situated hospitals offering substantially the same services, it shall notify the Attorney General's Office with at least 120 days' notice prior to taking any action that would effectuate any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage or prior to giving any required notice of taking such action.

- c) Be certified to participate in the Medicare program by maintaining a Medicare Provider Number to provide the same types and levels of emergency and non-emergency services at St. Francis Medical Center to Medicare beneficiaries (both Traditional Medicare and Medicare Managed Care), on the same terms and conditions as other similarly situated hospitals, as required in these Conditions.

## X.

For six fiscal years from the closing date of the Asset Purchase Agreement, Strategic Global Management, Inc. shall provide an annual amount of Charity Care (as defined below) at St. Francis Medical Center equal to or greater than \$12,793,435 (the Minimum Charity Care Amount). For purposes hereof, the term "charity care" shall mean the amount of charity care costs (not charges) incurred by Strategic Global Management, Inc. in connection with the operation and provision of services at St. Francis Medical Center. The definition and methodology for calculating "charity care" and the methodology for calculating "costs" shall be the same as that used by Office of Statewide Health Planning Development (OSHPD) for annual hospital reporting purposes.<sup>3</sup>

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<sup>3</sup> OSHPD defines charity care by contrasting charity care and bad debt. According to OSHPD, "the determination of what is classified as . . . charity care can be made by establishing whether or not the patient has the ability to pay. The patient's accounts receivable must be written off as bad debt if the patient has the ability but is unwilling to pay off the account."



Strategic Global Management, Inc. shall use and maintain a charity care policy that is no less favorable than Verity Health System of California, Inc.'s current charity care policy (Verity's Financial Assistance Policy No. 06.03.04 effective December 5, 2017 and revised and reviewed June 20, 2018) and in compliance with California and Federal law at St. Francis Medical Center. Within 90 days from the closing of the Asset Purchase Agreement, Strategic Global Management, Inc. will amend the Financial Assistance Policy to include as follows:

- a. A copy of the Financial Assistance Policy and the plain language summary of the Financial Assistance Policy must be posted at St. Francis Medical Center in a prominent location in the emergency room, admissions area, and any other location in the hospital where there is a high volume of patient traffic, including waiting rooms, billing offices, and hospital outpatient service settings.
- b. A copy of the Financial Assistance Policy, the Application for Financial Assistance, and the plain language summary of the Financial Assistance Policy must be posted in a prominent place on St. Francis Medical Center's website.
- c. If requested by a patient, a copy of the Financial Assistance Policy, Application for Financial Assistance, and the plain language summary must be sent by mail at no cost to the patient.
- d. As necessary, and at least on an annual basis, Strategic Global Management, Inc. will place an advertisement regarding the availability of financial assistance at St. Francis Medical Center in a newspaper of general circulation in the communities served by the hospital, or issue a Press Release to widely publicize the availability of the Financial Assistance Policy to the communities served by the hospital.
- e. Strategic Global Management, Inc. will work with affiliated organizations, physicians, community clinics, other health care providers, houses of worship, and other community-based organizations to notify members of the community (especially those who are most likely to require financial assistance) about the availability of financial assistance at St. Francis Medical Center.
- f. By December 1, 2019, all staff that interacts with patients and their families concerning payment of services shall be given training to make patients and their families aware of and informed of Strategic Global Management, Inc.'s Financial Assistance Policy at St. Francis Medical Center.

Any planning of, and any subsequent changes to, the charity care and collection policies, and charity care services provided at St. Francis Medical Center shall be decided after consultation with the Local Governing Board of Directors.

Strategic Global Management, Inc.'s obligation under this Condition shall be prorated on a daily basis if the closing date of the Asset Purchase Agreement is a date other than the first day of Verity Health System of California, Inc.'s fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Charity Care Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in the Los Angeles-Long Beach-Anaheim Average Base Period: 1982-84=100 (CPI-LA, as published by the U.S. Bureau of Labor Statistics).

If the actual amount of charity care provided at St. Francis Medical Center for any fiscal year is less than the Minimum Charity Care Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Strategic Global Management, Inc. shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide direct healthcare services to residents in the St. Francis Medical Center's service area (31 ZIP codes), as described on page 54 in the Healthcare Impact Report authored by JD Healthcare dated August 16, 2019. (Exhibit 1.) Such payment(s) shall be made within six months following the end of such fiscal year.

## XI.

For six fiscal years from the closing date of the Asset Purchase Agreement Strategic Global Management, Inc. shall provide an annual amount of Community Benefit Services at St. Francis Medical Center equal to or greater than \$1,139,301 (the "Minimum Community Benefit Services Amount") exclusive of any funds from grants. For six fiscal years, the following community benefit programs and services shall continue to be offered at its current or equivalent location:

- a. Southern California Crossroads Program;
- b. Health Benefit Resource Center;
- c. Welcome Baby Program;
- d. Healthy Community Initiatives;
- e. American Career College access for onsite training;
- f. Paramedic Training and Education; and
- g. Patient Transportation support.

The planning of, and any subsequent changes to, the community benefit services provided at St. Francis Medical Center shall be decided after consultation with the Local Governing Board of Directors.

Strategic Global Management, Inc.'s obligation under this Condition shall be prorated on a daily basis if the effective date of the Asset Purchase Agreement is a date other than the first day of Verity Health System of California, Inc.'s fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Community Benefit Services Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in the Los Angeles-Long Beach-Anaheim Average Base Period: 1982-84=100 (CPI-LA, as published by the U.S. Bureau of Labor Statistics).

If the actual amount of community benefit services provided at St. Francis Medical Center for any fiscal year is less than the Minimum Community Benefit Services Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Strategic Global Management, Inc. shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide community benefit services for residents in St. Francis Medical Center's service area (31 ZIP codes), as defined on as described on page 54 in the Healthcare Impact

Report authored by JD Healthcare dated August 16, 2019. (Exhibit 1.) Such payment(s) shall be made within six months following the end of such fiscal year.

## XII.

For at least ten years from the closing date of the Asset Purchase Agreement unless otherwise indicated, Strategic Global Management, Inc. shall maintain its contracts and any amendments and exhibits thereto with the City and/or County of Los Angeles for services, including the following:

- a. Participation in the Hospital Preparedness Program between the Hospital and Los Angeles County;
- b. Department of Mental Health Legal Entity Contract between the Hospital and Los Angeles County;
- c. Paramedic Base Hospital Services between the Hospital and Los Angeles County;
- d. Radiation Therapy Services between the Hospital and Los Angeles County;
- e. Designation Agreement between the County of Los Angeles Department of Mental Health (LAC-DMH) and the Hospital and approved as a 72-hour Evaluation and Intensive Treatment facility;
- f. Affiliation Agreement for physicians in post graduate training;
- g. Trauma Center Service Agreement between the Hospital and Los Angeles County; and
- h. Paramedic Training Institute Students between the Hospital and Los Angeles County.

For at least ten years from the closing date of the Asset Purchase Agreement, Strategic Global Management shall provide to the Los Angeles County Department of Health Services and Los Angeles County of Department of Mental Health information and documents related to staffing assessments, clinical guidelines, services provided, and technology needs for St. Francis Medical Center. The goal is to ensure that Strategic Global Management, Inc.'s decisions or changes in these areas will not be motivated by a desire to move away from serving the Medi-Cal population. Such information and documents will also be provided to the Local Governing Board.

## XIII.

For ten years from the closing date of the Asset Purchase Agreement, Strategic Global Management, Inc. shall have at St. Francis Medical Center a Local Governing Board of Directors. Strategic Global Management, Inc. shall consult with the Local Governing Board of Directors prior to making changes to medical services, community benefit programs, making capital expenditures, including making changes to the charity care and collection policies, and making changes to charity care services provided at St. Francis Medical Center. The members of the Local Governing Board shall include physicians from St. Francis Medical Center's medical staff, St. Francis Medical Center's Chief of Staff, one member designated by the Los Angeles County Board of Supervisors, and community representatives from St. Francis Medical Center's primary service area (31 ZIP codes), as described on page 54 in the Healthcare Impact Report

authored by JD Healthcare dated August 16, 2019 attached hereto as Exhibit 1, including at least one member from a local healthcare advocacy group. Such consultation shall occur at least sixty days prior to the effective date of such changes or actions unless done so on an emergency basis. The Local Governing Board's approval is required of all reports submitted to the Attorney General regarding compliance with these Conditions.

**XIV.**

Strategic Global Management, Inc. shall commit to reserve or expend capital for St. Francis Medical Center, St. Vincent Medical Center, and Seton Medical Center for capital improvements to the hospitals over the five-year period from the closing of the Asset Purchase Agreement of the amount that remains unexpended from the \$180 million commitment required of BlueMountain Capital Management, LLC as part of the Attorney General Conditions approved on December 3, 2015 but this amount can be no less than \$5.8 million among the three hospitals.

**XV.**

Strategic Global Management, Inc. shall commit the necessary investments required to maintain OSHPD seismic compliance requirements at the Hospital through 2030 under the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, as amended by the California Hospital Facilities Seismic Safety Act, (Health & Safety. Code, § 129675-130070).

**XVI.**

Strategic Global Management, Inc. shall maintain privileges for current medical staff who are in good standing as of the closing date of the Asset Purchase Agreement. Further, the closing of the Asset Purchase Agreement shall not change the medical staff officers, committee chairs, or independence of the medical staff, and such persons shall remain in good standing for the remainder of their tenure at St. Francis Medical Center.

**XVII.**

There shall be no discrimination against lesbian, gay, bisexual, or transgender individuals at St. Francis Medical Center, and no restriction or limitation on providing or making reproductive health services available at St. Francis Medical Center, its medical office buildings, or at any of its facilities. Both of these prohibitions shall be set forth in Strategic Global Management, Inc.'s written policies, adhered to, and strictly enforced.

**XVIII.**

Within 15 days of the closing of date of the Asset Purchase Agreement, St. Francis Medical Center Foundation shall transfer all charitable assets including, but not limited to, all temporary and permanently restricted funds to the California Community Foundation.

- a) The funds from St. Francis Medical Center Foundation, if not previously restricted to support a specific charitable organization, will be deposited

into the California Community Foundation's St. Francis Medical Center Fund, and used to support nonprofit tax-exempt charitable organizations, clinics and facilities in providing healthcare services to residents of St. Francis Medical Center's service area (31 ZIP codes), as described on page 54 in the Healthcare Impact Report authored by JD Healthcare dated August 16, 2019. (Exhibit 1.) The donated funds shall be maintained and used for the purposes specified herein for a period of at least five years.

- b) If there are funds from St. Francis Medical Center Foundation previously restricted to support a specific charitable organization, such funds shall be deposited into a fund or funds at California Community Foundation restricted to continuing support for such charitable organization or organizations. Such funds are protected against obsolescence. If the purposes of any restricted fund become unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community served by California Community Foundation, the California Community Foundation's Board of Directors shall have the ability to modify any restriction or condition on the use such fund.

#### **XIX.**

For eleven fiscal years from the closing date of the Asset Purchase Agreement Strategic Global Management shall submit to the Attorney General, no later than four months after the conclusion of each fiscal year, a report describing in detail compliance with each Condition set forth herein. The Chairman of the Board of Directors of Strategic Global Management, Inc. shall certify that the report is true, accurate, and complete and provide documentation of the review and approval of the report by the Local Governing Board.

#### **XX.**

At the request of the Attorney General, all parties listed in Condition I, Verity Health System of California, Inc., Verity Holdings, LLC, Strategic Global Management, Inc., and any other parties referenced in the agreements listed in Condition II shall provide such information as is reasonably necessary for the Attorney General to monitor compliance with these Conditions and the terms of the transaction as set forth herein. The Attorney General shall, at the request of a party and to the extent provided by law, keep confidential any information so produced to the extent that such information is a trade secret or is privileged under state or federal law, or if the private interest in maintaining confidentiality clearly outweighs the public interest in disclosure.

#### **XXI.**

Once the Asset Purchase Agreement is closed, all parties listed in Condition I, and any other parties referenced in the agreements listed in Condition II are deemed to have explicitly and implicitly consented to the applicability and compliance with each and every Condition and to have waived any right to seek judicial relief with respect to each and every Condition.

The Attorney General reserves the right to enforce each and every Condition set forth herein to the fullest extent provided by law. In addition to any legal remedies the Attorney General may have, the Attorney General shall be entitled to specific performance, injunctive relief, and such other equitable remedies as a court may deem appropriate for breach of any of these Conditions. Pursuant to Government Code section 12598, the Attorney General's office shall also be entitled to recover its attorney fees and costs incurred in remedying each and every violation.

### Analysis of the Hospital's Service Area

#### Service Area Definition

Based upon the Hospital's CY 2017 inpatient discharges, the Hospital's service area is comprised of 31 ZIP Codes from which 75% of the Hospital's inpatient discharges came from. Approximately 51% of the Hospital's discharges originated from the top eight ZIP Codes, located in Lynwood, South Gate, Los Angeles, Bell, Compton, Bell Gardens, and Huntington Park. In CY 2017, the Hospital's market share in the service area was approximately 11% based on total area discharges.

| PATIENT ORIGIN, CY 2017 |                  |               |                          |                       |              |                  |
|-------------------------|------------------|---------------|--------------------------|-----------------------|--------------|------------------|
| ZIP Code                | Community        | Discharges    | Percentage of Discharges | Cumulative Percentage | Market Share | Total Discharges |
| 90262                   | Lynwood          | 2,490         | 11.1%                    | 11.1%                 | 38.1%        | 6,538            |
| 90280                   | South Gate       | 2,187         | 9.8%                     | 20.9%                 | 29.0%        | 7,554            |
| 90221                   | Compton          | 1,400         | 6.3%                     | 27.2%                 | 24.1%        | 5,812            |
| 90201                   | Bell             | 1,359         | 6.1%                     | 33.3%                 | 16.3%        | 8,363            |
| 90002                   | Los Angeles      | 1,066         | 4.8%                     | 38.0%                 | 18.4%        | 5,797            |
| 90255                   | Huntington Park  | 956           | 4.3%                     | 42.3%                 | 15.5%        | 6,172            |
| 90059                   | Los Angeles      | 948           | 4.2%                     | 46.6%                 | 17.2%        | 5,527            |
| 90001                   | Los Angeles      | 922           | 4.1%                     | 50.7%                 | 15.6%        | 5,901            |
| 90220                   | Compton          | 708           | 3.2%                     | 53.9%                 | 12.7%        | 5,554            |
| 90222                   | Compton          | 700           | 3.1%                     | 57.0%                 | 18.1%        | 3,868            |
| 90003                   | Los Angeles      | 625           | 2.8%                     | 59.8%                 | 7.6%         | 8,209            |
| 90044                   | Los Angeles      | 542           | 2.4%                     | 62.2%                 | 4.5%         | 11,994           |
| 90723                   | Paramount        | 525           | 2.3%                     | 64.6%                 | 11.7%        | 4,483            |
| 90061                   | Los Angeles      | 358           | 1.6%                     | 66.2%                 | 9.5%         | 3,764            |
| 90650                   | Norwalk          | 344           | 1.5%                     | 67.7%                 | 3.3%         | 10,373           |
| 90270                   | Maywood          | 282           | 1.3%                     | 69.0%                 | 12.2%        | 2,309            |
| 90805                   | Long Beach       | 267           | 1.2%                     | 70.2%                 | 2.7%         | 9,940            |
| 90706                   | Bellflower       | 263           | 1.2%                     | 71.3%                 | 3.6%         | 7,223            |
| 90242                   | Downey           | 252           | 1.1%                     | 72.5%                 | 6.2%         | 4,038            |
| 90241                   | Downey           | 224           | 1.0%                     | 73.5%                 | 6.0%         | 3,726            |
| 90660                   | Pico Rivera      | 91            | 0.4%                     | 73.9%                 | 1.4%         | 6,608            |
| 90240                   | Downey           | 69            | 0.3%                     | 74.2%                 | 3.3%         | 2,073            |
| 90670                   | Santa Fe Springs | 46            | 0.2%                     | 74.4%                 | 2.7%         | 1,703            |
| 90605                   | Whittier         | 44            | 0.2%                     | 74.6%                 | 1.1%         | 4,082            |
| 90606                   | Whittier         | 44            | 0.2%                     | 74.8%                 | 1.4%         | 3,244            |
| 90703                   | Cerritos         | 37            | 0.2%                     | 74.9%                 | 0.9%         | 4,026            |
| 90604                   | Whittier         | 32            | 0.1%                     | 75.1%                 | 0.9%         | 3,698            |
| 90701                   | Artesia          | 31            | 0.1%                     | 75.2%                 | 1.7%         | 1,813            |
| 90638                   | La Mirada        | 30            | 0.1%                     | 75.4%                 | 0.7%         | 4,274            |
| 90603                   | Whittier         | 3             | 0.0%                     | 75.4%                 | 0.1%         | 2,152            |
| 90639                   | La Mirada        | 0             | 0.0%                     | 75.4%                 | 0.0%         | 10               |
| <b>Sub-Total</b>        |                  | <b>16,845</b> | <b>75.4%</b>             | <b>75.4%</b>          | <b>10.5%</b> | <b>160,828</b>   |
| <b>All Other</b>        |                  | <b>5,504</b>  | <b>24.6%</b>             | <b>100%</b>           |              |                  |
| <b>Grand Total</b>      |                  | <b>22,349</b> | <b>100%</b>              |                       |              |                  |

Source: OSHPD Discharge Database, CY 2017





**Conditions to the Sale of St. Vincent Medical Center<sup>1</sup> and Approval of the Asset Purchase Agreement by and among Verity Health System of California, Inc., Verity Holdings, LLC, St. Francis Medical Center, St. Vincent Medical Center, St. Vincent Dialysis Center, Inc., Seton Medical Center, and Strategic Global Management, Inc.**

**I.**

These Conditions shall be legally binding on Verity Health System of California, Inc., a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, St. Francis Medical Center, a California nonprofit public benefit corporation, St. Vincent Medical Center, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, St. Francis Medical Center Foundation, a nonprofit public benefit corporation, St. Vincent Foundation, a California nonprofit corporation, Seton Medical Center Foundation, a California nonprofit corporation, Verity Business Services, a California nonprofit public benefit corporation, Verity Medical Foundation, a California nonprofit public benefit corporation, St. Vincent de Paul Ethics Corporation, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Marillac Insurance Company, Ltd., a Cayman Islands corporation, DePaul Ventures, LLC, a California limited liability company, DePaul Ventures – San Jose ASC, LLC, a California limited liability company, DePaul Ventures – San Jose Dialysis, LLC, a California limited liability company, and Strategic Global Management, Inc., a California corporation, any other subsidiary, parent, general partner, limited partner, member, affiliate, successor, successor in interest, assignee, or person or entity serving in a similar capacity of any of the above-listed entities including, but not limited to, any entity succeeding thereto as a result of consolidation, affiliation, merger, or acquisition of all or substantially all of the real property or operating assets of St. Vincent Medical Center, or the real property on which St. Vincent Medical Center is located, any and all current and future owners, lessees, licensees, or operators of St. Vincent Medical Center, and any and all current and future lessees and owners of the real property on which St. Vincent Medical Center is located.

**II.**

The transaction conditionally approved by the Attorney General consists of the Asset Purchase Agreement dated January 8, 2019, by and among, Verity Health System of California, Inc., a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, St. Francis Medical Center, a California nonprofit public benefit corporation, St. Vincent Medical Center, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Seton Medical Center, a

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<sup>1</sup> Throughout this document, the term “St. Vincent Medical Center” shall mean the general acute care hospital located at 2131 West Third Street, Los Angeles, CA 90057, and any other clinics, laboratories, units, services, or beds included on the license issued to St. Vincent Medical Center by the California Department of Public Health, effective January 1, 2019, unless otherwise indicated.

California nonprofit public benefit corporation, and Strategic Global Management, Inc., a California corporation, and any agreements or documents referenced in or attached to as an exhibit or schedule and any other documents referenced in the Asset Purchase Agreement, including, but not limited to, the Sale Leaseback Agreement and Interim Management Agreement.

All the entities listed in Condition I, and any other parties referenced in the above agreements shall fulfill the terms of these agreements or documents and shall notify and obtain the Attorney General's approval in writing of any proposed modification or rescission of any of the terms of these agreements or documents. Such notifications shall be provided at least sixty days prior to their effective date in order to allow the Attorney General to consider whether they affect the factors set forth in Corporations Code section 5917 and obtain the Attorney General's approval.

### III.

For five years from the closing date of the Asset Purchase Agreement, Verity Health System of California, Inc., Verity Holdings, LLC, Strategic Global Management, Inc., and all future owners, managers, lessees, licensees, or operators of St. Vincent Medical Center shall be required to provide written notice to the Attorney General sixty days prior to entering into any agreement or transaction to do any of the following:

(a) Sell, transfer, lease, exchange, option, convey, manage, or otherwise dispose of St. Vincent Medical Center;

(b) Transfer control, responsibility, management, or governance of St. Vincent Medical Center. The substitution, merger or addition of a new member or members of the governing body of Strategic Global Management, Inc. that transfers the control of, responsibility for or governance of St. Vincent Medical Center, shall be deemed a transfer for purposes of this Condition. The substitution or addition of one or more members of the governing body of Strategic Global Management, Inc., or any arrangement, written or oral, that would transfer voting control of the members of the governing body of Strategic Global Management, Inc. shall also be deemed a transfer for purposes of this Condition.

### IV.

For five years from the closing date of the Asset Purchase Agreement unless otherwise stated, St. Vincent Medical Center shall be operated and maintained as a licensed general acute care hospital (as defined in California Health and Safety Code Section 1250). If, on Strategic Global Management, Inc.'s further evaluation, the cost to seismically retrofit the St. Vincent Medical Center becomes less feasible than building a new replacement hospital, services may need to be temporarily closed or relocated due to construction. A detailed program and services plan, architectural drawings, and financing plan shall be presented to the California Attorney General for approval before ceasing to operate any services.

### V.

For five years from the closing date of the Asset Purchase Agreement, St. Vincent Medical Center shall maintain and provide 24-hour emergency services at no less than its current licensure<sup>2</sup> of 8 treatment stations, and designation and the following health care services at current licensure types, and/or levels of services:

- a. Designation as a STEMI Receiving center; and
- b. Maintaining the requirements set by the County of Los Angeles Emergency Medical Services for 911 Receiving Hospitals.

## VI.

For at least five years from the closing date of the Asset Purchase Agreement, St. Vincent Medical Center shall maintain and provide the following services at current licensure, types, and/or levels of services:

- a. Acute rehabilitation services, including a minimum of 19 licensed rehabilitation beds;
- b. Intensive care services, including a minimum of 30 intensive care beds;
- c. Cardiac services, including cardiac surgery and a minimum of two cardiac catheterization labs;
- d. Cancer services, including radiation oncology. Radiation oncology services may be relocated and patients transitioned to another site that has capacity within a three-mile radius after the first year after the closing of the Asset Purchase Agreement;
- e. Gastroenterology services;
- f. Imaging and laboratory services;
- g. Nephrology services, including end stage renal disease program, acute inpatient dialysis, and hemodialysis treatments;
- h. Neurology and neurotology services, including neurosurgery;
- i. Orthopedics, joint replacement, and spine care services;
- j. Transplant services, including kidney and multi-organ transplant procedures for kidney/pancreas double transplants. Transplant services do not include the liver transplant program. These services may be relocated to another hospital in the primary service area based upon a submission of a detailed plan to be approved by the California Attorney General; and
- k. Outpatient dialysis services. The outpatient dialysis services shall be within 5 miles of St. Vincent Medical Center by either (1) operating St. Vincent Dialysis Center, or (2) transferring St. Vincent Dialysis Center to a separate entity and requiring that entity to operate it for 5 years from the closing date of the Asset Purchase Agreement and to participate in the Medi-Cal and Medicare programs as required in the Conditions herein, or (3) ensuring that a third party is operating an outpatient dialysis center(s) at current levels for 5 years from the closing date of the Asset Purchase Agreement and that such center(s) participate in the Medi-Cal and Medicare programs as required in Conditions herein.

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<sup>2</sup> The term “current” or “currently” throughout this document means as of January 1, 2019.

Strategic Global Management, Inc. shall not place all or any portion of its above-listed licensed-bed capacity or services in voluntary suspension or surrender its license for any of these beds or services.

## VII.

For at least five years from the closing date of the Asset Purchase Agreement, Strategic Global Management, Inc. shall either: (1) operate clinics (listed below) with the same number of physicians and mid-level provider full-time equivalents in the same or similar alignment structures, or (2) sell the clinics (listed below) with the same number of physician and mid-level provider full-time equivalents and require the purchaser(s) to maintain such services for 5 years from the closing date of the Asset Purchase Agreement and to participate in the Medi-Cal and Medicare programs as required in the conditions herein, or (3) ensure that a third party is operating the clinics (listed below) with the same number of physician and mid-level provider full-time equivalents and require the third party to maintain such services for 5 years from the closing date of the Asset Purchase Agreement and to participate in the Medi-Cal and Medicare programs as required in the conditions herein. For any of these options, each clinic can be moved to a different location within a three-mile radius of each clinic's current location, and St. Vincent Medical Center can utilize an alternative structure in providing such services. The following clinics are subject to this condition:

- a. Cardiac Care Institute, located at 201 S. Alvarado Street, Suite 321, Los Angeles, California;
- b. Transplant Medical Office, located at 8501 Camino Media, Suite 100, Bakersfield, California;
- c. Cancer Treatment Center, located at 201 S. Alvarado Street, Suite A, Los Angeles, California;
- d. Multi-Organ Transplant services, located at 2200 W. Third Street, 5th Floor, Los Angeles, California;
- e. Radiology services, located at 201 S. Alvarado Street, Suite 311, Los Angeles, California;
- f. Orthopedic Services, located at 2200 W. Third Street, 4th Floor, Los Angeles, California; and
- g. Multispecialty Clinic located at 2200 W. Third Street, Suite 120, Los Angeles, California.

## VIII.

For at least five years from the closing date of the Asset Purchase Agreement, Strategic Global Management, Inc. shall:

- a) Be certified to participate in the Medi-Cal program at St Vincent Medical Center;
- b) Maintain and have Medi-Cal Managed Care contracts with the below listed Medi-Cal Managed Care Plans to provide the same types and levels of emergency and non-emergency services at St. Vincent Medical Center to Medi-Cal beneficiaries (both Traditional Medi-Cal and Medi-Cal Managed Care) as required in these Conditions, on the same terms and conditions as

other similarly situated hospitals offering substantially the same services, without any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage, unless the contract is terminated for cause or not extended or renewed by the Medi-Cal Managed Care Plan:

- i) Local Initiative: L.A. Care Health Plan or its successor; and
- ii) Commercial Plan: Health Net Community Solutions, Inc. or its successor.

If Strategic Global Management, Inc. questions whether it is being reimbursed on the same terms and conditions as other similarly situated hospitals offering substantially the same services, it shall notify the Attorney General's Office with at least 120 days' notice prior to taking any action that would effectuate any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage or prior to giving any required notice of taking such action.

c) Be certified to participate in the Medicare program by maintaining a Medicare Provider Number to provide the same types and levels of emergency and non-emergency services at St. Vincent Medical Center to Medicare beneficiaries (both Traditional Medicare and Medicare Managed Care), on the same terms and conditions as other similarly situated hospitals, as required in these Conditions.

## IX.

For six fiscal years from the closing date of the Asset Purchase Agreement, Strategic Global Management, Inc. shall provide an annual amount of Charity Care (as defined below) at St. Vincent Medical Center equal to or greater than \$696,643 (the Minimum Charity Care Amount). For purposes hereof, the term "charity care" shall mean the amount of charity care costs (not charges) incurred by Strategic Global Management, Inc. in connection with the operation and provision of services at St. Vincent Medical Center. The definition and methodology for calculating "charity care" and the methodology for calculating "costs" shall be the same as that used by Office of Statewide Health Planning Development (OSHPD) for annual hospital reporting purposes.<sup>3</sup>

Strategic Global Management, Inc. shall use and maintain a charity care policy that is no less favorable than Verity Health System of California, Inc.'s current charity care policy (Verity's Financial Assistance Policy No. 06.03.04 effective December 5, 2017 and revised and reviewed June 20, 2018) and in compliance with California and Federal law at St. Vincent Medical Center. Within 90 days from the closing of the Asset Purchase Agreement, Strategic Global Management, Inc. will amend the Financial Assistance Policy to include as follows:

- a. A copy of the Financial Assistance Policy and the plain language summary of the Financial Assistance Policy must be posted at St. Vincent Medical Center in a prominent

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<sup>3</sup> OSHPD defines charity care by contrasting charity care and bad debt. According to OSHPD, "the determination of what is classified as . . . charity care can be made by establishing whether or not the patient has the ability to pay. The patient's accounts receivable must be written off as bad debt if the patient has the ability but is unwilling to pay off the account."

- location in the emergency room, admissions area, and any other location in the hospital where there is a high volume of patient traffic, including waiting rooms, billing offices, and hospital outpatient service settings.
- b. A copy of the Financial Assistance Policy, the Application for Financial Assistance, and the plain language summary of the Financial Assistance Policy must be posted in a prominent place on St. Vincent Medical Center's website.
  - c. If requested by a patient, a copy of the Financial Assistance Policy, Application for Financial Assistance, and the plain language summary must be sent by mail at no cost to the patient.
  - d. As necessary, and at least on an annual basis, Strategic Global Management, Inc. will place an advertisement regarding the availability of financial assistance at St. Vincent Medical Center in a newspaper of general circulation in the communities served by the hospital, or issue a Press Release to widely publicize the availability of the Financial Assistance Policy to the communities served by the hospital.
  - e. Strategic Global Management, Inc. will work with affiliated organizations, physicians, community clinics, other health care providers, houses of worship, and other community-based organizations to notify members of the community (especially those who are most likely to require financial assistance) about the availability of financial assistance at St. Vincent Medical Center.
  - f. By December 1, 2019, all staff that interacts with patients and their families concerning payment of services shall be given training to make patients and their families aware of and informed of Strategic Global Management, Inc.'s Financial Assistance Policy at St. Vincent Medical Center.

Any planning of, and any subsequent changes to, the charity care and collection policies, and charity care services provided at St. Vincent Medical Center shall be decided after consultation with the Local Governing Board of Directors.

Strategic Global Management, Inc.'s obligation under this Condition shall be prorated on a daily basis if the closing date of the Asset Purchase Agreement is a date other than the first day of Verity Health System of California, Inc.'s fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Charity Care Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in the Los Angeles-Long Beach-Anaheim Average Base Period: 1982-84=100 (CPI-LA, as published by the U.S. Bureau of Labor Statistics).

If the actual amount of charity care provided at St. Vincent Medical Center for any fiscal year is less than the Minimum Charity Care Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Strategic Global Management, Inc. shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide direct healthcare services to residents in the St. Vincent Medical Center's service area (48 ZIP codes), as described on page 52 in the Healthcare Impact Report authored by JD Healthcare dated

August 16, 2019. (Exhibit 1.) Such payment(s) shall be made within six months following the end of such fiscal year.

**X.**

For six fiscal years from the closing date of the Asset Purchase Agreement Strategic Global Management, Inc. shall provide an annual amount of Community Benefit Services at St. Vincent Medical Center equal to or greater than \$1,065,604 (the “Minimum Community Benefit Services Amount”) exclusive of any funds from grants. For six fiscal years, the following community benefit programs and services shall continue to be offered at its current or equivalent location:

- a. Health Benefits Resource Center; and
- b. Asian Pacific Liver Center.

The planning of, and any subsequent changes to, the community benefit services provided at St. Vincent Medical Center shall be decided after consultation with the Local Governing Board of Directors.

Strategic Global Management, Inc.’s obligation under this Condition shall be prorated on a daily basis if the effective date of the Asset Purchase Agreement is a date other than the first day of Verity Health System of California, Inc.’s fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Community Benefit Services Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in the Los Angeles-Long Beach Anaheim Average Base Period: 1982-84=100 (CPI-LA, as published by the U.S. Bureau of Labor Statistics).

If the actual amount of community benefit services provided at St. Vincent Medical Center for any fiscal year is less than the Minimum Community Benefit Services Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Strategic Global Management, Inc. shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide community benefit services for residents in St. Vincent Medical Center’s service area (48 ZIP codes), as defined on as described on page 52 in the Healthcare Impact Report authored by JD Healthcare dated August 16, 2019. (Exhibit 1.) Such payment(s) shall be made within six months following the end of such fiscal year.

**XI.**

For at least five years from the closing date of the Asset Purchase Agreement unless otherwise indicated, Strategic Global Management, Inc. shall maintain its contracts and any amendments and exhibits thereto with the City and/or County of Los Angeles for services, including the following:

- a. Participation in the Hospital Preparedness Program between the Hospital and Los Angeles County; and

b. Radiation Therapy Services between the Hospital and Los Angeles County.

For at least five years from the closing date of the Asset Purchase Agreement, Strategic Global Management shall provide to the Los Angeles County Department of Health Services and Los Angeles County of Department of Mental Health information and documents related to staffing assessments, clinical guidelines, services provided, and technology needs for St. Vincent Medical Center. The goal is to ensure that Strategic Global Management, Inc.'s decisions or changes in these areas will not be motivated by a desire to move away from serving the Medi-Cal population. Such information and documents will also be provided to the Local Governing Board.

**XII.**

For five years from the closing date of the Asset Purchase Agreement, Strategic Global Management, Inc. shall have at St. Vincent Medical Center a Local Governing Board of Directors. Strategic Global Management, Inc. shall consult with the Local Governing Board of Directors prior to making changes to medical services, community benefit programs, making capital expenditures, including making changes to the charity care and collection policies, and making changes to charity care services provided at St. Vincent Medical Center. The members of the Local Governing Board shall include physicians from St. Vincent Medical Center's medical staff, St. Vincent Medical Center's Chief of Staff, one member designated by the Los Angeles County Board of Supervisors, and community representatives from St. Vincent Medical Center's primary service area (48 ZIP codes), as described on page 52 in the Healthcare Impact Report authored by JD Healthcare dated August 16, 2019 attached hereto as Exhibit 1, including at least one member from a local healthcare advocacy group. Such consultation shall occur at least sixty days prior to the effective date of such changes or actions unless done so on an emergency basis. The Local Governing Board's approval is required of all reports submitted to the Attorney General regarding compliance with these Conditions.

**XIII.**

Strategic Global Management, Inc. shall commit to reserve or expend capital for St. Francis Medical Center, St. Vincent Medical Center, and Seton Medical Center for capital improvements to the hospitals over the five-year period from the closing of the Asset Purchase Agreement of the amount that remains unexpended from the \$180 million commitment required of BlueMountain Capital Management, LLC as part of the Attorney General Conditions approved on December 3, 2015 but this amount can be no less than \$5.8 million among the three hospitals.

**XIV.**

Strategic Global Management, Inc. shall commit the necessary investments required to meet and maintain OSHPD seismic compliance requirements at St. Vincent Medical Center through 2030 under the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, as amended by the California Hospital Facilities Seismic Safety Act, (Health & Saf. Code, § 129675-130070).



Verity Health System of California, Inc. shall commit the necessary capital investment required to refurbish St. Vincent Medical Center's elevators in order to meet the City of Los Angeles' Elevator Code.

**XV.**

Strategic Global Management, Inc. shall maintain privileges for current medical staff who are in good standing as of the closing date of the Asset Purchase Agreement. Further, the closing of the Asset Purchase Agreement shall not change the medical staff officers, committee chairs, or independence of the medical staff, and such persons shall remain in good standing for the remainder of their tenure at St. Vincent Medical Center.

**XVI.**

There shall be no discrimination against lesbian, gay, bisexual, or transgender individuals at St. Vincent Medical Center, and no restriction or limitation on providing or making reproductive health services available at St. Vincent Medical Center, its medical office buildings, or at any of its facilities. Both of these prohibitions shall be set forth in Strategic Global Management Inc.'s written policies, adhered to, and strictly enforced.

**XVII.**

Within 15 days of the closing of date of the Asset Purchase Agreement, St. Vincent Medical Center Foundation shall transfer all charitable assets including, but not limited to, all temporary and permanently restricted funds to the California Community Foundation.

- a) The funds from St. Vincent Medical Center Foundation, if not previously restricted to support a specific charitable organization, will be deposited into the California Community Foundation's St. Vincent Medical Center Fund, and used to support nonprofit tax-exempt charitable organizations, clinics and facilities in providing healthcare services to residents of St. Vincent Medical Center's service area (48 ZIP codes), as described on page 52 in the Healthcare Impact Report authored by JD Healthcare dated August 16, 2019. (Exhibit 1.) The donated funds shall be maintained and used for the purposes specified herein for a period of at least five years.
- b) If there are funds from St. Vincent Medical Center Foundation previously restricted to support a specific charitable organization, such funds shall be deposited into a fund or funds at California Community Foundation restricted to continuing support for such charitable organization or organizations. Such funds are protected against obsolescence. If the purposes of any restricted fund become unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community served by California Community Foundation, the California Community Foundation's Board of Directors shall have the ability to modify any restriction or condition on the use such fund.

**XVIII.**

For six fiscal years from the closing date of the Asset Purchase Agreement Strategic Global Management shall submit to the Attorney General, no later than four months after the conclusion of each fiscal year, a report describing in detail compliance with each Condition set forth herein. The Chairman of the Board of Directors of Strategic Global Management, Inc. shall certify that the report is true, accurate, and complete and provide documentation of the review and approval of the report by the Local Governing Board.

**XIX.**

At the request of the Attorney General, all parties listed in Condition I, Verity Health System of California, Inc., Verity Holdings, LLC, Strategic Global Management, Inc., and any other parties referenced in the agreements listed in Condition II shall provide such information as is reasonably necessary for the Attorney General to monitor compliance with these Conditions and the terms of the transaction as set forth herein. The Attorney General shall, at the request of a party and to the extent provided by law, keep confidential any information so produced to the extent that such information is a trade secret or is privileged under state or federal law, or if the private interest in maintaining confidentiality clearly outweighs the public interest in disclosure.

**XX.**

Once the Asset Purchase Agreement is closed, all parties listed in Condition I, and any other parties referenced in the agreements listed in Condition II are deemed to have explicitly and implicitly consented to the applicability and compliance with each and every Condition and to have waived any right to seek judicial relief with respect to each and every Condition.

The Attorney General reserves the right to enforce each and every Condition set forth herein to the fullest extent provided by law. In addition to any legal remedies the Attorney General may have, the Attorney General shall be entitled to specific performance, injunctive relief, and such other equitable remedies as a court may deem appropriate for breach of any of these Conditions. Pursuant to Government Code section 12598, the Attorney General's office shall also be entitled to recover its attorney fees and costs incurred in remedying each and every violation.

### Analysis of the Hospital's Service Area

#### Service Area Definition

Based upon the Hospital's CY 2017 inpatient discharges, the Hospital's service area is comprised of 48 ZIP Codes from which 71% of the Hospital's inpatient discharges came from. Approximately 38% of the Hospital's discharges originated from the top eight ZIP Codes, located in Los Angeles. In CY 2017, the Hospital's market share in the primary and secondary service area was approximately 4% based on total area discharges.

| PATIENT ORIGIN, CY 2017    |                 |                  |                 |                            |                       |              |
|----------------------------|-----------------|------------------|-----------------|----------------------------|-----------------------|--------------|
| ZIP Codes                  | Community       | Total Discharges | % of Discharges | Cumulative % of Discharges | Total Area Discharges | Market Share |
| 90057                      | Los Angeles     | 1,106            | 10.0%           | 10.0%                      | 5,955                 | 18.6%        |
| 90006                      | Los Angeles     | 726              | 6.5%            | 16.5%                      | 5,472                 | 13.3%        |
| 90026                      | Los Angeles     | 579              | 5.2%            | 21.7%                      | 5,034                 | 11.5%        |
| 90004                      | Los Angeles     | 491              | 4.4%            | 26.1%                      | 4,691                 | 10.5%        |
| 90005                      | Los Angeles     | 486              | 4.4%            | 30.5%                      | 2,843                 | 17.1%        |
| 90020                      | Los Angeles     | 297              | 2.7%            | 33.2%                      | 2,600                 | 11.4%        |
| 90019                      | Los Angeles     | 286              | 2.6%            | 35.8%                      | 5,893                 | 4.9%         |
| 90018                      | Los Angeles     | 263              | 2.4%            | 38.1%                      | 5,975                 | 4.4%         |
| 90029                      | Los Angeles     | 238              | 2.1%            | 40.3%                      | 4,114                 | 5.8%         |
| 90017                      | Los Angeles     | 235              | 2.1%            | 42.4%                      | 2,308                 | 10.2%        |
| 90037                      | Los Angeles     | 226              | 2.0%            | 44.4%                      | 7,439                 | 3.0%         |
| 90011                      | Los Angeles     | 212              | 1.9%            | 46.3%                      | 10,436                | 2.0%         |
| 90012                      | Los Angeles     | 198              | 1.8%            | 48.1%                      | 4,017                 | 4.9%         |
| 90007                      | Los Angeles     | 195              | 1.8%            | 49.9%                      | 3,129                 | 6.2%         |
| 90013                      | Los Angeles     | 115              | 1.0%            | 50.9%                      | 2,655                 | 4.3%         |
| 90015                      | Los Angeles     | 112              | 1.0%            | 51.9%                      | 1,918                 | 5.8%         |
| 90014                      | Los Angeles     | 99               | 0.9%            | 52.8%                      | 1,287                 | 7.7%         |
| 90010                      | Los Angeles     | 50               | 0.5%            | 53.3%                      | 311                   | 16.1%        |
| 90009                      | Los Angeles     | 12               | 0.1%            | 53.4%                      | 113                   | 10.6%        |
| <b>PSA Sub-Total</b>       |                 | <b>5,926</b>     | <b>53.4%</b>    | <b>53.4%</b>               | <b>76,190</b>         | <b>7.8%</b>  |
| 90044                      | Los Angeles     | 152              | 1.4%            | 54.7%                      | 11,994                | 1.3%         |
| 90027                      | Los Angeles     | 150              | 1.4%            | 56.1%                      | 4,273                 | 3.5%         |
| 90016                      | Los Angeles     | 130              | 1.2%            | 57.3%                      | 5,656                 | 2.3%         |
| 90008                      | Los Angeles     | 127              | 1.1%            | 58.4%                      | 4,258                 | 3.0%         |
| 90003                      | Los Angeles     | 106              | 1.0%            | 59.4%                      | 8,209                 | 1.3%         |
| 90062                      | Los Angeles     | 96               | 0.9%            | 60.2%                      | 4,018                 | 2.4%         |
| 90028                      | Los Angeles     | 95               | 0.9%            | 61.1%                      | 2,820                 | 3.4%         |
| 90047                      | Los Angeles     | 87               | 0.8%            | 61.9%                      | 7,164                 | 1.2%         |
| 90043                      | Los Angeles     | 86               | 0.8%            | 62.6%                      | 6,137                 | 1.4%         |
| 90038                      | Los Angeles     | 82               | 0.7%            | 63.4%                      | 2,349                 | 3.5%         |
| 90033                      | Los Angeles     | 77               | 0.7%            | 64.1%                      | 5,255                 | 1.5%         |
| 90042                      | Los Angeles     | 68               | 0.6%            | 64.7%                      | 5,173                 | 1.3%         |
| 90039                      | Los Angeles     | 67               | 0.6%            | 65.3%                      | 2,365                 | 2.8%         |
| 90031                      | Los Angeles     | 62               | 0.6%            | 65.8%                      | 3,161                 | 2.0%         |
| 90065                      | Los Angeles     | 62               | 0.6%            | 66.4%                      | 4,202                 | 1.5%         |
| 90046                      | Los Angeles     | 61               | 0.5%            | 66.9%                      | 4,210                 | 1.4%         |
| 90036                      | Los Angeles     | 56               | 0.5%            | 67.5%                      | 3,313                 | 1.7%         |
| 90063                      | Los Angeles     | 55               | 0.5%            | 67.9%                      | 5,008                 | 1.1%         |
| 90001                      | Los Angeles     | 51               | 0.5%            | 68.4%                      | 5,901                 | 0.9%         |
| 90002                      | Los Angeles     | 46               | 0.4%            | 68.8%                      | 5,797                 | 0.8%         |
| 90032                      | Los Angeles     | 41               | 0.4%            | 69.2%                      | 4,442                 | 0.9%         |
| 90255                      | Huntington Park | 40               | 0.4%            | 69.6%                      | 6,172                 | 0.6%         |
| 90023                      | Los Angeles     | 36               | 0.3%            | 69.9%                      | 4,965                 | 0.7%         |
| 91205                      | Glendale        | 28               | 0.3%            | 70.1%                      | 4,781                 | 0.6%         |
| 90041                      | Los Angeles     | 22               | 0.2%            | 70.3%                      | 2,587                 | 0.9%         |
| 90048                      | Los Angeles     | 20               | 0.2%            | 70.5%                      | 2,470                 | 0.8%         |
| 91204                      | Glendale        | 14               | 0.1%            | 70.6%                      | 2,260                 | 0.6%         |
| 90270                      | Maywood         | 13               | 0.1%            | 70.7%                      | 2,309                 | 0.6%         |
| 90069                      | West Hollywood  | 10               | 0.1%            | 70.8%                      | 1,850                 | 0.5%         |
| <b>PSA + SSA Sub-Total</b> |                 | <b>7,866</b>     | <b>70.8%</b>    | <b>70.8%</b>               | <b>209,289</b>        | <b>3.8%</b>  |
| <b>Other ZIPs</b>          |                 | <b>3,238</b>     | <b>29.2%</b>    | <b>100%</b>                |                       |              |
| <b>Total</b>               |                 | <b>11,104</b>    | <b>100%</b>     |                            |                       |              |

Note: Excludes normal newborns  
Source: OSHPD Patient Discharge Database



**Conditions to the Sale of Seton Medical Center<sup>1</sup> and Seton Coastsides<sup>2</sup> and Approval of the Asset Purchase Agreement by and among Verity Health System of California, Inc., Verity Holdings, LLC, St. Francis Medical Center, St. Vincent Medical Center, St. Vincent Dialysis Center, Inc., Seton Medical Center, and Strategic Global Management, Inc.**

**I.**

These Conditions shall be legally binding Verity Health System of California, Inc., a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, St. Francis Medical Center, a California nonprofit public benefit corporation, St. Vincent Medical Center, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, St. Francis Medical Center Foundation, a nonprofit public benefit corporation, St. Vincent Foundation, a California nonprofit corporation, Seton Medical Center Foundation, a California nonprofit corporation, Verity Business Services, a California nonprofit public benefit corporation, Verity Medical Foundation, a California nonprofit public benefit corporation, St. Vincent de Paul Ethics Corporation, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Marillac Insurance Company, Ltd., a Cayman Islands corporation, DePaul Ventures, LLC, a California limited liability company, DePaul Ventures – San Jose ASC, LLC, a California limited liability company, DePaul Ventures – San Jose Dialysis, LLC, a California limited liability company, and Strategic Global Management, Inc., a California corporation, any other subsidiary, parent, general partner, limited partner, member, affiliate, successor, successor in interest, assignee, or person or entity serving in a similar capacity of any of the above-listed entities including, but not limited to, any entity succeeding thereto as a result of consolidation, affiliation, merger, or acquisition of all or substantially all of the real property or operating assets of Seton Medical Center and Seton Coastsides, or the real property on which Seton and Seton Coastsides are located, any and all current and future owners, lessees, licensees, or operators of Seton Medical Center and Seton Coastsides, and any and all current and future lessees and owners of the real property on which Seton Medical Center and Seton Coastsides are located.

