UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

In re:	:	
	:	
OCONEE REGIONAL HEALTH SYSTEMS, INC., *et al.*,	:	Chapter 11 Case No. 17-51005-AEC (Jointly Administered)
Debtors.	:	
_____	:	

NAVICENT HEALTH, INC.'S; NAVICENT HEALTH OCONEE, LLC'S AND NAVICENT HEALTH BALDWIN, INC.'S MOTION FOR SUMMARY JUDGMENT ON AND TO DEBORAH AND JEFFREY BLOCK'S MOTION FOR RELIEF FROM THE SALE ORDER PURSUANT TO F.R.C.P. 60(B)(4) AND F.R.B.P. 9024

Navicent Health, Inc. ("Navicent Health"), Navicent Health Oconee, LLC ("Navicent Oconee") and Navicent Health Baldwin, Inc. ("Navicent Baldwin," together with Navicent Oconee and Navicent Health, "Navicent"), hereby file their motion for summary judgment pursuant to Fed. R. Bankr. P. 7056 (made applicable to this Bankruptcy Case by Fed. R. Bankr. P. 9014) (the "Motion") with respect to Deborah and Jeffrey Block's (together the "Blocks") *Motion for Relief from the Sale Order Pursuant to F.R.C.P. 60(b)(4) and F.R.B.P. 9024* (Dkt. No. 690, the "Rule 60 Motion"). Navicent is entitled to summary judgment denying the Rule 60 Motion for the reasons set forth in the memorandum of law filed contemporaneously herewith.

[SIGNATURE BLOCK ON FOLLOWING PAGE]

Respectfully submitted this 17th day of September, 2018.

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NAVICENT HEALTH, INC.'S; NAVICENT HEALTH OCONEE, LLC'S AND NAVICENT HEALTH BALDWIN, INC.'S MEMORANDUM IN SUPPORT OF THEIR JOINT MOTION FOR SUMMARY JUDGMENT ON AND TO DEBORAH AND JEFFREY BLOCK'S MOTION FOR RELIEF FROM THE SALE ORDER PURSUANT TO F.R.C.P. 60(B)(4) AND F.R.B.P. 9024

Navicent Health, Inc. ("Navicent Health"), Navicent Health Oconee, LLC ("Navicent Oconee") and Navicent Health Baldwin, Inc. ("Navicent Baldwin," together with Navicent Oconee and Navicent Health, "Navicent"), hereby file this memorandum in support of their motion for summary judgment pursuant to Fed. R. Bankr. P. 7056 (made applicable to this Bankruptcy Case by Fed. R. Bankr. P. 9014) (the "Motion") with respect to Deborah and Jeffrey Block's (together the "Blocks") *Motion for Relief from the Sale Order Pursuant to F.R.C.P. 60(b)(4) and F.R.B.P. 9024* (Dkt. No. 690, the "Rule 60 Motion") and respectfully show the Court as follows.

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

CASES

RULES

STATUTES

OTHER AUTHORITIES

I. PRELIMINARY STATEMENT

In order to avoid further expenditure of legal fees and time, Navicent hereby moves for summary judgment on the Blocks' Rule 60 Motion. No further discovery is necessary as the material facts are either (1) not disputed by the parties; (2) apparent on the record; or (3) otherwise not genuinely in dispute. As a matter of law, the Rule 60 Motion was not brought within a reasonable time (and is thus precluded under Rule 60(c)(1)) and is equitably moot. Further, the Blocks would not be entitled to relief from the Sale Order even if the Rule 60 Motion had been timely filed because the undisputed facts show that the Blocks received due process in connection with the entry of the Sale Order. Finally, the Rule 60 Motion contains arguments brought on behalf of third parties which, as a matter of law, neither the Blocks nor their counsel have standing to raise.

Via the Rule 60 Motion, Deborah and Jeffrey Block sought relief from the Sale Order[1] more than eight months after the Sale Order was entered, notwithstanding that:

(1) the Notice of Hearing with respect to the Sale Motion was served on Ms. Block more than a month prior to the Sale Hearing, *see* Statement of Uncontested Facts ¶¶ 3–4;

(2) the Bid Procedures Order (which included references to the "free and clear" nature of the Sale) was served on Ms. Block a full thirty days prior to the Sale Hearing, *see* Statement of Uncontested Facts ¶ 7;

[1] Capitalized terms used but not defined herein shall have the meanings ascribed in them in *Navicent Health, Inc. and Navicent Health Baldwin, Inc.'s Statement of Material Facts Pursuant to Local Rule 7056-1(A) AND F.R.C.P. 7056 in Support of the Joint (1) Response In Opposition; and (2) Motion for Summary Judgment on and to Deborah and Jeffrey Block's Motion for Relief from the Sale Order Pursuant to F.R.C.P. 60(B)(4) and F.R.B.P. 9024* (the "Statement of Uncontested Facts") attached hereto as Exhibit A. Navicent reserves all rights with respect to and related to the Rule 60 Motion, including any and all arguments that it may raise with respect to the Rule 60 Motion at a later date.

(3) Ms. Block was Oconee Regional Medical Center, Inc.'s Vice President of Nursing and its Chief Nursing Officer from no later than Spring 2012 until her September 29, 2017 termination by the Debtors (and necessarily was well aware that the Debtors were in bankruptcy and were in the process of selling substantially all of their assets free and clear of all liens, claims and encumbrances), *see* Statement of Uncontested Facts ¶ 28;

(4) the Blocks did not attend the Sale Hearing or lodge any objection to the Sale;

(5) Ms. Block was mailed a copy of the Sale Order on July 9, 2017, eleven days prior to the deadline to file an appeal of the Sale Order, *see* Statement of Uncontested Facts, ¶ 16;

(6) neither the Blocks, nor any other party, filed a timely appeal of the Sale Order;

(7) via a series of letters exchanged between Navicent's counsel and the Blocks' counsel between October 27 and October 30, 2017, counsel for Navicent informed the Blocks' attorney that the Sale Order prevented former employees of the Debtors from seeking or pursuing COBRA coverage or claims related thereto from Navicent arising out of or related to its acquisition of the Purchased Assets from the Debtors, *see* Statement of Uncontested Facts ¶¶ 19–21;

(8) on November 29, 2017, the Blocks, with full knowledge of the existence of the Sale Order and Navicent's position with respect to its effect on COBRA claims, filed the Complaint against Navicent, among others, which plainly, directly, and unambiguously violated the provisions of the Sale Order, including, among other things, its injunction provisions, *see* Statement of Uncontested Facts ¶ 24; Sale Order ¶¶ T; 30-31; 33.

Based on those uncontested facts and others set forth in the Statement of Uncontested Facts, the Blocks are not entitled to the relief they seek in the Rule 60 Motion, and Navicent is entitled to summary judgment in its favor denying the Rule 60 Motion because (1) the Rule 60 Motion was untimely filed, and thus cannot be granted under Rule 60(c)(1); (2) the Rule 60 Motion is equitably

moot; (3) the Blocks received due process in connection with the Sale (and therefore are not entitled to relief under Rule 60(b)(4)); and (4) no discovery is necessary as the undisputed facts are well established and entitle Navicent to summary judgment on the Rule 60 Motion.[2]

The Blocks could never have been entitled to the relief that they seek in the Rule 60 Motion because they received actual notice of the bankruptcy case and the sale process via, among other things, the Notice of Hearing and the Bid Procedures Order long before the Sale Hearing, as well as a copy of the Sale Order soon after its entry and more than a week prior to their deadline to appeal it and did not file a timely appeal. The Blocks therefore were afforded due process in connection with the entry of the Sale Order. With that said, however, the Blocks did not promptly file a motion for relief from the Sale Order upon receiving a copy of it (not to mention a timely appeal), and they entirely failed to do so prior to filing the Complaint even though (A) their attorney attended the Sale Hearing; and (B) Navicent specifically informed the Blocks' attorney in late October 2017 that the Sale Order barred COBRA claims brought by former employees of the Debtors. *See* Statement of Uncontested Facts ¶¶ 19–21.

Instead, via the Complaint, filed on November 29, 2017, the Blocks knowingly and purposefully launched a procedurally improper collateral attack on the Sale Order. *See In re CHC Indus., Inc.*, 389 B.R. 767, 773 (Bankr. M.D. Fla. 2007) (quoting *Farmland Indus., Inc. v. Rinaldi* (*In re Farmland Indus., Inc.*), 376 B.R. 718, 726 (Bankr. W.D. Mo. 2007) (A lawsuit constitutes

[2] As described more fully below, no discovery is necessary for the Court to grant Navicent summary judgment on the Rule 60(b) Motion. The undisputed record, which will not change regardless of whether discovery is taken in this case, demonstrates that (1) as is apparent on the record itself, the Blocks have failed to file their Rule 60 Motion in a reasonable time, thereby precluding the relief they seek therein; and (2) the Blocks would not be entitled to relief under Rule 60 even if they had filed the Rule 60 Motion in a timely fashion, which they did not. Both (1) and (2), addressed in detail below, independently entitle Navicent to summary judgment on the Rule 60 Motion.

"a collateral attack if it must in some fashion overrule a previous judgment."). The Complaint directly violated the Sale Order, and as set forth in detail in the Navicent Motion to Dismiss and the Navicent Reply, the *only* manner in which an order entered pursuant to 11 U.S.C. § 363(f) can be challenged after the appeal deadline has run is via a timely-filed Rule 60 Motion. *In re Edwards*, 962 F.2d 641, 643 (7th Cir. 1992) (noting that after the deadline to appeal a bankruptcy court's sale order has passed, "the sale could be challenged, if at all, only in accordance with the provisions of Rule 60(b) of the Federal Rules of Civil Procedure").[3] Notably, the Blocks' counsel, Mr. David Bury, was on notice of all of the relevant issues in the Bankruptcy Case (having filed a Notice of Appearance before Navicent's counsel did so) and attended the Sale Hearing. Moreover, as noted above, Mr. Bury was informed in writing in October that the Sale Order and the injunction contained therein precluded any relief sought by the Blocks against Navicent. Mr. Bury therefore knew well before the Complaint was filed that no appeal had been taken and that the only avenue (if any) for relief in this context was a Rule 60(b) Motion. Nonetheless, Mr. Bury and the Blocks ignored that very clear requirement and proceeded to directly violate the terms of this Court's Sale Order by filing the Complaint.

Not until almost four months after the Complaint was filed, after Navicent had (A) repeatedly brought the Blocks' and their attorneys' attention to the well settled rules of law cited in the preceding paragraph; (B) expended substantial legal fees defending against the causes of action raised by the Blocks in the Complaint—which were and are entirely unmeritorious as

[3] As the Court is aware, during colloquy at the status conference on July 20, 2018, the parties raised a series of points relative to the most efficient and expeditious way in which to narrow the issues implicated by the Complaint and Rule 60 Motion, including via pre-discovery dispositive motions including, without limitation, motions for summary judgment. That concept was incorporated into the *Joint Interim Scheduling Order and Order Procedurally Consolidating COBRA Proceedings* (the "COBRA Proceedings Scheduling Order," Dkt. No. 855). Accordingly, Navicent hereby files this Motion for summary judgment with respect to the Blocks' Rule 60 Motion.

against Navicent, did the Blocks file the Rule 60 Motion in an acknowledged, post hoc attempt to correct the fatal procedural and substantive flaws in the Complaint. *See* Rule 60 Motion at 3:

> However, one issue that *Navicent has raised repeatedly in the Lawsuit* since January 11, 2018 is that the Blocks never filed a Rule 60(b) motion under Bankruptcy Rule 9024 challenging the Sale Order. Thus, although the Blocks insist that the Sale Order did not extinguish or enjoin their COBRA claims against Navicent and although the Blocks raised the due process issues in the District Court in February, they now file this Rule 60(b)(4) motion.

Rule 60 Motion at 3 (emphasis added).

However, a motion for relief from an order under F.R.C.P. 60 ("Rule 60") must be brought within a "reasonable time," and if it is not, it must be denied. *See* Rule 60(c); *In re Rapraeger*, 534 B.R. 778, 782 (Bankr. W.D. Wis. 2015) (holding that a less than *two month* delay in bringing a Rule 60 Motion with respect to a bankruptcy court's sale order was unreasonable and accordingly denying the motion). Thus, even if the Blocks would otherwise have been entitled to relief from the Sale Order had they filed the Rule 60 Motion in a timely fashion (which they would not have been for the reasons set forth above), the Blocks' delay of more than *eight months* after the entry of the Sale Order in filing the Rule 60 Motion was entirely unreasonable and precludes the relief they seek in the Rule 60 Motion, especially considering that the Blocks knowingly filed a Complaint against Navicent Health and Navicent Oconee in direct violation of the Sale Order almost four months prior to filing the Rule 60 Motion. The Blocks have no excuse for their delay in filing the Rule 60 Motion—they had actual knowledge of the existence of the Sale Order and Navicent's position with respect to its effect on COBRA claims when they filed the Complaint almost four months prior to filing the Rule 60 Motion. Indeed, they said so themselves in the Complaint. *See* Complaint ¶ 85 ("On information and belief, some or all of the Defendants contend that the Sale Order precludes this Court from determining that Navicent and Navicent Oconee are liable under COBRA.").

Further, the strong principles of finality evidenced both by statutory mootness under § 363(m) as well as the equitable mootness doctrine (which applies to Rule 60 motions) militate against granting the Blocks any relief under their Rule 60 Motion. *See In re Rapraeger*, 534 B.R. at 782 (quoting *In re Chung King, Inc.*, 753 F.2d 547, 549 (7th Cir. 1985)) ("The 'setting aside of an order confirming a sale involves different concerns and less discretion on the bankruptcy judge's part than the denial of confirmation of a sale in the first instance.'"); *Id.* ("Orders vacating confirmation of sales are especially disfavored because of the interest in finality of bankruptcy sales." *Edwards*, 962 F.2d at 643. This interest is evidenced in section 363(m), which provides that if a sale is not stayed pending appeal, an appellate court's reversal of authorization does not affect the validity of the sale in certain circumstances."); *Id.* at 782; *see also Lawrence v. Wink* (*In re Lawrence*), 293 F.3d 615, 627 n.10 (2d Cir. 2002) ("[T]he 'reasonableness' inquiry considers not only concerns affecting the party seeking to invoke Rule 60(b), but also the interests in finality of other parties and interested non-parties, such as creditors of the estate.").

As Judge Posner aptly noted in *Met-L-Wood Corp. v. Pipin* (*In re Matter of Met-L-Wood Corp.*), 861 F.2d 1012, 1019 (7th Cir. 1988): "[u]nless bankruptcy sales are final when made . . . high prices will not be offered for the assets of bankrupt firms—and the principal losers (pun intended) will be unsecured creditors." Here, Navicent, the preeminent not-for-profit hospital system in Central Georgia, purchased substantially all of the assets of the Debtors in a free and clear sale that expressly precluded former employees of the Debtors from bringing COBRA claims or demands against Navicent (and, for that matter, allocated the responsibility of complying with COBRA to the Debtors). By doing so, Navicent secured the availability of quality not-for-profit healthcare services for the citizens of Baldwin County and saved numerous jobs. The injunction provisions of the Sale Order and the various holdings therein preventing claimants from bringing

claims against Navicent arising from its acquisition of the Purchased Assets were indisputably material terms of the Sale, without which Navicent would not have acquired the Purchased Assets. Navicent is a good faith purchaser of the Purchased Assets under 11 U.S.C. § 363(m), and it is entitled to rely on the finality of the Sale Order (and all of its terms) in all respects.[4] Thus, on the facts before the Court, the Rule 60 Motion must be denied and the finality of the Sale Order must be left undisturbed in its entirety.

Finally, Navicent respectfully requests that the Court's order on and with respect to this Motion order and direct the Blocks and the Blocks' attorney, Mr. David Bury, to immediately cease advocating in this Bankruptcy Case or any adversary proceedings therein on behalf of unnamed, unidentified persons that neither Mr. Bury nor the Blocks purport to represent. In the Rule 60 Motion, as well as throughout this Bankruptcy Case and the various proceedings related to the Blocks' COBRA claims, the Blocks, through Mr. Bury, have repeatedly advocated on behalf of "similarly-situated former employees of the Debtors" (and other third parties including the IRS), without identifying such employees or purporting to represent them. There is no basis in law for an attorney to advocate in a bankruptcy case or adversary proceeding on behalf of hypothetical parties he does not purport to represent, and a party to a legal proceeding is permitted to advance only his or her own rights and interests. Thus, the Blocks' and Mr. Bury's efforts with respect to third parties in the Bankruptcy Case and the Adversary Proceeding in this regard are improper and prejudicial to Navicent, and they should not be allowed to continue.[5]

[4] The Blocks have never asserted that Navicent is not a good faith purchaser within the meaning of § 363(m) in the Complaint, the Rule 60 Motion, or elsewhere.

[5] As no benefit can accrue to the Blocks by advocating on behalf of third parties, upon information and belief, the Blocks and their attorneys' efforts in advocating on behalf of hypothetical third parties in these matters is an improper litigation tactic intended to create a false perception of additional exposure to Navicent with respect to the COBRA related issues. See below for a discussion of similar improper efforts on the part of the Blocks with respect to rights allegedly

II. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

The (undisputed) factual background and procedural history relevant to the Rule 60 Motion is set forth in the Statement of Uncontested Facts attached hereto as Exhibit A-1, which is incorporated herein by reference. An abridged summary of such Statement of Uncontested facts follows:

On May 11, 2017, the Debtors filed the Sale Motion seeking the entry of an order establishing bid procedures and approving a sale of substantially all of the Debtors' assets free and clear of all liens, claims and encumbrances. *See* Statement of Uncontested Facts ¶ 1. The Draft Sale Order and the Stalking Horse APA were attached to the Sale Motion. *Id.* ¶ 2.

On May 15, 2017, the Debtors filed the Notice of Hearing with respect to the Sale Motion. The Notice of Hearing stated in part that the Debtors sought "approval of procedures for an auction of substantially all of their assets," and further provided the following:

> If you need or would like a copy of the Sale Motion, or the proposed Bidding Procedures Order, please contact the proposed counsel to the Debtors, via email at Mark.Duedall@bryancave.com or Leah.Fiorenza@bryancave.com . . . or you may visit the Clerk's office.
>
> A hearing to consider the proposed Bidding Procedures Order is scheduled to be held before the Honorable Austin E. Carter, at Courtroom B, United States Bankruptcy Court for the Middle District of Georgia (Macon Division), 433 Cherry Street, Macon, Georgia 31201 on **May 24, 2017 at 2:00 p.m. Eastern time**, or as soon thereafter as counsel may be heard.
>
> **YOUR RIGHTS MAY BE AFFECTED. You should read the Sale Motion, the proposed Bidding Procedures Order, and the documents referenced in the Sale Motion carefully and discuss them with your attorney, if you have one in these bankruptcy cases. If you do not have an attorney, you may wish to consult one.**
>
> If you do not want the Court to enter the Bidding Procedures Order, or if you want the Court to consider your views on the Bidding Procedures Order, then you or your

held by the Internal Revenue Service. Navicent reserves all available remedies against the Blocks and their counsel related to such improper litigation tactics. *See, e.g.*, 28 U.S.C. § 1927.

> attorney must attend the hearing set forth above. **If neither you nor your attorney takes these steps, the Court may decide that you do not oppose the relief set forth in the Bidding Procedures Order and may enter the proposed Bidding Procedures Order granting the requested relief.**

Notice of Hearing (emphasis in original); *See* Statement of Uncontested Facts ¶ 3.

The Notice of Hearing was served on Ms. Block at her workplace on May 15, 2017. *See* Statement of Uncontested Facts ¶ 4.

The Bid Procedures Hearing with respect to the Sale Motion was held on May 25, 2017, and on May 26, 2017 the Court entered the Bid Procedures Order. *See id.* ¶ 5.

The Bid Procedures Order scheduled, among other things, an Auction on June 29, 2017 and a Sale Hearing on June 30, 2017. Additionally, the Bid Procedures Order and the Form Cure Notice attached thereto made clear that the sale contemplated by the Debtors was a sale "free and clear of all liens, claims and encumbrances." *See id.* ¶ 6.

The Debtors served the Bid Procedures Order on Ms. Block on May 31, 2017, a full thirty days prior to the Sale Hearing. *See id.* ¶ 7. As set forth above, the Draft Sale Order and the Stalking Horse APA were attached to the Sale Motion and were thus on the docket in the Bankruptcy Case when Ms. Block was served with the Bid Procedures Order. *See id.* ¶ 2.

Navicent Health submitted a bid for the Debtors' assets, and its bid was designated as the highest and best bid by the Debtors following the Auction which occurred on June 29, 2017. *See id.* ¶ 8.

The Sale Hearing occurred on June 30, 2017, at which the Court approved the Debtors' sale of substantially all of their assets to Navicent Health or its designee free and clear of all liens, claims and encumbrances (the "Sale"). The Sale Hearing was held weeks after Ms. Block was served with the Notice of Hearing and the Bid Procedures Order. *See id.* ¶ 9.

David Bury, attorney for the Blocks, attended the Sale Hearing but did not appear on behalf of the Blocks. *See id.* ¶ 10.

The Blocks did not file or assert any objection to the Sale Order or any aspect of the Sale, including, but not limited to, the free and clear nature of the Sale, the injunctions contained in the Sale Order, or the conclusions of law contained in the Sale Order that Navicent is not a successor to the Debtors and is not liable for COBRA or ERISA claims arising from Navicent's acquisition of the Debtors' assets (the "Purchased Assets"), notwithstanding that (1) Ms. Block received the Notice of Hearing and Bid Procedures Order weeks (and, in the case of the Notice of Hearing, over a month) prior to the Sale Hearing, and (2) the Draft Sale Order, filed in the Bankruptcy Case on May 11, 2017 (more than a month prior to the Sale Hearing), provided that the purchaser would not be responsible for, among other things, COBRA and ERISA claims arising from the Sale. *See id.* ¶ 11.

The Court entered the Sale Order on July 6, 2017. In the Sale Order, the Court held, among other things, that (1) Navicent is not the Debtors' successor, (2) Navicent is not liable for any claims arising from its acquisition of the Debtors' assets, including, among other things, COBRA claims; and (3) former employees of the Debtors are enjoined from asserting claims against Navicent arising from or relating to the transfer of the Purchased Assets to Navicent. Specifically, the Sale Order contained the following findings of fact and conclusions of law by the Bankruptcy Court.

> *The Purchaser*[6] *is not a "successor," "successor-in-interest," "continuation," or "substantial continuation" to or of the Debtors, their estates, or the Baldwin County Hospital Authority by reason of any theory of Law or equity*, and the Purchaser shall not assume, nor be deemed to assume, or in any way be responsible

[6] "Purchaser" was defined in the Sale Order as Navicent Health or its Designee (as that term was defined in the Asset Purchase Agreement), as applicable, together with its respective successors and assigns. *See* Sale Order n. 3.

