



U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS

**ENTERED**

TAWANA C. MARSHALL, CLERK  
THE DATE OF ENTRY IS  
ON THE COURT'S DOCKET

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

Signed July 29, 2015

  
United States Bankruptcy Judge

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

**IN RE:** §  
§  
**VICTORY MEDICAL CENTER MID-** § **CASE NO. 15-42373-RFN-11**  
**CITIES, LP, et. al<sup>1</sup>** §  
§ **Chapter 11**  
**DEBTORS.** § **Jointly Administered**

**ORDER (A) AUTHORIZING THE DEBTORS TO SELL ASSETS  
FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES;  
(B) AUTHORIZING THE DEBTORS TO ASSUME AND ASSIGN  
EXECUTORY CONTRACTS AND UNEXPIRED LEASES;  
AND (C) GRANTING RELATED RELIEF (AS TO VICTORY MEDICAL  
CENTER PLANO ONLY)**

On July 28, 2015 (the "**Sale Hearing**"), the Court considered the *Amended Emergency Motion of Debtors for Orders (1) Approving Sale of Assets Free and Clear of All Liens, Claims, Encumbrances and Other Interests, (2) Authorizing the Assumption, Assignment and Sale of*

<sup>1</sup> The debtors in these cases, along with the last four digits of their respective taxpayer ID numbers, are Victory Medical Center Mid-Cities, LP (2023) and Victory Medical Center Mid-Cities GP, LLC (4580), Victory Medical Center Plano, LP (4334), Victory Medical Center Plano GP, LLC (3670), Victory Medical Center Craig Ranch, LP (9340), Victory Medical Center Craig Ranch GP, LLC (2223), Victory Medical Center Landmark, LP (9689), Victory Medical Center Landmark GP, LLC (9597), and Victory Parent Company, LLC (3191).

*Certain Executory Contracts and Unexpired Leases, (3) Approving Bidding Procedures in Advance of Auction, and (4) Granting Related Relief* [Doc No. 66] (the "**Sale Motion**")<sup>2</sup> filed by the above named debtors and debtors-in-possession (collectively, the "**Debtors**" and, in reference to Victory Medical Center Plano, LP, individually, the "**Debtor**"). After due deliberation and sufficient cause appearing for the relief requested in the Sale Motion, and for the reasons stated on the record in open Court at the Sale Hearing, which are incorporated by reference herein.

**THE COURT HEREBY FINDS AND CONCLUDES THAT:**<sup>3</sup>

A. This Court has jurisdiction over the Sale Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (M), (N) and (O). Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This Court has authority to enter this Order as a final judgment, and further finds no party receiving notice of the Sale Motion has objected to such authority.

B. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a).

C. The statutory bases for the relief requested in the Sale Motion are Sections 105(a), 363(b), (f) and (m) and 365(a), (b) and (f) of title 11 of the United States Code (the "**Bankruptcy Code**") and Rules 2002, 6004, 6006, 9007, 9014 and 9019 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

D. On June 12, 2015 (the "**Petition Date**"), the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors have

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<sup>2</sup> Capitalized terms not otherwise defined in this Order have the meanings ascribed to them in the Asset Purchase Agreement attached as Exhibit A.

<sup>3</sup> The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Fed. R. Bank. P. 7052, made applicable to this proceeding pursuant to Fed. R. Bank. P. 9014.  
**ORDER (A) AUTHORIZING THE DEBTORS TO SELL ASSETS FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES; (B) AUTHORIZING THE DEBTORS TO ASSUME AND ASSIGN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (C) GRANTING RELATED RELIEF (AS TO VICTORY MEDICAL CENTER PLANO ONLY - Page 2**  
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continued to operate as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

E. On June 15, 2015, the Debtors filed the Sale Motion by which they sought, among other relief, authorization to sell certain assets related to the hospital operated by Victory Medical Center Plano, LP (the "Hospital") to the successful bidder after an auction. The assets to be sold are described with particularity in the Asset Purchase Agreement dated July 28, 2015 and attached as **Exhibit A** hereto (the "**Asset Purchase Agreement**") and generally consist of certain personal property located at the Hospital, including medical and office equipment, computers and software (the "**Purchased Assets**"). In addition, the Debtors propose to assume and assign certain executory contracts, equipment leases and an unexpired non-residential real property lease (the "**Assumed Contracts**") related to the Hospital and certain equipment therein.

F. On June 25, 2015, after notice and hearing, this Court entered the *Order Approving (1) Bidding Procedures in Advance of Auction; (2) Approving Form and Manner of Notice of Proposed Cure Amounts, Auction and Final Hearing; and (3) Granting Related Relief [Docket. No. 103]*. Thereafter, this Court entered an *Order Modifying Order Approving (1) Bidding Procedures in Advance of Auction; (2) Approving Form and Manner of Notice of Proposed Cure Amounts, Auction and Final Hearing; and (3) Granting Related Relief [Docket No. 147]*. Collectively these orders are hereinafter referred to as the "**Sale Procedures Order**."

G. On July 17, 2015, in accordance with the requirements of the Sale Procedures Order, the Debtors conducted an auction (the "**Auction**"). The Auction was concluded on July 28, 2015. At the conclusion of the Auction, the Debtors announced that the Marsh Lane Surgical Hospital, LLC, a Texas limited liability company and indirect subsidiary of Nobilis

Health Corp., a British Columbia corporation that is traded on the NYSE Mkt under the symbol "HCTH" (the "**Buyer**"), had submitted the highest and best bid for the Purchased Assets.

H. The bidding procedures approved by the Sale Procedures Order (the "**Bidding Procedures**") are fair and reasonable in all respects, and the Debtors have complied with the Bidding Procedures in all respects.

I. The assumption and assignment procedures, including the fixing of Cure Amounts, approved by the Sale Procedures Order (the "**Assumption and Assignment Procedures**") are fair and reasonable in all respects, and the Debtors have complied with the Assumption and Assignment Procedures in all respects.

J. The Debtors have provided timely, adequate and sufficient notice of the Sale Motion, the Sale Procedures Order, the Bidding Procedures, the Assumption and Assignment Procedures and the Sale Hearing to all parties entitled to notice, and no other or further notice is required.

K. The sale of the Purchased Assets to the Buyer in accordance with the terms of the Asset Purchase Agreement (i) is fair and reasonable, (ii) is supported by the Debtors' sound business judgment, and (iii) is in the best interests of the Debtors, their estates and their creditors.

L. The Purchase Price to be paid by the Buyer under the terms of the Asset Purchase Agreement (i) is fair and reasonable, (ii) represents the highest and best offer for the purchase of the Purchased Assets, (iii) will provide the best price obtainable for the Purchased Assets and a greater recovery for the estate's creditors than would be provided by any other practical available alternative, and (iv) constitutes reasonably equivalent value and fair consideration for the Purchased Assets.

M. The Debtors have articulated sound business reasons for entering into the Asset Purchase Agreement and for selling the Purchased Assets on the terms and conditions set forth in the Asset Purchase Agreement, and it is a reasonable exercise of the Debtors' business judgment to execute, deliver and consummate the transactions contemplated by the Asset Purchase Agreement.

N. The Asset Purchase Agreement was negotiated and entered into in good faith, without collusion and at arm's-length. The Buyer is a "good faith" purchaser within the meaning of Section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby. Neither the Debtors nor the Buyer has engaged in any conduct that would constitute grounds for the Asset Purchase Agreement to be avoided or costs and damages to be imposed under Section 363(n) of the Bankruptcy Code.

O. The Buyer is not a successor in interest to or alter ego of the Debtors and should not have any successor or transferee liability for any obligations or liabilities of the Debtors as a result of the purchase of the Purchased Assets.

P. Legacy Texas Bank, as successor in interest to Viewpoint Bank, N.A., has consented to the sale of the Purchased Assets and the Debt Assumption pursuant to the terms of the Asset Purchase Agreement and this Order. In connection with the sale of the Purchased Assets, Lender has, in good faith, agreed to voluntarily reduce its claim (as defined in Section 101(5) of the Bankruptcy Code) against the Debtor's estate to \$5.9 million ("**Lender's Claim**"), and has provided other financial accommodations to both the Buyer and the Debtor necessary to consummate the sale of the Purchased Assets. Accordingly, the consideration received by Lender under the Asset Purchase Agreement and this Order, including, without limitation, the releases of the Released Claims (as hereinafter defined) granted by this Order, is supported by fair and adequate consideration, and is appropriate under the circumstances.

Q. The Released Claim are granted to Lender as part of a compromise between the Lender and Debtor (the "**Compromise**") that is hereby approved by Court because the Compromise satisfies the fifth Circuit's requirements for approval of a compromise set forth in *In re Jackson Brewing Co.*, 674 F.2d 599, 602-03 (5<sup>th</sup> Cir. 1980). Additionally, the court finds that, based on the evidence presented, cause exists to require no further notice of the Compromise pursuant to Rule 2002(a)(3) of Rules of Bankruptcy Procedure.

R. The conditions for a sale of the Purchased Assets free and clear of liens, claims and encumbrances pursuant to Section 363(f) of the Bankruptcy Code have been satisfied. Accordingly, the Debtors may sell the Purchased Assets to the Buyer free and clear of all Liens and Claims (as defined below), if any. For purposes of this Order, "**Liens and Claims**" shall include any mortgage, deed of trust, security interest, lien, encumbrance, charge, indenture, pledge, hypothecation, contract right, assignment, option, right of first refusal, preemptive right, property right, contribution right, indemnification right, reimbursement right, easement, interest, license, judgment, order, decree, ruling, requirement, claim (including but not limited to any "claim" as such term is defined in Section 101(5) of the Bankruptcy Code), liability, demand, damage, loss, debt, obligation, account, offset, action, cause of action, defense, cost, fee, expense and/or interest of whatsoever nature, character or kind, whether in law or equity, whether known or unknown, whether disclosed or undisclosed, whether direct or indirect, whether anticipated or unanticipated, whether asserted or unasserted, whether written or unwritten, whether filed or unfiled, whether scheduled or unscheduled, whether accrued or unaccrued, whether choate or inchoate, whether matured or unmatured, whether contingent or non-contingent, whether liquidated or unliquidated, which any person or entity now has or ever had against or in any way relating to the Debtors and/or any of the Purchased Assets.

S. The Buyer would not have entered into the Asset Purchase Agreement and would not consummate the transactions contemplated by the Asset Purchase Agreement, thus adversely affecting the Debtors, their estates and their creditors, if the sale of the Purchased Assets was not free and clear of all Liens and Claims, other than the liabilities expressly assumed by the Buyer under the Asset Purchase Agreement and as set forth in this Order.

T. The Debtors have made the representations and warranties in Article IV of the Asset Purchase Agreement, each of which, upon the evidence presented, the Court finds to be true, correct and binding on the Debtors as of the date of entry of this Order.

U. The inclusion of patients' personally identifiable information in the Purchased Assets is consistent with the Debtors' pre-petition privacy policy because the transfer is necessary to the ongoing provision of treatment and health care operations. Pursuant to 11 U.S.C. § 363(b)(1)(A), the Debtors may transfer the patients' personally identifiable information without the need for the appointment of consumer privacy ombudsman.

V. The Buyer has made the representations and warranties in Article V of the Asset Purchase Agreement, each of which, upon the evidence presented, the Court finds to be true, correct and binding on the Buyer.

W. True and correct copies of each contract to be assumed by the Buyer (the "**Assumed Contracts**") were admitted into evidence at the Sale Hearing as Debtor's Exhibits 2 through 17 and are listed on Exhibit B hereto. The Debtors' assumption and assignment to the Buyer of the Assumed Contracts (i) is fair and reasonable, (ii) is supported by the Debtors' sound business judgment, and (iii) is in the best interests of the Debtors, their estates and their creditors. The non-debtor counterparties to the Assumed Contracts received timely, adequate and sufficient notice of the assumption and assignment of the Assumed Contracts and of the fact that, if they

failed to object to the assumption and assignment, they would be barred and estopped from asserting against the Debtors or the Buyer that any amounts are due (other than amounts set forth on the Cure Schedule attached as Exhibit B) or that any other defaults exist under the Assumed Contracts.

X. Debtors shall be deemed to have (a) cured any default existing prior to the date hereof under any of the Assumed Contracts, within the meaning of Section 365(b)(1)(A) of the Bankruptcy Code, and (b) provided compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the date hereof under any of the Assumed Contracts with the meaning of Section 365(b)(1)(B) of the Bankruptcy Code, by disbursing the Cure Amounts as set forth on Exhibit B to this Order at Closing.

Y. The Debtors and the Buyer have provided adequate assurance of future performance of the Assumed Contracts in accordance with the requirements of Sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code.

Z. Effective as of the closing of the sale of the Purchased Assets, the sale and transfer of the Purchased Assets and the assumption and assignment of the Assumed Contracts, in accordance with the terms and conditions of the Asset Purchase Agreement and this Order (i) will constitute a legal, valid and effective transfer of the Purchased Assets, (ii) will constitute a legal, valid and effective assumption by the Debtors and assignment to the Buyer of the Assumed Contracts, and (iii) will vest the Buyer with all right, title and interest in and to the Purchased Assets free and clear of all Liens and Claims, other than the liabilities expressly assumed by the Buyer under the Asset Purchase Agreement or this Order.

AA. No fees or commissions were requested by the Buyer to be paid by the Debtors as a condition of the sale of the Purchased Assets.



BB. Time is of the essence. To maximize the value of the Purchased Assets, it is critical that (i) the closing of the sale of the Purchased Assets to the Buyer and (ii) the assignment of the Assumed Contracts to Buyer occur as soon as practicable. Given the circumstances, cause exists for waiver of the stay imposed by Bankruptcy Rules 6004(h) and 6006(d).

**IT IS THEREFORE ORDERED THAT:**

1. The Sale Motion is granted, as set forth herein.
2. Any objections to the Sale Motion that have not been withdrawn, waived or settled by stipulation filed with the Court or as announced to the Court at any hearing on the Sale Motion are hereby overruled.
3. To the extent any of the findings of fact set forth in this Order constitute conclusions of law, or to the extent any of the conclusions of law set forth in this Order constitute findings of fact, they are hereby adopted as such.
4. The Asset Purchase Agreement and all related documents, all transactions contemplated thereby, and all of the terms and conditions thereof are hereby approved.
5. The Debtors are hereby authorized and empowered to sell the Purchased Assets to the Buyer in accordance with the terms and conditions of the Asset Purchase Agreement. To this end, the Debtors and Buyer, as the case may be, are hereby authorized and empowered to take such actions, and to execute and deliver such documents and instruments, as are necessary or appropriate to effectuate the sale of the Purchased Assets, the assignment of the Assumed Contracts, the payment of Cure Amounts and ad valorem taxes and all other transactions contemplated by the Asset Purchase Agreement. The Debtors are authorized and directed to pay at Closing the Cure Amounts and ad valorem taxes in the amounts set forth on Exhibit B.

6. At closing of the sale of the Purchased Assets pursuant to the Asset Purchase Agreement, Buyer shall assume the Debtor's obligation with respect to \$4,500,000.00 of Lender's Claim, in accordance with the terms and conditions of the Asset Purchase Agreement and Debt Assumption (as defined in the Asset Purchase Agreement).

7. Contemporaneously with the closing of the sale of the Purchased Assets pursuant to the Asset Purchase Agreement, the Debtor shall pay Lender the amount of \$1,325,000.00 (the "**Cash Pay Down**") in immediately available funds, which amount shall be applied by Lender against Lender's Claim.

8. Effective immediately upon closing of the sale of the Purchased Assets, Lender shall receive an allowed superpriority administrative claim pursuant to Section 503 and 507 of the Bankruptcy Code in the amount of \$75,000.00 (the "**Superpriority Claim**"). Such Superpriority Claim shall be entitled to payment from the first collections of the Victory Receivables net of collection costs.

9. Lender's receipt of the Debt Assumption, the Cash Pay Down and the Superpriority Claim shall constitute full and final satisfaction of Lender's Claim. For the avoidance of doubt, effective immediately upon closing of the sale of the Purchased Assets, Lender releases all claims or causes of action belonging to it that are or may be in any way assertable against any of the Debtors or their estates, except for any claims or causes of action relating to the Cash Pay Down or the Superpriority Claim, with respect to which all of Lender's rights are preserved. For the further avoidance of doubt, nothing in this paragraph shall have any impact on or impair Lender's rights with respect to the Debt Assumption.

10. Effective immediately upon closing of the sale of the Purchased Assets, all claims or causes of action (collectively, the "**Released Claims**") belonging to the Debtors, the Debtors'

estates and/or any and all of their respective successors and assigns, that are or may be in any way assertable against Lender, its Affiliates (as defined in Section 101(2) of the Bankruptcy Code), officers, directors, employees, representatives, agents, attorneys, and/or other professionals (collectively, the "**Release Parties**"), are forever waived, released, and discharged, and the Debtors, the Debtors' estates and/or any and all of their respective successors and assigns are hereby barred and permanently enjoined from in any way asserting any Released Claims against any of the Release Parties. For the avoidance of any doubt, the Released Claims shall include any and all claims, obligations, demands, actions, causes of action and liabilities, of whatsoever kind and nature, character and description, whether known or unknown, whether in law or equity, whether sounding in tort, contract, *quantum meruit*, and any state of federal avoidance cause of action, including without limitation all claims and/or causes of action under Chapter 5 of the Bankruptcy Code, or to recover the value of any property transferred to Lender pursuant to Section 550 of the Bankruptcy Code or applicable state law.

11. Pursuant to Sections 105(a) and 363(b) and (f) of the Bankruptcy Code, the sale of the Purchased Assets to the Buyer shall be free and clear of all Liens and Claims of whatsoever nature, character or kind, other than the liabilities expressly assumed by the Buyer under the Asset Purchase Agreement or this Order, including the 2015 Ad Valorem Taxes which shall be the responsibility of the Buyer and such liens securing the 2015 Ad Valorem Taxes shall remain attached to the Purchased Assets in the same extent, validity and priority as existed prior to the closing of the sale of the Purchased Assets to the Buyer. Without limiting the generality of the foregoing, the sale of the Purchased Assets shall be free and clear of any Liens and Claims arising under or relating to: (a) any agreement or understanding, whether written or unwritten, between or among any of the Debtors and any governmental unit or regulatory body; and (b) any order, decree,

ruling or requirement imposed upon or otherwise relating to any of the Debtors by any governmental unit or regulatory body. All Liens and Claims, other than the liabilities expressly assumed by the Buyer under the Asset Purchase Agreement or this Order, shall be unconditionally and irrevocably released, discharged and terminated as to the Purchased Assets, with all such Liens and Claims, if any, attaching to the proceeds of the sale of the Purchased Assets with the same extent, validity and priority.

12. Except as provided for in the second sentence of paragraph 20 of this Order, effective upon the closing of the sale of the Purchased Assets to the Buyer, all holders of Liens and Claims are hereby barred and permanently enjoined from in any way asserting or pursuing such Liens and Claims against the Buyer, the Buyer's successors or assigns, the Purchased Assets and/or any other assets of the Buyer or its successors and assigns except for holders of ad valorem property tax liens who retain their state law right to enforce such liens and collect all amounts owed pursuant to state law.

13. Except as provided for in the second sentence of paragraph 20 of this Order, following the closing of the sale of the Purchased Assets to the Buyer, no holder of any Liens and Claims shall in any way interfere with the Buyer's possession of, title to, or use and enjoyment of the Purchased Assets.

14. All persons and entities in possession of any of the Purchased Assets are hereby directed to deliver possession of the Purchased Assets to the Buyer on the date of the closing of the sale of the Purchased Assets.

**15. THE BUYER SHALL NOT HAVE ANY SUCCESSOR OR TRANSFEREE LIABILITY OF ANY KIND FOR ANY LIABILITY OR OTHER OBLIGATION OF THE DEBTORS AS A RESULT OF THE PURCHASE OF THE PURCHASED ASSETS, AND ALL CREDITORS OF THE DEBTORS AND OTHER PARTIES IN INTEREST ARE HEREBY BARRED AND PERMANENTLY ENJOINED FROM TAKING ANY ACTION**

**AGAINST THE PURCHASER AND/OR THE PURCHASED ASSETS BASED ON ANY THEORY OF SUCCESSOR OF TRANSFEREE LIABILITY.**

16. Other than liabilities expressly assumed by the Buyer under the Asset Purchase Agreement or this Order, the Buyer shall have no liability or responsibility of any nature, character or kind for any liability or other obligation of the Debtors or any other party relating to the Purchased Assets or the operation of the Debtors' business.

17. The Buyer shall be entitled to the protections afforded by Section 363(m) of the Bankruptcy Code. In the absence of a stay pending appeal of this Order, if all or any of the provisions of this Order are hereafter reversed or modified on appeal, such reversal or modification shall not affect the validity and enforceability of any sale, transfer or assignment authorized by this Order, and, notwithstanding any reversal or modification on appeal, any sale, transfer or assignment shall be governed in all respects by the original provisions of this Order.