**II.**

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<sup>1</sup> Throughout this document, the term “Seton Medical Center” shall mean the general acute care hospital located at 1900 Sullivan Ave., Daly City, CA 94015, and any other clinics, laboratories, units, services, or beds included on the license issued to Seton Medical Center by the California Department of Public Health, effective January 1, 2019, unless otherwise indicated.

<sup>2</sup> Throughout this document, the term “Seton Coastsides” shall mean the skilled nursing facility with 5 general acute care beds located at 600 Marine Boulevard, Moss Beach, CA 94038-9641, and any other clinics, laboratories, units, services, or beds included on the license issued to Seton Medical Center by the California Department of Public Health, effective January 1, 2019, unless otherwise indicated.

The transaction conditionally approved by the Attorney General consists of the Asset Purchase Agreement dated January 8, 2019, by and among, Verity Health System of California, Inc., a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, St. Francis Medical Center, a California nonprofit public benefit corporation, St. Vincent Medical Center, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, and Strategic Global Management, Inc., a California corporation, and any agreements or documents referenced in or attached to as an exhibit or schedule and any other documents referenced in the Asset Purchase Agreement, including, but not limited to, the Sale Leaseback Agreement and Interim Management Agreement.

All the entities listed in Condition I, and any other parties referenced in the above agreements shall fulfill the terms of these agreements or documents and shall notify and obtain the Attorney General's approval in writing of any proposed modification or rescission of any of the terms of these agreements or documents. Such notifications shall be provided at least sixty days prior to their effective date in order to allow the Attorney General to consider whether they affect the factors set forth in Corporations Code section 5917 and obtain the Attorney General's approval.

### III.

For approximately 6 years (until December 13, 2025) from the closing date of the Asset Purchase Agreement, Verity Health System of California, Inc., Verity Holdings, LLC, Strategic Global Management, Inc., and all future owners, managers, lessees, licensees, or operators of Seton Medical Center and Seton Coastside shall be required to provide written notice to the Attorney General sixty days prior to entering into any agreement or transaction to do any of the following:

- (a) Sell, transfer, lease, exchange, option, convey, manage, or otherwise dispose of Seton Medical Center or Seton Coastside;
- (b) Transfer control, responsibility, management, or governance of Seton Medical Center or Seton Coastside. The substitution, merger or addition of a new member or members of the governing body of Strategic Global Management, Inc. that transfers the control of, responsibility for or governance of Seton Medical Center or Seton Coastside, shall be deemed a transfer for purposes of this Condition. The substitution or addition of one or more members of the governing body of Strategic Global Management, Inc., or any arrangement, written or oral, that would transfer voting control of the members of the governing body of Strategic Global Management, Inc. shall also be deemed a transfer for purposes of this Condition.

#### IV.

For the remainder of the term<sup>3</sup> (until December 13, 2025), Seton Medical Center (including Seton Coastside because both facilities are on the same license) shall be operated and maintained as a licensed general acute care hospital (as defined in California Health and Safety Code Section 1250).

#### V.

For the remainder of the term (until December 13, 2025), the Seton Medical Center shall maintain 24-hour emergency medical services at a minimum of 18 treatment stations with the same types and/or levels of services, including:

- a. Designation as a STEMI Receiving Center; and
- b. Advanced certification as a Primary Stroke Center;

#### VI.

For the remainder of the term (until December 13, 2025), Seton Medical Center shall maintain the following services at current<sup>4</sup> licensure, types, and/or levels of services, including:

- a. Cardiac services, including the 2 cardiac catheterization labs;
- b. Critical care services, including a minimum of 20 intensive care/coronary care beds;
- c. Psychiatric services, including a minimum of 22 distinct part beds with at least 20 beds available for the geriatric psychiatric unit;
- d. Women's health services, including the Seton Breast Health Center and women's imaging and mammography services; and
- e. Sub-acute services, including a minimum of 44 sub-acute beds and Medi-Cal Certification as a sub-acute unit.

Strategic Global Management, Inc. shall not place all or any portion of its above-listed licensed-bed capacity or services in voluntary suspension or surrender its license for any of these beds or services.

#### VII.

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<sup>3</sup> The term "For the remainder of the term" refers to the Conditions to Change in Control and Governance of Seton Medical Center and Seton Coastside and Approval of the System Restructuring and Support Agreement by and among Daughters of Charity Ministry Services Corporation, Daughters of Charity Health System, Certain Funds Managed by BlueMountain Capital Management, LLC, and Integrity Healthcare, LLC., dated December 3, 2015. The System Restructuring and Support Agreement closed on December 14, 2015.

<sup>4</sup> The term "current" or "currently" throughout this document means as of January 1, 2019.

For at least five years from the closing date of the Asset Purchase Agreement, Seton Medical Center shall maintain the following services at current licensure, types, and/or levels of services:

- a. Gastroenterology services, including enteroscopy, endoscopy, and colonoscopy services;
- b. Cancer services, including inpatient oncology services, interventional radiology, radiation therapy, and for those patients that may be in need of infusion therapy treatment, a referral process to other nearby hospitals or clinics, including Stanford Cancer Center, UCSF Helen Diller Comprehensive Care Cancer Clinic, St. Mary's Cancer Center, or other health facility that provides infusion therapy services. The referral process shall be memorialized in the policies and procedures at Seton Medical Center and should include procedures on how to assist patients with accessing infusion therapy at the nearby hospitals or clinics, and the transferring of patient medical records;
- c. 's written policies or procedures that refers patients that require medical infusion to be referred to another nearby hospital or entity that provides medial infusion services;
- d. Orthopedics and rehabilitation services, including spine care services;
- e. Diabetes services, including Northern California Diabetes Institute;
- f. Wound care services, including Seton Center for Advanced Wound Care; and
- g. Nephrology services.

Strategic Global Management, Inc. shall not place all or any portion of its above-listed licensed-bed capacity or services in voluntary suspension or surrender its license for any of these beds or services.

#### VIII.

For the remainder of the term (until December 13, 2025), Seton Medical Center shall maintain the following services at current licensure, types, and/or levels of services at Seton Coastside including:

- a. 24-hour "standby" Emergency Department, with a minimum of 7 treatment stations; and
- b. Skilled nursing services, including a minimum of 116 licensed skilled nursing beds.

#### IX.

For at least five years from the closing date of the Asset Purchase Agreement, Strategic Global Management, Inc. shall either: (1) operate clinics (listed below) with the same number of physicians and mid-level provider full-time equivalents in the same or similar alignment structures, or (2) sell the clinics (listed below) with the same number of physician and mid-level provider full-time equivalents and require the purchaser(s) to maintain such services for 5 years from the closing date of the Asset Purchase Agreement and to participate in the Medi-Cal and Medicare programs as required in the conditions herein, or (3) ensure that a third party is operating the clinics (listed below) with the same number of physician and mid-level provider full-time equivalents and require the third party to maintain such services for 5 years from the closing date of the Asset Purchase Agreement and to participate in the Medi-Cal and Medicare programs as required in the conditions herein. For any of these options, each clinic can be



moved to a different location within a three-mile radius of each clinic's current location, and Seton Medical and Seton Coastside can utilize an alternative structure in providing such services.

The following clinics are subject to this condition shall maintain the same types and/or levels of services provided, including women's healthcare services, and mammography services:

- a. Women's Health Services, located at 1850 Sullivan Avenue, Suite 190, Daly City California.
- b. Imaging Services located at 1850 Sullivan Avenue, Suite 100, Daly City California; and
- c. Wound Care Services, located at 1850 Sullivan Avenue, Suite 115, Daly City California.

#### X.

For six fiscal years from the closing date of the Asset Purchase Agreement, Strategic Global Management, Inc. shall provide an annual amount of Charity Care (as defined below) at Seton Medical Center and Seton Coastside equal to or greater than \$1,055,863 (the Minimum Charity Care Amount). For purposes hereof, the term "charity care" shall mean the amount of charity care costs (not charges) incurred by Strategic Global Management, Inc. in connection with the operation and provision of services at Seton Medical Center and Seton Coastside. The definition and methodology for calculating "charity care" and the methodology for calculating "costs" shall be the same as that used by Office of Statewide Health Planning Development (OSHPD) for annual hospital reporting purposes.<sup>5</sup>

Strategic Global Management, Inc. shall use and maintain a charity care policy that is no less favorable than Verity Health System of California, Inc.'s current charity care policy (Verity's Financial Assistance Policy No. 06.03.04 effective December 5, 2017 and revised and reviewed June 20, 2018) and in compliance with California and Federal law at Seton Medical Center and Seton Coastside. Within 90 days from the closing of the Asset Purchase Agreement, Strategic Global Management, Inc. will amend the Financial Assistance Policy to include as follows:

- a. A copy of the Financial Assistance Policy and the plain language summary of the Financial Assistance Policy must be posted at Seton Medical Center and Seton Coastside in a prominent location in the emergency room, admissions area, and any other location in the hospital where there is a high volume of patient traffic, including waiting rooms, billing offices, and hospital outpatient service settings.
- b. A copy of the Financial Assistance Policy, the Application for Financial Assistance, and the plain language summary of the Financial Assistance Policy must be posted in a prominent place on each Seton Medical Center's and Seton Coastside's website(s).

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<sup>5</sup> OSHPD defines charity care by contrasting charity care and bad debt. According to OSHPD, "the determination of what is classified as . . . charity care can be made by establishing whether or not the patient has the ability to pay. The patient's accounts receivable must be written off as bad debt if the patient has the ability but is unwilling to pay off the account."

- c. If requested by a patient, a copy of the Financial Assistance Policy, Application for Financial Assistance, and the plain language summary must be sent by mail at no cost to the patient.
- d. As necessary, and at least on an annual basis, Strategic Global Management, Inc. will place an advertisement regarding the availability of financial assistance at Seton Medical Center and Seton Coastside in a newspaper of general circulation in the communities served by the hospitals, or issue a Press Release to widely publicize the availability of the Financial Assistance Policy to the communities served by the hospitals.
- e. Strategic Global Management, Inc. will work with affiliated organizations, physicians, community clinics, other health care providers, houses of worship, and other community-based organizations to notify members of the community (especially those who are most likely to require financial assistance) about the availability of financial assistance at Seton Medical Center and Seton Coastside.
- f. By December 1, 2019, all staff that interacts with patients and their families concerning payment of services shall be given training to make patients and their families aware of and informed of Strategic Global Management, Inc.'s Financial Assistance Policy at Seton Medical Center and Seton Coastside.

Any planning of, and any subsequent changes to, the charity care and collection policies, and charity care services provided at Seton Medical Center and Seton Coastside shall be decided after consultation with the Local Governing Board of Directors.

Strategic Global Management, Inc.'s obligation under this Condition shall be prorated on a daily basis if the closing date of the Asset Purchase Agreement is a date other than the first day of Verity Health System of California, Inc.'s fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Charity Care Amount shall be increased (but not decreased) by an amount equal to the Annual Percent Increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose, California Average Base Period: 1982-84=100 (as published by the U.S. Bureau of Labor Statistics). If the actual amount of charity care provided at Seton Medical Center and Seton Coastside for any fiscal year is less than the Minimum Charity Care Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Strategic Global Management, Inc. shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide direct healthcare services to residents in the Seton Medical Center service area (14 ZIP codes), as described on page 54 in the Healthcare Impact Report authored by JD Healthcare dated August 19, 2019. (Exhibit 1.) Such payment(s) shall be made within six months following the end of such fiscal year.

## XI.

For six fiscal years from the closing date of the Asset Purchase Agreement Strategic Global Management, Inc. shall provide an annual amount of Community Benefit Services at Seton Medical Center and Seton Coastside equal to or greater than \$685,870 (the "Minimum Community Benefit Services Amount") exclusive of any funds from grants. For six fiscal years,

the following community benefit programs and services shall continue to be offered at its current or equivalent location:

- a. Health Benefits Resource Center; and
- b. RotaCare Clinic.

The planning of, and any subsequent changes to, the community benefit services provided at Seton Medical Center shall be decided after consultation with the Local Governing Board of Directors.

Strategic Global Management, Inc.'s obligation under this Condition shall be prorated on a daily basis if the effective date of the Asset Purchase Agreement is a date other than the first day of Verity Health System of California, Inc.'s fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Community Benefit Services Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose, California Average Base Period: 1982-84=100 (as published by the U.S. Bureau of Labor Statistics). If the actual amount of community benefit services provided at Seton Medical Center and Seton Coastside for any fiscal year is less than the Minimum Community Benefit Services Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Strategic Global Management, Inc. shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide community benefit services for residents in Seton Medical Center's service area (14 ZIP codes), as defined on as described on page 54 in the Healthcare Impact Report authored by JD Healthcare dated August 19, 2019. (Exhibit 1.) Such payment(s) shall be made within six months following the end of such fiscal year.

## XII.

For the remainder of the term (until December 13, 2025), Strategic Global Management, Inc. shall:

- a) Be certified to participate in the Medi-Cal program at Seton Medical Center and Seton Coastside;
- b) Maintain and have a Medi-Cal Managed Care contract with San Mateo Health Commission dba Health Plan of San Mateo or its successor to provide the same types and levels of emergency and non-emergency services at Seton Medical Center and Seton Coastside to Medi-Cal beneficiaries (both Traditional Medi-Cal and Medi-Cal Managed Care) as required in these Conditions, on the same terms and conditions as other similarly situated hospitals offering substantially the same services, without any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage, unless the contract is terminated for cause or not extended or renewed by the Medi-Cal Managed Care Plan.

If Strategic Global Management, Inc. questions whether it is being reimbursed on the same terms and conditions as other similarly situated hospitals offering substantially the same services, it shall notify the Attorney General's Office with at least 120 days' notice prior to taking any action that would effectuate any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage or prior to giving any required notice of taking such action.

c) Be certified to participate in the Medicare program by maintaining a Medicare Provider Number to provide the same types and levels of emergency and non-emergency services at Seton Medical Center and Seton Coastside to Medicare beneficiaries (both Traditional Medicare and Medicare Managed Care) as required in these Conditions.

### XIII.

For at least five years from the closing date of the Asset Purchase Agreement unless otherwise indicated, Strategic Global Management, Inc. shall maintain its contracts and any amendments and exhibits thereto with the County of San Mateo, unless otherwise terminated by the County of San Mateo, for services, including the following:

- a. Participation in the Hospital Preparedness Program between the Hospital (jointly with Seton Coastside) and San Mateo County;
- b. STEMI Receiving Center Designation between the Hospital and San Mateo County;
- c. Financial Support for Seismic Upgrades between the Hospital and San Mateo County;
- d. Information Sharing and Data Use Agreement between the Hospital and the County of San Mateo Health System;
- e. Fee for Service Hospital Services Agreement between the Hospital (jointly with Seton Coastside) and San Francisco Health Plan;
- f. Memorandum of Understanding between the Hospital and San Mateo County Behavioral Health and Recovery Services Division;
- g. Affiliation Agreement for the Radiology Technology Program between the Hospital and San Mateo College District;
- h. Affiliation Agreement for the Registered Nursing Program between the Hospital (jointly with Seton Coastside) and San Mateo College District;
- i. Patient Transfer Agreement between the Hospital and San Mateo County Medical Center;
- j. Rail Shuttle Bus Service Administration for Seton Shuttle Agreement between the Hospital and San Mateo County Transit District;
- k. Medical Services Agreement between the Hospital and San Mateo Health Community Health Authority- Access and Care for Everyone (ACE) Program;
- l. Hospital Medi-Cal Hospital Agreement between the Hospital and San Mateo Health Commission dba Health Plan of San Mateo;
- m. Memorandum of Understanding for Long Term Care Partnership Program between the Hospital and San Mateo Health Commission dba Health Plan of San Mateo; and
- n. Care Advantage Hospital Service Agreement between the Hospital and San Mateo Health Commission dba Health Plan of San Mateo.

### XIV.

For the remainder of the term (until December 13, 2025), Strategic Global Management, Inc. shall have at Seton Medical Center and Seton Coastside Local Governing Board(s) of Directors. Strategic Global Management, Inc. shall consult with the Local Governing Board(s) of Directors prior to making changes to medical services, community benefit programs, making capital expenditures, making changes to the charity care and collection policies, and making changes to charity care services provided at Seton Medical Center and Seton Coastside. The members of the Local Governing Board(s) shall include physicians from Seton Medical Center's and Seton Coastside's medical staff, Seton Medical Center's and Seton Coastside's Chief(s) of Staff, one member designated by the San Mateo County Board of Supervisors, and community representatives from Seton Medical Center's and Seton Coastside's service area (14 ZIP codes), as described on page 54 in the Healthcare Impact Report authored by JD Healthcare dated August 19, 2019, attached hereto as Exhibit 1, including at least one member from a local healthcare advocacy group. Such consultation shall occur at least sixty days prior to the effective date of such changes or actions unless done so on an emergency basis. The Local Governing Board(s)'s approval is required of all reports submitted to the Attorney General regarding compliance with these Conditions.

**XV.**

Strategic Global Management, Inc. shall commit to reserve or expend capital for St. Francis Medical Center, St. Vincent Medical Center, and Seton Medical Center for capital improvements to the hospitals over the five-year period from the closing of the Asset Purchase Agreement of the amount that remains unexpended from the \$180 million commitment required of BlueMountain Capital Management, LLC as part of the Attorney General Conditions approved on December 3, 2015 but this amount can be no less than \$5.8 million among the three hospitals.

**XVI.**

Strategic Global Management, Inc. shall maintain privileges for current medical staff who are in good standing as of the closing date of the Asset Purchase Agreement. Further, the closing of the Asset Purchase Agreement shall not change the medical staff officers, committee chairs, or independence of the medical staff, and such persons shall remain in good standing for the remainder of their tenure at Seton Medical Center and Seton Coastside.

**XVII.**

Strategic Global Management, Inc. shall commit the necessary investments required to meet and maintain OSHPD seismic compliance requirements at Seton Medical Center and Seton Coastside through 2030 under the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, as amended by the California Hospital Facilities Seismic Safety Act, (Health & Saf. Code, § 129675-130070). Strategic Global Management, Inc. shall meet construction benchmarks which include the starting of construction on the 1963 Tower, and as detailed on the attached Exhibit 2.

**XVIII.**

There shall be no discrimination against lesbian, gay, bisexual, or transgender individuals at Seton Medical Center and Seton Coastside, and no restriction or limitation on providing or making reproductive health services available at Seton Medical Center and Seton Coastside, its medical office buildings, or at any of its facilities. Both of these prohibitions shall be set forth in Strategic Global Management Inc.'s written policies, adhered to, and strictly enforced.

#### **XIX.**

Within 15 days of the Attorney General's approval, Seton Medical Center Foundation shall transfer all charitable assets including, but not limited to, all temporary and permanently restricted funds to the California Community Foundation.

- a) The funds from Seton Medical Center Foundation, if not previously restricted to support a specific charitable organization, will be deposited into the California Community Foundation's Seton Medical Foundation, and used to support nonprofit tax-exempt charitable organizations, clinics and facilities in providing healthcare services to residents of Seton Medical Foundation's service area (14 ZIP codes), as described on page 54 in the Healthcare Impact Report authored by JD Healthcare dated August 19, 2019. (Exhibit 1.) The donated funds shall be maintained and used for the purposes specified herein for a period of at least five years.
- b) If there are funds from Seton Medical Foundation previously restricted to support a specific charitable organization, such funds shall be deposited into a fund or funds at California Community Foundation restricted to continuing support for such charitable organization or organizations. Such funds are protected against obsolescence. If the purposes of any restricted fund become unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community served by California Community Foundation, the California Community Foundation's Board of Directors shall have the ability to modify any restriction or condition on the use such fund.

#### **XX.**

For six fiscal years from the closing date of the Asset Purchase Agreement Strategic Global Management shall submit to the Attorney General, no later than four months after the conclusion of each fiscal year, a report describing in detail compliance with each Condition set forth herein. The Chairman of the Board of Directors of Strategic Global Management, Inc. shall certify that the report is true, accurate, and complete and provide documentation of the review and approval of the report by the Local Governing Board.

#### **XXI.**

At the request of the Attorney General, all parties listed in Condition I, Verity Health System of California, Inc., Verity Holdings, LLC, Strategic Global Management, Inc., and any other parties

referenced in the agreements listed in Condition II shall provide such information as is reasonably necessary for the Attorney General to monitor compliance with these Conditions and the terms of the transaction as set forth herein. The Attorney General shall, at the request of a party and to the extent provided by law, keep confidential any information so produced to the extent that such information is a trade secret or is privileged under state or federal law, or if the private interest in maintaining confidentiality clearly outweighs the public interest in disclosure.

## XXII.

Once the Asset Purchase Agreement is closed, all parties listed in Condition I, and any other parties referenced in the agreements listed in Condition II are deemed to have explicitly and implicitly consented to the applicability and compliance with each and every Condition and to have waived any right to seek judicial relief with respect to each and every Condition.

The Attorney General reserves the right to enforce each and every Condition set forth herein to the fullest extent provided by law. In addition to any legal remedies the Attorney General may have, the Attorney General shall be entitled to specific performance, injunctive relief, and such other equitable remedies as a court may deem appropriate for breach of any of these Conditions. Pursuant to Government Code section 12598, the Attorney General's office shall also be entitled to recover its attorney fees and costs incurred in remedying each and every violation.

### Analysis of the Hospital's Service Area

#### Service Area Definition

The Hospital's service area is comprised of 14 ZIP Codes, from which approximately 82% of its discharges originated in CY 2017. Approximately 55% of the Hospital's discharges came from the top three ZIP Codes, located in Daly City, and South San Francisco. In CY 2017, the Hospital's market share in the service area was 12.6% based on inpatient discharges.

|                 |                     | PATIENT ORIGIN, CY 2017 |                 |                            | Total Area Discharges | Market Share |
|-----------------|---------------------|-------------------------|-----------------|----------------------------|-----------------------|--------------|
| ZIP Codes       | Community           | Total Discharges        | % of Discharges | Cumulative % of Discharges |                       |              |
| 94015           | Daly City           | 1,347                   | 25.5%           | 25.5%                      | 4,640                 | 29.0%        |
| 94014           | Daly City           | 798                     | 15.1%           | 40.6%                      | 3,337                 | 23.9%        |
| 94080           | South San Francisco | 732                     | 13.8%           | 54.4%                      | 5,074                 | 14.4%        |
| 94044           | Pacifica            | 533                     | 10.1%           | 64.5%                      | 2,972                 | 17.9%        |
| 94112           | San Francisco       | 263                     | 5.0%            | 69.5%                      | 6,620                 | 4.0%         |
| 94066           | San Bruno           | 216                     | 4.1%            | 73.5%                      | 3,515                 | 6.1%         |
| 94134           | San Francisco       | 130                     | 2.5%            | 76.0%                      | 3,795                 | 3.4%         |
| 94132           | San Francisco       | 114                     | 2.2%            | 78.2%                      | 1,908                 | 6.0%         |
| 94019           | Half Moon Bay       | 74                      | 1.4%            | 79.6%                      | 1,194                 | 6.2%         |
| 94038           | Moss Beach          | 46                      | 0.9%            | 80.4%                      | 249                   | 18.5%        |
| 94005           | Brisbane            | 21                      | 0.4%            | 80.8%                      | 369                   | 5.7%         |
| 94037           | Montara             | 14                      | 0.3%            | 81.1%                      | 183                   | 7.7%         |
| 94018           | El Granada          | 12                      | 0.2%            | 81.3%                      | 257                   | 4.7%         |
| 94017           | Daly City           | 11                      | 0.2%            | 81.5%                      | 33                    | 33.3%        |
| <b>Subtotal</b> |                     | <b>4,311</b>            | <b>81.5%</b>    | <b>81.5%</b>               | <b>34,146</b>         | <b>12.6%</b> |
| Other ZIPs      |                     | 977                     | 18.5%           | 100%                       |                       |              |
| <b>Total</b>    |                     | <b>5,288</b>            | <b>100%</b>     |                            |                       |              |

Note: Excludes normal newborns

Source: OSHPD Patient Discharge Database

5



Report Year and Quarter  
All

AB 2190 Quarterly Reports for 10801 Seton Medical Center

| OSHPD Building Nbr | Bldg Name  | Report Year and Quarter | Construction Project Nbr  | Milestone Date | Milestone Description | Milestone Comments | Milestone Quarterly Update |
|--------------------|------------|-------------------------|---|----------------|-----------------------|--------------------|----------------------------|
| BLD-00846          | 1963 Tower | 2019 - Q2               | I160019-41-00;<br>I160019-41-01;<br>I160019-41-02;<br>I160019-41-03 | 4/1/2020       | Start Construction    |                    | On schedule                |
|                    |            |                         |   | 7/1/2022       | Complete Construction |                    | On schedule                |
| BLD-00847          | Front Wing | 2019 - Q2               | I160020-41-00;<br>I160020-41-01                                     | 4/1/2020       | Start Construction    |                    | On schedule                |
|                    |            |                         |   | 7/1/2022       | Complete Construction |                    | On schedule                |

**Exhibit C**

**The Additional Conditions**

**Conditions to the Sale of St. Francis Medical Center<sup>1</sup> and Approval of the Asset Purchase Agreement by and among Verity Health System of California, Inc., Verity Holdings, LLC, St. Francis Medical Center, St. Vincent Medical Center, St. Vincent Dialysis Center, Inc., Seton Medical Center, and Strategic Global Management, Inc.**

**I.**

These Conditions shall be legally binding on Verity Health System of California, Inc., a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, St. Francis Medical Center, a California nonprofit public benefit corporation, St. Vincent Medical Center, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, ~~St. Francis Medical Center Foundation, a nonprofit public benefit corporation, St. Vincent Foundation, a California nonprofit corporation, Seton Medical Center Foundation, a California nonprofit corporation, Verity Business Services, a California nonprofit public benefit corporation, Verity Medical Foundation, a California nonprofit public benefit corporation, St. Vincent de Paul Ethics Corporation, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Marillae Insurance Company, Ltd., a Cayman Islands corporation, DePaul Ventures, LLC, a California limited liability company, DePaul Ventures — San Jose ASC, LLC, a California limited liability company, DePaul Ventures — San Jose Dialysis, LLC, a California limited liability company,~~ and Strategic Global Management, Inc., a California corporation, any other subsidiary, parent, general partner, limited partner, member, affiliate, successor, successor in interest, assignee, or person or entity serving in a similar capacity of any of the above-listed entities including, but not limited to, any entity succeeding thereto as a result of consolidation, affiliation, merger, or acquisition of all or substantially all of the real property or operating assets of St. Francis Medical Center, or the real property on which St. Francis Medical Center is located, any and all current and future owners, lessees, licensees, or operators of St. Francis Medical Center, and any and all current and future lessees and owners of the real property on which St. Francis Medical Center is located.

**II.**

The transaction conditionally approved by the Attorney General consists of the Asset Purchase Agreement dated January 8, 2019, by and among, Verity Health System of California, Inc., a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, St. Francis Medical Center, a California nonprofit public benefit corporation, St. Vincent Medical Center, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Seton Medical Center, a

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<sup>1</sup> Throughout this document, the term “St. Francis Medical Center” shall mean the general acute care hospital located at 3630 East Imperial Highway, Lynwood, CA 90262, and any other clinics, laboratories, units, services, or beds included on the license issued to St. Francis Medical Center by the California Department of Public Health, effective January 1, 2019, unless otherwise indicated.

California nonprofit public benefit corporation, and Strategic Global Management, Inc., a California corporation, and any agreements or documents referenced in or attached to as an exhibit or schedule and any other documents referenced in the Asset Purchase Agreement, including, but not limited to, the Sale Leaseback Agreement and Interim Management Agreement.

All the entities listed in Condition I, and any other parties referenced in the above agreements shall fulfill the terms of these agreements or documents and shall notify and obtain the Attorney General's approval in writing of any proposed modification or rescission of any of the terms of these agreements or documents. Such notifications shall be provided at least sixty days prior to their effective date in order to allow the Attorney General to consider whether they affect the factors set forth in Corporations Code section 5917 and obtain the Attorney General's approval.

### III.

For ten years from the closing date of the Asset Purchase Agreement, Verity Health System of California, Inc., Verity Holdings, LLC, Strategic Global Management, Inc., and all future owners, managers, lessees, licensees, or operators of St. Francis Medical Center shall be required to provide written notice to the Attorney General sixty days prior to entering into any agreement or transaction to do any of the following:

- (a) Sell, transfer, lease, exchange, option, convey, manage, or otherwise dispose of St. Francis Medical Center;
- (b) Transfer control, responsibility, management, or governance of St. Francis Medical Center. The substitution, ~~merger~~ or addition of a new member or members of the governing body of Strategic Global Management, Inc. that transfers the control of, responsibility for or governance of St. Francis Medical Center, shall be deemed a transfer for purposes of this Condition. The substitution or addition of one or more members of the governing body of Strategic Global Management, Inc., or any arrangement, written or oral, that would transfer voting control of the members of the governing body of Strategic Global Management, Inc. shall also be deemed a transfer for purposes of this Condition.

### IV.

For ~~ten years from the closing date~~ remainder of the ~~Asset Purchase Agreement~~, term<sup>2</sup> (until December 13, 2025), St. Francis Medical Center shall be operated and maintained as a licensed general acute care hospital (as defined in California Health and Safety Code Section 1250) and shall maintain and provide 24-hour emergency and trauma medical services at no less than

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<sup>2</sup> The term "For the remainder of the term" refers to the Conditions to Change in Control and Governance of St. Francis Medical Center and Approval of the System Restructuring and Support Agreement by and among Daughters of Charity Ministry Services Corporation, Daughters of Charity Health System, Certain Funds Managed by BlueMountain Capital Management, LLC, and Integrity Healthcare, LLC., dated December 3, 2015. The System Restructuring and Support Agreement closed on December 14, 2015 ("2015 Conditions")

current<sup>3</sup> licensure and designation with the same types and/or levels of services, including the following:

- a. 46 emergency treatment stations at a minimum;
- b. Designation as a Level II Trauma Center;
- c. Designation as a 5150 Receiving Facility, as defined by the Welfare and Institutions Code, section 5150, for behavioral health patients under involuntary evaluation;
- d. Psychiatric evaluation team;
- e. Designation as an Emergency Department Approved for Pediatrics (EDAP);
- f. Designation as a Paramedic Base Station; and
- g. Certification as a Primary Stroke Center.

Strategic Global Management, Inc. must give one-year advance written notice to the Los Angeles County Emergency Medical Services Agency and the California Department of Public Health if St. Francis Medical Center seeks to reduce trauma or trauma-related care services or stop operating the Level II Trauma Center after ten years from the closing date of the Asset Purchase Agreement.

## V.

For ~~at least ten years from the closing date~~remainder of the ~~Asset Purchase Agreement, term (until December 13, 2025)~~, St. Francis Medical Center shall maintain ~~Center~~ on-call coverage contracts and/or comparable coverage arrangements with physicians at fair market value that are necessary to retain its qualification as a Level II trauma center. ~~Trauma II designation requires 24-hour immediate coverage by general surgeons, as well as coverage by the specialties of orthopedic surgery, neurosurgery, anesthesiology, emergency medicine, radiology and critical care. Requirements for on-call and promptly available specialties include the following:~~The following on-call coverage contracts and/or comparable coverage arrangements are required to retain St. Francis Medical Center's status as a Level II trauma center:

- a. Neurology;
- b. Obstetrics/gynecology;
- c. Ophthalmology;
- d. Oral or maxillofacial or head and neck;
- e. Orthopaedic;
- e.f. Plastic surgery;
- f.g. Reimplantation/microsurgery capability (this surgical service may be provided through a written transfer agreement); and
- g.h. Urology.<sup>4</sup>

## VI.

<sup>3</sup> The term "current" or "currently" throughout this document means as of January 1, 2019.

<sup>4</sup> 22 CCR 100259(a)(8)(B).

For ~~at least ten years from~~ the ~~closing date~~remainder of the ~~Asset Purchase Agreement~~term (until December 13, 2025), St. Francis Medical Center shall maintain the following services at current licensure, types, and/or levels of services:

- a. Cardiac services, including three cardiac catheterization labs and the designation as a STEMI Receiving Center;
- b. Critical care services, including a minimum of 36 intensive care unit beds or 24 intensive care beds and 12 definitive observation beds;
- c. Neonatal intensive care services, including a minimum of 29 neonatal intensive care beds, and at minimum, maintaining a Level II NICU;
- d. Women's health services, including women's imaging services;
- ~~e. Cancer services, including radiation oncology;~~
- ~~f.e.~~      Pediatric services, including a designated area with at least five general acute care beds for pediatric services;
- ~~g.f.~~      Orthopedic and rehabilitation services;
- ~~h.g.~~      Wound care services;
- ~~i.h.~~      Behavioral health services, including a minimum of 40 distinct part inpatient acute psychiatric beds; and
- ~~j.i.~~      Perinatal services, including a minimum of 50 perinatal beds.

For the remainder of the term (until December 13, 2025), Strategic Global Management, Inc. shall not place all or any portion of its above-listed licensed-bed capacity or services in voluntary suspension or surrender its license for any of these beds or services.

## VII.

For ~~at least ten years from~~ the ~~closing date~~remainder of the ~~Asset Purchase Agreement~~term (until December 13, 2025), St. Francis Medical Center shall maintain the same types and/or levels of women's healthcare services currently provided ~~at the location below or a location within three miles of St. Francis Medical Center.~~

- ~~a. Family Life Center at St. Francis Medical Center, located at 3630 E Imperial Highway, Lynwood, California.~~

## VIII.

For ~~at least five years from~~ the ~~closing date~~remainder of the ~~Asset Purchase Agreement~~term (until December 13, 2020), Strategic Global Management, Inc. shall either: (1) operate clinics (listed below) with the same number of physicians and mid-level provider full-time equivalents in the same or similar alignment structures, or (2) sell the clinics (listed below) with the same number of physician and mid-level provider full-time equivalents and require the purchaser(s) to maintain such services for ~~5 years from~~ the ~~closing date~~remainder of the ~~Asset Purchase Agreement~~term (until December 13, 2020), and to participate in the Medi-Cal and Medicare programs as required in the conditions herein, or (3) ensure that a third party is operating the clinics (listed below) with the same number of physician and mid-level provider full-time equivalents and require the third party to maintain such services for ~~5 years from~~ the ~~closing~~

~~date remainder~~ of the ~~Asset Purchase Agreement~~ term (December 13, 2020), and to participate in the Medi-Cal and Medicare programs as required in the conditions herein. For any of these options, each clinic can be moved to a different location within a three-mile radius of each clinic's current location, and St. Francis Medical Center can utilize an alternative structure in providing such services. The following clinics are subject to this condition:

- ~~a. Pediatric services at Children's Counseling Center, 4390 Tweedy Ave, South Gate, California;~~
- ~~b. The multi-specialty services, including wound care at Wound Care Center, 3628 E. Imperial Highway, Suite 103, Lynwood, California; and~~
- ~~e.a.~~ Orthopedic services at 3628 E. Imperial Highway, Suite 300, Lynwood, California.

## IX.

For ~~ten years from~~ the ~~closing date~~ remainder of the ~~Asset Purchase Agreement~~ term (until December 13, 2025), Strategic Global Management, Inc. shall:

- a) Be certified to participate in the Medi-Cal program at St. Francis Medical Center;
- b) Maintain and have Medi-Cal Managed Care contracts with the below listed Medi-Cal Managed Care Plans to provide the same types and levels of emergency and non-emergency services at St. Francis Medical Center to Medi-Cal beneficiaries (both Traditional Medi-Cal and Medi-Cal Managed Care) as required in these Conditions, on the same terms and conditions as other similarly situated hospitals offering substantially the same services, without any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage, unless the contract is terminated for cause or not extended or renewed by the Medi-Cal Managed Care Plan:
  - i) Local Initiative: L.A. Care Health Plan or its successor; and
  - ii) Commercial Plan: Health Net Community Solutions, Inc. or its successor.

If Strategic Global Management, Inc. questions whether it is being reimbursed on the same terms and conditions as other similarly situated hospitals offering substantially the same services, it shall notify the Attorney General's Office with at least 120 days' notice prior to taking any action that would effectuate any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage or prior to giving any required notice of taking such action.

- c) Be certified to participate in the Medicare program by maintaining a Medicare Provider Number to provide the same types and levels of emergency and non-emergency services at St. Francis Medical Center to Medicare beneficiaries (both Traditional Medicare and Medicare Managed Care), on the same terms and conditions as other similarly situated hospitals, as required in these Conditions.

## X.

For ~~six fiscal years from the closing date~~remainder of the ~~Asset Purchase Agreement~~term (until December 13, 2026), Strategic Global Management, Inc. shall provide an annual amount of Charity Care (as defined below) at St. Francis Medical Center equal to or greater than ~~\$12,793,4358,000,000~~ (the Minimum Charity Care Amount). For purposes hereof, the term “charity care” shall mean the amount of charity care costs (not charges) incurred by Strategic Global Management, Inc. in connection with the operation and provision of services at St. Francis Medical Center. The definition and methodology for calculating “charity care” and the methodology for calculating “costs” shall be the same as that used by Office of Statewide Health Planning Development (OSHPD) for annual hospital reporting purposes.<sup>5</sup>

~~Strategic Global Management, Inc. shall use and maintain a charity care policy that is no less favorable than Verity Health System of California, Inc.’s current charity care policy (Verity’s Financial Assistance Policy No. 06.03.04 effective December 5, 2017 and revised and reviewed June 20, 2018) and in compliance with California and Federal law at St. Francis Medical Center. Within 90 days from the closing of the Asset Purchase Agreement, Strategic Global Management, Inc. will amend the Financial Assistance Policy to include as follows:~~

- ~~a. A copy of the Financial Assistance Policy and the plain language summary of the Financial Assistance Policy must be posted at St. Francis Medical Center in a prominent location in the emergency room, admissions area, and any other location in the hospital where there is a high volume of patient traffic, including waiting rooms, billing offices, and hospital outpatient service settings.~~
- ~~b. A copy of the Financial Assistance Policy, the Application for Financial Assistance, and the plain language summary of the Financial Assistance Policy must be posted in a prominent place on St. Francis Medical Center’s website.~~
- ~~c. If requested by a patient, a copy of the Financial Assistance Policy, Application for Financial Assistance, and the plain language summary must be sent by mail at no cost to the patient.~~
- ~~d. As necessary, and at least on an annual basis, Strategic Global Management, Inc. will place an advertisement regarding the availability of financial assistance at St. Francis Medical Center in a newspaper of general circulation in the communities served by the hospital, or issue a Press Release to widely publicize the availability of the Financial Assistance Policy to the communities served by the hospital.~~
- ~~e. Strategic Global Management, Inc. will work with affiliated organizations, physicians, community clinics, other health care providers, houses of worship, and other community-based organizations to notify members of the community (especially those who are most likely to require financial assistance) about the availability of financial assistance at St. Francis Medical Center.~~
- ~~f. By December 1, 2019, all staff that interacts with patients and their families concerning payment of services shall be given training to make patients and their families aware of~~

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<sup>5</sup> OSHPD defines charity care by contrasting charity care and bad debt. According to OSHPD, “the determination of what is classified as . . . charity care can be made by establishing whether or not the patient has the ability to pay. The patient’s accounts receivable must be written off as bad debt if the patient has the ability but is unwilling to pay off the account.”



~~and informed of Strategic Global Management, Inc.'s Financial Assistance Policy at St. Francis Medical Center.~~

~~Any planning of, and any subsequent changes to, the charity care and collection policies, and charity care services provided at St. Francis Medical Center shall be decided after consultation with the Local Governing Board of Directors.~~

Strategic Global Management, Inc.'s obligation under this Condition shall be prorated on a daily basis if the closing date of the Asset Purchase Agreement is a date other than the first day of Verity Health System of California, Inc.'s fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Charity Care Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in the Los Angeles-Long Beach-Anaheim Average Base Period: 1982-84=100 (CPI-LA, as published by the U.S. Bureau of Labor Statistics).