> for any liability, claim or obligation of the Debtors and/or their estates including, but not limited to, any bulk sales Law, successor liability, successor-in-interest liability, substantial continuation liability, or similar liability except to the extent expressly included in the Assumed Liabilities or provided in the Agreement. *Neither the purchase of the Purchased Assets by the Purchaser, nor the fact that the Purchaser is using any of the Purchased Assets previously operated by the Debtors, will cause the Purchaser or any of its Affiliates to be deemed a successor, successor-in-interest, continuation, or substantial continuation in any respect to the Debtors' business or the Baldwin County Hospital Authority within the meaning of any foreign, federal, state or local revenue, pension, ERISA, COBRA coverage . . . or any other Law, rule or regulation* (including, without limitation, filing requirements under any such Laws, rules or regulations) . . . except to the extent expressly included in the Assumed Liabilities or provided in the [Asset Purchase] Agreement.
>
> *For the avoidance of doubt, transfer of title and possession of the Purchased Assets shall be free and clear of any claims and other Liens* pursuant to any successor, successor-in-interest, continuation, or substantial continuation theory, *including the following*: (a) any employment or labor agreements . . . (c) any pension, multiemployer plan (as such term is defined in Section 3(37) or Section 4001(a)(3) of the Employee Retirement Income Security Act of 1974m as amended ("***ERISA***"), health or welfare, medical benefit plan of the Debtors, compensation, or other Benefit Plan of the Debtors . . . (d) any other employee, worker's compensation, occupational disease, or unemployment or temporary disability related claim, including, without limitation, claims and other Liens that might otherwise arise under or pursuant to (i) ERISA, (ii) the Fair Labor Standards Act, (iii) Title VII of the Civil Rights Act of 1964, (iv) the Federal Rehabilitation Act of 1973, (v) the National Labor Relations Act, (vi) the WARN Act, (vii) the Age Discrimination and Employee Act of 1967, and Age Discrimination in Employment Act, as amended (viii) the Americans with Disabilities Act of 1990, *(ix) the Consolidated Omnibus Budget Reconciliation Act of 1985* ("***COBRA***") . . . .

Sale Order ¶¶ 30-31 (emphasis added); *see also* Statement of Uncontested Facts ¶ 12.

The Sale Order also contained an injunction which enjoined the Movants from bringing COBRA claims against Navicent:

> Except to the extent expressly included in the Assumed Liabilities, pursuant to Sections 105 and 363 of the Bankruptcy Code, *all Persons including, but not limited to*, the Debtors, the Committee, the Baldwin County Hospital Authority, all debt holders, equity security holders, *the Debtors' employees or former employees*, Governmental Authorities, lenders, parties to or beneficiaries under any Benefit Plan, trade or other creditors *asserting or holding a Lien of any kind or nature whatsoever against, in, or with respect to any of the Debtors or the Purchased Assets* (other than the Permitted Liens and Assumed Liabilities), arising under or

> out of, in connection with, or in any way relating to the Debtors, the Purchased Assets, the operation of the Debtors' businesses prior to the Closing Date, *or the transfer of the Purchased Assets from the Purchaser, shall be forever barred, estopped and permanently enjoined from asserting, prosecuting, or otherwise pursuing such Lien* . . . against the Purchaser or any Affiliate, successor, or assign thereof and each of their respective current or former shareholders, members, managers, officers, directors, attorneys, employees, partners, affiliates, financial advisors, and representatives (each of the foregoing in this individual capacity) or the Purchased Assets.

Sale Order ¶ 33 (emphasis added); *see also* Statement of Uncontested Facts ¶ 13.

Liens, as defined in the Sale Order, included, among other things:

> [L]iens, *claims*, *liabilities*, and encumbrances of any kind . . . [including] successor-in-interest claims, successor liability claims, substantial continuation claims, *COBRA coverage claims*, withdrawal liability claims (including under any Benefit Plan), environmental claims, claims under or relating to any Benefit Plan or ERISA Affiliate plan (including any person or retirement plan) . . . .

Sale Order ¶ T (emphasis added); *see also* Statement of Uncontested Facts ¶ 14.

Finally, the Court held in the Sale Order that all parties in interest in the Bankruptcy Case received "[N]otice and a reasonably opportunity to object and/or be heard regarding the Sale Motion, the Auction, the Sale Hearing, the Agreement, the sale of the Purchased Assets free and clear of all Liens, the Transactions, and the entry of the [Sale Order] have been provided to all interested Persons, including, without limitation . . . the '***Master Service List***' established in the Debtors' Chapter 11 cases." *See* Sale Order ¶ H. Ms. Block was on the Master Service List. *See* Statement of Uncontested Facts ¶ 15.

Ms. Block was mailed a copy of the Sale Order by the Bankruptcy Noticing Center on or around July 9, 2017, eleven days prior to the deadline to file an appeal of the Sale Order. *See id.* ¶ 16.

The Blocks did not file a timely appeal of or with respect to the entry of the Sale Order. *See id.* ¶ 17.

The Sale closed via a two-step process, the first of which occurred on October 1, 2017 (the "Operations Closing Date"), *see Debtors' Amended Report of Sale Closing*, Dkt. No. 543, on which date the Debtors transferred substantially all of their assets to Navicent Oconee as designee of Navicent Health. During the second step, Navicent Oconee acquired a fee simple interest in all real property included in the Purchased Assets from the Baldwin County Hospital Authority.[7] *See id*. ¶ 18. After the Sale closed, Navicent Oconee transferred all of its assets, including, without limitation, the Purchased Assets, to Navicent Baldwin. *See id.*

Under the APA governing the Sale, the Debtors obligation to comply with COBRA in connection with the Sale was specifically allocated to the Debtors as a matter of contract. Specifically, Section 2.4 of the APA provided, among other things, that "in no event shall Navicent be obligated to pay, discharge or satisfy any liability, claim or obligation . . . under or relating to any Benefit Plan or ERISA Plan . . . whether or not such liability or obligation arises prior to, on, or following the Closing Date." *See* APA § 2.4(i); *see also* Statement of Uncontested Facts ¶ 19 and Exhibit A-1 thereto. Each of the Debtors' employee health plans was including in the definition of "Benefit Plan" under the APA. *See, e.g.*, APA § 4.19(a); *see also* Statement of Uncontested Facts ¶ 19 and Exhibit A-1 thereto. The APA further provided that "Navicent shall have and acquire at the Closing good, valid and marketable title to the Purchased Assets and the

[7] For more information concerning the two-step transaction effected by Navicent, the Debtors and the Baldwin County Hospital Authority, *see* the Motion to Amend and the Order Approving Amendment; *see also* Statement of Uncontested Facts ¶ 18. In summary, the amendment to the APA approved via the Order Approving Amendment allowed Navicent Oconee to close its acquisition of substantially all of the Debtors' assets and assume operational control of the hospital prior to obtaining the regulatory approval necessary for Navicent Oconee to obtain fee simple title to the real property assets included in the Purchased Assets from the Baldwin County Hospital Authority. Navicent Oconee obtained such regulatory approval in early December 2017 and completed the second step of the two-part transaction by acquiring fee simply title to such real property assets on or around December 6, 2017.

Purchased Assets shall be sold and conveyed to Navicent free and clear of any and all [liens, claims and encumbrances]." *See* APA § 9.1; *see* Statement of Uncontested Facts ¶ 19 and Exhibit A-1 thereto. The provisions of the APA which allocated COBRA obligations to the Debtors were also present in the Stalking Horse APA which was originally negotiated by the stalking horse bidder, Prime Healthcare Foundation, Inc., and attached to the Sale Motion. *See* Statement of Uncontested Facts ¶ 19.[8]

On October 27, 2017, the Blocks' attorney served the Extine Demand Letter on the Debtors, Navicent Health and Jasper Health Services, Inc. on behalf of Dr. James Extine, another former employee of the Debtors, which in part demanded COBRA continuation coverage for Dr. Extine and his family from the recipients of the letter. *See* Statement of Uncontested Facts ¶ 20 and Exhibit A-2 thereto.

Navicent Health responded to the Extine Demand Letter on October 30, 2017 via the Navicent Response Letter, which stated in part:

> With respect to your assertion that Navicent is required to provide COBRA coverage for the Extines, the Sale Order clearly provides that it is not. In addition to the language in the Sale Order which you referenced in your letter, which holds that Navicent is not a successor to the Debtors, the Bankruptcy Court specifically held in the Sale Order that the purchased assets were sold to Navicent free and clear of all COBRA coverage claims or rights. *See* Sale Order ¶ T.

[8] Given the express contractual allocation in the APA of COBRA obligations in connection with the Sale to the Debtors, and the fact that Blocks have filed claims against Navicent Health and Navicent Oconee in the Complaint, in which they allege that the Debtors did not discharge their COBRA obligations to them, Navicent has filed an administrative expense claim against the Debtors in the Bankruptcy Case seeking full reimbursement, indemnity, and/or contract damages from the Debtors, for, without limitation, (1) any amounts Navicent is ultimately found liable to the Blocks; and (2) all costs and attorneys' fees incurred by Navicent in connection with the Blocks' claims. *See* Case No. 17-51006, Claim No. 185-2; Case No. 17-51009, Claim No. 12-2 (together, the "Navicent Administrative Expense Claims"); *see also* Statement of Uncontested Facts ¶ 19 n. 5.

Navicent Response Letter; *see also* Statement of Uncontested Facts ¶ 21 and Exhibit A-3 thereto. Mr. Bury did not substantively respond to the Navicent Response Letter prior to filing the Complaint on behalf of the Blocks. *See id.*

Thus, as of October 30, 2017, the Blocks' attorney was on notice of Navicent's position that the Sale Order bars COBRA coverage claims brought on behalf of former employees of the Debtors arising from or related to Navicent's acquisition of the Purchased Assets. *See* Statement of Uncontested Facts ¶ 22.

Mr. Bury entered notices of appearance on behalf of the Blocks in the Bankruptcy Case on November 14, 2017. *See id.* ¶ 23. In the Rule 60 Motion, the Blocks claim that they retained Mr. Bury's firm on November 10, 2017. *Id.*

Mr. Bury filed the Complaint on behalf of the Blocks on November 29, 2017, which, among other things, sought a declaratory judgment that Navicent Health and Navicent Oconee are obligated to provide COBRA coverage to the Blocks. *See id.* ¶ 24; *see also* Complaint Count IV.

Notwithstanding that (1) Ms. Block was served with a copy of the Notice of Hearing, the Bid Procedures Order, and the Sale Order contemporaneously with or shortly after their entry; and (2) Navicent's counsel had expressly articulated to Mr. Bury Navicent's position with respect to the Sale Order's effect on COBRA claims nearly a month prior to the Complaint being filed, the Blocks took no action whatsoever in the Bankruptcy Case to seek relief from the Sale Order prior to filing the Complaint, which squarely violated the injunction provisions contained in the Sale Order. *See* Statement of Uncontested Facts ¶ 25.

Thereafter, Navicent Health and Navicent Oconee filed the Navicent Motion to Dismiss the Complaint and the Navicent Reply in which they argued, among other things, that "The *only* procedurally proper mechanisms available to [the Blocks] to assert that the Sale Order was entered

incorrectly or improperly were (1) to file a timely appeal of the Sale Motion; or (2) to file a motion for relief from the Sale Order pursuant to Fed. R. Bankr. P. 9024." *See* Navicent Reply at 3; Statement of Uncontested Facts ¶ 26.

In the Navicent Reply, which was filed on March 12, 2018, Navicent Health and Navicent Oconee also objected to an attempt on the part of the Blocks in their response to the Navicent Motion to Dismiss to "reserve" the right to seek relief under F.R.C.P. 60 or F.R.B.P. 9024:

> As an afterthought in their Response brief, the Plaintiffs attempt to "reserve" the right to seek a Rule 60(b) determination regarding the enforceability of the Sale Order. Coming some eight months after the entry of the Sale Order (and the Plaintiffs' actual notice thereof), the Plaintiffs apparently want to have their cake and eat it too: to address the issues under the Motion to Dismiss, and if they lose, to come back to this Court (or the Bankruptcy Court) and thereafter seek Rule 60 relief. The Plaintiffs cannot "reserve" the right to file a motion for Rule 60 relief via a procedurally improper collateral attack on a final order.
>
> Notably, a motion under Rule 60 must be made "within a reasonable time." *See* Fed. R. Civ. P. 60(c). Here, the Plaintiffs assert that the Sale Order was entered improperly by the Bankruptcy Court for the reasons set forth in the Complaint and the Response. Even if those arguments were correct (they are not), the Plaintiffs received actual notice of the Sale Order more than seven months ago, and those arguments have already been asserted by the Plaintiffs in a procedurally improper fashion in the Complaint. Thus, even if the grounds exist for Rule 60(b) relief, the Plaintiffs could have and should have asserted such rights well before now. Instead, they elected to file a procedurally improper collateral attack on the Sale Order and attempt to reserve the right to proceed in a procedurally proper fashion at a later date. Such a knowing and purposeful delay in seeking Rule 60 relief is not "reasonable" under Rule 60(b).

Navicent Reply at 10; *see also* Statement of Uncontested Facts ¶ 27.

Approximately ten days after Navicent Health and Navicent Oconee filed the Navicent Reply in the Adversary Proceeding, the Blocks filed the Rule 60 Motion. The Rule 60 Motion was a *post hoc* attempt to remedy the procedurally improper collateral attack on the Sale Order initiated via the filing of the Complaint, which the Blocks expressly or implicitly acknowledged in the Rule 60 Motion itself:

> However, one issue that Navicent has raised repeatedly in the Lawsuit since January 11, 2018 is that the Blocks never filed a Rule 60(b) motion under Bankruptcy Rule 9024 challenging the Sale Order. Thus, although the Blocks insist that the Sale Order did not extinguish or enjoin their COBRA claims against Navicent and although the Blocks raised the due process issues in the District Court in February, they now file this Rule 60(b)(4) motion.

Rule 60 Motion at 3; *see also* Statement of Uncontested Facts ¶ 28.

Ms. Block was Oconee Regional Medical Center, Inc.'s Vice President of Nursing and Chief Nursing Officer (CNO) from no later than Spring 2012 until her September 29, 2017 termination. *See* Statement of Uncontested Facts ¶ 29.

Ms. Block was aware of the pendency of the Bankruptcy Case and the fact that the Debtors were contemplating a Sale of substantially all of their assets to a third party purchaser long before the entry of the Sale Order as demonstrated by, among other things, the fact that Ms. Block admits to attending "multiple" town hall meetings held by the Debtors related to the Bankruptcy Case and the Sale prior to the entry of the Sale Order. *See id.* ¶ 30.

Finally, in the Rule 60 Motion was well as in the Complaint, the Blocks and the Blocks' counsel, Mr. David Bury, has repeatedly requested relief for and otherwise advocated on behalf of "other similarly-situated former employees of the Debtors" (other than the Blocks), *see, e.g.*, Rule 60 Motion, whom (1) they have not identified; and (2) Mr. Bury does not purport to represent. Neither Mr. Bury nor the Blocks have taken any action whatsoever to certify a class action under Fed. R. Civ. P. 23 or taken any other action which would or could permit them to advocate in the Bankruptcy Case or the Adversary Proceeding on behalf of persons or parties they do not represent. *See* Statement of Uncontested Facts ¶ 31.

The administrative expense bar dates in the Bankruptcy Case have run, *see* Dkt. No. 623, Dkt. No. 744 and no employee of the Debtors, other than Drs. Extine and Roberts (who are also represented by Mr. Bury and have explicitly waived and released their purported COBRA rights

against the Debtors and Navicent) filed a COBRA claim against the Debtors, notwithstanding that all such employees received notice of the administrative expense claim bar dates. *See* Statement of Uncontested Facts ¶ 32.

In a similar vein, in the Initial Disclosures served by the Blocks on Navicent, the Debtors, and Jasper Health Services, Inc. in the Bankruptcy case, the Blocks included in their "computation of damages claimed by disclosing party" the following statement:

> Additionally, there is the possibility that certain of the Defendants in the COBRA Lawsuit will be liable to the IRS for excise taxes on account of COBRA violations. Although it doesn't appear that the Blocks would be a direct beneficiary of such excise taxes, the amount of such taxes could be administrative claims against Debtors by the IRS or, if assessed against Navicent, claims for which Navicent would seek indemnity as part of its claim.

See Statement of Uncontested Facts ¶ 33 and Exhibit A-4 attached thereto.

Mr. Bury does not represent the IRS in these matters. *See* Statement of Uncontested Facts ¶ 34. As the Blocks admit in the above-quoted statement, the Blocks have no right to recover taxes purportedly owed by the Debtors to the IRS. The IRS has taken no action to intervene in these matters, notwithstanding that the Blocks served their original Complaint on both the U.S. Department of Labor and the U.S. Department of the Treasury. *See id.*

III. STANDARDS OF REVIEW

A. Rule 60(b).

A Rule 60(b) Motion cannot be granted unless it is brought within a "reasonable time." Fed. R. Civ. P. 60(c). "What constitutes a 'reasonable time' for filing a motion under Rule 60(b) depends on the circumstances," *In re Rapraeger*, 534 B.R. at 782, and a Rule 60(b) motion does not permit a party to "circumvent the time requirements for filing an appeal." *Id.* at 784. In considering whether the Rule 60 Motion has been filed in a "reasonable time," the Court must "consider the circumstances of [the] case to determine 'whether the parties have been prejudiced

by the delay and whether a good reason has been presented for failing to take action sooner.'" *BUC Int'l Corp. v. Int'l Yacht Council Ltd.*, 517 F.3d 1271, 1275 (11th Cir. 2008) (quoting *United States v. Boch Oldsmobile, Inc.*, 909 F.2d 657, 661 (1st Cir. 1990)).

In addition to a holding that the applicable Rule 60 motion was filed within a reasonable time, an order granting relief under Fed. R. Bankr. P. 9024 (which is identical to Fed. R. Civ. P. 60) requires a holding from the Court that "'a final judgment, order or proceeding'" is "'void.'" *Grant v. Pottinger-Gibson*, 725 F. App'x 772, 774 (11th Cir. 2018) (quoting Fed. R. Civ. P. 60(b)(4)). "A judgment is void under Rule 60(b)(4) only if . . . the judgment was premised on a due process violation that 'deprive[d] a party of notice or the opportunity to be heard.'" *Id.* (quoting *United Student Aid Funds, Inc. v Espinosa*, 559 U.S. 260, 271 (2010)).

An order is not "void merely because the [court] made a legal error in reaching it," and "a motion under Rule 60(b)(4) is not a substitute for a timely appeal." *Id.* at 774. Courts have characterized relief under Rule 60(b) as "extraordinary judicial relief" appropriate "only upon a showing of exceptional circumstances." *Nemaizer v. Baker*, 793 F.2d 58, 61 (2d. Cir. 1986). Additionally, Rule 60(b) Motions are typically subjected to a heightened level of scrutiny when they are filed with respect to bankruptcy sale orders pursuant to § 363(f) given the heighted level of protection afforded to such orders under § 363(m). *See Farmland Indus., Inc. v. Rinaldi* (*In re Farmland Indus., Inc.*), 408 B.R. 497, 508 (B.A.P. 8th Cir. 2009) (quoting *Official Comm. of Unsecured Creditors v. Trism, Inc.* (*In re Trism, Inc.*), 328 F.3d 1003, 1006 (8th Cir. 2003)) ("'Section 363(m) protects the reasonable expectations of good faith third-party purchasers by preventing the overturning of a completed sale, absent a stay, and it safeguards the finality of the bankruptcy sale. Section 363(m) further *shields third parties who rely upon the bankruptcy court's order from endless litigation*.") (emphasis added); *see also In re Rapraeger*, 534 B.R. at 782

(quoting *In re Chung King, Inc.*, 753 F.2d 547, 549 (7th Cir. 1985)) ("Orders vacating confirmation of sales are especially disfavored because of the interest in finality of bankruptcy sales. *Edwards*, 962 F.2d at 643. This interest is evidenced in section 363(m), which provides that if a sale is not stayed pending appeal, an appellate court's reversal of authorization does not affect the validity of the sale in certain circumstances.").

B. Due Process

Due Process requires "notice reasonably calculated, under all of the circumstances, to apprise the interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950). Failure to strictly comply with a procedural rule related to notice is not dispositive where the party in question nonetheless received sufficient notice of the proceeding in question. *See Espinosa*, 559 U.S. at 273 (affirming a bankruptcy court's confirmation order notwithstanding a violation of Fed. R. Bankr. P. 7004(b)(3) where the party in question received actual notice of the filing and contents of the chapter 11 plan).

C. Rule 7056

Federal Rule of Civil Procedure 56 ("Rule 56") applies in Adversary Proceedings. *See* Fed. R. Bankr. P. 9014(c). A movant is entitled to summary judgment under Rule 56 where the movant shows "that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Rule 56(a). In the summary judgment context, "the mere existence of some factual dispute will not defeat summary judgment unless the factual dispute is material to an issue affecting the outcome of the case." *McCormick v. City of Fort Lauderdale*, 333 F.3d 1234, 1243 (11th Cir. 2003) (quoting *Chapman v. Al Transp.*, 229 F.3d 1012, 1023 (11th Cir. 2003)). Further, "summary judgment may be appropriate when no discovery has been held." *See Smedley v. Deutsche Bank Tr. Co. of Ams.*, 676 F. App'x 860, 862 (11th Cir. 2017).

IV. ARGUMENT

A. The Blocks' nearly nine month delay in filing the Rule 60 Motion was without excuse, prejudicial to Navicent, and unreasonable under the circumstances.

Even if the Blocks would otherwise be entitled to relief under Rule 60 (they are not for the reasons set forth below), the Rule 60 Motion must nevertheless be denied because the undisputed facts show that the Blocks failed to bring the Rule 60 Motion with a "reasonable time." Rule 60(c)(1). As set forth herein, the Eleventh Circuit has held that in determining whether the reasonableness requirement of Rule 60(c)(1) has been met, the Court must "consider the circumstances of [the] case to determine 'whether the parties have been prejudiced by the delay and whether a good reason has been presented for failing to take action sooner.'" *BUC Int'l Corp.*, 517 F.3d at 1275 (quoting *Boch Oldsmobile, Inc.*, 909 F.2d at 661). The Blocks fail both aspects of the test here.

Navicent will address the second part of the test first—whether there was a good reason for the Blocks to wait more than *eight months* after the entry of the Sale Order to file their Rule 60 Motion. There was not.

First, case law is clear that "a motion under Rule 60(b)(4) is not a substitute for a timely appeal." *Grant*, 725 F. App'x at 774 (quoting *Espinosa*, 559 U.S. at 271). Here, Ms. Block admits that a copy of the Sale Order was mailed to her soon after its entry and prior to her deadline to file an appeal. *See* Statement of Uncontested Facts ¶ 15. Thus, even if the purported deficiencies in notice related to the entry of the Sale Order constituted a due process violation (no such due process violations exist for the reasons set forth herein), Ms. Block would nonetheless not be entitled to Rule 60 relief because she received a copy of the Sale Order, had sufficient time to appeal its entry, and failed to do so. *See id*.

Second, even if there did exist some time period after the entry of the Sale Order in which Ms. Block would have been permitted to file a Rule 60 Motion, she took no action whatsoever even after thirty, and then sixty, and then ninety days and more had passed since the entry of the Sale Order, notwithstanding that the Operations Closing Date occurred on October 1, 2017. *In re Rapraeger*, 534 B.R. at 782 is instructive here. In that case, the bankruptcy court held that a motion brought under, among other subsections, Rule 60(b)(4) was not filed in a reasonable time notwithstanding that it was filed less than *two months* after the entry of the Sale Order. *See id.*

Thus, the Blocks near *ninth month* delay in filing the Rule 60 Motion would be unreasonable even if they had not retained counsel until seven or eight months after the entry of the Sale Order and then promptly filed their motion. But those are not the facts before the Court. Instead, the Blocks were represented by Mr. Bury at the latest by November 10, 2017. *See* Statement of Uncontested Facts ¶ 22. Mr. Bury was on notice of the entry of the Sale Order at the time of its entry—he attended the Sale Hearing. Further, as of October 30, 2017, Mr. Bury was on actual notice of Navicent's position with respect to the Sale Order's effect on COBRA claims. *See id.* ¶ 23.