18. The Debtors are hereby authorized and empowered to assume and assign to the Buyer the Assumed Contracts. To this end, the Debtors are hereby authorized and empowered to take such actions, and to execute and deliver such documents and instruments, as are necessary or appropriate to effectuate the assumption and assignment of the Assumed Contracts.

19. The assumption and assignment of the Assumed Contracts shall be effective upon the following: (a) the closing of the sale of the Purchased Assets to the Buyer; and (b) the payment of all amounts necessary to cure any defaults under the Assumed Contracts (or, in the case of an unresolved objection to a cure amount, the escrowing of an amount equal to the cure amount asserted by the objecting party or such lower amount as may be fixed by the Court).

20. Upon the assumption and assignment of the Assumed Contracts to the Buyer: (a) the Assumed Contracts shall be valid, binding and enforceable against Buyer in accordance with their respective terms, excluding and notwithstanding any provision in any of the Assumed

Contracts that may in any way prohibit, restrict or condition their assignment to the Buyer; (b) the Buyer shall have no liability or responsibility of any kind relating to any default or obligation under any of the Assumed Contracts that arose, accrued or relates to the period prior to the closing of the sale of the Purchased Assets to the Buyer; and (c) the non-debtor counterparties to the Assumed Contracts (each a "**Counter-Party**" and collectively "**Counter-Parties**") are hereby barred and permanently enjoined from in any way asserting any claim relating to any default or obligation under any of the Assumed Contracts that arose, accrued or relates to the period prior to the closing of the sale of the Purchased Assets to the Buyer. Except as described above, all of Counter-Parties rights and interests in the Assumed Contracts and the Counter-Parties collateral (if applicable) remain unaffected and fully enforceable, including, without limitation, (i) Counter-Parties security interests in the respective equipment and (ii) Counter-Parties right to collect payments under the Assumed Contracts directly from the Buyer. The Buyer receives only whatever interest the Debtors hold in the Assumed Contracts and the Buyer takes title and ownership to the Assumed Contracts in its capacity as a lessee (if applicable), subject to all of the Debtors' obligations under the Assumed Contracts, including, without limitation, all future obligations due and owing directly to and from Counter-Parties.

21. As the sale of the Purchased Assets to the Buyer is not contingent upon the Debtor's payment of any fees or commissions to any broker or agent, the Debtor shall have neither the authority nor the obligation to pay any such fees or commissions in connection with the sale of the Purchased Assets to the Buyer.

22. The provisions of this Order authorizing the sale of the Purchased Assets free and clear of Liens and Claims shall be self-executing, and neither the Debtors nor the Buyer nor any other party shall be required to execute or file releases, termination statements, assignments,

consents or other instruments to effectuate and/or implement the provisions of this Order; *provided, however,* that this paragraph shall not excuse any party from performing any of its respective obligations under the Asset Purchase Agreement. Without in any way limiting the foregoing, the Debtors and the Buyer are authorized and empowered to execute and file releases, termination statements, assignments, consents or other instruments to effectuate and/or implement the provisions of this Order.

23. Notwithstanding any other provision in this Order, at Closing the Debtor shall pay all year 2014 ad valorem business personal property taxes in the amounts set forth on Exhibit B. The liens that secure all amounts ultimately owed for tax year 2015 shall remain attached to the Purchased Assets and become the personal liability of the Buyer. In the event the Buyer fails to pay year 2015 ad valorem business personal property taxes prior to the state law delinquency date, the ad valorem tax authorities shall be entitled to pursue collection of all amounts owed pursuant to state law, including, but not limited to, enforcement of their liens against the Purchased Assets.

24. Each and every federal, state and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary or appropriate to effectuate the sale of the Purchased Assets and the transactions contemplated by the Asset Purchase Agreement.

25. The failure to specifically reference or include in this Order any particular provision of the Asset Purchase Agreement will not diminish the effectiveness of such provision, it being the intent that the Asset Purchase Agreement and any ancillary documents be authorized and approved in their entirety.

26. Subject to the second sentence of paragraph 20 of this Order, the Debtors and the Buyer, in their discretion, shall have the authority to modify and/or supplement the Asset Purchase Agreement and any ancillary documents, without the requirement of further approval of the Court, so long as any modification and/or supplement is not material and is not inconsistent with the terms of this Order.

27. If there is a conflict between the terms of the Asset Purchase Agreement and the terms of this Order, the terms of this Order shall control.

28. Nothing contained in any Chapter 11 plan of reorganization (or plan of liquidation) confirmed in these cases or the order confirming any such plan shall conflict with or derogate from the provisions of the Asset Purchase Agreement or the terms of this Order.

29. This Order shall be binding upon, and shall inure to the benefit of, the Debtors, their estates, their creditors, the Buyer, all third parties affected by this Order (including but not limited to any third parties asserting Liens and Claims) and the respective successors and assigns of such parties. This Order also shall be binding upon any subsequently appointed trustee, examiner or receiver under any chapter of the Bankruptcy Code or any other law and shall not be subject to rejection or avoidance by the Debtors, their estates, their creditors or any trustee, examiner or receiver.

30. To the extent not already provided for in this Order, the Debtors and their respective officers, employees and agents are hereby authorized and empowered to take such actions, and to execute and deliver such documents and instruments, as are necessary or appropriate to implement the terms and requirements of this Order.

31. Notwithstanding anything in the Asset Purchase Agreement or this Order to the contrary, the Buyer is not acquiring (i) any claims of the Debtors covered by any directors and



officers insurance policy, (ii) the proceeds of any insurance policies covering claims against the debtors' current or former officers and directors, or (iii) any claims or causes of action arising under any section of the Bankruptcy Code (other than non-bankruptcy rights, claims and causes of action against non-debtor counterparties to the Assumed Contracts).

32. Notwithstanding any applicability of Rules 6004(h) and 6006(d) of the Federal Rules of Bankruptcy Procedure, the terms and conditions of this Order shall be immediately effective and enforceable upon entry of this Order.

33. Nothing in this Order of the Asset Purchase Agreement releases the Buyer from compliance with any applicable license, permit, registration, authorization, or approval, in each case, of or with respect to a governmental unit. The Buyer shall continue to honor and comply with the terms and requirements of any such applicable license, permit, registration, authorization or approval.

34. Nothing in this Order or the Asset Purchase Agreement releases, nullifies, or enjoins the enforcement of any liability to a governmental unit under police and regulatory statutes or regulations that any entity would be subject to as the owner or operator of property after the date of entry of this Order, and the Buyer reserves all rights and defenses other than asserting it is free of such liability on account of this Order with respect to any liability to a governmental unit under police and regulatory statutes or regulations that any entity would be subject to as the owner or operator of property after the date of entry of this Order.

35. The Seller, VPC, and the Buyer are hereby authorized to execute the Assumption and Assignment Agreement substantially in the form attached hereto as Exhibit C-2 with any Counter-Party to an Assumed Contract. The Seller, VPC, and the Buyer are hereby authorized to execute the Assumption and Assignment Agreement substantially in the form attached as Exhibit

C-3 with First American Commercial Bancorp, Inc., Signature Financial LLC and Bank of the West, as applicable.

36. The form Letter of Credit in favor of FAEC Holdings CTX, LLC attached as Exhibit D is hereby approved and Buyer is authorized to execute same.

37. This Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation, implementation or enforcement of this Order.

38. PIRF Operations, LLC ("PIRF"), has consented and agreed to the assumption and assignment of its Assumed Contracts and agreed to waive any Cure Amounts under the applicable Assumed Contracts. As a material inducement to such consent and agreement to waive the Cure Amounts, the Debtor has agreed to waive any and all claims against PIRF (the "PIRF Release"). The PIRF Release is granted to PIRF as part of a compromise between PIRF and Debtor that is hereby approved by Court because such compromise satisfies the Fifth Circuit's requirements for approval of a compromise set forth in *In re Jackson Brewing Co.*, 674 F.2d 599, 602-03 (5th Cir. 1980). Additionally, the Court finds that based on the evidence presented, cause exists to require no further notice of such Compromise pursuant to Rule 2002(a)(3) of Rules of Bankruptcy Procedure.

**###END OF ORDER###**

**EXHIBIT A TO SALE ORDER**  
**ASSET PURCHASE AGREEMENT**

**EXECUTION VERSION**

**ASSET PURCHASE AGREEMENT**

This **ASSET PURCHASE AGREEMENT** (this "**Agreement**"), dated as of July 28, 2015, is made and entered into by and among Marsh Lane Surgical Hospital, LLC, a Texas limited liability company ("**Buyer**"), Nobilis Health Corp. ("**Parent**"), Victory Medical Center Plano, LP ("**Seller**") and Victory Parent Company, LLC ("**VPC**"). Buyer, Parent, Seller and VPC may be referred to herein individually as a "**Party**" and collectively as the "**Parties**."

**WHEREAS**, Seller owns and operates a licensed hospital in Plano, Texas (in reference to the hospital location, the "**Hospital**," and in reference to the operation of the hospital, the "**Business**");

**WHEREAS**, on June 12, 2015 (the "**Petition Date**") the Seller filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division (the "**Bankruptcy Court**"), with the case being jointly administered for procedural purposes only under Case No. 15-42373 (collectively, the "**Bankruptcy Cases**");

**WHEREAS**, Seller and VPC have continued in possession of their respective assets and together with VPC, in the management of the Business pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code;

**WHEREAS**, Seller and VPC have determined to sell or assign certain assets to Buyer; and Buyer desires to purchase, the assets described in this Agreement, all upon the terms and conditions of this Agreement, the Sale Motion, the Bidding Procedures Order and the Sale Order; and

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE I.  
DEFINITIONS**

Capitalized terms not otherwise defined in this Agreement shall have the meaning ascribed to them in the attached Appendix I.

**ARTICLE II.  
FINANCIAL ARRANGEMENTS**

2.1 Purchase and Sale of Purchased Assets.

(a) On the terms and subject to the conditions set forth in this Agreement, at Closing, and subject to entry of the Sale Order and Bidding Procedures Order, Buyer shall purchase from Seller and VPC, and Seller and VPC shall sell to Buyer, the assets as listed on the attached Schedule 2.1(a) (the "**Purchased Assets**") free and clear of all claims, encumbrances, debts, demands or liabilities of any kind (other than Post-Closing Permitted Liens).

(b) The assets listed on Schedule 2.1(a) are the only assets that the Buyer shall purchase and Schedule 2.1(b) lists, for clarity and not as a limitation, specific assets that will not be Purchased Assets.

(c) Debt Assumption. In consideration for the transfer by Seller and VPC to the Buyer of the Purchased Assets, Buyer shall assume Seller's Indebtedness to LegacyTexas Bank in the amount of Four Million Five Hundred Thousand and 00/100 United States Dollars (\$4,500,000.00) (the "**Debt Assumption**"), pursuant to the Term Sheet described in Schedule 5.3 and shall assume the Assumed Liabilities, at Closing. The Debt Assumption shall be guaranteed by Parent as set forth in the Term Sheet.

(d) Allocation of Purchase Price. Within one hundred eighty (180) days after Closing Date, Buyer shall prepare an allocation of the Purchase Price in accordance with Section 1060 of the Internal Revenue Code of 1986, as amended ("**Code**"), and the Treasury regulations thereunder (and any similar provision of state or local Legal Requirements, as appropriate) (the "**Allocation**"). VPC, Seller and Buyer hereby agree to be bound by such Allocation, to account for and report the purchase and sale of the Assets contemplated hereby for federal and state Tax purposes in accordance with such Allocation, and not to take any position (whether in Tax Returns (as hereinafter defined), Tax audits, or other Tax proceedings) that is inconsistent with such Allocation without the prior written consent of the other party. VPC, Buyer and Seller and their affiliates shall report, act and file all Tax Returns and other information filings, to the extent required, in all respects and for all purposes consistent with such Allocation. Such allocation shall not be binding on third parties, including LegacyTexas Bank.

(e) Additional Consideration. Notwithstanding anything herein to the contrary, as of Closing, Buyer shall assume and agree to pay, perform and discharge in accordance with their respective terms certain obligations and liabilities of Seller and VPC as follows: the assumption of: (i) all obligations or other liabilities of Seller and VPC under the contracts and agreements listed on Schedule 2.2(a) (collectively, the "**Assumed Contracts**"), as reflected in the Sale Order; (ii) all calendar year 2015 and future liabilities and obligations for property / ad valorem taxes relating to the Purchased Assets or which are payable under an Assumed Contract (the "**Tax Liabilities**"); and (iii) all other liabilities and obligations arising out of or relating to Buyer's ownership or operation of the Purchased Assets on or after Closing (the "**Operational Liabilities**") (collectively, the Assumed Contracts, Tax Liabilities and Operational Liabilities are referred to as the "**Assumed Liabilities**"). Parent shall provide the guaranties relating to the Assumed Contracts (collectively, the "**Guaranty Replacements**" and each a "**Guaranty Replacement**") set forth on Schedule 2.1(e).

(f) Cure and Ad Valorem Taxes. Buyer shall pay to Seller and VPC One Million Two Hundred Ninety-nine Thousand One Hundred Thirty-Six and 00/100 United States Dollars (\$1,299,136.00) (the "**Cure Cap**") to be used by Seller and VPC to cure and pay any and all defaults under the Assumed Contracts that are required to be cured under the Sale Order (the "**Cure Amounts**") and extinguish and satisfy all ad valorem taxes due for calendar years 2014 or before. Seller shall be responsible for any Cure Amounts or ad valorem taxes accrued prior to calendar year 2015 exceeding the Cure Cap and shall retain any balance of the Cure Cap not used to fund the Cure Amounts. Seller's agreements and/or estimates of the Cure Amounts and

ad valorem taxes accrued prior to calendar year 2015 are provided on Schedule 4.14(b) and the final amounts shall be reflected on Exhibit B to the Sale Order.

(g) [Intentionally omitted]

(h) The Debt Assumption and the Assumed Liabilities shall collectively be referred to herein as the "**Purchase Price**."

(i) Other than the Debt Assumption and Assumed Liabilities, Buyer shall assume no other obligation or liability of VPC or Seller.

2.2 Earnest Money Deposit. The Purchase Price shall include Buyer's cash deposit in the amount of \$250,000 (the "**Good Faith Deposit**"), which amount shall be applied to the Cure Cap at Closing or returned to the Buyer if Buyer is not the Highest Bidder in accordance with the Bidding Procedures Order. If Buyer breaches its obligation to close the sale transaction in accordance with this Agreement, the Good Faith Deposit shall be forfeited to Seller as liquidated damages.

### **ARTICLE III. CLOSING**

3.1 Closing. Subject to the satisfaction or waiver by the applicable party of the conditions precedent to Closing as specified in ARTICLE VI and ARTICLE VII below, Closing will take place at a time determined by the Buyer as soon as practicable after execution of this Agreement but in no event later than July 30, 2015 ("**Closing**"). The Closing shall be effective as of 11:59 p.m. on Closing Date.

3.2 Deliveries of Sellers at Closing. At Closing, Seller shall deliver or cause to be delivered to Buyer:

(a) counterparts of an executed Bill of Sale transferring the Purchased Assets to Buyer;

(b) counterparts of an executed Assignment and Assumption Agreement for the Real Estate Lease and the Shared Services Agreement substantially identical to the form attached to the Sale Order as Exhibit C;

(c) an Officers' Certificate, in form and substance reasonably satisfactory to Buyer, duly executed on Seller's behalf, certifying as to (i) the charter documents and organizational documents of Seller, (ii) the resolutions relating to the authority of Seller to enter into the transactions contemplated by this Agreement (a copy of which shall be attached thereto), and (iii) that the conditions in ARTICLE VI have been satisfied;

(d) copies of Seller's books and records maintained by or in the possession of Seller; and

(e) such other documents or instruments as are required to be delivered at Closing pursuant to the terms hereof.

3.3 Deliveries of Buyer at Closing. At Closing, Buyer or Parent shall deliver or cause to be delivered to Seller and VPC:

(a) a duly executed copy of the Guaranty Replacements, in accordance with Section 2.1(e);

(b) duly executed documents evidencing the Debt Assumption;

(c) delivery in full of the Cure Cap;

(d) an Officer's Certificate, in form and substance reasonably satisfactory to Seller, duly executed on Buyer's behalf, certifying as to (i) the charter documents and organizational documents of Buyer, and (ii) the resolutions relating to the authority of Buyer to enter into the transactions contemplated by this Agreement;

(e) evidence of good standing from the applicable governmental authority that Buyer is existing and in good standing under the Laws of such authority;

(f) the agreements with the Landlord related to the Real Estate Lease attached to the Sale Order as Exhibit D; and

(g) such other documents or instruments as Seller and VPC reasonably deem necessary to effect the transaction contemplated hereby or that are required to be delivered at Closing pursuant to the terms hereof.

3.4 Additional Acts. Further, from time to time after Closing, each party shall execute and deliver such other instruments of conveyance and transfer, and take such other actions as another party hereto may reasonably request, to more effectively convey and transfer full right, title and interest to, vest in, and place each party, in legal and actual possession of, as applicable, the Purchased Assets.

#### **ARTICLE IV. REPRESENTATIONS AND WARRANTIES OF SELLER**

Each of VPC and Seller represent and warrant to Buyer and Parent, jointly-and-severally, as of Closing, as follows:

4.1 Assets Sold "As Is, Where Is." BUYER ACKNOWLEDGES AND AGREES THAT THE ASSETS SOLD PURSUANT TO THIS AGREEMENT ARE SOLD, CONVEYED, TRANSFERRED AND ASSIGNED ON AN "AS IS, WHERE AS" BASIS "WITH ALL FAULTS" AND THAT EXCEPT AS SET FORTH IN THIS AGREEMENT, THE SELLER MAKES NO REPRESENTATIONS OR WARRANTIES, TERMS, CONDITIONS, UNDERSTANDINGS OR COLLATERAL AGREEMENTS OF ANY NATURE OR KIND, EXPRESS OR IMPLIED, BY STATUTE OR OTHERWISE.

4.2 Organization and Qualification of Seller. Seller is a limited partnership, duly formed and validly existing under the Laws of the State of Texas. Seller has the requisite partnership power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on the Business as currently conducted by Seller. Seller is duly qualified to do business as a limited partnership and is in good standing in each jurisdiction where the character of its properties owned, operated or leased or the nature of its activities makes such qualification necessary.

4.3 Capacity; Enforceability. VPC and Seller have all requisite power, capacity and authority to execute and deliver this Agreement and to perform their respective obligations hereunder. This Agreement has been duly and validly executed and delivered by, and is a valid and binding obligation of, VPC and Seller enforceable against VPC and Seller, as applicable, in accordance with its terms, except as the enforceability may be limited by (a) applicable bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or similar Laws in effect which affect the enforcement of creditors' rights generally; or (b) general principles of equity. As of Closing there will no encumbrances on the purchased assets.

4.4 Consents and Approvals. Other than Bankruptcy Court approval of the Sale Order, no waiver, Order, Permit or authorization of or from, or declaration of filing with, or notification to, any person or governmental authority is required on the part of the Seller or VPC in connection with the execution and delivery of this Agreement or other transactional document contemplated hereunder.

4.5 Title to Assets. Subject to the Sale Order, Seller has good and valid title to all the Purchased Assets free and clear of all liens (except for those that will be released/paid upon Closing and Post-Closing Permitted Liens), and at the Closing will convey good and valuable title to all such Purchased Assets to the Buyer, except the Assumed Liabilities and Post-Closing Permitted Liens.

4.6 Contracts; No Defaults. Except as set forth on 4.14(b), neither Seller nor VPC is in material default of any Contract or agreement except where such default would not result in any effect or change that would be materially adverse to the Business, assets, condition (financial or otherwise), operating results, operations, or business prospects of Seller taken as a whole, or to the ability of any Party to this Agreement to consummate the transactions contemplated herein.

4.7 Title to Property; Asset Sufficiency, Condition of Tangible Property. Seller has good and valid title to and ownership of all personal property making up all or any portion of the Purchased Assets, except for personal property leased by Seller, for which Seller has good and valid leasehold interests. Seller maintains all contracts, agreements, commitments and other arrangements that are reasonably necessary for the operation of a Texas licensed hospital (the "**Material Contracts**"). Seller maintains all assets of any kind, whether personal, mixed, tangible and/or intangible (or immovable, moveable, corporeal and/or incorporeal), that are reasonably necessary for the operation of a Texas licensed hospital (the "**Material Assets**"). Seller represents and warrants (i) the Material Assets represent all of the assets necessary to operate the Business



and Seller in the same manner as currently conducted and as conducted during the one (1) year period immediately preceding Closing Date.