If the actual amount of charity care provided at St. Francis Medical Center for any fiscal year is less than the Minimum Charity Care Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Strategic Global Management, Inc. shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide direct healthcare services to residents in the St. Francis Medical Center's service area (31 ZIP codes), as described on page 54 in the Healthcare Impact Report authored by JD Healthcare dated August 16, 2019. (Exhibit 1.) Such payment(s) shall be made within six months following the end of such fiscal year.

## XI.

For six fiscal years from the closing date of the Asset Purchase Agreement Strategic Global Management, Inc. shall provide an annual amount of Community Benefit Services at St. Francis Medical Center equal to or greater than \$1,139,301 (the "Minimum Community Benefit Services Amount") exclusive of any funds from grants. For six fiscal years, the following community benefit programs and services shall continue to be offered at its current or equivalent location:

~~Southern California Crossroads Program;~~

- a. Health Benefit Resource Center;
- b. Welcome Baby Program;
- c. Healthy Community Initiatives;
- d. American Career College access for onsite training;
- e. Paramedic Training and Education; and
- f. Patient Transportation support.

The planning of, and any subsequent changes to, the community benefit services provided at St. Francis Medical Center shall be decided after consultation with the Local Governing Board of Directors.

Strategic Global Management, Inc.'s obligation under this Condition shall be prorated on a daily basis if the effective date of the Asset Purchase Agreement is a date other than the first day of Verity Health System of California, Inc.'s fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Community Benefit Services Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in the Los Angeles-Long Beach-Anaheim Average Base Period: 1982-84=100 (CPI-LA, as published by the U.S. Bureau of Labor Statistics).

If the actual amount of community benefit services provided at St. Francis Medical Center for any fiscal year is less than the Minimum Community Benefit Services Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Strategic Global Management, Inc. shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide community benefit services for residents in St. Francis Medical Center's service area (31 ZIP codes), as defined on as described on page 54 in the Healthcare Impact Report authored by JD Healthcare dated August 16, 2019. (Exhibit 1). Such payment(s) shall be made within six months following the end of such fiscal year.

## XII.

For ~~at least ten years from the remainder of the closing date of the Asset Purchase Agreement unless otherwise indicated,~~ term (until December 13, 2025), Strategic Global Management, Inc. shall maintain its contracts and any amendments and exhibits thereto with the City and/or County of Los Angeles for services, including the following:

- a. Participation in the Hospital Preparedness Program between the Hospital and Los Angeles County;
- b. Department of Mental Health Legal Entity Contract between the Hospital and Los Angeles County;
- c. Paramedic Base Hospital Services between the Hospital and Los Angeles County;
- d. Radiation Therapy Services between the Hospital and Los Angeles County;
- e. Designation Agreement between the County of Los Angeles Department of Mental Health (LAC-DMH) and the Hospital and approved as a 72-hour Evaluation and Intensive Treatment facility;
- ~~f. Affiliation Agreement for physicians in post graduate training;~~
- ~~g.f.~~ Trauma Center Service Agreement between the Hospital and Los Angeles County; and
- ~~h.g.~~ Paramedic Training Institute Students between the Hospital and Los Angeles County.

For ~~at least ten years from the closing date~~ remainder of the ~~Asset Purchase Agreement,~~ term (until December 13, 2025), Strategic Global Management shall provide to the Los Angeles County Department of Health Services and Los Angeles County of Department of Mental Health information and documents related to staffing assessments, clinical guidelines, services provided, and technology needs for St. Francis Medical Center. The goal is to ensure that

Strategic Global Management, Inc.'s decisions or changes in these areas will not be motivated by a desire to move away from serving the Medi-Cal population. Such information and documents will also be provided to the Local Governing Board.

### XIII.

For ~~ten years from the closing date~~remainder of the ~~Asset Purchase Agreement~~term (until December 13, 2025), Strategic Global Management, Inc. shall have at St. Francis Medical Center a Local Governing Board of Directors. Strategic Global Management, Inc. shall consult with the Local Governing Board of Directors prior to making changes to medical services, community benefit programs, making capital expenditures, including making changes to the charity care and collection policies, and making changes to charity care services provided at St. Francis Medical Center. The members of the Local Governing Board shall include physicians from St. Francis Medical Center's medical staff, St. Francis Medical Center's Chief of Staff, one member designated by the Los Angeles County Board of Supervisors, and community representatives from St. Francis Medical Center's primary service area (31 ZIP codes), as described on page 54 in the Healthcare Impact Report authored by JD Healthcare dated August 16, 2019 attached hereto as Exhibit 1, including at least one member from a local healthcare advocacy group. Such consultation shall occur at least sixty days prior to the effective date of such changes or actions unless done so on an emergency basis. The Local Governing Board's approval is required of all reports submitted to the Attorney General regarding compliance with these Conditions.

### XIV.

Strategic Global Management, Inc. shall commit to reserve or expend ~~capital~~ for St. Francis Medical Center, St. Vincent Medical Center, and Seton Medical Center for capital improvements to the hospitals over the five-year period from the closing of the Asset Purchase Agreement ~~of~~ the amount of capital ("Capital Amount") that remains unexpended from the \$180 million commitment required of BlueMountain Capital Management, LLC as part of the ~~Attorney General Conditions approved on December 3, 2015 but this amount can be no less than \$5.8 million among the three hospitals.~~2015 Conditions. The Capital Amount is calculated based on Strategic Global Management, Inc.'s proportionate share (i.e. 72%) of the \$180 million capital commitment from the 2015 Conditions that remains unexpended as of the closing of the Asset Purchase Agreement, to be allocated across the acquired Verity facilities as it deems appropriate, over a five year period from the closing of the Asset Purchase Agreement. The total commitment to reserve or expend capital, for St. Francis Medical Center, St. Vincent Medical Center, and Seton Medical Center for capital improvements to the hospitals will not exceed Seventy-Five Million Dollars (\$75,000,000).

### XV.

Strategic Global Management, Inc. shall commit the necessary investments required to maintain OSHPD seismic compliance requirements at the Hospital through 2030 under the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, as amended by the California Hospital Facilities Seismic Safety Act, (Health & Safety. Code, § 129675-130070).

### XVI.

~~Strategic Global Management, Inc. shall maintain privileges for current medical staff who are in good standing as of the closing date of the Asset Purchase Agreement. Further, the closing of the Asset Purchase Agreement shall not change the medical staff officers, committee chairs, or independence of the medical staff, and such persons shall remain in good standing for the remainder of their tenure at St. Francis Medical Center.~~

~~[REMOVED]~~

#### XVII.

There shall be no discrimination against lesbian, gay, bisexual, or transgender individuals at St. Francis Medical Center, and no restriction or limitation on providing or making reproductive health services available at St. Francis Medical Center, its medical office buildings, or at any of its facilities. Both of these prohibitions shall be set forth in Strategic Global Management, Inc.'s written policies, adhered to, and strictly enforced.

#### XVIII.

~~Within 15 days of the closing of date of the Asset Purchase Agreement, St. Francis Medical Center Foundation shall transfer all charitable assets including, but not limited to, all temporary and permanently restricted funds to the California Community Foundation.~~

- ~~a) The funds from St. Francis Medical Center Foundation, if not previously restricted to support a specific charitable organization, will be deposited into the California Community Foundation's St. Francis Medical Center Fund, and used to support nonprofit tax-exempt charitable organizations, clinics and facilities in providing healthcare services to residents of St. Francis Medical Center's service area (31 ZIP codes), as described on page 54 in the Healthcare Impact Report authored by JD Healthcare dated August 16, 2019. (Exhibit 1.) The donated funds shall be maintained and used for the purposes specified herein for a period of at least five years.~~
- ~~b) If there are funds from St. Francis Medical Center Foundation previously restricted to support a specific charitable organization, such funds shall be deposited into a fund or funds at California Community Foundation restricted to continuing support for such charitable organization or organizations. Such funds are protected against obsolescence. If the purposes of any restricted fund become unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community served by California Community Foundation, the California Community Foundation's Board of Directors shall have the ability to modify any restriction or condition on the use such fund.~~

~~[REMOVED]~~

#### XIX.

For ~~eleven~~seven fiscal years from the closing date of the Asset Purchase Agreement, Strategic Global Management shall submit to the Attorney General, no later than four months after the conclusion of each fiscal year, a report describing in detail compliance with each Condition set forth herein. The Chairman of the Board of Directors of Strategic Global Management, Inc. shall certify that the report is true, accurate, and complete and provide documentation of the review and approval of the report by the Local Governing Board.

**XX.**

At the request of the Attorney General, all parties listed in Condition I, Verity Health System of California, Inc., Verity Holdings, LLC, Strategic Global Management, Inc., and any other parties referenced in the agreements listed in Condition II shall provide such information as is reasonably necessary for the Attorney General to monitor compliance with these Conditions and the terms of the transaction as set forth herein. The Attorney General shall, at the request of a party and to the extent provided by law, keep confidential any information so produced to the extent that such information is a trade secret or is privileged under state or federal law, or if the private interest in maintaining confidentiality clearly outweighs the public interest in disclosure.

**XXI.**

Once the Asset Purchase Agreement is closed, all parties listed in Condition I, and any other parties referenced in the agreements listed in Condition II are deemed to have explicitly and implicitly consented to the applicability and compliance with each and every Condition and to have waived any right to seek judicial relief with respect to each and every Condition.

~~The Attorney General reserves the right to enforce each and every Condition set forth herein to the fullest extent provided by law. In addition to any legal remedies the Attorney General may have, the Attorney General shall be entitled to specific performance, injunctive relief, and such other equitable remedies as a court may deem appropriate for breach of any of these Conditions. Pursuant to Government Code section 12598, the Attorney General's office shall also be entitled to recover its attorney fees and costs incurred in remedying each and every violation.~~

### Analysis of the Hospital's Service Area

#### Service Area Definition

Based upon the Hospital's CY 2017 inpatient discharges, the Hospital's service area is comprised of 31 ZIP Codes from which 75% of the Hospital's inpatient discharges came from. Approximately 51% of the Hospital's discharges originated from the top eight ZIP Codes, located in Lynwood, South Gate, Los Angeles, Bell, Compton, Bell Gardens, and Huntington Park. In CY 2017, the Hospital's market share in the service area was approximately 11% based on total area discharges.

| PATIENT ORIGIN, CY 2017 |                  |               |                          |                       |              |                  |
|-------------------------|------------------|---------------|--------------------------|-----------------------|--------------|------------------|
| ZIP Code                | Community        | Discharges    | Percentage of Discharges | Cumulative Percentage | Market Share | Total Discharges |
| 90262                   | Lynwood          | 2,490         | 11.1%                    | 11.1%                 | 38.1%        | 6,538            |
| 90280                   | South Gate       | 2,187         | 9.8%                     | 20.9%                 | 29.0%        | 7,554            |
| 90221                   | Compton          | 1,400         | 6.3%                     | 27.2%                 | 24.1%        | 5,812            |
| 90201                   | Bell             | 1,359         | 6.1%                     | 33.3%                 | 16.3%        | 8,363            |
| 90002                   | Los Angeles      | 1,066         | 4.8%                     | 38.0%                 | 18.4%        | 5,797            |
| 90255                   | Huntington Park  | 956           | 4.3%                     | 42.3%                 | 15.5%        | 6,172            |
| 90059                   | Los Angeles      | 948           | 4.2%                     | 46.6%                 | 17.2%        | 5,527            |
| 90001                   | Los Angeles      | 922           | 4.1%                     | 50.7%                 | 15.6%        | 5,901            |
| 90220                   | Compton          | 708           | 3.2%                     | 53.9%                 | 12.7%        | 5,554            |
| 90222                   | Compton          | 700           | 3.1%                     | 57.0%                 | 18.1%        | 3,868            |
| 90003                   | Los Angeles      | 625           | 2.8%                     | 59.8%                 | 7.6%         | 8,209            |
| 90044                   | Los Angeles      | 542           | 2.4%                     | 62.2%                 | 4.5%         | 11,994           |
| 90723                   | Paramount        | 525           | 2.3%                     | 64.6%                 | 11.7%        | 4,483            |
| 90061                   | Los Angeles      | 358           | 1.6%                     | 66.2%                 | 9.5%         | 3,764            |
| 90650                   | Norwalk          | 344           | 1.5%                     | 67.7%                 | 3.3%         | 10,373           |
| 90270                   | Maywood          | 282           | 1.3%                     | 69.0%                 | 12.2%        | 2,309            |
| 90805                   | Long Beach       | 267           | 1.2%                     | 70.2%                 | 2.7%         | 9,940            |
| 90706                   | Bellflower       | 263           | 1.2%                     | 71.3%                 | 3.6%         | 7,223            |
| 90242                   | Downey           | 252           | 1.1%                     | 72.5%                 | 6.2%         | 4,038            |
| 90241                   | Downey           | 224           | 1.0%                     | 73.5%                 | 6.0%         | 3,726            |
| 90660                   | Pico Rivera      | 91            | 0.4%                     | 73.9%                 | 1.4%         | 6,608            |
| 90240                   | Downey           | 69            | 0.3%                     | 74.2%                 | 3.3%         | 2,073            |
| 90670                   | Santa Fe Springs | 46            | 0.2%                     | 74.4%                 | 2.7%         | 1,703            |
| 90605                   | Whittier         | 44            | 0.2%                     | 74.6%                 | 1.1%         | 4,082            |
| 90606                   | Whittier         | 44            | 0.2%                     | 74.8%                 | 1.4%         | 3,244            |
| 90703                   | Cerritos         | 37            | 0.2%                     | 74.9%                 | 0.9%         | 4,026            |
| 90604                   | Whittier         | 32            | 0.1%                     | 75.1%                 | 0.9%         | 3,698            |
| 90701                   | Artesia          | 31            | 0.1%                     | 75.2%                 | 1.7%         | 1,813            |
| 90638                   | La Mirada        | 30            | 0.1%                     | 75.4%                 | 0.7%         | 4,274            |
| 90603                   | Whittier         | 3             | 0.0%                     | 75.4%                 | 0.1%         | 2,152            |
| 90639                   | La Mirada        | 0             | 0.0%                     | 75.4%                 | 0.0%         | 10               |
| <b>Sub-Total</b>        |                  | <b>16,845</b> | <b>75.4%</b>             | <b>75.4%</b>          | <b>10.5%</b> | <b>160,828</b>   |
| <b>All Other</b>        |                  | <b>5,504</b>  | <b>24.6%</b>             | <b>100%</b>           |              |                  |
| <b>Grand Total</b>      |                  | <b>22,349</b> | <b>100%</b>              |                       |              |                  |

Source: OSHPD Discharge Database, CY 2017

**Conditions to the Sale of St. Vincent Medical Center<sup>1</sup> and Approval of the Asset Purchase Agreement by and among Verity Health System of California, Inc., Verity Holdings, LLC, St. Francis Medical Center, St. Vincent Medical Center, St. Vincent Dialysis Center, Inc., Seton Medical Center, and Strategic Global Management, Inc.**

**I.**

These Conditions shall be legally binding on Verity Health System of California, Inc., a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, St. Francis Medical Center, a California nonprofit public benefit corporation, St. Vincent Medical Center, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, ~~St. Francis Medical Center Foundation, a nonprofit public benefit corporation, St. Vincent Foundation, a California nonprofit corporation, Seton Medical Center Foundation, a California nonprofit corporation, Verity Business Services, a California nonprofit public benefit corporation, Verity Medical Foundation, a California nonprofit public benefit corporation, St. Vincent de Paul Ethics Corporation, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Marillac Insurance Company, Ltd., a Cayman Islands corporation, DePaul Ventures, LLC, a California limited liability company, DePaul Ventures — San Jose ASC, LLC, a California limited liability company, DePaul Ventures — San Jose Dialysis, LLC, a California limited liability company,~~ and Strategic Global Management, Inc., a California corporation, any other subsidiary, parent, general partner, limited partner, member, affiliate, successor, successor in interest, assignee, or person or entity serving in a similar capacity of any of the above-listed entities including, but not limited to, any entity succeeding thereto as a result of consolidation, affiliation, merger, or acquisition of all or substantially all of the real property or operating assets of St. Vincent Medical Center, or the real property on which St. Vincent Medical Center is located, any and all current and future owners, lessees, licensees, or operators of St. Vincent Medical Center, and any and all current and future lessees and owners of the real property on which St. Vincent Medical Center is located.

**II.**

The transaction conditionally approved by the Attorney General consists of the Asset Purchase Agreement dated January 8, 2019, by and among, Verity Health System of California, Inc., a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, St. Francis Medical Center, a California nonprofit public benefit corporation, St. Vincent Medical Center, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Seton Medical

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<sup>1</sup> Throughout this document, the term “St. Vincent Medical Center” shall mean the general acute care hospital located at 2131 West Third Street, Los Angeles, CA 90057, and any other clinics, laboratories, units, services, or beds included on the license issued to St. Vincent Medical Center by the California Department of Public Health, effective January 1, 2019, unless otherwise indicated.

Center, a California nonprofit public benefit corporation, and Strategic Global Management, Inc., a

California corporation, and any agreements or documents referenced in or attached to as an exhibit or schedule and any other documents referenced in the Asset Purchase Agreement, including, but not limited to, the Sale Leaseback Agreement and Interim Management Agreement.

All the entities listed in Condition I, and any other parties referenced in the above agreements shall fulfill the terms of these agreements or documents and shall notify and obtain the Attorney General's approval in writing of any proposed modification or rescission of any of the terms of these agreements or documents. Such notifications shall be provided at least sixty days prior to their effective date in order to allow the Attorney General to consider whether they affect the factors set forth in Corporations Code section 5917 and obtain the Attorney General's approval.

### III.

For five years from the closing date of the Asset Purchase Agreement, Verity Health System of California, Inc., Verity Holdings, LLC, Strategic Global Management, Inc., and all future owners, managers, lessees, licensees, or operators of St. Vincent Medical Center shall be required to provide written notice to the Attorney General sixty days prior to entering into any agreement or transaction to do any of the following:

(a) Sell, transfer, lease, exchange, option, convey, manage, or otherwise dispose of St. Vincent Medical Center;

(b) Transfer control, responsibility, management, or governance of St. Vincent Medical Center. The substitution, ~~merger~~ or addition of a new member or members of the governing body of Strategic Global Management, Inc. that transfers the control of, responsibility for or governance of St. Vincent Medical Center, shall be deemed a transfer for purposes of this Condition. The substitution or addition of one or more members of the governing body of Strategic Global Management, Inc., or any arrangement, written or oral, that would transfer voting control of the members of the governing body of Strategic Global Management, Inc. shall also be deemed a transfer for purposes of this Condition.

### IV.

For ~~five years from the closing date~~ remainder of the ~~Asset Purchase Agreement unless otherwise stated,~~ term<sup>2</sup> (until December 13, 2020), St. Vincent Medical Center shall be operated

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<sup>2</sup> The term "For the remainder of the term" refers to the Conditions to Change in Control and Governance of St. Vincent Medical Center and Approval of the System Restructuring and Support Agreement by and among Daughters of Charity Ministry Services Corporation, Daughters of Charity Health System, Certain Funds Managed by BlueMountain Capital



and maintained as a licensed general acute care hospital (as defined in California Health and Safety Code Section 1250). If, on Strategic Global Management, Inc.'s further evaluation, the cost to seismically retrofit the St. Vincent Medical Center becomes less feasible than building a new replacement hospital, services may need to be temporarily closed or relocated due to construction. A detailed program and services plan, architectural drawings, and financing plan shall be presented to the California Attorney General for approval before ceasing to operate any services.

## V.

For ~~five years from the closing date~~remainder of the ~~Asset Purchase Agreement, term (until December 13, 2020)~~, St. Vincent Medical Center shall maintain and provide 24-hour emergency services at no less than its current licensure<sup>3</sup> of 8 treatment stations, and designation and the following health care services at current licensure types, and/or levels of services:

~~Designation as a STEMI Receiving center; and~~

- a. Maintaining the requirements set by the County of Los Angeles Emergency Medical Services for 911 Receiving Hospitals.

## VI.

For ~~at least five years from the closing date~~remainder of the ~~Asset Purchase Agreement, term (until December 13, 2020)~~, St. Vincent Medical Center shall maintain and provide the following services at current licensure, types, and/or levels of services:

- a. Acute rehabilitation services, including a minimum of 19 licensed rehabilitation beds;
- b. Intensive care services, including a minimum of 30 intensive care beds;
- c. Cardiac services, including cardiac surgery and a minimum of two cardiac catheterization labs,
- ~~d. Cancer services, including radiation oncology. Radiation oncology services may be relocated and patients transitioned to another site that has capacity within a three-mile radius after the first year after the closing of the Asset Purchase Agreement;~~
- ~~e.~~d. Gastroenterology services;
- ~~f.~~e. Imaging and laboratory services;
- ~~g.~~f. Nephrology services, including end stage renal disease program, acute inpatient dialysis, and hemodialysis treatments;
- ~~h.~~g. Neurology and neurotology services, including neurosurgery;
- ~~i.~~h. Orthopedics, joint replacement, and spine care services;
- ~~j.~~i. Transplant services, including kidney and multi-organ transplant procedures for kidney/pancreas double transplants. Transplant services do not include the liver transplant program. These services may be relocated to another hospital in the primary

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Management, LLC, and Integrity Healthcare, LLC., dated December 3, 2015. The System Restructuring and Support Agreement closed on December 14, 2015 (“2015 Conditions”).

<sup>3</sup> The term “current” or “currently” throughout this document means as of January 1, 2019.

service area based upon a submission of a detailed plan to be approved by the California Attorney General; and

~~k-j.~~ Outpatient dialysis services. The outpatient dialysis services shall be within 5 miles of St. Vincent Medical Center by either (1) operating St. Vincent Dialysis Center, or (2) transferring St. Vincent Dialysis Center to a separate entity and requiring that entity to operate it for ~~5 years from the~~ closing date remainder of the ~~Asset Purchase Agreement~~ term (until December 13, 2020), and to participate in the Medi-Cal and Medicare programs as required in the Conditions herein, or (3) ensuring that a third party is operating an outpatient dialysis center(s) at current levels for ~~5 years from the~~ closing date remainder of the ~~Asset Purchase Agreement~~ term (until December 13, 2020), and that such center(s) participate in the Medi-Cal and Medicare programs as required in Conditions herein.

For the remainder of the term (until December 13, 2020), Strategic Global Management, Inc. shall not place all or any portion of its above-listed licensed-bed capacity or services in voluntary suspension or surrender its license for any of these beds or services.

## VII.

For ~~at least five years from the~~ closing date remainder of the ~~Asset Purchase Agreement~~ term (until December 13, 2020), Strategic Global Management, Inc. shall either: (1) operate clinics (listed below) with the same number of physicians and mid-level provider full-time equivalents in the same or similar alignment structures, or (2) sell the clinics (listed below) with the same number of physician and mid-level provider full-time equivalents and require the purchaser(s) to maintain such services for ~~5 years from the~~ closing date remainder of the ~~Asset Purchase Agreement~~ term (until December 13, 2020), and to participate in the Medi-Cal and Medicare programs as required in the conditions herein, or (3) ensure that a third party is operating the clinics (listed below) with the same number of physician and mid-level provider full-time equivalents and require the third party to maintain such services for ~~5 years from the~~ closing date remainder of the ~~Asset Purchase Agreement~~ term (until December 13, 2020), and to participate in the Medi-Cal and Medicare programs as required in the conditions herein. For any of these options, each clinic can be moved to a different location within a three-mile radius of each clinic's current location, and St. Vincent Medical Center can utilize an alternative structure in providing such services. The following clinics are subject to this condition:

- a. Cardiac Care Institute, located at 201 S. Alvarado Street, Suite 321, Los Angeles, California;
- ~~b. Transplant Medical Office, located at 8501 Camino Media, Suite 100, Bakersfield, California;~~
- ~~e-b.~~ Cancer Treatment Center, located at 201 S. Alvarado Street, Suite A, Los Angeles, California;
- ~~d-c.~~ Multi-Organ Transplant services, located at 2200 W. Third Street, 5th Floor, Los Angeles, California;
- ~~e.~~ Radiology services, located at 201 S. Alvarado Street, Suite 311, Los Angeles, California;

~~f.d.~~ Orthopedic Services, located at 2200 W. Third Street, 4th Floor, Los Angeles, California; and  
~~g. Multispecialty Clinic located at 2200 W. Third Street, Suite 120, Los Angeles, California.~~

### VIII.

For ~~at least five years from the closing date~~remainder of the ~~Asset Purchase Agreement, term (until December 13, 2020)~~, Strategic Global Management, Inc. shall:

- a) Be certified to participate in the Medi-Cal program at St Vincent Medical Center;
- b) Maintain and have Medi-Cal Managed Care contracts with the below listed Medi-Cal Managed Care Plans to provide the same types and levels of emergency and non-emergency services at St. Vincent Medical Center to Medi-Cal beneficiaries (both Traditional Medi-Cal and Medi-Cal Managed Care) as required in these Conditions, on the same terms and conditions as other similarly situated hospitals offering substantially the same services, without any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage, unless the contract is terminated for cause or not extended or renewed by the Medi-Cal Managed Care Plan:
  - i) Local Initiative: L.A. Care Health Plan or its successor; and
  - ii) Commercial Plan: Health Net Community Solutions, Inc. or its successor.

If Strategic Global Management, Inc. questions whether it is being reimbursed on the same terms and conditions as other similarly situated hospitals offering substantially the same services, it shall notify the Attorney General's Office with at least 120 days' notice prior to taking any action that would effectuate any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage or prior to giving any required notice of taking such action.

- c) Be certified to participate in the Medicare program by maintaining a Medicare Provider Number to provide the same types and levels of emergency and non-emergency services at St. Vincent Medical Center to Medicare beneficiaries (both Traditional Medicare and Medicare Managed Care), on the same terms and conditions as other similarly situated hospitals, as required in these Conditions.

### IX.

For ~~six fiscal years from the closing date~~remainder of the ~~Asset Purchase Agreement, term (until December 13, 2021)~~, Strategic Global Management, Inc. shall provide an annual amount of Charity Care (as defined below) at St. Vincent Medical Center equal to or greater than ~~\$696,643,430,384~~ (the Minimum Charity Care Amount). For purposes hereof, the term "charity care" shall mean the amount of charity care costs (not charges) incurred by Strategic Global Management, Inc. in connection with the operation and provision of services at St. Vincent Medical Center. The definition and methodology for calculating "charity care" and the

methodology for calculating “costs” shall be the same as that used by Office of Statewide Health Planning Development (OSHPD) for annual hospital reporting purposes.<sup>4</sup>

~~Strategic Global Management, Inc. shall use and maintain a charity care policy that is no less favorable than Verity Health System of California, Inc.’s current charity care policy (Verity’s Financial Assistance Policy No. 06.03.04 effective December 5, 2017 and revised and reviewed June 20, 2018) and in compliance with California and Federal law at St. Vincent Medical Center. Within 90 days from the closing of the Asset Purchase Agreement, Strategic Global Management, Inc. will amend the Financial Assistance Policy to include as follows:~~

- ~~a. A copy of the Financial Assistance Policy and the plain language summary of the Financial Assistance Policy must be posted at St. Vincent Medical Center in a prominent location in the emergency room, admissions area, and any other location in the hospital where there is a high volume of patient traffic, including waiting rooms, billing offices, and hospital outpatient service settings.~~
- ~~b. A copy of the Financial Assistance Policy, the Application for Financial Assistance, and the plain language summary of the Financial Assistance Policy must be posted in a prominent place on St. Vincent Medical Center’s website.~~
- ~~c. If requested by a patient, a copy of the Financial Assistance Policy, Application for Financial Assistance, and the plain language summary must be sent by mail at no cost to the patient.~~
- ~~d. As necessary, and at least on an annual basis, Strategic Global Management, Inc. will place an advertisement regarding the availability of financial assistance at St. Vincent Medical Center in a newspaper of general circulation in the communities served by the hospital, or issue a Press Release to widely publicize the availability of the Financial Assistance Policy to the communities served by the hospital.~~
- ~~e. Strategic Global Management, Inc. will work with affiliated organizations, physicians, community clinics, other health care providers, houses of worship, and other community-based organizations to notify members of the community (especially those who are most likely to require financial assistance) about the availability of financial assistance at St. Vincent Medical Center.~~
- ~~f. By December 1, 2019, all staff that interacts with patients and their families concerning payment of services shall be given training to make patients and their families aware of and informed of Strategic Global Management, Inc.’s Financial Assistance Policy at St. Vincent Medical Center.~~

~~Any planning of, and any subsequent changes to, the charity care and collection policies, and charity care services provided at St. Vincent Medical Center shall be decided after consultation with the Local Governing Board of Directors.~~

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<sup>4</sup> OSHPD defines charity care by contrasting charity care and bad debt. According to OSHPD, “the determination of what is classified as . . . charity care can be made by establishing whether or not the patient has the ability to pay. The patient’s accounts receivable must be written off as bad debt if the patient has the ability but is unwilling to pay off the account.”

Strategic Global Management, Inc.'s obligation under this Condition shall be prorated on a daily basis if the closing date of the Asset Purchase Agreement is a date other than the first day of Verity Health System of California, Inc.'s fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Charity Care Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in the Los Angeles-Long Beach-Anaheim Average Base Period: 1982-84=100 (CPI-LA, as published by the U.S. Bureau of Labor Statistics).

If the actual amount of charity care provided at St. Vincent Medical Center for any fiscal year is less than the Minimum Charity Care Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Strategic Global Management, Inc. shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide direct healthcare services to residents in the St. Vincent Medical Center's service area (48 ZIP codes), as described on page 52 in the Healthcare Impact Report authored by JD Healthcare dated August 16, 2019. (Exhibit 1.) Such payment(s) shall be made within six months following the end of such fiscal year.

#### X.

For ~~six fiscal years from the closing date~~remainder of the ~~Asset Purchase Agreement~~term (until December 13, 2021), Strategic Global Management, Inc. shall provide an annual amount of Community Benefit Services at St. Vincent Medical Center equal to or greater than \$1,~~065,604~~076,459 (the "Minimum Community Benefit Services Amount") exclusive of any funds from grants. ~~For six fiscal years,~~For the remainder of the term (until December 13, 2021), the following community benefit programs and services shall continue to be offered at its current or equivalent location:

- a. Health Benefits Resource Center; and
- b. Asian Pacific Liver Center.

The planning of, and any subsequent changes to, the community benefit services provided at St. Vincent Medical Center shall be decided after consultation with the Local Governing Board of Directors.

Strategic Global Management, Inc.'s obligation under this Condition shall be prorated on a daily basis if the effective date of the Asset Purchase Agreement is a date other than the first day of Verity Health System of California, Inc.'s fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Community Benefit Services Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in the Los Angeles-Long Beach Anaheim Average Base Period: 1982-84=100 (CPI-LA, as published by the U.S. Bureau of Labor Statistics).

If the actual amount of community benefit services provided at St. Vincent Medical Center for any fiscal year is less than the Minimum Community Benefit Services Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Strategic Global Management, Inc. shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide community benefit services for residents in St. Vincent Medical Center's service area (48 ZIP codes), as defined on as described on page 52 in the Healthcare Impact Report authored by JD Healthcare dated August 16, 2019. (Exhibit 1.) Such payment(s) shall be made within six months following the end of such fiscal year.

## XI.

For ~~at least five years from~~ the ~~closing date~~remainder of the ~~Asset Purchase Agreement unless otherwise indicated,~~term (until December 13, 2020), Strategic Global Management, Inc. shall maintain its contracts and any amendments and exhibits thereto with the City and/or County of Los Angeles for services, including the following:

- a. Participation in the Hospital Preparedness Program between the Hospital and Los Angeles County; and
- b. Radiation Therapy Services between the Hospital and Los Angeles County.

For ~~at least five years from~~ the ~~closing date~~remainder of the ~~Asset Purchase Agreement,~~term (until December 13, 2020), Strategic Global Management shall provide to the Los Angeles County Department of Health Services and Los Angeles County of Department of Mental Health information and documents related to staffing assessments, clinical guidelines, services provided, and technology needs for St. Vincent Medical Center. The goal is to ensure that Strategic Global Management, Inc.'s decisions or changes in these areas will not be motivated by a desire to move away from serving the Medi-Cal population. Such information and documents will also be provided to the Local Governing Board.

## XII.

For ~~five years from~~ the ~~closing date~~remainder of the ~~Asset Purchase Agreement,~~term (until December 13, 2020), Strategic Global Management, Inc. shall have at St. Vincent Medical Center a Local Governing Board of Directors. Strategic Global Management, Inc. shall consult with the Local Governing Board of Directors prior to making changes to medical services, community benefit programs, making capital expenditures, including making changes to the charity care and collection policies, and making changes to charity care services provided at St. Vincent Medical Center. The members of the Local Governing Board shall include physicians from St. Vincent Medical Center's medical staff, St. Vincent Medical Center's Chief of Staff, one member designated by the Los Angeles County Board of Supervisors, and community representatives from St. Vincent Medical Center's primary service area (48 ZIP codes), as described on page 52 in the Healthcare Impact Report authored by JD Healthcare dated August 16, 2019 attached hereto as Exhibit 1, including at least one member from a local healthcare advocacy group. Such consultation shall occur at least sixty days prior to the effective date of such changes or actions unless done so on an

emergency basis. The Local Governing Board's approval is required of all reports submitted to the Attorney General regarding compliance with these Conditions.

### XIII.

Strategic Global Management, Inc. shall commit to reserve or expend ~~capital~~ for St. Francis Medical Center, St. Vincent Medical Center, and Seton Medical Center for capital improvements to the hospitals over the five-year period from the closing of the Asset Purchase Agreement ~~of~~ the amount of capital ("Capital Amount") that remains unexpended from the \$180 million commitment required of BlueMountain Capital Management, LLC as part of ~~the Attorney General Conditions approved on December 3, 2015 but this amount can be no less than \$5.8 million among the three hospitals.~~ 2015 Conditions. The Capital Amount is calculated based on Strategic Global Management, Inc.'s proportionate share (i.e. 72%) of the \$180 million capital commitment from the 2015 Conditions that remains unexpended as of the closing of the Asset Purchase Agreement, to be allocated across the acquired Verity facilities as it deems appropriate, over a five year period from the closing of the Asset Purchase Agreement. The total commitment to reserve or expend capital, for St. Francis Medical Center, St. Vincent Medical Center, and Seton Medical Center for capital improvements to the hospitals will not exceed Seventy-Five Million Dollars (\$75,000,000).

### XIV.

Strategic Global Management, Inc. shall commit the necessary investments required to meet and maintain OSHPD seismic compliance requirements at St. Vincent Medical Center through 2030 under the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, as amended by the California Hospital Facilities Seismic Safety Act, (Health & Saf. Code, § 129675-130070). Verity Health System of California, Inc. shall commit the necessary capital investment required to refurbish St. Vincent Medical Center's elevators in order to meet the City of Los Angeles' Elevator Code.

### XV.

~~Strategic Global Management, Inc. shall maintain privileges for current medical staff who are in good standing as of the closing date of the Asset Purchase Agreement. Further, the closing of the Asset Purchase Agreement shall not change the medical staff officers, committee chairs, or independence of the medical staff, and such persons shall remain in good standing for the remainder of their tenure at St. Vincent Medical Center.~~

[REMOVE]

### XVI.

There shall be no discrimination against lesbian, gay, bisexual, or transgender individuals at St. Vincent Medical Center, and no restriction or limitation on providing or making reproductive health services available at St. Vincent Medical Center, its medical office buildings, or at any of its facilities. Both of these prohibitions shall be set forth in Strategic Global Management Inc.'s written policies, adhered to, and strictly enforced.

## XVII.

~~Within 15 days of the closing of date of the Asset Purchase Agreement, St. Vincent Medical Center Foundation shall transfer all charitable assets including, but not limited to, all temporary and permanently restricted funds to the California Community Foundation.~~

- ~~a) The funds from St. Vincent Medical Center Foundation, if not previously restricted to support a specific charitable organization, will be deposited into the California Community Foundation's St. Vincent Medical Center Fund, and used to support nonprofit tax-exempt charitable organizations, clinics and facilities in providing healthcare services to residents of St. Vincent Medical Center's service area (48 ZIP codes), as described on page 52 in the Healthcare Impact Report authored by JD Healthcare dated August 16, 2019. (Exhibit 1.) The donated funds shall be maintained and used for the purposes specified herein for a period of at least five years.~~
- ~~b) If there are funds from St. Vincent Medical Center Foundation previously restricted to support a specific charitable organization, such funds shall be deposited into a fund or funds at California Community Foundation restricted to continuing support for such charitable organization or organizations. Such funds are protected against obsolescence. If the purposes of any restricted fund become unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community served by California Community Foundation, the California Community Foundation's Board of Directors shall have the ability to modify any restriction or condition on the use such fund.~~

[\[REMOVE\]](#)

## XVIII.

For ~~six~~two fiscal years from the closing date of the Asset Purchase Agreement, Strategic Global Management shall submit to the Attorney General, no later than four months after the conclusion of each fiscal year, a report describing in detail compliance with each Condition set forth herein. The Chairman of the Board of Directors of Strategic Global Management, Inc. shall certify that the report is true, accurate, and complete and provide documentation of the review and approval of the report by the Local Governing Board.

## XIX.

At the request of the Attorney General, all parties listed in Condition I, Verity Health System of California, Inc., Verity Holdings, LLC, Strategic Global Management, Inc., and any other parties referenced in the agreements listed in Condition II shall provide such information as is



reasonably necessary for the Attorney General to monitor compliance with these Conditions and the terms of the transaction as set forth herein. The Attorney General shall, at the request of a party and to the extent provided by law, keep confidential any information so produced to the extent that such information is a trade secret or is privileged under state or federal law, or if the private interest in maintaining confidentiality clearly outweighs the public interest in disclosure.

**XX.**

Once the Asset Purchase Agreement is closed, all parties listed in Condition I, and any other parties referenced in the agreements listed in Condition II are deemed to have explicitly and implicitly consented to the applicability and compliance with each and every Condition and to have waived any right to seek judicial relief with respect to each and every Condition.

~~The Attorney General reserves the right to enforce each and every Condition set forth herein to the fullest extent provided by law. In addition to any legal remedies the Attorney General may have, the Attorney General shall be entitled to specific performance, injunctive relief, and such other equitable remedies as a court may deem appropriate for breach of any of these Conditions. Pursuant to Government Code section 12598, the Attorney General's office shall also be entitled to recover its attorney fees and costs incurred in remedying each and every violation.~~

### Analysis of the Hospital's Service Area

#### Service Area Definition

Based upon the Hospital's CY 2017 inpatient discharges, the Hospital's service area is comprised of 48 ZIP Codes from which 71% of the Hospital's inpatient discharges came from. Approximately 38% of the Hospital's discharges originated from the top eight ZIP Codes, located in Los Angeles. In CY 2017, the Hospital's market share in the primary and secondary service area was approximately 4% based on total area discharges.

| PATIENT ORIGIN, CY 2017    |                 |                  |                 |                            |                       |              |
|----------------------------|-----------------|------------------|-----------------|----------------------------|-----------------------|--------------|
| ZIP Codes                  | Community       | Total Discharges | % of Discharges | Cumulative % of Discharges | Total Area Discharges | Market Share |
| 90057                      | Los Angeles     | 1,106            | 10.0%           | 10.0%                      | 5,955                 | 18.6%        |
| 90006                      | Los Angeles     | 726              | 6.5%            | 16.5%                      | 5,472                 | 13.3%        |
| 90026                      | Los Angeles     | 579              | 5.2%            | 21.7%                      | 5,034                 | 11.5%        |
| 90004                      | Los Angeles     | 491              | 4.4%            | 26.1%                      | 4,691                 | 10.5%        |
| 90005                      | Los Angeles     | 486              | 4.4%            | 30.5%                      | 2,843                 | 17.1%        |
| 90020                      | Los Angeles     | 297              | 2.7%            | 33.2%                      | 2,600                 | 11.4%        |
| 90019                      | Los Angeles     | 286              | 2.6%            | 35.8%                      | 5,893                 | 4.9%         |
| 90018                      | Los Angeles     | 263              | 2.4%            | 38.1%                      | 5,975                 | 4.4%         |
| 90029                      | Los Angeles     | 238              | 2.1%            | 40.3%                      | 4,114                 | 5.8%         |
| 90017                      | Los Angeles     | 235              | 2.1%            | 42.4%                      | 2,308                 | 10.2%        |
| 90037                      | Los Angeles     | 226              | 2.0%            | 44.4%                      | 7,439                 | 3.0%         |
| 90011                      | Los Angeles     | 212              | 1.9%            | 46.3%                      | 10,436                | 2.0%         |
| 90012                      | Los Angeles     | 198              | 1.8%            | 48.1%                      | 4,017                 | 4.9%         |
| 90007                      | Los Angeles     | 195              | 1.8%            | 49.9%                      | 3,129                 | 6.2%         |
| 90013                      | Los Angeles     | 115              | 1.0%            | 50.9%                      | 2,655                 | 4.3%         |
| 90015                      | Los Angeles     | 112              | 1.0%            | 51.9%                      | 1,918                 | 5.8%         |
| 90014                      | Los Angeles     | 99               | 0.9%            | 52.8%                      | 1,287                 | 7.7%         |
| 90010                      | Los Angeles     | 50               | 0.5%            | 53.3%                      | 311                   | 16.1%        |
| 90009                      | Los Angeles     | 12               | 0.1%            | 53.4%                      | 113                   | 10.6%        |
| <b>PSA Sub-Total</b>       |                 | <b>5,926</b>     | <b>53.4%</b>    | <b>53.4%</b>               | <b>76,190</b>         | <b>7.8%</b>  |
| 90044                      | Los Angeles     | 152              | 1.4%            | 54.7%                      | 11,994                | 1.3%         |
| 90027                      | Los Angeles     | 150              | 1.4%            | 56.1%                      | 4,273                 | 3.5%         |
| 90016                      | Los Angeles     | 130              | 1.2%            | 57.3%                      | 5,656                 | 2.3%         |
| 90008                      | Los Angeles     | 127              | 1.1%            | 58.4%                      | 4,258                 | 3.0%         |
| 90003                      | Los Angeles     | 106              | 1.0%            | 59.4%                      | 8,209                 | 1.3%         |
| 90062                      | Los Angeles     | 96               | 0.9%            | 60.2%                      | 4,018                 | 2.4%         |
| 90028                      | Los Angeles     | 95               | 0.9%            | 61.1%                      | 2,820                 | 3.4%         |
| 90047                      | Los Angeles     | 87               | 0.8%            | 61.9%                      | 7,164                 | 1.2%         |
| 90043                      | Los Angeles     | 86               | 0.8%            | 62.6%                      | 6,137                 | 1.4%         |
| 90038                      | Los Angeles     | 82               | 0.7%            | 63.4%                      | 2,349                 | 3.5%         |
| 90033                      | Los Angeles     | 77               | 0.7%            | 64.1%                      | 5,255                 | 1.5%         |
| 90042                      | Los Angeles     | 68               | 0.6%            | 64.7%                      | 5,173                 | 1.3%         |
| 90039                      | Los Angeles     | 67               | 0.6%            | 65.3%                      | 2,365                 | 2.8%         |
| 90031                      | Los Angeles     | 62               | 0.6%            | 65.8%                      | 3,161                 | 2.0%         |
| 90065                      | Los Angeles     | 62               | 0.6%            | 66.4%                      | 4,202                 | 1.5%         |
| 90046                      | Los Angeles     | 61               | 0.5%            | 66.9%                      | 4,210                 | 1.4%         |
| 90036                      | Los Angeles     | 56               | 0.5%            | 67.5%                      | 3,313                 | 1.7%         |
| 90063                      | Los Angeles     | 55               | 0.5%            | 67.9%                      | 5,008                 | 1.1%         |
| 90001                      | Los Angeles     | 51               | 0.5%            | 68.4%                      | 5,901                 | 0.9%         |
| 90002                      | Los Angeles     | 46               | 0.4%            | 68.8%                      | 5,797                 | 0.8%         |
| 90032                      | Los Angeles     | 41               | 0.4%            | 69.2%                      | 4,442                 | 0.9%         |
| 90255                      | Huntington Park | 40               | 0.4%            | 69.6%                      | 6,172                 | 0.6%         |
| 90023                      | Los Angeles     | 36               | 0.3%            | 69.9%                      | 4,965                 | 0.7%         |
| 91205                      | Glendale        | 28               | 0.3%            | 70.1%                      | 4,781                 | 0.6%         |
| 90041                      | Los Angeles     | 22               | 0.2%            | 70.3%                      | 2,587                 | 0.9%         |
| 90048                      | Los Angeles     | 20               | 0.2%            | 70.5%                      | 2,470                 | 0.8%         |
| 91204                      | Glendale        | 14               | 0.1%            | 70.6%                      | 2,260                 | 0.6%         |
| 90270                      | Maywood         | 13               | 0.1%            | 70.7%                      | 2,309                 | 0.6%         |
| 90069                      | West Hollywood  | 10               | 0.1%            | 70.8%                      | 1,850                 | 0.5%         |
| <b>PSA + SSA Sub-Total</b> |                 | <b>7,866</b>     | <b>70.8%</b>    | <b>70.8%</b>               | <b>209,289</b>        | <b>3.8%</b>  |
| <b>Other ZIPs</b>          |                 | <b>3,238</b>     | <b>29.2%</b>    | <b>100%</b>                |                       |              |
| <b>Total</b>               |                 | <b>11,104</b>    | <b>100%</b>     |                            |                       |              |

Note: Excludes normal newborns  
Source: OSHPD Patient Discharge Database

**Conditions to the Sale of Seton Medical Center<sup>1</sup> and Seton Coastsides<sup>2</sup> and Approval of the Asset Purchase Agreement by and among Verity Health System of California, Inc., Verity Holdings, LLC, St. Francis Medical Center, St. Vincent Medical Center, St. Vincent Dialysis Center, Inc., Seton Medical Center, and Strategic Global Management, Inc.**

**I.**

These Conditions shall be legally binding Verity Health System of California, Inc., a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, St. Francis Medical Center, a California nonprofit public benefit corporation, St. Vincent Medical Center, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, ~~St. Francis Medical Center Foundation, a nonprofit public benefit corporation, St. Vincent Foundation, a California nonprofit corporation, Seton Medical Center Foundation, a California nonprofit corporation, Verity Business Services, a California nonprofit public benefit corporation, Verity Medical Foundation, a California nonprofit public benefit corporation, St. Vincent de Paul Ethics Corporation, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Marillae Insurance Company, Ltd., a Cayman Islands corporation, DePaul Ventures, LLC, a California limited liability company, DePaul Ventures — San Jose ASC, LLC, a California limited liability company, DePaul Ventures — San Jose Dialysis, LLC, a California limited liability company,~~ and Strategic Global Management, Inc., a California corporation, any other subsidiary, parent, general partner, limited partner, member, affiliate, successor, successor in interest, assignee, or person or entity serving in a similar capacity of any of the above-listed entities including, but not limited to, any entity succeeding thereto as a result of consolidation, affiliation, merger, or acquisition of all or substantially all of the real property or operating assets of Seton Medical Center and Seton Coastsides, or the real property on which Seton and Seton Coastsides are located, any and all current and future owners, lessees, licensees, or operators of Seton Medical Center and Seton Coastsides, and any and all current and future lessees and owners of the real property on which Seton Medical Center and Seton Coastsides are located.