Thus, in addition to the fact that the Blocks had received the Notice of Hearing, Bid Procedures Order and the Sale Order many months previously (which did or should have put them on actual notice of all issued relevant to the Sale Order and its effect on COBRA claims), by no later than November 14, 2017, the Blocks indisputably knew that the Sale Order had been entered and that Navicent asserted that it barred COBRA claims brought by former employees of the Debtors. *See* 38 A.L.R. 820 ("[N]otice to an attorney is notice to the client employing him."). Indeed, they admitted as much in the Complaint. *See* Complaint ¶ 85 ("Upon information and

belief, some or all of the Defendants contend that the Sale Order precludes this Court from determining that Navicent and Navicent Oconee are liable under COBRA.").

Given that the Blocks filed the 49 page Complaint against Navicent Health, Navicent Oconee, Oconee Regional Healthcare Foundation, Inc., Jasper and the Debtors on November 29, 2017, it is without question that they could have file the Rule 60 Motion by such date (and, indeed, much earlier). But again they failed to do so. Instead, the Blocks launched a procedurally improper collateral attack on the Sale Order which directly violated the Sale Order, which collateral attack could never be granted without *first* obtaining Rule 60 relief. *See In re Edwards*, 962 F.2d at 643 (noting that after the deadline to appeal a bankruptcy court's sale order has passed, "the sale could be challenged, if at all, only in accordance with the provisions of Rule 60(b) of the Federal Rules of Civil Procedure").

The knowing, purposeful filing of the Complaint by the Blocks, upon the advice of an attorney who was uniquely situated to fully appreciate the implications of the Sale Order and its effect on COBRA claims given his previous participation in the Bankruptcy Case, highlights the Blocks' failure with respect to the first element of the "reasonableness" test: the prejudice which Navicent has sustained as a result of the Blocks' substantial delay in filing the Rule 60 Motion. As set forth in detail in the Navicent Motion to Dismiss, the Complaint directly and unambiguously violates the injunction provisions contained in the Sale Order. The Complaint is therefore a collateral attack on the Sale Order which could never be granted given the Blocks failure to obtain relief from the Sale Order prior to filing the Complaint. *See In re CHC Indus., Inc.*, 389 B.R. at 773 (quoting *In re Farmland Indus., Inc.*, 376 B.R. at 726 (A lawsuit constitutes "a collateral attack if it must in some fashion overrule a previous judgment.")); *In re CDP Corp., Inc.*, 462 B.R. 615, 631 n.31 (Bankr. S.D. Miss. 2011) ("[T]he case law clearly establishes that if a bankruptcy court

had jurisdiction to enter a sale order, then a collateral attack against such a sale order *must* be rejected.") (emphasis added).

Thus, by neglecting to timely file a Rule 60 motion and instead launching a procedurally improper attack on the Sale Order, the Blocks, without any valid reason whatsoever, caused Navicent to (1) expend months and substantial legal fees defending against the Complaint (which could not entitle the Blocks to relief from Navicent given, without limitation, the failure of the Blocks to timely file an appeal of the Sale Order or obtain relief therefrom) via the Navicent Motion to Dismiss, which was itself fully briefed before the Blocks finally filed the Rule 60 Motion almost four months after the Complaint was filed and more than eight months after the Sale Order was entered; and then (2) defend against the Rule 60 Motion which was untimely and unreasonably filed considering that it was filed (A) more than eight months after the Sale Order was entered; and (B) more than four months after the Blocks had launched a procedurally improper attack on the Sale Order. The significant time, attention, legal fees and costs allocated and incurred by Navicent [9] —a good faith purchaser for value—with respect to defending against these unmeritorious and procedurally improper proceedings instituted by the Blocks constitute prejudice which weighs strongly in favor of a holding that the Rule 60 Motion was not filed within a reasonable time, and when combined with the substantial delay on the part of the Blocks in filing the Rule 60 Motion, warrants denial of the Rule 60 Motion.

[9] Notably, via the Navicent Administrative Expense Claims, the bankruptcy estate will ultimately be responsible for reimbursing Navicent for the substantial costs and attorneys' fees incurred by it in defending against the Blocks claims. *See generally* Navicent Administrative Expense Claims. Thus, the prejudice which has befallen Navicent as a result of the procedurally improper manner in which the Blocks have pursued their COBRA claims is also born by the Debtors' estates and the creditor body as a whole.

Indeed, as the Blocks themselves acknowledge, the Rule 60 Motion would never have been filed at all were it not for the fact that Navicent brought to the Blocks attention in the Navicent Motion to Dismiss that the Complaint constituted a procedurally improper collateral attack on the Sale Order. *See* Rule 60 Motion at 3; *see also* Statement of Uncontested Facts ¶ 28. Thus, the filing of the Rule 60 Motion constituted a *post hoc* litigation tactic aimed at attempting to correct a manifest defect in the Complaint and to create the false perception of additional exposure to Navicent by, among other things, the improper requests for relief contained in the Rule 60 Motion on behalf of hypothetical "similarly situated" third parties. All such efforts on the part of the Blocks are improper. The Blocks and their counsel had every opportunity to proceed in a procedurally proper fashion in these matters. They failed to do so, with full knowledge of all relevant facts and issues, at great expense to Navicent. The Rule 60 Motion was thus unreasonably and untimely filed, and must be denied.

B. The strong policy of finality of bankruptcy court sale orders and principles of equitable mootness warrant denial, on a summary basis, of the Rule 60 Motion.

Congress conferred upon sale orders entered pursuant to Section 363 of the Bankruptcy Code a heightened level of finality found nowhere else in the Bankruptcy Code. This interest of finality is evidenced most explicitly in Section 363(m), which renders any appeal which affects the validity of a § 363 sale statutorily moot from the outset absent a stay pending appeal. *See In re TLFO, LLC*, 572 B.R. 391, 433 (Bankr. S.D. Fla. 2016) (quoting *FirstBank Puerto Rico v. Barclays Capital, Inc.* (*In re Lehman Bros. Holding Inc.*), 492 B.R. 191, 201 (Bankr. S.D.N.Y. 2013)) ("Section 363(m) gives purchasers of a debtor's assets an 'assurance of finality' with

respect to 'who has rights to estate property.'"). [10]

While statutory mootness does not strictly apply outside the context of an appeal, the policy considerations of the finality of bankruptcy court sale orders inherent in Section 363(m) are equally applicable in the Rule 60(b) context. Further, while statutory mootness may not apply in this context, the statutory mootness doctrine's common law twin, equitable mootness, does. "Although most commonly applied to untimely appeals, the doctrine of equitable mootness is equally applicable to motions to reconsider or overturn final orders in bankruptcy proceedings." *In re TLFO, LLC*, 572 B.R. at 434. That doctrine holds that "'[a proceeding] should be dismissed as moot when, even though effective relief could conceivably be fashioned, implementation of that relief would be inequitable.'" *Id.* (quoting *In re Innovative Clinical Sols., Ltd.*, 302 B.R. 136, 141 (Bankr. D. Del. 2003)). The application of the doctrine "turns on equitable and prudential concerns which focus on whether it is reasonable to entertain the contentions of the parties challenging an order of the bankruptcy court." *Bennett v. Jefferson Cty., Ala.*, 899 F.3d 1240, 1247 (11th Cir. 2018).

It is neither reasonable nor equitable for the Blocks to be granted the relief that they seek in the Rule 60 Motion. There is no dispute that Ms. Block received a copy of the Sale Order at her workplace on or around July 9, 2017, as the Blocks have admitted as much in their Complaint.

[10] A challenge to a sale order can "affect the validity of a sale" notwithstanding the fact that it does not challenge the purchaser's title to the purchased assets. A challenge to a sale order implicates § 363(m) where it challenges a provision of a sale order which is "'integral to the sale of the estate's assets.'" *See In re Farmland Indus., Inc.*, 408 B.R. at 508 (quoting *In re Trism*, 328 F.3d at 1007). "A provision is integral if the provision is so closely linked to the agreement governing the sale that modifying or reversing the provision would adversely alter the parties' bargained-for exchange.'" *Id.* Here, the provisions of the Sale Order barring COBRA claims—most notably paragraphs T, 30–31 and 33 of the Sale Order, were indisputably integral terms of the deal struck between the Debtors and Navicent related to the Purchased Assets—indeed, those paragraphs are the core terms of the Sale Order effectuating the "free and clear" nature of the Sale.

See Statement of Uncontested Facts ¶ 16. Notwithstanding that fact and the Blocks' (also admitted) awareness of the pendency of the Bankruptcy Case as well as the Sale, *see* Statement of Uncontested Facts ¶ 29, the Blocks took no action whatsoever in the almost three months between the entry of the Sale Order and the Operations Closing Date, filed a wholly improper lawsuit against Navicent Health and Navicent Oconee four months after the Sale Order was entered (with full knowledge of the terms and impact of the Sale Order), and did not file a motion for relief from the Sale Order until over eight months after its entry.

Given that context, it would be wholly inequitable to deprive Navicent of the full benefit of the bargain that it struck with the Debtors in the Sale—an acquisition of the Purchased Assets free and clear of all liens, claims, and encumbrances. Via the Sale, Navicent acquired an operating facility pursuant to a Sale Order that was not appealed by any party (including the Blocks, who were aware of the Sale and received a copy of the Sale Order), and no stay of closing was obtained by any party at any time. As set forth in the Statement of Uncontested Facts, the complex, two-step closing of the Sale was fully effectuated long before the Rule 60 Motion was filed. As a result of that closing, Navicent assumed operations and continues to operate the hospital formerly known as Oconee Regional Medical Center, and in connection therewith, Navicent is now responsible for all obligations associated with running a sophisticated medical facility in the State of Georgia. Navicent agreed to accept such obligations associated with running the hospital, and paid over $12 million to the Debtors' bankruptcy estates in exchange for the Purchased Assets, under the express understanding, apparent to all parties in interest (and heavily negotiated for by Navicent and Prime Healthcare Foundation, Inc. as the stalking horse bidder), that Navicent's acquisition of the Purchased Assets would be free and clear of all liens, claims, and encumbrances.

In agreeing to the terms of the Sale and closing on the Purchased Assets, Navicent secured a future for quality healthcare in Baldwin County and saved a substantial number of jobs. Navicent is indisputably a good faith purchaser within the meaning of Section 363(m),[11] *see Miami Center Ltd. Partnership v. Bank of New York*, 838 F.2d 1547, 1554 (11th Cir. 1988) (noting that a good faith purchaser within the meaning of Section 363(m) "is one who buys in good faith, that is, free of any fraud or misconduct and for value and without knowledge of any adverse claim."), and equity warrants that Navicent be entitled to fully rely on the enforceability of the Sale Order, especially as against the Blocks, who had every opportunity to appeal or otherwise seek timely relief of the Sale Order and neglected to do so.

C. Even if the Rule 60 Motion was timely filed, the Blocks would nonetheless not be entitled to relief from the Sale Order because the Blocks received due process in connection with the Sale.

The Blocks are not entitled to relief from the Sale Order because the Blocks failed to file the Rule 60 Motion within a reasonable time and because the Rule 60 Motion is equitably moot. Even if that is not the case, however (which it is for the reasons set forth herein), the Blocks would nonetheless not be entitled to the relief they seek in the Rule 60 Motion because the undisputed facts show that they received due process in connection with the Sale.

There is no genuine dispute that (1) during the entire Sale process until Ms. Block was terminated by the Debtors on September 29, 2017, Ms. Block was Oconee Regional Medical Center, Inc.'s Vice President of Nursing and Chief Nursing Officer (CNO); (2) Ms. Block knew that the Bankruptcy Case was pending and that the Debtors' were contemplating a sale of substantially all of their assets long before the Sale Order was entered, as demonstrated by, among

[11] As set forth herein, neither the Blocks nor their attorney has ever argued or asserted that Navicent is not a good faith purchaser for value with respect to the Purchased Assets.

other things, the fact that Ms. Block admits to attending "multiple" town hall meetings held by the Debtors related to the Bankruptcy Case and the Sale prior to the entry of the Sale Order; and (3) Ms. Block was served with both the Notice of Hearing and the Bid Procedures Order long before the Sale Order was entered. *See* Statement of Uncontested Facts ¶¶ 3–7; 28–29.

These undisputed facts demonstrate that the Blocks received "notice reasonably calculated, under all of the circumstances, to apprise [them] of the pendency of the action and afford them an opportunity to present their objections." *Mullane*, 339 U.S. at 314. The Blocks' assertion that the "Debtors' failure to serve the Sale Motion on the Blocks is determinative" is incorrect. *See* Rule 60 Motion at 17. Case law is clear that a failure to comply with a procedural requirement is not dispositive where the circumstances, taken as a whole, show that the party in question in fact received the process due to them. *See Fed. Nat'l Mortg. Assoc. v. Meeko*, 2016 WL 1108941, *4 (D. Or. 2016) (quoting *Espinosa*, 559 U.S. at 272) ("Relief under Rule 60(b) is available when a creditor is denied constitutional due process; however, violation of a 'right granted by a procedural rule,' without more, does not rise to the level of a constitutional violation.").

Ms. Block is a sophisticated person—she was a high level officer of the Debtors at all times relevant to the entry of the Sale Order. The undisputed facts show that at a time when Ms. Block was an officer of the Debtors and knew that the Debtors were in the process of selling their assets to a third party purchaser, and weeks before the entry of the Sale Order, she received the Bid Procedures Order which made reference to a "free and clear" sale, and prior thereto, she received the Notice of Hearing which contained the below warning, among others:

> If you need or would like a copy of the Sale Motion, or the proposed Bidding Procedures Order, please contact the proposed counsel to the Debtors, via email at Mark.Duedall@bryancave.com or Leah.Fiorenza@bryancave.com . . . or you may visit the Clerk's office.

> A hearing to consider the proposed Bidding Procedures Order is scheduled to be held before the Honorable Austin E. Carter, at Courtroom B, United States Bankruptcy Court for the Middle District of Georgia (Macon Division), 433 Cherry Street, Macon, Georgia 31201 on **May 24, 2017 at 2:00 p.m. Eastern time**, or as soon thereafter as counsel may be heard.
>
> **YOUR RIGHTS MAY BE AFFECTED. You should read the Sale Motion, the proposed Bidding Procedures Order, and the documents referenced in the Sale Motion carefully and discuss them with your attorney, if you have one in these bankruptcy cases. If you do not have an attorney, you may wish to consult one.**

Notice of Hearing (emphasis in original).

On those undisputed facts, the Blocks' received the process they were due. They were implored in the Notice of Hearing to read the Sale Motion and consult with an attorney, and they failed to do so, notwithstanding the reference in the Bid Procedures Order regarding a sale "free and clear of all liens, claims, and encumbrances." *See* Statement of Uncontested Facts at ¶ 6. If they had done either, or completed even a cursory review of the docket in the Bankruptcy Case (the Draft Sale Order, which also barred COBRA claims, had been on file since the day after the Debtors filed their bankruptcy cases), it would have been immediately and abundantly clear to them that the Debtors intended to sell their assets free and clear of COBRA claims, along with all or almost all other liens, claims and encumbrances. But they did neither, and they did not attend the Bid Procedures Hearing or the Sale Hearing or lodge any objection related to the Sale.

The Blocks would therefore not have been entitled to relief under Rule 60(b)(4) even if they had promptly filed the Rule 60 Motion because they received notice and an opportunity to be heard with respect to the Sale Motion.

D. The Court should deny and strike all requests for relief and advocacy on the part of the Blocks or their counsel on behalf of third parties.

The Court should deny all relief sought by the Blocks or their counsel on behalf of "similarly-situated employees" and or other third parties and order the Blocks and their attorney

to cease advocating on behalf of third parties whom Mr. Bury does not represent in the Bankruptcy Case and the Adversary Proceeding because neither the Blocks nor their attorney have standing to seek, or advocate for, such relief.

In the Rule 60 Motion, the Blocks assert that "the Blocks might not have standing to pursue COBRA *claims* against the Debtors or Navicent on behalf of similarly-situated Employees and Participants, but they certainly have the standing to *advocate* that this Court take an action [with respect to parties that Mr. Bury does not purport to represent] that is squarely within its discretion based on evidence that materializes in the process of making out the *Blocks'* due process claims." Rule 60 Motion ¶ 32 (emphasis in original). The lack of any citation by the Blocks in support of that assertion in the Rule 60 Motion is understandable considering that the assertion is entirely contradicted by applicable law.

It is a fundamental principle in bankruptcy as well as in all court proceedings of which the undersigned is aware that a party can only assert and advance their own rights in a legal proceeding. *See Al-Aulaqi v. Obama*, 727 F. Supp. 2d 1, 15 (D.D.C. 2010) (quoting *Warth v. Seldin*, 422 U.S. 490, 499 (1975)) ("[A] 'plaintiff generally must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties.'"). None of the limited exceptions to that general rule—such as a parent advocating on behalf of a minor child—are applicable here. Similarly, an attorney has no standing to advocate in a bankruptcy case or related proceeding on behalf of persons he does not represent and on behalf of whom he has not appeared, because in that capacity the attorney is neither personally a party in interest, representing a party in interest, *see* 11 U.S.C. § 1109 (listing persons and entities with a right to be heard in bankruptcy cases), nor any other person or party with standing to be heard in a bankruptcy case (such as the Securities and Exchange Commission, *see id.*, or the U.S. Trustee, *see* 28 U.S.C. § 581, *et seq.*).

Further, where an attorney advocates on behalf of unnamed, unidentified hypothetical third parties, no "case or controversy" exists which could be adjudicated by the Court. *See Malowney v. Fed. Collection Deposit Grp.*, 193 F.3d 1342, 1346 (11th Cir. 1999) (A case or controversy exists where a plaintiff alleges facts "from which it appears there is a substantial likelihood that *he* will suffer injury in the future.") (emphasis added). The existence of a "case or controversy" is a condition precedent to federal jurisdiction with respect to any purported dispute, and no case or controversy exists here with respect to hypothetical, unidentified third parties that have taken no action to obtain the relief the Blocks attempt to obtain for them in the Rule 60 Motion. In *In re Klinger*, 301 B.R. 519, 523 (Bankr. N.D. Ill. 2003), the bankruptcy court noted that the "case" or "controversy" requirement applies equally to bankruptcy courts as it does to district courts. *Id*. ("The limits Article III imposed on federal jurisdiction apply equally to bankruptcy courts."). The court further stated that federal courts have "*no power* 'to decide questions that cannot affect the rights of *litigants in the case before them*,'" or when "the *parties* lack a legally cognizable interest in the outcome [in question]." *Id.* (quoting *North Carolina v. Rice*, 404 U.S. 244, 246 (1971)) (emphasis added).

Moreover, it is unlikely that any such "similarly situated employees" even exist at this juncture. While the Blocks contend that certain former employees of the Debtors other than the Blocks were not hired by Navicent, *see* Rule 60 Motion ¶ 54, notably, the administrative expense bar dates have run, *see* Dkt. No. 623, Dkt. No. 744, and no employee of the Debtors, other than Drs. Extine and Roberts (who are also represented by Mr. Bury and have explicitly waived and released their purported COBRA rights against the Debtors and Navicent), filed a COBRA claim against the Debtors, notwithstanding that all such employees received notice of the administrative expense claim bar date. *See* Dkt. 626; *see also* Statement of Uncontested Facts ¶ 32. Thus,

notwithstanding the principles of law which preclude the Blocks and their attorneys' from advocating on behalf of unnamed third parties, there is no practical purpose for the Court to consider granting relief to hypothetical third parties where no showing has been made that such third parties even exist or that they could be granted the relief sought for them (improperly) by the Blocks and their attorney.

Thus, the Blocks are incorrect that they have standing to advocate on behalf of third parties, and all relief sought by the Blocks on behalf of third parties in the Rule 60 Motion must be denied. As set forth above, given that the Blocks themselves would not benefit from the Court granting relief to third parties, upon information and belief, the Blocks' and their attorney's efforts in this regard is merely an improper litigation tactic intended to falsely increase Navicent's perception of its own (nonexistent) exposure in these matters. That improper attempt by the Blocks is further evidenced by the Blocks' inclusion of amounts they purport to be owed by the Debtors *to the IRS* in their damages analysis in the Initial Disclosures. *See* Statement of Uncontested Facts ¶¶ 33 & 34 & Exhibit A-4 thereto. The Blocks have no interest whatsoever in whether or not the IRS receives funds the Blocks claim are owed to it. Upon information and belief, they reference that purported issue solely to improperly create the perception of increased risk and exposure to the Debtors and/or Navicent.

Navicent accordingly requests that the Court order the Blocks and their attorney to cease all advocacy in the Bankruptcy Case or the Adversary Proceeding on behalf of any and all third parties. They do not have standing to do so as set forth above, and their efforts to do so are prejudicial to Navicent as Navicent is and has been required to incur legal fees responding to arguments and requests for relief made by the Blocks and their attorney which they have no standing to raise.

E. The Rule 60 Motion is ripe for summary judgment.

Based on certain statements made by the Blocks' counsel at the status conference which occurred on August 9, 2018, in which counsel for the Blocks stated or implied that a Rule 56 Motion cannot be granted without discovery, Navicent anticipates that the Blocks will argue that this Motion is not ripe for adjudication because the Blocks have not yet had an opportunity to take discovery. First, the Court unequivocally has the authority to grant Navicent summary judgment with respect to the Rule 60 Motion prior to discovery if such relief is warranted, which it is for the reasons set forth above. *See Emigra Grp., LLC v. Fragomen, Del Rey, Bernsen & Loewy, LLP*, 612 F. Supp. 2d 330, 346 (S.D.N.Y. 2009) ("[T]here is nothing in the Federal Rules of Civil Procedure precluding summary judgment—in an appropriate case—prior to discovery."); *Smedley*, 676 F. App'x at 862 ("[S]ummary judgment may be appropriate when no discovery has been held.").

Second, while Navicent expects that discovery in this case would reveal substantial evidence further supporting denial of the Rule 60 Motion, no discovery is necessary because the facts set forth in the Statement of Uncontested facts are not genuinely disputed (indeed, many if not all of them have been admitted by the Blocks in their pleadings or are otherwise apparent on the record), no amount of discovery will change them, and, for the reasons set forth above, they entitle Navicent to summary judgment denying the Rule 60 Motion.

Third, as set forth above, to be entitled to the relief they seek in the Rule 60 Motion, the Blocks must show both (1) that the Rule 60 Motion was timely filed; and (2) they are otherwise entitled to Relief from the Sale Order under Rule 60(b)(4) because they did not receive due process in connection with the Sale. Navicent asserts as set forth above that the undisputed facts establish that the Blocks received due process in connection with the Sale, and no amount of discovery will change those undisputed facts that entitled Navicent to summary judgment based on the due

process issue. With that said, the threshold issue regarding the timing of the filing of the Rule 60 Motion is apparent on the record itself. The Blocks filed their Rule 60 Motion over eight months after the entry of the Sale Order, after initiating a procedurally improper collateral attack on the Sale Order via the Complaint. Those facts, which are undisputed and will not change regardless of the scope of discovery in this contested matter, entitle the Navicent to judgment as a matter of law on the Rule 60 Motion.