4.8 Licensure. Seller is licensed by the Texas Department of State Health Services (Regulatory Licensing Unit) (the "**Department**") as a hospital consistent with the applicable laws and regulation of the State of Texas. Seller has all licenses, registrations, permits, certificates, certificates of need, clearances and other authorizations, consents and approvals of any governmental entity required for the lawful existing operation of Seller and the Purchased Assets (the "**Licenses**"). The Licenses required for the ownership or operation of Seller and the Purchased Assets as presently operated, all of which are now and as of Closing shall be in good standing, in full force and effect and, to the knowledge of Seller, not subject to meritorious challenge. Seller is in material compliance with the terms of the Licenses, and Seller has not received any written notice or communication from any governmental entity regarding any violation of any License (other than any surveys or deficiency reports for which Seller has submitted a plan of correction that has been approved by the applicable governmental authority). All applications required to have been filed by Seller for the renewal of the Licenses have been duly filed on a timely basis with the appropriate governmental entity, and all other filings required to have been made by Seller with respect to the Licenses have been duly made on a timely basis with the appropriate governmental entities.

4.9 Employee Benefit Plans. Seller does not currently maintain any Employee Benefit Plans and any Employee Benefit Plans previously maintained by Seller were terminated in accordance with the plan documents and applicable Law.

4.10 Labor Matters. (a) Seller has not been, and is not now, a party to any collective bargaining agreement or other labor Contract; (b) there has not been, there is not presently pending or existing and, to the Knowledge of Sellers, there is not threatened, any strike, slowdown, picketing, work stoppage or employee grievance process involving Seller; (c) to the Knowledge of Seller no event has occurred and no circumstances exist that could provide the basis for any work stoppage or other labor dispute; (d) to the Knowledge of Seller no application or petition for an election of or for certification of a collective bargaining agent is pending; and (e) to the Knowledge of Seller, there has been no charge of discrimination filed against or threatened against Seller with the Equal Employment Opportunity Commission or similar Governmental Entity

4.11 Taxes. Except as set forth on Schedule 4.11, Seller has (a) timely filed or extended all returns required to be file by or in respect of the Business with respect to all Taxes; (b) paid all Taxes shown to have become due pursuant to such returns; and (c) paid all other Taxes for which a notice of assessment or demand for payment has been received, if the due date therefore has occurred. Seller has not received any notice of any proposed assessments of Taxes against or in respect of the Business, or any proposed adjustments to any Tax Returns filed by or in respect of the Business.

4.12 Insurance. Seller maintains insurance coverage for its operations, personnel and assets. Schedule 4.12 sets forth all insurance policies to which Seller is a party, an insured or a beneficiary and these insurance policies as well as a list of all pending insurance claims related to

the Seller. All of the policies set forth on Schedule 4.12 are valid, outstanding and enforceable, are issued by an insurer that is financially sound and reputable, and, taken together, provide the Seller with (i) adequate insurance coverage for the assets and operations of Seller, the Business and Seller, and (ii) all such coverage as is required by Laws, Licenses and Governmental Authorities which govern or oversee Seller. No insurance carrier has canceled or reduced or given notice of its intention to cancel or reduce, any insurance coverage with respect to the Business and to the Knowledge of Seller there are no grounds to cancel or void any such policies or coverage.

4.13 Brokers. No broker, finder, investment banker or other Person is entitled to any brokerage fee, finders' fee or other commission in connection with the transactions contemplated by this Agreement based upon arrangements made by Seller.

4.14 Leases.

(a) Seller holds a valid leasehold interest in the property located at 2301 Marsh Lane, Plano, Texas under that certain Lease and Security Agreement between Seller, as Tenant, dated as of January 1, 2012, as amended, and FAEC Holdings, (TX) LLC ("**Landlord**") as landlord (the "**Real Estate Lease**").

(b) Seller and PIRF Operations, LLC ("**PIRF**") executed the Management Shared Services Agreement dated as of December 15, 2011, as amended, and the Support Shared Services Agreement dated as of December 15, 2011, as amended (collectively, the "**Shared Services Agreements**").

(c) Seller holds a valid leasehold interest in certain equipment necessary to operate a Texas licensed hospital which are leased by Seller pursuant to the agreements listed on Schedule 4.14(a) (the "**Equipment Leases**").

(d) Except for the Cure Amounts listed on Schedule 4.14(b), Seller has valid leasehold interests in the Real Estate Lease and Equipment Leases.

(e) Seller shall tender into evidence at the Sale Hearing true and correct copies of the Real Estate Lease, the Shared Services Agreements and the Equipment Leases.

4.15 Regulatory Compliance; Improper Payments.

(a) Seller has at all times remained in constant operation and no event has occurred which could result in the suspension or termination of any License required to operate the Seller;

(b) Seller has been and is in material compliance with all applicable Legal Requirements, including Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395hhh (the Medicare statute), including specifically, but not limited to, the Ethics in Patient Referrals Act, as amended, or "Stark Law," 42 U.S.C. § 1395nn; Title XIX of the Social Security Act, 42 U.S.C. §§ 1396-1396v (the Medicaid statute); the Federal Health Care Program Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b); the False Claims Act, as amended, 31 U.S.C. §§ 3729-3733; the

Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; the Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58; the Civil Monetary Penalties Law, 42 U.S.C. §§ 1320a-7a and 1320a-7b; the Exclusion Laws, 42 U.S.C. § 1320a-7; the Health Insurance Portability and Accountability Act of 1996 as amended by the Health Information Technology for Economic and Clinical Health Act (collectively, "HIPAA") and all applicable implementing regulations, rules, ordinances and orders; and any similar state and local statutes, regulations, rules, ordinances and orders that address the subject matter of the foregoing.

(c) Seller has not received any notice from any agency, board, commission, bureau, intermediary, carrier, Medicare administrative contractor, Government Program integrity contractor, recovery audit contractor, accreditation organization or other instrumentality of any government, whether federal, state or local, commercial payor or patient that any of the operations of the Seller are not in compliance with all applicable Law or accreditation requirements. Seller has timely filed all reports, data and other information required to be filed pursuant to the Legal Requirements. Notwithstanding the foregoing, Government Program requests for information as part of the 855A application process shall not be deemed to be regulatory non-compliance pursuant to this Section 4.15.

(d) Except in compliance with the applicable Law, neither Seller nor any partner, member, manager, officer or employee of Seller, nor any agent acting on behalf of or for the benefit of any of the foregoing, has directly or indirectly: (i) offered, paid, solicited, or received any remuneration (including any kickback, bribe, or rebate), in cash or in kind, to, or made any financial arrangements or a gratuitous payment of any kind, with any past, present or potential customers, past, present, or potential suppliers, patients, government officials, physicians, contractors or third party payors of Seller or any other person or entity in exchange for business or payments from such persons in violation of Legal Requirements; (ii) established or maintained any unrecorded fund or asset for any improper purpose or made any misleading, false, or artificial entries on any of its books or records for any reason; or (iii) made any payment for or agreed to make any payment for any goods, services, or property in excess of fair market value except to the extent permitted by applicable Law.

(e) Except in compliance with applicable Law, to the Knowledge of Seller, no partner, officer or employee of Seller is a party to any Contract, lease agreement or other arrangement (including any joint venture or consulting agreement) related to Seller, Seller's assets with any physician, immediate family member of a physician, physical or occupational therapist, health care facility, hospital, nursing facility, home health agency or other person who is in a position to make or influence referrals to or otherwise generate business for Seller, or Seller's assets.

(f) Seller maintains a compliance program designed to promote compliance with all applicable Laws, rules, and regulations and ethical standards, to improve the quality and performance of operations, and to detect, prevent, and address violations of legal or ethical standards applicable to the operations of the Seller (a "**Compliance Program**"). Seller has delivered to Buyer a complete and accurate copy of the Seller's current Compliance Program materials, including all program descriptions, compliance officer and committee descriptions, ethics and risk area policy materials, training and education materials, auditing and monitoring

protocols, reporting mechanisms, and disciplinary policies, and Seller has its operations in accordance with such Compliance Program. Seller (i) is not a party to a Corporate Integrity Agreement with the Office of Inspector General of the Department of Health and Human Services, (ii) has no reporting obligations pursuant to any settlement agreement entered into with any governmental authority, (iii) to the Knowledge of Seller has not been the subject of any health care program investigation or been served with or received any search warrant, subpoena, civil investigative demand, contact letter, or telephone or personal contact by or from any governmental authority regarding any healthcare program investigation conducted by any governmental authority, (iv) to the Knowledge of Seller, is or has been a defendant in any qui tam/False Claims Act litigation, or (v) has received any complaints from employees, independent contractors, vendors, physicians, or any other person that would indicate that Seller has violated in any material respect any applicable Law. Seller has provided Buyer with complete and accurate descriptions of each audit and investigation conducted pursuant to the Compliance Program during the last three (3) years.

(g) All employed personnel who work in or provide services at Seller have all applicable authorizations, Licenses and registrations from the State of Texas and other applicable governmental authorities to render the medical services and ancillary services currently provided.

(h) Seller has not previously maintained and does not currently maintain a Medicare provider agreement.

4.16 Inventory. Inventories of supplies, drugs, food, janitorial and office supplies and other disposables and consumables existing on the Effective Date and located at the Hospital, or purchased by Seller for use in connection with the business or operation of the Hospital ("***Inventory***") consists of a quality and quantity useable and saleable in the ordinary course of business except for obsolete items and items of below standard quality, all of which have been written off or written down to net realizable value.

4.17 Medical Staff Matters. Seller has provided to Buyer complete and accurate copies of the medical staff bylaws, medical staff rules and regulations, and medical staff hearing procedures of Seller, all as presently in effect. There are no pending or, to the Knowledge of Seller, threatened adverse actions, appeals, challenges, disciplinary or corrective actions, or disputes involving applicants to the medical staff of the Seller, current members of the medical staff of the Seller or affiliated health professionals, and all appeal periods in respect of any medical staff member, allied health professional or applicant against whom an adverse action has been taken by the Seller have expired. Seller has delivered to Buyer a written disclosure containing a brief general description of all material adverse actions taken in the six months prior to the date hereof against the Seller's medical staff members, allied health professionals or applicants which could result in claims or actions against Seller. There are no Proceedings pending or threatened against or affecting any member of the medical staff of the Seller at law or in equity, or before or by any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality wherever located relating to medical practice or conduct in connection therewith.

4.18 Information Privacy and Security Compliance.

(a) Seller (i) to the extent Seller's operations are subject to the administrative simplification provisions of HIPAA, and the implementing regulations contained in 45 C.F.R. Parts 160, 162 and 164, are in material compliance with those provisions and implementing regulations, including in conducting any of the standard transactions set forth in 45 C.F.R. Part 162; and (ii) are in compliance with all other applicable Information Privacy or Security Laws (as hereinafter defined).

(b) Copies of the compliance policies and/or procedures and privacy notices of Seller relating to Information Privacy or Security Laws have been delivered to Buyer.

(c) Seller has entered into business associate agreements with all third parties acting as a business associate as defined in 45 C.F.R. § 160.103 and to Seller's Knowledge, no business associate is in breach of its business associate agreement with Seller or otherwise in violation of the Information Privacy or Security Laws. To the Knowledge of Seller, Seller is not under investigation by any Governmental Authority for a violation of any Information Privacy or Security Laws, including the receipt of any notices from the United States Department of Health and Human Services Office of Civil Rights, Federal Trade Commission, Department of Justice, or state attorney general relating to any such violations.

(d) Copies of any written complaints alleging a violation of any Information Privacy or Security Laws received by Seller during the preceding twenty-four (24) month period have been delivered to Buyer.

(e) Seller has not had a Breach of Unsecured Protected Health Information, as such terms are defined in 45 C.F.R. § 164.402.

(f) For purposes of this section: (i) "***Information Privacy or Security Laws***" means HIPAA and regulations as set forth in this section and any other applicable Law concerning the privacy and/or security of Personal Information, including state data breach notification laws, state patient, medical record and health information privacy Laws, the Federal Trade Commission Act and state consumer protection Laws; and (ii) "***Personal Information***" means any information with respect to which there is a reasonable basis to believe that the information can be used to identify an individual, including "individually identifiable health information" as defined in 45 C.F.R. 160.103, demographic information, and social security numbers and such other personally identifiable information protected by applicable Legal Requirement.

(g) No Exclusion. Neither Seller nor any of its respective officers, directors, agents, or employees, have been convicted of a Medicare or other Federal Health Care Program (as defined in 42 U.S.C. § 1320a-7(b)(f)) related offense or convicted of, charged with or, to the Knowledge of Seller, investigated for, or engaged in conduct that would constitute a violation of any Legal Requirements related to fraud, theft, embezzlement, breach of fiduciary duty, kickbacks, bribes, other financial misconduct or obstruction of an investigation. Neither Sellers, the Seller, nor any officer, director, agent, employee or independent contractor or medical staff

member of the Seller (whether an individual or entity), has been excluded from participating in any Government Program, subject to sanction pursuant to 42 U.S.C. § 1320a-7a or § 1320a-8 or been convicted of a crime described at 42 U.S.C. § 1320a-7b, nor, to Seller's Knowledge, are any such exclusions, sanctions or charges threatened or pending.

**ARTICLE V.  
REPRESENTATIONS AND WARRANTIES OF BUYER AND PARENT**

Buyer and Parent, jointly and severally, hereby represents and warrants to Seller and VPC, as of the Closing Date, as follows:

5.1 Organization and Qualification of Buyer and Parent. Buyer is duly organized, validly existing and in good standing under the Laws of Delaware and has the requisite power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on its business as currently conducted by Buyer. Buyer is duly qualified to do business as a limited liability company and is in good standing in each jurisdiction where the character of its properties owned, operated or leased or the nature of its activities makes such qualification necessary.

Parent is duly organized, validly existing and in good standing under the Laws of British Columbia, Canada and has the requisite power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on its business as currently conducted by Parent. Parent is duly qualified to do business as a corporation and is in good standing in each jurisdiction where the character of its properties owned, operated or leased or the nature of its activities makes such qualification necessary.

5.2 Capacity; Enforceability. Buyer and Parent have all requisite power and authority to execute and deliver this Agreement and to perform their respective obligations hereunder. The execution and delivery by Buyer and Parent of this Agreement and the performance of its obligations hereunder have been duly and validly authorized by Buyer and Parent, and no other action on the part of Buyer or Parent is necessary. This Agreement has been duly and validly executed and delivered by Buyer and Parent and is, or will be, a legal, valid and binding obligation of Buyer and Parent, enforceable against Buyer and Parent in accordance with its terms, except as the enforceability may be limited by (a) applicable bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or similar Laws in effect which affect the enforcement of creditors' rights generally; or (b) general principles of equity.

5.3 Consents and Approvals. Except as set forth on Schedule 5.3, no consent, authorization or approval of, or filing or registration with, any Governmental Authority or any other Person is necessary in connection with the execution, delivery or performance by Buyer or Parent of this Agreement or the consummation by Buyer or Parent of the transactions contemplated herein. Except as set forth on Schedule 5.3, neither Buyer or Parent are a party to, subject to or bound by (or by which any of its properties or assets may be bound) any Contract or order which does or would (a) conflict with or be breached or violated or the obligations thereunder accelerated or increased (whether or not with notice or lapse of time, or both) or give rise to any payment obligation or loss of a benefit, or a right of termination, cancellation, or

modification, by the execution, delivery or performance by Buyer or Parent of this Agreement, or (b) prevent the carrying out of the transactions contemplated herein.

5.4 Brokers. No broker, finder, investment banker or other Person is entitled to any brokerage fee, finders' fee or other commission in connection with the transactions contemplated by this Agreement based upon arrangements made by Buyer or Parent.

5.5 Full Disclosure. No representation or warranty by Buyer or Parent in this Agreement, no statement contained in the schedules to this Agreement or any certificate or other document furnished or to be furnished to Buyer or Parent pursuant to this Agreement contains any untrue statement of a material fact, or omits to state a material fact necessary to make such statement or statements, in light of the circumstances in which they are made, not misleading.

## **ARTICLE VI. CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER**

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

6.1 Compliance with Representations and Covenants. (a) The representations and warranties of Seller made in Article 4, and each of the representations and warranties qualified as to materiality shall be true and correct in all respects, and (b) those not so qualified shall be true and correct in all material respects, as of the date hereof and as of the time of Closing as though made as of such time, except to the extent any such representations and warranties expressly relates to an earlier date (in which case, subject to part (a) of this Section 6.1, such representations and warranties qualified as to materiality shall be true and correct, and those not so qualified shall be true and correct in all material respects, on and as of such earlier date). Seller has duly performed, complied with and satisfied all covenants, agreements and conditions required by this Agreement to be performed, complied with or satisfied by it prior to the time of Closing.

6.2 The Bankruptcy Court shall have entered the Bidding Procedures Order.

6.3 The Bankruptcy Court shall have entered the Sale Order and the Sale Order shall not be subject to any stay.

6.4 Consents. The Parties shall have obtained all consents necessary for each Party to consummate the transaction without resulting in a breach or default under any agreement or Contract to which such Party is bound and each Party, and Seller shall have (i) obtained the written consent of its general and limited partners in an amount necessary to effectuate this transaction, and, and, (ii) without limiting the generality of the foregoing, Buyer shall obtain the written consent of the Landlord to Buyer's assumption of the Real Estate Lease or the Bankruptcy Court has entered an order approving the assumption and assignment of such lease.

6.5 Action/Proceeding. No Proceeding before a court or any other Governmental Authority or body shall have been instituted or threatened by a third party to restrain or prohibit the transactions herein contemplated.

6.6 Closing Documents. Buyer, in its sole discretion, shall have approved of, and Seller shall have executed and delivered to Buyer, all of the documents, agreements and certificates required to be executed or delivered by Seller pursuant to any term or provision of this Agreement.

6.7 Licensure and Operations. Seller shall have continuously operated the Hospital in a manner that will not jeopardize any License necessary to operate the Business.

## **ARTICLE VII. CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLER**

The obligations of Seller hereunder are, at the option of Seller, subject to the satisfaction, on or prior to Closing Date, of the following conditions unless waived in writing by Sellers:

7.1 Compliance with Covenants. The representations and warranties of Buyer and Parent made in this Agreement qualified as to materiality shall be true and correct, and those not so qualified shall be true and correct in all material respects, as of the date hereof and as of the time of Closing as though made as of such time, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties qualified as to materiality shall be true and correct, and those not so qualified shall be true and correct in all material respects, on and as of such earlier date). Buyer and Parent shall have duly performed, complied with and satisfied all covenants, agreements and conditions required by this Agreement to be performed, complied with or satisfied by them prior to the time of Closing.

7.2 Consents. The Parties shall have obtained all consents necessary for each Party to consummate the transaction without resulting in a breach or default under any agreement or Contract to which such Party is bound and each Party and the Seller

7.3 Closing Documents. Sellers, in its sole discretion, shall have approved of, and Buyer and Parent shall have executed and delivered to Sellers all of the documents, agreements and certificates required to be executed or delivered by Buyer and Parent pursuant to any term or provision of this Agreement.

7.4 Real Estate Lease. In connection with this transaction, Parent will guaranty Buyer's performance under the Real Estate Lease by issuance of a Letter of Credit in the form of Exhibit D to the Sale Order.

## **ARTICLE VIII. OTHER COVENANTS AND AGREEMENTS**

8.1 Operations; Buyer's Financial Obligations.

(a) [Intentionally Omitted]

(b) Continued Operations. From date of this Agreement until the earlier of Closing or the termination of this Agreement, Seller will operate the Business in the ordinary course of business and consistent with the past practices and will use commercially reasonable



efforts to: (a) carry on the Business and its operations; (b) perform all of Seller's obligations under agreements relating to or affecting the Purchased Assets or the Business; (c) keep in full force and effect Seller's present insurance policies or other comparable insurance; (d) notify Buyer immediately upon (i) the occurrence of any event, fact or circumstance that is reasonably likely to result in the breach or inaccuracy of any representation or warranty of Seller contained in this Agreement, or (ii) the discovery of any event, fact or circumstance from which a reasonable person would conclude that any representation or warranty of Seller contained in this Agreement was inaccurate or incomplete when made; (e) maintain the Seller's assets and all parts thereof in as good working order and condition as at present, ordinary wear and tear excepted; (f) maintain and preserve its business organization with respect to the Business intact, retain its present employees related to the Business and maintain its relationship with physicians, suppliers, customers and others having business relations with the Business; and (g) permit and allow reasonable access by Buyer or an affiliate of Buyer to make offers of post-Closing employment to any of Seller's personnel providing services for the Business, which personnel shall be allowed to accept such offers without penalty, competing offer or interference, and to establish relationships with physicians and others having business relations with Seller.