**II.**

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<sup>1</sup> Throughout this document, the term “Seton Medical Center” shall mean the general acute care hospital located at 1900 Sullivan Ave., Daly City, CA 94015, and any other clinics, laboratories, units, services, or beds included on the license issued to Seton Medical Center by the California Department of Public Health, effective January 1, 2019, unless otherwise indicated.

<sup>2</sup> Throughout this document, the term “Seton Coastsides” shall mean the skilled nursing facility with 5 general acute care beds located at 600 Marine Boulevard, Moss Beach, CA 94038-9641, and any other clinics, laboratories, units, services, or beds included on the license issued to Seton Medical Center by the California Department of Public Health, effective January 1, 2019, unless otherwise indicated.

The transaction conditionally approved by the Attorney General consists of the Asset Purchase Agreement dated January 8, 2019, by and among, Verity Health System of California, Inc., a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, St. Francis Medical Center, a California nonprofit public benefit corporation, St. Vincent Medical Center, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, and Strategic Global Management, Inc., a California corporation, and any agreements or documents referenced in or attached to as an exhibit or schedule and any other documents referenced in the Asset Purchase Agreement, including, but not limited to, the Sale Leaseback Agreement and Interim Management Agreement.

All the entities listed in Condition I, and any other parties referenced in the above agreements shall fulfill the terms of these agreements or documents and shall notify and obtain the Attorney General's approval in writing of any proposed modification or rescission of any of the terms of these agreements or documents. Such notifications shall be provided at least sixty days prior to their effective date in order to allow the Attorney General to consider whether they affect the factors set forth in Corporations Code section 5917 and obtain the Attorney General's approval.

### III.

For approximately 6 years (until December 13, 2025) from the closing date of the Asset Purchase Agreement, Verity Health System of California, Inc., Verity Holdings, LLC, Strategic Global Management, Inc., and all future owners, managers, lessees, licensees, or operators of Seton Medical Center and Seton Coastside shall be required to provide written notice to the Attorney General sixty days prior to entering into any agreement or transaction to do any of the following:

(a) Sell, transfer, lease, exchange, option, convey, manage, or otherwise dispose of Seton Medical Center or Seton Coastside;

(b) Transfer control, responsibility, management, or governance of Seton Medical Center or Seton Coastside. The substitution, ~~merger~~ or addition of a new member or members of the governing body of Strategic Global Management, Inc. that transfers the control of, responsibility for or governance of Seton Medical Center or Seton Coastside, shall be deemed a transfer for purposes of this Condition. The substitution or addition of one or more members of the governing body of Strategic Global Management, Inc., or any arrangement, written or oral, that would transfer voting control of the members of the governing body of Strategic Global Management, Inc. shall also be deemed a transfer for purposes of this Condition.

#### IV.

For the remainder of the term<sup>3</sup> (until December 13, 2025), Seton Medical Center (including Seton Coastside because both facilities are on the same license) shall be operated and maintained as a licensed general acute care hospital (as defined in California Health and Safety Code Section 1250).

#### V.

For the remainder of the term (until December 13, 2025), the Seton Medical Center shall maintain 24-hour emergency medical services at a minimum of 18 treatment stations with the same types and/or levels of services, including:

- a. Designation as a STEMI Receiving Center; and
- b. Advanced certification as a Primary Stroke Center;

#### VI.

For the remainder of the term (until December 13, 2025), Seton Medical Center shall maintain the following services at current<sup>4</sup> licensure, types, and/or levels of services, including:

- a. Cardiac services, including the 2 cardiac catheterization labs;
- b. Critical care services, including a minimum of 20 intensive care/coronary care beds;
- ~~e. Psychiatric services, including a minimum of 22 distinct part beds with at least 20 beds available for the geriatric psychiatric unit;~~
- ~~d.c.~~ Women's health services, including the Seton Breast Health Center and women's imaging and mammography services; and
- ~~e.d.~~ Sub-acute services, including a minimum of 44 sub-acute beds and Medi-Cal Certification as a sub-acute unit.

For the remainder of the term (until December 13, 2025), Strategic Global Management, Inc. shall not place all or any portion of its above-listed licensed-bed capacity or services in voluntary suspension or surrender its license for any of these beds or services.

#### VII.

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<sup>3</sup> The term "For the remainder of the term" refers to the Conditions to Change in Control and Governance of Seton Medical Center and Seton Coastside and Approval of the System Restructuring and Support Agreement by and among Daughters of Charity Ministry Services Corporation, Daughters of Charity Health System, Certain Funds Managed by BlueMountain Capital Management, LLC, and Integrity Healthcare, LLC., dated December 3, 2015. The System Restructuring and Support Agreement closed on December 14, 2015. (["2015 Conditions"](#)).

<sup>4</sup> The term "current" or "currently" throughout this document means as of January 1, 2019.

For ~~at least five years from the closing date~~remainder of the ~~Asset Purchase Agreement~~term (until December 13, 2020), Seton Medical Center shall maintain the following services at current licensure, types, and/or levels of services:

- a. Gastroenterology services, including enteroscopy, endoscopy, and colonoscopy services;
- ~~b. Cancer services, including inpatient oncology services, interventional radiology, radiation therapy, and for those patients that may be in need of infusion therapy treatment, a referral process to other nearby hospitals or clinics, including Stanford Cancer Center, UCSF Helen Diller Comprehensive Care Cancer Clinic, St. Mary's Cancer Center, or other health facility that provides infusion therapy services. The referral process shall be memorialized in the policies and procedures at Seton Medical Center and should include procedures on how to assist patients with accessing infusion therapy at the nearby hospitals or clinics, and the transferring of patient medical records;~~
- ~~c. 's written policies or procedures that refers patients that require medical infusion to be referred to another nearby hospital or entity that provides medial infusion services;~~
- ~~d.~~b. Orthopedics and rehabilitation services, including spine care services;
- ~~e.~~c. Diabetes services, including Northern California Diabetes Institute;
- ~~f.~~d. Wound care services, including Seton Center for Advanced Wound Care; and
- ~~g.~~e. Nephrology services.

For the remainder of the term (until December 13, 2020), Strategic Global Management, Inc. shall not place all or any portion of its above-listed licensed-bed capacity or services in voluntary suspension or surrender its license for any of these beds or services.

### VIII.

For the remainder of the term (until December 13, 2025), Seton Medical Center shall maintain the following services at current licensure, types, and/or levels of services at Seton Coastside including:

- a. 24-hour "standby" Emergency Department, with a minimum of 7 treatment stations; and
- b. Skilled nursing services, including a minimum of 116 licensed skilled nursing beds.

### IX.

~~For at least five years from the closing date of the Asset Purchase Agreement, Strategic Global Management, Inc. shall either: (1) operate clinics (listed below) with the same number of physicians and mid-level provider full-time equivalents in the same or similar alignment structures, or (2) sell the clinics (listed below) with the same number of physician and mid-level provider full-time equivalents and require the purchaser(s) to maintain such services for 5 years from the closing date of the Asset Purchase Agreement and to participate in the Medi-Cal and~~

~~Medicare programs as required in the conditions herein, or (3) ensure that a third party is operating the clinics (listed below) with the same number of physician and mid-level provider full-time equivalents and require the third party to maintain such services for 5 years from the closing date of the Asset Purchase Agreement and to participate in the Medi-Cal and Medicare programs as required in the conditions herein. For any of these options, each clinic can be moved to a different location within a three-mile radius of each clinic's current location, and Seton Medical and Seton Coastside can utilize an alternative structure in providing such services.~~

~~The following clinics are subject to this condition shall maintain the same types and/or levels of services provided, including women's healthcare services, and mammography services:~~

- ~~a. Women's Health Services, located at 1850 Sullivan Avenue, Suite 190, Daly City California.~~
- ~~b. Imaging Services located at 1850 Sullivan Avenue, Suite 100, Daly City California; and~~
- ~~c. Wound Care Services, located at 1850 Sullivan Avenue, Suite 115, Daly City California.~~

[\[REMOVE\]](#)

## X.

~~For six fiscal years from the closing date of the Asset Purchase Agreement, Strategic Global Management, Inc.~~ For the remainder of the term (until December 13, 2021), Strategic Global Management, Inc. shall provide an annual amount of Charity Care (as defined below) at Seton Medical Center and Seton Coastside equal to or greater than ~~\$1,055,863~~ 935,405 (the Minimum Charity Care Amount). For purposes hereof, the term "charity care" shall mean the amount of charity care costs (not charges) incurred by Strategic Global Management, Inc. in connection with the operation and provision of services at Seton Medical Center and Seton Coastside. The definition and methodology for calculating "charity care" and the methodology for calculating "costs" shall be the same as that used by Office of Statewide Health Planning Development (OSHPD) for annual hospital reporting purposes.<sup>5</sup>

~~Strategic Global Management, Inc. shall use and maintain a charity care policy that is no less favorable than Verity Health System of California, Inc.'s current charity care policy (Verity's Financial Assistance Policy No. 06.03.04 effective December 5, 2017 and revised and reviewed June 20, 2018) and in compliance with California and Federal law at Seton Medical Center and Seton Coastside. Within 90 days from the closing of the Asset Purchase Agreement, Strategic Global Management, Inc. will amend the Financial Assistance Policy to include as follows:~~

- ~~a. A copy of the Financial Assistance Policy and the plain language summary of the Financial Assistance Policy must be posted at Seton Medical Center and Seton Coastside~~

<sup>5</sup> OSHPD defines charity care by contrasting charity care and bad debt. According to OSHPD, "the determination of what is classified as . . . charity care can be made by establishing whether or not the patient has the ability to pay. The patient's accounts receivable must be written off as bad debt if the patient has the ability but is unwilling to pay off the account."

~~in a prominent location in the emergency room, admissions area, and any other location in the hospital where there is a high volume of patient traffic, including waiting rooms, billing offices, and hospital outpatient service settings.~~

~~e. A copy of the Financial Assistance Policy, the Application for Financial Assistance, and the plain language summary of the Financial Assistance Policy must be posted in a prominent place on each Seton Medical Center's and Seton Coastsides website(s). If requested by a patient, a copy of the Financial Assistance Policy, Application for Financial Assistance, and the plain language summary must be sent by mail at no cost to the patient.~~

~~d. As necessary, and at least on an annual basis, Strategic Global Management, Inc. will place an advertisement regarding the availability of financial assistance at Seton Medical Center and Seton Coastsides in a newspaper of general circulation in the communities served by the hospitals, or issue a Press Release to widely publicize the availability of the Financial Assistance Policy to the communities served by the hospitals.~~

~~e. Strategic Global Management, Inc. will work with affiliated organizations, physicians, community clinics, other health care providers, houses of worship, and other community-based organizations to notify members of the community (especially those who are most likely to require financial assistance) about the availability of financial assistance at Seton Medical Center and Seton Coastsides.~~

~~f. By December 1, 2019, all staff that interacts with patients and their families concerning payment of services shall be given training to make patients and their families aware of and informed of Strategic Global Management, Inc.'s Financial Assistance Policy at Seton Medical Center and Seton Coastsides.~~

~~Any planning of, and any subsequent changes to, the charity care and collection policies, and charity care services provided at Seton Medical Center and Seton Coastsides shall be decided after consultation with the Local Governing Board of Directors.~~

Strategic Global Management, Inc.'s obligation under this Condition shall be prorated on a daily basis if the closing date of the Asset Purchase Agreement is a date other than the first day of Verity Health System of California, Inc.'s fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Charity Care Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose, California Average Base Period: 1982-84=100 (as published by the U.S. Bureau of Labor Statistics). If the actual amount of charity care provided at Seton Medical Center and Seton Coastsides for any fiscal year is less than the Minimum Charity Care Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Strategic Global Management, Inc. shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide direct healthcare services to residents in the Seton Medical Center service area (14 ZIP codes), as described on page 54 in the Healthcare Impact Report authored by JD Healthcare dated August 19, 2019. (Exhibit 1.) Such payment(s) shall be made within six months following the end of such fiscal year.



## XI.

For ~~six fiscal years from the closing date~~remainder of the ~~Asset Purchase Agreement~~term (until December 13, 2021), Strategic Global Management, Inc. shall provide an annual amount of Community Benefit Services at Seton Medical Center and Seton Coastsides equal to or greater than ~~\$685,870,848,434~~ (the "Minimum Community Benefit Services Amount") exclusive of any funds from grants. ~~For six fiscal years,~~For the remainder of the term (until December 13, 2021), the following community benefit programs and services shall continue to be offered at its current or equivalent location:

- a. Health Benefits Resource Center; and
- b. RotaCare Clinic.

The planning of, and any subsequent changes to, the community benefit services provided at Seton Medical Center shall be decided after consultation with the Local Governing Board of Directors.

Strategic Global Management, Inc.'s obligation under this Condition shall be prorated on a daily basis if the effective date of the Asset Purchase Agreement is a date other than the first day of Verity Health System of California, Inc.'s fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Community Benefit Services Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose, California Average Base Period: 1982-84=100 (as published by the U.S. Bureau of Labor Statistics).

If the actual amount of community benefit services provided at Seton Medical Center and Seton Coastsides for any fiscal year is less than the Minimum Community Benefit Services Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Strategic Global Management, Inc. shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide community benefit services for residents in Seton Medical Center's service area (14 ZIP codes), as defined on as described on page 54 in the Healthcare Impact Report authored by JD Healthcare dated August 19, 2019. (Exhibit 1-~~2~~3). Such payment(s) shall be made within six months following the end of such fiscal year.

## XII.

For the remainder of the term (until December 13, 2025), Strategic Global Management, Inc. shall:

- a) Be certified to participate in the Medi-Cal program at Seton Medical Center and Seton Coastsides;

b) Maintain and have a Medi-Cal Managed Care contract with San Mateo Health Commission dba Health Plan of San Mateo or its successor to provide the same types and levels of emergency and non-emergency services at Seton Medical Center and Seton Coastside to Medi-Cal beneficiaries (both Traditional Medi-Cal and Medi-Cal Managed Care) as required in these Conditions, on the same terms and conditions as other similarly situated hospitals offering substantially the same services, without any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage, unless the contract is terminated for cause or not extended or renewed by the Medi-Cal Managed Care Plan.

If Strategic Global Management, Inc. questions whether it is being reimbursed on the same terms and conditions as other similarly situated hospitals offering substantially the same services, it shall notify the Attorney General's Office with at least 120 days' notice prior to taking any action that would effectuate any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage or prior to giving any required notice of taking such action.

c) Be certified to participate in the Medicare program by maintaining a Medicare Provider Number to provide the same types and levels of emergency and non-emergency services at Seton Medical Center and Seton Coastside to Medicare beneficiaries (both Traditional Medicare and Medicare Managed Care) as required in these Conditions.

### XIII.

For ~~at least five years from the closing date~~remainder of the ~~Asset Purchase Agreement unless otherwise indicated;~~term (until December 13, 2020), Strategic Global Management, Inc. shall maintain its contracts and any amendments and exhibits thereto with the County of San Mateo, unless otherwise terminated by the County of San Mateo, for services, including the following:

- a. Participation in the Hospital Preparedness Program between the Hospital (jointly with Seton Coastside) and San Mateo County;
- ~~b. STEMI Receiving Center Designation between the Hospital and San Mateo County;~~
- ~~c. Financial Support for Seismic Upgrades between the Hospital and San Mateo County;~~
- ~~d.~~b. Information Sharing and Data Use Agreement between the Hospital and the County of San Mateo Health System;
- ~~e. Fee for Service Hospital Services Agreement between the Hospital (jointly with Seton Coastside) and San Francisco Health Plan;~~
- ~~f. Memorandum of Understanding between the Hospital and San Mateo County Behavioral Health and Recovery Services Division;~~
- ~~g. Affiliation Agreement for the Radiology Technology Program between the Hospital and San Mateo College District;~~
- ~~h. Affiliation Agreement for the Registered Nursing Program between the Hospital (jointly with Seton Coastside) and San Mateo College District;~~
- ~~i.~~c. Patient Transfer Agreement between the Hospital and San Mateo County Medical Center;
- ~~j. Rail Shuttle Bus Service Administration for Seton Shuttle Agreement between the Hospital and San Mateo County Transit District;~~

- ~~k.d. Medical Services Agreement between the Hospital and San Mateo Health Community Health Authority- Access and Care for Everyone (ACE) Program;~~
- ~~l. Hospital Medi-Cal Hospital Agreement between the Hospital and San Mateo Health Commission dba Health Plan of San Mateo;~~
- ~~m. Memorandum of Understanding for Long Term Care Partnership Program between the Hospital and San Mateo Health Commission dba Health Plan of San Mateo; and~~
- ~~n. Care Advantage Hospital Service Agreement between the Hospital and San Mateo Health Commission dba Health Plan of San Mateo.~~

#### XIV.

For the remainder of the term (until December 13, 2025), Strategic Global Management, Inc. shall have at Seton Medical Center and Seton Coastside Local Governing Board(s) of Directors. Strategic Global Management, Inc. shall consult with the Local Governing Board(s) of Directors prior to making changes to medical services, community benefit programs, making capital expenditures, making changes to the charity care and collection policies, and making changes to charity care services provided at Seton Medical Center and Seton Coastside. The members of the Local Governing Board(s) shall include physicians from Seton Medical Center's and Seton Coastside's medical staff, Seton Medical Center's and Seton Coastside's Chief(s) of Staff, one member designated by the San Mateo County Board of Supervisors, and community representatives from Seton Medical Center's and Seton Coastside's service area (14 ZIP codes), as described on page 54 in the Healthcare Impact Report authored by JD Healthcare dated August 19, 2019, attached hereto as Exhibit 1, including at least one member from a local healthcare advocacy group. Such consultation shall occur at least sixty days prior to the effective date of such changes or actions unless done so on an emergency basis. The Local Governing Board(s)'s approval is required of all reports submitted to the Attorney General regarding compliance with these Conditions.

#### XV.

Strategic Global Management, Inc. shall commit to reserve or expend ~~capital~~, for St. Francis Medical Center, St. Vincent Medical Center, and Seton Medical Center for capital improvements to the hospitals over the five-year period from the closing of the Asset Purchase Agreement ~~of~~, the amount of capital ("Capital Amount") that remains unexpended from the \$180 million commitment required of BlueMountain Capital Management, LLC as part of the ~~Attorney General Conditions approved on December 3, 2015 but this amount can be no less than \$5.8 million among the three hospitals.~~ 2015 Conditions. The Capital Amount is calculated based on Strategic Global Management, Inc.'s proportionate share (i.e. 72%) of the \$180 million capital commitment from the 2015 Conditions that remains unexpended as of the closing of the Asset Purchase Agreement, to be allocated across the acquired Verity facilities as it deems appropriate, over a five year period from the closing of the Asset Purchase Agreement. The total commitment to reserve or expend capital, for St. Francis Medical Center, St. Vincent Medical Center, and Seton Medical Center for capital improvements to the hospitals will not exceed Seventy-Five Million Dollars (\$75,000,000).

#### XVI.

~~Strategic Global Management, Inc. shall maintain privileges for current medical staff who are in good standing as of the closing date of the Asset Purchase Agreement. Further, the closing of the Asset Purchase Agreement shall not change the medical staff officers, committee chairs, or independence of the medical staff, and such persons shall remain in good standing for the remainder of their tenure at Seton Medical Center and Seton Coastside.~~

[REMOVE]

## **XVII.**

Strategic Global Management, Inc. shall commit the necessary investments required to meet and maintain OSHPD seismic compliance requirements at Seton Medical Center and Seton Coastside through 2030 under the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, as amended by the California Hospital Facilities Seismic Safety Act, (Health & Saf. Code, § 129675-130070). ~~Strategic Global Management, Inc. shall meet construction benchmarks which include the starting of construction on the 1963 Tower, and as detailed on the attached Exhibit 2,~~ to the extent Strategic Global Management, Inc. obtains necessary waivers or other authority from OSHPD and the State of California to permit the continued operation of Seton Medical Center through the five (5) years following closing date of the Asset Purchase Agreement, pending replacement or retrofit of the current patient tower at Seton Medical Center, and Strategic Global Management, Inc. receives PACE funding at currently accrued levels (i.e. approximately Forty Million Dollars (\$40,000,000)).

## **XVIII.**

There shall be no discrimination against lesbian, gay, bisexual, or transgender individuals at Seton Medical Center and Seton Coastside, and no restriction or limitation on providing or making reproductive health services available at Seton Medical Center and Seton Coastside, its medical office buildings, or at any of its facilities. Both of these prohibitions shall be set forth in Strategic Global Management Inc.'s written policies, adhered to, and strictly enforced.

## **XIX.**

~~Within 15 days of the Attorney General's approval, Seton Medical Center Foundation shall transfer all charitable assets including, but not limited to, all temporary and permanently restricted funds to the California Community Foundation.~~

- ~~a) The funds from Seton Medical Center Foundation, if not previously restricted to support a specific charitable organization, will be deposited into the California Community Foundation's Seton Medical Foundation, and used to support nonprofit tax-exempt charitable organizations, clinics and facilities in providing healthcare services to residents of Seton Medical Foundation's service area (14 ZIP codes), as described on page 54 in the Healthcare Impact Report authored by JD Healthcare dated August 19, 2019. (Exhibit 1.) The donated funds shall be maintained and used for the purposes specified herein for a period of at least five years.~~

~~If there are funds from Seton Medical Foundation previously restricted to support a specific charitable organization, such funds shall be deposited into a fund or funds at California Community Foundation restricted to continuing support for such charitable organization or organizations. Such funds are protected against obsolescence. If the purposes of any restricted fund become unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community served by California Community Foundation, the California Community Foundation's Board of Directors shall have the ability to modify any restriction or condition on the use such fund.~~ [REMOVE]

## XX.

For six fiscal years from the closing date of the Asset Purchase Agreement Strategic Global Management shall submit to the Attorney General, no later than four months after the conclusion of each fiscal year, a report describing in detail compliance with each Condition set forth herein. The Chairman of the Board of Directors of Strategic Global Management, Inc. shall certify that the report is true, accurate, and complete and provide documentation of the review and approval of the report by the Local Governing Board.

## XXI.

At the request of the Attorney General, all parties listed in Condition I, Verity Health System of California, Inc., Verity Holdings, LLC, Strategic Global Management, Inc., and any other parties referenced in the agreements listed in Condition II shall provide such information as is reasonably necessary for the Attorney General to monitor compliance with these Conditions and the terms of the transaction as set forth herein. The Attorney General shall, at the request of a party and to the extent provided by law, keep confidential any information so produced to the extent that such information is a trade secret or is privileged under state or federal law, or if the private interest in maintaining confidentiality clearly outweighs the public interest in disclosure.

## XXII.

Once the Asset Purchase Agreement is closed, all parties listed in Condition I, and any other parties referenced in the agreements listed in Condition II are deemed to have explicitly and implicitly consented to the applicability and compliance with each and every Condition and to have waived any right to seek judicial relief with respect to each and every Condition.

~~The Attorney General reserves the right to enforce each and every Condition set forth herein to the fullest extent provided by law. In addition to any legal remedies the Attorney General may have, the Attorney General shall be entitled to specific performance, injunctive relief, and such other equitable remedies as a court may deem appropriate for breach of any of these Conditions. Pursuant to Government Code section 12598, the Attorney General's office shall also be entitled to recover its attorney fees and costs incurred in remedying each and every violation.~~

### Analysis of the Hospital's Service Area

#### Service Area Definition

The Hospital's service area is comprised of 14 ZIP Codes, from which approximately 82% of its discharges originated in CY 2017. Approximately 55% of the Hospital's discharges came from the top three ZIP Codes, located in Daly City, and South San Francisco. In CY 2017, the Hospital's market share in the service area was 12.6% based on inpatient discharges.

| ZIP Codes       | Community           | PATIENT ORIGIN, CY 2017 |                 |                            | Total Area Discharges | Market Share |
|-----------------|---------------------|-------------------------|-----------------|----------------------------|-----------------------|--------------|
|                 |                     | Total Discharges        | % of Discharges | Cumulative % of Discharges |                       |              |
| 94015           | Daly City           | 1,347                   | 25.5%           | 25.5%                      | 4,640                 | 29.0%        |
| 94014           | Daly City           | 798                     | 15.1%           | 40.6%                      | 3,337                 | 23.9%        |
| 94080           | South San Francisco | 732                     | 13.8%           | 54.4%                      | 5,074                 | 14.4%        |
| 94044           | Pacifica            | 533                     | 10.1%           | 64.5%                      | 2,972                 | 17.9%        |
| 94112           | San Francisco       | 263                     | 5.0%            | 69.5%                      | 6,620                 | 4.0%         |
| 94066           | San Bruno           | 216                     | 4.1%            | 73.5%                      | 3,515                 | 6.1%         |
| 94134           | San Francisco       | 130                     | 2.5%            | 76.0%                      | 3,795                 | 3.4%         |
| 94132           | San Francisco       | 114                     | 2.2%            | 78.2%                      | 1,908                 | 6.0%         |
| 94019           | Half Moon Bay       | 74                      | 1.4%            | 79.6%                      | 1,194                 | 6.2%         |
| 94038           | Moss Beach          | 46                      | 0.9%            | 80.4%                      | 249                   | 18.5%        |
| 94005           | Brisbane            | 21                      | 0.4%            | 80.8%                      | 369                   | 5.7%         |
| 94037           | Montara             | 14                      | 0.3%            | 81.1%                      | 183                   | 7.7%         |
| 94018           | El Granada          | 12                      | 0.2%            | 81.3%                      | 257                   | 4.7%         |
| 94017           | Daly City           | 11                      | 0.2%            | 81.5%                      | 33                    | 33.3%        |
| <b>Subtotal</b> |                     | <b>4,311</b>            | <b>81.5%</b>    | <b>81.5%</b>               | <b>34,146</b>         | <b>12.6%</b> |
| Other ZIPs      |                     | 977                     | 18.5%           | 100%                       |                       |              |
| <b>Total</b>    |                     | <b>5,288</b>            | <b>100%</b>     |                            |                       |              |

Note: Excludes normal newborns

Source: OSHPD Patient Discharge Database

4

Report Year and Quarter  
 All

AB 2190 Quarterly Reports for 10801 Seton Medical Center

| OSHPD Building Nbr | Bldg Name  | Report Year and Quarter | Construction Project Nbr  | Milestone Date | Milestone Description | Milestone Comments | Milestone Quarterly Update |
|--------------------|------------|-------------------------|---|----------------|-----------------------|--------------------|----------------------------|
| BLD-00846          | 1983 Tower | 2019 - Q2               | I180019-41-00;<br>I180019-41-01;<br>I180019-41-02;<br>I180019-41-03 | 4/1/2020       | Start Construction    |                    | On schedule                |
|                    |            |                         |   | 7/1/2022       | Complete Construction |                    | On schedule                |
| BLD-00847          | Front Wing | 2019 - Q2               | I180020-41-00;<br>I180020-41-01                                     | 4/1/2020       | Start Construction    |                    | On schedule                |
|                    |            |                         |   | 7/1/2022       | Complete Construction |                    | On schedule                |

**Exhibit D**

**SGM APA**



**ASSET PURCHASE AGREEMENT**

**By and Among**

**Verity Health System of California, Inc., Verity Holdings, LLC,**

**St. Francis Medical Center, St. Vincent Medical Center, St. Vincent Dialysis Center, Inc.,  
Seton Medical Center**

**and**

**Strategic Global Management, Inc.**

**Dated January 8, 2019**

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## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the “**Agreement**”) is made and entered into as of the 8<sup>th</sup> day of January, 2019 (the “**Signing Date**”) by and among Verity Health System of California, Inc., a California nonprofit public benefit corporation (“**Verity**”), Verity Holdings, LLC, a California limited liability company (“**Verity Holdings**”), St. Francis Medical Center, a California nonprofit public benefit corporation (“**St. Francis**”), St. Vincent Medical Center, a California nonprofit public benefit corporation (“**St. Vincent**”), St. Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation (“**St. Vincent Dialysis**”), and Seton Medical Center, a California nonprofit public benefit corporation (“**Seton**” and together with St. Francis Medical Center, St. Vincent Medical Center and St. Vincent Dialysis, collectively, the “**Hospital Sellers**”) (Verity, Verity Holdings, St. Francis, St. Vincent, St. Vincent Dialysis and Seton are each referred to herein individually as a “**Seller**” and collectively as the “**Sellers**”), and Strategic Global Management, Inc., a California corporation (“**Purchaser**”).

### RECITALS:

A. St. Francis engages in the business of the operation of the hospital known as St. Francis Medical Center, located at 3630 E. Imperial Highway, Lynwood, CA 90262, including the hospital pharmacy, laboratory and emergency department as well as through the medical office buildings and clinics owned or operated by St. Francis (collectively, the “**St. Francis Hospital**”).

B. St. Vincent engages in the business of the operation of the hospital known as St. Vincent Medical Center, located at 2131 W 3rd Street, Los Angeles, CA 90057, including the hospital pharmacy, laboratory and emergency department as well as through the medical office buildings and clinics owned or operated by St. Vincent (collectively, the “**St. Vincent Hospital**”).

C. Seton engages in the business of the operation of two general acute care hospitals under a single license, consisting of: (i) the hospital known as Seton Medical Center, located at 1900 Sullivan Avenue, Daly City, CA 94015, including the hospital pharmacy, laboratory and emergency department as well as through the medical office buildings and clinics owned or operated by Seton (collectively, the “**Seton Hospital**”) and (ii) the hospital known as Seton Medical Center Coastside, located at 600 Marine Blvd, Moss Beach, CA 94038, including the hospital pharmacy, laboratory and emergency department as well as through the medical office buildings and clinics owned or operated by Seton (collectively, the “**Seton Coastside Hospital**”) and together with the St. Francis Medical Center Hospital, the St. Vincent Medical Center Hospital and the Seton Hospital, the “**Hospitals**”; the business of the operation of the Hospitals is referred to herein as the “**Businesses**”).

D. Purchaser desires to purchase from Sellers, and Sellers desire to sell to Purchaser, the assets described in Section 1.7 below (the “**Assets**”) owned by Sellers and used with respect to the Businesses, for the consideration and upon the terms and conditions contained in this Agreement.

E. Sellers filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”) with the United States Bankruptcy Court for the Central District of California, Los Angeles Division (the “**Bankruptcy Court**”), lead Case No. 2:18-bk-201510ER, jointly administered or to be jointly administered with their affiliates (the “**Bankruptcy Cases**”).

F. The parties intend to effectuate the transactions contemplated by this Agreement through a sale of the Assets approved by the Bankruptcy Court pursuant to Section 363 of Title 11 of the Bankruptcy Code.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and covenants contained in this Agreement, and for their mutual reliance and incorporating into this Agreement the above recitals, the parties hereto agree as follows:

## ARTICLE 1

### SALE AND TRANSFER OF ASSETS; CONSIDERATION; CLOSING

#### 1.1 Purchase Price.

(a) Subject to the terms and conditions of this Agreement, the purchase price (“**Purchase Price**”) shall consist of the following:

(i) Cash payment to Sellers (the “**Cash Consideration**”) of Six Hundred Ten Million Dollars (\$610,000,000.00), which shall be allocated Four Hundred Twenty Million Dollars (\$420,000,000) to St. Francis Medical Center, One Hundred Twenty Million Dollars (\$120,000,000) to St. Vincent Medical Center, and Seventy Million Dollars (\$70,000,000) to Seton for Seton Hospital and Seton Coastside Hospital, provided, that if the CA AG’s approval does not include a requirement that Seton Hospital remain open as an acute care hospital or that Seton Coastside Hospital remain open as a skilled nursing facility, then an amount to be determined by Purchaser, in its sole discretion, of such Cash Consideration shall be re-allocated from St. Francis to Seton;

(ii) Assumption of Sellers’ accrued vacation and other paid time off as of the Closing, to be provided only with respect to Hired Employees (as defined in Section 5.3(a)) in the form of credited vacation and PTO, subject to compliance with applicable law and regulation, including consent of such employees if required;

(iii) Assumption of all liabilities of Seton as Obligated Party and Property Owner under the (i) Agreement to Pay Assessment and Finance Improvements dated May 17, 2017 with California Statewide Communities Development Authority (“**CSCDA**”) and (ii) Agreement to Pay Assessment and Finance Improvements dated May 18, 2017 with CSCDA (collectively

the “**Special Assessments**”) each associated with of the Property Assessed Clean Energy (“**PACE**”) (seismic and clean energy) loans (collectively the “**PACE Obligations**”); and

(iv) Payment of Cure Costs (defined below) associated with any Assumed Leases and/ or Assumed Contracts and assumption of the other Assumed Obligations (as defined below).

(b) Purchaser (i) is acquiring the Assets and (ii) is only assuming (x) the PACE Obligations and (y) the Assumed Obligations (as defined below).

(c) At the Closing, Purchaser shall pay to Sellers, by wire transfer of immediately available funds to the accounts specified by Sellers to Purchaser in writing, an aggregate amount equal to the Cash Consideration, minus the Net QAF Reduction Amount (defined below), if any, plus the Net QAF Increase Amount (defined below), if any, plus any amounts (x) held by the PACE Trustee as an interest or fee reserve on account the PACE Obligations on the Closing Date and (y) remitted to CSCDA by Seton pursuant to the Special Assessments from and after the date of execution of this Agreement by Buyer up to and including the Closing Date, minus the Deposit (defined below).

(d) For purposes of this Agreement, the “**QAF Program**” means the California Department of Health Care Services Hospital Quality Assurance Fee Programs IV (“**QAF IV**”) and V (“**QAF V**”). During the period prior to Closing, Sellers shall pay any fees owing under QAF IV and QAF V, and Sellers shall be entitled to retain all payments received under QAF IV and QAF V. At Closing, Sellers shall credit to the Cash Consideration the amount by which payments received under QAF IV and QAF V between the Signing Date and Closing exceed the sum of (i) fees paid under QAF IV and QAF V during such period plus (ii) the amount of fees which are unpaid and owing as of the Closing in respect of invoices received by Sellers prior to Closing under QAF IV and QAF V (the “**Net QAF Reduction Amount**”), as provided above in Section 1.1(c). At Closing, Purchaser shall pay Sellers (as an increase to the Cash Consideration) the amount by which the sum of (i) fees paid under QAF IV and QAF V between the Signing Date and Closing plus (ii) the amount of fees which are unpaid and owing as of Closing in respect of invoices received by Sellers prior to Closing under QAF IV and QAF V exceeds payments received under QAF IV and QAF V during such period (the “**Net QAF Increase Amount**”), as provided above in Section 1.1(c).

(e) Purchaser shall, prior to Closing, be permitted to communicate with holders of secured debt of the Sellers regarding the possible assumption by Purchaser of all or a portion of such debt at the Closing. If Purchaser agrees to assume any such debt at the Closing, Purchaser and Sellers shall negotiate an appropriate credit to the Purchase Price for such assumption of debt.

1.2 Deposit. Purchaser, by wire transfer to an account designated by Sellers has made a good faith deposit in the amount of Thirty Million Dollars (\$30,000,000) on the date hereof (the “**Deposit**”). The Deposit shall be non-refundable in all events, except as provided in Section 6.1(b) or Section 6.2, or in the event Purchaser has terminated this Agreement pursuant to Section 9.1 (other than Section 9.1(b)) or as set forth in Section 9.2, in which case Seller shall immediately return the Deposit to Purchaser with all interest earned thereon. Upon Closing, the Deposit will

be credited against the Purchase Price. Pending the Closing, or until this Agreement is terminated, the Deposit shall be deposited in an interest bearing account, with interest credited to Purchaser, at a federally-insured financial institution mutually acceptable to Purchaser and Sellers. In addition, on the Signing Date, Purchaser shall deliver to Sellers executed letters from its financing sources, in form and substance satisfactory to Sellers in their discretion.

1.3 Closing Date. The consummation of the transactions contemplated by this Agreement (the “**Closing**”) shall take place at 10:00 a.m. local time at the offices of Dentons US LLP, 601 South Figueroa St., Suite 2500, Los Angeles, CA 90017-5704 (the day on which Closing actually occurs, the “**Closing Date**”) promptly but no later than ten (10) business days following the satisfaction or waiver of the conditions set forth in ARTICLE 7 and ARTICLE 8, other than those conditions that by their nature are to be satisfied at Closing but subject to fulfillment or waiver of those conditions. The Closing shall be deemed to occur and to be effective as of 11:59 p.m. Pacific time on the Closing Date (the “**Effective Time**”).

1.4 Items to be Delivered by Sellers at Closing. At or before the Closing, Sellers shall deliver, or cause to be delivered, to Purchaser the following:

1.4.1 a Bill of Sale substantially in the form of Exhibit 1.4.1 attached hereto (the “**Bill of Sale**”), duly executed by each Seller, with respect to the Assets;

1.4.2 Real Estate Assignment and Assumption Agreements (the “**Real Estate Assignments**”) in the form of Exhibit 1.4.2 attached hereto with respect to (i) the Leased Real Property, and (ii) the Tenant Leases, each duly executed by each Seller;

1.4.3 a Quitclaim Deed (the “**Deed**”) in the form of Exhibit 1.4.2 attached hereto with respect to the real property listed in Schedule 1.4.3, together with all plant, buildings, structures, installments, improvements, fixtures, betterments, additions and constructions in progress situated thereon (collectively, the “**Owned Real Property**”) duly executed by each Seller;

1.4.4 an Assumption Agreement (the “**Assumption Agreement**”) in the form of Exhibit 1.4.2 attached hereto with respect to the Assumed Obligations duly executed by each Seller;

1.4.5 favorable original certificates of good standing, of each Seller, issued by the State of California, dated no earlier than a date which is fifteen (15) calendar days prior to the Closing Date;

1.4.6 a duly executed certificate of an officer of each Seller certifying to Purchaser (i) the incumbency of the officers of such Seller on the Signing Date and on the Closing Date and bearing the authentic signatures of all such officers who shall execute this Agreement and any additional documents contemplated by this Agreement and (ii) the due adoption and text of the resolutions or consents of the Board of Directors of such Seller authorizing (I) the transfer of the Assets and transfer of the Assumed Obligations by such Seller to Purchaser and (II) the due execution, delivery and performance of this Agreement and all additional documents contemplated



by this Agreement, and that such resolutions have not been amended or rescinded and remain in full force and effect on the Closing Date;

1.4.7 a certified copy of the Sale Order (as defined below);

1.4.8 a Transition Services Agreement (the “**Transition Services Agreement**”) in form and substance satisfactory to Sellers and Purchaser, in their reasonable discretion, granting to Sellers use of certain assets, systems and personnel identified in such agreement solely in connection with Sellers’ wind-down of the Businesses, the completion of the Bankruptcy Cases and the dissolution of Sellers (and following completion of such wind-down, Bankruptcy Cases and dissolution of Sellers, such Transition Services Agreement shall automatically terminate);

1.4.9 acknowledgements by CSCDA and the PACE Trustee that Purchaser is the Successor Property Owner and Obligated Party under the PACE Obligations and releases of the Sellers from any and all claims arising or accruing prior to the Closing Date, and

1.4.10 any such other instruments, certificates, consents or other documents which Purchaser and Sellers mutually deem reasonably necessary to carry out the transactions contemplated by this Agreement and to comply with the terms hereof.

1.5 Items to be Delivered by Purchaser at Closing. At or before the Closing, Purchaser shall deliver or cause to be delivered to Sellers the following:

1.5.1 payment of the Cash Consideration subject to credits or plus payment to Sellers of all amounts as provided under Section 1.6;

1.5.2 evidence of payment of all Cure Costs required hereunder to be paid by Purchaser;

1.5.3 a duly executed certificate of the Secretary of Purchaser certifying to Sellers (a) the incumbency of the officers of Purchaser on the Signing Date and on the Closing Date and bearing the authentic signatures of all such officers who shall execute this Agreement and any additional documents contemplated by this Agreement and (b) the due adoption and text of the resolutions of the Board of Directors of Purchaser authorizing the execution, delivery and performance of this Agreement and all additional documents contemplated by this Agreement, and that such resolutions have not been amended or rescinded and remain in full force and effect on the Closing Date;

1.5.4 favorable original certificate of good standing, of Purchaser, issued by the California Secretary of State dated no earlier than a date which is fifteen (15) calendar days prior to the Closing Date;

1.5.5 the Bill of Sale, duly executed by Purchaser;

1.5.6 the Real Estate Assignment(s), duly executed by Purchaser;

1.5.7 the Assumption Agreement, duly executed by Purchaser;

1.5.8 the License Agreement referenced in Section 1.7(q);

1.5.9 the Transition Services Agreement; and

1.5.10 any such other instruments, certificates, consents or other documents which Purchaser and Sellers mutually deem reasonably necessary to carry out the transactions contemplated by this Agreement and to comply with the terms hereof.