Thus, to the extent the Blocks argue that discovery is needed related to the due process issue and what the Blocks knew or were told by the Debtors or others in connection with the Sale, and the Court finds that discovery would otherwise be necessary with respect to that issue (which it is not for the reasons set forth herein), Navicent's Motion for summary judgment must nonetheless be granted, prior to discovery, if the Court finds that the Rule 60 Motion was untimely filed (an issue that is fully ripe for adjudication based on the record before the Court). Rule 60(c)(1). For the avoidance of doubt, Navicent reserves all rights, arguments and remedies with respect to and related to the Rule 60 Motion, the Complaint, the Blocks and their counsel.

V. PRAYER FOR RELIEF

WHEREFORE, Navicent respectfully requests that the Court enter an order:

(1) Granting this Motion;

(2) Denying the Rule 60 Motion with prejudice;

(3) Ordering the Blocks and their attorney to cease all advocacy in the Bankruptcy Case and the Adversary Proceeding on behalf of third parties; and

(4) Awarding Navicent such other and further relief as the Court deems just and proper.

[SIGNATURE BLOCK ON FOLLOWING PAGE]

Respectfully submitted this 17th day of September, 2018.

ALSTON & BIRD LLP

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EXHIBIT A

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

In re:	:	
	:	
OCONEE REGIONAL HEALTH SYSTEMS, INC., *et al.*,	:	Chapter 11 Case No. 17-51005-AEC (Jointly Administered)
Debtors.	:	
_____	:	

NAVICENT HEALTH, INC. AND NAVICENT HEALTH BALDWIN, INC.'S STATEMENT OF UNCONTESTED MATERIAL FACTS PURSUANT TO LOCAL RULE 7056-1(A) AND F.R.C.P. 7056 IN SUPPORT OF THE MOTION FOR SUMMARY JUDGMENT ON AND TO DEBORAH AND JEFFREY BLOCK'S MOTION FOR RELIEF FROM THE SALE ORDER PURSUANT TO F.R.C.P. 60(B)(4) AND F.R.B.P. 9024

There are no genuine issues to be tried with respect to the following material facts relevant to *Deborah and Jeffrey Block's*[1] *Motion for Relief from the Sale Order Pursuant to F.R.C.P. 60(b)(4) and F.R.B.P. 9024* (Dkt. No. 690, the "Rule 60 Motion"):

1. On May 11, 2011, the Debtors[2] filed the *Motion for Orders Approving (I)(A) Bid Procedures, (B) Procedures and Notice Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Licenses and Leases, (C) Breakup Fee and Expense Reimbursement, and (D) the Debtor's Assumption of the Consulting Agreement with Prime Healthcare Management, Inc.; and (II)(A) Asset Purchase Agreement, (B) the Sale of Substantially all of the Debtors' Assets Outside the Ordinary Course of Business, Free and Clear of all Liens, Claims, Encumbrances, and Interests, (c) Assumption and Assignment of Certain Executory*

[1] Deborah and Jeffrey Block are referred to referred to herein individually and "Ms. Block" and "Mr. Block" and collectively as the "Blocks."

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Rule 60 Motion.

Contracts and Unexpired Licenses and Leases, And (D) Waiver of the 14-Day Stay of Fed. R. Bankr. P. 6004(h) and 6006(d) (the "Sale Motion," Dkt. No. 12) seeking the entry of an order establishing bid procedures and approving a sale of substantially all of the Debtors' assets free and clear of all liens, claims and encumbrances. *See* Dkt. No. 12.

2. A draft sale order (the "Draft Sale Order"), and the proposed asset purchase agreement (the "Stalking Horse APA") was attached to the Sale Motion. *See id.* The Draft Sale Order contained the following proposed findings of fact and conclusions of law, among others:

> *The Purchaser is not a "successor," "successor in interest," "continuation," or "substantial continuation" to or of the Debtors or their estates by reason of any theory of Law or equity,* and the Purchaser shall not assume, nor be deemed to assume, or in any way be responsible for any liability, claim, or obligation of any of the Debtors and/or their estates including, but not limited to, any bulk sales Law, *successor liability, successor-in-interest liability, substantial continuation liability,* or similar liability except to the extent expressly included in the Assumed Liabilities or provided in the Agreement. Neither the purchase of the Purchased Assets by the Purchaser, nor the fact that the Purchaser is using any of the Purchased Assets previously operated by the Debtors, will cause the Purchaser or any of its Affiliates to be deemed a successor, successor-in-interest, continuation, or substantial continuation in any respect to the Debtors' business within the meaning of any foreign, federal, state, or local revenue, pension, *ERISA, COBRA coverage,* FMLA, WARN Act, Tax, labor, employment, environmental, or other Law, rule or regulation (including, without limitation, filing requests under any such Laws, rules or regulations), or under any products liability Law or doctrine with respect to the Debtors' liability under such Law, rule or regulation or doctrine, except to the extent expressly included in the Assumed Liabilities or provided in the Agreement.
>
> For the avoidance of doubt, transfer of title and possession of the Purchased Assets shall be free and clear of any claims or other Liens pursuant to any successor, successor-in-interest, continuation, or substantial continuation theory, including the following: (a) any employment or labor agreements, . . . (d) any other employee, worker's compensation, occupational disease, or employment or temporary disability related claim, including, without limitation, claims and other Liens that might otherwise arise under or pursuant to (i) ERISA, (ii) the Fair Labor Standards Act, (iii) Title VII of the Civil Rights Act of 1964, (iv) the Federal Rehabilitation Act of 1973, (v) the National Labor Relations Act, (vi) the WARN Act, (vii) the Age Discrimination and Employee Act of 1967, and the Age and Discrimination in Employment Act, as amended (viii) the Americans with Disabilities Act of 1990, *(ix) the Consolidated Omnibus Budget Reconciliation Act of 1985 ("**COBRA**") . .*

> . and (h) any and all theories of successor liability, including any theories on successor products liability grounds or otherwise.

Draft Sale Order ¶¶ 31-32 (emphasis added).

3. On May 15, 2017, the Debtors filed a notice of hearing with respect to the Sale Motion (the "Notice of Hearing," Dkt. No. 47). The Notice of Hearing stated in part that the Debtors sought "approval of procedures for an auction of substantially all of their assets," and further provided the following:

> If you need or would like a copy of the Sale Motion, or the proposed Bidding Procedures Order, please contact the proposed counsel to the Debtors, via email at Mark.Duedall@bryancave.com or Leah.Fiorenza@bryancave.com . . . or you may visit the Clerk's office.
>
> A hearing to consider the proposed Bidding Procedures Order is scheduled to be held before the Honorable Austin E. Carter, at Courtroom B, United States Bankruptcy Court for the Middle District of Georgia (Macon Division), 433 Cherry Street, Macon, Georgia 31201 on **May 24, 2017 at 2:00 p.m. Eastern time**, or as soon thereafter as counsel may be heard.
>
> **YOUR RIGHTS MAY BE AFFECTED. You should read the Sale Motion, the proposed Bidding Procedures Order, and the documents referenced in the Sale Motion carefully and discuss them with your attorney, if you have one in these bankruptcy cases. If you do not have an attorney, you may wish to consult one.**
>
> If you do not want the Court to enter the Bidding Procedures Order, or if you want the Court to consider your views on the Bidding Procedures Order, then you or your attorney must attend the hearing set forth above. **If neither you nor your attorney takes these steps, the Court may decide that you do not oppose the relief set forth in the Bidding Procedures Order and may enter the proposed Bidding Procedures Order granting the requested relief.**
>
> Notice of Hearing (emphasis in original).

4. The Notice of Hearing was served on Ms. Block at her workplace on May 15, 2017. *See* Supplemental Certificate of Service, Dkt. No. 230; Complaint, Adversary Case No. 18-05009 (the "Adversary Proceeding"), Dkt. No. 1 (the "Complaint") ¶ 72 ("Debtors . . . served a generic Notice of Hearing on . . . Ms. Block at her workplace.").

5. The Bid Procedures Hearing with respect to the Sale Motion was held on May 25, 2017, and on May 26, 2017 the Court entered the *Order (A) Approving Bid Procedures and Authorizing and Scheduling an Auction at Which the Debtors Will Solicit the Highest or Best Bid for the Sale of Substantially all of Their Assets, (B) Approving Notice Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Licenses and Leases, (C) Approving Breakup Fee and Expense Reimbursement, and (D) Approving the Debtors' Assumption of the Consulting Agreement with Prime Healthcare Foundation, Inc.* (the "Bid Procedures Order," Dkt. No. 101).

6. The Bid Procedures Order scheduled, among other things, an Auction on June 29, 2017 and a Sale Hearing on June 30, 2017. Additionally, the Bid Procedures Order and the form *Notice of (A) Potential Assumption and Assignment of Contracts And Unexpired Licenses and Leases, (B) Deadline to Object to Cure Amounts, Assumption, or Assignment, and (C) Hearing to Approve the Assumption and Assignment* (the "Form Cure Notice") attached thereto made clear that the sale contemplated by the Debtors was a sale "free and clear of all liens, claims and encumbrances." *See* Form Cure Notice ¶ 1.

7. The Debtors served the Bid Procedures Order on Ms. Block on May 31, 2017, a full thirty days prior to the Sale Hearing. *See* Supplemental Certificate of Service, Dkt. No. 254.

8. Navicent Health, Inc. ("Navicent Health") submitted a bid for the Debtors' assets, and its bid was designated as the highest and best bid by the Debtors following the auction which occurred on June 29, 2017 (the "Auction").

9. The Court held a hearing on June 30, 2017 (the "Sale Hearing"), at which the Court approved the Debtors' sale of substantially of their assets to Navicent Health or its designee (Navicent Health and its designee with respect to the Purchased Assets (defined below), Navicent

Health Oconee, LLC ("Navicent Oconee"), and its successor in interest with respect to the Purchased Assets, Navicent Health Baldwin, Inc. ("Navicent Baldwin"), are referred to herein collectively as "Navicent") free and clear of all liens, claims and encumbrances (the "Sale"). The Sale Hearing was held weeks after Ms. Block was served with the Notice of Hearing and the Bid Procedures Order. *See* Dkt. Nos. 230; 254.

10. David Bury, attorney for the Blocks, attended the Sale Hearing but did not appear on behalf of the Blocks.

11. The Blocks did not file or assert any objection to the Sale Order or any aspect of the Sale, including, but not limited to, the free and clear nature of the Sale, the injunctions contained in the Sale Order, or the conclusions of law contained in the Sale Order that Navicent is not a successor to the Debtors and is not liable for COBRA or ERISA claims arising from Navicent's acquisition of the Debtors' assets (the "Purchased Assets"), notwithstanding that (1) Ms. Block received the Notice of Hearing and Bid Procedures Order weeks (and, in the case of the Notice of Hearing, over a month) prior to the Sale Hearing, and (2) the Draft Sale Order, filed in the Bankruptcy Case on May 11, 2017 (more than a month prior to the Sale Hearing), provided that the purchaser would not be responsible for, among other things, COBRA and ERISA claims arising from the Sale.

12. The Court entered the Sale Order (Dkt. No. 270) on July 6, 2017. *See* Dkt. No. 270. In the Sale Order, the Court held, among other things, that (1) Navicent is not the Debtors' successor, (2) Navicent is not liable for any claims arising from its acquisition of the Debtors' assets, including, among other things, COBRA claims; and (3) former employees of the Debtors are enjoined from asserting claims against Navicent arising from or relating to the transfer of the

Purchased Assets to Navicent. Specifically, the Sale Order contained the following findings of fact and conclusions of law by the Bankruptcy Court.

> *The Purchaser*[3] *is not a "successor," "successor-in-interest," "continuation," or "substantial continuation" to or of the Debtors, their estates, or the Baldwin County Hospital Authority by reason of any theory of Law or equity*, and the Purchaser shall not assume, nor be deemed to assume, or in any way be responsible for any liability, claim or obligation of the Debtors and/or their estates including, but not limited to, any bulk sales Law, successor liability, successor-in-interest liability, substantial continuation liability, or similar liability except to the extent expressly included in the Assumed Liabilities or provided in the Agreement. *Neither the purchase of the Purchased Assets by the Purchaser, nor the fact that the Purchaser is using any of the Purchased Assets previously operated by the Debtors, will cause the Purchaser or any of its Affiliates to be deemed a successor, successor-in-interest, continuation, or substantial continuation in any respect to the Debtors' business or the Baldwin County Hospital Authority within the meaning of any foreign, federal, state or local revenue, pension, ERISA, COBRA coverage . . . or any other Law, rule or regulation* (including, without limitation, filing requirements under any such Laws, rules or regulations) . . . except to the extent expressly included in the Assumed Liabilities or provided in the [Asset Purchase] Agreement.
>
> *For the avoidance of doubt, transfer of title and possession of the Purchased Assets shall be free and clear of any claims and other Liens* pursuant to any successor, successor-in-interest, continuation, or substantial continuation theory, *including the following*: (a) any employment or labor agreements . . . (c) any pension, multiemployer plan (as such term is defined in Section 3(37) or Section 4001(a)(3) of the Employee Retirement Income Security Act of 1974m as amended ("***ERISA***"), health or welfare, medical benefit plan of the Debtors, compensation, or other Benefit Plan of the Debtors . . . (d) any other employee, worker's compensation, occupational disease, or unemployment or temporary disability related claim, including, without limitation, claims and other Liens that might otherwise arise under or pursuant to (i) ERISA, (ii) the Fair Labor Standards Act, (iii) Title VII of the Civil Rights Act of 1964, (iv) the Federal Rehabilitation Act of 1973, (v) the National Labor Relations Act, (vi) the WARN Act, (vii) the Age Discrimination and Employee Act of 1967, and Age Discrimination in Employment Act, as amended (viii) the Americans with Disabilities Act of 1990, *(ix) the Consolidated Omnibus Budget Reconciliation Act of 1985* ("***COBRA***") . . . .

Sale Order ¶¶ 30-31 (emphasis added).

[3] "Purchaser' was defined in the Sale Order as Navicent Health or its Designee (as that term was defined in the Asset Purchase Agreement), as applicable, together with its respective successors and assigns. *See* Sale Order n. 3.

13. The Sale Order also contained an injunction which enjoined the Movants from bringing COBRA claims against Navicent:

> Except to the extent expressly included in the Assumed Liabilities, pursuant to Sections 105 and 363 of the Bankruptcy Code, *all Persons including, but not limited to*, the Debtors, the Committee, the Baldwin County Hospital Authority, all debt holders, equity security holders, *the Debtors' employees or former employees*, Governmental Authorities, lenders, parties to or beneficiaries under any Benefit Plan, trade or other creditors *asserting or holding a Lien of any kind or nature whatsoever against, in, or with respect to any of the Debtors or the Purchased Assets* (other than the Permitted Liens and Assumed Liabilities), arising under or out of, in connection with, or in any way relating to the Debtors, the Purchased Assets, the operation of the Debtors' businesses prior to the Closing Date, *or the transfer of the Purchased Assets from the Purchaser, shall be forever barred, estopped and permanently enjoined from asserting, prosecuting, or otherwise pursuing such Lien* . . . against the Purchaser or any Affiliate, successor, or assign thereof and each of their respective current or former shareholders, members, managers, officers, directors, attorneys, employees, partners, affiliates, financial advisors, and representatives (each of the foregoing in this individual capacity) or the Purchased Assets.

Sale Order ¶ 33 (emphasis added).

14. Liens, as defined in the Sale Order, included, among other things:

> [L]iens, *claims, liabilities,* and encumbrances of any kind . . . [including] successor-in-interest claims, successor liability claims, substantial continuation claims, *COBRA coverage claims*, withdrawal liability claims (including under any Benefit Plan), environmental claims, claims under or relating to any Benefit Plan or ERISA Affiliate plan (including any person or retirement plan) . . . .

Sale Order ¶ T (emphasis added).

15. Finally, the Court held in the Sale Order that all parties in interest in the Bankruptcy Case received "[N]otice and a reasonably opportunity to object and/or be heard regarding the Sale Motion, the Auction, the Sale Hearing, the Agreement, the sale of the Purchased Assets free and clear of all Liens, the Transactions, and the entry of the [Sale Order] have been provided to all interested Persons, including, without limitation . . . the '***Master Service List***' established in the

Debtors' Chapter 11 cases." Sale Order ¶ H. Ms. Block was on the Master Service List. *See e.g.*, Dkt. No. 230, 254, 398.

16. Ms. Block was mailed a copy of the Sale Order by the Bankruptcy Noticing Center on or around July 9, 2017, eleven days prior to the deadline to file an appeal of the Sale Order. *See* Certificate of Notice, Dkt. No. 275; Complaint ¶ 82; Fed. R. Bankr. P. 8002.

17. Ms. Block did not file a timely appeal of or with respect to the Entry of the Sale Order.

18. The Sale closed via a two-step process, the first of which occurred on October 1, 2017 (the "Operations Closing Date"), *see Debtors' Amended Report of Sale Closing*, Dkt. No. 543, on which date the Debtors transferred substantially all of their assets to Navicent Oconee as designee of Navicent Health. During the second step, Navicent Oconee acquired a fee simple interest in all real property included in the Purchased Assets from the Baldwin County Hospital Authority.[4] After the Sale closed, Navicent Oconee transferred all of its assets, including, without limitation, the Purchased Assets, to Navicent Baldwin.

[4] For more information concerning the two-step transaction effected by Navicent Health, Navicent Oconee, the Debtors and the Baldwin County Hospital Authority, *see Debtors' Motion to Approve Technical Amendments to Asset Purchase Agreement with Navicent Health Oconee, LLC* (the "Motion to Amend," Dkt. No. 446), and the *Order Granting Debtors' Motion to Approve First Amendment to Asset Purchase Agreement with Navicent Health Oconee, LLC* (the "Order Approving Amendment," Dkt. No. 460). In summary, the amendment to the asset purchase agreement approved via the Order Approving Amendment allowed Navicent Oconee to close its acquisition of substantially all of the Debtors' assets and assume operational control of the hospital prior to obtaining the regulatory approval necessary for Navicent Oconee to obtain fee simple title to the real property assets included in the Purchased Assets from the Baldwin County Hospital Authority. Navicent Oconee obtained such regulatory approval in early December 2017 and completed the second step of the two-part transaction by acquiring fee simple title to such real property assets on or around December 6, 2017.

19. A true and correct copies of the asset purchase and the amendment thereto governing the Sale (collectively, the "APA")[5], excluding their voluminous exhibits, are attached hereto as Exhibit A-1. Under the APA, the Debtors' obligation to comply with COBRA in connection with the Sale was specifically allocated to the Debtors as a matter of contract. Specifically, Section 2.4 of the APA provided, among other things, that, "in no event shall Navicent be obligated to pay, discharge or satisfy any liability, claim or obligation . . . under or relating to any Benefit Plan or ERISA Plan . . . whether or not such liability or obligation arises prior to, on, or following the Closing Date." *See* APA § 2.4(i). Each of the Debtors' employee health plans was including in the definition of "Benefit Plan" under the APA. *See, e.g.,* APA § 4.19(a). The APA further provided that "Navicent shall have and acquire at the Closing good, valid and marketable title to the Purchased Assets and the Purchased Assets shall be sold and conveyed to Navicent free and clear of any and all [liens, claims and encumbrances]. *See* APA § 9.1. The provisions of the APA which allocated COBRA obligations to the Debtors were also present in the Stalking Horse APA which was originally negotiated by the stalking horse bidder, Prime Healthcare Foundation, Inc., and attached to the Sale Motion. *See* Sale Motion.[6]

20. On October 27, 2017, the Blocks' attorney served the letter attached hereto as Exhibit A-2 (the "Extine Demand Letter") on the Debtors, Navicent Health and Jasper Health

[5] The final APA between the Debtors and Navicent Oconee was substantially similar to the Stalking Horse APA.

[6] Given the express contractual allocation in the APA of COBRA obligations in connection with the Sale to the Debtors, and the fact that the Blocks have filed claims against Navicent Health and Navicent Oconee in the Complaint, in which they allege that the Debtors did not discharge their COBRA obligations to them, Navicent has filed an administrative expense claim against the Debtors in the Bankruptcy Case seeking full reimbursement, indemnity, and/or contract damages from the Debtors, for, without limitation, (1) any amounts Navicent is ultimately found liable to the Blocks; and (2) all costs and attorneys' fees incurred by Navicent in connection with the Blocks' claims. *See* Case No. 17-51006, Claim No. 185-2; Case No. 17-51009, Claim No. 12-2.

Services, Inc. on behalf of Dr. James Extine, another former employee of the Debtors, which in part demanded COBRA continuation coverage for Dr. Extine and his family from the recipients of the letter.

21. Navicent Health responded to the Extine Demand Letter on October 30, 2017 via the letter attached hereto as Exhibit A-3 (the "Navicent Response Letter"), which stated in part:

> With respect to your assertion that Navicent is required to provide COBRA coverage for the Extines, the Sale Order clearly provides that it is not. In addition to the language in the Sale Order which you referenced in your letter, which holds that Navicent is not a successor to the Debtors, the Bankruptcy Court specifically held in the Sale Order that the purchased assets were sold to Navicent free and clear of all COBRA coverage claims or rights. *See* Sale Order ¶ T.

Navicent Response Letter. Mr. Bury did not substantively respond to the Navicent Response Letter prior to filing the Complaint on behalf of the Blocks.

22. Thus, as of October 30, 2017, the Blocks' attorney was on notice of Navicent's position that the Sale Order bars COBRA coverage claims brought on behalf of former employees of the Debtors arising from or related to Navicent's acquisition of the Purchased Assets.

23. Mr. Bury entered notices of appearance on behalf of the Blocks in the Bankruptcy Case on November 14, 2017. *See* Dkt. Nos. 551 & 552. The Blocks claim in the Rule 60 Motion that they retained Mr. Bury's law firm on November 10, 2017. *See* Rule 60 Motion ¶ 56.

24. Mr. Bury filed the Complaint on behalf of the Blocks on November 29, 2017, which, among other things, sought a declaratory judgment that Navicent Health and Navicent Oconee are obligated to provide COBRA Coverage to the Blocks. *See* Complaint Count IV.

25. Notwithstanding that (1) Ms. Block was served with a copy of the Notice of Hearing, the Bid Procedures Order, and the Sale Order contemporaneous with or shortly after their entry; and (2) Navicent's counsel had expressly articulated to Mr. Bury Navicent's position with respect to the Sale Order's effect on COBRA claims nearly a month prior to the Complaint being

filed, the Blocks took no action whatsoever in the Bankruptcy Case to seek relief from the Sale Order prior to filing the Complaint, which squarely violated the injunction provisions contained in the Sale Order.

26. Navicent Health and Navicent Oconee filed a motion to dismiss the Complaint (Adversary Proceeding Dkt. No. 32, the "Navicent Motion to Dismiss") and a reply in support thereof (Adversary Proceeding Dkt. No. 43, the "Navicent Reply), in which they argued, among other things, that "The *only* procedurally proper mechanisms available to [the Blocks] to assert that the Sale Order was entered incorrectly or improperly were (1) to file a timely appeal of the Sale Motion; or (2) to file a motion for relief from the Sale Order pursuant to Fed. R. Bankr. P. 9024." *See* Navicent Reply at 3.