8.2 Cooperation in Proceedings; Further Assurances. After Closing, VPC and Seller shall reasonably cooperate with Buyer in their efforts to continue and maintain for the benefit of Seller those business relationships of Seller existing prior to Closing and relating to the Business of Seller and the operation of Seller, including relationships with lessors, employees, regulatory authorities, licensors, suppliers, lenders, and others. VPC and its officers, directors and managers, will refer to the Seller and/or Buyer (as applicable) all inquiries relating to Seller. Neither VPC or its officers, directors and managers shall take any action that would tend to diminish the value of the Hospital or the Business after Closing or that would interfere with the Business or the operation of Buyer. Following Closing, each of the parties hereto shall, and shall cause their respective affiliates and representatives to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement.

8.3 Confidentiality. Seller recognizes that it has had access to certain confidential information and trade secrets relating to the Business that are valuable, special and unique assets of Seller, and Seller agrees that it shall not, and shall cause its Affiliates not, to use or divulge to any person, firm, corporation, association or other entity, for any purpose or reason whatsoever, any confidential information or trade secrets relating to the Business; provided, however, that the foregoing shall not apply to information which: (a) is publicly available, generally known, or readily ascertainable; (b) later becomes publicly available, generally known or readily ascertainable through no fault of the applicable Seller; (c) is required to be disclosed as a result of legal process; or (d) is disclosed to the applicable Seller after Closing by a third person not in violation of any obligation of non-disclosure owed to Seller or Buyer.

8.4 Further Assurances. From and after Closing, the parties hereto shall do such acts and execute such documents and instruments as may be reasonably required to make effective the transactions contemplated hereby.

8.5 Post-Closing Accounts Receivable Cooperation. After Closing, Buyer shall pay to Seller within 30 days of the end of each month, commencing with the first month following Closing all of the Victory Receivables collected by Buyer during the prior month. Within 30 days following Closing, Seller shall provide Buyer with a list of the Victory Receivables and a list of the Nobilis Receivables, which shall contain, at a minimum, the patient name, date of service, and other information necessary or advisable in identifying a claim as a Victory Receivable or Nobilis Receivable. In order to confirm that all amounts payable to Seller hereunder have in fact been paid, Seller or VPC shall have the right, upon written request to the Company, to audit and examine the books and records maintained by the Buyer relating to the Buyer's collection of accounts receivable. Such right may be exercised by VPC during the Seller's normal business hours.

8.6 Signage; Name Change. As soon as reasonably practicable after Closing, Buyer shall cause Seller to change its name to such name as Buyer shall desire that does not include the word "Victory". Within thirty (30) days Buyer shall have removed all signage on or about the acute care hospital containing the word "Victory."

8.7 Medical Records. Buyer agrees to retain and use medical records included in this transaction in accordance with all applicable laws.

## **ARTICLE IX. DISPUTED MATTERS**

9.1 Attorneys' Fees With Respect to Litigation. If Seller, on the one hand, or Buyer, on the other hand, initiates any legal action or lawsuit against the other, involving this Agreement or any agreement executed pursuant hereto, the prevailing party in such action or suit shall be entitled to receive reimbursement from the other party for all reasonable attorneys' fees, experts' fees, and other costs and expenses incurred by the prevailing party in respect of that Proceeding, including any and all appeals thereof, and such reimbursement shall be included in judgment or final order issued in such Proceeding.

9.2 Governing Law; Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the Laws of the State of Texas, excluding its conflict of laws provisions. Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the United States Bankruptcy Court, Northern District of Texas, Fort Worth Division, for the purposes of any action arising out of this Agreement or the subject matter hereof brought by any party under this Agreement. To the extent permitted by applicable Law, each party hereby waives and agrees not to assert, by way of motion, as a defense or otherwise, in any action under this Agreement, any claim (a) that it is not personally subject to the jurisdiction of the above-named courts, (b) that such action is brought in an inconvenient forum, (c) that it is immune from any legal process with respect to itself or its property, (d) that the venue of the Proceeding is improper, or (e) that this Agreement or the subject matter hereof may not be enforced in or by such courts.

**ARTICLE X.  
MISCELLANEOUS**

10.1 Waiver. At any time prior to Closing Date, any party hereto may (a) extend the time for the performance of any of the obligations or other acts of the other parties hereto, with the consent of Seller's secured lender, which consent shall not be unreasonably withheld, (b) waive any inaccuracies in the representations and warranties of the other parties contained herein or in any document delivered pursuant hereto, and (c) waive compliance by the other parties with any of the agreements or conditions contained herein. Any such waiver shall be valid only if set forth in an instrument in writing signed by the party or parties to be bound thereby, but such extension, waiver or failure to insist on strict compliance with an obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

10.2 Notices. Any notices or other communications required or permitted under, or otherwise in connection with this Agreement, shall be in writing and shall be deemed to have been duly given when delivered in person or upon confirmation of receipt when transmitted by facsimile transmission (but only if followed by transmittal by national overnight courier or hand delivery on the next Business Day or by international courier for delivery within the next three (3) Business Days) or on receipt after dispatch by registered or certified mail, postage prepaid, addressed, or on the next Business Day if transmitted by national overnight courier or within the next three (3) Business Days if transmitted by international courier, in each case as follows:

If to Buyer or Parent, to:      Nobilis Health Corp.  
   11700 Katy Freeway  
   Houston, Texas  
   Attention: Matt Maruca  
   Facsimile No.: \_\_\_\_\_

With a copy to:                      Kane Russell Coleman & Logan P.C.  
   1600 Elm Street, Suite 3700  
   Dallas, Texas 75201  
   Attention: Joseph A. Friedman  
   Facsimile No.: 214-777-4299

If to Seller, to:                      Victory Medical Center Plano LP  
   2201 Timberloch Place, Ste. 200  
   The Woodlands, TX 77580  
   Attention: Robert N. Helms, Jr.

With a copy to:

Baker Donelson  
1301 McKinney Street, Suite 3700  
Houston, TX 77010  
Attention: Stuart Miller  
Facsimile No.: 713-456-2749

Hoover Slovacek LLP  
Attn: Edward R. Rothberg  
Galleria Tower II  
5051 Westheimer, Suite 1200  
Houston, Texas 77056  
Facsimile No.: 713-977-5395

10.3 Assignment. No party hereto shall assign this Agreement or any part hereof without the prior written consent of the other party; provided, however, Buyer may assign its rights hereunder to any Affiliate. Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

10.4 Rights of Third Parties. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon or give any Person, other than the parties hereto, any right or remedies under or by reason of this Agreement.

10.5 Expenses. Each party hereto shall bear its own expenses incurred in connection with this Agreement and the transactions herein contemplated whether or not such transactions shall be consummated, including, without limitation, fees of its legal counsel, financial advisers and accountants; provided, however, prior to Closing Seller shall pay all of the costs and expenses of Seller and incurred in connection with or related to the authorization, preparation and execution of this Agreement and the closing of the transactions contemplated herein.

10.6 Captions; Counterparts. The captions in this Agreement are for convenience only and shall not be considered a part of or affect the construction or interpretation of any provision of this Agreement. This Agreement may be executed in two or more counterparts (including by means of facsimile), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10.7 Entire Agreement. This Agreement (together with the Exhibits and the Schedules to this Agreement) constitute the entire agreement among the parties and supersede any other agreements, whether written or oral, that may have been made or entered into by or among any of the parties hereto or any of their respective Affiliates relating to the transactions contemplated hereby and thereby. No representations, warranties, covenants, understandings, agreements, oral or otherwise, relating to the transactions contemplated by this Agreement exist between the parties except as expressly set forth in this Agreement.

10.8 Severability. If any provision of this Agreement (or any portion thereof) or the application of any such provision (or any portion thereof) to any person of circumstance shall be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the parties hereto request that the court reform such provision in a manner sufficient to cause such provision to be enforceable, and in any event such provision shall not affect the enforceability of the remainder of the Agreement.

10.9 Amendments. This Agreement may be amended only by a written instrument signed by both parties.

*[Signature Pages Next Page]*

**IN WITNESS WHEREOF**, this Asset Purchase Agreement has been duly executed and delivered as of the date first above written.

**BUYER:**

**Marsh Lane Surgical Hospital, LLC  
A Texas Limited Liability Company**

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

Name: Kenneth J. Klein

Title: Chief Financial Officer

**PARENT:**

**Nobilis Health Corp.**

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

Name: Kenneth J. Klein

Title: Chief Financial Officer

**SELLER:**

**Victory Medical Center Plano , LP**

**By it General Partner**

**Victory Medical Center Plano GP, LLC  
a Texas limited liability company**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**VPC:**

**Victory Parent Company, LLC**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **Appendix I**

### **Definitions**

"Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with such Person. For the purposes of this Agreement, "control," when used with respect to any Person, means the possession, directly or indirectly, of the power to (a) vote 10% or more of the securities having ordinary voting power for the election of directors (or comparable positions) of such Person or (b) direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings consistent with the foregoing.

"Agreement" has the meaning specified in the preamble to this Agreement.

"Assumption Agreement" has the meaning set forth in Section 2.1(e).

"Bidding Procedures Motion" means the motion, supporting papers, notices and form of Bidding Procedures Order, seeking entry of the Bidding Procedures Order.

"Bidding Procedures Order" means a Final Order of the Bankruptcy Court, substantially in the form filed with the Bankruptcy Court, a copy of which is attached hereto as Exhibit A.

"Business Day(s)" means a day other than Saturday, Sunday or any day on which banks located in the State of Texas are authorized or obligated to close.

"Buyer" has the meaning specified in the preamble to this Agreement.

"Cigna Settlement" means that certain Settlement Agreement entered into by and among Victory Medical Center Plano, LP, Cigna Healthcare, and others dated as of March 27, 2015.

"Closing" means the closing of the transactions contemplated by Section 3.1.

"Closing Date" means the date on which Closing actually occurs, but not later than July 29, 2015.

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

"Contracts" means any contracts, agreements, subcontracts, leases, notes, indentures, commitments, memoranda of understanding and purchase orders, whether written or oral and each amendment, supplement, or modification (whether written or oral) in respect of any of the foregoing, in each case as currently in effect.

"Employee Benefit Plan" means any (a) nonqualified deferred compensation or retirement plan or arrangement that is an Employee Pension Benefit Plan, (b) qualified defined contribution retirement plan or arrangement that is an Employee Pension Benefit Plan, (c) qualified defined benefit retirement plan or arrangement that is an Employee Pension Benefit

Plan (including any Multiemployer Plan), (d) Employee Welfare Benefit Plan or material fringe benefit plan or program, (e) plan that would be an "employee benefit plan" as such term is defined in ERISA Section 3.3 if it was subject to ERISA, (f) equity bonus, equity ownership, equity option, equity purchase, equity appreciation rights, phantom equity or other equity plan, (g) bonus or incentive compensation plan, or (h) holiday or vacation practice or other paid-time off program, or workers compensation plan or program, in each case, that is or has been maintained, sponsored, contributed to, or required to be contributed to by Seller or any of its Affiliates for the benefit of any current or former employee, director, retiree, independent contract or consultant, or any spouse or dependent, or with respect to which Seller or any of its Affiliates may have any liability.

"Employee Pension Benefit Plan" has the meaning specified in ERISA Section 3.2.

"Employee Welfare Benefit Plan" has the meaning specified in ERISA Section 3.1.

"Environment" means soil, land surface or subsurface strata, waters (including, navigable ocean, stream, pond, reservoirs, drainage, basins, wetland, ground, and drinking), sediments, ambient air (including indoor), noise, plant life, animal life, and all other environmental media or natural resources.

"Environmental, Health, and Safety Requirements" means all orders, Contracts, Laws, and programs (including those promulgated or sponsored by industry associations, insurance companies, and risk management companies) concerning or relating to public health and safety, worker/occupational health and safety, and pollution or protection of the Environment, including those relating to the presence, use, manufacturing, refining, production, generation, handling, transportation, treatment, transfer, storage, disposal, distribution, importing, labeling, testing, processing, discharge, Release, threatened Release, control, or other action or failure to act involving cleanup of any Hazardous Materials, substances or wastes, chemical substances or mixtures, pesticides, pollutants, contaminants, toxic chemicals, petroleum products or byproducts, asbestos, polychlorinated biphenyls, noise, or radiation, each as amended and as now in effect.

"Equipment Leases" has the meaning set forth in Section 4.17(a).

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

"GAAP" means generally accepted United States accounting principles.

"Guaranty Replacement" or "Guaranty Replacements" shall have the meaning set forth in Section 2.1(e).

"General Partner" shall mean the general partner of Seller.

"Governmental Authority" means any national, federal, state, county, municipal, local or foreign government, or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.



"Hazardous Materials" shall mean any (a) pollutants, contaminants, and toxic or hazardous materials or substances, (b) solid wastes, including asbestos, polychlorinated biphenyls, mercury, buried contaminants, chemicals, flammable or explosive materials, (c) radioactive materials or radiation, (d) petroleum wastes and spills or Releases of petroleum products, and (e) any other material or substance the storage, manufacture, disposal, treatment, generation, use, transport, mediation or Release into the Environment of which is prohibited, controlled, regulated, or licensed under any Environmental, Health, and Safety Requirements.

"Indebtedness" means, with respect to a Person, any obligations of such Person: (a) for borrowed money, including related fees and expenses; (b) evidenced by notes, bonds, debentures or similar instruments; (c) for the deferred purchase price of goods or services (other than trade payables or accruals incurred in the ordinary course of business consistent with past practices); (d) all obligations under terms that are or should be, in accordance with GAAP, recorded as capital leases; (e) liabilities in respect of unfunded vested benefits under any Employee Benefit Plan; (f) all customer deposits or (g) in the nature of guarantees of the obligations described in clauses (a) through (f) above of any other Person.

"Knowledge" and any other similar phrase or variation thereof means the knowledge, following such inquiries and investigations as would be deemed appropriate by a reasonable business person engaged in the ownership and operation of a general acute care hospital, of Robert N. Helms, Jr. and Robert Garcia.

"Landlord" has the meaning specified in Section 4.14.

"Laws" means all federal, state, local or foreign laws, legislation, statutes, constitutions, rules, regulations, codes, edicts, orders, judgments, decrees, ordinances, or legally-binding directives, guidance or pronouncements or rules of common law of any Governmental Authority.

"Licenses" means all of the licenses, permits, certificates, exemptions, franchises and other authorizations from any Governmental Authority or other third party necessary or proper for the use, occupancy or operation of the Seller as conducted as of Closing.

"Lien" means any claim, lien, pledge, option, right of first refusal, easement, security interest, deed of trust, mortgage, right-of-way, encroachment, restrictive covenant or other encumbrance, whether voluntarily incurred or arising by operation of law, and includes, without limitation, any agreement to give any of the foregoing in the future, and any contingent or conditional sale agreement or other title retention agreement or lease in the nature thereof.

"Limited Partners" shall mean the limited partners of the Seller.

"Material Asset" has the meaning specified in Section 4.7.

"Material Contracts" has the meaning specified in Section 4.7.

"Multiemployer Plan" has the meaning specified in ERISA Section 3(37).

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

"Sale Order" means a Final Order of the Bankruptcy Court substantially in the form of Exhibit B hereto approving, inter alia, the sale of the Purchased Assets, assumption of the Assumed Liabilities, and assignment of all Assigned Contracts free and clear of any Liens (except for Permitted Exceptions and any Assumed Liabilities under this Agreement) and finding that Buyer is a "good faith purchaser" for purposes of Section 363(m) of the Bankruptcy Code, with the final form and substance of such Order to be acceptable to Buyer in its sole discretion.

"Parent" has the meaning set forth in the preamble to this Agreement.

"Party" or "Parties" has the meaning specified in the preamble to this Agreement.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

"Proceeding" means any action, complaint, suit, litigation, arbitration or proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), hearing, inquiry, review, audit, examination or investigation commenced, brought, conducted or heard by or before, or otherwise involving any court, tribunal or other Governmental Authority or any arbitrator or arbitration panel.

"Purchase Price" has the meaning specified in Section 2.1(d).

"Purchased Assets" has the meaning set forth in the recitals.

"Real Estate Lease" has the meaning set forth in Section 4.14.

"Release" means any spilling, leaking, emitting, discharging, depositing, escaping, leaching, dumping, or other release into the Environment.

"Seller" has the meaning set forth in the preamble to this Agreement.

"Shared Services Agreements" has the meaning set forth in Section 4.14.

"Tax" or "Taxes" means (a) any and all federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Section 59A of the Code), customs duties, capital stock, franchise, margin, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax, premium, contribution, charge, assessment or duty of any kind whatsoever, wheresoever chargeable and whether in the United States of any other jurisdiction, including any interest, penalty, or addition thereto and any interest in respect of such penalties or additions, whether disputed or not, (b) any liability for the payment of any item described in clause (a) as a result of being a member of an affiliated,

consolidated, combined, unitary, or aggregate group for any period, including pursuant to Treasury Regulations Section 1.1502-6 (or any analogous or similar provisions under state, local or foreign Law); (c) any liability for the payment of any item described in clause (a) or (b) as a result of any express or implied obligation to indemnify any Person or as a result of any obligations under any agreements or arrangements with any Person with respect to such item; or (d) any successor or transferee liability for the payment of any item described in clause (a), (b) or (c) of any Person, including by reason of being a party to any merger, consolidation, conversion or otherwise.

"Tax Return" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"Third Party Non-Tax Claim" means a Third Party Claim that does not pertain to Taxes.

"VPC" has the meaning set forth in the preamble to this Agreement.

**Schedule 2.1(a)**  
**Purchased Assets**

1. good and marketable leasehold interest in , together with all of Seller's right, title and interest in all rights, privileges, easements, streets, drainage areas and rights of way appurtenant to or benefiting or serving the Real Estate Lease;
2. all machinery, equipment, tools, furniture, office equipment, computer hardware, supplies, materials, vehicles and other items of tangible or intangible personal property of every kind;
3. all inventories of supplies, drugs, food, janitorial and office supplies and other disposables and consumables existing on Closing and located at the Seller, or purchased by Seller for use in connection with the business or operation of the Hospital ("***Inventory***");
4. to the extent allowed by Law all data and records created or maintained by Seller in the course of its operation of the Hospital, including all financial, patient, medical staff and personnel records (including all medical and administrative libraries, documents, catalogs, books, files and operating manuals and copies of the Fire Safety Survey Report Form for 2013 and 2014 for the Hospital);
5. to the extent transferable, licenses with respect to all software installed on personal computers or servers owned by Seller and located at the Seller, together with all manuals, procedures and other materials relating thereto;
6. to the extent assignable, all licenses and permits (including the Licenses) held by Seller relating to the ownership and operations of the Hospital, and all other rights, privileges, registrations, consents, approvals, accreditations, franchises, certificates, certificates of need and applications relating to the present or future business, operations or development of the Hospital;
7. all claims of Seller against third parties relating to the Purchased Assets and Assumed Contracts;
8. all benefits, proceeds or any other amounts payable under any policy of insurance maintained by, or rights to indemnification of, Seller with respect to the Purchased Assets;
9. the Assumed Contracts;
10. all accounts receivable of Seller earned for services rendered three hundred sixty five (365) days or less from Closing, plus all proceeds of the Cigna Settlement related to the accounts receivable of Seller (regardless of dating), and all software, records, documents and other supporting materials, whether in hard copy or electronic format necessary or useful for the collection of such accounts receivable (each a "**Nobilis Receivable**" and collectively "**Nobilis Receivables**");

11. Legacy Texas Bank Account No. XXXX835 (with a balance of \$0.00 as of Closing); and

12. all electronic data, user names and passwords relating to or regarding: (1) the local ESX host administrator usernames/passwords; (2) Meraki WAP and switches administrator account information, including dashboard administrator account information, and all related passwords necessary to transfer licenses; (3) all firewall usernames/passwords; (4) all managed switch usernames/passwords; (5) all administrator credentials to local file servers and print servers; and (6) necessary to operate or use any of the Purchased Assets.