1.6 Prorations and Utilities. All items of income and expense listed below with respect to the Assets shall be prorated in accordance with the principles and the rules for the specific items set forth hereafter:

1.6.1 All transfer, conveyance, sales, use, stamp, similar state and local taxes arising from the sale of the Assets hereunder shall be the responsibility of, and allocated to, Purchaser.

1.6.2 Other than the Utility Deposits (defined below), which are governed by Section 1.8(j), and other than with respect to Cure Costs payable by Purchaser, the following costs and expenses shall be prorated based upon the payment period (*i.e.*, calendar or other tax fiscal year) to which the same are attributable: all real estate and personal property lease payments, real estate and personal property taxes, real estate assessments, other than the PACE Special Assessments and other similar charges against real estate, and power and utility charges (collectively, the “**Prorated Charges**”) on the Assets. Each Seller shall pay its respective portion at or prior to the Closing (or Purchaser shall receive credit for) of any unpaid Prorated Charges attributable to periods or portions thereof occurring prior to the Effective Time, and Purchaser shall assume as an Assumed Liability or, to the extent previously paid by any Seller, pay to such Seller at the Closing all Prorated Charges attributable to periods or portions thereof occurring from and after the Effective Time. In the event that as of the Closing Date the actual tax bills for the tax year or years in question are not available and the amount of taxes to be prorated as aforesaid cannot be ascertained, then rates, millages and assessed valuation of the previous year, with known changes, shall be used. The parties agree that if the real estate and personal property tax prorations are made based upon the taxes for the preceding tax period, the prorations shall be re-prorated after the Closing. As to power and utility charges, “final readings” as of the Closing Date shall be ordered from the utilities; the cost of obtaining such “final readings,” if any, shall be paid by Purchaser.

1.6.3 Sellers shall be entitled to all rents and other payments under Tenant Leases accruing for the period prior to the Effective Time (“**Pre Effective Time Lease Amounts**”), and Purchaser shall be entitled to all rents and other payments under tenant leases accruing for the period after the Effective Time (“**Post Effective Time Lease Amounts**” and together with the Pre Effective Time Lease Amounts, the “**Lease Amounts**”). All Lease Amounts that are collected prior to the Closing shall be prorated as of the Closing in accordance with the immediately preceding sentence. All Lease Amounts that are accrued but uncollected as of the Closing (including, without limitation, rents and other payments accrued prior to the Closing but payable in arrears after the Closing) (collectively, the “**Unpaid Amounts**”) shall belong to Sellers, and Purchaser shall, upon receipt of said rents and other payments, receive the same in trust for Sellers and shall promptly remit any of such amounts to the applicable Seller within ten (10) days after

Purchaser's receipt of same. For the avoidance of doubt, all rental payments received after Closing shall be first applied to any amounts owed to the Sellers under this Section 1.6.3.

1.6.4 All prorations and payments to be made under the foregoing provisions shall be agreed upon by Purchaser and Sellers prior to the Closing and shall be binding upon the parties; provided, however, with respect to the Unpaid Amounts, in the event any proration, apportionment or computation shall prove to be incorrect for any reason, then either the applicable Seller or Purchaser shall be entitled to an adjustment to correct the same, provided that said party makes written demand on the party from whom it is entitled to such adjustment within thirty (30) calendar days after the erroneous payment or computation was made, or such later time as may be required, in the exercise of due diligence, to obtain the necessary information for proration. This Section 1.6 shall survive Closing.

1.7 Transfer of Assets of Sellers. On the Closing Date and subject to the terms and conditions of this Agreement, each Seller shall sell, assign, transfer, convey and deliver to Purchaser, free and clear of all liens, claims, interests and encumbrances other than the Permitted Exceptions (defined below), and Purchaser shall acquire, all of each Seller's right, title and interest in and to only the following assets and properties, as such assets shall exist on the Closing Date, in each case (notwithstanding anything else in this Agreement) solely to the extent used primarily in the conduct of the Businesses and to the extent not included among the Excluded Assets, such transfer being deemed to be effective at the Effective Time:

(a) all of the tangible personal property owned by such Hospital Seller, or to the extent assignable or transferable by each Hospital Seller, leased, subleased or licensed by such Hospital Seller, and used by such Seller in the operation of the Hospital of such Hospital Seller, including equipment, furniture, fixtures, machinery, vehicles, office furnishings and leasehold improvements (the "**Personal Property**");

(b) all of such Hospital Seller's rights, to the extent assignable or transferable, to all Medicare and Medi-Cal provider agreements, permits, approvals, certificates of exemption, franchises, accreditations and registrations and other governmental licenses, permits or approvals issued to such Seller for use in the operation of the Hospital of such Hospital Seller (the "**Licenses**"), including, without limitation, the Licenses and Medicare/Medi-Cal Provider Agreements set forth on Schedule 1.7(b), except to the extent Purchaser elects, in its discretion, not to take assignment of any such Licenses;

(c) all of such Hospital Seller's interest in and to the Owned Real Property and all of such Hospital Seller's interest, to the extent assignable or transferable, in and to all of the following (the "**Assumed Leases**"): (i) personal property leases with respect to the operation of the Hospital of such Hospital Seller (including leases for assets described in Section 1.7(i)), (ii) the real property leases for all real property leased by such Hospital Seller and set forth on Schedule 1.7(c)(ii) (the "**Leased Real Property**"), and (iii) the real property leased or subleased by such Seller to a third party and set forth on Schedule 1.7(c)(iii) (the "**Tenant Leases**");

(d) all of such Hospital Seller's interest, to the extent assignable or transferable, in and to all contracts and agreements (including, but not limited to, purchase orders) with respect

to the operation of the Hospital of such Hospital Seller that have been designated by Purchaser as a contract to be assumed pursuant to Section 1.11 (the “**Assumed Contracts**”);

(e) other than the Excluded Settlements and Actions (defined below), all claims, rights, interests and proceeds (whether received in cash or by credit to amounts otherwise due to a third party) with respect to amounts overpaid by such Seller to any third party health plans with respect to periods prior to the Effective Time (e.g. such overpaid amounts may be determined by billing audits undertaken by such Seller or such Seller’s consultants), except with respect to any causes of action or proceeds thereof arising under Chapter 5 of the Bankruptcy Code other than with respect to Assumed Contracts and Assumed Leases and other items described in Section 1.8(h);

(f) to the extent assignable or transferable, all inventories of supplies, drugs, food, janitorial and office supplies and other disposables and consumables (i) located at the Hospital of such Seller or (ii) used in the operation of the Hospital of such Seller (the “**Inventory**”) except as set forth in Section 1.8(e);

(g) other than Utility Deposits, all prepaid rentals, deposits, prepayments (excluding prepaid insurance and prepaid taxes) and similar amounts relating to the Assumed Contracts and/or the Assumed Leases, which were made with respect to the operation of the Hospital of such Hospital Seller (the “**Prepays**”);

(h) to the extent assignable or transferrable, all of the following that are not proprietary to such Seller and/or owned by or proprietary to such Hospital Seller’s affiliates: operating manuals, files and computer software with respect to the operation of the Hospital of such Hospital Seller, including, without limitation, all patient records, medical records, employee records, financial records, equipment records, construction plans and specifications, and medical and administrative libraries; *provided, however*, that any patient records and medical records which are not required by law to be maintained by such Hospital Seller as of the Effective Time shall be an Excluded Asset;

(i) to the extent assignable or transferrable (and if leased, to the extent the associated lease is transferrable), including any assignment which is made effective pursuant to the Sale Order where the consent of a third party is required pursuant to the terms of an applicable agreement but not obtained, all systems, servers, computers, hardware, firmware, middleware, telecom equipment, networks, data communications lines, routers, hubs, switches and all other information technology equipment, and all associated documentation owned, leased or licensed by Sellers and used by Sellers with respect to the operations of the Hospitals;

(j) all Measure B trauma funding received after the Signing Date to be paid related to service periods ending on or after the Signing Date (pro rated between Purchaser and Sellers for any such payments covering service periods which include days both before and after the Signing Date based upon the number of days in the relevant payment period before the Signing Date (for the account of Sellers) and after the Signing Date (for the account of Purchaser));

(k) Except for as stated in Section 1.7(j), all accounts and interest thereupon, notes and interest thereupon and other receivables of such Seller, including, without limitation,

accounts, notes or other amounts receivable, disproportionate share payments and all claims, rights, interests and proceeds related thereto, including all accounts and other receivables, and Seller Cost Report settlements related thereto, in each case arising from the rendering of services or provision of goods, products or supplies to inpatients and outpatients at the Hospital of such Seller, billed and unbilled, recorded and unrecorded, for services, goods, products and supplies provided by such Seller prior to the Effective Time whether payable by Medicare, Medicaid, or any other payor (including an insurance company), or any health care provider or network (such as a health maintenance organization, preferred provider organization or any other managed care program) or any fiscal intermediary of the foregoing, private pay patients, private insurance or by any other source (collectively, “**Accounts Receivable**”);

(l) all rights, claims and causes of action of such Seller to the extent related to and/or to the extent arising out of the Accounts Receivable acquired by Purchaser at the Closing;

(m) other than the Excluded Settlements and Actions, all regulatory settlements, rebates, adjustments, refunds or group appeals, including without limitation pursuant to all cost reports filed by Sellers for payment or reimbursement from government payment programs and other payors with respect to periods after the Signing Date;

(n) other than the Excluded Settlements and Actions, all casualty insurance proceeds arising in respect of casualty losses occurring after the Signing Date in connection with the ownership or operation of the Assets;

(o) other than the Excluded Settlements and Actions, all surpluses arising out of any risk pools, shared savings program or accountable care organization arrangement to which any Seller is party on the Closing Date, in each case to the extent Purchaser assumes the underlying contract relating to such risk pools, shared savings program or accountable care organization arrangement;

(p) all transferable unclaimed property of any Person in Sellers’ possession as of the Closing Date, including, without limitation, property which is subject to applicable escheat laws;

(q) to the extent assignable or transferable by Sellers without out-of-pocket expense to Sellers, all warranties (including warranties of any manufacturer or vendor) on or in connection with the Assets (including the Personal Property) in favor of the Hospitals or Sellers;

(r) the right to use the names “St. Francis Medical Center”, “St. Vincent Medical Center”, “Seton Medical Center” and “Seton Medical Center Coastside”, including any trademarks, service marks, trademark and service mark registrations and registration applications, trade names, trade name registrations, logos, domain names, trade dress, copyrights, copyright registrations, website content, know-how, trade secrets and the corporate or company names of Sellers and the names of the Hospitals, together with all rights to sue and recover damages for infringement, dilution, misappropriation or other violation or conflict associated with any of the foregoing; at the Closing, Purchaser will execute and deliver to Sellers the Transition Services Agreement granting to Sellers an unlimited, royalty free, irrevocable license to use any and all of the foregoing solely in connection with the wind-down of the Businesses, the completion of the

Bankruptcy Cases and the dissolution of Sellers (and following completion of such wind-down, Bankruptcy Cases and dissolution of Sellers, such license shall automatically terminate);

(s) all goodwill of the Hospital of such Hospital Seller evidenced by or associated with any of the Assets;

(t) to the extent transferable or assignable, such Hospital Seller's right or interest in the telephone and facsimile numbers and uniform resource locaters used with respect to the operation of the Hospital of such Hospital Seller;

(u) each such Hospital Seller's Medicare and Medi-Cal provider agreements and lockbox account(s) identified on **Schedule 1.7(u)**;

(v) all documents, records, correspondence, work papers and other documents, other than patient records, primarily relating to the Accounts Receivable;

(w) with respect to Verity Holdings, the assets represented by the assessor's parcel numbers (APN's) listed in **Schedule 1.7(w)** hereof (the "**Purchased Verity Holdings Assets**");

(x) except for the Excluded Assets, to the extent assignable or transferable, and subject to the Permitted Exceptions, any other assets owned by such Hospital Seller (which are not otherwise specifically described above in this Section 1.7) that are used in the operation of the Hospital of such Hospital Seller;

(y) all of Seton's interest in and to the PACE Obligations; and

(z) all QAF V and subsequent QAF program payments received after the Closing (e.g., QAF VI and QAF VII).

As used herein, the term "**Permitted Exceptions**" means (i) the Assumed Obligations; (ii) the PACE Obligations; (iii) liens for taxes not yet due and payable (iv) easements, rights of way, zoning ordinances and other similar encumbrances affecting real property; (v) other imperfections of title or encumbrances, if any, which are not monetary in nature and that are not, individually or in the aggregate, material to the business of the Hospital; (vi) any agreements made with any governmental authority in order to obtain any consent or approval, including, without limitation, in connection with the Medicare and Medi-Cal provider agreements; and (vii) other imperfections of title or encumbrances that are expressly identified on **Schedule 1.7** hereof.

1.8 Excluded Assets. Notwithstanding anything to the contrary in Section 1.7, each Seller shall retain all interests, rights and other assets owned directly or indirectly by it (or any of such Seller's affiliates) which are not among the Assets, including, without limitation, the following interests, rights and other assets of such Seller (collectively, the "**Excluded Assets**"):

(a) cash, cash equivalents and short-term investments;

(b) all Seller Plans (defined below) and the assets of all Seller Plans and any asset that would revert to the employer upon the termination of any Seller Plan, including, without limitation, any assets representing a surplus or overfunding of any Seller Plan;

(c) all contracts that are not Assumed Contracts;

(d) all leases that are not Assumed Leases;

(e) the portions of Inventory, Prepaids, and other assets disposed of, expended or canceled, as the case may be, by such Seller after the Signing Date and prior to the Effective Time in the ordinary course of business;

(f) assets owned and provided by vendors of services or goods to the Hospital of such Hospital Seller;

(g) all of such Seller's organizational or corporate record books, minute books, tax returns, tax records and reports, data, files and documents, including electronic data related thereto;

(h) all claims, counterclaims and causes of action of such Seller or such Seller's bankruptcy estate (including parties acting for or on behalf of such Seller's bankruptcy estate, including, but not limited to, the official committee of unsecured creditors appointed in the Bankruptcy Cases), including, without limitation, rights of recovery or set-off of every kind and character against third parties, causes of action arising out of any claims and causes of action under chapter 5 of the Bankruptcy Code and any related claims, counterclaims and causes of action under applicable non-bankruptcy law, and any rights to challenge liens asserted against property of such Seller's bankruptcy estate, including, but not limited to, liens attaching to the Purchase Price paid to such Seller, and the proceeds from any of the foregoing;

(i) other than casualty insurance proceeds described in Section 1.7(m), all insurance policies and contracts and coverages obtained by such Seller or listing such Seller as insured party, a beneficiary or loss payee, including prepaid insurance premiums, and all rights to insurance proceeds under any of the foregoing, and all subrogation proceeds related to any insurance benefits arising from or relating to Assets prior to the Closing Date;

(j) all deposits made with any entity that provides utilities to the Hospital (the "**Utility Deposits**");

(k) all rents, deposits, prepayments, and similar amounts relating to any contract or lease that is not an Assumed Contract or Assumed Lease;

(l) all non-transferrable unclaimed property of any third party as of the Effective Time, including, without limitation, property which is subject to applicable escheat laws;

(m) all other bank accounts of such Sellers not listed on **Schedule 1.7(u)**;

(n) all writings and other items that are protected from discovery by the attorney-client privilege, the attorney work product doctrine or any other cognizable privilege or protection;

(o) the rights of such Seller to receive mail and other communications with respect to Excluded Assets or Excluded Liabilities;

(p) all director and officer insurance;

(q) all tax refunds of such Seller;

(r) all documents, records, operating manuals and film pertaining to the Hospital that the parties agree that such Seller is required by law to retain;

(s) all patient records and medical records which are not required by law to be maintained by such Seller as of the Effective Time;

(t) all documents, records, correspondence, work papers and other patient records that may not be transferred under applicable law, and any other documents, records, or correspondence (including with respect to any employees) that may not be transferred under applicable law;

(u) any rights or documents relating to any Excluded Liability or other Excluded Asset;

(v) any rights or remedies provided to such Seller under this Agreement and each other document executed in connection with the Closing;

(w) any (i) personnel files for employees of such Seller who are not hired by Purchaser; (ii) other books and records that such Seller is required by Law to retain; provided, however, that except as prohibited by Law and subject to Article 5, Purchaser shall have the right to make copies of any portions of such retained books and records that relate to the business of the Hospital as conducted before the Closing or that relate to any of the Assets; (iii) documents which such Seller is not permitted to transfer pursuant to any contractual obligation owed to any third party; (iv) documents primarily related to any Excluded Assets; and (v) documents necessary to prepare tax returns (Purchaser shall be entitled to a copy of such documents). With respect to documents necessary to prepare cost reports, Purchaser shall receive the original document and such Seller shall be entitled to retain a copy of such documents for any period ending on or prior to the Closing Date;

(x) all deposits or other prepaid charges and expenses paid in connection with or relating to any other Excluded Assets;

(y) all rights, claims and causes of action of such Seller to the extent related to and/or to the extent arising out of the receivables identified in **Schedule 1.8(y)** and rights to settlements and retroactive adjustments, if any, whether arising under a Seller Cost Report or otherwise, for any reporting periods ending on or prior to the Effective Time, whether open or closed, arising from or against the United States government under the terms of the Medicare



program or TRICARE (formerly the Civilian Health and Medical Program of the Uniformed Services);

(z) all pre-Closing settlements or settlements pursuant to adversary proceedings in the Bankruptcy Cases, including, without limitation, any proceedings identified in Section 1.8(h) or 1.8(y) (together with the items identified in Section 1.8(h) and 1.8(y), the “**Excluded Settlements and Actions**”);

(aa) for the avoidance of doubt, all QAF IV and QAF V payments actually received prior to the Signing Date;

(bb) all assets of Verity Holdings other than the Purchased Verity Holdings Assets and all assets of any of the tenants located in the leased premises of the purchased Verity Holdings properties; and

(cc) any assets identified in Schedule 1.8(cc).

1.9 Assumed Obligations. On the Closing Date, each Seller shall assign, and Purchaser shall assume and agrees to discharge, perform and satisfy fully, on and after the Effective Time, the following liabilities and obligations of such Seller and only the following liabilities and obligations (collectively, the “**Assumed Obligations**”):

(a) the Assumed Contracts and all liabilities of such Seller under the Assumed Contracts, including related Cure Costs;

(b) the Assumed Leases and all liabilities of such Seller under the Assumed Leases, including related Cure Costs;

(c) all liabilities and obligations arising out of or relating to any act, omission, event or occurrence connected with the use, ownership or operation by Purchaser of the Hospital or any of the Assets on or after the Effective Time;

(d) all accrued vacation and other paid time off, to the extent assumed under Section 1.1(a)(ii);

(e) all liabilities and obligations of such Seller related to the Hired Employees arising on or following the Effective Time;

(f) all unpaid real and personal property taxes, if any, that are attributable to the Assets after the Effective Time, subject to the prorations provided in Section 1.6;

(g) all liabilities and obligations relating to utilities being furnished to the Assets, subject to the prorations provided in Section 1.6;

(h) any documentary, sales and transfer tax liabilities of such Seller incurred as a result of the consummation of the transaction contemplated by this Agreement;

(i) all liabilities or obligations provided for in Section 5.3;

(j) any obligations or liabilities Purchaser may desire or need to assume in order to have the Certifications/Licenses/Permits identified on Schedule 1.7(b) reissued to Purchaser, as well as any liabilities or obligations associated with Sellers' Medicare and Medi-Cal provider agreements, but only to the extent assumed by Purchaser, and any Medi-Cal liabilities or obligations needed to support ongoing Hospital Quality Assurance Fee Program payments; and

(k) any other obligations and liabilities identified in Schedule 1.9(k).

1.10 Excluded Liabilities. Purchaser shall not assume or become responsible for any duties, obligations or liabilities of any Seller that are not assumed by Purchaser pursuant to the terms of this Agreement, the Bill of Sale, the Assumption Agreement or the Real Estate Assignment(s) (the "**Excluded Liabilities**"), and each Seller shall remain fully and solely responsible for all of such Seller's debts, liabilities, contract obligations, expenses, obligations and claims of any nature whatsoever related to the Assets or the Hospital unless assumed by Purchaser under this Agreement, in the Bill of Sale, the Assumption Agreement or in the Real Estate Assignment(s).

1.11 Designation of Assumed Contracts and Assumed Leases.

(a) Except as provided in Section 1.11(b), all contracts and leases will be subject to evaluation by Purchaser for assumption or rejection (collectively "**Evaluated Contracts**"). Not later than seven (7) days prior to the date of the auction for the Assets (i) Purchaser shall notify each Seller in writing of which Evaluated Contracts are to be assumed by such Seller and assigned to Purchaser and (ii) Purchaser shall notify each Seller in writing signed and dated by Purchaser of which Evaluated Contracts are to be rejected by such Seller (collectively, the "**Rejected Contracts**"); provided, that Purchaser shall have the right to designate additional Evaluated Contracts for assumption up to thirty (30) days prior to Closing. Each Seller shall file such motions in the Bankruptcy Court and take such other actions as are reasonably necessary to ensure that final and non-appealable orders are entered (x) assuming and assigning the respective Assumed Contracts or Assumed Leases applicable to such Seller to Purchaser and (y) rejecting the Rejected Contracts. With respect to each Assumed Lease, the applicable Seller shall execute and deliver to Purchaser an Assignment and Assumption of Lease. Notwithstanding anything to the contrary set forth in this Agreement, the Rejected Contracts shall constitute part of the Excluded Assets pursuant to, and as defined in, this Agreement.

(b) At Closing and pursuant to an order of the Bankruptcy Court, each Seller will assume and immediately assign to Purchaser the leases of such Seller for Leased Real Property and the Tenant Leases.

(c) Notwithstanding the foregoing, Purchaser's obligation to consummate the transactions contemplated by this Agreement are not contingent upon the assumption, assignment or rejection of any contract or lease, or on the amount of any payment or other performance needed to cure any default thereunder.

1.12 Disclaimer of Warranties; Release.

(a) THE ASSETS TRANSFERRED TO PURCHASER WILL BE SOLD BY SELLERS AND PURCHASED BY PURCHASER IN THEIR PHYSICAL CONDITION AT THE EFFECTIVE TIME, “AS IS, WHERE IS AND WITH ALL FAULTS AND NONCOMPLIANCE WITH LAWS” WITH NO WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, USAGE, WORKMANSHIP, QUALITY, PHYSICAL CONDITION, OR VALUE, AND ANY AND ALL SUCH OTHER REPRESENTATIONS AND WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED, AND WITH RESPECT TO THE LEASED REAL PROPERTY WITH NO WARRANTY OF HABITABILITY OR FITNESS FOR HABITATION, INCLUDING, WITHOUT LIMITATION, THE LAND, THE BUILDINGS AND THE IMPROVEMENTS. ALL OF THE PROPERTIES, ASSETS, RIGHTS, LICENSES, PERMITS, PRIVILEGES, LIABILITIES, AND OBLIGATIONS OF SELLERS INCLUDED IN THE ASSETS AND THE ASSUMED OBLIGATIONS ARE BEING ACQUIRED OR ASSUMED “AS IS, WHERE IS” ON THE CLOSING DATE AND IN THEIR PRESENT CONDITION, WITH ALL FAULTS. ALL OF THE TANGIBLE ASSETS SHALL BE FURTHER SUBJECT TO NORMAL WEAR AND TEAR AND NORMAL AND CUSTOMARY USE OF THE INVENTORY AND SUPPLIES IN THE ORDINARY COURSE OF BUSINESS UP TO THE EFFECTIVE TIME.

(b) Purchaser acknowledges that Purchaser will be examining, reviewing and inspecting all matters which in Purchaser’s judgment bear upon the Assets, the Sellers, the Hospitals, the business of the Hospitals and their value and suitability for Purchaser’s purposes and is relying solely on Purchaser’s own examination, review and inspection of the Assets and Assumed Obligations. Purchaser releases each Seller and its affiliates from all responsibility and liability regarding the condition, valuation, salability or utility of the business of the Hospitals or the Assets, or their suitability for any purpose whatsoever. Purchaser further acknowledges that the representations and warranties of Sellers contained in ARTICLE 2 of this Agreement are the sole and exclusive representations and warranties made by Sellers to Purchaser (including with respect to the Hospitals, the Assets and the Assumed Obligations) and shall expire, and be of no further force or effect after January 8, 2019 (the period from the Signing Date until January 8, 2019, the “**Final Diligence Period**”), except that the Sale Order Date Representations shall expire, and be of no further force or effect upon the Sale Order Date, and in each case Sellers shall not have any liability in respect of any breach thereof following such expiration.

## ARTICLE 2

### REPRESENTATIONS AND WARRANTIES OF SELLERS

Each Seller hereby represents, warrants and covenants to Purchaser, severally (and not jointly) with respect to such Seller that the following matters are true and correct as of the Signing Date and as of the last day of the Final Diligence Period, except as would not have a material adverse effect upon the Hospitals, taken as a whole (a “**Material Adverse Effect**”) and except as disclosed in the disclosure schedule, as may be amended pursuant to the terms of this Agreement (the “**Disclosure Schedule**”), provided that the representations and warranties set forth in Sections 2.1 (Authorization), 2.2 (Binding Agreement), 2.3 (Organization and Good Standing; No Violation), 2.8 (Compliance with Legal Requirements), 2.9 (Required Consents), 2.11 (Title) and 2.14 (Legal Proceedings) (the “**Sale Order Date Representations**”) shall also be made as of immediately prior to the entry of the Sale Order (the “**Sale Order Date**”):

2.1 Authorization. Such Seller has all necessary corporate power and authority to enter into this Agreement and, subject to Bankruptcy Court approval, to carry out the transactions contemplated hereby.

2.2 Binding Agreement. This Agreement has been duly and validly executed and delivered by such Seller and, assuming due and valid execution by Purchaser, this Agreement constitutes a valid and binding obligation of such Seller enforceable in accordance with its terms subject to (a) applicable bankruptcy, reorganization, insolvency, moratorium and other laws affecting creditors’ rights generally from time to time in effect and (b) limitations on the enforcement of equitable remedies. Except for such corporate actions which have been taken on or before the date hereof, no other corporate action on the part of Sellers is necessary to authorize the execution, delivery and performance of this Agreement and the transactions contemplated hereby and thereby.

2.3 Organization and Good Standing; No Violation.

(a) Such Seller is an entity duly organized, validly existing and in good standing under the laws of the State of California. Such Seller has all necessary power and authority to own, operate and lease its properties and to carry on its businesses as now conducted.

(b) Neither the execution and delivery by such Seller of this Agreement nor the consummation of the transactions contemplated hereby by such Seller nor compliance with any of the material provisions hereof by such Seller, will violate, conflict with or result in a breach of any material provision of such Seller’s articles of incorporation or bylaws or any other organizational documents of such Seller.

2.4 Contracts. Except as set forth in Schedule 2.4, upon entry of the Sale Order and Purchaser’s payment of the Cure Costs, to Seller’s knowledge, Seller is not in material breach or default of the Assumed Contracts or Assumed Leases. No provision of this Section 2.4 shall apply to any failure to obtain consents to the assignment of the Assumed Contracts and Assumed Leases from third parties to the Assumed Contracts and Assumed Leases for which consent is required to

assign the Assumed Contracts and Assumed Leases to Purchaser (the “**Contract and Lease Consents**”).

2.5 Brokers and Finders. Except as set forth on Schedule 2.5, neither such Seller nor any affiliate thereof, nor any officer or director thereof, have engaged or incurred any liability to any finder, broker or agent in connection with the transactions contemplated hereunder.

2.6 Seller Knowledge. References in this Agreement to “Sellers’ knowledge or “the knowledge of Sellers” means the actual knowledge of the Chief Executive Officer or Chief Financial Officer of the applicable Seller, without independent research. No constructive or imputed knowledge shall be attributed to any such individual by virtue of any position held, relationship to any other Person or for any other reason.

2.7 Non-Contravention. Neither the execution and delivery by Sellers of this Agreement and each Ancillary Agreement nor performance of any of the material provisions hereof by Sellers, will violate, conflict with or result in a breach of any material provisions of the articles of incorporation or bylaws of Sellers.

2.8 Compliance with Legal Requirements. Except as set forth in Schedule 2.8, to the knowledge of Sellers: each Seller, with respect to the operation of the Hospitals, is in material compliance with all applicable laws, statutes, ordinances, orders, rules, regulations, policies, guidelines, licenses, certificates, judgments or decrees of all judicial or governmental authorities (federal, state, local, foreign or otherwise) (collectively, “**Legal Requirements**”). Except as set forth in Schedule 2.8, to the knowledge of Sellers, none of the Sellers, with respect to the operation of the Hospitals, has been charged in writing with or been given written notice of or is under investigation with respect to, any material violation of, or any obligation to take material remedial action under, any applicable Legal Requirements.

2.9 Required Consents. Except as set forth in Schedule 2.9, and other than in connection with any Licenses, any provider agreements (including any such agreements with a governmental authority) and the CA AG (defined below), Sellers are not a party to or bound by, nor are any of the Assets subject to, any mortgage, or any material lien, deed of trust, material lease, or material contract or any material order, judgment or decree which, after giving effect to the Sale Order (a) will require the consent of any third party to the execution of this Agreement or (b) will require the consent of any third party to consummate the transactions contemplated by this Agreement.

2.10 Environmental Matters.

(a) Sellers have provided Purchasers with the Phase I Environmental Site Assessments set forth in said Schedule 2.10(a).

(b) Except as disclosed in Schedule 2.10(b), to the knowledge of Sellers, the operations of the Hospitals are not in material violation of any applicable limitations, restrictions, conditions, standards, prohibitions, requirements and obligations of Environmental Laws and related orders of any court or any other governmental authority.

(c) For the purposes of this Section, the term “**Environmental Laws**” shall mean all state, federal or local laws, ordinances, codes or regulations relating to Hazardous Substances or to the protection of the environment, including, without limitation, laws and regulations relating to the storage, treatment and disposal of medical and biological waste. For purposes of this Agreement, the term “**Hazardous Substances**” shall mean (i) any hazardous or toxic waste, substance, or material defined as such in (or for the purposes of) any Environmental Laws, (ii) asbestos-containing material, (iii) medical and biological waste, (iv) polychlorinated biphenyls, (v) petroleum products, including gasoline, fuel oil, crude oil and other various constituents of such products, and (vi) any other chemicals, materials or substances, exposure to which is prohibited, limited or regulated by any Environmental Laws.

2.11 Title. Prior to December 21, 2018, Sellers have delivered at their own expense (i) for all the Real Property preliminary title reports issued by First American Title Insurance Company (the “**Title Commitments**”), (ii) for all of the Real Property all underlying title documents listed on the Title Commitments (the “**Underlying Title Documents**”), and (iii) for all of the Hospitals an as-built ALTA Surveys (the “**Surveys**”, and collectively with the Title Commitment and the Underlying Title Documents, the “**Title Documents**”).

2.12 Certain Other Representations with Respect to the Hospitals.

(a) Except as set forth in Schedule 2.12, all Licenses which are material and necessary to the operation of the Hospitals or the Hospitals by Sellers are valid and in good standing and Sellers are in compliance with the terms and conditions of all such Licenses in all material respects, in each case except where the failure to be valid and in good standing or in compliance would not have a material adverse effect on the Assets or the Hospitals. Except as set forth in Schedule 2.12, as of the Closing Date Sellers will have any and all material Licenses required under Legal Requirements to conduct the Hospitals as presently conducted by Sellers, except where the failure to have any such License would not have a material adverse effect on the Assets or the Hospitals. To the knowledge of Sellers, no loss or expiration of any License is pending or threatened.

(b) Sellers are certified for participation in the Medicare, Medi-Cal and TRICARE programs and any other federal or state health care reimbursement programs in which they participate, and have current and valid provider agreements with each such program, except where the failure to be so certified or have such provider agreements would not have a material adverse effect.

(c) Sellers have not been excluded from Medicare, Medi-Cal or any federal or state health care reimbursement program, and, to the knowledge of Sellers, there is no pending or threatened exclusion action by a governmental authority against Sellers.

2.13 Financial Statements.

(a) Schedule 2.13(a) hereto contains the following financial statements (the “Historical Financial Statements”): (i) the unaudited balance sheets of the Sellers as of June 30,

2018; (ii) unaudited income statements of the Sellers for the twelve-month periods ended June 30, 2018; (iii) the audited consolidated income statements of Sellers for the years ended 2016 and 2017; and (iv) the unaudited consolidated balance sheet of Sellers as of June 30, 2018.

(b) the income statements contained in the Historical Financial Statements present, fairly in all material respects the results of the operations of the Sellers as of and for the periods covered therein and, except as set forth on Schedule 2.13(b), the balance sheets contained in the Historical Financial Statements (i) are true, complete and correct in all material respects; (ii) present, fairly in all material respects the financial condition of the Sellers as of the dates indicated thereon; and (iii) to the extent prepared by an independent certified public accounting firm, have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods covered, except as disclosed therein.

2.14 Legal Proceedings. Except as set forth on Schedule 2.14, and except for any and all cases and/or pleadings filed or to be filed in the Bankruptcy Court, which shall be available through Sellers' claims and noticing agent's website at <http://www.kcclcc.com/VERITYHEALTH/>, to the knowledge of Sellers, there are no material claims, proceedings or investigations pending or threatened with respect to the ownership of the Assets or the operation of the Hospitals or the Hospitals by Sellers before any governmental authority. Except as set forth on Schedule 2.14, and other than any action or proceeding brought in the Bankruptcy Court, to the knowledge of Sellers, Sellers are not subject to any government order with respect to the ownership or operation by Sellers of the Hospitals or the other Assets or the Hospitals and are in substantial compliance with respect to each such government order.

2.15 Employee Benefits. Schedule 2.15(a) contains a list of (i) each pension, profit sharing, bonus, deferred compensation, or other retirement plan or arrangement of Seller with respect to the operation of the Hospital, whether oral or written, which constitutes an "employee pension benefit plan" as defined in Section 3(2) of ERISA, (ii) each medical, health, disability, insurance or other plan or arrangement of Seller with respect to the operation of the Hospital, whether oral or written, which constitutes an "employee welfare benefit plan" as defined in Section 3(1) of ERISA, and (iii) each other employee benefit or perquisite provided by Seller with respect to the operation of the Hospital, in which any employee of Seller participates in his capacity as such (collectively, the "**Seller Plans**").

2.16 Personnel. Schedule 2.16 sets forth a complete list (as of the date set forth therein) of names, positions and current annual salaries or wage rates and scheduled bonus, and the accrued paid time off pay of all employees of Sellers (including employees of the Hospitals and employees of Verity and Verity Holdings) immediately prior to December 21, 2018, whether such employees are full time employees, part-time employees, on short-term or long-term disability or on leave of absence pursuant to Sellers's policies, the Family and Medical Leave Act of 1993 or other similar Legal Requirements (the "**Hospital Employees**") and indicating whether the Hospital Employee is full-time or part-time. Sellers shall have the right to update to Schedule 2.16(a) to reflect changes in employment status or new hires and terminations occurring after December 21, 2018 by providing a revised schedule to Purchase no later than five (5) Business Days before the date scheduled for the Closing. Insurance. Schedule 2.17 contains a list of all material insurance maintained by Sellers with respect to the Assets and the Businesses, as of the Signing Date.

2.18 Accounts Receivable. To the knowledge of Sellers, all Accounts Receivable included in the Assets at Closing result from the bona fide provision of products or services in the ordinary course of business. All Sellers Accounts Receivable are currently deposited, either electronically or manually, into the bank accounts listed on Schedule 4.25(b).

2.19 Payer Contracts. To the knowledge of Sellers, and subject to Section 365 of the Bankruptcy Code, Schedule 2.19 sets forth a complete list of all written contracts with private third party payers including insurance companies and HMOs (“**Payer Contracts**”). Sellers have provided Purchasers with a true and correct copy of all material Payer Contracts, whether or not entered into in the ordinary course of business, or otherwise required to be disclosed on Schedule 2.20, in each case together with all amendments thereto.

2.20 Excluded Individuals. Except as set forth on Schedule 2.20, to the knowledge of Sellers: neither Sellers, Hospitals nor any director, officer or employee of Sellers or Hospitals (a) was, is or is proposed to be, suspended, excluded from participation in, or sanctioned under, any federal or state health care program (including, without limitation, Medicare and Medicaid) (an “**Excluded Individual**”); (b) has been convicted of any criminal offense related to the delivery of any medical or health care services or supplies, or related to the neglect or abuse of patients; (c) has failed to maintain its current License to provide the services required to be provided by it to or on behalf of Sellers and Hospitals; or (d) is unable to obtain or maintain liability insurance consistent with commercially reasonable industry practices.

### ARTICLE 3

#### REPRESENTATIONS AND WARRANTIES OF PURCHASER

As an inducement to Sellers to enter into this Agreement and to consummate the transactions contemplated by this Agreement, Purchaser hereby represents, warrants and covenants to Sellers as to the following matters as of the Signing Date and, except as otherwise provided herein, shall be deemed to remake all of the following representations, warranties and covenants as of the Closing Date:

3.1 Authorization. Purchaser has full power and authority to enter into this Agreement and has full power and authority to perform its obligations hereunder and to carry out the transactions contemplated hereby. No additional internal consents are required in order for Purchaser to perform its obligations and agreements hereunder.

3.2 Binding Agreement. This Agreement has been duly and validly executed and delivered by Purchaser and, assuming due and valid execution by Sellers, this Agreement constitutes a valid and binding obligation of Purchaser enforceable in accordance with its terms subject to (a) applicable bankruptcy, reorganization, insolvency, moratorium and other laws affecting creditors’ rights generally from time to time in effect and (b) limitations on the enforcement of equitable remedies.

3.3 Organization and Good Standing. Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of California, is or will be duly



authorized to transact business in the State of California, and has full power and authority to own, operate and lease its properties and to carry on its business as now conducted.

3.4 No Violation. Except as set forth in Schedule 3.4, neither the execution and delivery by Purchaser of this Agreement nor the consummation of the transactions contemplated hereby nor compliance with any of the material provisions hereof by Purchaser will (a) violate, conflict with or result in a breach of any material provision of the Articles of Incorporation, Bylaws or other organizational documents of Purchaser or any contract, lease or other instrument by which Purchaser is bound; (b) require any approval or consent of, or filing with, any governmental agency or authority, (c) violate any law, rule, regulation, or ordinance to which Purchaser is or may be subject, (d) violate any judgment, order or decree of any court or other governmental agency or authority to which Purchaser is subject.

3.5 Brokers and Finders. Neither Purchaser nor any affiliate thereof nor any officer or director thereof has engaged any finder or broker in connection with the transactions contemplated hereunder.

3.6 Representations of Sellers. Purchaser acknowledges that it is purchasing the Assets on an "AS IS, WHERE IS" basis (as more particularly described in Section 1.12), and that Purchaser is not relying on any representation or warranty (expressed or implied, oral or otherwise) made on behalf of any Seller other than as expressly set forth in this Agreement. Purchaser further acknowledges that no Seller is making any representations or warranties herein relating to the Assets or the operation of the Hospital on and after the Effective Time.

3.7 Legal Proceedings. Except as described on Schedule 3.7, there are no claims, proceedings or investigations pending or, to the best knowledge of Purchaser, threatened relating to or affecting Purchaser or any affiliate of Purchaser before any court or governmental body (whether judicial, executive or administrative) in which an adverse determination would materially adversely affect the properties, business condition (financial or otherwise) of Purchaser or any affiliate of Purchaser or which would adversely affect Purchaser's ability to consummate the transactions contemplated hereby. Neither Purchaser nor any affiliate of Purchaser is subject to any judgment, order, decree or other governmental restriction specifically (as distinct from generically) applicable to Purchaser or any affiliate of Purchaser which materially adversely affects the condition (financial or otherwise), operations or business of Purchaser or any affiliate of Purchaser or which would adversely affect Purchaser's ability to consummate the transactions contemplated hereby.

3.8 No Knowledge of a Seller's Breach. Neither Purchaser nor any of its affiliates has knowledge of any breach of any representation or warranty by any Seller or of any other condition or circumstance that would give Purchaser a right to terminate this Agreement pursuant to Section 9.1(c). If information comes to Purchaser's attention on or before the Closing Date (whether through a Seller or otherwise and whether before or after the Signing Date) which indicates that Sellers have breached any of its representations and warranties under this Agreement, then the effect shall be as if the representations and warranties had been modified in this Agreement in accordance with the actual state of facts existing prior to the Effective Time such that there will be no breach under Sellers' representations and warranties in relation to such information; *provided, however*, that Purchaser must immediately notify Sellers if any such breach comes to its attention

on or before the Closing Date, and Purchaser's failure to so notify Sellers shall constitute a waiver by Purchaser of Sellers' breach, if any, of any representation or warranty. If any such information comes to Purchaser's attention on or before the Closing Date (whether through a Seller or otherwise, including through updated schedules, and whether before or after the Signing Date) that would give Purchaser a right to terminate this Agreement pursuant to Section 9.1(c), Purchaser must immediately notify Sellers if any such information comes to its attention on or before the Closing Date, and Purchaser's failure to so notify Sellers shall constitute a waiver of such right in relation to the relevant breach.

3.9 Ability to Perform. Purchaser has the ability to obtain funds in cash in amounts equal to the Purchase Price by means of credit facilities or otherwise 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.

3.10 Purchaser Knowledge. References in this Agreement to "Purchaser's knowledge" or "the knowledge of Purchaser" means the actual knowledge of the Chief Executive Officer, Chief Financial Officer or Chief Operating Officer of Purchaser, without independent research. No constructive or imputed knowledge shall be attributed to any such individual by virtue of any position held, relationship to any other Person or for any other reason.

3.11 Investigation. Purchaser has been afforded reasonable access to, and has been provided adequate time to review, the books, records, information, operations, facilities and personnel of each Seller and the Hospital for purposes of conducting a due diligence investigation of each Seller and the Hospital. Purchaser has conducted a reasonable due diligence investigation of each Seller and the Hospital and has received satisfactory answers to all inquiries it has made respecting each Seller and the Hospital and has received all information it considers necessary to make an informed business evaluation of each Seller and the Hospital. In connection with its due diligence investigation of each Seller and the Hospital, Purchaser has not relied upon any books, records, information, operations, facilities and personnel provided by any Seller, including in making its determination to enter into this Agreement and/or consummate the transactions contemplated hereby.

## ARTICLE 4

### COVENANTS OF SELLERS

#### 4.1 Access and Information; Inspections.

4.1.1 From the Signing Date through the Effective Time, (a) each Seller shall afford to the officers and agents of Purchaser (which shall include accountants, attorneys, bankers and other consultants and authorized agents of Purchaser) reasonable access during normal business hours at Seller's corporate headquarters in El Segundo, California to, and the right to inspect, the books, accounts, records and all other relevant documents and information with respect to the assets, liabilities and business of the Hospital of such Seller and the plant and property of the Hospital of such Seller at the Hospital of such Seller and (b) each Seller shall furnish Purchaser with such additional financial and operating data and other information in such Seller's possession

as to businesses and properties of the Hospital of such Seller as Purchaser or its representatives may from time to time reasonably request; *provided, however*, that such Seller is not obligated to disclose information which is proprietary to such Seller and would not be essential to the ongoing operation of the Hospital of such Seller by Purchaser; *provided, further*, that all disclosures of information shall be consistent with the confidentiality agreements and any other non-disclosure agreements entered into (or to be entered into) among Purchaser, its representatives and such Seller. Purchaser's right of access and inspection shall be exercised in such a manner as not to interfere unreasonably with the operations of any Seller or the Hospital.