27. In the Navicent Reply, which was filed on March 12, 2018, Navicent Health and Navicent Oconee also objected to an attempt on the part of the Blocks in their response to the Navicent Motion to Dismiss to "reserve" the right to seek relief under F.R.C.P. 60 or F.R.B.P. 9024:

> As an afterthought in their Response brief, the Plaintiffs attempt to "reserve" the right to seek a Rule 60(b) determination regarding the enforceability of the Sale Order. Coming some eight months after the entry of the Sale Order (and the Plaintiffs' actual notice thereof), the Plaintiffs apparently want to have their cake and eat it too: to address the issues under the Motion to Dismiss, and if they lose, to come back to this Court (or the Bankruptcy Court) and thereafter seek Rule 60 relief. The Plaintiffs cannot "reserve" the right to file a motion for Rule 60 relief via a procedurally improper collateral attack on a final order.
>
> Notably, a motion under Rule 60 must be made "within a reasonable time." *See* Fed. R. Civ. P. 60(c). Here, the Plaintiffs assert that the Sale Order was entered improperly by the Bankruptcy Court for the reasons set forth in the Complaint and the Response. Even if those arguments were correct (they are not), the Plaintiffs received actual notice of the Sale Order more than seven months ago, and those arguments have already been asserted by the Plaintiffs in a procedurally improper fashion in the Complaint. Thus, even if grounds exist for Rule 60(b) relief, the Plaintiffs could have and should have asserted such rights well before now. Instead, they elected to file a procedurally improper collateral attack on the Sale Order and

> attempt to reserve the right to proceed in a procedurally proper fashion at a later date. Such a knowing and purposeful delay in seeking Rule 60 relief is not "reasonable" under Rule 60(c).

Navicent Reply at 10.

28. Approximately ten days after Navicent Health and Navicent Oconee filed the Navicent Reply in the Adversary Proceeding, the Blocks filed the Rule 60 Motion. The Rule 60 Motion was a *post hoc* attempt to remedy the procedurally improper collateral attack on the Sale Order initiated via the filing of the Complaint, which the Blocks expressly or implicitly acknowledged in the Rule 60 Motion itself:

> However, one issue that Navicent has raised repeatedly in the Lawsuit since January 11, 2018 is that the Blocks never filed a Rule 60(b) motion under Bankruptcy Rule 9024 challenging the Sale Order. Thus, although the Blocks insist that the Sale Order did not extinguish or enjoin their COBRA claims against Navicent and although the Blocks raised the due process issues in the District Court in February, they now file this Rule 60(b)(4) motion.

Rule 60 Motion at 3.

29. Ms. Block was Oconee Regional Medical Center, Inc.'s Vice President of Nursing and Chief Nursing Officer (CNO) from no later than Spring 2012 until her September 29, 2017 termination. *See* Complaint ¶ 105.

30. Ms. Block was aware of the pendency of the Bankruptcy Case and the fact that the Debtors were contemplating a Sale of substantially all of their assets to a third party purchaser long before the entry of the Sale Order as demonstrated by, among other things, the fact that Ms. Block admits to attending "multiple" town hall meetings held by the Debtors related to the Bankruptcy Case and the Sale prior to the entry of the Sale Order. *See* Rule 60 Motion at 29.

31. In the Rule 60 Motion as well as in the Complaint, the Blocks and the Blocks' counsel, Mr. David Bury, have repeatedly requested relief for and otherwise advocated on behalf of "other similarly-situated former employees of the Debtors" (other than the Blocks), *see, e.g.*,

Rule 60 Motion, whom (1) they have not identified; and (2) Mr. Bury does not purport to represent and has never entered an appearance on behalf of. Neither Mr. Bury nor the Blocks have taken any action whatsoever to certify a class action under Fed. R. Civ. P. 23 or taken any other action which would or could permit them to advocate in the Bankruptcy Case or the Adversary Proceeding on behalf of persons or parties they do not represent.

32. The administrative expense bar dates in the Bankruptcy Case have run, *see* Dkt. No. 623, Dkt. No. 744 and no employee of the Debtors, other than Drs. Extine and Roberts (who are also represented by Mr. Bury and have explicitly waived and released their purported COBRA rights against the Debtors and Navicent), filed a COBRA claim against the Debtors, notwithstanding that all such employees received notice of the administrative expense claim bar dates. *See id.*

33. In their Amended Initial Disclosures for Claims Estimation Proceeding (the "Initial Disclosures") served on Navicent, the Debtors, and Jasper Health Services, Inc. in the Bankruptcy Case, a true and correct copy of which is attached hereto as Exhibit A-4, the Blocks included in their "computation of damages claimed by the disclosing party" the following statement:

> Additionally, there is the possibility that certain of the Defendants in the COBRA Lawsuit will be liable to the IRS for excise taxes on account of COBRA violations. Although it doesn't appear that the Blocks would be a direct beneficiary of such excise taxes, the amount of such taxes could be administrative claims against Debtors by the IRS or, if assessed against Navicent, claims for which Navicent would seek indemnity as part of its claim.

See Initial Disclosures, Exhibit A-4.

34. Mr. Bury does not represent the Internal Revenue Service in these matters. The IRS has taken no action to intervene in these matters, notwithstanding that the Blocks served their original Complaint on both the U.S. Department of Labor and the U.S. Department of the Treasury. *See* Adversary Proceeding Dkt. No. 17.

EXHIBIT A-1

Execution Version

ASSET PURCHASE AGREEMENT

BY AND BETWEEN

NAVICENT HEALTH, INC., AND ITS DESIGNEE, AS APPLICABLE

AND

OCONEE REGIONAL HEALTH SYSTEMS, INC., and certain of its subsidiaries,

AND

THE BALDWIN COUNTY HOSPITAL AUTHORITY

DATED AS OF JUNE 27, 2017

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement"), dated as of June 27, 2017 (the "Effective Date"), is made and entered into among and on behalf of Navicent Health, Inc. and its designee (the "Designee"), as applicable (collectively, "Navicent"), Oconee Regional Health Systems, Inc., a Georgia nonprofit corporation ("Oconee"), certain Subsidiaries of Oconee listed on the signature pages hereto (together with Oconee each individually a "Seller", and collectively, the "Sellers"), and, as to the Applicable Provisions, the Baldwin County Hospital Authority, an authority organized under the Georgia Hospital Authorities Law (the "Baldwin Authority"). Navicent and Sellers are sometimes individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Oconee is a nonprofit corporation whose primary purpose is to serve as a controlling body for, among other entities, Oconee Regional Medical Center, Inc., a Georgia nonprofit corporation ("ORMC"), Oconee Regional Health Services, Inc., a Georgia nonprofit corporation ("Oconee Services"), Oconee Regional Health Ventures, Inc., a Georgia for-profit corporation ("Ventures"), Oconee Regional Senior Living, Inc., a Georgia nonprofit corporation ("Senior Living"), and Oconee Regional Healthcare Foundation, Inc., a Georgia nonprofit corporation ("ORHF");

WHEREAS, as of the Effective Date, Oconee operates, through the Oconee Affiliates, a healthcare delivery system providing acute care and other healthcare services to patients in central Georgia (the "Operations");

WHEREAS, ORMC is a 140-bed acute care community hospital, with a 15-bed skilled nursing unit, located at 821 N. Cobb Street, Milledgeville, Georgia 31061 (the "Hospital"), which provides a wide range of inpatient and acute care services;

WHEREAS, Oconee Services is a nonprofit corporation whose primary purpose is to conduct activities that support the tax-exempt purposes of ORMC;

WHEREAS, Ventures is a for-profit corporation which operates and manages physician practices and other ancillary services through ORHV Sandersville Family Practice, LLC, Oconee Orthopedics, LLC, Oconee Internal Medicine, LLC, and Oconee Sleep and Wellness Center, LLC (ORMC, Oconee Services, Ventures, Senior Living, ORHF and each of the foregoing entities are referred to herein collectively as the "Oconee Affiliates" and each separately as an "Oconee Affiliate");

WHEREAS, the Baldwin Authority wishes to sell any interest it has in the Hospital and the personal property constituting the Purchased Assets, as well as the real property and improvements owned by the Baldwin Authority (the "Authority Real Property");

WHEREAS, Sellers determined that it is advisable and in the best interest of the community served by Oconee and the Hospital to enter into this Agreement, pursuant to which each Seller wishes to sell and assign to Navicent and Navicent wishes to purchase and assume from Sellers, substantially all the assets and certain specific liabilities of the Operations (the "Acquisition"), subject to the terms and conditions set forth herein;

WHEREAS, on May 10, 2017, the Sellers each filed voluntary Chapter 11 bankruptcy petitions in the United States Bankruptcy Court for the Middle District of Georgia (the "Bankruptcy Court") and the Sellers' Bankruptcy cases are jointly administered under Case No. 17-51005-AEC (the "Bankruptcy Case");

WHEREAS, this Agreement, the Acquisition and the other transactions contemplated by this Agreement are subject to the approval of the Bankruptcy Court pursuant to Sections 105, 363 and 365 of Title 11 of the United States Code (11 U.S.C. § 101, *et seq*.) (the "Bankruptcy Code");

WHEREAS, the Attorney General of the State of Georgia has set a hearing to consider whether to approve the Acquisition contemplated herein for July 19, 2017 in accordance with the Georgia Hospital Acquisition Act, O.C.G.A. § 31-7-400, *et seq.*;

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants, agreements and conditions hereinafter set forth, and intending to be legally bound hereby, each Party hereby agrees as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Specific Definitions. As used in this Agreement, the terms defined in the Definitions Addendum attached hereto shall have the meanings specified or referred to therein.

Section 1.2 Other Definitions. Other capitalized terms used herein have the meaning given to such terms in the body of the Agreement.

Section 1.3 Accounting Terms. All accounting terms not specifically defined herein shall be construed in accordance with GAAP.

ARTICLE II
PURCHASE AND SALE

Section 2.1 Purchase and Sale of Purchased Assets. Subject to the terms and conditions set forth herein, at the Closing, each Seller shall sell, assign, transfer, convey and deliver to Navicent, and Navicent shall purchase from each Seller, free and clear of any and all Liens of any kind or nature whatsoever (other than Permitted Liens and Assumed Liabilities), all of such Seller's right, title and interest in, to and under all of the assets, properties and rights of every kind and nature, whether real, personal or mixed, tangible or intangible (including goodwill), wherever located and whether now existing or hereafter acquired (other than the Excluded Assets), which relate to, or are used or held for use in connection with, the Operations (collectively, the "Purchased Assets"), including the following:

(a) all accounts or notes receivable of the Sellers and all rights to payment from third parties (including uncashed checks) and the full benefit of all security for such accounts or notes receivable and rights to payment (collectively, "Accounts Receivable"), except for the Jasper Receivable;

(b) all bank accounts and marketable securities of any Seller, including all escrows and reserves, except for the Designated Account;

(c) all supply inventory, pharmaceutical inventory, food, disposables, consumables, office and other supplies, spare, replacement and component parts and other inventories of the Operations ("Inventory");

(d) all Contracts set forth on Exhibit A hereto (collectively, the "Assigned Contracts"); provided, however, the Assigned Contracts shall include (i) all confidentiality agreements entered into by any Seller (or for the benefit of any Seller) with any potential purchaser of some or all of the Purchased Assets, and (ii) all Medicare or Medicaid provider agreements;

(e) all Intellectual Property Assets;

(f) all property, equipment, furniture, fixtures, equipment, fixed assets, furnishings, computer hardware, vehicles and other tangible personal property of the Operations, including all equipment and other personal property that is subject to a finance lease or capital lease (collectively, the "Tangible Personal Property");

(g) all Owned Real Property;

(h) all of the Sellers' equity and membership interests in Oconee Sleep and Wellness Center, LLC and Stratus Healthcare, LLC;

(i) all Licenses relating to the Hospital or the Operations, including Environmental Permits, listed on Section 2.1(h) of the Disclosure Schedules, but only to the extent such Licenses may be transferred under applicable Law;

(j) all prepaid expenses, credits, advance payments, security, deposits, charges, rebates, sums and fees, except for deposits made by any of the Sellers during the Bankruptcy Case pursuant to Section 366 of the Bankruptcy Code;

(k) each Seller's rights under warranties, indemnities, guarantees and all similar rights against third parties to the extent related to any Purchased Assets;

(l) originals, or where not available, copies, of all books and records, including patient records, books of account, ledgers and general, financial and accounting records, machinery and equipment maintenance files, customer lists, customer purchasing histories, price lists, distribution lists, supplier lists, production data, quality control records and procedures, customer complaints and inquiry files, research and development files, records and data (including all correspondence with any Governmental Authority), sales material and records, strategic plans, internal financial statements and marketing and promotional surveys, material and research, that relate to the Operations or the Purchased Assets, other than books and records set forth in Section 2.2(d) ("Books and Records"), subject to the right of Sellers to have reasonable access thereto as reasonably necessary to respond to governmental or other inquiries, to defend claims and for other reasonable legitimate reasons following reasonable request;

(m) all goodwill associated with any of the Purchased Assets;

(n) each Seller's Medicare and Medicaid provider numbers and lock box accounts;

(o) except (x) claims of any Seller against other Sellers or JHS, and (y) as provided in Section 2.2(i) and 2.2(n), all rights to causes of action, lawsuits, judgments, claims and demands of any nature available to or being pursued by Sellers, whether under federal or state law (including claims and causes of action arising under the Bankruptcy Code), and whether arising by way of counterclaim or otherwise, including, but not limited to, all rights of setoff and all rights and claims arising under (or relating to) the Assigned Contracts or Accounts Receivable (collectively, the "Assigned Causes of Action");

(p) all rights to any lump sum payments received after Closing payable by any governmental payor or programs such as Medicaid DSH, ICTF, UPL, Medicare DSH or similar programs regardless of whether such payments related to any services prior to Closing or are associated with the Hospital's status or designation related to pre-Closing services; and

(q) any other assets used in (or relating to) the Operations, including any rights of coverage or recovery under any insurance policies relating to the period prior to the Closing (except such rights of coverage or recovery which relate to the Tail Insurance) and any rights to any Tax refunds.

Section 2.2 Excluded Assets. Navicent expressly understands and agrees that is not purchasing or acquiring, and no Seller is selling or assigning, the following assets or properties which shall be excluded from the Purchased Assets (the "Excluded Assets"):

(a) all cash and cash equivalents, and any right to a return or refund of any deposits made by any of the Sellers during the Bankruptcy Case pursuant to Section 366 of the Bankruptcy Code;

(b) all Contracts that are not Assigned Contracts;

(c) each Seller's rights under warranties, indemnities and all similar rights against third parties to the extent related solely to any Excluded Assets;

(d) the corporate seals, organizational documents, minute books, stock books, tax ID numbers, or other records having to do with the corporate organization of any Seller, all employee-related or employee benefit-related files or records, other than personnel files of Transferred Employees, and any other books and records which any Seller is prohibited from disclosing or transferring to Navicent under applicable Law and is required by applicable Law to retain;

(e) the Tail Insurance, and, solely to the extent relating to Excluded Assets or the Excluded Liabilities, or otherwise not assignable or transferable, all insurance policies of each Seller and all rights to premium refunds thereunder;

(f) all Benefit Plans and trusts or other assets attributable thereto;

(g) any records related exclusively to the Excluded Assets or the Excluded Liabilities;

(h) any restricted use assets set forth on Section 2.2(h) of the Disclosure Schedules;

(i) all right, title and interest in and to all Transaction Professional Relationships, including any claims or causes of action held by any Seller against the professionals identified in this Section 2.2(i). In any dispute or proceeding arising under or in connection with this Agreement following Closing, each Seller and its respective Affiliates will have the right, at their election, to retain any of the counsel, accountants, investment bankers, consultants, or advisers with whom such Seller has established Transaction Professional Relationships, including the law firms of James-Bates-Brannan-Groover LLP and Bryan Cave LLP, the accounting firm of Dixon Hughes Goodman LLP and Grant Thornton and the investment banking firm of Houlihan Lokey Capital, Inc., on such Seller's (or its Affiliate's) behalf with respect to any such matter;

(j) any interest in any monies, securities or funds held under the indentures and other documents evidencing or securing the 1998 Bonds, the 2016 Bonds or the 2017 Bonds;

(k) the rights which accrue or will accrue to Sellers under the Transaction Documents;

(l) any amounts due or accounts receivable due to any Seller from JHS (the "Jasper Receivable");

(m) any and all assets owned by JHS;

(n) any and all actions, causes of action, claims, demands, suits, or rights, created or arising in favor of the Sellers or their bankruptcy estates, under Section 510 or any of Sections 544, 547, 548, 549, 550 or 551 of the Bankruptcy Code, except any such claims and causes of action against (i) the non-debtor parties to the Assigned Contracts, or (ii) any Transferred Employee or any other employee of Navicent, Navicent or its Affiliates (it being understood that the claims and causes of action referenced in clauses (i) - (ii) shall constitute Assigned Causes of Action).

(o) the Participation Agreement and the Oconee Regional Health Systems Segregated Portfolio;

(p) the nonprofit membership interest held by Oconee in JHS and all equity interests and nonprofit membership interests in each Seller; and

(q) any Seller Healthcare Program Receivables.

Section 2.3 Assumed Liabilities. Except as specifically set forth in the following sentence, Navicent shall not assume, in connection with the transactions contemplated hereby or otherwise, any liability or obligation of Sellers whatsoever, and Sellers shall retain responsibility for all liabilities and obligations accrued as of, on or after the Closing Date and all liabilities and obligations arising from Sellers' operations prior to, on, or after the Closing Date, whether or not accrued and whether or not disclosed. As the sole exceptions to the preceding sentence, subject to the terms and conditions set forth herein, Navicent shall assume as of the Closing and agree to pay, perform and discharge only the following liabilities of Sellers (collectively, the "Assumed Liabilities"), and no other liabilities:

(a) All of the Sellers' WARN Act liabilities which arise at or after Closing, if any;

(b) all liabilities and obligations arising under or relating to the Assigned Contracts, but only to the extent such liabilities and obligations (i) are not required to be performed prior to the Closing Date, (ii) are disclosed on the face of such Assigned Contracts, (iii) arise, accrue and relate to the operations of the Purchased Assets subsequent to the Closing Date, and (iv) are not related to any default, breach or other obligation relating to or arising prior to Closing; and

(c) the Specified Employee Obligations. Not less than five (5) Business Days prior to the anticipated Closing Date, Sellers shall deliver to Navicent a statement (the "Employee Liability Statement") signed by the Chief Financial Officer of Oconee (on behalf of and in the name of Sellers) setting forth detail by Transferred Employee with respect to each component of the Specified Employee Obligations. Navicent shall be entitled to review the Employee Liability Statement and shall have reasonable access to Sellers' books and records relating to the preparation of the Employee Liability Statement. Sellers shall make such changes to the Employee Liability Statement, if any, as are reasonably requested by Navicent. Navicent shall not assume or be responsible or liable for any claims or liabilities of the Employees except to the extent set forth in the Employee Liability Statement and as otherwise provided in this Agreement.

Section 2.4 Excluded Liabilities. Specifically, and without in any way limiting the generality of Section 2.3, the Assumed Liabilities shall not include, and in no event shall Navicent be obligated to pay, discharge or satisfy any liability, claim or obligation or otherwise have any responsibility for any liability, claim or obligation (together with all other claims and liabilities that are not Assumed Liabilities, the "Excluded Liabilities"):

(a) relating to, resulting from, or arising out of (including accounts payable) the Operations or the Purchased Assets prior to Closing;

(b) for (i) Taxes with respect to any period or (ii) any liability of Sellers for unpaid Taxes of any Person under Treasury Regulation Section 1.1502-6 (or any similar provisions of state, local or foreign law), as a transferee or successor, by contract or otherwise;

(c) relating to, resulting from, or arising out of (i) claims made in pending or future suits, actions, investigations or other legal, governmental or administrative proceedings or (ii) claims based on violations of law, breach of contract, employment practices or environmental, health and safety matters or any other actual or alleged failure of Sellers to perform any obligation, in each case arising out of, or relating to, (A) events that shall have occurred, (B) services performed, or (C) the conduct of the Operations, prior to the Closing;

(d) arising out of or relating to any Seller's relationship with JHS;

(e) pertaining to any Excluded Asset;

(f) relating to, resulting from, or arising out of, any former operation of Sellers unrelated to the Operations that has been discontinued or disposed of prior to the Closing;

(g) subject to applicable Law, owed or payable to, or which may be withheld from future payments by, any Governmental Authority, including the Centers for Medicare and Medicaid Services, the Department of Justice, or the Division of Medical Assistance of the Georgia Department of Community Health, under the Medicare, Medicaid, federal employee health plan, or other federal or state governmental healthcare programs and arising out of or related to incidents, facts or circumstances, including the operation of the Hospital, occurring or arising prior to the Closing, including overpayments, recoupments (including recoupments due to the Georgia Department of Community Health arising out of any claims processing issues associated with the Georgia Medicaid program), retroactive lump sum payment adjustments relating to billings for services rendered prior to the Closing, penalties, interest, amounts payable in settlement of any cost report (including the terminating cost report for the Hospital and any prior year's cost report for the Hospital), penalties and other amounts payable with respect to any violation or alleged violation of the terms and conditions for participation under Medicare, Medicaid or any other governmental program;

(h) subject to applicable Law, owed or payable to, or which may be withheld from future payments by, any third party payors, health maintenance organizations, managed care plans or other similar entities (including overpayments, recoupments, or penalties) and arising out of or related to any incident, facts or circumstances, including the Operations, occurring or arising prior to the Closing;

(i) under or relating to any Benefit Plan or ERISA Affiliate plan, including any retirement plan, whether or not such liability or obligation arises prior to, on, or following the Closing Date;

(j) for Cure Costs;

(k) of Sellers arising or incurred in connection with the negotiation, preparation and execution hereof and the transactions contemplated hereby and any fees and expenses of counsel, accountants, investment bankers, brokers, financial advisors or other experts of Sellers; or

(l) all liabilities and obligations related to the Participation Agreement and the Oconee Regional Health System Segregated Portfolio.

Section 2.5 Purchase Price and Good Faith Deposit.

(a) Purchase Price. The total consideration Navicent shall pay the Sellers for the Purchased Assets shall equal (i) Twelve Million Two Hundred Thousand and No/100 Dollars ($12,200,000.00) (the "Purchase Price"), plus (ii) with respect to each Assigned Contract, the Cure Costs allocated to such Assigned Contract, in each case in an amount that does not exceed the amount for such Contract as set forth on Exhibit A (it being understood that, in the event the actual Cure Costs for any Assigned Contract exceed the amount forth on Exhibit A for such Contract, Sellers shall have sole responsibility for funding such excess); plus (iii) the Tail Coverage Insurance Amount; plus (iv) the Breakup Fee and the maximum Expense Reimbursement payable by the Sellers to Prime under the Bidding Procedures Order in the total amount of Six Hundred Thousand and No/100 Dollars ($600,000.00); plus (v) if the Specified Employee Obligations Variance is a positive number, such amount; minus (vi) if the Specified Employee Obligations Variance is a negative number, such amount (the "Total Consideration"). The Total Consideration minus the Good Faith Deposit (the "Closing Payment") shall be paid to the Sellers at the Closing by wire transfer of immediately available funds to an account designated in writing by the Sellers.