**Schedule 2.1(b)**

**Excluded Assets**

Notwithstanding anything herein to the contrary, the following assets which are associated with Seller's operations of the Hospital are not intended by the parties to be a part of the Assets and are excluded from the definition of Assets (collectively, the "***Excluded Assets***"):

1. all Inventory disposed of, expended or exhausted prior to the Closing in the ordinary course of business and items of equipment and other assets transferred or disposed of prior to the Closing in a manner permitted by this Agreement;
2. all corporate and tax records of Seller, and any records which Seller is required by applicable Legal Requirements to retain in its possession and any records related exclusively to Excluded Assets;
3. all leases, commitments, contracts, capital leases and agreements that are not Assumed Contracts (the "***Excluded Contracts***");
4. rights to tax refunds or claims under or proceeds of insurance policies related to the Seller or the Assets that arise out of the operations of the Seller or the Assets prior to the Closing;
5. all benefit plans (as hereinafter defined) and any contracts or agreements related thereto and all funds and accounts held thereunder;
6. Seller's organizational documents and minute books;
7. right to settlements and retroactive adjustments, if any, for reporting periods ending on or prior to the Closing, whether open or closed, arising from or against the United States government under the Government Programs and against any third party payor programs which settle upon a basis other than on individual claims basis ("***Agency Settlements***");
8. all claims arising under Excluded Contracts;
9. the ownership, membership, equity or other investment interest of Seller or other interest held by Seller in any person;
10. all of the intangible rights and property of Seller relating to the Seller, including all intellectual property owned or licensed (as licensor or licensee) by Seller relating to the Seller, the goodwill associated therewith, telephone, facsimile and e-mail addresses (or numbers) and listings, internet web sites and internet domain names;
11. to the extent legally transferable, all warranties, guarantees, options and covenants not to compete in favor of Seller or the Seller;

12. all national provider identifiers, TRICARE, Department of Labor and other governmental payor program provider numbers and related provider agreements of the Seller;

13. rights to Tax refunds or claims under or proceeds of insurance policies related to the Seller or the Assets that arise out of the operations of the Seller or the Assets after to the Closing;

14. all cash of Seller; and

15. any accounts receivable not sold by Seller (each a "**Victory Receivable**" and collectively "**Victory Receivables**").

**Schedule 2.1(e)**

**[Letter of Credit in Favor of FAEC Holdings (TX), LLC]**



**Schedule 2.2 (a)**  
**Assumed Contracts**

<b>Description of Contract, Agreement or Lease</b>		
Lease Agreement dated January 1, 2012 as amended by and between Seller and FAEC Holdings (TX), LLC.		
Shared Services Agreements ("Management") dated December 15, 2011 as Amended by and between Seller and PIRF Operations, LLC.		
Shared Services Agreements ("Support") dated December 15, 2011 as Amended by and between Seller and PIRF Operations, LLC.		
Master Lease Agreement No. 2013404 (and all Addendums, Equipment and Schedules related thereto) dated as of December 30, 2013, by and between the Seller, VPC, and First American Commercial Bancorp, Inc., as assigned to Bank of the West and Signature Financial as applicable.		
Non-Cancelable Equipment Lease Agreement dated October 3, 2012 by and between VPC and Capital Partners Financial Group USA, Inc.		
Non-Cancelable Equipment Lease Agreement dated February 13, 2012 by and between VPC and Capital Partners Financial Group USA, Inc.		
Master Agreement No. 22-87326 effective October 4, 2013 by and between Seller and Stryker Finance		
Hospital Transfer Agreement effective October 1, 2012 by and between Seller and Baylor Medical Centers at		

Carrollton (Trinity)		
Patient Transfer Agreement effective October 5, 2012 by and between Seller and Children's Medical Center of Dallas		
Patient Transfer Agreement effective October 5, 2012 by and between Seller and Texas Health Presbyterian Hospital Plano		
Processing Agreement effective November 12, 2012 by and between Seller and Healix Infusion Therapy, Inc.		
Blood Service Agreement effective September 18, 2012 by and between Seller and Carter Blood Care		
Interpreter Service Usage Charges and Avail. Options effective March 13, 2013 by and between Seller and Language Line Services, Inc.		
Pathology Services Proposal effective January 23, 2013 by and between Seller and Robert S. Smith M.D., Inc. d/b/a EndoChoice Pathology		
ER Staffing Agreement with Southwest Medical Association		

**Schedule 4.11**

**Taxes**

Seller owes 2014 property taxes to Landlord in the following amount for Real Property:

Real - \$241,418.80

Seller owed 2014 property taxes in the following amount for Personal Property:

Denton County \$30,635.41

Lewisville ISD \$164,586.68

Plano City \$55,866.55

**Schedule 4.13****Insurance**

Policy Type	Carrier	Policy Number	Policy Period
Medical Professional & General Liability	Medical Professional & General Liability	HN007801	4/5/2015-2016
Auto Liability & Physical Damage	Allmerical Financial Benefit (Hanover)	AWD-A470434	11/9/2014-2015
Umbrella Liability	National Fire & Marine Insurance Company (Medical Protective)	EN007801	4/5/2015-2016
Commercial Property	Travelers Lloyds Insurance Company	KTL-CMB-4E20583-4-14	4//5/2015 - 2016
Directors & Officers Liability, Employment Practices Liability, and Fiduciary Liability	RSUI Indemnity Company	HP657754	6/20/2014 - 2015
Commercial Crime	Travelers Casualty and Surety Company of America	105870909	12/7/2014 - 2015
Employed Lawyers Liability	Illinois National Insurance Company	04-766-62-19	4/18/2014-6/20/2015

**Schedule 4.14(a)**

**Leases**

*Equipment Leases*

Non-Cancelable Equipment Lease Agreement dated October 3, 2012 by and between VPC and Capital Partners Financial Group USA, Inc. (".207").

Non-Cancelable Equipment Lease Agreement dated February 13, 2012 by and between VPC and Capital Partners Financial Group USA, Inc. (".210").

Master Lease Agreement No. 2013404 (and all Addendums, Equipment and Schedules related thereto) dated as of December 30, 2013, by and between the Seller, VPC, and First American Bancorp, Inc., as assigned to Bank of the West and Signature Financial LLC as applicable.

Master Agreement No. 22-87326 effective October 4, 2013 by and between Seller and Stryker Finance.

**Schedule 4.14(b)***Cure Amounts – Unexpired Leases and Executory Contracts*

<b><u>Name, Address &amp; Tel. # of Counter Party</u></b>	<b><u>Agreed Cure Amount</u></b>
HCP Inc.-FAEC Holdings (TX), LLC 11150 Santa Monica Blvd. Los Angeles, CA 90025	\$700,000
PIRF Operations, LLC Attn: John F. Taylor and Lee M. Wood 1500 Waters Ridge Drive Lewisville, TX 75057	-0-
Capital Partners 16607 Blanco Rd., San Antonio, Texas 78232	.210 - \$304,462 .207 - \$22,917
First American Equipment Finance 255 Woodcliff Drive Fairpoint, NY 14450  Signature Financial LLC 225 Broadhollow Road Suite 132W Melville, NY 11747	As assigned to Signature Financial LLC: \$54,977.11 As assigned to Bank of West: \$40,000
Stryker Finance/now US Bank [No address provided]	\$23,460
Baylor Medical Centers at Carrollton (Trinity) Attn: Michael Sanborn, President 4343 N. Josey Lane Carrollton, TX 75093	-0-
Children's Medical Center of Dallas Attn: Mary Stowe VP & CNO 1935 Medical District Drive Dallas, TX 75235	-0-

Texas Health Presbyterian Hospital Plano 612 E. Lamar Blvd., Suite 900 Arlington, TX 76011	-0-
Healix Infusion Therapy, Inc. 14140 Southwest Frwy, Suite 400 Sugar Land, TX 77478	-0-
Carter Blood Care Attn: B.J. Smith, VP 2205 Highway 121 Bedford, TX 76021	\$145.00
Language Line Services, Inc. One Lower Ragsdale Drive, Bldg. 2 Monterey, CA 93940	\$1,275.45
Robert S. Smith, M.D., Inc. d/b/a EndoChoice Pathology 11810 Wills Road Alpharetta, GA 30092	\$1,105.49
Southwest Medical Association	-0-

<u><b>Taxes</b></u>	
2014 Denton County	\$30,635.14
2014 Lewisville ISD	\$164,586.68
2014 Plano City	\$55,866.55

**Schedule 5.3**

**Consents and Approvals of Buyer**

- Entry of Sale Order.
- Final Agreement and Execution of All Documents Related to the Debt Assumption in accordance with the Term Sheet dated July 23, 2015 by and between Buyer, Parent and Legacy Texas Bank (the "Term Sheet").
- Approval by GE Financial Corp. pursuant to Credit Agreement with GE Financial Corp. dated March 31, 2015.



**EXHIBIT A**

**BID PROCEDURES ORDER**

**[Docket Nos. 103 and 147]**

**EXHIBIT B**

**SALE ORDER**

[DOCKET NO. \_\_\_\_]

**EXHIBIT B TO SALE ORDER****CURE AMOUNTS AND AD VALOREM TAXES  
TO BE PAID BY DEBTORS AT CLOSING**

<b><u>Name, Address &amp; Tel. # of Counter Party</u></b>	<b><u>Agreed Cure Amount</u></b>
HCP Inc.-FAEC Holdings (TX), LLC 11150 Santa Monica Blvd. Los Angeles, CA 90025	\$700,000
PIRF Operations, LLC Attn: John F. Taylor and Lee M. Wood 1500 Waters Ridge Drive Lewisville, TX 75057	-0-
Capital Partners 16607 Blanco Rd., San Antonio, Texas 78232	.210 - \$304,462 .207 - \$22,917
First American Equipment Finance 255 Woodcliff Drive Fairpoint, NY 14450  Signature Financial LLC 225 Broadhollow Road Suite 132W Melville, NY 11747	Signature Financial LLC: \$54,977.11 Bank of West: \$40,000
Stryker Finance/now US Bank <b>[No address provided]</b>	\$23,460
Baylor Medical Centers at Carrollton (Trinity) Attn: Michael Sanborn, President 4343 N. Josey Lane Carrollton, TX 75093	-0-
Children's Medical Center of Dallas Attn: Mary Stowe VP & CNO 1935 Medical District Drive Dallas, TX 75235	-0-

Texas Health Presbyterian Hospital Plano 612 E. Lamar Blvd., Suite 900 Arlington, TX 76011	-0-
Healix Infusion Therapy, Inc. 14140 Southwest Frwy, Suite 400 Sugar Land, TX 77478	-0-
Carter Blood Care Attn: B.J. Smith, VP 2205 Highway 121 Bedford, TX 76021	\$145.00
Language Line Services, Inc. One Lower Ragsdale Drive, Bldg. 2 Monterey, CA 93940	\$1,275.45
Robert S. Smith, M.D., Inc. d/b/a EndoChoice Pathology 11810 Wills Road Alpharetta, GA 30092	\$1,105.49
Southwest Medical Association	-0-

<b><u>Taxes</u></b>	
2014 Denton County	\$30,635.14
2014 Lewisville ISD	\$164,586.68
2014 Plano City	\$55,866.55

**EXHIBIT C-1 TO SALE ORDER**

**FORM ASSUMPTION AND ASSIGNMENT AGREEMENT WITH LANDLORD**

[PLANO, TX – PROPERTY # 1384]

**ASSIGNMENT OF LEASE AND FOURTH AMENDMENT TO  
LEASE AND SECURITY AGREEMENT**

THIS ASSIGNMENT OF LEASE AND FOURTH AMENDMENT TO LEASE AND SECURITY AGREEMENT (“**Agreement**”) dated the \_\_\_ day of July, 2015 (the “**Effective Date**”), is by and among Victory Medical Center Plano, L.P., a Texas limited partnership (“**Assignor**”), Marsh Lane Hospital, LLC, a Texas limited liability company (“**Assignee**”), and FAEC Holdings (TX), LLC, a Delaware limited liability company (“**Landlord**”).

**I.**

**RECITALS**

A. WHEREAS, Landlord is the current “Landlord” and Assignor is the current “Tenant” pursuant to that certain Lease and Security Agreement dated as of January 1, 2012 (“**Original Lease**”), as amended by that certain First Amendment to Lease and Security Agreement and Third Amendment to Development Agreement dated as of January 31, 2013 (“**First Amendment**”), as amended by that certain Second Amendment to Lease and Security Agreement dated as of May 14, 2014 (“**Second Amendment**”), and as amended by that certain Third Amendment to Lease and Security Agreement and First Amendment to Development Agreement (2014 Expansion) dated as of January 8, 2015 (“**Third Amendment**”) (the Original Lease as amended by the foregoing, collectively, the “**Lease**”);

B. WHEREAS, on June 12, 2015, Assignor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the Northern District of Texas, Fort Worth (“**Bankruptcy Court**”), with the case being jointly administered for procedural purposes only under Case No. 15-42373 (“**Bankruptcy Case**”);

C. WHEREAS, the Bankruptcy Court entered its Order (A) Authorizing the Debtors to Sell Assets Free and Clear of Liens, Claims and Encumbrances; (B) Authorizing the Debtors to Assume and Assign Executory Contracts and Unexpired Leases; and (C) Granting Related Relief (as to Victory Medical Center Plano Only) (“**Sale Order**”):

D. WHEREAS, pursuant to the Sale Order, the Bankruptcy Court approved the Asset Purchase Agreement dated as of July 29, 2015 (“**Purchase Agreement**”) between Assignor, Assignee, Assignor’s parent company Victory Medical Center Plano, LP and Assignee’s parent company Nobilis Health Corp., and the closing under the Purchase Agreement shall take place on the Effective Date;

E. WHEREAS, in connection with the Sale Order and the Purchase Agreement, Assignor desires to transfer and assign to Assignee all of Assignor’s interest in and to the Lease, and Assignee desires to accept such transfer and assignment from Assignor of all of Assignor’s interest in and to the Lease (“**Lease Assignment**”); and

[PLANO, TX – PROPERTY # 1384]

F. WHEREAS, Landlord and Assignee desire to amend the Lease in certain other particulars, in each case effective as of the Effective Date and upon the terms and conditions set forth herein (“**Lease Amendment**”).

G. Capitalized terms used herein and not defined herein shall have the meanings given such terms in the Lease.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby confirmed and acknowledged, the parties hereto agree as follows:

## II.

### LANDLORD ESTOPPELS

1. As of the Effective Date, to Landlord’s Knowledge there are no unperformed maintenance, repair or replacement obligations of Lessee’s under the Lease under Article IX of the Lease or otherwise. For purposes of this Agreement, Landlord’s Knowledge shall mean the actual knowledge of Darren Kowalske, without investigation (provided that in no event shall Darren Kowalske have any personal liability in connection with this Agreement).

2. As of the Effective Date, to Landlord’s Knowledge, an Event of Default by Assignee as the Lessee has not occurred under the Lease.

3. As of the Effective Date, to Landlord’s Knowledge the Other Tenant is not in default under its Lease of the Other Premises. As of the Effective Date, to Landlord’s Knowledge no event has occurred and no condition exists that with the passage of time or giving of notice or both would constitute an Event of Default under the Other Tenant’s Lease of the Other Premises.

4. That certain Lease and Security Agreement dated January 1, 2012, described on Schedule 1, a complete copy of which are attached as Annex "1-A" has not (and to Lessor’s Knowledge the Shared Services Agreements have not) been modified, amended or supplemented except as set forth in: (1) the three amendments described on Schedule 1, complete copies of which are attached as Annex "1-B", Annex "1-C", and Annex "1-D", respectively, (2) the Management Shared Services Agreement by and between Assignor and PIRF Operations, LLC dated December 15, 2011, as amended, complete copies of which are attached as Annex "1-E", and Annex "1-F", respectively, and/or (3) the Support Shared Services Agreement by and Between Assignor and PIRF Operations, LLC dated December 15, 2011, as amended, complete copies of which are attached as Annex "1-G", and Annex "1-H", respectively. As used herein, the term “Shared Services Agreements” shall mean collectively, the instruments attached hereto as Annex “1-E” through Annex “1-H.”

5. Lessee’s purchase options contained in Articles XXXV and XLVIII of the Lease shall as of the Effective Date be deemed in full force and effect and may be exercised by

[PLANO, TX – PROPERTY # 1384]

Assignee as the Lessee in accordance with and subject to the respective terms thereof.

**III.**

**LEASE ASSIGNMENT**

1. Assignment and Assumption.

- a. On the Effective Date, Assignor shall pay Landlord the sum of SEVEN HUNDRED THOUSAND DOLLARS and NO/100 (\$700,000.00), by wire transfer as follows:

Account Name: HCP, Inc.  
Account Number: 1235158011  
Bank Name: Bank of America  
Routing Number:  
    Wires: 026 009 593  
    ACH: 122 000 661  
HCP Contact: Karishma Gattis  
              949-407-0346

- b. Assignor hereby sells, assigns, transfers, delegates, and conveys to Assignee all of Assignor's right, title and interest in, to and under the Lease, effective as of the Effective Date. The Sale Order and Bankruptcy Code shall govern as to Assignor's remaining liability to Landlord, if any, with respect to performance and observance of covenants, conditions, duties, obligations and liabilities of "Tenant" under the Lease that accrued prior to the Effective Date.
- c. Assignee hereby unconditionally assumes and agrees to keep, perform and observe all of the covenants, conditions, duties, obligations and liabilities of the "Tenant" under the Lease arising on or after the Effective Date; provided that Assignee hereby acknowledges that its obligations under the Lease related to the repair, maintenance, replacement of the Leased Property and/or compliance with Legal Requirements, specifically includes obligations of a continuing nature that may exist as of the Effective Date.
- d. Assignee hereto acknowledges and agrees that Landlord's consent as provided herein shall not (i) constitute Landlord's consent to any subsequent assignment of the Lease, subletting of the Leased Premises or other transfer requiring Landlord's consent pursuant to the Lease or (ii) be construed as a waiver, release, or relinquishment by Landlord of any of its respective rights and privileges under the Lease.



[PLANO, TX – PROPERTY # 1384]

2. Representations.

a. By Landlord and Assignee. Landlord and Assignee represent and warrant to each other as of the Effective Date as follows:

- i. Such party is duly organized, validly existing and in good standing under the laws of its state of organization and has full power, authority and legal right to execute and deliver and to perform and observe the provisions of this Agreement;
- ii. This Agreement has been duly authorized, executed and delivered by such party, and constitutes valid and binding obligations of each party enforceable against them in accordance with their respective terms;
- iii. No consent, approval or other authorization of, or registration, declaration or filing with, any governmental authority is required for the due execution and delivery of this Agreement, or for the performance by or the validity or enforceability thereof against each party; and

b. By Assignee. Assignee represents and warrants to as follows:

- i. Attached hereto as Annex "1-A" through "Annex 1-D", is a complete and accurate copy of the Lease, as amended, and except as set forth herein or in the Shared Services Agreements, there are no written or oral amendments, modifications, side letters, agreements, or other understandings with regard thereto.
- ii. Assignee has assumed and agreed to keep, perform and observe all of the covenants, conditions, duties, obligations and liabilities of the "Hospital Operator" arising on or after the Effective Date under the Shared Services Agreements.
- iii. As of the Effective Date, there are no actions, proceedings or investigations, including tax audits, pending or threatened, against or affecting such party which could reasonably be expected to materially and adversely affect the financial condition or prospects of Assignee;
- iv. The execution and delivery of this Agreement, each other document or instrument required to be delivered pursuant to this Agreement or in connection with the Lease Assignment as to which Assignee is a party will not result in (A) a breach or

**[PLANO, TX – PROPERTY # 1384]**

violation of (1) any federal, state, county, municipal or other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees or injunctions of any governmental authority affecting or binding upon such entity or its business (including without limitation any permits, licenses, authorizations or regulations relating to thereto); (2) the Organizational Documents (as defined below) of such entity; or (3) any agreement or instrument to which such entity is party to or by which it is bound, where such breach or violation would have a material adverse effect on the business, operations or prospects of such entity; or (B) the acceleration of any material obligation of such entity;

- v. From and after Effective Date, the Lease is and will be the valid and binding obligations of Assignee, enforceable against Assignee in accordance with its respective terms;
- vi. Assignee has delivered to Landlord true and correct copies of all of its Organizational Documents and such Organizational Documents are complete in all material respects. As used herein, “Organizational Documents” shall mean, collectively, as applicable, the articles or certificate of incorporation, certificate of limited partnership or certificate of limited liability company, by-laws, partnership agreement, operating company agreement, trust agreement, statement of partnership, fictitious business name filings and all other organizational documents relating to the creation, formation and/or existence of a business entity, together with resolutions of the board of directors, partner or member consents, trustee certificates, incumbency certificates and all other documents or instruments consummating, approving or authorizing this Agreement and the execution and delivery of this Agreement and the other documents and instruments required to be executed and delivered hereby by Assignee; and
- vii. Neither this Agreement nor any certificate, statement or other document furnished or to be furnished to Landlord by or on behalf of Assignee in connection with this Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements contained herein or therein not misleading.

**IV.**

**LEASE AMENDMENTS**

1. As of the Effective Date, Assignee and Landlord hereby amend the Lease as

[PLANO, TX – PROPERTY # 1384]

follows:

- a. Guaranty / Letter of Credit. Article XXI of the Lease is hereby amended and restated as follows:

“21.1. Letter of Credit. On or before the Effective Date, and for sixty (60) days after the expiration or earlier termination of this Lease, Lessee shall have deposited with Lessor a letter of credit in the aggregate amount of the Security Amount in accordance with this Article XXI, to secure Lessee’s obligations under the Lease and the obligations of Lessee and any Affiliate of Lessee under any other lease or other agreement or instrument with or in favor of Lessor or any Affiliate of Lessor. As used in this Lease, the terms “Security Amount” shall mean One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00).”