4.1.2 Notwithstanding anything contained herein, no Seller shall be required to provide Purchaser or its representatives or agents access to or disclose information where such access or disclosure would violate the rights of its patients, jeopardize the attorney-client or similar privilege with respect to such information or contravene any law, judgment, fiduciary duty or contract entered into prior to or on the date of this Agreement with respect to such information.

#### 4.2 Cooperation.

4.2.1 Each Seller shall reasonably cooperate with Purchaser and its authorized representatives and attorneys: (a) in Purchaser's efforts to obtain all consents, approvals, authorizations, clearances and licenses required to carry out the transactions contemplated by this Agreement (including, without limitation, those of governmental and regulatory authorities) or which Purchaser reasonably deems necessary or appropriate, (b) in the preparation of any document or other material which may be required by any governmental agency as a predicate to or result of the transactions contemplated in this Agreement, and (c) in Purchaser's efforts to effectuate the assignment of Assumed Contracts to Purchaser as of the Closing Date. Except as may be otherwise requested by a Seller in order to comply with applicable law or regulatory guidance, notwithstanding anything contained herein, other than Bankruptcy Court orders and authorizations, it shall be Purchaser's sole responsibility (including payment of any fees, expenses, filings costs or other amounts) to obtain the Contract and Lease Consents, as well as all governmental consents, approvals, assignments, authorizations, clearances and licenses required to (x) carry out the transactions contemplated by this Agreement, including but not limited to medical licenses and/or (y) transfer any of the Assets, including any Licenses. To the extent Purchaser needs certain information and data which is in the possession of a Seller in order for Purchaser to complete Purchaser's license and permit approval applications, Purchaser shall receive, upon request, reasonable assistance from such Seller in connection with the provision of such information.

4.2.2 Notwithstanding any provision to the contrary contained in this Agreement (including Section 8.7), no Seller shall be obligated to obtain the approval or consent to the assignment, to Purchaser, of any Assumed Contracts or Assumed Leases, from any party to any of the Assumed Contracts or Assumed Leases even if any such contract or lease states that it is not assignable without such party's consent.

4.3 Other Bidders. Purchaser expressly acknowledges and agrees that each Seller has an obligation to seek out and determine the best and highest offer reasonably available for such

Seller's assets in accordance with the Bankruptcy Code, and nothing herein shall amend, modify, alter, diminish or affect such obligation.

4.4 Sellers' Efforts to Close. Each Seller shall use its reasonable commercial efforts to satisfy all of the conditions precedent set forth in ARTICLE 7 and ARTICLE 8 to its or Purchaser's obligations under this Agreement to the extent that such Seller's action or inaction can control or materially influence the satisfaction of such conditions; provided, however, that such Seller shall not be required to pay or commit to pay any amount to (or incur any obligation in favor of) any person (other than filing or application fees).

4.5 Termination Cost Reports. Each Seller shall file all Medicare, Medi-Cal and any other termination cost reports required to be filed as a result of the consummation of (a) the transfer of the Assets of such Seller to Purchaser and (b) the transactions contemplated by this Agreement with respect to such Seller, provided that Purchaser shall fund reasonable costs and expenses of preparation, filing and audit of such reports. Purchaser shall permit each Seller access to all Hospital books and records to prepare such reports and shall assist such Seller in the process of preparing, filing, and reviewing the termination cost reports. All such termination cost reports shall be filed by the applicable Seller in a manner that is consistent with current laws, rules and regulations. Each Seller shall be responsible for filing governmental cost reports for the period of January 1, 2019 through the Closing Date. Purchaser shall be responsible for its own cost report filings relating to the Hospitals beginning on the day immediately following the Effective Time.

4.6 Conduct of the Business. From the Signing Date until the Closing, or the earlier termination of this Agreement, without the prior written consent of Purchaser, Sellers shall, with respect to the ownership of the Assets and the operation of the Hospitals, use commercially reasonable efforts to, in each case except as would not have a Material Adverse Effect (except as otherwise noted):

(a) without regard to Material Adverse Effect, carry on Sellers' ownership of the Assets and the operation of the Hospitals consistent with past practice, but subject to the Bankruptcy Cases and Sellers' obligations and actions in connection therewith;

(b) maintain in effect the insurance and equipment replacement coverage with respect to the Assets;

(c) if and as permitted by the Bankruptcy Court, pay any bonuses payable under the Key Employee Retention Plan and Key Employee Incentive Plan of Sellers;

(d) maintain the Assets in materially the same condition as at present, ordinary wear and tear excepted;

(e) perform its obligations under all contracts with respect to the Assets in compliance with the Bankruptcy Code;

(f) following entry of the Sale Order, permit and allow reasonable access by Purchaser and its representatives (which shall include the right to send written materials, all of which shall be subject to Sellers' reasonable approval prior to delivery) to make offers of post-

Closing employment to any of Sellers' personnel (including access by Purchasers and their representatives for the purpose of conducting open enrollment sessions for Purchasers' employee benefit plans and programs) and to establish relationships with physicians, medical staff and others having business relations with Sellers;

(g) with respect to material deficiencies, if any, cited by any governmental authority (other than the Attorney General of the State of California and other than with respect to Seismic requirements) or accreditation body in the most recent surveys conducted by each, cure or develop and timely implement a plan of correction that is acceptable to such governmental authority or such accreditation body;

(h) timely file or cause to be filed all material reports, notices and tax returns required to be filed and pay all required taxes as they come due;

(i) without regard to Material Adverse Effect, beginning on February 21, 2019 and in accordance with the Sellers' budget under their debtor in possession financing, timely pay any fees that are or become due and payable under QAF IV and QAF V;

(j) comply in all material respects with all Legal Requirements (including Environmental Laws) applicable to the conduct and operation of the Hospitals; and

(k) without regard to Material Adverse Effect, maintain all material approvals, permits and environmental permits relating to the Hospitals and the Assets.

4.7 Contract With Unions. Representatives of Sellers who are parties to collective bargaining agreements and Purchaser shall meet and confer from time to time as reasonably requested by either party to discuss strategic business options and alternative approaches in negotiating each collective bargaining agreement. The applicable Sellers and Purchaser shall each participate in all union negotiations related to any specific collective bargaining agreement. Promptly following the Signing Date, applicable Sellers shall use commercially reasonable efforts to initiate discussions with Purchaser and conduct discussions to renegotiate each collective bargaining agreement currently in effect with each applicable union. The applicable Sellers will not unreasonably withhold, condition or delay approval or implementation of any successfully renegotiated collective bargaining agreement. The parties recognize that an applicable Seller's failure to secure a modification to any collective bargaining agreement, or to conclude a successor collective bargaining agreement shall not be a breach of Sellers' obligation under this Agreement, provided that if the unions refuse to negotiate, or otherwise are not timely, reasonable or realistic in renegotiating, the collective bargaining agreements during the period between the Signing Date and the Closing Date, Sellers and Purchaser will jointly consider, and negotiate mutually in good faith, alternative approaches that may be available and/or necessary to reduce Sellers' labor cost structure, including, but not limited to, seeking to reject the collective bargaining agreement(s).

## ARTICLE 5

### COVENANTS OF PURCHASER

5.1 Purchaser's Efforts to Close. Purchaser shall use its reasonable commercial efforts to satisfy all of the conditions precedent set forth in ARTICLE 7 and ARTICLE 8 to its or Sellers' obligations under this Agreement to the extent that Purchaser's action or inaction can control or materially influence the satisfaction of such conditions. Prior to consummation of the transactions contemplated hereby or the termination or expiration of this Agreement, Purchaser shall be permitted to communicate and meet with (a) counter-parties to the agreements and contracts of the Hospitals, included those included in Assumed Obligations, regarding the terms and conditions under which they may be assumed and assigned to Purchaser, and (b) applicable governmental and regulatory authorities regarding prospective compliance with regulatory requirements and related issues; so long as, in the case of each of (a) and (b) (i) such communications and meetings do not interfere with the operation of the Businesses or the conduct of the Bankruptcy Cases and (ii) any communications or meetings with any governmental authority are approved in advance by Sellers as to timing and content (and Sellers are copied on such communications and afforded the opportunity to participate in such meetings).

5.2 Required Governmental Approvals.

(a) Purchaser, at its sole cost and expense (a) shall use its best efforts to secure, as promptly as practicable before the Closing Date, all consents, approvals (or exemptions therefrom), authorizations, clearances and licenses required to be obtained from governmental and regulatory authorities in order to carry out the transactions contemplated by this Agreement and to cause all of its covenants and agreements to be performed, satisfied and fulfilled (and provide Sellers copies of all materials relating to such consents, approvals, authorizations, clearances and licenses upon submission and all materials received from third parties in connection with such consents, approvals, authorizations, clearances and licenses upon receipt), and (b) will provide such other information and communications to governmental and regulatory authorities as any Seller or such authorities may reasonably request. Purchaser will provide Sellers periodic and timely updates regarding all such consents, approvals, authorizations, clearances and licenses. Purchaser is responsible for all filings with and requests to governmental authorities necessary to enable Purchaser to operate the Hospital at and after the Effective Time. Purchaser shall, promptly, but no later than thirty (30) business days after the entry of the Sale Order or sooner if required by applicable governmental or regulatory authorities, file all applications, licensing packages and other similar documents with all applicable governmental and regulatory authorities which are a prerequisite to obtaining the material licenses, permits, authorizations and provider numbers described in Section 8.1. Purchaser shall be entitled, but not obligated, to obtain the Contract and Lease Consents. Purchaser shall be entitled, but not obligated, to solicit and obtain estoppel certificates from any third party to any Leased Real Property. Purchaser's failure to obtaining any or all of the Contract and Lease Consents or estoppel certificates as of the Closing Date shall not be a condition precedent to either party's obligation to close the transactions contemplated by this Agreement.

(b) Purchaser and Sellers agree that because the change of ownership and regulatory approval process in connection with the transactions contemplated by this Agreement may take an extended period of time, Purchaser and Sellers agree to an initial closing effective upon the approval of the court and upon the approval of the transaction by the CA AG (as defined below) in accordance with Sections 7.5 and 8.6, at which time the Assets (less the portion of the Assets constituting drugs or other pharmacy assets) will be sold to Purchaser and immediately leased back

to Sellers, with a concurrent management agreement entered into at that time upon terms mutually agreeable to the parties in their reasonable business judgment. The Sale Leaseback Agreement and Interim Management Agreement will terminate at the Closing when the Purchaser is issued the Licenses necessary to operate the Hospitals directly (namely, the Hospital Licenses and pharmacy permits).

### 5.3 Certain Employee Matters.

(a) Purchaser agrees to make offers of employment, effective as of the Effective Time, to substantially all persons (whether such persons are full time employees, part-time employees, on short-term or long-term disability or on leave of absence, military leave or workers compensation leave) (the “**Hospital Employees**”) who, immediately prior to the Effective Time are: (i) employees of any Seller; (ii) employees of any affiliate of any Seller which employs individuals at the Hospital and are listed on Schedule 5.3; or (iii) employed by an affiliate of any Seller and are listed on Schedule 5.3. For the avoidance of doubt, the Hospital Employees shall not include any employees of Verity or any other affiliate of Seller unless such individual is listed on Schedule 5.3. Any of the Hospital Employees who accept an offer of employment with Purchaser as of or after the Effective Time shall be referred to in this Agreement as the “**Hired Employees**.” All employees who are Hired Employees shall cease to be employees of the applicable Seller or its affiliates as of the Effective Time.

(b) Purchaser shall give all Hired Employees full credit for paid time off pay to such employees as of the Closing Date by crediting such employees the time off reflected in the employment records of the applicable Seller and/or any of its affiliates immediately prior to the Effective Time, subject to compliance with applicable law and regulation, including consent of such employees if required.

(c) After the Closing Date, Purchaser’s human resources department will give reasonable assistance to each Seller and its affiliates with respect to such Seller’s and such Seller’s affiliates’ post-Closing administration of such Seller’s and such Seller’s affiliates’ pre-Closing employee benefit plans for the Hospital Employees. Within five (5) days after the Closing Date, Purchaser shall provide to each Seller a list of all the Hospital Employees who were offered employment by Purchaser but refused such employment along with a list of all Hired Employees (which such list Purchaser shall periodically update).

(d) With respect to any collective bargaining agreements or labor contract with respect to any employees, Purchaser shall comply with the applicable laws and bankruptcy court orders relating to collective bargaining agreements or labor contracts.

(e) The provisions of this Section 5.3 are solely for the benefit of the parties to this Agreement, and no employee or former employee or any other individual associated therewith or any employee benefit plan or trustee thereof shall be regarded for any purpose as a third party beneficiary of this Agreement, and nothing herein shall be construed as an amendment to any employee benefit plan for any purpose.

5.4 Excluded Assets. As soon as practicable after the Closing Date, Purchaser shall deliver to each Seller or such Seller’s designee any Excluded Assets of such Seller found at the

Hospital on and after the Effective Time, without imposing any charge on any Seller for Purchaser's storage or holding of same on and after the Effective Time.

5.5 Waiver of Bulk Sales Law Compliance. Purchaser hereby waives compliance by Sellers with the requirements, if any, of Article 6 of the Uniform Commercial Code as in force in any state in which the Assets are located and all other laws applicable to bulk sales and transfers.

5.6 Attorney General. Promptly after entry of the Sale Order, but in any event within ten (10) calendar days, Purchaser shall, at its sole cost and expense, make any notices or other filings with the Attorney General of the State of California (the "CA AG"). Each Seller shall reasonably cooperate with Purchaser in such notices or other filings.

5.7 Conduct Pending Closing. Prior to consummation of the transactions contemplated hereby or the termination or expiration of this Agreement pursuant to its terms, unless Sellers shall otherwise consent in writing, Purchaser shall not take any action or fail or omit to take any action which would cause any of Purchaser's representations and warranties set forth in ARTICLE 4 to be inaccurate or untrue as of the Closing.

5.8 Cure Costs. Purchaser, upon assumption, shall pay the Cure Costs for each Assumed Contract and Assumed Lease so that each such Assumed Contract and Assumed Lease may be assumed by the applicable Seller and assigned to Purchaser in accordance with the provisions of section 365 of the Bankruptcy Code. For purposes of this Agreement, "**Cure Costs**", means all amounts that must be paid and all obligations that otherwise must be satisfied, including pursuant to Sections 365(b)(1)(A) and (B) of the Bankruptcy Code in connection with the assumption and/or assignment of the Assumed Contracts and Assumed Leases to Purchaser as provided herein.

5.9 Operating Covenant. Purchaser shall act in good faith and use Purchaser's commercially reasonable efforts to serve the medical needs of each Hospital's service area.

5.10 HSR Filing. Purchaser and each Seller will as promptly as practicable, and in any event no later than five business days after the date of the Sale Order, file with the Federal Trade Commission and the Department of Justice the notification and report forms required for the transactions contemplated hereby and any supplemental information that may be reasonably requested in connection therewith pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "**HSR Act**"), which notification and report forms and supplemental information will comply in all material respects with the requirements of the HSR Act. Purchaser shall pay all filing fees required with respect to the notification, report and other requirements of the HSR Act. Each of Purchaser and Sellers shall furnish to the other such information and assistance as the other shall reasonably requires in connection with the preparation and submission to, or agency proceedings by, any governmental authority under the HSR Act, and each of Purchaser and Sellers shall keep the other promptly apprised of any communications with, and inquires or requests for information from, such governmental authorities. Purchaser shall take such action (including divestitures or hold separate arrangements) as may be required by any governmental authority in order to resolve with the minimum practicable delay any objections such governmental authorities may have to the transactions contemplated by this Agreement under the HSR Act.



5.11 Contract with Unions. Representatives of Sellers who are parties to collective bargaining agreements and Purchaser shall meet and confer from time to time as reasonably requested by either party to discuss strategic business options and alternative approaches in negotiating each collective bargaining agreement. The applicable Sellers and Purchaser shall each participate in all union negotiations related to any specific collective bargaining agreement. Promptly following the Signing Date, applicable Sellers shall use commercially reasonable efforts to initiate discussions with Purchaser and conduct discussions to renegotiate each collective bargaining agreement currently in effect with each applicable union. The applicable Sellers will not unreasonably withhold, condition or delay approval or implementation of any successfully renegotiated collective bargaining agreement to be assumed by Purchaser. The parties recognize that an applicable Seller's failure to secure a modification to any collective bargaining agreement, or to conclude a successor collective bargaining agreement shall not be a breach of Sellers' obligation under this Agreement. In addition, Sellers may, in their discretion, seek to reject any or all of the collective bargaining agreement(s).

## ARTICLE 6

### SELLERS' BANKRUPTCY AND BANKRUPTCY COURT APPROVAL

#### 6.1 Bankruptcy Court Approval; Overbid Protection and Break-Up Fee.

(a) Sellers and Purchaser acknowledge that this Agreement and the sale of the Assets and the assumption and assignment of the Assumed Contracts and Assumed Leases are subject to Bankruptcy Court approval, and that this Agreement is subject to termination in its entirety in the event any Seller receives a better and higher offer for the Assets in accordance with the Bankruptcy Code and subject to the terms stated herein.

(b) Promptly following the execution of this Agreement by all parties, the Seller shall file a motion with the Bankruptcy Court (the "**Sales Procedures Motion**"), the content of which shall be subject to the reasonable approval by Purchaser, for entry of an order approving bid procedures and overbid protections containing substantially the following terms and conditions:

(1) the Seller shall not accept any offer to sell the Assets subject to this Agreement ("**Overbid**") to another purchaser ("**Overbidder**") unless that offer exceeds the Purchase Price by an amount sufficient to pay the Break-Up Fee and such offer includes the purchase of substantially all Assets subject of this Agreement;

(2) in the event that an overbidder (and not the Purchaser) is the successful bidder for the purchase of the Assets (the "**Alternate Transaction**") and the Alternative Transaction is approved by the Bankruptcy Court, (a) the Deposit, and any interest earned thereon, shall be returned to Purchaser immediately upon the entry of such sale order, and (b) Purchaser shall be paid a break-up fee of three and one-half percent (3.25%) of the Cash Consideration (\$19,825,000.00) plus reimbursement of reasonably documented reasonable costs and expenses incurred by Purchaser related to its due diligence, and pursuing, negotiating, and documenting the transactions contemplated by this Agreement in an amount not to exceed \$2,000,000.00 (the "**Break-Up Fee**"); provided, however, that in the event that

the Purchaser is successful as to some but not all of the Assets, the Break-Up Fee shall be reduced pro rata to the percentage of Assets not actually purchased by the Purchaser, based on the allocation of the Purchase Price as described in Section 1.1(a)(i), as compared to the Assets which were the subject of this Agreement; in the event that Purchaser terminates this Agreement in accordance with Section 8.6 hereof, expenses of Purchaser incurred in satisfaction of Section 8.6 shall be reimbursed up to \$500,000; and

(3) The Break-Up Fee shall be deemed to be an allowed expense of the kind specified in Section 503(b) of the Bankruptcy Code to be paid solely from the proceeds of the Alternate Transaction, pursuant to the Sale Order. The Break-Up Fee shall not be paid if the Alternate Transaction was pursued due to a material breach by the Purchaser or the Purchaser's failure or refusal to consummate the transaction after the satisfaction or waiver of all closing conditions.

The Sales Procedures Motion will contain bid procedures as set forth in the bid procedures attached hereto as **Schedule 6.1(b)(3)**.

If Sellers fails to obtain Bankruptcy Court approval for the Sales Procedures Motion by no later than four weeks after the end of the Final Diligence Period, Purchaser shall have the right to terminate this Agreement, without recourse or liability, and Seller shall immediately thereafter return to Purchaser the Deposit and any interest earned thereon.

(c) Each Seller shall at the Sale Hearing exercise reasonable efforts to obtain a "Sale Order" approving this Agreement, subject to its obligations in respect of any better and higher offer for such Seller's assets in accordance with the Bankruptcy Code. For purposes of this Agreement, the term "**Sale Order**" shall mean an order of the Bankruptcy Court authorizing the sale of the Assets (including the assumption and assignment of the Assumed Contracts and Assumed Leases) to Purchaser consistent with this Agreement and in a form reasonably satisfactory to Purchaser.

(d) Each Seller agrees to proceed in good faith to obtain Bankruptcy Court approval of the sale contemplated herein with a determination that Purchaser is a good faith purchaser pursuant to Bankruptcy Code section 363(m) and to file such declarations and other evidence as may be required to support a finding of good faith.

(e) Each Seller shall seek an order from the Bankruptcy Court retaining jurisdiction over all matters relating to claims against such Seller as debtor solely in the Bankruptcy Court.

6.2 Appeal of Sale Order. In the event an appeal is taken or a stay pending appeal is requested from the Sale Order, Sellers shall immediately notify Purchaser of such appeal or stay request and shall provide to Purchaser promptly a copy of the related notice of appeal or order of stay. Sellers shall also provide Purchaser with written notice of any motion or application filed in connection with any appeal from either of such orders. In the event of an appeal of the Sale Order, Sellers shall be primarily responsible for drafting pleadings and attending hearings as necessary to defend against the appeal; provided, however, Purchaser, at its option, shall have the right to

participate as a party in interest in such appeal. In the event a stay is issued by any appellate court, including the United States District Court, which prevents the sale from closing, as scheduled, Purchaser shall have the right to terminate this Agreement if such stay is not vacated on or before 45 days from the date of the stay is issued, and Purchaser shall be entitled to the prompt return of the Deposit and any interest earned thereon.

## ARTICLE 7

### CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLERS

Sellers' obligation to sell the Assets and to close the transactions as contemplated by this Agreement shall be subject to the satisfaction of each of the following conditions on or prior to the Closing Date unless specifically waived in writing by Sellers in whole or in part at or prior to the Closing:

7.1 Signing and Delivery of Instruments. Purchaser shall have executed and delivered all documents, instruments and certificates required to be executed and delivered pursuant to the provisions of this Agreement.

7.2 No Restraints. No temporary restraining order, preliminary or permanent injunction or other order preventing the consummation of the transactions contemplated in this Agreement shall have been issued by any court of competent jurisdiction or any other governmental body and shall remain in effect on the Closing Date, and further, no governmental entity shall have commenced any action or suit before any court of competent jurisdiction or other governmental authority that seeks to restrain or prohibit the consummation of the transactions contemplated hereby.

7.3 Performance of Covenants. Purchaser shall have in all respects performed or complied with each and all of the obligations, covenants, agreements and conditions required to be performed or complied with by it on or prior to the Closing Date.

7.4 Governmental Authorizations. Purchaser shall have obtained all material licenses, permits and authorizations from governmental agencies or governmental bodies that are necessary or required for completion of the transactions contemplated by this Agreement, including reasonable assurances that any material licenses, permits and authorizations not actually issued as of the Closing will be issued following Closing (which may include oral assurances from appropriate governmental agencies or bodies).

7.5 Attorney General Provisions. The conditions to Purchaser's obligations to close set forth in Section 8.6 shall have been satisfied.

7.6 Bankruptcy Court Approval. The Bankruptcy Court shall have entered the Sale Order.

7.7 HSR Act. The applicable waiting period under the HSR Act shall have expired or been earlier terminated.

7.8 CSCDA Acknowledgement. The CSCDA and PACE Trustee shall have executed acknowledgements in form and substance acceptable to Sellers that Purchaser is the Successor Property Owner and Obligated Party under the PACE Obligations, and releases of the Sellers from any and all claims arising or accruing prior to the Closing Date.

## ARTICLE 8

### CONDITIONS PRECEDENT TO OBLIGATIONS OF PURCHASER

Purchaser's obligation to purchase the Assets and to close the transactions contemplated by this Agreement shall be subject to the satisfaction of each of the following conditions on or prior to the Closing Date unless specifically waived in writing by Purchaser in whole or in part at or prior to the Closing.

8.1 Governmental Authorizations. Except as otherwise set forth in this Agreement, Purchaser and Sellers shall have obtained licenses, permits and authorizations from governmental agencies or governmental bodies that are required for the purchase, sale and operation of the Hospitals, including without limitation approval of the CA AG (subject to Section 8.6), except in such case where failure to obtain such license, permit or authorizations from a governmental agency or governmental body does not have a Material Adverse Effect.

8.2 Bankruptcy Court Approval. The Bankruptcy Court shall have entered the Sale Order and made a finding that Purchaser is a "good faith" purchaser under Section 363(m) of the Bankruptcy Code.

8.3 Signing and Delivery of Instruments. Sellers shall have executed and delivered all documents, instruments and certificates required to be executed and delivered pursuant to all of the provisions of this Agreement.

8.4 Performance of Covenants. Sellers shall have in all material respects performed or complied with each and all of the obligations, covenants, agreements and conditions required to be performed or complied with by Sellers on or prior to the Closing Date; *provided, however*, this condition will be deemed to be satisfied unless (a) Sellers were given written notice of such failure to perform or comply and did not or could not cure such failure to perform or comply within fifteen (15) business days after receipt of such notice and (b) the respects in which such obligations, covenants, agreements and conditions have not been performed have had or would have a Material Adverse Effect.

8.5 No Restraints. No temporary restraining order, preliminary or permanent injunction or other order preventing the consummation of the transactions contemplated in this Agreement shall have been issued by any court of competent jurisdiction and shall remain in effect on the Closing Date, and further, no governmental entity shall have commenced any action or suit before any court of competent jurisdiction or other governmental authority that seeks to restrain or prohibit the consummation of the transactions contemplated hereby.

8.6 Attorney General Provisions. Purchaser recognizes that the transactions contemplated by this Agreement may be subject to review and approval of the CA AG. Purchaser

agrees to close the transactions contemplated by this Agreement so long as any conditions imposed by the CA AG are substantially consistent with the conditions set forth, as Purchaser Approved Conditions, in Schedule 8.6. In the event the CA AG imposes conditions on the transactions contemplated by this Agreement, or on Purchaser in connection therewith, which are materially different than the Purchaser Approved Conditions set forth on Schedule 8.6 (the “Additional Conditions”), Sellers shall have the opportunity to file a motion with the Bankruptcy Court seeking the entry of an order (“Supplemental Sale Order”) finding that the Additional Conditions are an “interest in property” for purposes of 11 U.S.C. § 363(f), and that the Assets can be sold free and clear of the Additional Conditions without the imposition of any other conditions, which would adversely affect the Purchaser. For purposes of this Section 8.6, Additional Conditions which individually or collectively impose a direct or indirect cost to Purchaser of \$5 million, or more, shall be conclusively deemed to be “materially different.” If Sellers determine not to seek such Supplemental Sale Order, or fail to obtain such Supplemental Sale Order within 60 days of the Attorney General’s imposition of Additional Conditions, Purchaser shall be entitled to terminate this Agreement and receive the return of its Good Faith Deposit. If Sellers timely obtain such Supplemental Sale Order from the Bankruptcy Court or another court, Purchaser shall have a period of 21 business days from the entry of such order (the “Evaluation Period”) to determine, in the exercise of the Purchaser’s reasonable business judgment and in consultation with Purchaser’s financing sources, whether to proceed to consummate the transactions contemplated by this Agreement; provided, however, (i) Purchaser shall not terminate or provide notice of termination of the Stalking Horse APA based on the Seller’s failure to satisfy the condition set forth under this Section 8.6 until the expiration of the Evaluation Period as may be extended herein, and (ii) the Evaluation Period may be extended by the Debtors, in consultation with the Consultation Parties, by up to 90 days for any appeal properly perfected with respect to the Supplemental Sale Order (the “Extended Evaluation Periods”). For the avoidance of doubt, if the Debtors or any of the Consultation Parties dispute the reasonableness of the exercise of the Purchaser’s business judgment, such dispute shall be determined by the Bankruptcy Court only in the context of an adversary proceeding. If, at the conclusion of the Extended Evaluation Periods, such Supplemental Sale Order has not become a final, non-appealable order and Purchaser determines not to proceed, Purchaser shall have the right within ten (10) business days after the conclusion of the Extended Evaluation Periods to terminate this Agreement and receive the return of its Good Faith Deposit. Sellers shall provide Purchaser with prompt written notice of the conclusion of the Extended Evaluation Periods and whether the Supplemental Sale Order has become a final, non-appealable order. For purposes of this Section 8.6, “a final, non-appealable order” shall include a Supplemental Sale Order (i) which has been affirmed or the appeal of which has been dismissed by any appellate court and for which the relevant appeal period has expired (other than any right of appeal to the U.S. Supreme Court), or (ii) which has been withdrawn by the appellant. If the Supplemental Sale Order becomes a final, non-appealable order prior to the expiration of the Evaluation Period or, if applicable, the Extended Evaluation Periods, Purchaser shall consummate the Sale provided that all other conditions to closing have been satisfied. During any Evaluation Period or Extended Evaluation Periods, Purchaser shall reasonably cooperate in any efforts to render the Supplemental Sale Order a final, non-appealable order, including timely taking reasonable steps in preparation for closing of the transactions described in this Agreement; provided, however, Purchaser shall not be obligated to expend more than \$500,000. For the avoidance of doubt, neither this provision, nor any of the rights granted to the Purchaser herein,

shall constitute a waiver of any party in interest's right to argue that any appeal from the Sale Order should be dismissed on statutory, Constitutional or equitable mootness grounds.

8.7 Medicare and Medi-Cal Provider Agreements. Sellers shall transfer their Medicare provider agreements pursuant to a settlement agreement with the Centers for Medicare and Medicaid Services ("CMS") and shall transfer their Medi-Cal provider agreements pursuant to a settlement agreement with the California Department of Health Care Services ("DHCS"), which such settlement agreements shall result in: (i) resolution of all outstanding financial defaults under any of Sellers' Medicare and Medi-Cal provider agreements and (ii) full satisfaction, discharge, and release of any claims under the Medicare or Medi-Cal provider agreements, whether known or unknown, that CMS or DHCS, as applicable, has against the Seller or Purchaser for monetary liability arising under the Medicare or Medi-Cal provider agreements before the Effective Time; provided, however, that Purchaser acknowledges that it will succeed to the quality history associated with the relevant Medicare or Medi-Cal provider agreements assigned and shall be treated, for purposes of survey and certification issues as if it is the relevant Seller and no change of ownership occurred.

8.8 HSR Act. The applicable waiting period under the HSR Act shall have expired or been earlier terminated.

## ARTICLE 9

### TERMINATION

9.1 Termination. This Agreement may be terminated at any time prior to Closing:

- (a) by the mutual written consent of the parties;
- (b) by Sellers if a material breach of this Agreement has been committed by Purchaser and such breach has not been (i) waived in writing by Sellers or (ii) cured by Purchaser to the reasonable satisfaction of Sellers within fifteen (15) business days after service by Sellers upon Purchaser of a written notice which describes the nature of such breach;
- (c) by Purchaser if, in its sole and absolute discretion, it is not satisfied with either (i) the results of its due diligence examination of the Hospitals, or (ii) the contents of any schedule or exhibit that was not completed and attached to this Agreement, but which has been provided to Purchaser after the Signing Date, and Purchaser has notified Seller of its election to terminate the Agreement under this Section 9.1(c) on or prior to January 8, 2019, which notice may be given by facsimile or email correspondence; provided, that for the avoidance of doubt, following expiration of the Final Diligence Period, notwithstanding anything else in this Agreement, Purchaser shall not be entitled to terminate this Agreement (or not Close) as a result of the breach of any representation or warranty made by Sellers (or any of them) other than the breach of a Sale Order Date Representation, but in each case solely to the extent such breach of a

Sale Order Date Representation would result in a Material Adverse Effect; provided, further, that any dispute between Purchaser and Sellers as to whether a Material Adverse Effect has occurred for any purpose under this Agreement shall be exclusively settled by a determination made by the Bankruptcy Court;

(d) by Purchaser if a material breach of this Agreement has been committed by Sellers and such breach has not been (i) waived in writing by Purchaser or (ii) cured by Sellers to the reasonable satisfaction of Purchaser within fifteen (15) business days after service by Purchaser upon Sellers of a written notice which describes the nature of such breach;

(e) by Purchaser if satisfaction of any of the conditions in ARTICLE 8 has not occurred by December 31, 2019 or becomes impossible, and Purchaser has not waived such condition in writing (provided that the failure to satisfy any of the applicable condition or conditions in Sections 8.1 through 8.5 inclusive has occurred by reason other than (i) through the failure of Purchaser to comply with its obligations under this Agreement or (ii) Sellers' failure to provide their closing deliveries on the Closing Date as a result of Purchaser not being ready, willing and able to close the transaction on the Closing Date); provided that upon the imposition of Additional Conditions by the CA AG, Section 8.6 must be satisfied or waived by Purchaser by no later than sixty (60) days thereafter.

(f) by Sellers if satisfaction of any of the conditions in ARTICLE 7 has not occurred by December 31, 2019 or becomes impossible, and Sellers have not waived such condition in writing (provided that the failure to satisfy the applicable condition or conditions has occurred by reason other than (i) through the failure of Sellers to comply with their obligations under this Agreement or (ii) Purchaser's failure to provide its closing deliveries on the Closing Date as a result of Sellers not being ready, willing and able to close the transaction on the Closing Date);

(g) by either Purchaser or Sellers if the Bankruptcy Court enters an order dismissing the Bankruptcy Cases or fails to approve the Sales Procedures Motion by the date specified in Section 6.1(b);

(h) by Sellers if, in connection with the Bankruptcy Cases, any Seller accepts an Alternate Transaction and pays the Break-Up Fee;

(i) by either Purchaser or Sellers if the Closing has not occurred (other than through the failure of any party seeking to terminate this Agreement to comply fully with its obligations under this Agreement) on or before December 31, 2019; or

(j) by Purchaser if a force majeure event (such as acts of God, storms, floods, landslides, earthquakes, lightning, riots, fires, pandemics, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) or armed hostilities, other national or international calamity, one or more acts of terrorism, or failure of energy sources) shall have occurred between the Signing Date and Closing Date, which event is reasonably likely to have a Material Adverse Effect.

9.2 Termination Consequences. If this Agreement is terminated pursuant to

Sections 6.1(b), 6.2 or 9.1: (a) all further obligations of the parties under this Agreement shall terminate (other than Purchaser's right to receive the Break-Up Fee if applicable), provided that the provisions of ARTICLE 12, shall survive; and (b) each party shall pay only its own costs and expenses incurred by it in connection with this Agreement; provided, in the case of any termination based on Sections 9.1(b) or (d) the consequences of such termination shall be determined in accordance with ARTICLE 11 hereof. In addition, if this Agreement is terminated pursuant to Sections 6.1(b), 6.2 or 9.1 (other than Section 9.1(b)), Seller shall immediately return the Deposit to Purchaser with all interest earned thereon. Each Party acknowledges that the agreements contained in this Section 9.2 are an integral part of the transactions contemplated by this Agreement, that without these agreements such Party would not have entered into this Agreement.

## ARTICLE 10

### POST-CLOSING MATTERS

#### 10.1 Excluded Assets.

Subject to Section 10.2 hereof, any Excluded Asset (or proceeds thereof) (a) pursuant to the terms of this Agreement, (b) as otherwise determined by the parties' mutual written agreement or (c) absent such agreement, as determined by adjudication by the Bankruptcy Court, which comes into the possession, custody or control of Purchaser (or its respective successors-in-interest, assigns or affiliates) shall, within five (5) business days following receipt, be transferred, assigned or conveyed by Purchaser (and its respective successors-in-interest, assigns and affiliates) to the applicable Seller. Purchaser (and its respective successors-in-interest, assigns and affiliates) shall have neither the right to offset amounts payable to any Seller under this Section 10.1 against, nor the right to contest its obligation to transfer, assign and convey to any Seller because of, outstanding claims, liabilities or obligations asserted by Purchaser against any Seller. If Purchaser does not remit any monies included in the Excluded Assets (or proceeds thereof) to the applicable Seller in accordance with the first sentence of this Section 10.1, such withheld funds shall bear interest at the Prime Rate in effect on the calendar day upon which such payment was required to be made to Seller (the "**Excluded Asset Due Date**") plus five percent (5%) (or the maximum rate allowed by law, whichever is less), such interest accruing on each calendar day after the Excluded Asset Due Date until payment of the Excluded Assets and all interest thereon is made to the applicable Seller.

#### 10.2 Preservation and Access to Records After the Closing.

(a) From the Closing Date until seven (7) years after the Closing Date or such longer period as required by law (the "**Document Retention Period**"), Purchaser shall keep and preserve all medical records (including, without limitation, electronic medical records), patient records, medical staff records and other books and records which are among the Assets as of the Effective Time, but excluding any records which are among the Excluded Assets. Purchaser will afford to the representatives of Sellers, any of their affiliates, the Official Committee of the Unsecured Creditors of the Sellers, Sellers' estate representative or any liquidating trustee of the Sellers' bankruptcy estate ("**Seller Parties**"), including their counsel and accountants, full and complete access to, and copies (including, without limitation, color laser copies) of, such records with respect to time periods prior to the Effective Time (including, without limitation, access to



records of patients treated at the Hospital prior to the Effective Time) during normal business hours after the Effective Time, to the extent reasonably needed by any Seller Party for any lawful purpose. Purchaser acknowledges that, as a result of entering into this Agreement and operating the Hospital, it will gain access to patient records and other information which are subject to rules and regulations concerning confidentiality. Purchaser shall abide by any such rules and regulations relating to the confidential information it acquires. Purchaser shall maintain the patient and medical staff records at the Hospital in accordance with applicable law and the requirements of relevant insurance carriers. After the expiration of the Document Retention Period, if Purchaser intends to destroy or otherwise dispose of any of the documents described in this Section 10.2(a), Purchaser shall provide written notice to Sellers of Purchaser's intention no later than forty-five (45) calendar days prior to the date of such intended destruction or disposal. Any of the Seller Parties shall have the right, at its sole cost, to take possession of such documents during such forty-five (45) calendar day period. If any of the Seller Parties does not take possession of such documents during such forty-five (45) calendar day period, Purchaser shall be free to destroy or otherwise dispose of such documentation upon the expiration of such forty-five (45) calendar day period.

(b) Provided that Purchaser shall not incur any out of pocket costs, Purchaser shall give full cooperation to the Seller Parties and their insurance carriers in connection with the administration of Sellers' estate, including, without limitation, in connection with all claims, actions, causes of action or audits relating to the Excluded Assets, Excluded Liabilities or pre-Closing operation of the Sellers or the Hospital that any Seller Party may elect to pursue, dispute or defend, in respect of events occurring prior to the Effective Time with respect to the operation of the Hospital. Such cooperation shall include, without limitation, making the Hired Employees available for interviews, depositions, hearings and trials and other assistance in connection with the administration of Sellers' estate and such cooperation shall also include making all of its employees available to assist in the securing and giving of evidence and in obtaining the presence and cooperation of witnesses (all of which shall be done without payment of any fees or expenses to Purchaser or to such employees); provided that Purchaser shall not be required to incur any out of pocket costs in association therewith. In addition, Sellers and their affiliates shall be entitled to remove from the Hospital originals of any such records, but only for purposes of pending litigation involving the persons to whom such records refer, as certified in writing prior to removal by counsel retained by Sellers or any of their affiliates in connection with such litigation. Any records so removed from the Hospital shall be promptly returned to Purchaser following Sellers' or their applicable affiliate's use of such records.

(c) In connection with (i) the transition of the Hospital pursuant to the transaction contemplated by this Agreement, (ii) Sellers' rights to the Excluded Assets, (iii) any claim, audit, or proceeding, including, without limitation, any tax claim, audit, or proceeding and (iv) the Sellers' obligations under the Excluded Liabilities, Purchaser shall after the Effective Time give Sellers access during normal business hours to Purchaser's books, personnel, accounts and records and all other relevant documents and information with respect to the assets, liabilities and business of the Hospital as representatives of Sellers and their affiliates may from time to time reasonably request, all in such manner as not to unreasonably interfere with the operations of the Hospital.

(d) Purchaser and its representatives shall be given access by Sellers during normal business hours to the extent reasonably needed by Purchaser for business purposes to all documents, records, correspondence, work papers and other documents retained by Sellers pertaining to any of the Assets prior to the Effective Time (excluding confidential employee information, privileged materials and patient records), all in such manner as to not interfere unreasonably with Sellers. Such documents and other materials shall be, at Sellers' option, either (i) copied by Sellers for Purchaser at Purchaser's expense, or (ii) removed by Purchaser from the premises, copied by Purchaser and promptly returned to Sellers.

(e) Purchaser shall comply with, and be solely responsible for, all obligations under the Standards for Privacy of Individually Identifiable Health Information (45 CFR Parts 160 and 164) promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 with respect to the operation of the Hospital on and after the Effective Time.

(f) Purchaser shall cooperate with Sellers, on a timely basis and as reasonably requested by Sellers, in connection with the provision of all data of the Hospital and other information required by Sellers for reporting to HFAP for the remainder of the quarterly period in which the Closing has occurred.

(g) To the maximum extent permitted by law, if any Person requests or demands, by subpoena or otherwise, any documents relating to the Excluded Liabilities or Excluded Assets, including without limitation, documents relating to the operations of any of the Hospital or any of the Hospital's committees prior to the Effective Time, prior to any disclosure of such documents, Purchaser shall notify Sellers and shall provide Sellers with the opportunity to object to, and otherwise coordinate with respect to, such request or demand.

(h) Provision of Benefits of Certain Contracts. Notwithstanding anything contained herein to the contrary, this Agreement shall not constitute an agreement to assign any Assumed Contract or Assumed Lease, if, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, an attempted assignment thereof, without the consent of the third party thereto, would constitute a breach thereof or in any way negatively affect the rights of Sellers or Purchaser, as the assignee of such Assumed Contract or Assumed Lease, as the case may be, thereunder. If, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, such consent or approval is required but not obtained, Sellers will cooperate with Purchaser in any reasonable arrangement designed to both (a) provide Purchaser with the benefits of or under any such Assumed Contract or Assumed Lease, and (b) cause Purchaser to bear all costs and obligations of or under any such Assumed Contract or Assumed Lease. Further, notwithstanding anything contained in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Account Receivable the assignment of which is either prohibited by law or by the terms of any contract with a payor without the consent of such payor. Any payments received by Sellers after the Closing Date from patients, payors, clients, customers, or others who are the obligors on Accounts Receivables transferred to Purchaser as a part of the Assets on the Closing Date shall be paid over to Purchaser within ten (10) business days after receipt by Seller.

10.3 Closing of Financials. Provided that Purchaser shall not incur any out of pocket costs, Purchaser shall cause the individual acting as the chief financial officer of the Hospital after the Effective Time (the "**Post-Effective Time CFO**") to cooperate with Sellers' representatives in

order to complete the standardized closing of Sellers' financial records through the Closing Date including, without limitation, the closing of general ledger account reconciliations (collectively, the "**Closing of Financials**"). Purchaser shall cause the Post-Effective Time CFO to use his or her good faith efforts to cooperate with Sellers' representatives in order to complete the Closing of Financials by no later than the date which is thirty (30) calendar days after the Closing Date. The Post-Effective Time CFO and other appropriate personnel shall be reasonably available to Sellers for a period of no less than one hundred eighty (180) calendar days after the Closing Date to assist Sellers in the completion of Sellers' post-Closing audit, such assistance not to interfere unreasonably with such Post-Effective Time CFO's other duties.

10.4 Medical Staff. To ensure continuity of care in the community, Purchaser agrees that the Hospital's medical staff members in good standing as of the Effective Time shall maintain medical staff privileges at the Hospital as of the Effective Time. On and after the Effective Time, the medical staff will be subject to the Hospital's Medical Staff Bylaws then currently in effect, provided that such Bylaws are in compliance with all applicable laws and regulations and contain customary obligations.