(b) Good Faith Deposit. Prior to or contemporaneous with the transmission of this signed Agreement to the Sellers, Navicent has wired to the Sellers an amount equal to Five Hundred Thousand and No/100 Dollars ($500,000.00), which amount shall constitute Navicent's good faith deposit under this Agreement (the "Good Faith Deposit"). In the event the Sale Order is not entered by the Bankruptcy Court on or before July 6, 2017, the Good Faith Deposit shall be returned to Navicent by the Sellers such that the Good Faith Deposit is received by Navicent by no later than July 6, 2017. If, following the entry of the Sale Order by the Bankruptcy Court, the Agreement is validly terminated pursuant to Section 8.1(c)(i), the Sellers shall be permitted to retain the Good Faith Deposit, it being understood that the Good Faith Deposit shall be deemed liquidated damages in favor of the Sellers and shall not be construed as a penalty; it being agreed that Sellers' actual damages are impossible to estimate and that the amount of liquidated damages is a good faith estimate of the actual damages that would be suffered by the Sellers as a result of a termination of this Agreement pursuant to Section 8.1(c)(i), and that such liquidated damages shall be in lieu of any other right or remedy of the Sellers and shall constitute the sole and exclusive remedy of the Sellers with respect to matters that arise prior to Closing. Except as described in the previous sentence, the Good Faith Deposit shall be returned to Navicent via wire transfer within three (3) Business Days after any termination of the Agreement pursuant to Section 8.1.

Section 2.6 Transfer of Real Property. At the Closing, Sellers and the Baldwin Authority shall transfer or cause to be transferred to Navicent the Authority Real Property, free and clear of any and all Liens (other than Permitted Liens). The Authority Real Property shall be transferred and conveyed to Navicent in accordance with the Real Property Transfer Agreement, the form of which is attached hereto as Exhibit B, with such changes which the intended parties thereto expressly agree upon (the "Baldwin Real Property Transfer Agreement"), which Baldwin Real Property Transfer Agreement shall be executed and delivered by the Baldwin Authority and Navicent at Closing.

Section 2.7 Reconstituted Board of ORHF. At the Closing, Sellers shall deliver to Navicent resignations from all existing board members of the Board of Directors or ORHF, which shall be effective as of the Closing. After the Closing, the Board of Directors of ORHF shall consist of individuals appointed by Navicent and set forth in Section 2.7 of the Disclosure Schedules.

Section 2.8 Allocation of Purchase Price. Each Seller and Navicent agree that the Purchase Price and applicable liabilities of each Seller (plus other relevant items) shall be allocated among the assets of such Seller for all purposes (including Tax and financial accounting) as shown on an allocation schedule as set forth on Section 2.8 of the Disclosure Schedules (the "Allocation Schedule") in a manner

consistent with Section 1060 of the Code and the Treasury Regulations thereunder. A draft of each Allocation Schedule shall be prepared by Navicent, with appropriate assistance by third party advisors, and delivered to Sellers. If any Seller notifies Navicent in writing that such Seller objects to one or more items reflected in the Allocation Schedule, Navicent and such Seller shall negotiate in good faith to resolve such dispute and finalize the applicable Allocation Schedule within sixty (60) days following the Closing Date. Navicent, each Seller and their respective Affiliates shall report, act, and file all Tax Returns (including IRS Form 8594 and any appropriate amendments thereto in accordance with the applicable Allocation Schedule) and information reports in a manner consistent with the applicable Allocation Schedule; provided, however, that if Navicent and any Seller are unable to reach a resolution with respect to the applicable Allocation Schedule within such 60-day period, then Navicent and such Seller shall be free to allocate the Purchase Price and applicable liabilities of such Sellers (plus other relevant items) in a manner reasonably determined by such Party.

Section 2.9 Non-Assignable Assets. Notwithstanding anything to the contrary in this Agreement, and subject to the provisions of this Section 2.9, to the extent that the sale, assignment, transfer, conveyance or delivery, or attempted sale, assignment, transfer, conveyance or delivery, to Navicent of any Purchased Asset would result in a violation of applicable Law, or would require the consent, authorization, approval or waiver of a Person who is not a party to this Agreement or an Affiliate of a party to this Agreement (including any Governmental Authority), and such consent, authorization, approval or waiver shall not have been obtained prior to the Closing, this Agreement shall not constitute a sale, assignment, transfer, conveyance or delivery, or an attempted sale, assignment, transfer, conveyance or delivery, thereof; provided, however, that, subject to the satisfaction or waiver of the conditions contained in Article VII, the Closing shall occur notwithstanding the foregoing without any adjustment to the Purchase Price on account thereof. Following the Closing, Sellers and Navicent shall use commercially reasonable efforts, and shall cooperate with each other in good faith, to obtain any such required consent, authorization, approval or waiver, or any release, substitution or amendment required to novate all liabilities and obligations under any and all Assigned Contracts or other liabilities that constitute Assumed Liabilities or to obtain in writing the unconditional release of all parties to such arrangements, so that, in any case, Navicent shall be solely responsible for such liabilities and obligations; provided, however, that neither Sellers nor Navicent shall be required to pay any consideration therefor. Once such consent, authorization, approval, waiver, release, substitution or amendment is obtained, Sellers shall sell, assign, transfer, convey and deliver to Navicent the relevant Purchased Asset to which such consent, authorization, approval, waiver, release, substitution or amendment relates for no additional consideration. Applicable sales, transfer and other similar Taxes in connection with such sale, assignment, transfer, conveyance or license shall be paid by Navicent in accordance with Section 6.12.

Section 2.10 Revisions to Assigned Contracts. Notwithstanding anything in this Agreement to the contrary, Navicent may revise Exhibit A any time prior to the Closing (it being understood that if Navicent submits additional higher bid(s) during the Auction, it may revise the list of Assigned Contracts as contemplated by this Section 2.10 in connection with any such bid submission), by in each case giving written notice to the Sellers, in order to (i) exclude from the definition of Assigned Contracts and associated Assumed Liabilities, and include in the definition of Excluded Assets and associated Excluded Liabilities, as applicable, any Contract not otherwise excluded therefrom; or (ii) to include in the definition of Assigned Contracts and associated Assumed Liabilities, and exclude from the definition of Excluded Assets and associated Excluded Liabilities, as applicable, any Contract not otherwise included therein, and the Sellers agree to give required notice to any of the non-debtor parties to any such Contract or as otherwise reasonably requested by Navicent; provided, however, that any such exclusion or inclusion shall not (A) serve to reduce, increase or otherwise affect the amount of the Purchase Price; or (B) cause Navicent's treatment of the Assigned Contracts under this Agreement to violate Paragraph 3(a)(v) of the Bidding Procedures Order or any other provision of the Bidding Procedures Order.

Section 2.11 No Successors. Navicent shall not be deemed, as a result of any action taken in connection with the purchase of the Purchased Assets and the Authority Real Property or the operation of the Purchased Assets, the Authority Real Property and the Operations from and after the Closing, to: (a) be a successor, successor employer, or successor in interest (or other similarly situated party) to any of the Sellers or the Baldwin Authority; (b) have, *de facto* or otherwise, merged with or into any of Sellers or the Baldwin Authority; or (c) be a continuation or substantial continuation of Sellers, the Baldwin Authority or any business or operations of Sellers or the Baldwin Authority.

ARTICLE III
CLOSING

Section 3.1 Closing. Subject to the terms and conditions of this Agreement, the consummation of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Alston & Bird LLP, 1201 West Peachtree Street, Atlanta, Georgia 30309, at 10:00 a.m. Eastern Standard Time, on the second (2nd) Business Day after all of the conditions to Closing set forth in Article VII are either satisfied or waived (other than conditions which, by their nature, are to be satisfied on the Closing Date), to be effective at 12:01 a.m. on such day, or at such other time, date or place as Sellers and Navicent may mutually agree upon in writing. The date on which the Closing is to occur is herein referred to as the "Closing Date."

Section 3.2 Closing Deliverables.

(a) At the Closing, Sellers shall deliver to Navicent the following:

(i) Bills of sale in a form agreed to by the Parties and their counsel (each, a "Bill of Sale") and duly executed by the applicable Sellers, transferring the tangible personal property and the Intellectual Property to Navicent;

(ii) Assignment and assumption agreements in a form agreed to by the Parties and their counsel (each, an "Assignment and Assumption Agreement") and duly executed by the applicable Sellers, effecting the transfer and conveyance to and assumption by Navicent of the Purchased Assets and Assumed Liabilities, which Assignment and Assumption Agreements must include assignments of Intellectual Property;

(iii) With respect to each parcel of Owned Real Property, a limited warranty deed in a form agreed to by the Parties and their counsel (each, a "Deed"), and duly executed and notarized by the applicable Sellers;

(iv) With respect to each Lease that constitutes an Assigned Contract, an Assignment and Assumption of Lease in a form agreed to by the Parties and their counsel (each, an "Assignment and Assumption of Lease"), duly executed and notarized (as applicable) by the applicable Sellers;

(v) the Seller Closing Certificates;

(vi) the FIRPTA Certificates;

(vii) the certificates of the Secretary (or equivalent officer) of each Seller required by Section 7.2(g);

(viii) the Baldwin Real Property Transfer Agreement duly executed by the Baldwin Authority;

(ix) all additional closing documents required to be delivered by the Baldwin Authority pursuant to the Baldwin Real Property Transfer Agreement as part of the conveyance of the Authority Real Property;

(x) written evidence satisfactory to Navicent that (A) the Authority Lease Agreement has been terminated, (B) the Baldwin Authority has waived any and all right to receive upon the termination of the Authority Lease Agreement pursuant to any reversion or other clause, including, without limitation, the reversion provisions of Section 12.8 of the Authority Lease Agreement, any of the Purchased Assets (other than the Leased Facilities (as defined in the Authority Lease Agreement)), including, without limitation, any Purchased Assets included in the Existing Operations (as defined in the Authority Lease Agreement) and the Lessee Related Operations (as defined in the Authority Lease Agreement).

(xi) a legal opinion from counsel to the Baldwin Authority in the form attached hereto as Exhibit C;

(xii) all books and records relating to the establishment, preservation, maintenance or enforcement of the Intellectual Property identified pursuant to Section 4.10(a); and all books and records relating to the Intellectual Property Agreements identified pursuant to Section 4.10(a);

(xiii) transfer documents reasonably acceptable to Navicent transferring all of the Sellers' equity and membership interests in Oconee Sleep and Wellness Center, LLC and Stratus Healthcare, LLC to Navicent; and

(xiv) such other customary instruments of transfer, assumption, filings or documents, in form and substance reasonably satisfactory to Navicent, as may be requested by Navicent to give effect to this Agreement.

(b) At the Closing, Navicent shall deliver to Sellers the following:

(i) the Closing Payment;

(ii) the Assignment and Assumption Agreement duly executed by Navicent;

(iii) a written release reasonably sufficient to release all claims held by Navicent against the Baldwin Authority, the Sellers and their bankruptcy estates, and any other obligors or guarantors thereunder arising from (1) the Subordinate Secured Promissory Note between certain of the Sellers or affiliates thereof and Navicent dated March 21, 2016 in the principal amount of One Hundred Thousand and No/100 Dollars ($100,000.00); or (2) the Subordinate Unsecured Promissory Note between certain of the Sellers or affiliates thereof and Navicent dated March 21, 2016 in the principal amount of One Hundred Fifty Thousand and No/100 Dollars ($150,000.00);

(iv) with respect to each Lease that constitutes an Assigned Contract, an Assignment and Assumption of Lease duly executed and notarized by Navicent;

(v) the Navicent Closing Certificate;

(vi) the Baldwin Real Property Transfer Agreement duly executed by Navicent;

(vii) all closing documents required to be delivered by Navicent pursuant to the Baldwin Real Property Transfer Agreement as part of the conveyance of the Authority Real Property;

(viii) certificates of the Secretary (or equivalent officer) of Navicent required by Section 7.3(e) and Section 7.3(f);

(ix) written evidence reasonably satisfactory to Sellers that Navicent has complied with its obligations in Section 6.11; and

(x) such other customary instruments of transfer, assumption, filings or documents, in form and substance reasonably satisfactory to Sellers, as may be required to give effect to this Agreement.

(c) At Closing, Navicent shall pay the Closing Payment as set forth in Section 2.5(a) as directed by Sellers.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the Disclosure Schedules, each Seller, with respect to itself and the other Sellers, jointly and severally represents and warrants to Navicent that the statements contained in this Article IV are true and correct as of the Effective Date and as of the Closing.

Section 4.1 Organization and Qualification of Sellers.

(a) Each Seller is duly organized, validly existing and in good standing under the Laws of the State of Georgia and has all necessary corporate power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on the Operations as currently conducted. Each Seller is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the ownership of the Purchased Assets or the operation of the Operations as currently conducted makes such licensing or qualification necessary.

(b) The Baldwin Authority is duly organized under the Georgia Hospital Authorities Law, is validly existing and in good standing under the Laws of the State of Georgia and has all necessary power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on the Operations as currently conducted. The Baldwin Authority is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the ownership of the Authority Real Property or the operation of the Operations as currently conducted makes such licensing or qualification necessary.

Section 4.2 Authority of Sellers.

(a) Subject to entry of the Sale Order in the Bankruptcy Case, each Seller has all necessary corporate power and authority to enter into this Agreement and the other Transaction Documents to which it is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by each Seller of this Agreement and any other Transaction Document to which such Seller is a party, the performance by each Seller of its obligations hereunder and thereunder and the consummation by each Seller of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of each Seller;

(b) The Baldwin Authority has all necessary power and authority to enter into this Agreement and the other Transaction Documents to which the Baldwin Authority is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and

thereby. The execution and delivery by the Baldwin Authority of this Agreement and any other Transaction Document to which the Baldwin Authority is a party, the performance by the Baldwin Authority of its obligations hereunder and thereunder and the consummation by the Baldwin Authority of the transactions contemplated hereby and thereby have been duly authorized by all requisite hospital authority action on the part of the Baldwin Authority.

(c) Subject to entry of the Sale Order in the Bankruptcy Case, this Agreement has been duly executed and delivered by each Seller, and (assuming due authorization, execution and delivery by the other Parties) this Agreement constitutes a legal, valid and binding obligation of each Seller, enforceable against such Seller in accordance with its terms. When each other Transaction Document to which any Seller is or will be a party has been duly executed and delivered by such Seller (assuming due authorization, execution and delivery by each other party thereto), such Transaction Document will constitute a legal and binding obligation of such Seller enforceable against it in accordance with its terms.

Section 4.3 No Conflicts; Consents. Subject to entry of the Bidding Procedures Order and the Sale Order in the Bankruptcy Case, the execution, delivery and performance by each Seller of this Agreement and the other Transaction Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) result in a violation or breach of (i) any provision of the certificate of incorporation or by-laws of such Seller or the organizing resolutions or bylaws of the Baldwin Authority, or (ii) any provision in the governing documents of the Baldwin Authority; (b) result in a violation or breach of any provision of any Law or Governmental Order applicable to any Seller, the Operations or the Purchased Assets; or (c) except as set forth in Section 4.3 of the Disclosure Schedules, require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any Material Contract; except in the cases of clauses (b) and (c), where the violation, breach, conflict, default, acceleration or failure to give notice would not have a Material Adverse Effect. No consent, approval, License, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to any Seller in connection with the execution and delivery of this Agreement or any of the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, except for such filings as set forth in Section 4.3 of the Disclosure Schedules.

Section 4.4 Financial Statements. Copies of the audited financial statements consisting of the consolidated balance sheet of Oconee and its Affiliates (as such term is defined in the Audited Financial Statements) as at September 30 in each of the years 2014, and 2015 and the consolidated statements of operations and changes in unrestricted net assets, consolidated statement of cash flows, consolidated statement of changes in net assets and statement of operations for the years then ended (the "Audited Financial Statements"), and unaudited financial statements consisting of the balance sheet of the Operations as at March, 2017 and the related statements of income and retained earnings, and cash flow for the 12 month period then ended (the "Interim Financial Statements" and, together with the Audited Financial Statements, the "Financial Statements") have been delivered or made available to Navicent in the Data Room. Subject to the notes and other presentation items contained therein, the Financial Statements have been prepared in accordance with GAAP applied on a consistent basis throughout the period involved, subject, in the case of the Interim Financial Statements, to normal and recurring year-end adjustments and the absence of notes. The Financial Statements fairly present in all material respects the financial condition of the Operations as of the respective dates they were prepared and the results of the operations of the Operations for the periods indicated. The balance sheet of the Operations as of September 30, 2016 is referred to herein as the "Balance Sheet" and the date thereof as the "Balance Sheet Date" and the balance sheet of the Operations as of March 31, 2017 is referred to herein as the "Interim Balance Sheet" and the date thereof as the "Interim Balance Sheet Date."

Section 4.5 Absence of Certain Changes, Events and Conditions. Except as expressly contemplated by this Agreement or as set forth in Section 4.5 of the Disclosure Schedules, from the Interim Balance Sheet Date until the date of this Agreement, such Seller has operated the Operations in the ordinary course of business in all material respects and there has not been, with respect to the Operations, any:

(a) incurrence of any Indebtedness for borrowed money in connection with the Operations in an aggregate amount exceeding One Hundred Thousand and No/100 Dollars ($100,000.00), except unsecured current obligations and liabilities incurred in the ordinary course of business and the 2017 Bonds;

(b) sale or other disposition of any of the assets shown or reflected in the Interim Balance Sheet, except for the sale of inventory in the ordinary course of business and except for any assets having an aggregate value of less than Ten Thousand and No/100 Dollars ($10,000.00);

(c) cancellation of any debts or claims or amendment, termination or waiver of any rights constituting Purchased Assets, except in the ordinary course of business;

(d) capital expenditures in an aggregate amount exceeding One Hundred Thousand and No/100 Dollars ($100,000.00);

(e) imposition of any Lien upon any of the Purchased Assets, except in the ordinary course of business or in connection with any debtor-in-possession funding arrangement in the Bankruptcy Case;

(f) increase in the compensation of any Employees, except as set forth in any order entered by the Bankruptcy Court with respect to the Motion for an Order Authorizing the Implementation of a Non-Insider Employee Retention Plan filed by the Sellers in the Bankruptcy Case, which increase shall not exceed One Hundred Thousand and No/100 Dollars ($100,000.00);

(g) adoption, termination, amendment or modification of any Benefit Plan;

(h) adoption of any plan of merger, consolidation, reorganization, liquidation or dissolution;

(i) purchase or other acquisition of any property or asset that constitutes a Purchased Asset for an amount in excess of One Hundred Thousand and No/100 Dollars ($100,000.00) except for purchases of inventory or supplies in the ordinary course of business;

(j) any Material Adverse Effect on the Operations; or

(k) any agreement to do any of the foregoing, or any action or omission that would result in any of the foregoing.

Section 4.6 Material Contracts.

(a) Section 4.6(a) of the Disclosure Schedules lists each of the following Contracts (x) by which any of the Purchased Assets are bound or affected or (y) to which any Seller is a party or by which it is bound in connection with the Operations or the Purchased Assets (together with all Leases listed in Section 4.9(b) of the Disclosure Schedules and all Intellectual Property Agreements listed in Section 4.10(a) of the Disclosure Schedules, collectively, the "Material Contracts"):

(i) all Contracts involving aggregate consideration in excess of One Hundred Thousand and No/100 Dollars ($100,000.00) or requiring performance by any party more than one year from the date hereof, which, in each case, cannot be cancelled without penalty or without more than ninety (90) days' notice;

(ii) all Contracts that relate to the sale of any of the Purchased Assets, other than in the ordinary course of business, including any Contracts and agreements granting to any Person an option or a first refusal, first-offer or similar preferential right to purchase or acquire any of the Purchased Assets;

(iii) all Contracts that relate to the acquisition of any business, a material amount of stock or assets of any other Person or any real property (whether by merger, sale of stock, sale of assets or otherwise);

(iv) except for agreements relating to trade payables, all Contracts relating to Indebtedness (including guarantees), in each case having an outstanding principal amount in excess of Fifty Thousand and No/100 Dollars ($50,000.00);

(v) all Contracts between or among any Seller on the one hand and any Affiliate of any Seller on the other hand;

(vi) all leases relating to the Leased Real Property or other leases or licenses involving any properties or assets (whether real, personal or mixed, tangible or intangible) involving an annual commitment or payment of more than Fifty Thousand and No/100 Dollars ($50,000.00) individually;

(vii) all Contracts with third party payors, health maintenance organizations, managed care plans or other similar entities;

(viii) all Contracts with Medicare, Medicaid or any other federal or state healthcare program;

(ix) all material Contracts providing for the transfer of patients to or from the Hospital;

(x) all Contracts providing for the affiliation of the Hospital with any educational or similar institution;

(xi) all material Contracts with physicians or other Persons referring, or in a position to refer, patients to the Operations;

(xii) all material Contracts relating to participation in any network of healthcare providers;

(xiii) all material Contracts that limit or restrict any Seller or any officers or key employees of any Seller from engaging in any business in any jurisdiction;

(xiv) all material Contracts for capital expenditures or the acquisition or construction of fixed assets requiring the payment by any Seller of an amount in excess of Fifty Thousand and No/100 Dollars ($50,000.00);

(xv) all Contracts that provide for an increased payment or benefit, or accelerated vesting, upon the execution hereof or the Closing or in connection with the transactions contemplated hereby;

(xvi) all Contracts granting any Person a Lien on all or any part of any Purchased Assets;

(xvii) all Contracts for the cleanup, abatement or other actions in connection with any Hazardous Materials, the remediation of any existing environmental condition or relating to the performance of any environmental audit or study;

(xviii) all material Contracts with any agent, distributor or representative that are not terminable without penalty on thirty (30) days' or less notice;

(xix) all material Contracts for the granting or receiving of a license, sublicense or franchise or under which any Person is obligated to pay or has the right to receive a royalty, license fee, franchise fee or similar payment;

(xx) all Contracts providing for the indemnification or holding harmless of any officer, director, employee or other Person;

(xxi) all joint venture or partnership Contracts and all other Contracts providing for the sharing of any profits;

(xxii) all material Contracts for the provision of goods or services by or to any Seller;

(xxiii) all material settlement agreements;

(xxiv) all outstanding powers of attorney empowering any Person to act on behalf of any Seller; and;

(xxv) all existing Contracts and commitments (other than those described in subsections (i) through (xxiv) of this Section 4.6(a)) to which any Seller is a party or by which its properties or assets are bound that are material to the Operations, individually or in the aggregate.

(b) Sellers have provided to Navicent true, correct and complete copies of all Material Contracts. The Material Contracts are legal, valid, binding and enforceable in accordance with their respective terms with respect to Sellers and each other party to the Material Contracts.

(c) Except as set forth in Section 4.6(c) of the Disclosure Schedules, there is no existing default or breach of any Seller under any Material Contract (or event or condition that, with notice or lapse of time or both could constitute a default or breach) and there is no such breach or default (or event or condition that, with notice or lapse of time or both, could constitute a default or breach) with respect to any third party to any Contract, except for such breaches or defaults that would not have a Material Adverse Effect. No Seller is participating in any discussions or negotiations outside of the normal course of business regarding modification of or amendment to any Material Contract or entry in any new material contract applicable to the Operations or the Purchased Assets.

Section 4.7 Title to Purchased Assets. The Purchased Assets constitute all of the assets necessary and sufficient to conduct the Operations in accordance with Sellers' past practices (other than the Excluded Assets). As of the Closing Date, Sellers will have and will convey to Navicent good and

marketable title to the Purchased Assets (including leasehold interests as applicable), free and clear of any and all Liens (other than Permitted Liens and Assumed Liabilities). Substantially all equipment and other items of tangible personal property and assets included in the Purchased Assets (a) are in good operating condition and in a state of good maintenance and repair, ordinary wear and tear excepted, (b) are usable in the regular and ordinary course of business and (c) conform to all applicable Laws in all materials respects. No Person other than Sellers owns any equipment or other tangible personal property or assets situated on the premises of Sellers that are necessary to the Operations, except for leased items that are subject to personal property leases. Section 4.7 of the Disclosure Schedules sets forth a true, correct and complete list and general description of each item of tangible personal property having a book value of more than Ten Thousand and No/100 Dollars ($10,000.00).