21.2 Requirements for Letters of Credit. The letter of credit delivered by Lessee to Lessor hereunder shall be in substantially the form of Exhibit J hereto, and shall be from a financial institution satisfactory to Lessor but in any event with (a) not less than \$2 Billion in net current assets, and (b) a letter of credit issuer rating from Standard and Poors Corporation of A- or better (or any equivalent rating thereto from any successor or substitute rating service selected by Lessor) and a letter of credit issuer rating from Moody’s Investor Service of A3 or better (or any equivalent rating thereto from any successor rating agency thereto), naming Lessor as beneficiary. The parties acknowledge that as of the Effective Date, General Electric Capital Corporation shall be deemed to satisfy the financial institution requirements set forth in the preceding sentence. The letter of credit shall be for a term of not less than one (1) year and irrevocable during that term. The letter of credit shall provide that it will be honored upon a signed statement by Lessor that Lessor is entitled to draw upon any letter of credit under this Lease, and shall require no signature or statement from any party other than Lessor. To the extent legally permitted, Lessor shall provide Lessee with two (2) days advance written notice of a draw upon the letter of credit. The letter of credit shall also provide that following the honor of any drafts in an amount less than the aggregate amount of the letter of credit, the financial institution shall return the original letter of credit to Lessor and Lessor’s rights as to the remaining amount of the letter of credit will not be extinguished. In the event of a transfer of Lessor’s interest in the Leased Property, Lessor shall have the right to transfer the letter of credit to the transferee and thereupon shall, without any further agreement between the parties, be released by Lessee from all liability therefor, and it is agreed that the provisions hereof shall apply to every transfer or assignment of the letter of credit to a new Lessor. The letter of credit may be assigned as security in connection with a mortgage of the Leased Property or any portion thereof by Lessor. If the financial institution from which Lessee

**[PLANO, TX – PROPERTY # 1384]**

has obtained a letter of credit shall admit in writing its inability to pay its debts generally as they become due, file a petition in bankruptcy or a petition to take advantage of any insolvency act, make an assignment for the benefit of its creditors consent to the appointment of a receiver of itself or of the whole or any substantial part of its property, or file a petition or answer seeking reorganization or arrangement under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof, then Lessee shall obtain a replacement letter of credit within thirty (30) days of such act from another financial institution satisfactory to Lessor.

21.3 Timing for Letters of Credit. The initial letter of credit shall be obtained and delivered to Lessor on or prior to the Effective Date. Any letters of credit covering subsequent periods shall be obtained and delivered to Lessor not less than thirty (30) days prior to the expiration of the then existing letter of credit (“Letter of Credit Date”). The term for each such letter of credit shall begin no later than the expiration date of the previous letter of credit and shall comply with all requirements of this Article XXI.

21.4 Uses of Letters of Credit. Lessor shall have the right to draw upon a letter of credit up to its full amount whenever (a) an Event of Default hereunder has occurred, (b) an event of default has occurred under any other lease or agreement between Lessor or an Affiliate of Lessor and Lessee or an Affiliate of Lessee or under any other letter of credit, guaranty, mortgage, deed of trust, or other instrument now or hereafter executed by Lessee or an Affiliate of Lessee in favor of Lessor or an Affiliate of Lessor or (c) an event or circumstance has occurred which with notice or passage of time, or both, would constitute an Event of Default hereunder or an event of default under any such other lease, agreement, letter of credit, guaranty, mortgage, deed of trust or other instrument, notwithstanding that transmittal of any such notice may be barred by applicable law. In addition, if Lessee fails to obtain a satisfactory letter of credit prior to the applicable Letter of Credit Date, Lessor may draw upon the full amount of the then existing letter of credit without giving any notice or time to cure to Lessee. No such draw upon the letter of credit shall (i) cure or constitute a waiver of an Event of Default, (ii) be deemed to fix or determine the amounts to which Lessor is entitled to recover under this Lease or otherwise, or (iii) be deemed to limit or waive Lessor’s right to pursue any remedies provided for in this Lease. If all or any portion of a letter of credit is drawn against by Lessor, Lessee shall, within two (2) Business Days after demand by Lessor, cause the issuer of such letter of credit to issue Lessor, at Lessee’s expense, a replacement or supplementary letter of credit in substantially the form attached hereto as Exhibit J such that at all times during the Term Lessor

[PLANO, TX – PROPERTY # 1384]

shall have the ability to draw on one or more letters of credit totaling, in the aggregate, the Security Amount.”

- b. Letter of Credit Form. The Letter of Credit form attached hereto as Exhibit J, shall be deemed Exhibit J to the Lease.
- c. Notices. Paragraph 33.1 of the Lease and Paragraph 3 of the Second Amendment to Lease and Security Agreement are hereby amended by deleting the notice address for Landlord and Tenant and the address set forth below it which provides “With a copy to:” and replacing them with the following:

“If to Landlord:

FAEC Holdings (TX), LLC  
c/o HCP, Inc.  
1920 Main Street, Suite 1200  
Irvine, California 92614  
Attention: General Counsel  
Email: legaldept@HCPI.com  
Facsimile: (949) 407-0800

With a copy to:

Michael L. Hood  
Haynes and Boone, LLP  
2323 Victory Avenue, Ste. 700  
Dallas, Texas 75219-7673  
Email: michael.hood@haynesboone.com  
Facsimile: (214) 200-0476

“If to Tenant:

Marsh Lane Hospital, LLC  
11700 Katy Freeway, Suite 300  
Houston, Texas 77079  
Attention: Matt Maruca, General Counsel  
Email: mmaruca@nobilshealth.com  
Facsimile: (713) 355-8615

With a copy to:

Kane, Russell, Coleman & Logan PC  
1600 Elm Street, Suite 3700  
Dallas, Texas 75201  
Attention: Chris L. Harris  
Email: charris@krcl.com  
Facsimile: (214) 777-4299

**[PLANO, TX – PROPERTY # 1384]**

- d. For the avoidance of doubt, Assignee shall pay as Impositions pursuant to Paragraph 4.2 of the Lease all of the calendar year 2015 real property taxes and Texas margin taxes due under the Lease in accordance with the Lease after Landlord invoices Assignee for such Impositions in accordance with the Lease.
- e. The second sentence of Section 9.4.1 of the Lease (beginning “In furtherance of the foregoing,...”) is hereby deleted.
- f. Each reference to “five (5) mile radius” in Section 7.3 of the Lease is hereby amended to state “two and one-half (2.5) mile radius.”
- g. Subsection 16.1.1 of the Lease is hereby deleted in its entirety.
- h. Section 16.8 of the Lease entitled “Facility Operating Deficiencies” is hereby deleted in its entirety.
- i. Section 24.1.1 is hereby supplemented to add the following: “Notwithstanding the other terms of this Section 24.1.1: (1) For so long as the stock of Nobilis Health Corp. (“NHC”) is listed for trading on a “national securities exchange” that has registered with the U.S. Securities and Exchange Commission under Section 6 of the Securities Exchange Act of 1934, then (a) the transfer or exchange of such stock of NHC over such exchange or market shall not be deemed a Transfer, and (b) any change in control of NHS shall not require the prior consent of Lessor under this Lease; and (2) any removal or de-listing of NHC from any national securities exchange shall be deemed a Transfer requiring Lessor’s consent hereunder.”
- j. Section 16.10 of the Lease entitled “Grant of Security Interest” is hereby amended and restated in its entirety as follows: “Waiver of Statutory or Constitutional Lien. Lessor hereby waives Lessor’s statutory lien in and with respect to the Collateral created by the Texas Property Code, as same may be amended after the Effective Date, and Lessor hereby waives Lessor’s constitutional lien in and with respect to the Collateral created by the Texas Constitution, as same may be amended after the Effective Date.”
- k. Section 41.1.6 of the Lease is hereby amended and restated in its entirety as follows: “Lessee shall hold all Required Governmental Approvals and in all events and at all times Lessee’s operation of the Leased Property shall comply with all Legal Requirements.”
- l. Section 43.1 of the Lease entitled "Brokers" is hereby deleted from the Lease.

[PLANO, TX – PROPERTY # 1384]

- m. Notwithstanding anything to the contrary contained in the Lease including, without limit after this Agreement, there is no requirement for any guaranty of the Lease for the benefit of Landlord.
  
- n. Landlord and Assignee ratify and confirm the terms and conditions of the Lease and acknowledge and agree that, except as expressly set forth herein, all of the terms, conditions and obligations contained in the Lease shall remain in full force and effect without modification from and after the Effective Date.

V.

**ADDITIONAL TERMS**

- 1. Counterparts. This Agreement may be executed in any number of counterparts and by different parties to this Agreement in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement. Delivery of an executed counterpart of a signature page to this Agreement via electronic or facsimile transmission shall be as effective as delivery of a manually executed counterpart of this Agreement.
  
- 2. Attorneys' Fees. In any dispute or action between the parties arising out of this Agreement, the prevailing party shall be entitled to have and recover from the losing party such amount as the court may adjudge reasonable as attorneys' fees and expenses together with costs of litigation incurred by the prevailing party, in addition to all other amounts provided at law.
  
- 3. Amendment. Any alteration, change or modification of or to this Agreement, in order to become effective, must be made in writing and in each instance signed on behalf of each party to be charged.
  
- 4. Severability. If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.
  
- 5. Governing Law. EXCEPT WHERE FEDERAL LAW IS APPLICABLE AND UNLESS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS (WITHOUT REGARD OF PRINCIPLES OR CONFLICTS OF LAW).

**[PLANO, TX – PROPERTY # 1384]**

6. Defined Terms; Captions. Each capitalized term, word, or phrase not defined in this Agreement shall have the meaning set forth in such term in the Lease. Captions appearing in this Agreement are inserted only as a matter of convenience and do not define, limit, construe, or proscribe the scope or intent of the sections of this Agreement, nor in any way affect this Agreement.
  
7. Successors and Assigns. Subject to the restrictions and other limitations expressly set forth herein and in the Leases, the terms, covenants, and conditions hereof shall inure to the benefit of and be binding upon the respective parties hereto, their successors, and permitted assigns.

*[Signatures on next page]*



[PLANO, TX – PROPERTY # 1384]

**IN WITNESS WHEREOF**, Assignor, Assignee and Landlord have caused this Assignment of Lease and Fourth Amendment to Lease and Security Agreement to be executed and implemented effective as of the Sale Order Effective Date.

**ASSIGNOR:**

**VICTORY MEDICAL CENTER PLANO, L.P.**

By: VICTORY MEDICAL CENTER PLANO, GP,  
LLC, a Texas limited liability company,  
its general partner

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

Name: Robert N. Helms, Jr.

Title: Manager

**ASSIGNEE:**

**MARSH LANE HOSPITAL, LLC,**

a Texas limited liability company

By \_\_\_\_\_

Name: Kenneth J. Klein

Title: Chief Financial Officer

**LANDLORD:**

**FAEC HOLDINGS (TX), LLC,**

a Delaware limited liability company

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

Name: Darren Kowalske

Title: Senior Vice-President

[PLANO, TX – PROPERTY # 1384]

EXHIBIT J

Form of  
Irrevocable Standby Letter Of Credit

IRREVOCABLE STANDBY LETTER OF CREDIT  
NUMBER: AS \_\_\_\_\_  
ISSUE DATE: \_\_\_\_\_, 2015

BENEFICIARY:

APPLICANT:

LETTER OF CREDIT ISSUE AMOUNT: USD \_\_\_\_\_ EXPIRY DATE: \_\_\_\_\_,  
2016

LADIES AND GENTLEMEN:

AT THE REQUEST AND FOR THE ACCOUNT OF THE ABOVE REFERENCED APPLICANT, WE HEREBY ISSUE OUR IRREVOCABLE STANDBY LETTER OF CREDIT (THE "GECC CREDIT") IN YOUR FAVOR IN THE AMOUNT OF \_\_\_\_\_ AND 00/100 U.S. DOLLARS AVAILABLE WITH US AT THE OFFICE OF OUR SERVICER NOTED BELOW BY PAYMENT AGAINST PRESENTATION OF THE FOLLOWING DOCUMENTS:

1. A DRAFT DRAWN ON US AT SIGHT MARKED "DRAWN UNDER GENERAL ELECTRIC CAPITAL CORPORATION STANDBY LETTER OF CREDIT NO. AS \_\_\_\_\_."
2. BENEFICIARY'S SIGNED AND DATED STATEMENT WORDED AS FOLLOWS:

"WE HEREBY DEMAND USD (INSERT AMOUNT) UNDER GENERAL ELECTRIC CAPITAL CORPORATION STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ WHICH AMOUNT REPRESENTS FUNDS DUE AND OWING TO \_\_\_\_\_ IN CONNECTION WITH THE OCCURRENCE OF EITHER: (I) AN EVENT OF DEFAULT UNDER THE LEASE DATED \_\_\_\_\_, BETWEEN \_\_\_\_\_ (TOGETHER WITH ITS SUCCESSORS AND ASSIGNS, "LESSOR"), AS "LESSOR," AND \_\_\_\_\_, AS "LESSEE", AS AMENDED AND ASSIGNED; OR (II) AN EVENT OR CIRCUMSTANCE HAS OCCURRED WHICH WITH NOTICE OR PASSAGE OF TIME, OR BOTH, WOULD CONSTITUTE AN EVENT OF DEFAULT OR AN EVENT OF DEFAULT UNDER THE LEASE, NOTWITHSTANDING THAT TRANSMITTAL OF ANY SUCH NOTICE MAY BE BARRED BY APPLICABLE LAW."

OR

[PLANO, TX – PROPERTY # 1384]

“WE HEREBY DEMAND USD (INSERT AMOUNT) UNDER GENERAL ELECTRIC CAPITAL CORPORATION STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ AS WE HAVE RECEIVED A CANCELLATION NOTICE.”

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED.

IF ANY INSTRUCTIONS ACCOMPANYING A DRAWING UNDER THIS LETTER OF CREDIT REQUEST THAT PAYMENT IS TO BE MADE BY TRANSFER TO AN ACCOUNT WITH US OR AT ANOTHER BANK, WE AND/OR SUCH OTHER BANK MAY RELY ON AN ACCOUNT NUMBER SPECIFIED IN SUCH INSTRUCTIONS AS THAT OF THE BENEFICIARY'S WITHOUT ANY FURTHER VALIDATION.

DRAWINGS MAY ALSO BE PRESENTED TO US BY A FACSIMILE TRANSMISSION TO FACSIMILE NUMBER 336-735-0952 (EACH SUCH DRAWING, A “FAX DRAWING”); PROVIDED HOWEVER, THAT A FAX DRAWING WILL NOT BE EFFECTIVELY PRESENTED UNTIL YOU CONFIRM BY TELEPHONE OUR RECEIPT OF SUCH FAX DRAWING BY CALLING US AT TELEPHONE NUMBER 1-800-776-3862. IF YOU PRESENT A FAX DRAWING UNDER THIS LETTER OF CREDIT YOU DO NOT NEED TO PRESENT THE ORIGINAL OF ANY DRAWING DOCUMENTS AND IF WE RECEIVE ANY SUCH ORIGINAL DRAWING DOCUMENTS THEY WILL NOT BE EXAMINED BY US. IN THE EVENT OF A FULL OR FINAL DRAWING THE ORIGINAL LETTER OF STANDBY LETTER OF CREDIT MUST BE RETURNED TO US BY OVERNIGHT COURIER.

THIS LETTER OF CREDIT EXPIRES AT THE BELOW OFFICE ON \_\_\_\_\_, 2016 (THE “EXPIRATION DATE”); PROVIDED THAT IT IS A CONDITION OF THIS LETTER OF CREDIT THAT SUCH EXPIRATION DATE SHALL BE DEEMED AUTOMATICALLY EXTENDED, WITHOUT AMENDMENT, FOR ONE YEAR PERIODS TO \_\_\_\_\_ IN EACH SUCCEEDING CALENDAR YEAR, UNLESS AT LEAST ONE HUNDRED TWENTY (120) DAYS PRIOR TO SUCH EXPIRATION DATE WE OR OUR SERVICER DELIVER WRITTEN NOTICE (A “CANCELLATION NOTICE”) TO YOU AT YOUR ADDRESS ABOVE BY OVERNIGHT COURIER OR REGISTERED MAIL STATING THAT WE ELECT NOT TO EXTEND THE EXPIRATION DATE OF THIS LETTER OF CREDIT BEYOND THE DATE SPECIFIED IN SUCH NOTICE.

THE AMOUNT OF THIS LETTER OF CREDIT WILL BE AUTOMATICALLY REDUCED ONLY: (1) BY THE AMOUNT OF ANY DRAWING(S) UNDER THIS LETTER OF CREDIT BY BENEFICIARY HONORED BY US; OR, (2) UPON OUR RECEIPT OF A REDUCTION AUTHORIZATION IN THE FORM OF EXHIBIT A HERETO APPROPRIATELY COMPLETED, THE THEN STATED AMOUNT AVAILABLE FOR DRAWING UNDER THIS LETTER OF CREDIT SHALL BE REDUCED AUTOMATICALLY WITHOUT AMENDMENTS, BY THE AMOUNT SET FORTH IN SUCH REDUCTION AUTHORIZATION EFFECTIVE UPON THE DATE OF ITS RECEIPT AT OUR OFFICES AS SPECIFIED ABOVE; PROVIDED THAT: (I) NO REDUCTION AUTHORIZATION SHALL BE EFFECTIVE UNLESS SIGNED AND DELIVERED BY BENEFICAIRY

[PLANO, TX – PROPERTY # 1384]

DIRECTLY TO US, AND (II) BENEFICIARY SHALL HAVE NO OBLIGATION TO PROVIDE A REDUCTION AUTHORIZATION.

WE HEREBY AGREE AND ENGAGE WITH YOU THAT EACH DRAFT DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT WILL BE DULY HONORED IF PRESENTED (WHETHER IN PERSON OR BY CERTIFIED OR REGISTERED MAIL DELIVERY, OR PURSUANT TO A FAX DRAWING AS PERMITTED ABOVE) ON OR BEFORE 5:00 P.M. ON THE EXPIRATION DATE TOGETHER WITH THE DOCUMENTS SPECIFIED IN THIS LETTER OF CREDIT AT THE OFFICE OF OUR SERVICER, WELLS FARGO BANK, N.A., 401 LINDEN STREET, MAC D4004-017, WINSTON-SALEM, NC 27101, ATTENTION: GE CAPITAL CORPORATION STANDBY LETTER OF CREDIT TEAM ON OR BEFORE THE ABOVE STATED EXPIRY DATE, OR ANY EXTENDED EXPIRY DATE IF APPLICABLE.

THIS LETTER OF CREDIT MAY BE TRANSFERRED OR ASSIGNED BY THE BENEFICIARY HEREOF TO ANY SUCCESSOR OR ASSIGN OF SUCH BENEFICIARY'S INTEREST IN THE (INSERT DESCRIPTION OF THE LEASE) OR TO ANY LENDER OBTAINING A LIEN OR SECURITY INTEREST IN ANY PORTION OF THE PROPERTY COVERED BY SUCH LEASE, AS SAME MAY BE AMENDED OR MODIFIED. EACH DRAFT HEREUNDER BY ANY ASSIGNEE OR SUCCESSOR SHALL BE ACCOMPANIED BY A COPY OF THE FULLY EXECUTED DOCUMENTS OR JUDICIAL ORDERS EVIDENCING SUCH ENCUMBRANCE, ASSIGNMENT OR TRANSFER.

THIS IRREVOCABLE STANDBY LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING. THIS UNDERTAKING IS INDEPENDENT OF AND SHALL NOT IN ANY WAY BE MODIFIED, AMENDED, AMPLIFIED OR INCORPORATED BY REFERENCE TO ANY DOCUMENT, CONTRACT OR AGREEMENT REFERENCED HEREIN OTHER THAN THE STIPULATED ICC RULES AND GOVERNING LAWS.

EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, THIS STANDBY LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES 1998 (ISP98), INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 AND THE LAWS OF THE STATE OF NEW YORK AND IN THE EVENT OF ANY CONFLICT, THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN.