10.5 Shared Intangible Assets. In the event and to the extent that certain intangible Assets transferred by Sellers have been used to operate businesses of Verity or Verity Holdings or their affiliates which are not being sold to Purchaser ("**Shared Intangible Assets**") and such Shared Intangible Assets continue to be used by Verity or Verity Holdings or their affiliates to operate such businesses after Closing, Verity and Verity Holdings retain the rights to continue to use such Assets notwithstanding their sale to Purchaser. Purchaser shall reasonably cooperate with Verity and Verity Holdings and their affiliates to give effect to such rights and shall provide Verity and Verity Holdings and their affiliates such documentation, records and information and reasonable access to such systems as necessary for Verity and Verity Holdings and their affiliates to continue to operate such businesses; all in such manner as not to reasonably interfere with the operations of the Hospitals; provided, however, Purchaser shall not be required to incur any out-of-pocket costs in association therewith unless reimbursed by Verity and Verity Holdings and their affiliates.

## ARTICLE 11

### DEFAULT, TAXES AND COST REPORTS

11.1 Purchaser Default. If Purchaser commits any material default under this Agreement, Sellers shall have the right to sue for damages; provided, however that the amount of such damages shall never exceed \$60,000,000.00. For the avoidance of doubt, Sellers shall have no right to sue for specific performance under this Agreement.

11.2 Seller Default. If Sellers commit any material default under this Agreement, Purchaser shall have the right to demand and receive a refund of the Deposit, and Purchaser may, in addition thereto, pursue any rights or remedies that Purchaser may have under applicable law, including the right to sue for damages or specific performance.

11.3 Tax Matters; Allocation of Purchase Price.

(a) After the Closing Date, the parties shall cooperate fully with each other and shall make available to each other, as reasonably requested, all information, records or documents relating to tax liabilities or potential tax liabilities attributable to Sellers with respect to the operation of the Hospital for all periods prior to the Effective Time and shall preserve all such information, records and documents at least until the expiration of any applicable statute of limitations or extensions thereof. The parties shall also make available to each other to the extent reasonably required, and at the reasonable cost of the requesting party (for out-of-pocket costs and expenses only), personnel responsible for preparing or maintaining information, records and documents in connection with tax matters and as Sellers reasonably may request in connection with the completion of any post-Closing audits of the Hospital.

(b) The Purchase Price (including any liabilities that are considered to be an increase to the Purchase Price for United States federal income Tax purposes) shall be allocated among the Assets in accordance with Section 1060 of the Code and the Treasury Regulations promulgated thereunder as set forth in **Schedule 11.3(b)** (such schedule the “**Allocation Schedule**”). The Allocation Schedule shall be for Sellers’ and Purchaser’s tax purposes only, and shall not limit the Sellers’ creditors in any way.

#### 11.4 Cost Report Matters.

(a) Consistent with Section 4.5, Sellers shall, at Purchaser’s expense, prepare and timely file all cost reports relating to the periods ending prior to the Effective Time or required as a result of the consummation of the transactions described in this Agreement, including, without limitation, those relating to Medicare, Medicaid, and other third party payors which settle on a cost report basis (the “**Seller Cost Reports**”).

(b) Upon reasonable notice and during normal business office hours, Purchaser will cooperate reasonably with Sellers in regard to Sellers’ preparation and filing of the Seller Cost Reports. Such cooperation shall include, at no cost to Sellers, obtaining access to files at the Hospital and Purchaser’s provision to Sellers of data and statistics, and the coordination with Sellers pursuant to reasonable notice of Medicare and Medicaid exit conferences or meetings. Sellers shall have no obligations after the Effective Time with respect to Seller Cost Reports except for preparation and filing thereof.

## ARTICLE 12

### MISCELLANEOUS PROVISIONS

12.1 Further Assurances and Cooperation. Sellers shall execute, acknowledge and deliver to Purchaser any and all other assignments, consents, approvals, conveyances, assurances, documents and instruments reasonably requested by Purchaser at any time and shall take any and all other actions reasonably requested by Purchaser at any time for the purpose of more effectively assigning, transferring, granting, conveying and confirming to Purchaser, the Assets. After consummation of the transaction contemplated in this Agreement, the parties agree to cooperate with each other and take such further actions as may be necessary or appropriate to effectuate, carry out and comply with all of the terms of this Agreement, the documents referred to in this Agreement and the transactions contemplated hereby.

12.2 Successors and Assigns. All of the terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto; *provided, however*, that no party hereto may assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other parties which consent shall not be unreasonably withheld or delayed, except that Purchaser may, without the prior written consent of Sellers, assign all or any portion of its rights under this Agreement to one or more of its affiliates prior to the Closing Date.

12.3 Governing Law; Venue. This Agreement shall be construed, performed, and enforced in accordance with, and governed by, the laws of the State of California (without giving effect to the principles of conflicts of laws thereof), except to the extent that the laws of such State are superseded by the Bankruptcy Code or other applicable federal law. For so long as Sellers are subject to the jurisdiction of the Bankruptcy Court, the parties irrevocably elect, as the sole judicial forum for the adjudication of any matters arising under or in connection with the Agreement, and consent to the exclusive jurisdiction of, the Bankruptcy Court. The parties hereby consent to the jurisdiction of such court and waive their right to challenge any proceeding involving or relating to this Agreement on the basis of lack of jurisdiction over the Person or forum non conveniens.

12.4 Amendments. This Agreement may not be amended other than by written instrument signed by the parties hereto.

12.5 Exhibits, Schedules and Disclosure Schedule. The Disclosure Schedule and all exhibits and schedules referred to in this Agreement shall be attached hereto and are incorporated by reference herein. From the Signing Date until the Closing, the parties agree that Sellers may update the Disclosure Schedule as necessary upon written notice to Purchaser, and the applicable representation and warranty shall thereafter be deemed amended for all purposes by such updated Disclosure Schedule. Notwithstanding the foregoing, but subject to Section 9.2(c), should any exhibit or schedule not be completed and attached hereto as of the Signing Date, Sellers and Purchaser shall promptly negotiate in good faith any such exhibit or schedule, which exhibit or schedule must be acceptable to each of Sellers and Purchaser in their reasonable discretion prior to being attached hereto. Any matter disclosed in this Agreement or in the Disclosure Schedule with reference to any Section of this Agreement shall be deemed a disclosure in respect of all sections to which such disclosure may apply. The headings, if any, of the individual sections of the Disclosure Schedule are provided for convenience only and are not intended to affect the construction or interpretation of this Agreement. The Disclosure Schedule is arranged in sections and paragraphs corresponding to the numbered and lettered sections and paragraphs of Article III merely for convenience, and the disclosure of an item in one section of the Disclosure Schedule as an exception to a particular representation or warranty shall be deemed adequately disclosed as an exception with respect to all other representations or warranties to the extent that the relevance of such item to such representations or warranties is reasonably apparent on the face of such disclosure, notwithstanding the presence or absence of an appropriate section of the Disclosure Schedule with respect to such other representations or warranties or an appropriate cross reference thereto.

12.6 Notices. Any notice, demand or communication required, permitted, or desired to be given hereunder shall be deemed effectively given when personally delivered, when received by telegraphic or other electronic means (including facsimile) or overnight courier, or five (5)

calendar days after being deposited in the United States mail, with postage prepaid thereon, certified or registered mail, return receipt requested, addressed as follows:

If to Sellers: Verity Health System of California, Inc.  
2040 East Mariposa St.  
El Segundo, CA 90245  
Attention: Rich Adcock, CEO  
Telephone: 424-367-0630

With copies to: Dentons US LLP  
(which copies shall 601 South Figueroa St., Suite 2500  
not constitute notice) Los Angeles, CA 90017-5704  
Attention: Samuel R. Maizel, Esq.  
Telephone: 213-892-2910  
Facsimile: 213-623-9924

If to Purchaser: Strategic Global Management, Inc.  
9 KPC Parkway, Suite 301  
Corona, CA 92879  
Attention: William E. Thomas  
Facsimile: 951-782-8850

With copies to: Levene, Neale, Bender, Yoo & Brill L.L.P.  
(which copies shall 10250 Constellation Blvd., Suite 1700  
not constitute notice) Los Angeles, CA 90067  
Attention: Gary E. Klausner, Esq.  
Facsimile: 310-229-1244

and

Loeb & Loeb LLP  
10100 Santa Monica Blvd., Suite 2200  
Los Angeles, California 90067  
Attention: Allen Z. Sussman, Esq.  
Facsimile: 310-919-3934

or at such other address as one party may designate by notice hereunder to the other parties.

12.7 Headings. The section and other headings contained in this Agreement and in the Disclosure Schedule, exhibits and schedules to this Agreement are included for the purpose of convenient reference only and shall not restrict, amplify, modify or otherwise affect in any way the meaning or interpretation of this Agreement or the Disclosure Schedule, exhibits and schedules hereto.

12.8 Publicity. Prior to the Closing Date, Sellers and Purchaser shall consult with each other as to the form and substance of any press release or other public disclosure materially related

to this Agreement or any other transaction contemplated hereby and each shall have the right to review and comment on the other's press releases prior to issuance; *provided, however*, that nothing in this Section 12.8 shall be deemed to prohibit either Sellers or Purchaser from making any disclosure that its counsel deems necessary or advisable in order to satisfy either party's disclosure obligations imposed by law subject to reasonable prior notice to the other party thereof.

12.9 Fair Meaning. This Agreement shall be construed according to its fair meaning and as if prepared by all parties hereto.

12.10 Gender and Number; Construction; Affiliates. All references to the neuter gender shall include the feminine or masculine gender and vice versa, where applicable, and all references to the singular shall include the plural and vice versa, where applicable. Unless otherwise expressly provided, the word "including" followed by a listing does not limit the preceding words or terms and shall mean "including, without limitation." Any reference in this Agreement to an "affiliate" shall mean any Person directly or indirectly controlling, controlled by or under common control with a second Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. A "Person" shall mean any natural person, partnership, corporation, limited liability company, association, trust or other legal entity.

12.11 Third Party Beneficiary. None of the provisions contained in this Agreement are intended by the parties, nor shall they be deemed, to confer any benefit on any person not a party to this Agreement, except for the parties' successors and permitted assigns, and except for any liquidating trustee or plan administrator for Sellers' estate.

12.12 Expenses and Attorneys' Fees. Except as otherwise provided in this Agreement, each party shall bear and pay its own costs and expenses relating to the preparation of this Agreement and to the transactions contemplated by, or the performance of or compliance with any condition or covenant set forth in, this Agreement, including without limitation, the disbursements and fees of their respective attorneys, accountants, advisors, agents and other representatives, incidental to the preparation and carrying out of this Agreement, whether or not the transactions contemplated hereby are consummated. The parties expressly agree that all sales, transfer, documentary transfer and similar taxes, fees, surcharges and the like in connection with the sale of the Assets shall be borne by Purchaser. If any action is brought by any party to enforce any provision of this Agreement, the prevailing party shall be entitled to recover its court costs and reasonable attorneys' fees.

12.13 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement, binding on all of the parties hereto. The parties agree that facsimile copies of signatures shall be deemed originals for all purposes hereof and that a party may produce such copies, without the need to produce original signatures, to prove the existence of this Agreement in any proceeding brought hereunder.

12.14 Entire Agreement. This Agreement, the Disclosure Schedule, the exhibits and schedules, and the documents referred to in this Agreement contain the entire understanding

between the parties with respect to the transactions contemplated hereby and supersede all prior or contemporaneous agreements, understandings, representations and statements, oral or written, between the parties on the subject matter hereof (the “**Superseded Agreements**”), which Superseded Agreements shall be of no further force or effect; provided, that notwithstanding the foregoing, the letter Confidentiality Agreement dated July 12, 2018 between Purchaser and Cain Brothers, a division of KeyBanc Capital Markets Inc., on behalf of Sellers and their related entities shall not be a Superseded Agreement and shall continue in full force in effect in accordance with its terms.

12.15 No Waiver. Any term, covenant or condition of this Agreement may be waived at any time by the party which is entitled to the benefit thereof but only by a written notice signed by the party expressly waiving such term or condition. The subsequent acceptance of performance hereunder by a party shall not be deemed to be a waiver of any preceding breach by any other party of any term, covenant or condition of this Agreement, other than the failure of such other party to perform the particular duties so accepted, regardless of the accepting party’s knowledge of such preceding breach at the time of acceptance of such performance. The waiver of any term, covenant or condition shall not be construed as a waiver of any other term, covenant or condition of this Agreement.

12.16 Severability. If any term, provision, condition or covenant of this Agreement or the application thereof to any party or circumstance shall be held to be invalid or unenforceable to any extent in any jurisdiction, then the remainder of this Agreement and the application of such term, provision, condition or covenant in any other jurisdiction or to persons or circumstances other than those as to whom or which it is held to be invalid or unenforceable, shall not be affected thereby, and each term, provision, condition and covenant of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

12.17 Time is of the Essence. Time is of the essence for all dates and time periods set forth in this Agreement and each performance called for in this Agreement.

*[Signature Page Follows]*



IN WITNESS WHEREOF, this Agreement has been entered into as of the day and year first above written.

**PURCHASER:**

**STRATEGIC GLOBAL  
MANAGEMENT, INC.,**  
a California corporation

Signature By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**SELLERS:**

**ST. FRANCIS MEDICAL CENTER,**  
a California nonprofit public benefit  
corporation

Signature By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ST. VINCENT MEDICAL CENTER,**  
a California nonprofit public benefit  
corporation

Signature By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ST. VINCENT DIALYSIS CENTER,  
INC.**

a California nonprofit public benefit  
corporation

Signature By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**SETON MEDICAL CENTER,**

a California nonprofit public benefit  
corporation

Signature By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**VERITY HOLDINGS, LLC,**

a California limited liability company

Signature By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**VERITY HEALTH SYSTEM OF  
CALIFORNIA, INC.,**

a California nonprofit public benefit  
corporation

Signature By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Exhibit E**

**Deal Breakers Correspondence**



**XAVIER BECERRA**  
*Attorney General*

*State of California*  
**DEPARTMENT OF JUSTICE**

455 GOLDEN GATE AVENUE, SUITE 11000  
SAN FRANCISCO, CA 94102-7004

Public: (415) 510-4400  
Telephone: (415) 510-3430  
Facsimile: (415) 703-5480  
E-Mail: [Scott.Chan@doj.ca.gov](mailto:Scott.Chan@doj.ca.gov)

August 16, 2019

**VIA EMAIL AND US MAIL**

Hope R. Levy-Biehl  
1100 Glendon Avenue, 14th Floor  
Los Angeles, California 90024

RE: Verity Health System of California, Inc. Notice of Proposed Transfer  
St. Francis Medical Center, St. Vincent Medical Center, and Seton Medical  
Center

Dear Ms. Levy-Biehl:

The Health Care Impact Statements for the proposed sale of the Verity hospitals for St. Vincent and St. Francis were posted today on the Attorney General's web site at <http://oag.ca.gov/charities/nonprofithosp>. Please have your clients review the proposed conditions in the Health Care Impact Statements, and let me know in writing whether any of the conditions are a "deal breaker." If there is such a condition, please provide an explanation why your client considers it a "deal breaker" and provide any supporting documents and information. Please provide your client's response on or before August 23, 2019. If I receive no response, I will assume your client has no such concerns. In addition, California Code of Regulations, Title 11, section 999.5(e)(3)(D) states in pertinent part:

The applicant shall prominently post a copy of the independent health care impact statement on its website available to the public and any applicant's website available to its employees within 24 hours of receipt. If the report is posted on the Attorney General's website, the applicant may provide a prominent link to the report in lieu of posting on its website.

Please have your client post on any and all hospitals' websites available to the public and websites available to its employees or post a link to the Attorney General's website.

Sincerely,

A handwritten signature in blue ink that reads "Scott Chan".

SCOTT CHAN

Deputy Attorney General

For XAVIER BECERRA  
Attorney General

HOOPER, LUNDY & BOOKMAN, P.C.

WRITER'S DIRECT DIAL NUMBER  
(310) 551-8195

WRITER'S E-MAIL ADDRESS  
TSWANSON@HEALTH-LAW.COM

FILE NO. 81318.909

HEALTH CARE LAWYERS & ADVISORS  
1875 CENTURY PARK EAST, SUITE 1600  
LOS ANGELES, CALIFORNIA 90067-2517  
TELEPHONE (310) 551-8111  
FACSIMILE (310) 551-8181  
WEB SITE: WWW.HEALTH-LAW.COM

OFFICES ALSO LOCATED IN  
SAN DIEGO  
SAN FRANCISCO  
WASHINGTON, D.C.  
BOSTON

August 20, 2019

**VIA EMAIL AND OVERNIGHT DELIVERY**

Scott Chan  
Deputy Attorney General  
California Department of Justice  
Office of the Attorney General  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004

Re: Verity Health System of California, Inc. Notice of Proposed Transfer of St. Francis Medical Center, St. Vincent Medical Center, and Seton Medical Center.

Dear Mr. Chan:

As you know, our firm is healthcare counsel to Strategic Global Management, Inc. ("SGM"), the purchaser of four of the Verity Hospitals pursuant to the Asset Purchase Agreement between the Verity Chapter 11 Debtors ("Verity") and SGM, as approved by the Bankruptcy Court ("APA").

We have reviewed your letters of August 16, 2019 and August 19, 2019, to Hope R. Levy-Biehl, outside counsel for the Verity, as well as the Initial Health Care Impact Statements ("Impact Statements"), related to St. Vincent Medical Center, St. Francis Medical Center and Seton Medical Center ("Hospitals"), which are referenced in the letters.

In your letters to Ms. Levy-Biehl, you have requested from her the identification of any conditions set forth in the Impact Statements which are considered "deal breakers," and you further requested an explanation as to why Verity would consider any of the conditions deal breakers. Although the letters were not sent to SGM, we do want to communicate to you SGM's position on the proposed conditions set forth in the Impact Statements.

Our client very much appreciates the ongoing efforts of the Attorney General to review our client's proposed acquisition of the Hospitals and related assets, and we look forward to the opportunity of continuing a dialogue with the Attorney General regarding the acquisition of these Hospitals and any conditions that may be attached to the Attorney General's approval of their transfer to SGM.

HOOPER, LUNDY & BOOKMAN, P.C.

HEALTH CARE LAWYERS & ADVISORS

Scott Chan

August 20, 2019

Page 2

However, the conditions recommended in the Impact Statements are materially inconsistent with the conditions which our client had thoughtfully developed and agreed to accept, as set forth in Schedule 8.6 to the APA. SGM continues to investigate and analyze the Hospitals' assets and operations, but SGM still believes that the conditions agreed to in Schedule 8.6 reflect the appropriate and needed approach in support of efforts to address the significant, long standing operational, economic and physical plant challenges facing these Hospitals, many of which were noted in the Impact Statements.

Accordingly, at this juncture, SGM would not accept the conditions proposed in the Impact Statements to the extent they materially differ from the conditions accepted by SGM in Schedule 8.6 to the APA. SGM reserves all of its rights in connection with the APA and, specifically, all of SGM's rights set forth in Section 8.6 thereof.

Nonetheless, as noted above, SGM is continuing its investigation and remains open to discussions with the Attorney General regarding these matters, including face-to-face meetings as appropriate.

Very truly yours,



Todd E. Swanson

TES/sdh

cc: William Thomas, Esq.  
Hope Levy-Biehl, Esq.



2040 E. Mariposa Avenue  
El Segundo, CA 90245

August 23, 2019

**VIA EMAIL AND FEDEX**

Scott Chan, Deputy Attorney General  
California State Department of Justice  
Office of the Attorney General  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004

Re: Response to August 16 and August 19, 2019 Correspondence  
Summary of “Deal Breakers”

Dear Mr. Chan,

Please consider this letter the response of Verity Health System of California, Inc. and its affiliates (“Verity” or “Debtors”) to your letters regarding the conditions proposed (the “Recommended Conditions”) by JD Healthcare, Inc. (“JD Healthcare” or “Expert”) in its Health Care Impact Statements (“Impact Statements”), analyzing the proposed sale of St. Francis Medical Center (“St. Francis”), St. Vincent Medical Center (St. Vincent”), and Seton Medical Center, including its Daly City and Coastsides Campuses (“Seton”) (collectively, the “Hospitals”) to Strategic Global Management, Inc. and/or one of its affiliated entities (“SGM” or “Buyer”) (the “Transaction”) pursuant to the Asset Purchase Agreement (the “APA”), entered into by and between the parties and approved by the Bankruptcy Court [Docket No. 2305]. We appreciate the opportunity to provide this response.

For the reasons outlined below, if the Attorney General (“AG”) adopts the Recommended Conditions, SGM will not proceed with acquiring the Hospitals. SGM confirmed this in its letter to you dated August 21, 2019, when it stated that “the conditions recommended in the Impact Statements are materially inconsistent with the conditions . . . agreed to in Schedule 8.6.” Importantly, any condition that the AG adopts that is not consistent with Schedule 8.6 is, in our view, a “deal breaker.” Further, if the AG adopts the Proposed Conditions and if the Debtors are unsuccessful in their efforts to cut off the conditions under Section 363 of the Bankruptcy Code<sup>1</sup>

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<sup>1</sup> Verity reserves the right to challenge the AG’s ability to impose conditions such as the Recommended Conditions in the context of a sale in bankruptcy pursuant to section 363 of the Bankruptcy Code. In this case and *In re Gardens Regional Hospital and Medical Center, Inc.*, 567 B.R. 820 (Bankr. C.D. Cal. 2017), the Bankruptcy Court expressly held, for example, that conditions imposed on a buyer by the Attorney General, as part of the Attorney General’s review of the sale of a non-for-profit hospital, is an “interest in property” that can be stripped off the assets through a sale under section 363 of the Bankruptcy Code. *See also In re Verity Health Sys. of Cal., Inc.*, 598 B.R. 283, 293 (Bankr. C.D. 2018) (holding that the “Conditions are an “interest in property” within the meaning of §363(f). These ruling are consistent with rulings by the Second, Third, Fourth and Seventh Circuits, and many lower courts, which have interpreted “any interest” expansively to include not only in rem interests in property, but also



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and the sale to SGM does not proceed, the likely outcome is the closure of St. Vincent, Seton, and perhaps St. Francis. This would be an unnecessary and avoidable tragedy and would have a dire impact on countless patients, employees, vendors, and stakeholders. This is especially true here when SGM has agreed to continue to operate the Hospitals and to abide by the vast majority of the conditions imposed by the AG in its approval of the BlueMountain Transaction (the “2015 Conditions”)<sup>2</sup> for the remaining term that the conditions apply to Verity, as set forth in Schedule 8.6 to the APA.

Consequently, we strongly request that your office not accept the Expert’s Recommended Conditions, which are essentially a roll-forward of the 2015 Conditions based on the historic operations and not current patient care needs or market conditions. Instead, we encourage the AG to tailor the conditions to match those outlined in Schedule 8.6 providing SGM with the flexibility necessary to turn the Hospitals around financially, so they can continue to provide critical healthcare access to the communities they serve and thousands of jobs for the foreseeable future.

We further urge the Attorney General to exercise his discretion in a manner that considers the economic impact of the Recommended Conditions on the Hospitals. While the Impact Statements provide a significant amount of information related to the Hospitals background and the Transaction, the reports lack (i) any analysis of the economic impact that the 2015 Conditions have had on the Hospitals, and (ii) any cost-benefit analysis of the Recommended Conditions. Alarming, without regard to the economic and community realities, certain Recommended Conditions, if adopted, would force the Hospitals to maintain programs that not only lose significant amounts of money on an annual basis, but are unnecessary since the same services (and in some instances, more comprehensive or robust services) are already being provided at other hospitals in the area. To aid the Attorney General, we have provided evidence that considers the economic impact of the Recommended Conditions on the Hospitals both in this letter and in the enclosed, supporting declarations. We are happy to provide additional evidence and to discuss this further.

The Attorney General’s consideration of the economic impact of the prospective conditions is critical. We, as operators of the Hospitals, know the 2015 Conditions were overly burdensome and hampered the Hospitals’ ability to break even, let alone prosper. Indeed, the

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other obligations that are “connected to or arise from the property being sold” or that could “potentially travel with the property being sold.” See, e.g., *In re La Paloma Generating, Co.*, 2017 WL 5197116, \*4 (Bankr. D. Del. Nov. 9, 2017); *PBBPC, Inc. v. OPK Biotech, LLC* (In re PBBPC, Inc.), 484 B.R. 860 (1st Cir. B.A.P. 2013); *In re Vista Marketing Group Ltd.*, 557 B.R. 630 (Bankr. N.D. Ill. 2016); *United Mine Workers of Am. Combined Benefit Fund v. Walter Energy, Inc.*, 551 B.R. 631, 641 (N.D. Ala. 2016); *In re Tougher Indus.*, 2013 WL 1276501 (Bankr. N.D.N.Y. Mar. 27, 2013).

<sup>2</sup> These 2015 Conditions are contained in the AG’s “Conditions to Change in Control and Governance of St. Francis Medical Center and Approval of the System Restructuring and Support Agreement by and among Daughters of Charity Health System, Certain Funds Managed by BlueMountain Capital Management, L.L.C., and Integrity Health, L.L.C.” dated December 3, 2015.





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Hospitals filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code on August 31, 2018 to stop hemorrhaging precious cash resources. Verity, its employees, its 10,000 vendors, and other parties have made tireless efforts during the tenure of the Chapter 11 cases to ensure continued patient care and to take the necessary steps to allow the Hospitals to be sold to a new operator that could successfully operate the Hospitals.

The Bankruptcy Court has now approved the Transaction, which paves the way for a better chapter for these Hospitals and the communities they serve. The Attorney General should carefully consider the foregoing and not impose any conditions, based largely on historic operations, that would unravel operational improvements resulting from the heroic efforts of Verity's employees and management to save these Hospitals and inexorably lead to their closure.

We also request the opportunity to meet with you and other key decisions makers before any conditions are finalized in this Transaction, given their importance and the fact that the Recommended Conditions would destroy the Transaction and have a negative impact on tens of thousands of patients, employees, vendors, and stakeholders.

#### **I. The 2015 Conditions and the Chapter 11 Cases**

Before discussing the Recommended Conditions, I would like you to have the benefit of my experience overseeing the operations and financial performance of the Hospitals. *See* Enclosed Declaration of Richard G. Adcock, Verity Health System of California, Inc. Chief Executive Officer. Upon my appointment of CEO as the Hospitals, two competing issues were immediately apparent: the Hospitals are (i) critically important to the communities they serve, but (ii) are damaged financially as a result of cumulative decisions made in the last two decades.

While my extensive experience in healthcare has assisted me in understanding and navigating the complex problems threatening the Hospitals, one thing has crystalized for me: *the Hospitals require operational flexibility to adjust to market needs and demands and to effectuate a financial turn-around.* The 2015 Conditions do not allow for that type of flexibility and therefore hamper the Hospitals' ability to succeed. Thus, it is imperative that the Attorney General consider the pragmatic realities of the Hospitals' operations when imposing conditions on the Hospitals. We strongly request that the AG tailor the conditions imposed on this Transaction to align with the Purchaser Approved Conditions in Schedule 8.6, providing SGM with the flexibility to close on the Transaction and turn the Hospitals around so they can continue to provide meaningful health care services, community benefits, and jobs to the communities they serve.

#### **II. SGM Was the Only Qualified Bidder for St. Francis, St. Vincent, and Seton.**

Verity conducted a robust process to market and solicit potential buyers. In June 2018, it engaged Cain Brothers, a division of KeyBanc Capital Markets ("Cain"), to identify potential



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buyers of some or all of the Verity hospitals and related assets and commenced discussions with those potential buyers. Cain prepared a Confidential Investment Memorandum and organized an online data site to share information with potential buyers, contacting over 181 prospective strategic and financial buyers beginning in July 2018 to solicit their interest in exploring a transaction regarding the Verity hospitals. As a result of its far-reaching marketing process, Cain received sixteen indications of interest or other proposals and continued to develop potential sales.

Verity, in consultation with Cain and its other advisors, selected SGM's offer to serve as the stalking-horse bid to acquire the assets of St. Francis, St. Vincent, St. Vincent Dialysis Center, Seton, and related assets (the "Assets") through a sale under section 363 of chapter 11 of title 11 of the United State Code (the "Bankruptcy Code"). Following extensive negotiations, SGM and St. Francis, St. Vincent, St. Vincent Dialysis Center, and Seton entered into the APA, which provides for the purchase of the Assets for \$610 million, plus payments of cure costs, as set forth therein.

Thereafter, in accordance with the bidding procedures, Cain continued to actively market the Assets. Cain notified 90 parties of the sale process, directly sent the parties the bidding procedures approved by the bankruptcy court, and represented Cain's availability to assist in the bidding process. Thereafter, sixteen of those parties signaled ongoing interest by their requests for continued access to the data room containing information about the Assets.

Notwithstanding the time, energy, and resources dedicated to this process, SGM submitted the only qualified bid for St. Francis, St. Vincent, and Seton. *Again, and importantly, SGM has agreed to accept, in full or in large part, the majority of the 2015 Conditions imposed by the AG in its approval of the BlueMountain Transaction for the remainder of the term applicable to Verity.* SGM has not agreed to accept those 2015 Conditions in their entirety due to its need for flexibility to turn the Hospitals around financially and to modify or eliminate services that are not financially feasible to retain and/or not necessary to serve the community. The Bankruptcy Court entered orders (i) approving the APA, schedules and exhibits thereto, and (ii) authorizing the sale to SGM under section 363 of the Bankruptcy Code.

### **III. If the Attorney General's Office Adopts the Conditions Proposed by JD Healthcare, SGM Will Not Acquire the Hospitals.**

Verity and SGM engaged in extensive discussions and negotiations about the 2015 Conditions, with Schedule 8.6 developed as a result of compromises and concessions made by the parties regarding what conditions SGM committed to accept, while ensuring it had the flexibility and opportunity to turn the failing healthcare system around. Pursuant to Section 8.6 of the APA, SGM negotiated the requirement to close on the Transaction only if the conditions imposed by the AG are "substantially consistent" with the conditions set forth in Schedule 8.6. As outlined in greater detail below, the Recommended Conditions are not substantially



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consistent with the conditions enumerated in Schedule 8.6 in a number of significant ways and, if adopted by the AG, will result in this Transaction failing. For the avoidance of any doubt, if the AG adopts and imposes any condition on this Transaction that is not consistent with Schedule 8.6, any such condition should be considered by the AG's office as a "deal breaker."

We highlight below some of the material ways in which the conditions proposed by the Expert diverge from Schedule 8.6.

#### **A. The "term" of the Condition**

In Schedule 8.6, there are a number of conditions that SGM accepted "for a term which coincides with the remaining term applicable to [the] condition" for the specific Hospital, as set forth in the 2015 Conditions. While SGM agreed to essentially stand in Verity's shoes and to honor the remaining term of the Prior Conditions, it was unwilling to commit to these 2015 Conditions for a more extended period, as these conditions were a key factor contributing to the financial demise of the Hospitals and any requirement to honor these commitments for longer would inhibit SGM's ability to make operational changes necessary to turn the Hospitals around. SGM makes its point in its letter to you when it stated "the conditions agreed to in Schedule 8.6 reflect the appropriate and needed approach in support of efforts to address the significant, long standing operational, economic and physical plant challenges facing these Hospitals, many of which were noted in the Impact Statements."

It is worth noting that in at least some cases (and specifically for Seton), JD Healthcare has recommended that certain conditions be applied to SGM "for the remainder of the term" or in some cases for a period of time that is even shorter than the term remaining on the 2015 Conditions. The AG should apply this same standard to all of the conditions required of SGM (*i.e.*, not longer than the remaining term).

As outlined in greater detail below, if the AG does not allow SGM to honor its conditions for a term that runs concurrent with the term that currently applies to Verity, there is a significant risk that the Hospitals will close. This will result in the loss of critical community-based health care services, jobs, recoveries for creditors, and the loss of over \$9 million annually in charity care and over \$3,300,000 annually in community benefits currently provided by these Hospitals.

The closure of the Hospitals would be a tremendous and completely avoidable loss. By imposing conditions for a period of time that runs concurrent with the 2015 Conditions, the AG would help to ensure that the Transaction closes and the Hospitals remain open, potentially for much longer, once under new ownership, shed from burdensome historic liabilities and challenges and on more solid financial grounds. This will give SGM the time it needs to further evaluate the opportunities and challenges for these Hospitals and to determine what changes are appropriate to ensure their long-term viability and the best and most productive services for the Hospitals going forward. SGM can, at its election, and if financially prudent, continue to honor



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the 2015 Conditions and maintain the beds, services, and offerings beyond this term, but requiring it to do so will terminate this Transaction and result in the loss of all services before the 2015 Conditions have even lapsed.

## **B. Cancer Care**

In its Recommended Conditions, JD Healthcare suggests that the AG require SGM to maintain cancer care at the Hospitals, including radiation therapy at St. Francis and St. Vincent, and inpatient oncology, interventional radiology, radiation therapy, and infusion service at Seton. This condition is a clear deal breaker for SGM.

As a threshold matter, it is important to note that none of the Hospitals offer a comprehensive oncology service today. *See* Enclosed Declaration of Tirso del Junco, Jr. M.D., Verity Health System of California, Inc. Chief Medical Officer. St. Francis, St. Vincent and Seton do not currently provide surgical oncology services. While Seton historically had a more robust oncology service line, two of the medical oncologists previously practicing at the Hospital retired and have not been replaced, which has resulted in a further decline in oncology services, including a significant decline in infusion services.

Importantly, demand for oncology services has been steadily on the decline at each Hospital. The reasons for this decline are a function of changing market conditions and are not a mystery. By its own account, the Expert found that St. Francis' cancer care volume decreased from fiscal year 2017 through fiscal year 2019. There are at least three other community hospitals offering cancer care to the same community of patients served by St. Francis. There has also been a decrease in oncology volume at St. Vincent over the last three years, with at least four other community hospitals and/or academic medical centers providing cancer care services to the same community of patients served by St. Vincent. JD Healthcare notes that cancer is the leading cause of death in Los Angeles. While this is very unfortunate and may well be true, the Expert has not suggested that this is the result of a lack of sufficient providers of oncology services or that the provision of cancer care services at St. Vincent and St. Francis is important in fighting this epidemic.

We cannot look at the provision of oncology services in a vacuum. Oncology is a very expensive service line. *See* Enclosed Declaration of Anita Chou, Verity Health System of California, Inc. Chief Financial Officer In FY 2018, St. Vincent provided 9,435 cancer treatments for a loss of \$995,000. We would anticipate SGM losing an additional \$547,000 as a result of its inability to access drug pricing under the federal 340B Drug Discount Program ("340B pricing"),<sup>3</sup> which would result in a projected net loss of approximately \$1.5 million annual in the oncology service line. In FY 2018, Seton provided 8,429 in oncology treatments

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<sup>3</sup> The 340B Drug Discount Program is a US federal government program created in 1992 that requires drug manufacturers to provide outpatient drugs to non-profit health care organizations at significantly reduced prices. As a for-profit enterprise, SGM is not eligible for 340B pricing.



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for a net loss of \$3.8 million. SGM would have lost an additional \$3 million as a result of its inability to access 340B pricing, with approximately \$2.6 million attributable to higher oncology drug costs. It is not financially feasible to expect Seton, once owned by SGM, to operate an oncology program with diminishing volume and need at a loss of nearly \$7 million per year, especially when the Hospital is already operating at an annual loss of \$60 million. In FY 2018, St. Francis provided 15,556 oncology treatments for a total operating cost of \$11.6 million. This service line generated a net income of \$1.8 million. St. Francis will incur a loss of \$262,000 under SGM ownership in light of its inability to access 340B drugs. Some portion of this would translate into additional costs for the St. Francis oncology program.

St. Vincent and Seton already sustain overwhelming losses each year. While St. Francis is operating at a modest profit, it has significant cash flow challenges and may not be financially successful if it had to stand on its own without the support of the system. Given these challenges, every dollar committed and lost impacts the ongoing operations and viability of the Hospitals. SGM recognized from the inception that maintaining oncology services without access to 340B pricing would negatively impact its ability to operate the Hospitals. While access to cancer care is critical, the Expert found sufficient alternative providers. Despite there being available cancer care providers in each of the Hospitals' communities, the Expert recommended requiring the Hospitals' admittedly partial cancer programs continue. The AG should not adopt these Recommended Conditions, which would require SGM to maintain an expensive, diminishing service line when there are alternative service providers in the Hospital communities.

### **C. Charity Care**

SGM has committed to provide annual charity care funds equal to or greater than \$430,384 for patients at St. Vincent, \$8,000,000 for patients at St. Francis, and \$935,405 for patients at Seton, for a term that coincides with the remaining term of the 2015 Conditions. This translates to a commitment of approximately \$9,400,000 annually to support necessary medical services for patients in need of care. Any additional charity care requirements above these amounts are a deal breaker for SGM, as it would hinder the long term sustainability of the Hospitals' services.

We appreciate JD Healthcare's recognition that health reform and the Affordable Care Act ("ACA") have changed the need for charity care. We agree with JD Healthcare's suggestion that the AG should adjust the required commitment to charity care based on available data from time periods after the implementation of the ACA. However, a three-year lookback period is too long in light of the significant year-over-year changes in the need for charity care. Instead, the AG should look at the actual charity care provided in the past year by St. Francis, St. Vincent and Seton as a more appropriate barometer for the level of charity care that should be offered by the Hospitals prospectively. SGM has committed to a significant minimum amount of charity care in Schedule 8.6 and the AG should accept this commitment.



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SGM has agreed to administer the charity care funds under its existing financial assistance policy applicable across SGM's hospital system. In order to operate an efficient system, SGM will need to have one set of policies, procedures, and patient financial assistance applications. The Expert has recommended that SGM be required to operate under Verity's policy. SGM should be permitted to organize its administration of the charity care funds, consistent with its other hospitals, and in compliance with applicable state and federal law, without being required to continue Verity's specific policy.

#### **D. Community Benefit**

SGM has committed to provide annual community benefit services equal to or greater than \$1,076,459 for the communities served by St. Vincent, \$1,439,854 for the communities served by St. Francis, and \$848,434 for the communities served by Seton, for a term that coincides with the remaining term of the Prior Conditions. Any additional community benefit program requirements above these amounts are a deal breaker for SGM, as it would hinder the long-term sustainability of the Hospitals' services. Further, SGM must be afforded the flexibility to determine how best to serve the community and which programs to provide on behalf of each Hospital.<sup>4</sup>

#### **E. Capital Commitment**

As of June 30, 2019, Verity expended approximately \$172 million of the \$180 million in capital commitments required as part of the 2015 Conditions applicable to Verity's six hospitals, leaving approximately \$8 million unexpended by Verity. SGM has agreed to pay the previously required, but unexpended Verity capital commitment applicable to the three Hospitals it is acquiring. In order to determine SGM's share of the unexpended \$8 million, we considered the Santa Clara County and SGM asset purchase agreements to arrive at the proxy value of the Verity hospitals of \$845,000,000, comprised of \$235,000,000 for O'Connor Hospital and Saint Louise Regional Hospital, and \$610,000,000 for St. Francis, St. Vincent, and Seton. Based on these figures, SGM is acquiring approximately 72% of the Verity hospital assets. As such, SGM's portion of the outstanding capital commitment as of June 30, 2019, is approximately \$5.8 million.

Provided that Verity does not expend any additional capital expenditures through the closing of the pending APA, then SGM would honor and commit to expend \$5.8 million in capital commitments among St. Francis, St. Vincent, and Seton. If the remaining amount of the original capital commitment pursuant to the 2015 Conditions left unexpended through the closing of the APA is less than the above number, SGM would honor and commit to spend seventy-two percent (72%) of such lesser amount in capital commitments. We understand SGM

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<sup>4</sup> Please note that although St. Francis Career College was referenced in the Expert's recommendations, American Career College bought St. Francis Career College in 2013 and has since closed the Lynwood Campus in 2019.



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would want to maintain the flexibility to determine how best to apportion these required expenditures among the Hospitals based on their individual needs and their operational priorities and to have the opportunity to expend such amounts over five (5) years following the closing pursuant to the APA.

#### **F. Economic Impact of the Expert Proposed Conditions Generally**

While the Impact Statements provide a significant amount of information about the Transaction, the Hospital operations and challenges, and the communities they serve, it lacks (i) any of the economic impact the 2015 Conditions have had on the Hospitals or that the Recommended Conditions would have on SGM, and (ii) any cost-benefit analysis of the conditions recommended by the Expert. Verity and SGM agree that many of the services provided by the Hospitals are essential to the communities they serve and that is why SGM has agreed to adopt many of the 2015 Conditions. The Impact Statements fail to consider and discuss the extent to which the economic impact of the proposed conditions guarantees a failed SGM transaction. In its letter to you, SGM states: “the conditions recommended in the Impact Statements are materially inconsistent with the conditions [...] set forth in Schedule 8.6 to the APA.” It goes on to say that “SGM would not accept the conditions proposed in the Impact Statements.”

If the AG adopts the Recommended Conditions, based on the historical conditions, operations and needs and not the present reality, this will result in requirements for the Hospitals to maintain programs that not only lose a significant amount of money on an annual basis but that are also unnecessarily duplicative of other services (sometimes more comprehensive) already offered at other hospitals in the area. This will also result in SGM walking away from this Transaction.

As further discussed below, a failed SGM Transaction would mean closure for all the Hospitals resulting in the loss of access to medical care for hundreds of thousands of community members and patients, put thousands of employees out of work, and deny any financial recovery for former employees with pension rights, as well as other stakeholders.

By way of example, the Recommended Conditions require that SGM maintain transplant services at St. Vincent, including its newly developed liver transplant program, for at least five years from the Closing Date. St. Vincent established its liver transplant program earlier in 2019, performing a total of 10 liver transplants to date. At present, this program is not receiving any reimbursement as it is still going through the initial certification process. The liver transplant program places a significant financial burden on the Hospital. A third-party liver program expert consulting company has produced feasibility and performance projections for the St. Vincent program and anticipates that it will lose \$21 million over 5 years, or somewhere in excess of 15% of the total value of St. Vincent. Liver transplant services were not a required service under the 2015 Conditions and SGM should not be required to maintain liver transplant services at St. Vincent as part of this Transaction.



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Additionally, the Recommended Conditions require SGM to contract with LA Care for St. Francis, and St. Vincent. Verity is currently involved in litigation with LA Care to recover approximately \$15.2 million in underpaid and/or unpaid claims.<sup>5</sup> See *St. Vincent Medical Center v. Local Initiative Health Authority for Los Angeles County dba L.A. Care Health Plan*, Case No. 19-01002 at [kcellc.net/verity](http://kcellc.net/verity). Requiring SGM to contract with LA Care is unreasonable in light of LA Care's inability to adequately ensure timely and full payment at market rates for services. When both parties can freely negotiate a new contract with needed assurances of payment at market rates, the community benefits. This is not possible if SGM is mandated to contract with LA Care regardless of the contract terms offered by LA Care or LA Care's performance or non-performance under the contract.

These are just a few examples of how the Recommended Conditions fail to take in to account the economic consequences of the suggestions and the impact these would have on hospital viability and prudent operations.