Section 4.8 Inventory. The Inventory of Sellers (a) is sufficient for the operation of the Operations in the ordinary course consistent with past practice, (b) consists of items that are good and merchantable within normal trade tolerances, (c) is of a quality and quantity presently usable or saleable in the ordinary course of the Operations, and (d) is subject to reserves determined in accordance with GAAP consistently applied.

Section 4.9 Real Property.

(a) Section 4.9(a) of the Disclosure Schedules sets forth a legal description of all real property owned by such Seller and used in connection with the Operations (collectively, the "Owned Real Property"). The applicable Seller has fee simple title to the Owned Real Property, subject to those Liens set forth in Section 4.9(a) of the Disclosure Schedules.

(b) Section 4.9(b) of the Disclosure Schedules sets forth all real property leased by any Seller and used in connection with the Operations (collectively, the "Leased Real Property"), and a list, as of the date of this Agreement, of all leases for each parcel of Leased Real Property (collectively, the "Leases").

(c) No Seller has received any written notice of existing, pending or threatened (i) condemnation proceedings affecting the Real Property, or (ii) zoning, building code or other moratorium proceedings, or similar matters which would reasonably be expected to materially and adversely affect the ability to operate the Real Property as currently operated. Neither the whole nor any portion of any Real Property has been damaged or destroyed by fire or other casualty.

(d) Section 4.9(d) of the Disclosure Schedules sets forth a legal description of the Authority Real Property.

Section 4.10 Intellectual Property.

(a) Section 4.10(a) of the Disclosure Schedules lists (i) all Intellectual Property Registrations owned by or on behalf of any of the Sellers; (ii) all material Intellectual Property which is not covered by any Intellectual Property Registration identified pursuant Section 4.10(a)(i) but which is owned by or on behalf of any of the Sellers; (iii) all material Intellectual Property which is used in the Operations which is not identified pursuant to Section 4.10(a)(i) or 4.10(a)(ii); and (iv) all Intellectual Property Agreements relating to any Intellectual Property that is (1) owned by or on behalf of any of the Sellers; or (2) used in the Operations. Except as would not have a Material Adverse Effect, such Seller (i) owns all Intellectual Property identified in Section 4.10(a) and has the right to use all such Intellectual Property; and (ii) to the extent such Seller does not own any such Intellectual Property, Seller has a valid, enforceable license to use such Intellectual Property under the Intellectual Property Agreements. Sellers have implemented policies and procedures reasonably designed to establish and preserve Sellers' ownership of, and to

establish and maintain, the Intellectual Property identified pursuant to Section 4.10(a)(i) and 4.10(a)(ii), and have exercised commercially reasonable efforts with respect to all such policies and procedures.

(b) The conduct of the Operations as currently conducted does not infringe, misappropriate, dilute or otherwise violate the Intellectual Property of any Person and no Person is infringing, misappropriating or otherwise violating any Intellectual Property Assets. All of the Intellectual Property identified in Section 4.10(a)(i), (ii) or (iii) is valid, enforceable and in good standing, and none of the Intellectual Property Registrations identified pursuant to Section 4.10(a)(i) have lapsed or expired.

Section 4.11 Legal Proceedings; Governmental Orders.

(a) Except as set forth in Section 4.11(a) of the Disclosure Schedules, there are no actions, suits, claims, investigations or other legal proceedings pending or, to such Seller's Knowledge, threatened against or by any Seller relating to or affecting the Operations or the Purchased Assets.

(b) Except as set forth in Section 4.11(b) of the Disclosure Schedules, there are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against or affecting the Operations or the Purchased Assets.

Section 4.12 Compliance with Laws; Licenses.

(a) Such Seller is in compliance in all material respects with all Laws applicable to the conduct of the Operations as currently conducted or the ownership and use of the Purchased Assets.

(b) All Licenses required for such Seller to conduct the Operations in all material respects as currently conducted or for the ownership and use of the Purchased Assets have been obtained by such Seller and are valid and in full force and effect. Section 4.12(b) of the Disclosure Schedules sets forth a true, correct and complete list of all Licenses held by each Seller.

Section 4.13 Regulatory Compliance. Except as set forth in Section 4.13 of the Disclosure Schedules:

(a) The Operations have been conducted and operated in compliance in all material respects with, and such Seller's contracts and financial arrangements with physicians and other referral sources (including ownership interests and compensation relationships between each Seller and physicians as defined in 42 U.S.C. § 1395nn and regulations adopted pursuant thereto) are in compliance with: (i) the federal statutes regarding kickbacks and health professional self-referrals in connection with federal and state health care programs, 42 U.S.C. § 1320a-7b, 42 U.S.C. § 1395nn and 42 U.S.C. § 1396b, and the regulations promulgated pursuant to such statutes; (ii) 42 U.S.C. § 1320a-7a(b) regarding payments to induce reduction or limitation of services; (iii) any state and local statutes and regulations regarding kickbacks and health professional self-referrals, including the Georgia Patient Self-Referral Act (O.C.G.A. § 43-1B-1 et seq.); and (iv) the Federal False Claims Act, 31 U.S.C. §3729 et seq.

(b) Such Seller is in compliance in all material respects with all applicable Healthcare Information Laws.

(c) Such Seller has in all material respects complied with all applicable Laws in connection with the Baldwin Authority's transfer to (and Seller's transfer to the Baldwin Authority for such purpose) and corresponding filings with the Georgia Department of Community Health for purposes of obtaining Medicaid Disproportionate Share Funds and Upper Payment Limit funding, including Pub. L. No. 102-

134, 42 C.F.R. Parts 433 and 447 and Article 6 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated, in each case as amended.

Section 4.14 Reimbursement Programs.

(a) The Sellers, the Hospital and to the Knowledge of Sellers, all appropriate sub-providers are duly certified to participate in, and have provider agreements for participation in, the Medicare and Medicaid programs. The Sellers and the Hospital are in material compliance with all of the terms, conditions and provisions of such contract, as well as state and federal Laws related thereto. Copies of any notices of termination of any Seller's or the Hospital's participation in the Medicare or Medicaid program, and the Sellers' or the Hospital's Statement of Deficiencies and Plan of Correction, if any, for the past three (3) years, have previously been provided to Navicent.

(b) All cost reports for the Hospital required to be filed by any Seller under the Medicare, Medicaid or other programs or any other applicable governmental or private provider regulations have been, or by the respective due date will be, prepared and filed in accordance with applicable Laws, and the Sellers have paid or made provisions to pay all Notices of Program Reimbursement received from the Medicare and Medicaid programs, tentative settlements and other adjustments for the Hospital for periods ended prior to the Closing Date. With respect to any cost reports for the Hospital which remain to be filed or settled: (i) each has been or will be timely filed by Oconee, (ii) each is or will be complete and accurate for the periods indicated, and (iii) all liabilities associated with such filings have been or will be paid in full by Oconee. All liabilities and contractual adjustments of the Operations under any third party payor or reimbursement programs have been properly reflected and adequately reserved for in the Financial Statements.

(c) The Sellers (i) have not claimed or received reimbursements from the Medicare program, the Medicaid program (including any advances or pre-payments from the Georgia Medicaid program), TRICARE/CHAMPUS, the Georgia Indigent Care Trust Fund, Medicaid Disproportionate Share Funds and Upper Payment Limit funding or any other governmental health benefit program in connection with the operation of the Operations materially in excess of the amounts permitted by Law, except as and to the extent that liability for such overpayment has already been satisfied in full, and (ii) have submitted bills in accordance with all applicable Law. The Hospital's chargemaster is maintained and billed in accordance with all applicable Law. The Sellers have not claimed or received reimbursements from any private insurer, health maintenance organization, employer, or other payor in connection with the operation of the Operations materially in excess of the amounts permitted by the applicable benefit plan or any applicable contract of any Seller with any such payor, except as to the extent that liability for such overpayment has already been satisfied in full.

(d) No notice of overpayment, false claims, civil money penalties, or any offsets or recoupments against future reimbursement has been received by the Sellers in connection with the operation of the Operations nor is there any basis therefor. Except as set forth in Section 4.14 of the Disclosure Schedules, there are no pending appeals, adjustments, challenges, audits, litigation, notices of intent to reopen or open cost reports in connection with the operation of the Operations with respect to the Medicare, Medicaid, or other federal or state governmental health care programs. To the Knowledge of Seller, the Hospital has not been subject to or threatened with loss of waiver of liability for utilization review denials with respect to any governmental health benefit programs during the past three (3) years. Except as set forth in Section 4.14 of the Disclosure Schedules, no Seller has received notice of any pending, threatened or possible decertification or other loss of participation in Medicare, Medicaid or any other governmental health program. Other than regularly scheduled reviews, no validation review, complaint review, peer review or program integrity review related to the Operations has been conducted, scheduled, demanded or requested by any Person, commission, board or agency in connection with

Medicare, Medicaid or other governmental health benefit program, and to the Knowledge of Seller, no such reviews are threatened against or affecting the Sellers or the Operations.

(e) No Seller has received notice of any violation of federal or state fraud and abuse or self-referral Laws, or any investigation or claim of such violation on the part of any Seller. To the Knowledge of Seller, no Seller, nor any manager, director, governing body member, officer or employee of any Seller, nor any other Person acting on behalf of any Seller, acting alone or together, has engaged in any activities which are prohibited under the federal false claims and false statements statutes (31 U.S.C. § 3729, 18 U.S.C. § 287, 18 U.S.C. § 1001), the federal health care fraud statute (18 U.S.C. § 1387), or related state or local statutes and regulations.

(f) Neither the Sellers, the Operations, nor, to the Knowledge of Seller, any member of the governing body, officer, employee or agent of any Seller or the Operations, nor any member of the medical staff of the Hospital, (i) is or has been suspended, excluded, or otherwise terminated from participation in Medicare, Medicaid, CHAMPUS/TRICARE or any other federal or state governmental health benefit program; (ii) has been convicted in a court of competent jurisdiction for any offense or has been adjudicated to have liability for a civil monetary penalty which, in either case, would allow or require the exclusion of any Seller from participating in federal healthcare programs or the Medicaid program.

Section 4.15 Medical Staff. Sellers have previously delivered to Navicent a true, correct and complete copy of medical staff privilege and membership application forms, delineation of privilege forms, all current medical staff bylaws, rules and regulations and amendments thereto, all credentials and appeals procedures not incorporated therein, and all Contracts with physicians, physician groups, or other members of the medical staff of the Hospital. With regard to the medical staff of the Hospital, there are no pending or threatened appeals, challenges, disciplinary or corrective actions, or disputes involving applicants, staff members, or allied health professionals except as set forth in Section 4.15 of the Disclosure Schedules. Section 4.15 of the Disclosure Schedules sets forth a complete and accurate list of the name of each member of the medical staff of the Hospital as of March 31, 2017.

Section 4.16 Hill-Burton and Other Liens.

(a) No Seller, nor, to the Knowledge of Seller, any of its respective predecessors in interest has received any loans, grants or loan guarantees pursuant to the United States Hill-Burton Act (42 U.S.C. 291a, et seq.) program, the Health Professions Educational Assistance Act, the Nurse Training Act, the National Health Pharmacy and Resources Development Act or the Community Mental Health Centers Act. The transactions contemplated hereby will not result in any obligation of Navicent to repay any such loan, grant or loan guarantee or to provide uncompensated care in consideration thereof.

(b) None of the Purchased Assets are subject to any liability in respect of amounts received by any Seller or others for the purchase or improvement of the Purchased Assets or any part thereof under restricted or conditioned grants or donations, including monies received under the Public Health Service Act, 42 U.S.C. §291, et seq.

Section 4.17 No Experimental Procedures. No Seller, nor or any officers, employees or agents of any Seller, have performed or permitted, nor do they have knowledge of, the performance of any Experimental Procedures involving patients in the Hospital since 1995. No institutional review board operates or has operated at the Hospital.

Section 4.18 Environmental Matters.

(a) Except as set forth in Section 4.18(a) of the Disclosure Schedules, the operations of such Seller with respect to the Operations and the Purchased Assets are in compliance with all Environmental Laws. No Seller has received from any Person, with respect to the Operations or the Purchased Assets, any: (i) Environmental Notice or Environmental Claim; or (ii) written request for information pursuant to any Environmental Law, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing Date.

(b) Except as set forth in Section 4.18(b) of the Disclosure Schedules, each Seller has obtained and is in compliance in all material respects with all Environmental Permits (each of which is disclosed in Section 4.18(b) of the Disclosure Schedules) necessary for the conduct of the Operations as currently conducted or the ownership, lease, operation or use of the Purchased Assets.

(c) None of the Real Property is listed on, or has been proposed for listing on, the National Priorities List (or CERCLIS) under CERCLA, or any similar state list.

(d) Except as set forth in Section 4.18(d) of the Disclosure Schedules, there has been no Release of Hazardous Materials in contravention of Environmental Law with respect to the Operations, the Purchased Assets or any Real Property, and no Seller has received any Environmental Notice that the Operations or any of the Purchased Assets or Real Property has been contaminated with any Hazardous Material which would reasonably be expected to result in an Environmental Claim against, or a violation of Environmental Law or term of any Environmental Permit by, any Seller.

(e) Sellers have previously made available to Navicent in the Data Room any and all material environmental reports, studies, audits, records, sampling data, site assessments and other similar documents with respect to the Operations, the Purchased Assets or any Real Property which are in the possession or control of Sellers.

Section 4.19 Employee Benefit Matters.

(a) Section 4.19(a) of the Disclosure Schedules contains a list of each material benefit, retirement, employment, consulting, compensation, incentive, bonus, stock option, restricted stock, stock appreciation right, phantom equity, change in control, severance, vacation, paid time off, welfare and fringe-benefit agreement, plan, policy and program in effect and covering one or more Employees, former employees of the Operations, current or former directors of the Operations or the beneficiaries or dependents of any such Persons, and is maintained, sponsored, contributed to, or required to be contributed to by any Sellers, or under which any Seller has any material liability for premiums or benefits (as listed in Section 4.19(a) of the Disclosure Schedules, each, a "Benefit Plan").

(b) Except as set forth in Section 4.19(b) of the Disclosure Schedules, each Benefit Plan and related trust complies with all applicable Laws (including ERISA and the Code and applicable local Laws). Each Benefit Plan that is intended to be qualified under Section 401(a) of the Code (a "Qualified Benefit Plan") has received a favorable determination letter from the Internal Revenue Service, or with respect to a prototype plan, can rely on an opinion letter from the Internal Revenue Service to the prototype plan sponsor, to the effect that such Qualified Benefit Plan is so qualified and that the plan and the trust related thereto are exempt from federal income Taxes under Sections 401(a) and 501(a), respectively, of the Code, and, to such Seller's Knowledge, nothing has occurred that could reasonably be expected to cause the revocation of such determination letter from the Internal Revenue Service or the unavailability of reliance on such opinion letter from the Internal Revenue Service, as applicable. With respect to any Benefit Plan, no event has occurred or is reasonably expected to occur that has resulted in or would subject such Seller to a Tax under Section 4971 of the Code or the Purchased Assets to a Lien under Section 430(k) of the Code.

(c) Except as set forth in Section 4.19(c) of the Disclosure Schedules, no Benefit Plan: (i) is subject to the minimum funding standards of Section 302 of ERISA or Section 412 of the Code; or (ii) is a "multi-employer plan" (as defined in Section 3(37) of ERISA). Except as would not have a Material Adverse Effect, no Seller has: (A) withdrawn from any pension plan under circumstances resulting (or expected to result) in liability; or (B) engaged in any transaction which would give rise to a liability under Section 4069 or Section 4212(c) of ERISA.

(d) Except as set forth in Section 4.19(d) of the Disclosure Schedules and other than as required under Section 4980B of the Code or other applicable Law, no Benefit Plan provides benefits or coverage in the nature of health, life or disability insurance following retirement or other termination of employment (other than death benefits when termination occurs upon death).

(e) Except as set forth in Section 4.19(e) of the Disclosure Schedules, no Benefit Plan exists that could: (i) result in the payment to any Employee, director or consultant of the Operations of any money or other property; or (ii) accelerate the vesting of or provide any additional rights or benefits (including funding of compensation or benefits through a trust or otherwise) to any Employee, director or consultant of the Operations, in each case, as a result of the execution of this Agreement. Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will result in "excess parachute payments" within the meaning of Section 280G(b) of the Code.

Section 4.20 Employment Matters.

(a) Section 4.20(a) of the Disclosure Schedules contains a true and complete list of all of the officers, Employees (whether full-time, part-time or otherwise) and all material direct independent contractors of Sellers who are employed or provide service for the Hospital or Operations, supervisors of these Employees and their support personnel as of the date hereof, specifying their position, status, annual salary, current hourly wages, date of hire, work location, length of service, hours of service, tax withholding history and the allocation of amounts paid and other benefits provided to each of them, respectively, consulting or other independent contractor fees, together with an appropriate notation next to the name of any officer or other Employee on such list who is subject to any written Employment Agreement or any other written term sheet or other document describing the terms or conditions of employment of such Employee or of the rendering of services by such independent contractor. Except as set forth in Section 4.20(a) of the Disclosure Schedules, no Seller is a party to or bound by any Employment Agreement. Sellers have provided to Navicent true, correct and complete copies of each such Employment Agreement.

(b) No Seller has received a claim from any Governmental Authority to the effect that it has improperly classified as an independent contractor any Person named in Section 4.20(a) of the Disclosure Schedules.

(c) No Seller has made any verbal commitments to any officer, Employee, former employee, consultant or independent contractor of such Seller with respect to compensation, promotion, retention, termination, severance or similar matters in connection with the transactions contemplated hereby or otherwise.

(d) No Seller is a party to, or bound by, any collective bargaining or other agreement with a labor organization representing any of the Employees.

(e) Each Seller is in compliance with all applicable Laws pertaining to employment and employment practices to the extent they relate to the Employees.

Section 4.21 Taxes.

(a) Except as set forth in Section 4.21(a) of the Disclosure Schedules, or as would not have a Material Adverse Effect, such Seller has filed (taking into account any valid extensions) all material Tax Returns with respect to the Operations required to be filed by such Seller and has paid all Taxes shown thereon as owing. No Seller is currently the beneficiary of any extension of time within which to file any material Tax Return other than extensions of time to file Tax Returns obtained in the ordinary course of business;

(b) No Seller is a "foreign person" as that term is used in Treasury Regulations Section 1.1445-2;

(c) Oconee and each Seller listed in Section 4.21(c) of the Disclosure Schedules has been recognized by the IRS as a tax-exempt organization described in Section 501(c)(3) of the Code and as other than a private foundation pursuant to Section 509(a) of the Code. Each such organization currently meets all legal requirements to continue to be a tax-exempt organization under Section 501(c)(3) of the Code and other than a private foundation under Section 509(a) of the Code, and the IRS is not challenging, nor has it threatened to challenge, such status. No such organization is or in the past five (5) years has been subject to intermediate sanctions;

(d) Except for certain representations related to Taxes in Section 4.19, the representations and warranties set forth in this Section 4.21 are such Seller's sole and exclusive representations and warranties regarding Tax matters.

Section 4.22 Transactions with Affiliates. Except as set forth in Section 4.22 of the Disclosure Schedules, no officer or director of Sellers, no Person with whom any such officer or director has any direct relation by blood, marriage or adoption, no entity in which any such officer, director or Person owns any beneficial interest (other than a publicly held corporation whose stock is traded on a national securities exchange or in the over-the counter market and less than five percent of the stock of which is beneficially owned by all such officers, directors and Persons in the aggregate), no Affiliate of any of the foregoing and no current or former Affiliate of any Seller has any interest in: (a) any Contract with, or relating to, the Operations or the Purchased Assets; (b) any loan, arrangement, understanding, agreement or contract for or relating to the Operations or the Purchased Assets; or (c) any property (real, personal or mixed), tangible or intangible, used or currently intended to be used by Sellers.

Section 4.23 Subsidiaries. A true and correct list of each of Oconee's and the Oconee Affiliates' Subsidiaries is set forth in Section 4.23 of the Disclosure Schedules, along with a corporate organizational chart. With respect to each Subsidiary, Section 4.23 of the Disclosure Schedules sets forth: (i) its name, (ii) type of entity, (iii) the jurisdiction of incorporation or organization, and (iv) the total percentage of its issued and outstanding shares of capital stock, membership, other ownership interest or outstanding nonprofit membership interests held by Oconee or its Subsidiaries. Except as set forth in Section 4.23 of the Disclosure Schedules:

(a) all the issued and outstanding shares of capital stock, membership or similar ownership interests of each Subsidiary held by Oconee were duly authorized for issuance and are validly issued, fully paid and nonassessable (to the extent such concept applies to such form of entity) and are owned beneficially and of record by Oconee free and clear of all Liens, other than Permitted Liens, and free of any restriction on the right to vote, sell or otherwise dispose of such issued and outstanding shares of capital stock, membership or similar ownership interests of each Oconee Subsidiary;

(b) each Oconee Affiliate or one or more of its Subsidiaries has full voting power over the membership interests, capital stock, membership or similar ownership interests, if applicable, of each Subsidiary that are held by such Oconee Affiliate, and such membership interests, capital stock, membership or similar ownership interests are not subject to any proxy, voting trust or other agreement relating to the voting of any such membership interest, capital stock, membership or similar ownership interests other than the voting restrictions and reserved powers in favor of such Oconee Affiliate (except as set forth in the governing documents with respect to such Subsidiary, true, correct and complete copies of which have been provided to Navicent);

(c) except for this Agreement, there are no options, warrants, calls, subscriptions, convertible securities or other rights, securities, or Contracts relating to the issued and outstanding shares of capital stock, membership or similar ownership interests of any Subsidiary to issue, transfer or sell, or cause to be issued, transferred or sold, any shares of capital stock, membership or similar ownership interests of any Subsidiary or other equity security of any Subsidiary or other security convertible into, exchangeable for or evidencing the right to subscribe for or purchase shares of capital stock or other equity securities of any Subsidiary, or grant, extend or enter into any such agreement, arrangement, commitment or Contract;

(d) upon the Closing, the interest held by Oconee (or its Subsidiaries) in each Subsidiary will constitute all the issued and outstanding capital stock, membership, nonprofit membership interest or similar ownership interests of the Subsidiary; and

(e) there are not outstanding contractual obligations of Oconee or any of its Subsidiaries to repurchase, redeem or otherwise acquire any interests in any Subsidiary.

Section 4.24 Immigration. Oconee has complied with all applicable immigration laws, including but not limited to the standards for the electronic generation, signature, and storage of Forms I-9 found at 8 CFR 274a.2 and all related amendments at 75 FR 42575-42579, including all successors thereto as well as all publicly-available government interpretations thereof.

Section 4.25 Brokers. Except for Houlihan Lokey Capital, Inc., no broker, finder or investment banker is entitled to any brokerage, commission, finder's or other fee in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of any Seller.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF NAVICENT

Navicent represents and warrants to Sellers that the statements contained in this Article V are true and correct as of the Effective Date and as of the Closing.

Section 5.1 Organization of Navicent. Navicent is a nonprofit corporation duly incorporated, validly existing and in good standing under the Laws of the State of Georgia.