VERY TRULY YOURS  
GENERAL ELECTRIC CAPITAL CORPORATION

BY: \_\_\_\_\_  
(AUTHORIZED SIGNATURE)

**[PLANO, TX – PROPERTY # 1384]**

**SCHEDULE 1**

[PLANO, TX – PROPERTY # 1384]

**ANNEX 1-A**

**Lease and Security Agreement between FAEC Holdings (TX), LLC as Lessor  
and VMC Plano LP as Lessee dated as of January 1, 2012 (“Original Lease”)**

[PLANO, TX – PROPERTY # 1384]

**ANNEX 1-B**

**First Amendment to Lease and Security Agreement and Third Amendment to Development Agreement dated January 31, 2013 (“First Amendment to Lease”)**

[PLANO, TX – PROPERTY # 1384]

**ANNEX 1-C**

**Second Amendment to Lease and Security Agreement  
dated as of May 14, 2014 (“Second Amendment to Lease”)**



[PLANO, TX – PROPERTY # 1384]

**ANNEX 1-D**

**Third Amendment to Lease and Security Agreement  
("Third Amendment to Lease")**

[PLANO, TX – PROPERTY # 1384]

**ANNEX 1-E**

**Shared Services Agreement by and between VMC of Plano, LP and PIRF Operations, LLC  
dated as of December 15, 2011 (“Management Shared Services Agreement”)**

[PLANO, TX – PROPERTY # 1384]

**ANNEX 1-F**

**First Amendment to Shared Services Agreement dated January 8, 2015  
 (“First Amendment to Management Shared Services Agreement”)**

[PLANO, TX – PROPERTY # 1384]

**ANNEX 1-G**

**Shared Services Agreement by and between VMC of Plano, LP and PIRF Operations, LLC  
dated as of December 15, 2011 (“Support Shared Services Agreement”)**

[PLANO, TX – PROPERTY # 1384]

**ANNEX 1-H**

**First Amendment to Shared Services Agreement dated as of January 8, 2015  
 (“First Amendment to Support Shared Services Agreement”)**

EXHIBIT J

Form of  
Irrevocable Standby Letter Of Credit

IRREVOCABLE STANDBY LETTER OF CREDIT

NUMBER: AS \_\_\_\_\_

ISSUE DATE: \_\_\_\_\_, 2015

BENEFICIARY:

APPLICANT:

LETTER OF CREDIT ISSUE AMOUNT: USD \_\_\_\_\_  
2016

EXPIRY DATE: \_\_\_\_\_,

LADIES AND GENTLEMEN:

AT THE REQUEST AND FOR THE ACCOUNT OF THE ABOVE REFERENCED APPLICANT, WE HEREBY ISSUE OUR IRREVOCABLE STANDBY LETTER OF CREDIT (THE "GECC CREDIT") IN YOUR FAVOR IN THE AMOUNT OF \_\_\_\_\_ AND 00/100 U.S. DOLLARS AVAILABLE WITH US AT THE OFFICE OF OUR SERVICER NOTED BELOW BY PAYMENT AGAINST PRESENTATION OF THE FOLLOWING DOCUMENTS:

1. A DRAFT DRAWN ON US AT SIGHT MARKED "DRAWN UNDER GENERAL ELECTRIC CAPITAL CORPORATION STANDBY LETTER OF CREDIT NO. AS \_\_\_\_\_."
2. BENEFICIARY'S SIGNED AND DATED STATEMENT WORDED AS FOLLOWS:

"WE HEREBY DEMAND USD (INSERT AMOUNT) UNDER GENERAL ELECTRIC CAPITAL CORPORATION STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ WHICH AMOUNT REPRESENTS FUNDS DUE AND OWING TO \_\_\_\_\_ IN CONNECTION WITH THE OCCURRENCE OF EITHER: (I) AN EVENT OF DEFAULT UNDER THE LEASE DATED \_\_\_\_\_, BETWEEN \_\_\_\_\_ (TOGETHER WITH ITS SUCCESSORS AND ASSIGNS, "LESSOR"), AS "LESSOR," AND \_\_\_\_\_, AS "LESSEE", AS AMENDED AND ASSIGNED; OR (II) AN EVENT OR CIRCUMSTANCE HAS OCCURRED WHICH WITH NOTICE OR PASSAGE OF TIME, OR BOTH, WOULD CONSTITUTE AN EVENT OF DEFAULT OR AN EVENT OF DEFAULT UNDER THE LEASE, NOTWITHSTANDING THAT TRANSMITTAL OF ANY SUCH NOTICE MAY BE BARRED BY APPLICABLE LAW."

OR

“WE HEREBY DEMAND USD (INSERT AMOUNT) UNDER GENERAL ELECTRIC CAPITAL CORPORATION STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ AS WE HAVE RECEIVED A CANCELLATION NOTICE.”

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED.

IF ANY INSTRUCTIONS ACCOMPANYING A DRAWING UNDER THIS LETTER OF CREDIT REQUEST THAT PAYMENT IS TO BE MADE BY TRANSFER TO AN ACCOUNT WITH US OR AT ANOTHER BANK, WE AND/OR SUCH OTHER BANK MAY RELY ON AN ACCOUNT NUMBER SPECIFIED IN SUCH INSTRUCTIONS AS THAT OF THE BENEFICIARY'S WITHOUT ANY FURTHER VALIDATION.

DRAWINGS MAY ALSO BE PRESENTED TO US BY A FACSIMILE TRANSMISSION TO FACSIMILE NUMBER 336-735-0952 (EACH SUCH DRAWING, A “FAX DRAWING”); PROVIDED HOWEVER, THAT A FAX DRAWING WILL NOT BE EFFECTIVELY PRESENTED UNTIL YOU CONFIRM BY TELEPHONE OUR RECEIPT OF SUCH FAX DRAWING BY CALLING US AT TELEPHONE NUMBER 1-800-776-3862. IF YOU PRESENT A FAX DRAWING UNDER THIS LETTER OF CREDIT YOU DO NOT NEED TO PRESENT THE ORIGINAL OF ANY DRAWING DOCUMENTS AND IF WE RECEIVE ANY SUCH ORIGINAL DRAWING DOCUMENTS THEY WILL NOT BE EXAMINED BY US. IN THE EVENT OF A FULL OR FINAL DRAWING THE ORIGINAL LETTER OF STANDBY LETTER OF CREDIT MUST BE RETURNED TO US BY OVERNIGHT COURIER.

THIS LETTER OF CREDIT EXPIRES AT THE BELOW OFFICE ON \_\_\_\_\_, 2016 (THE “EXPIRATION DATE”); PROVIDED THAT IT IS A CONDITION OF THIS LETTER OF CREDIT THAT SUCH EXPIRATION DATE SHALL BE DEEMED AUTOMATICALLY EXTENDED, WITHOUT AMENDMENT, FOR ONE YEAR PERIODS TO \_\_\_\_\_ IN EACH SUCCEEDING CALENDAR YEAR, UNLESS AT LEAST ONE HUNDRED TWENTY (120) DAYS PRIOR TO SUCH EXPIRATION DATE WE OR OUR SERVICER DELIVER WRITTEN NOTICE (A “CANCELLATION NOTICE”) TO YOU AT YOUR ADDRESS ABOVE BY OVERNIGHT COURIER OR REGISTERED MAIL STATING THAT WE ELECT NOT TO EXTEND THE EXPIRATION DATE OF THIS LETTER OF CREDIT BEYOND THE DATE SPECIFIED IN SUCH NOTICE.

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DIRECTLY TO US, AND (II) BENEFICIARY SHALL HAVE NO OBLIGATION TO PROVIDE A REDUCTION AUTHORIZATION.

WE HEREBY AGREE AND ENGAGE WITH YOU THAT EACH DRAFT DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT WILL BE DULY HONORED IF PRESENTED (WHETHER IN PERSON OR BY CERTIFIED OR REGISTERED MAIL DELIVERY, OR PURSUANT TO A FAX DRAWING AS PERMITTED ABOVE) ON OR BEFORE 5:00 P.M. ON THE EXPIRATION DATE TOGETHER WITH THE DOCUMENTS SPECIFIED IN THIS LETTER OF CREDIT AT THE OFFICE OF OUR SERVICER, WELLS FARGO BANK, N.A., 401 LINDEN STREET, MAC D4004-017, WINSTON-SALEM, NC 27101, ATTENTION: GE CAPITAL CORPORATION STANDBY LETTER OF CREDIT TEAM ON OR BEFORE THE ABOVE STATED EXPIRY DATE, OR ANY EXTENDED EXPIRY DATE IF APPLICABLE.

THIS LETTER OF CREDIT MAY BE TRANSFERRED OR ASSIGNED BY THE BENEFICIARY HEREOF TO ANY SUCCESSOR OR ASSIGN OF SUCH BENEFICIARY'S INTEREST IN THE (INSERT DESCRIPTION OF THE LEASE) OR TO ANY LENDER OBTAINING A LIEN OR SECURITY INTEREST IN ANY PORTION OF THE PROPERTY COVERED BY SUCH LEASE, AS SAME MAY BE AMENDED OR MODIFIED. EACH DRAFT HEREUNDER BY ANY ASSIGNEE OR SUCCESSOR SHALL BE ACCOMPANIED BY A COPY OF THE FULLY EXECUTED DOCUMENTS OR JUDICIAL ORDERS EVIDENCING SUCH ENCUMBRANCE, ASSIGNMENT OR TRANSFER.

THIS IRREVOCABLE STANDBY LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING. THIS UNDERTAKING IS INDEPENDENT OF AND SHALL NOT IN ANY WAY BE MODIFIED, AMENDED, AMPLIFIED OR INCORPORATED BY REFERENCE TO ANY DOCUMENT, CONTRACT OR AGREEMENT REFERENCED HEREIN OTHER THAN THE STIPULATED ICC RULES AND GOVERNING LAWS.

EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, THIS STANDBY LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES 1998 (ISP98), INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 AND THE LAWS OF THE STATE OF NEW YORK AND IN THE EVENT OF ANY CONFLICT, THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN.

VERY TRULY YOURS  
GENERAL ELECTRIC CAPITAL CORPORATION

BY: \_\_\_\_\_  
(AUTHORIZED SIGNATURE)



**EXHIBIT C-2 TO SALE ORDER**

**FORM OF ASSUMPTION AND ASSIGNMENT AGREEMENT**

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**MARSH LANE SURGICAL HOSPITAL, LLC  
A TEXAS LIMITED LIABILITY COMPANY**

**ASSUMPTION AND ASSIGNMENT AGREEMENT**

**FOR**

**VICTORY MEDICAL CENTER PLANO, LP  
AND  
VICTORY PARENT COMPANY, LLC**

**JULY \_\_, 2015**

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THIS ASSUMPTION AND ASSIGNMENT AGREEMENT ("Assumption") is entered into effective as of July \_\_, 2015, by and between Victory Medical Center Plano, LP ("Seller") and Victory Parent Company, LLC ("VPC"), and Marsh Lane Surgical Hospital, LLP, a Texas limited liability company ("Buyer").

**RECITALS**

A. Buyer, Seller and VPC are parties to an Asset Purchase Agreement (the "Agreement") dated as of July \_\_, 2015. Defined terms used in this Assumption shall have the same meanings as they have in the Agreement unless the context provides otherwise.

B. The Agreement provides, among other things, that for the consideration provided therein, Seller and VPC will assume the Assumed Contracts and assign same to Buyer.

C. The Bankruptcy Court has entered the Sale Order authorizing Seller and VPC to assume and assign the Assumed Contracts to Buyer.

D. The purpose of this Assumption is to have Buyer acknowledge, in writing, its assumption of the Assumed Contracts it has agreed to accept and Seller or VPC's assignment of same. Counter-parties may execute an acceptance provided below, provided, however, notwithstanding same counter-parties shall be bound by the Sale Order to accept such assignment.

**NOW, THEREFORE**, in consideration of the transfer of the Assets to Buyer:

1. Effective as of 12:01 a.m. (Eastern Standard Time) on July \_\_, 2015 (the "Effective Time"), Seller hereby assumes and assigns and Buyer hereby assumes the Assumed Contracts set forth on Schedule 2.2(a) of the Agreement and in accordance with the Sale Order Buyer agrees to observe and perform all of the duties, obligations, terms, provisions, and

covenants, including, without limitation, billing and collection obligations for services provided after the Effective Time, and to pay and discharge all of the liabilities of Seller to be observed, performed, paid or discharged from and after the Effective Time, in connection with the Assumed Contracts.

2. The assumption by Seller of Assumed Contracts and assignment to Buyer pursuant to this Assumption and the Sale Order shall not be construed to defeat, impair or limit in any way any rights of Buyer to dispute the validity or amount thereof, but in the event it chooses to contest or dispute the validity or amount of any such liability, Buyer agrees to indemnify and hold Seller harmless from any liability arising from such contest or dispute to the extent provided for in the Agreement.

3. Buyer and Seller agree that, from time to time after the delivery of this Assumption, each will, without further consideration, promptly take such further action and execute and deliver such additional documents as the other may reasonably deem necessary in order to more fully effectuate the assumption and assignment of the Assumed Contracts provided for herein.

4. The provisions of this Assumption are intended to be binding upon Seller and the Buyer, their successors and assigns, and are for the benefit of Buyer and Seller, their successors and assigns.

5. This Assumption is executed and delivered pursuant to Sections 3.2(b) of the Agreement and shall be governed by and interpreted in accordance with the terms of the Agreement. This Assumption is being made subject to the terms of the Agreement and the Sale Order, including but not limited to the representations, warranties, covenants, agreements and indemnities of and by the Seller relating to the Assets and such terms are incorporated herein by this reference. Nothing contained herein supersedes, alters, modifies, limits, qualifies or reduces any of the obligations, agreements, covenants, warranties or representations of and by the Seller set forth in the Agreement. If any conflict exists between the terms of this Assumption and the terms of the Agreement, the terms of the Agreement shall govern and control.

IN WITNESS WHEREOF, Buyer and Seller have caused this Assumption to be executed as of the date first above written.

**Buyer:**

**Marsh Lane Surgical Hospital, LLC  
a Texas limited liability company**

By: \_\_\_\_\_  
Name: Chris Lloyd  
Title: Chief Executive Officer

**Seller:**

Victory Medical Center Plano, LP

By its General Partner:

Victory Medical Center Plano GP, LLC  
a Texas limited liability company

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

Its: \_\_\_\_\_

Victory Parent Company, LLC

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

Its: \_\_\_\_\_

**ASSIGNMENT ACCEPTED:**

[COUNTERPARTY] TO AGREEMENT

ATTACHED AS EXHIBIT A

\_\_\_\_\_

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

Its: \_\_\_\_\_

**SCHEDULE 1**

**EXHIBIT A**

**EXHIBIT C-3 TO SALE ORDER**

**FORM OF ASSUMPTION AND ASSIGNMENT AGREEMENTS WITH FIRST  
AMERICAN COMMERCIAL BANCORP, INC., SIGNATURE FINANCIAL LLC AND  
BANK OF THE WEST, AS APPLICABLE**

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**MARSH LANE SURGICAL HOSPITAL, LLC  
A TEXAS LIMITED LIABILITY COMPANY**

**ASSUMPTION AND ASSIGNMENT AGREEMENT**

**FOR**

**VICTORY MEDICAL CENTER PLANO, LP  
AND  
VICTORY PARENT COMPANY, LLC**

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THIS ASSUMPTION AND ASSIGNMENT AGREEMENT ("Assumption") is entered into as of July 28, 2015, by and between Victory Medical Center Plano, LP ("Seller"), Victory Parent Company, LLC ("VPC"), Marsh Lane Surgical Hospital, LLP, a Texas limited liability company ("Buyer"), First American Commercial Bancorp, Inc. ("First American") and Bank of the West ("BOTW").

**RECITALS**

A. Buyer, Seller and VPC are parties to an Asset Purchase Agreement (the "Agreement"). Defined terms used in this Assumption shall have the same meanings as they have in the Agreement unless the context provides otherwise.

B. The Agreement provides, among other things, that for the consideration provided therein, Seller and VPC will assume the Assumed Contracts and assign same to Buyer.

C. On June 18, 2015 at Docket No. 66 in Case No. 15-42373, Seller and VPC, filed with the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division (the "Bankruptcy Court"), an amended motion (the "Sale Motion") for authority to, among other things, sell and transfer certain of VPC's and Seller's assets (the "Assets") and assume and assign certain executory contracts and unexpired leases (the "Assumed Contracts").

D. The Bankruptcy Court has entered the Sale Order granting the Sale Motion authorizing, among other things, Seller and VPC to assume and assign the Assumed Contracts to Buyer.

E. The purpose of this Assumption is to have Buyer acknowledge, in writing, its assumption of the Assumed Contracts it has agreed to accept and Seller or VPC's assignment of same. Counter-parties may execute an acceptance provided below, provided, however, notwithstanding same counter-parties shall be bound by the Sale Order to accept such assignment.



F. On or about December 30, 2013, VPC entered into that certain *Master Lease Agreement* (“Master Lease”) with First American. On or about September 5, 2014, Seller became a Co-Lessee party to the Master Lease under that certain *Master Lease Addendum* (“Addendum”) with First American.

G. On or about September 5, 2014, VPC and Seller entered into that certain *Equipment Schedule 004* with First American (“Lease Schedule 4”). Lease Schedule 4 incorporates all terms of the Master Lease. In exchange for an agreement to deliver certain interim payments and other consideration stated therein, VPC and Seller received the right to possess and use certain personal property and equipment, as such property and equipment are more particularly described in Lease Schedule 4.

H. On or about September 22, 2014, VPC and Seller entered into that certain *Equipment Schedule 005* with First American (“Lease Schedule 5”). Lease Schedule 5 incorporates all terms of the Master Lease. In exchange for an agreement to deliver certain interim payments and other consideration stated therein, VPC and Seller received the right to possess and use certain personal property and equipment, as such property and equipment are more particularly described in Lease Schedule 5.<sup>1 2</sup>

I. In order to finance First American’s ownership of the Equipment, First American executed and delivered to BOTW that certain *Nonrecourse Promissory Note* dated September 9, 2004, in the original principal amount of \$101,508.80 (“Note 1”). In exchange for the financing provided by Note 1, First American granted a security interest to BOTW in the Equipment, the Lease, all payments due and owing to First American under the Lease, and all proceeds thereof pursuant to that certain *Security Agreement* executed by First American and BOTW dated September 9, 2014 (“Security Agreement 1”).

J. In order to finance First American’s ownership of the Equipment, First American executed and delivered to BOTW that certain *Nonrecourse Promissory Note* dated September 29, 2004, in the original principal amount of \$358,260.25 (“Note 2”). In exchange for the financing provided by Note 2, First American granted a security interest to BOTW in the Equipment, the Lease, all payments due and owing to First American under the Lease, and all proceeds thereof pursuant to that certain *Security Agreement* executed by First American and BOTW dated September 29, 2014 (“Security Agreement 2”).

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<sup>1</sup> The personal property and equipment described in Lease Schedule 4 and Lease Schedule 5 are collectively referred to herein as the “Equipment.”

<sup>2</sup> The Master Lease, Lease Schedule 4, Lease Schedule 5 and all other documents arising therefrom, related thereto or otherwise connected therewith are collectively referred to herein as the “Lease.”

K. Subject to paragraph 14 on page 3 of the Master Lease, First American is authorized to assign portions of the Lease for the benefit of BOTW.

L. Pursuant to Lease Schedule 4, VPC, Seller and First American entered into that certain *Notice and Acknowledgement of Assignment* dated on or about September 5, 2014, thereby acknowledging First American's assignment to BOTW of the right to collect the payments due and owing to First American by VPC and Seller under the terms of the Lease.

M. Pursuant to Lease Schedule 5, VPC, Seller and First American entered into that certain *Notice and Acknowledgement of Assignment* dated on or about September 22, 2014, thereby acknowledging First American's assignment to BOTW of the right to collect the payments due and owing to First American by VPC and Seller under the terms of the Lease.

N. Pursuant to that certain transmission dated June 12, 2015, from First American to BOTW, First American resigned as servicer of the Leases. Pursuant to such transmission, BOTW is exclusively responsible for servicing and administering all obligations under the Lease, including, without limitation, collection of all payments due and owing by the Debtor Lessees directly to BOTW.

O. Despite First American's resignation as servicer of the Lease, First American remains as the lessor party under the Lease.

P. By virtue of First American's assignment of its interests in the Lease to BOTW, BOTW holds the right to collect all payments due and owing under the Lease directly from the lessee party.

Q. The Equipment, the Lease, all amounts due and owing under the terms of the Lease, all proceeds and products arising therefrom, and all other property pledged to BOTW through a security interest as collateral to secure performance of certain obligations (as such property is more particularly described and set forth in the Lease, Security Agreement 1 and/or Security Agreement 2) are collectively referred to herein as the "BOTW Collateral."