**IV. If the AG Imposes the Conditions Recommended by its Expert, and the Debtors are Unsuccessful in their Efforts to Cut Off the Conditions under Section 363 of the Bankruptcy Code, the SGM Sale Will Terminate and St. Vincent and Seton Will Close.**

**A. The Debtors and Their Stakeholders Will Suffer Immediate Irreparable Harm if the SGM Sale Does Not Close.**

The aftermath of a failed SGM sale is the prompt closure of St. Vincent and Seton in light of their unsustainable operational losses, the absence of an interested viable purchaser that would continue operations as acute care hospitals, and the almost certain lack of financing to continue their operations. While St. Francis would attempt a private sale in the bankruptcy case, the Debtors foresee significant challenges notwithstanding the fact that its financial performance may be stronger during parts of the year than the other Hospitals. Indeed, excluding QAF, since it is often difficult to rely on from a working capital perspective due to its sporadic payment pattern, St. Francis would need to borrow greater than \$35 million from the Verity Hospital System throughout the year to manage large working capital fluctuations. The administrative expenses and risks associated with continuing the bankruptcy cases to attempt to identify a new buyer other than SGM, further threaten the Debtors' ability to finance and sell the Hospitals as going concerns and related recoveries to constituents. These threats are borne directly by the communities served by the Hospitals, their patients, employees, and other critical stakeholders, and are material considerations with which to assess the proposed SGM sale.

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<sup>5</sup> To add specific examples, one large category of claims at issue involves services that were authorized by LA Care through delegated vendors but that LA Care denied payment because it had no way to track the delegated vendors' authorization numbers. As a result, LA Care required timely filed electronic claims to be resubmitted in paper. Another example is that LA Care has improperly administered payments under "stop loss" provisions – denying payment to St. Francis, in particular, for services to some of the most needy patients.





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1. St. Vincent and Seton Will Likely Close.

St. Vincent and Seton are likely to close promptly after the SGM transaction fails for two significant reasons tied to their ongoing financial underperformance: (i) the Debtors cannot sustain the operational losses incurred by St. Vincent and Seton without the prospect of a potential purchaser, and (ii) the Debtors must conserve resources to underwrite a sale of St. Francis. St. Vincent and Seton (including both the Daly City and Coastside campuses) have combined operating losses greater than \$105 million in the 10 months since filing bankruptcy.

The Expert acknowledges that “no other offers were received by the Bankruptcy Court to purchase and operate” St. Vincent and Seton. *See* St. Vincent Report at 86; Seton Report at 87. This finding is consistent with the results of the Debtors’ extensive marketing efforts. As outlined in greater detail above, beginning in July 2018, the Debtors engaged Cain to identify potential buyers of some or all of the Debtors’ Hospitals. Cain contacted over 181 strategic and financial buyers and received 11 indications of interest. None of these indications proposed purchasing and operating St. Vincent or Seton individually. The Debtors cannot sustain incurring ongoing operational losses to maintain the going-concern value of St. Vincent and Seton without the realistic prospect of a purchaser.

These closures would begin almost immediately. Because the failure of the SGM sale puts the recovery of secured creditors at risk, it is almost certain that the secured creditors would object to continued use of their cash collateral to subsidize the losses at St. Vincent and Seton. While the Debtors may be able to obtain an order authorizing the use of cash collateral over their objection, that use would be limited to the amount necessary to avoid harm to patients. Based on the experience of Debtors’ counsel, St. Vincent and Seton would first seek court approval to close their emergency departments and close the Hospitals to new patients. Given the average length of stay for hospital inpatients, we would expect all acute care patients to be discharged within a week. We would expect St. Vincent to be closed in less than one month.

Closure of Seton would be much slower than St. Vincent, given the more involved process of the skilled nursing and sub-acute resident populations at both the Daly City and Coastside campuses, and would cost tens of millions of dollars to effectuate. We would immediately seek the assistance of the California Department of Public Health, the Center for Medicare and Medicaid Services, the Department of Health Care Services, Santa Clara and San Mateo Counties and other key governmental and non-governmental stake holders to find appropriate placements for the approximately 180 long term and subacute residents at Seton. However, the post-acute care delivery system in Northern California does not have the excess capacity to accept these residents. *See* Enclosed Declaration of Maya Altman, CEO for the Health Plan of San Mateo. We would anticipate many of these residents being displaced across the state and outside of the state in order to find appropriate and available beds and resources. The transfer trauma risk attendant to the closure of Seton’s nursing facility would be significant with patients needing to be transferred, in many cases, hundreds of miles away from their communities, families and support networks.



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Thereafter, the Debtors would most likely attempt a private sale of St. Vincent and Seton after they are closed. After their extensive but ultimately unsuccessful marketing efforts, the Debtors believe that the most likely outcome is a sale to a real estate or similar purchaser without an interest in continuing or reopening the facilities as acute care hospitals, and without the need for Attorney General review. *See In re Gardens Reg'l Hosp. & Med. Ctr., Inc.*, 567 B.R. 820, 826-829 (Bankr. C.D. Cal. 2017) (Robles, J.) (holding that sale of a closed not for profit hospital is not subject to Attorney General review).

2. St. Francis Will Attempt a Private Sale at a Depressed Value with Significant Financial Obstacles and Creditor Scrutiny.

In the event the SGM transaction fails due to the imposition of conditions making continued operations economically unfeasible, the Debtors will turn their efforts to fund a renewed sale process for St. Francis, their only potentially profitable going-concern asset. A St. Francis sale process would face stiff headwinds and present significant liquidity demands, which would be further exacerbated if the Debtors are continuing to incur operating losses associated with St. Vincent and Seton. The Expert cites interviewees who “expressed that if this [SGM] transaction was not finalized, the Hospital would likely be acquired by another organization due to its history of financial success.” *See* St. Francis Report at 85. However, this supposition does not account for the expenses and uncertainties associated with a single-facility sale.

St. Francis realizes substantial economic benefits from its integration in the Verity Health System that would be stripped in a single-facility sale. First, St. Francis cannot sustain itself solely on cash flow from operations. The primary receivables attributable to St. Francis operations—reimbursements and related supplemental payments on account of the Hospital Quality Assurance Fee program—are paid periodically during the year and substantially after the service period to which they relate. As stated previously, excluding QAF, St. Francis must borrow greater than \$35 million from the Verity Hospital System throughout the year in order to manage its large working capital fluctuations. Historically, St. Francis has leveraged financing arrangements entered into by the Verity Health System. The obligated parties under those financing arrangements historically included VHS, O’Connor Hospital, Saint Louise Regional Hospital, Seton, St. Vincent, and St. Francis. St. Francis cannot achieve stable financial operations without access to credit historically supplied on a joint and several basis to the Verity Health System.

St. Francis benefits from the consolidated administrative functions and unified technology of the Verity Health System, which St. Francis would need to arrange for and purchase individually in anticipation of a single-facility sale. The total burden of the cost of the underlying IT systems and licensing agreements for the system, at a cost of more than \$40 million per year, would likely be the burden of St. Francis alone. In addition, St. Francis would bear a significant portion of the current annual overhead costs of over \$100 million that no longer could be spread across the other Hospitals. These two factors will put significant strain



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on the cash flow of the remaining Debtors and would ultimately make completing an extremely quick private sale of St. Francis critical to maintaining any value for the estate.

A private sale is more expedient, but, in the absence of a renewed, robust sale process, the Debtors expect the sale would yield a purchase price hundreds of millions of dollars lower than the SGM Transaction and would receive objections from constituents who would request a new marketing process. Based on the Debtors' experience through the extensive pre-bankruptcy and post-filing marketing efforts, the Debtors are very aware of (i) the difficulty in identifying a purchaser that is both interested in, and capable of, closing on such a transaction, and (ii) the large amount of time and money it takes to sustain ongoing operating losses while working with a prospective buyer through the complex sale process. In these circumstances, the Expert's comment, without support, that there would be "other buyers" if the SGM Transaction failed is at best unsupported and a gross oversimplification of what would be an involved, complicated process. Even if a new deal process were successful and yielded a willing buyer capable of closing, it is highly uncertain whether the Debtors could fund the ongoing operating capital necessary to continue to operate St. Francis while the sale worked its way through the rigorous bankruptcy, AG, and regulatory approval process.

The Debtors' creditors are also likely to object to a fire sale of St. Francis given the already small recoveries available if the SGM sale is successful. A private sale is likely to leave only a partial recovery for secured creditors and, as discussed below, no recovery for other critical stakeholders. These secured creditors and stakeholders are likely to carefully scrutinize such a transaction and demand a longer auction process in lieu of a private sale. Each of these likely demands from secured creditors, other stakeholders, and the Attorney General would expose St. Francis to further financial deterioration arising from the increased administrative and professional costs associated with a lengthy sale process as well as further losses from operations.

It should be noted that even if there are good sales prospects, Verity will likely have no choice but to close St. Francis pending a sale, putting the hospital license in suspense and closing all beds and service lines. This would require a prompt shut-down of St. Francis, including the closure of its emergency room and trauma center as well as its psychiatric unit. While a buyer could apply to have the St. Francis hospital license resurrected and taken out of suspense, this is not without consequence. As a Hospital that relies heavily on government reimbursement and QAF to survive, in taking the license out of suspense, a St. Francis buyer would need to apply for new Medicare and Medi-Cal provider agreements, enduring a period during which the hospital is open but not yet certified. In addition, St. Francis would not be eligible for QAF during the period of time when it is closed, which would also impact its QAF fees and payments upon reopening. All of this would likely have a negative impact on the value of St. Francis as a freestanding hospital as well as its timeline for reopening its emergency department and certain non-essential services.



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### **B. A Renewed Sale Process Will Materially Delay the Bankruptcy Cases.**

The Debtors have administered and financed their bankruptcy cases and plan of liquidation assuming that the cases would conclude shortly after the SGM sale. If SGM does not consummate the sale, then the Debtors will incur additional, unexpected administrative expenses associated with continued operations as they pursue new sales and closures. These expenses—unanticipated by the Debtors and their lenders—will increasingly burden the Debtors’ ability to fund their operations.

While difficult to predict, the Debtors anticipate that a single-facility private sale of St. Francis will take approximately five to six months to close. The bankruptcy court process, assuming that (a) a buyer could be located, and (b) the Debtors would seek a private sale, would last approximately six to eight weeks and involve soliciting potential purchasers, drafting and negotiating an asset purchase agreement and sale motion, and holding a sale hearing on three weeks’ notice to interested parties. The balance of time is allocated to the 90 to 135-day Attorney General review process. This assumes that the private sale of St. Francis would not require a more belabored auction process in bankruptcy court; however, as noted above, creditors disappointed with partial or no recovery on their claims may convince the court that an auction process will result in a higher sale price.

The Debtors anticipate that the private sales of St. Vincent and Seton would take substantially less time to close if the facilities are not operating as acute care hospitals. The Debtors estimate that sales of St. Vincent and Seton could close in no less than two months on the most favorable timeline and for substantially less consideration. This assumes an expedited disposition of the facilities’ patient populations, which we anticipate will be especially challenging for Seton’s long-term patient populations at both the Daly City and Coastside campuses.

There is significant risk in the Debtors ability to fund an additional six-month sale process. These alternative sale timelines, through abbreviated, nevertheless require the Debtors to incur significant administrative expenses. As discussed, the Debtors incur cash flow losses of \$450,000 every day. The Debtors have obtained \$185 million of debtor in possession financing to cover these operational and administrative expenses during their bankruptcy cases because their stakeholders were satisfied that there was a high likelihood of consummating significant asset sales; this matures September 7, 2019. In fact, the financing terms are subject to strict case milestones and short-term budgets based upon consummating sales of the Hospitals by specific dates. *See* Docket No. 309-2 (DIP Credit Agreement, § 7.1 at 63) (the Debtors financial covenants include limits on budget variances during the bankruptcy cases); *see id.* (DIP Credit Agreement, § 9.1(q) at 72-76) (providing for defaults if Debtors fail to meet case deadlines including sale deadlines). Without the prospect of an imminent asset sale that would, at a minimum, cover the costs of financing, the Debtors’ ability to obtain financing is a significant risk. The Debtors’ access to cash collateral and proceeds of the O’Connor Hospital and Saint Louise Regional Hospital sale are likewise subject to the liens and limitations of the Debtors’



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secured creditors. The Debtors' ability to fund their operations becomes increasingly dubious as the bankruptcy cases continue without resolution.

### **C. Patients, Employees, Vendors, Community Members, and Other Essential Stakeholders Bear Directly the Ramifications of a Failed SGM Transaction.**

The Attorney General should not ignore the significant economic ramifications of a failed SGM sale because of the negative healthcare impacts on patients and community members. If the SGM sale does not close, patients and community members will lose access to healthcare facilities. Extending the timeline to a sale by six months will also jeopardize the ability to finance the remaining hospital. Furthermore, the degradation in value realized from the asset sales will directly affect key stakeholder recoveries.

#### 1. The Impact on Community Members and Patients

Failure to consummate the SGM sale likely results in the closure of St. Vincent and Seton and risks closure of St. Francis. The Expert recognizes the unique role the Hospitals play in their communities. Although the Debtors challenge the specifics of the proposed conditions, it is indisputable that these facilities provide access to essential healthcare services in their communities. Faced with the possibility of losing these facilities in their entirety, rote application of historical conditions must yield to the pragmatics of economics and demonstrable community need.

St. Francis is a critical safety-net provider of health care services, serving a large number of uninsured and underinsured patients. It is located in a medically underserved area and operates the only trauma center in the service area. It also provides critical acute inpatient psychiatric services as well as a mobile crisis evaluation team.

St. Vincent is the oldest hospital in Los Angeles, providing critical emergency room and other specialized services to the community it serves. In addition to serving almost 180 skilled nursing and subacute residents, Seton also operates a geriatric-psych service line and the only emergency department on the Peninsula in the 55-mile stretch between Santa Cruz and Daly City.

In addition to the possibility of losing these Hospitals, the communities would also lose the charity care and community benefits they offer. This would be a tragic and unnecessary loss.

#### 2. The Impact on Vendors

It is the vendors that have supported the Hospitals during the pendency of the bankruptcy cases, allowing the Hospitals to stay open and to continue providing services in the ordinary course. Under the SGM purchase agreement, these vendors will receive payment in full for their



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support of Verity during its bankruptcy and a failed sale to SGM could put those payments at risk.

In addition, there are thousands of vendors whose contracts will be assumed by SGM pursuant to the sale. As a consequence, these vendors will be paid for their pre-petition claims an estimated total recovery of more than \$50 million. For those vendors whose contracts are not being assumed by SGM, the sale will still provide millions of dollars of recoveries. In total, the failed sale to SGM would cause these vendors to lose tens of millions of dollars in recoveries. Further, there would be a loss of future services by these vendors that would provide the go-forward services to the operating hospitals.

### 3. The Impact on Employees

St. Francis, St. Vincent, and Seton have approximately 4,950 employees. SGM has committed to retain “substantially all” employees of the Debtors, as set forth in the APA. *See* Docket No, 2305-1 (SGM APA, § 5.3(a) at 27). Similarly, SGM has committed to participate in good faith negotiations of new collective bargaining agreements with the unions. *See id.* (SGM APA, § 4.7 at 25). The SGM sale presents the Debtors’ stakeholders with the best possible alternative, and the failure of the SGM transaction will likely result in losing healthcare access for vulnerable populations as well as the loss of employment for thousands of employees.

### V. Conclusion.

For all of the reasons outlined above, the AG should not adopt the Recommended Conditions. This would result in the certain failure of the SGM Transaction and the likely closure of St. Vincent, Seton, and perhaps St. Francis. This would be a devastating loss to the communities the Hospitals serve, to their patients, employees, vendors, creditors, and more. This would entail the unnecessary loss of historic, meaningful, community hospitals with robust histories, dedicated to providing charity care and community benefits, especially when as here, there is a ready buyer in SGM who has agreed to continue to operate the Hospitals and to abide by the vast majority of the 2015 Conditions for the period of time they apply to Verity. We urge you to tailor the conditions imposed on this Transaction to align with the Purchaser Approved Conditions in Schedule 8.6, providing SGM with the flexibility to close on the Transaction and turn the Hospitals around so they can continue to provide meaningful health care services, community benefits, and jobs to the communities they serve.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard G. Adcock'.

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Richard G. Adcock, CEO

**DECLARATION OF RICHARD G. ADCOCK**

1  
2 I, Richard G. Adcock, declare that I have personal knowledge of the facts set forth  
3 in this declaration, and I would competently testify to them under oath if called as a  
4 witness.

5 1. I am, and have been since January 2018, the Chief Executive Officer of  
6 Verity Health System of California, Inc. (“VHS”). Prior thereto, I served as VHS’s Chief  
7 Operating Officer since August 2017.

8 2. I have extensive senior-level experience in the nonprofit healthcare arena,  
9 especially in the areas of healthcare delivery, hospital acute care services, health plan  
10 management, product management, acquisitions, integrations, population health  
11 management, budgeting, disease management and medical devices. I have meaningful  
12 experience in both the technology and healthcare industries in the areas of product  
13 development, business development, mergers and acquisitions, marketing, financing,  
14 strategic and tactical planning, human resources, and engineering.

15 3. Prior to VHS, from 2014 until 2017, I served as Executive Vice President  
16 and Chief Innovation Officer of Sanford Health, a large integrated health system  
17 headquartered in the Dakotas dedicated to health and healing. In this role, I was  
18 responsible for leading Sanford Health’s growth and innovation, in addition to direct  
19 operational oversight of the following related entities: Sanford Research, Sanford Health  
20 Plan; Sanford Foundation (a philanthropic fundraising foundation); Sanford Frontiers (a  
21 commercial and real estate company); Profile by Sanford (a scientific weight loss  
22 program); and Sanford World Clinic (which operates clinics in multiple countries).

23 4. From 2012 to 2017, I served as the President of Sanford Frontiers and had  
24 the responsibility of starting a new entity within Sanford Health focused on innovative  
25 ventures. From 2008 to 2012, I served as Executive Vice President of Sanford Clinic. I  
26 was responsible both for (i) working directly with the President of the Clinic to the lead  
27 team of Vice Presidents in all aspects of management, and (ii) Sanford World Clinics  
28 operations, including the design, opening and operation of several global clinics. From

1 2006 to 2008, I served as the Vice President of Sanford Clinic and was responsible for  
2 leading strategic, operational and financial aspects within Sanford Clinic. From 2004 to  
3 2006, I served as Director of Clinical Operations at Sanford Children’s Specialty Clinic  
4 and led the Pediatric Subspecialty Physician program and the clinical practice through all  
5 facets of the operation.

6 5. Prior to Sanford Health, I served as the Director of Engineering and Six  
7 Sigma Master Black Belt at GE Medical Systems, and before that served as the Vice  
8 President of Research and Development and the Co-Owner/Founder of Micro Medical  
9 Systems. I have a bachelor of science in business administration and a masters of  
10 business administration in healthcare management.

11 6. I have reviewed the conditions proposed (the “Recommended Conditions”)  
12 by JD Healthcare, Inc. (“JD Healthcare” or “Expert”) to the California Attorney General  
13 (the “Attorney General”) in the Health Care Impact Statements (the “Reports”), analyzing  
14 the proposed sale of St. Francis Medical Center (“St. Francis”), St. Vincent Medical  
15 Center (St. Vincent”), and Seton Medical Center, including its Daly City and Coastsides  
16 Campuses (“Seton”) (collectively, the “Hospitals”), to Strategic Global Management, Inc.  
17 and its affiliated entities (“SGM”), as reflected in that certain Asset Purchase Agreement  
18 (the “APA”).

19 7. Upon review of the Recommended Conditions, I urge the Attorney General  
20 not to issue the Recommended Conditions, and, instead, to impose the conditions to which  
21 SGM has agreed to in Schedule 8.6 to the APA.

22 8. As explained below in detail, the Attorney General should not impose the  
23 Recommended Conditions because they do not take into consideration the negative  
24 economic impact of the Recommended Conditions nor the negative economic impact of  
25 the previously imposed conditions on the Hospitals (the “2015 Conditions”).

26 9. The Attorney General should exercise his oversight responsibilities and  
27 discretion to impose conditions that consider the economic impact to the Hospitals.

28 10. My extensive experience in healthcare has helped me understand and



1 navigate the complex problems threatening the Hospitals.

2 11. Two competing issues were immediately apparent upon my appointment as  
3 CEO: the Hospitals are (i) critically important to the communities they serve, but (ii) are  
4 damaged financially as a result of cumulative decisions made in the last two decades.

5 12. After overseeing the operations and financial performance of the Hospitals, I  
6 concluded that the only feasible path to maintain Hospital operations was to initiate a  
7 bankruptcy process that would allow the transfer of the Hospitals to more financially  
8 stable operators, reduce existing liabilities, and commence a process in cooperation with  
9 the Attorney General to ensure the continued viability of these important community  
10 assets.

11 13. While SGM has the ability to keep these Hospitals open and help them to  
12 prosper, the Attorney General's role in that process cannot be understated.

13 14. Specifically, to fix the problems that presently threaten the Hospitals  
14 continued viability, the Attorney General must consider the pragmatic realities of the  
15 Hospitals' operations.

16 15. The Hospitals require operational flexibility to address the fast-paced  
17 changes in the healthcare market. I will use a specific example to illustrate my point.  
18 One of the 2015 Conditions requires that St. Francis maintains a fixed number of beds for  
19 pediatric patients. However, and by way of example, children in the St. Francis service  
20 area often go to the nearby children's hospital for treatment (e.g., Miller Children's,  
21 Children's Hospital of Los Angeles, and Women's Hospital). Consequently, St. Francis  
22 does not utilize many of the beds it is required to maintain pursuant to the condition.  
23 This results in unnecessary operating costs without attendant increases in revenue and,  
24 more importantly, prevents St. Francis from instead applying its resources to address the  
25 demonstrated needs of the community. In addition, these pediatric beds are needed as  
26 general adult inpatient beds. Put simply, 2015 Conditions do not reflect the needs of the  
27 market place. This is one of many examples that is repeated across service lines affected  
28 by the 2015 Conditions.

1           16. The payor contracts present another example of the negative impact of the  
2 2015 conditions on the Hospitals. In my experience, I have never seen a set of conditions  
3 that obligate the Hospitals, as providers, to accept a particular payor's contract no matter  
4 how disadvantageous the terms and conditions. The Attorney General's mandated  
5 requirement to remain in an economically damaging relationship obliterates the Hospitals'  
6 ability to negotiate appropriate terms, including reimbursement consistent with market  
7 conditions. The Hospital payor contracts are below-market as a result of many years of  
8 poor payor contract negotiations coupled with the 2015 Conditions. Stated differently,  
9 through the imposition of the conditions, the Attorney General transfers negotiating  
10 leverage to the payors and leaves the Hospitals severally disadvantaged. While the  
11 Attorney General certainly may not have intended that result at the time the 2015  
12 Conditions were imposed, the 2015 Conditions had that impact and accelerated and  
13 contributed to the threats facing the Hospitals today.

14           17. While the impact reports provide a significant amount of information  
15 related to the Hospital's background and the SGM transaction, the reports are lacking (i)  
16 any analysis of the economic impact the 2015 Conditions have had on the Hospitals, and  
17 (ii) any cost benefit analysis of the Recommended Conditions.

18           18. Without regard to the economic and community realities, certain  
19 Recommended Conditions force the Hospitals to maintain programs that not only suffer  
20 significant losses an annual basis, but are unnecessary because the same services (and in  
21 some instances, more comprehensive services) are already provided at other Hospitals in  
22 the area.

23           19. The Attorney General's consideration of the economic impact of the  
24 Recommended Conditions is critical. As a Hospital operator, I know the 2015 Conditions  
25 were too burdensome and hampered the Hospitals ability to prosper, as discussed above.  
26 Verity, its employees, tens of thousands of vendors and other parties have made tireless  
27 efforts during the sale process to ensure high quality continued patient care and to take the  
28 necessary steps that would allow the Hospitals to be sold to a new operator that could

1 successfully operate the Hospitals. The Bankruptcy Court has now approved the sale to  
2 SGM, which paves the way for these Hospitals and the communities they serve to  
3 continue the Hospitals' mission of quality patient care.

4 20. The alternative to an SGM sale is, most likely, the closure of SVMC and  
5 Seton in light of their unsustainable operating losses, the absence of an interested viable  
6 purchaser that would continue operations as acute care hospitals, and the almost certain  
7 lack of financing to sustain their operations.

8 21. While SFMC would most likely attempt a private sale in the bankruptcy  
9 cases, I foresee significant challenges. SFMC's financial performance may be stronger  
10 during parts of the year than the other Hospitals; however, SFMC relies significantly on  
11 the Verity Hospital System to borrow an excess of \$35 million throughout the year to  
12 achieve its financial success and has not demonstrated an ability to independently manage  
13 large working capital fluctuations. The administrative expenses and risks associated with  
14 continuing the cases to attempt to identify a new buyer other than SGM, further threaten  
15 the Debtors' ability to finance and sell the Hospitals as going concerns and related  
16 recoveries to constituents. These threats are borne directly by the communities served by  
17 the Hospitals, their patients, employees, and other critical stakeholders, and are material  
18 considerations with which to assess the proposed SGM sale.

19 22. The Reports recognize the unique role the Hospitals play in their  
20 communities. Although I disagree with the specifics of the Recommended Conditions, I  
21 believe it is indisputable that the Hospitals provide access to essential healthcare services  
22 in their communities. Faced with the possibility of losing the Hospitals in their entirety,  
23 rote application of the 2015 Conditions should yield to the pragmatics of economics and  
24 demonstrable patient care and community need.

25 23. If the SGM transaction does not close, the Debtors, employees, pension  
26 holders, other stakeholders, and community members, would be exposed to significant  
27 and unrecoverable health care and economic loss.

28 24. Among the stakeholders which will be harmed by a failed SGM sale are the

1 vendors that have supported the Hospitals by providing credit terms throughout these  
2 cases. Under the SGM sale, these creditors will receive payment for their support of the  
3 Hospitals during the sale process. A failed sale to SGM would put that at risk. In  
4 addition, there are thousands of vendors whose contracts will likely be assumed by SGM  
5 in the sale. Consequently, these vendors will be paid for their pre-petition claims, an  
6 estimated total recovery for these vendors of \$50 million. Even those vendors whose  
7 contracts are not assumed by SGM are still expected to receive millions of dollars of  
8 recoveries. In total, the failed sale to SGM would cost these vendors tens of millions of  
9 dollars in recoveries. Further, there would be a loss of future income for services  
10 provided to the operating Hospitals on a go-forward basis.

11 25. The Hospitals have approximately 4,900 employees. SGM has committed  
12 to retain “substantially all” employees of the Debtors, as set forth in the APA.

13 26. The SGM sale presents the Debtors’ stakeholders with the best possible  
14 alternative, and the failure of the SGM transaction will likely result in a loss of healthcare  
15 access for vulnerable populations, as well as jobs of thousands of employees.

16 27. Based on the foregoing, I request the Attorney General carefully consider  
17 the foregoing and not impose conditions that would threaten to close the Hospitals or  
18 otherwise unwind stakeholders’ heroic efforts to save these Hospitals.

19 I declare under penalty of perjury under the laws of the United States that the  
20 foregoing is true and correct.

21 Executed this 23rd day of August, 2019, in Santa Monica, California.

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Richard G. Adcock

**DECLARATION OF ANITA CHOU**

1  
2 I, Anita Chou, declare, that if called as a witness, I would and could testify as follows based  
3 on my own personal knowledge.

4 1. I am the Chief Financial Officer (“CFO”) of Verity Health System of California,  
5 Inc. (“VHS”). I became the Debtors’ acting CFO on August 20, 2018, and on August 29, 2018, the  
6 board of directors appointed me as the CFO. Prior to my appointment as acting CFO, I served as  
7 the VHS SVP Hospital Finance, with oversight responsibilities over all of Verity Health System  
8 hospitals’ CFOs from February 1, 2018 until August 19, 2018, and as the St. Vincent Medical  
9 Center CFO from March 2016 to February 2018. Prior to VHS, I spent three years at Prospect  
10 Medical Holdings from March 2013 to March 2016 in various senior level corporate finance  
11 positions including Hospital System CFO, ten years as the controller for three different hospital  
12 and hospital systems (*e.g.*, Saint John’s Health Center & Affiliates, Valley Presbyterian Hospital,  
13 and USC Kenneth Norris Jr. Cancer Hospital), and three years as a Financial Market Analyst for  
14 El Camino Hospital. I received my Masters in Health Administration from the University of  
15 Southern California in 2005, and my Bachelor of Science from University of California, San Diego  
16 in 1998.

17 2. Debtor VHS, a California non-profit public benefit corporation, is the sole corporate  
18 member of the five debtor California non-profit public benefit corporations that operated six acute  
19 care hospitals (the “Hospitals”), including St. Francis Medical Center (“SFMC”), St. Vincent  
20 Medical Center (“SVMC”) and Seton Medical Center, which includes its Daly City and Coastsides  
21 Campuses (“Seton”). Seton operates under one consolidated general acute care hospital license.  
22 VHS, the Hospitals and their affiliated entities operated as a non-profit healthcare system in the  
23 State of California.

24 3. The statements herein are based upon my personal knowledge of the facts and  
25 information gathered by me in my capacity as CFO for VHS.

26 4. I have reviewed the Health Care Impact Statements (the “Reports”), analyzing the  
27 proposed sale of SFMC, SVMC and Seton to Strategic Global Management, Inc., and its affiliated  
28 entities (“SGM”), as reflected in that certain Asset Purchase Agreement (the “APA”).

1 5. The report on SFMC, at pages 92-96, the report on SVMC, at pages 87-90, and the  
2 report on Seton, at pages 88-92, set forth JD’s recommended conditions (the “Recommended  
3 Conditions”) for the transactions to the California Attorney General (the “Attorney General”). I  
4 urge the Attorney General not to issue the proposed conditions and, instead, to impose the  
5 conditions to which SGM has agreed in Schedule 8.6 to the APA.

6 6. The Recommended Conditions for SFMC, SVMC and Seton that deviate from  
7 Schedule 8.6 attached to the APA are “deal breakers” and should not be imposed by the Attorney  
8 General.

9 **A. St. Francis**

10 7. The Recommended Conditions for SFMC include a requirement that, for at least 10  
11 years from the closing date, SFMC maintain cancer services. The current cost to maintain cancer  
12 treatment at SFMC exceeds \$11 million annually, which includes the financial advantages that  
13 permit SFMC, as a non-profit hospital, to use the 340B program. The 340B Drug Discount Program  
14 is a U.S. federal government program that requires drug manufacturers to provide outpatient drugs  
15 to eligible health care organizations and covered entities at significantly reduced prices. SGM will  
16 operate SFMC as a for-profit enterprise, and, therefore, the 340B program will no longer be  
17 available, increasing the cost of pharmaceuticals, and, therefore, the cancer program, by \$262,000  
18 per year.

19 8. The Recommended Conditions include a requirement that, for at least 10 years from  
20 the closing date, SFMC maintain Wound Care Services. The Wound Care Clinic operated at a  
21 \$385,000 net loss in 2018 and is expected to continue to operate at a loss.

22 9. The Recommended Conditions include a requirement that, for at least 10 years from  
23 the closing date, SFMC maintain its participation in the Medi-Cal Managed Care Program,  
24 continuing its contracts with LA Care Health Plan and Health Net Community Solutions. With  
25 Managed Medi-Cal rates that are significantly below market, such a restriction will continue to  
26 impose a financial burden upon SFMC as well as hinder its ability to negotiate appropriate payor  
27 rates. These contracts have not been renegotiated in the last 5 years in part due to the imposition of  
28 the conditions.

1 **B. St. Vincent**

2 10. The Recommended Conditions for SVMC include a requirement that, for at least 5  
3 years from the closing date, SVMC maintain cancer services. The cancer treatment program at  
4 SVMC operated at a net loss in 2018 of \$995,000. And, because SGM will operate SVMC as a for  
5 profit enterprise, SGM cannot utilize the benefit of the 340B program which will impose additional  
6 cost for pharmaceuticals by \$547,000 per year, exacerbating existing operating losses at the facility  
7 of over \$65 million annually. With the loss of the 340B program, cancer care at SVMC will operate  
8 at a projected increased net loss of approximately \$1.5 million per year.

9 11. The Recommended Conditions include a requirement that, for 5 years after the  
10 closing date, SVMC will continue to provide liver transplant service. The liver transplant program  
11 at SVMC started in calendar year 2019. In fact, performance projections prepared by a third-party  
12 expert consultant in transplant programs show a 5-year net loss of \$21 million for SVMC. Worse,  
13 currently SVMC is not receiving reimbursement for liver transplants because SVMC is still in  
14 process of being certified to perform these transplants. Finally, SGM will have to negotiate  
15 reimbursement rates with third party payors going forward which may not cover the cost of the  
16 surgeries.

17 12. The Recommended Conditions include a requirement that for 5 years from the  
18 closing date, SVMC shall maintain its participation in the Medi-Cal Managed Care program,  
19 including continuing contracts with LA Care Health Plan and Health Net Community Solutions,  
20 Inc. Just as in the case with SFMC, with Managed Medi-Cal rates that are significantly below  
21 market, such a restriction will continue to impose a financial burden upon SVMC as well as hinder  
22 its ability to negotiate appropriate payor rates. These contracts have not been renegotiated in more  
23 than 5 years in part due to the imposition of the conditions.

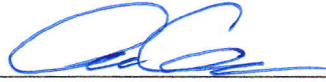
24 **C. Seton and Seton Coastside**

25 13. The Recommended Conditions include a requirement that for 6 years Seton continue  
26 to offer cancer services at its Daly City Campus. The cancer services at Seton operated at a net  
27 loss of \$3.8 million in 2018. The loss of the 340B program will increase costs by \$3 million, of  
28 which \$2.6 million is attributable to the loss of infusion therapy services. It is not financially

1 feasible to operate a cancer program at a continuing loss of nearly \$7 million per year for a facility  
2 that is currently operating at a loss of \$60 million annually.

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

5 Executed this 23rd day of August, 2019, in El Segundo, California.



8 Anita Chou  
9 Chief Financial Officer

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**DECLARATION OF TIRSO DEL JUNCO, JR., M.D.**

I, Tirso del Junco, Jr., M.D., declare that if called as a witness, I would and could competently testify thereto, of my own personal knowledge as follows.

1. I am currently the Chief Medical Officer for Verity Health System of California, Inc. (“VHS”). I am licensed and authorized to practice medicine in the State of California. I have been with VHS since its beginning in December 2015. I have also served as VHS’s Associate Chief Medical Officer and as St. Vincent Medical Center’s Chief Medical Officer. Prior to joining VHS, I held several positions at Mission Community Hospital in Panorama City, including associate chief medical officer.

2. Debtor VHS, a California non-profit public benefit corporation, is the sole corporate member of the five debtor California non-profit public benefit corporations that operated six acute care hospitals (the “Hospitals”), including St. Francis Medical Center (“SFMC”), St. Vincent Medical Center (“SVMC”) and Seton Medical Center, which includes its Daly City and Coastside Campuses (“Seton”). Seton operates under one consolidated general acute care hospital license. VHS, the Hospitals and their affiliated entities operated as a non-profit health care system in the State of California.

3. The statements herein are based upon my personal knowledge of the facts and information gathered by me in my capacity the Chief Medical Officer for VHS.

4. I have read the Health Care Impact Statements (the “Reports”) prepared by JD Healthcare (“JD”) analyzing the proposed sale of SFMC, SVMC and Seton to Strategic Global Management, Inc., and its affiliated entities (“SGM”).

5. The report on SFMC, at pages 92-96, the report on SVMC, at pages 87-90, and the report on Seton and Seton Coastside, at pages 88-92, set forth JD’s recommended conditions (the “Recommended Conditions”) for the transactions to the California Attorney General (the “Attorney General”).

6. The Recommended Conditions for SFMC, SVMC and Seton that deviate from Schedule 8.6 attached to the certain Asset Purchase Agreement are “deal breakers” and should not be adopted by the Attorney General.

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1 **A. St. Francis Medical Center**

2 7. The Recommended Conditions for SFMC include a requirement that, for at least 10  
3 years from the closing date, SFMC maintain cancer services, including radiation oncology. First,  
4 SFMC currently does not have a full complement of cancer services to offer its patients. In fact,  
5 SFMC offers *only* radiation oncology, and does not provide infusion chemotherapy and does not  
6 have a formal surgical oncology program; SFMC patients who need these services go to other  
7 hospitals. All three of those cancer services are currently being provided to patients within the area  
8 by Long Beach Memorial, Downy PIH, Torrance Memorial Medical Center and Lakewood  
9 Community Hospital. In other words, other hospitals within the area offer a full array of cancer  
10 services that SFMC does not offer, and those hospitals can thoroughly meet the needs for such  
11 services in the area. SFMC, as a non-profit hospital, receives the benefit of the 340B program. The  
12 340B Drug Discount Program is a U.S. federal government program that requires drug  
13 manufacturers to provide outpatient drugs to eligible health care organizations and covered entities  
14 at significantly reduced prices. SGM will operate SFMC as a for-profit hospital, and, therefore, the  
15 340B program will no longer be available, thereby increasing the cost of supplies.

16 8. The Recommended Conditions include a requirement that, for at least 10 years from  
17 the closing date, SFMC maintain wound care services. The report fails to note that the wound care  
18 clinic was re-licensed as a multi-specialty clinic in 2019 (for gastrointestinal services and general  
19 surgery, among other specialties); requiring SFMC to continue to provide wound care in the multi-  
20 specialty clinic would prevent SFMC from providing in the same clinic at the same time—multi-  
21 specialty services to meet community needs. In addition, the report fails to note that the hyperbaric  
22 chamber that was utilized in connection with such wound care services was removed by the vendor  
23 in 2018. Other hospitals in the area provide wound care services for patients, including Long Beach  
24 Memorial, Torrance Memorial and Downey PIH.

25 **B. St. Vincent Medical Center**

26 9. The Recommended Conditions include a requirement that, for at least 5 years from  
27 the closing date, SVMC maintain cancer services, including radiation oncology. As is the case with  
28 SFMC, SVMC does *not* have a full complement of cancer services to offer its patients; SVMC does

1 not provide infusion or infusion chemotherapy, and does not have a formal surgical oncology  
2 program. SVMC patients who require those services are required to go to other hospitals. All four  
3 of those services are currently being provided at California Hospital, Good Samaritan, White  
4 Memorial, Hollywood Presbyterian and the Norris Cancer Center at USC Keck. In other words,  
5 other hospitals within the area offer a full array of services that SVMC does not offer, thoroughly  
6 meeting the need for such services in the area. As is the case with SFMC, the 340B program, which  
7 permits SVMC as a non-profit hospital, to obtain cancer supplies, principally pharmaceuticals, from  
8 vendors at discounted pricing, cannot continue at SVMC because SGM will operate SVMC as a  
9 for-profit hospital. The inability to utilize the financial advantages of the 340B program will have  
10 a material impact, increasing costs to provide cancer care.

11 10. As to both SFMC and SVMC, there are three facilities designated as National  
12 Cancer Institutes within the Los Angeles area, including the Norris Cancer Center at Keck USC  
13 Medical Center, City of Hope and UCLA Medical Center. Those facilities provide superior cancer  
14 treatment to their patients. All three are within 25 miles of SFMC and SVMC.

15 11. The Recommended Conditions for SVMC include a requirement that, for 5 years  
16 after the closing date, SVMC continue to provide liver transplants. The liver transplant program at  
17 SVMC only started in 2019. The reality is that the community has 5 neighboring liver transplant  
18 centers, which provide the same transplant services as SVMC. The cost to maintain the services is  
19 high, best demonstrated by the fact that in regards to the 10 liver transplants surgeries performed  
20 so far in 2019, patients have stayed an average of 35 days, which is 15 days over the geometric  
21 mean length of stay (“GMLOS”), which is a benchmark to enable comparison of length of stay  
22 versus severity of illness, set forth by Medicare. Worse, at the present time, SVMC is not receiving  
23 reimbursements because it is awaiting Medicare review of the program for certification.


24 **C. Seton Medical Center and Seton Coastside**

25 12. The Recommended Conditions requiring Seton to provide cancer services at its Daly  
26 City Campus should not be required as a condition for approval of the sale by the Attorney General.

27 13. More specifically, the Recommended Conditions include a requirement that for 6  
28 years from the closing date, Seton shall maintain cancer services at its Daly City Campus, including

1 oncology services, radiation therapy and infusion services. Seton provides radiation oncology and  
2 infusion therapy, but does not have a formal surgical oncology program. Accordingly, just as is  
3 the case with SFMC and SVMC, Seton does not have the full complement of cancer services to  
4 offer its patients. Seton patients who need the full array of services, that includes surgical oncology,  
5 go to other hospitals. A full array of cancer services are currently being provided to patients within  
6 the area, at UCSF and Stanford, and at Mills Peninsula which is located within ten miles of Seton.  
7 Just as is the case with SFMC and SVMC, other hospitals within the area offer a full array of cancer  
8 services, thoroughly meeting the community's needs for such services. Finally, just as is the case  
9 with SFMC and SVMC, the 340B program cannot continue in a for-profit hospital as proposed by  
10 SGM for Seton. Accordingly, the cost for Seton to provide cancer care without the 340B program  
11 will dramatically increase.

12 I declare under penalty of perjury under the laws of the United State that the foregoing is  
13 true and correct. Executed this 23rd day of August, 2019, in Los Angeles, California.

14   
15 \_\_\_\_\_  
16 Tirso del Junco, Jr., M.D.

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DECLARATION OF MAYA ALTMAN

I, Maya Altman, declare that I have personal knowledge of the facts set forth in this declaration and I would competently testify to them under oath if called as a witness.

1. I am the CEO for the Health Plan of San Mateo. My office is located at 801 Gateway Blvd., South San Francisco, California.

2. The Health Plan of San Mateo (HPSM) is a County Organized Health System (COHS) that contracts with the State of California to operate the Medi-Cal program in San Mateo County. HPSM is the single Medi-Cal plan in this county. HPSM contracts with providers in San Mateo County as well as nearby counties to provide health services, including long term care and skilled nursing care, for its members. Seton Medical Center and Seton Coastside both currently contract with HPSM. HPSM has approximately 140,000 members; nearly all of them are enrolled in Medi-Cal or dually eligible for both Medicare and Medi-Cal.

3. I have been the CEO of HPSM since 2005. Prior to this position, I was the Director of Finance and Administration for the San Mateo County Health Department. I started with San Mateo County Health in 1994 and worked in various capacities before assuming responsibility for finance and administration.

4. I received a Master's Degree in Public Policy from the University of California at Berkeley, and a Bachelor of Arts degree from Bryn Mawr College.

5. Seton Medical Center and Seton Coastside offer services to HPSM members that are unavailable or minimally available from other providers. For example, Seton Medical Center operates the only subacute unit in San Mateo County, a 44 bed unit fully occupied with nearly all Medi-Cal beneficiaries. Were Seton Medical Center to close, these ventilator dependent patients would have to be moved to facilities at a great distance from their families.

6. Seton Medical Center and Seton Coastside operate a combined total of 155 skilled nursing facility beds. HPSM is gravely concerned about the erosion of SNF resources in San Mateo County and the Bay Area for people who are publicly insured

1 through Medi-Cal and Medicare. This is a national trend but is especially problematic in  
2 San Mateo County where the population is aging faster than the rest of California. The  
3 county's population of residents over the age of 65 is projected to increase by 57% from  
4 91,447 in 2015 to 160,366 in 2030. San Mateo County's In Home Support Services  
5 (IHSS) Medi-Cal population is already 26% over the age of 85 compared to 15% in the  
6 rest of California. San Mateo County has already lost 264 licensed SNF beds since 2009,  
7 making it extremely difficult to place Medi-Cal enrollees who need this level of care in  
8 nursing facilities.

9 7. Were Seton Medical Center and Seton Coastside to close, Medi-Cal  
10 beneficiaries needing skilled nursing facilities would have to be placed in facilities far  
11 away, most likely outside of the Bay Area and at a great distance from their families.

12  
13 I declare under penalty of perjury under the laws of the United States that the  
14 foregoing is true and correct.

15 Executed this 21<sup>st</sup> day of August, 2019, in South San Francisco, California.

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18 Maya Altman  
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