R. BOTW holds first priority, senior security interests in the BOTW Collateral.

**NOW, THEREFORE**, in consideration of the transfer of the Assets to Buyer, the Parties to this Assumption have agreed as follows:

1. Effective as of the date of Closing (as such term is defined in the Agreement) ("Effective Time"), Seller hereby assumes and assigns and Buyer hereby assumes the Lease, as the Lease is included in the definition of "Assumed Contracts" under the Agreement. In accordance with the Sale Order, Buyer agrees to observe and perform all of the duties, obligations, terms, provisions, and covenants, including, without limitation, billing and collection obligations for services provided after the Effective Time, and to pay and discharge all of the liabilities of Seller to be observed, performed, paid or discharged from and after the Effective Time, in connection with the Lease and the other Assumed Contracts.

2. Upon and after the Effective Time, Buyer is the only entity liable and obligated to perform all the terms of the Lease.

3. Upon and after the Effective Time, BOTW holds first priority, senior security interests in the BOTW Collateral.

4. Upon and after the Effective Time, First American remains as the lessor party under the Lease.

5. Upon and after the Effective Time, BOTW holds the right to collect all amounts due and owing under the Lease directly from Buyer.

6. The Equipment is not included in the Assets purchased under the Sale through the Agreement.

7. Upon and after the Effective Time, the Equipment is exclusively owned by First American.

8. As it relates to and affects the Parties to this Assumption, only the extent of VPC's and Seller's respective interests in the Lease is included in the Assets purchased under the Sale through the Agreement.

9. All of BOTW's rights and interests in the Lease and the BOTW Collateral remain unmodified and fully enforceable, including, without limitation, (i) BOTW's security interests in the BOTW Collateral and (ii) BOTW's right to collect payments under the Lease directly from Buyer, as the substituted lessee party thereunder.

10. Buyer simply "steps into the shoes" of VPC and Seller with respect to all of the VPC's and Seller's respective interests, rights and obligations under the Lease. Buyer receives only whatever interest VPC and Seller owned in the Lease. Buyer takes title and ownership to the Lease in its capacity as a lessee, subject to all of VPC's and Seller's respective obligations under the Lease, including, without limitation, all obligations due and owing directly to BOTW.

11. All terms of the Lease remain unmodified and fully enforceable. The only change to the terms of the Lease is the identity of the lessee parties, which shall exclusively be Buyer.

12. BOTW shall receive \$40,000.00 via certified funds not later than five (5) days after the Effective Time.

13. Buyer hereby agrees and acknowledges to be bound by all of the unmodified terms, rights and obligations of the Lease.

14. Buyer hereby covenants to perform all of the unmodified terms, rights and obligations of the Lease for the benefit of BOTW, including, without limitation, timely delivery of all financial obligations under the Lease directly to BOTW.

IN WITNESS WHEREOF, the below-signed Parties have caused this Assumption to be executed as of the date first above written.

**Buyer:**

**Marsh Lane Surgical Hospital, LLC  
a Texas limited liability company**

By: \_\_\_\_\_  
Name: Chris Lloyd  
Title: Chief Executive Officer

**Seller:**

**Victory Medical Center Plano, LP**

**By its General Partner:  
Victory Medical Center Plano GP, LLC  
a Texas limited liability company**

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

**Victory Parent Company, LLC**

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

**ASSIGNMENT ACCEPTED:**

**First American Commercial Bancorp, Inc.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Bank of the West**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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**MARSH LANE SURGICAL HOSPITAL, LLC  
A TEXAS LIMITED LIABILITY COMPANY**

**ASSUMPTION AND ASSIGNMENT AGREEMENT**

**FOR**

**VICTORY MEDICAL CENTER PLANO, LP  
AND  
VICTORY PARENT COMPANY, LLC**

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THIS ASSUMPTION AND ASSIGNMENT AGREEMENT ("Assumption") is entered into as of July 28, 2015, by and between Victory Medical Center Plano, LP ("Seller"), Victory Parent Company, LLC ("VPC"), Marsh Lane Surgical Hospital, LLP, a Texas limited liability company ("Buyer"), First American Commercial Bancorp, Inc. ("First American") and Signature Financial LLC ("SIGNATURE").

**RECITALS**

A. Buyer, Seller and VPC are parties to an Asset Purchase Agreement (the "Agreement"). Defined terms used in this Assumption shall have the same meanings as they have in the Agreement unless the context provides otherwise.

B. The Agreement provides, among other things, that for the consideration provided therein, Seller and VPC will assume the Assumed Contracts and assign same to Buyer.

C. On June 18, 2015 at Docket No. 66 in Case No. 15-42373, Seller and VPC, filed with the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division (the "Bankruptcy Court"), an amended motion (the "Sale Motion") for authority to, among other things, sell and transfer certain of VPC's and Seller's assets (the "Assets") and assume and assign certain executory contracts and unexpired leases (the "Assumed Contracts").

D. The Bankruptcy Court has entered the Sale Order granting the Sale Motion authorizing, among other things, Seller and VPC to assume and assign the Assumed Contracts to Buyer.

E. The purpose of this Assumption is to have Buyer acknowledge, in writing, its assumption of the Assumed Contracts it has agreed to accept and Seller or VPC's assignment of same. Counter-parties may execute an acceptance provided below, provided, however, notwithstanding same counter-parties shall be bound by the Sale Order to accept such assignment.

F. On or about December 30, 2013, VPC entered into that certain *Master Lease Agreement* (“Master Lease”) with First American. On or about September 5, 2014, Seller became a Co-Lessee party to the Master Lease under that certain *Master Lease Addendum* (“Addendum”) with First American.

G. On or about April 22, 2014, VPC and Seller entered into that certain *Equipment Schedule 003* with First American (“Lease Schedule 3”). Lease Schedule 3 incorporates all terms of the Master Lease. In exchange for an agreement to deliver certain interim payments and other consideration stated therein, VPC and Seller received the right to possess and use certain personal property and equipment, as such property and equipment are more particularly described in Lease Schedule 3 .

H. In order to finance First American’s ownership of the Equipment, First American executed and delivered to SIGNATURE that certain *Nonrecourse Promissory Note* dated May 1, 2014, in the original principal amount of \$323,823.02 (“Note 1”). In exchange for the financing provided by Note 1, First American granted a security interest to SIGNATURE in the Equipment, the Lease, all payments due and owing to First American under the Lease, and all proceeds thereof pursuant to that certain *Security Agreement* executed by First American and SIGNATURE dated May 1, 2014 (“Security Agreement 1”).

<sup>1</sup> The personal property and equipment described in Lease Schedule 3 is referred to herein as the “Equipment.”

<sup>2</sup> The Master Lease, Lease Schedule 3 and all other documents arising therefrom, related thereto or otherwise connected therewith are collectively referred to herein as the “Lease.”

K. Subject to paragraph 14 on page 3 of the Master Lease, First American is authorized to assign portions of the Lease for the benefit of SIGNATURE.

L. Pursuant to Lease Schedule 3 , VPC, Seller and First American entered into that certain *Notice and Acknowledgement of Assignment* dated on or about April 22, 2014, thereby acknowledging First American's assignment to SIGNATURE of the right to collect the payments due and owing to First American by VPC and Seller under the terms of the Lease.

M. On or about June 12, 2015, First American resigned as servicer of the Lease. SIGNATURE is now exclusively responsible for servicing and administering all obligations under the Lease, including, without limitation, collection of all payments due and owing by VPC and Seller directly to SIGNATURE.

N. Despite First American's resignation as servicer of the Lease, First American remains as the lessor party under the Lease.

O. By virtue of First American's assignment of its interests in the Lease to SIGNATURE, SIGNATURE holds the right to collect all payments due and owing under the Lease directly from the lessee party.

P. The Equipment, the Lease, all amounts due and owing under the terms of the Lease, all proceeds and products arising therefrom, and all other property pledged to SIGNATURE through a security interest as collateral to secure performance of certain obligations (as such property is more particularly described and set forth in the Lease and/or Security Agreement 1) are collectively referred to herein as the "SIGNATURE Collateral."

Q. SIGNATURE holds a first priority, senior security interest in the SIGNATURE Collateral.

**NOW, THEREFORE**, in consideration of the transfer of the Assets to Buyer, the Parties to this Assumption have agreed as follows:

1. Effective as of the date of Closing (as such term is defined in the Agreement) ("Effective Time"), Seller hereby assumes and assigns and Buyer hereby assumes the Lease, as the Lease is included in the definition of "Assumed Contracts" under the Agreement. In accordance with the Sale Order, Buyer agrees to observe and perform all of the duties, obligations, terms, provisions, and covenants, including, without limitation, billing and collection obligations for services provided after the Effective Time, and to pay and discharge all of the liabilities of Seller to be observed, performed, paid or discharged from and after the Effective Time, in connection with the Lease and the other Assumed Contracts.



2. Upon and after the Effective Time, except as provided in paragraph 15 below, Buyer is the only entity liable and obligated to perform all the terms of the Lease.

3. Upon and after the Effective Time, SIGNATURE holds a first priority, senior security interest in the SIGNATURE Collateral.

4. Upon and after the Effective Time, First American remains as the lessor party under the Lease.

5. Upon and after the Effective Time, SIGNATURE holds the right to collect all amounts due and owing under the Lease directly from Buyer.

6. The Equipment is not included in the Assets purchased under the Sale through the Agreement.

7. Upon and after the Effective Time, the Equipment is exclusively owned by First American.

8. As it relates to and affects the Parties to this Assumption, only the extent of VPC's and Seller's respective interests in the Lease is included in the Assets purchased under the Sale through the Agreement.

9. All of SIGNATURE's rights and interests in the Lease and the SIGNATURE Collateral remain unmodified and fully enforceable, including, without limitation, (i) SIGNATURE's security interests in the SIGNATURE Collateral and (ii) SIGNATURE's right to collect payments under the Lease directly from Buyer, as the substituted lessee party thereunder.

10. Buyer simply "steps into the shoes" of VPC and Seller with respect to all of the VPC's and Seller's respective interests, rights and obligations under the Lease. Buyer receives only whatever interest VPC and Seller owned in the Lease. Buyer takes title and ownership to the Lease in its capacity as a lessee, subject to all of VPC's and Seller's respective obligations under the Lease, including, without limitation, all obligations due and owing directly to SIGNATURE.

11. All terms of the Lease remain unmodified and fully enforceable. The only change to the terms of the Lease is the identity of the lessee parties, which shall exclusively be Buyer.

12. SIGNATURE shall receive \$54,977.11 via certified funds not later than five (5) days after the Effective Time.

13. Buyer hereby agrees and acknowledges to be bound by all of the unmodified terms, rights and obligations of the Lease.

14. Buyer hereby covenants to perform all of the unmodified terms, rights and obligations of the Lease for the benefit of SIGNATURE, including, without limitation, timely

delivery of all financial obligations under the Lease directly to SIGNATURE.

15. Buyer shall cause Nobilis Health Corp (“Nobilis”) to use its best efforts to obtain a waiver from GE to allow Nobilis to guaranty the obligations of the Buyer to SIGNATURE under the Lease and this Agreement (the “Guaranty”). Upon GE providing the waiver, Nobilis shall execute the Guaranty, which shall be in form and substance satisfactory to both Nobilis and Signature.

IN WITNESS WHEREOF, the below-signed Parties have caused this Assumption to be executed as of the date first above written.

**Buyer:**

**Marsh Lane Surgical Hospital, LLC  
a Texas limited liability company**

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

Name: Chris Lloyd

Title: Chief Executive Officer

**Seller:**

**Victory Medical Center Plano, LP**

**By its General Partner:**

**Victory Medical Center Plano GP, LLC  
a Texas limited liability company**

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

Its: \_\_\_\_\_

**Victory Parent Company, LLC**

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

Its: \_\_\_\_\_

**ASSIGNMENT ACCEPTED:**

**First American Commercial Bancorp, Inc.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Signature Financial LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT D TO SALE ORDER**

**FORM OF LETTER OF CREDIT FOR LANDLORD**

EXHIBIT J

Form of  
Irrevocable Standby Letter Of Credit

IRREVOCABLE STANDBY LETTER OF CREDIT

NUMBER: AS \_\_\_\_\_  
ISSUE DATE: \_\_\_\_\_, 2015

BENEFICIARY:

APPLICANT:

LETTER OF CREDIT ISSUE AMOUNT: USD \_\_\_\_\_ EXPIRY DATE: \_\_\_\_\_,  
2016

LADIES AND GENTLEMEN:

AT THE REQUEST AND FOR THE ACCOUNT OF THE ABOVE REFERENCED APPLICANT, WE HEREBY ISSUE OUR IRREVOCABLE STANDBY LETTER OF CREDIT (THE "GECC CREDIT") IN YOUR FAVOR IN THE AMOUNT OF \_\_\_\_\_ AND 00/100 U.S. DOLLARS AVAILABLE WITH US AT THE OFFICE OF OUR SERVICER NOTED BELOW BY PAYMENT AGAINST PRESENTATION OF THE FOLLOWING DOCUMENTS:

1. A DRAFT DRAWN ON US AT SIGHT MARKED "DRAWN UNDER GENERAL ELECTRIC CAPITAL CORPORATION STANDBY LETTER OF CREDIT NO. AS \_\_\_\_\_."
2. BENEFICIARY'S SIGNED AND DATED STATEMENT WORDED AS FOLLOWS:

"WE HEREBY DEMAND USD (INSERT AMOUNT) UNDER GENERAL ELECTRIC CAPITAL CORPORATION STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ WHICH AMOUNT REPRESENTS FUNDS DUE AND OWING TO \_\_\_\_\_ IN CONNECTION WITH THE OCCURRENCE OF EITHER: (I) AN EVENT OF DEFAULT UNDER THE LEASE DATED \_\_\_\_\_, BETWEEN \_\_\_\_\_ (TOGETHER WITH ITS SUCCESSORS AND ASSIGNS, "LESSOR"), AS "LESSOR," AND \_\_\_\_\_, AS "LESSEE", AS AMENDED AND ASSIGNED; OR (II) AN EVENT OR CIRCUMSTANCE HAS OCCURRED WHICH WITH NOTICE OR PASSAGE OF TIME, OR BOTH, WOULD CONSTITUTE AN EVENT OF DEFAULT OR AN EVENT OF DEFAULT UNDER THE LEASE, NOTWITHSTANDING THAT TRANSMITTAL OF ANY SUCH NOTICE MAY BE BARRED BY APPLICABLE LAW."

OR

“WE HEREBY DEMAND USD (INSERT AMOUNT) UNDER GENERAL ELECTRIC CAPITAL CORPORATION STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ AS WE HAVE RECEIVED A CANCELLATION NOTICE.”

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED.

IF ANY INSTRUCTIONS ACCOMPANYING A DRAWING UNDER THIS LETTER OF CREDIT REQUEST THAT PAYMENT IS TO BE MADE BY TRANSFER TO AN ACCOUNT WITH US OR AT ANOTHER BANK, WE AND/OR SUCH OTHER BANK MAY RELY ON AN ACCOUNT NUMBER SPECIFIED IN SUCH INSTRUCTIONS AS THAT OF THE BENEFICIARY'S WITHOUT ANY FURTHER VALIDATION.

DRAWINGS MAY ALSO BE PRESENTED TO US BY A FACSIMILE TRANSMISSION TO FACSIMILE NUMBER 336-735-0952 (EACH SUCH DRAWING, A “FAX DRAWING”); PROVIDED HOWEVER, THAT A FAX DRAWING WILL NOT BE EFFECTIVELY PRESENTED UNTIL YOU CONFIRM BY TELEPHONE OUR RECEIPT OF SUCH FAX DRAWING BY CALLING US AT TELEPHONE NUMBER 1-800-776-3862. IF YOU PRESENT A FAX DRAWING UNDER THIS LETTER OF CREDIT YOU DO NOT NEED TO PRESENT THE ORIGINAL OF ANY DRAWING DOCUMENTS AND IF WE RECEIVE ANY SUCH ORIGINAL DRAWING DOCUMENTS THEY WILL NOT BE EXAMINED BY US. IN THE EVENT OF A FULL OR FINAL DRAWING THE ORIGINAL LETTER OF STANDBY LETTER OF CREDIT MUST BE RETURNED TO US BY OVERNIGHT COURIER.

THIS LETTER OF CREDIT EXPIRES AT THE BELOW OFFICE ON \_\_\_\_\_, 2016 (THE “EXPIRATION DATE”); PROVIDED THAT IT IS A CONDITION OF THIS LETTER OF CREDIT THAT SUCH EXPIRATION DATE SHALL BE DEEMED AUTOMATICALLY EXTENDED, WITHOUT AMENDMENT, FOR ONE YEAR PERIODS TO \_\_\_\_\_ IN EACH SUCCEEDING CALENDAR YEAR, UNLESS AT LEAST ONE HUNDRED TWENTY (120) DAYS PRIOR TO SUCH EXPIRATION DATE WE OR OUR SERVICER DELIVER WRITTEN NOTICE (A “CANCELLATION NOTICE”) TO YOU AT YOUR ADDRESS ABOVE BY OVERNIGHT COURIER OR REGISTERED MAIL STATING THAT WE ELECT NOT TO EXTEND THE EXPIRATION DATE OF THIS LETTER OF CREDIT BEYOND THE DATE SPECIFIED IN SUCH NOTICE.

THE AMOUNT OF THIS LETTER OF CREDIT WILL BE AUTOMATICALLY REDUCED ONLY: (1) BY THE AMOUNT OF ANY DRAWING(S) UNDER THIS LETTER OF CREDIT BY BENEFICIARY HONORED BY US; OR, (2) UPON OUR RECEIPT OF A REDUCTION AUTHORIZATION IN THE FORM OF EXHIBIT A HERETO APPROPRIATELY COMPLETED, THE THEN STATED AMOUNT AVAILABLE FOR DRAWING UNDER THIS LETTER OF CREDIT SHALL BE REDUCED AUTOMATICALLY WITHOUT AMENDMENTS, BY THE AMOUNT SET FORTH IN SUCH REDUCTION AUTHORIZATION EFFECTIVE UPON THE DATE OF ITS RECEIPT AT OUR OFFICES AS SPECIFIED ABOVE; PROVIDED THAT: (I) NO REDUCTION AUTHORIZATION SHALL BE EFFECTIVE UNLESS SIGNED AND DELIVERED BY BENEFICAIRY

DIRECTLY TO US, AND (II) BENEFICIARY SHALL HAVE NO OBLIGATION TO PROVIDE A REDUCTION AUTHORIZATION.

WE HEREBY AGREE AND ENGAGE WITH YOU THAT EACH DRAFT DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT WILL BE DULY HONORED IF PRESENTED (WHETHER IN PERSON OR BY CERTIFIED OR REGISTERED MAIL DELIVERY, OR PURSUANT TO A FAX DRAWING AS PERMITTED ABOVE) ON OR BEFORE 5:00 P.M. ON THE EXPIRATION DATE TOGETHER WITH THE DOCUMENTS SPECIFIED IN THIS LETTER OF CREDIT AT THE OFFICE OF OUR SERVICER, WELLS FARGO BANK, N.A., 401 LINDEN STREET, MAC D4004-017, WINSTON-SALEM, NC 27101, ATTENTION: GE CAPITAL CORPORATION STANDBY LETTER OF CREDIT TEAM ON OR BEFORE THE ABOVE STATED EXPIRY DATE, OR ANY EXTENDED EXPIRY DATE IF APPLICABLE.

THIS LETTER OF CREDIT MAY BE TRANSFERRED OR ASSIGNED BY THE BENEFICIARY HEREOF TO ANY SUCCESSOR OR ASSIGN OF SUCH BENEFICIARY'S INTEREST IN THE (INSERT DESCRIPTION OF THE LEASE) OR TO ANY LENDER OBTAINING A LIEN OR SECURITY INTEREST IN ANY PORTION OF THE PROPERTY COVERED BY SUCH LEASE, AS SAME MAY BE AMENDED OR MODIFIED. EACH DRAFT HEREUNDER BY ANY ASSIGNEE OR SUCCESSOR SHALL BE ACCOMPANIED BY A COPY OF THE FULLY EXECUTED DOCUMENTS OR JUDICIAL ORDERS EVIDENCING SUCH ENCUMBRANCE, ASSIGNMENT OR TRANSFER.

THIS IRREVOCABLE STANDBY LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING. THIS UNDERTAKING IS INDEPENDENT OF AND SHALL NOT IN ANY WAY BE MODIFIED, AMENDED, AMPLIFIED OR INCORPORATED BY REFERENCE TO ANY DOCUMENT, CONTRACT OR AGREEMENT REFERENCED HEREIN OTHER THAN THE STIPULATED ICC RULES AND GOVERNING LAWS.

EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, THIS STANDBY LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES 1998 (ISP98), INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 AND THE LAWS OF THE STATE OF NEW YORK AND IN THE EVENT OF ANY CONFLICT, THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN.

VERY TRULY YOURS  
GENERAL ELECTRIC CAPITAL CORPORATION

BY: \_\_\_\_\_  
(AUTHORIZED SIGNATURE)