Section 5.2 Authority of Navicent. Navicent has all necessary corporate power and authority to enter into this Agreement and the other Transaction Documents to which Navicent is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Navicent of this Agreement and any other Transaction Document to which Navicent is a party, the performance by Navicent of its obligations hereunder and thereunder and the consummation by Navicent of the transactions contemplated hereby and thereby have been duly authorized by all requisite limited liability company action on the part of Navicent. This Agreement has been duly executed and delivered by Navicent, and (assuming due authorization, execution and delivery

by each Seller and subject to entry of the Sale Order in the Bankruptcy Case) this Agreement constitutes a legal, valid and binding obligation of Navicent enforceable against Navicent in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at Law or in equity). When each other Transaction Document to which Navicent is or will be a party has been duly executed and delivered by Navicent (assuming due authorization, execution and delivery by each other party thereto), such Transaction Document will constitute a legal and binding obligation of Navicent enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at Law or in equity).

Section 5.3 No Conflicts; Consents. The execution, delivery and performance by Navicent of this Agreement and the other Transaction Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) result in a violation or breach of any provision of the organizational documents of Navicent; (b) result in a violation or breach of any provision of any Law or Governmental Order applicable to Navicent; or (c) except as set forth in Section 5.3 of the Disclosure Schedules, require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any agreement to which Navicent is a party, except in the cases of clauses (b) and (c), where the violation, breach, conflict, default, acceleration or failure to give notice would not have a material adverse effect on Navicent's ability to consummate the transactions contemplated hereby. No consent, approval, License, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Navicent in connection with the execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, except for such consents, approvals, Licenses, Governmental Orders, declarations, filings or notices which would not have a material adverse effect on Navicent's ability to consummate the transactions contemplated hereby and thereby.

Section 5.4 Sufficiency of Funds. On the Closing Date, Navicent will have sufficient cash on hand or other sources of immediately available funds to enable it to make payment of the Purchase Price and consummate the transactions contemplated by this Agreement.

Section 5.5 Solvency. Immediately after giving effect to the transactions contemplated hereby, Navicent shall be solvent and shall: (a) be able to pay its debts as they become due; (b) own property that has a fair saleable value greater than the amounts required to pay its debts (including a reasonable estimate of the amount of all contingent liabilities); and (c) have adequate capital to carry on its business. No transfer of property is being made and no obligation is being incurred in connection with the transactions contemplated hereby with the intent to hinder, delay or defraud either present or future creditors of Navicent. In connection with the transactions contemplated hereby, Navicent has not incurred, nor plans to incur, debts beyond its ability to pay as they become absolute and matured.

Section 5.6 Legal Proceedings. There are no actions, suits, claims, investigations or other legal proceedings pending or, to Navicent's knowledge, threatened against or by Navicent or any Affiliate of Navicent that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement.

Section 5.7 Independent Investigation. Navicent has conducted its own independent investigation, review and analysis of the Operations and the Sellers and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of any Seller for such purpose. Navicent acknowledges and agrees that: (a) in

making its decision to enter into this Agreement and to consummate the transactions contemplated hereby, Navicent has relied solely upon its own investigation and the express representations and warranties of any Seller set forth in Article IV of this Agreement (including related portions of the Disclosure Schedules); and (b) neither any Seller nor any other Person has made any representation or warranty as to any Seller, the Operations, or this Agreement, except as expressly set forth in Article IV of this Agreement (including the related portions of the Disclosure Schedules).

ARTICLE VI
COVENANTS

Section 6.1 Conduct of Operations Prior to the Closing. Except as prohibited by or otherwise required under the Bankruptcy Code, from the date hereof until the Closing, except as otherwise provided in this Agreement or consented to in writing by Navicent (which consent shall not be unreasonably withheld or delayed), Sellers shall (a) conduct the Operations in the ordinary course of business; and (b) use commercially reasonable efforts to maintain and preserve intact each Seller's current organization, operations and franchise and to preserve the rights, franchises, goodwill and relationships of its Employees, customers, lenders, suppliers, regulators and others having relationships with the Operations. From the date hereof until the Closing Date, except as consented to in writing by Navicent (which consent shall not be unreasonably withheld or delayed), no Seller shall take any action that would cause any of the changes, events or conditions described in Section 4.5 to occur and Sellers shall take all necessary steps to preserve and maintain all Intellectual Property identified pursuant to Section 4.10(a)(i) and 4.10(a)(ii), and to preserve and operate in compliance with all Intellectual Property Agreements identified pursuant to Section 4.10(a)(iv).

Section 6.2 Access to Information. From the date hereof until the Closing, each Seller shall (a) afford Navicent and its Representatives reasonable access to and the right to inspect all of the Real Property, properties, assets, premises, Books and Records, Assigned Contracts and other documents and data related to the Operations; (b) furnish Navicent and its Representatives with such financial, operating and other data and information related to the Operations as Navicent or any of its Representatives may reasonably request; and (c) instruct the Representatives of each Seller to cooperate with Navicent in its investigation of the Operations; provided, however, that any such investigation shall be conducted during normal business hours upon reasonable advance notice to such Sellers and in such a manner as not to interfere unreasonably with the conduct of the Operations or any other businesses of Sellers. In addition, Navicent shall be permitted to perform environmental testing on the Real Property. All requests by Navicent for access pursuant to this Section 6.2 shall be submitted or directed exclusively to Houlihan Lokey Capital, Inc. or such other individuals as Sellers may designate in writing from time to time. Notwithstanding anything to the contrary in this Agreement, Sellers shall not be required to disclose any information to Navicent if such disclosure would, in Sellers' sole discretion: (x) cause significant competitive harm to Sellers and their businesses, including the Operations, if the transactions contemplated by this Agreement are not consummated; (y) jeopardize any attorney-client or other privilege; or (z) contravene any applicable Law or fiduciary duty. Prior to the Petition Date, without the prior written consent of Sellers, which may be withheld for any reason, Navicent shall not contact any suppliers to, or customers of, the Operations. Navicent shall, and shall cause its Representatives to, abide by the terms of the Confidentiality Agreement with respect to any access or information provided pursuant to this Section 6.2.

Section 6.3 Supplement to Disclosure Schedules. From time to time prior to the Closing, Sellers shall have the right (but not the obligation) to supplement or amend the Disclosure Schedules hereto, and if applicable, the appropriate references herein, with respect to any matter hereafter arising or of which they become aware after the Effective Date (each a "Schedule Supplement"), and each such Schedule Supplement shall be deemed to be incorporated into and to supplement, qualify and amend the

Disclosure Schedule as of the Closing Date; provided, however, that in the event such event, development or occurrence which is the subject of such Schedule Supplement is material to the Operations, then Navicent shall have the right to terminate this Agreement for failure to satisfy the closing condition set forth in Section 7.2(a); provided, further, that if Navicent has the right, but does not elect, to terminate this Agreement within fifteen (15) Business Days after its receipt of such Schedule Supplement, then Navicent shall be deemed to have irrevocably waived any right to all remedies available pursuant to this Agreement and any right to terminate this Agreement with respect to such matter under any of the conditions set forth in Section 7.2(a).

Section 6.4 Employees and Employee Benefits.

(a) Sellers shall terminate all Employees, effective immediately prior to the Closing;

(b) Subject to Navicent's standard hiring policies and procedures, Navicent shall, or shall cause an Affiliate of Navicent to, offer employment commencing effective on the Closing Date, to the Employees who in the reasonable discretion of Navicent are necessary for the post-Closing operation of the Hospital and Operations by Navicent, including any such Employees who are absent due to vacation, family leave, short-term disability or other approved leave of absence ("Transferred Employees"). Sellers shall be solely responsible for any obligations under the WARN Act that might arise on or prior to the Closing, including as a consequence of the transactions contemplated by this Agreement as a result of Navicent's employment offers and/or decisions not to employ certain Employees, including providing notice of any layoff or plant closing or maintaining the Employees on Sellers' payroll, as applicable, for any period of notice required by the WARN Act. Navicent shall use good faith, commercially reasonable efforts to deliver to Seller a list of all Transferred Employees within thirty (30) days of the Effective Date, but in any event within forty-five (45) days of the Effective Date;

(c) For a period of twelve (12) months after the Closing Date, Navicent shall (i) use commercially reasonable efforts to continue the employment of the Transferred Employees and to recognize all service of each Transferred Employee with the Sellers as if such service were with Navicent, for benefit, vesting and eligibility purposes in any benefit plan in which such Transferred Employee may be eligible to participate after the Closing Date, without regard to any waiting period or minimum period of service that might otherwise apply for purpose of eligibility to participate in the benefit plans; provided, however, such service shall not be recognized to the extent that (x) such recognition would result in a duplication of benefits or (y) such service was not recognized under the corresponding benefit plans and (ii) provide the Transferred Employees with credit for any co-payments, deductibles, and offsets (or similar payments) made during the plan year to the extent reflected in records provided to Navicent for the purposes of satisfying any applicable deductible, out-of-pocket, or similar requirements under any benefit plan in which they are eligible to participate after the Closing Date. During this twelve (12) month period the salaries for such Transferred Employees shall be comparable in the aggregate to the salaries that such Transferred Employees received in the twelve (12) month period immediately preceding the Closing Date, and such Transferred Employees shall receive benefits substantially similar to the benefits received by similarly situated employees at other facilities owned and operated by Navicent's Affiliates. Effective as of the Closing, Navicent shall assume all accrued but unused vacation time of each Transferred Employee as of the Closing up to a maximum of one hundred sixty (160) hours per Transferred Employee (the "Assumed Vacation Time"). Transferred Employees may be eligible to participate in Navicent's sick leave benefit pursuant to the applicable policy and based upon Navicent's discretion. The sick leave (1) shall not be a vested benefit, (2) may not be cashed out, and (3) shall not be paid out at the time of any termination of employment of any Transferred Employee. Any Assumed Vacation Time may be used or cashed out in accordance with Navicent's paid time off benefit that is then in effect for employees of Navicent who are similarly situated to the Transferred Employees (it being understood that Navicent may adjust policies applicable to its employees generally relating to the amount

of accrued but unused paid time off which may or must be utilized by an employee and to limit the amount of such accrued but unused paid time off which may be cashed out). Transferred Employees will accrue additional paid time off and sick leave following Closing in accordance with applicable Navicent policies. Effective as of the Closing, Navicent shall also assume and pay when due all Accrued Payroll Obligations;

(d) This Section 6.4 shall be binding upon and inure solely to the benefit of each of the Parties to this Agreement, and nothing in this Section 6.4, express or implied, shall confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Section 6.4. Nothing contained herein, express or implied, shall be construed to establish, amend or modify any benefit plan, program, agreement or arrangement. The Parties hereto acknowledge and agree that the terms set forth in this Section 6.4 shall not create any right in any Employee or any other Person to any continued employment or compensation or benefits of any nature or kind whatsoever.

Section 6.5 Director and Officer Indemnification and Insurance. On the Closing Date, Navicent shall provide Sellers with sufficient funds (the "Tail Coverage Insurance Amount") to enable Sellers to purchase and obtain "tail" insurance policies covering the directors and officers of the Sellers with a claims period of five (5) years from the Closing Date with at least the same coverage and amounts, and containing terms and conditions that are not less advantageous to the directors and officers, of the Sellers, as the current policy, attached as Schedule 6.5, in each case with respect to claims arising out of or relating to events which occurred on or prior to the Closing Date (including in connection with the transactions contemplated by this Agreement) (the "Tail Insurance"). The Tail Coverage Insurance Amount shall be used by Sellers solely to purchase the Tail Insurance and for no other purpose.

Section 6.6 Confidentiality. Navicent acknowledges and agrees that the Confidentiality Agreement remains in full force and effect and, in addition, covenants and agrees to keep confidential, in accordance with the provisions of the Confidentiality Agreement, information provided to Navicent pursuant to this Agreement. If this Agreement is, for any reason, terminated prior to the Closing, the Confidentiality Agreement shall nonetheless continue in full force and effect.

Section 6.7 Governmental Approvals and Consents.

(a) Each Party hereto shall, as promptly as possible, use its commercially reasonable efforts to obtain, or cause to be obtained, all consents, authorizations, orders and approvals from all Governmental Authorities, including the Attorney General of Georgia (the "AG"), that may be or become necessary for its execution and delivery of this Agreement and the performance of its obligations pursuant to this Agreement and the other Transaction Documents. Each Party shall cooperate fully with the other Party and its Affiliates in promptly seeking to obtain all such consents, authorizations, orders and approvals. Each Party shall take, and shall cause its Affiliates to take, any and all actions ("Required Compliance Actions") necessary to obtain approval from the AG under the Georgia Hospital Acquisition Act, O.C.G.A § 31-7-400 et seq. (the "Hospital Act"), of the transactions contemplated herein, including, as appropriate, amending this Agreement. The Parties shall cooperate with the AG and the AG's office in connection with the AG's investigation and approval, and use commercially reasonable efforts to obtain such approval as soon as reasonably practicable; provided, however, neither the Sellers nor any of their respective Affiliates shall be required to take or continue any Required Compliance Action if the effect of taking or continuing to take such Required Compliance Action results, or is reasonably likely to result, in a Material Adverse Effect on the Operations or the Purchased Assets (an "Adverse Compliance Action"). The Parties shall not willfully take any action that will have the effect of delaying, impairing or impeding the receipt of the AG's approval, and any other required consents, authorizations, orders and approvals. The Parties will cooperate to obtain all required approvals from the Georgia Department of Community Health;

(b) Sellers shall not be required to agree to any additional conditions, covenants, representations, warranties or other terms if doing so would materially and adversely affect either Sellers or the Operations;

(c) All analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals made by or on behalf of either Party before any Governmental Authority or the staff or regulators of any Governmental Authority, in connection with the transactions contemplated hereunder (but, for the avoidance of doubt, not including any interactions between any Seller or Navicent with Governmental Authorities in the ordinary course of business, any disclosure which is not permitted by Law or any disclosure containing confidential information) shall be disclosed to the other Party hereunder in advance of any filing, submission or attendance, it being the intent that the Parties will consult and cooperate with one another, and consider in good faith the views of one another, in connection with any such analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals. Each Party shall give notice to the other Party with respect to any meeting, discussion, appearance or contact with any Governmental Authority or the staff or regulators of any Governmental Authority, with such notice being sufficient to provide the other Party with the opportunity to attend and participate in such meeting, discussion, appearance or contact;

(d) The parties shall use all commercially reasonable efforts to obtain any consents, approvals and authorizations that are described in Section 4.3 of the Disclosure Schedules.

Section 6.8 Books and Records.

(a) In order to facilitate the resolution of any claims made against or incurred by Sellers at any time, or for any other reasonable purpose, for a period of five (5) years after the Closing, Navicent shall:

(i) retain the books and records (including personnel files) included in the Purchased Assets relating to periods prior to the Closing in a manner reasonably consistent with the prior practices of Sellers; and

(ii) upon reasonable notice, afford the Baldwin Authority's Representatives reasonable access (including the right to make, at Sellers' expense, photocopies), during normal business hours, to such books and records.

(b) In order to facilitate the resolution of any claims made by or against or incurred by Navicent after the Closing, or for any other reasonable purpose, for a period of two (2) years after the Closing, Sellers and the Baldwin Authority shall:

(i) retain the books and records (including personnel files) of Sellers and the Baldwin Authority which were not included in the Purchased Assets which relate to the Operations and its operations for periods prior to the Closing; and

(ii) upon reasonable notice, afford Navicent's Representatives reasonable access (including the right to make, at Navicent's expense, photocopies), during normal business hours, to such books and records.

(c) Neither Navicent, Sellers nor the Baldwin Authority shall be obligated to provide the other party with access to any books or records (including personnel files) pursuant to this Section 6.8 where such access would violate any Law.

(d) Sellers shall preserve and maintain all books and records relating to any Intellectual Property identified pursuant to Section 4.10(a)(i), 4.10(a)(ii) or 4.10(a)(iii), and all books and records relating to any Intellectual Property identified pursuant to Section 4.10(a)(iv).

Section 6.9 Closing Conditions. From the Effective Date until the Closing, each Party shall use commercially reasonable efforts to take such actions as are necessary to expeditiously satisfy the closing conditions set forth in Article VII hereof.

Section 6.10 Public Announcements. Unless otherwise required by applicable Law (based upon the reasonable advice of counsel) or in connection with the Bankruptcy Case, no Party shall make any public announcements in respect of this Agreement or the transactions contemplated hereby or otherwise communicate with any news media without the prior written consent of the other Party (which consent shall not be unreasonably withheld or delayed), and the Parties shall cooperate as to the timing and contents of any such announcement. The Parties acknowledge that the indenture trustees for the 1998 Bonds and 2016 Bonds may, to the extent required by the documents evidencing or securing such Bonds, issue notices to bondholders and market participants concerning the existence and terms of this Agreement.

Section 6.11 Transition Services Agreement. Navicent shall reasonably consider in good faith any request by JHS to perform transition services for a reasonable fee for JHS for a period extending not longer than the twelve (12) month anniversary of the Closing Date pursuant to the terms of the Transition Services Agreement, but in no event shall Navicent be required to provide services which would require it to assume any Contract not otherwise assumed hereunder or otherwise provide services not historically provided by Sellers to JHS.

Section 6.12 Transfer Taxes. All transfer, documentary, sales, use, stamp, registration, value added and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement and the other Transaction Documents (including any real property transfer Tax and any other similar Tax) shall be borne and paid by Navicent when due. Navicent shall, at its own expense, timely file any Tax Return or other document with respect to such Taxes or fees (and Oconee shall cooperate with respect thereto as necessary).

Section 6.13 **[Intentionally deleted]**

Section 6.14 Indigent Care. For a period of five (5) years after Closing, Navicent agrees it shall cause the Hospital to institute and maintain policies for the treatment of indigent patients comparable to those maintained by Sellers prior to the Closing, subject to any changes necessary to comply with Legal Requirements and the implications of healthcare reform legislation and reimbursement changes. Additionally, for the period commencing five (5) years after Closing and proceeding indefinitely, Navicent agrees that it shall cause the Hospital to institute and maintain policies for the treatment of indigent patients comparable to those maintained by Navicent at facilities other than those which relate to the Purchased Assets. Any material changes to the Hospital's policies regarding the treatment of indigent care patients at any time subsequent to Closing shall require the approval of the Governing Board.

Section 6.15 Governing Board. Navicent will appoint a local governing board for the Hospital (the "Governing Board") comprised of the Hospital's Chief Executive Officer, Chief of the Medical Staff, selected physicians on the Hospital's medical staff, local community members, and other individuals designated by Navicent. The Governing Board shall meet on a regular basis and have the following responsibilities: (a) developing a strategic plan for the Hospital; (b) adopting a vision, mission and values statement; (c) participating in development and review of operating and capital budgets and facility

planning (Navicent reserving ultimate authority for budgets and planning); (d) granting medical staff privileges and, when necessary, taking disciplinary action consistent with the Hospital and Medical Staff Bylaws (with the advice of counsel); (e) assuring medical staff compliance with accreditation requirements (with the advice of counsel); (f) supporting physician recruitment efforts; and (g) fostering community relations and identifying service and educational opportunities.

Section 6.16 Continuation of Services. For a period of five (5) years immediately following the Closing Date, Navicent shall continue to operate the Hospital as a general acute care hospital, including the emergency department. Additionally, from the fifth (5th) anniversary of the Closing Date until no earlier than the tenth (10th) anniversary of the Closing Date, Navicent shall continue to provide either emergency or urgent care services at the Hospital.

Section 6.17 Physician Recruitment, Retention, and Physician-Related Technology. Within five (5) years of the Closing Date, Navicent shall invest not less than Three Million and No/100 Dollars ($3,000,000.00) on physician recruitment and retention (including primary and specialty care) for the Hospital, and in physician-related technological improvements. Navicent shall work with the Governing Board to identify the Hospital's needs with respect to (1) the number of physicians needed and the most appropriate and needed specialties; (2) retention programs for existing physicians; and (3) physician-related technology acquisitions and improvements. The Parties agree and acknowledge that the Baldwin Authority shall be an express third party beneficiary to this Section and entitled to enforce the provisions hereof in any court of competent jurisdiction.

Section 6.18 Capital Expenditures. Within three (3) years of the Closing Date, Navicent shall invest not less than Ten Million and No/100 Dollars ($10,000,000.00) in capital improvements and upgraded equipment for the Hospital. Navicent shall work with the Governing Board to identify the most appropriate and needed areas for capital investments. The Parties agree and acknowledge that the Baldwin Authority shall be an express third party beneficiary to this Section and entitled to enforce the provisions hereof in any court of competent jurisdiction.

Section 6.19 Medical Staff. Effective at the Closing Date, Navicent shall adopt the Hospital's medical staff bylaws (collectively, the "Bylaws"), rules and regulations, subject to confirmation that such Bylaws, rules and regulations conform with national and regional norms (*provided*, that the foregoing shall not prevent Navicent from proposing new bylaws, rules and regulations for medical staff approval following the Closing Date). Navicent agrees that the Hospital's medical staff members in good standing as of the Closing Date shall maintain such medical staff privileges immediately following the Closing Date. The foregoing shall not limit the ability of Navicent to grant, withhold, or suspend medical staff appointment or clinical privileges in accordance with the terms of the Bylaws after the Closing Date.

Section 6.20 **RESERVED**

Section 6.21 Post-Closing Care of Medical Records. All information, files, correspondence, records, data, plans, reports and recorded knowledge, including all medical records, patient and financial records and files, medical staff records, customer, supplier, price and mailing lists, all accounting and other books and records, and all other Purchased Assets acquired by Navicent hereunder that are subject to the Legal Requirements shall be maintained by Navicent or the applicable party in accordance with the Legal Requirements after the Closing Date.

Section 6.22 Right of First Refusal. For five (5) years after the Closing Date, the Baldwin Authority shall a right of first refusal ("ROFR") to purchase the Purchased Assets pertaining to the Operations in the county of the Baldwin Authority in the event Navicent has a bona-fide third party offer to purchase from and Third Party Operator Buyer (as hereafter defined) and Navicent intends to sell or

transfer the Purchased Assets on the terms and conditions set forth in such offer (the "Proposed Transaction"). Navicent shall provide the Baldwin Authority with one hundred twenty (120) days advance written notice of the Proposed Transaction. Upon receipt of the written notice from Navicent, the Baldwin Authority shall have sixty (60) days (the "Notice Period") to notify Navicent in writing if it intends to exercise the ROFR (such notice, the "Exercise Notice") under the same terms and conditions which conform to the Proposed Transaction in all material respects, and shall consummate such transaction within sixty (60) days thereafter (the "Execution Period"). Any failure to provide an Exercise Notice during the Notice Period or failure to consummate the acquisition within the Execution Period in accordance with this Section 6.22 shall cause the ROFR to lapse and be of no further force or effect. The term "Third Party Operator Buyer" means any third party operator of hospitals not affiliated with Navicent or any of its Affiliates. The term "Third Party Operator Buyer" shall not include any financing company or any real estate investment trust or any entity which will not operate the hospital under the transfer. The provisions of this Section 6.21 shall: (a) not apply to any change or control of Navicent or its Affiliates; and (b) lapse and be of no further force or effect after the fifth (5th) anniversary of the Closing Date.

Section 6.23 Further Assurances. Following the Closing, each of the parties hereto shall, and shall cause their respective Affiliates 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 and the other Transaction Documents.

Section 6.24 Management Agreement. By no later than July 7, 2017, Navicent and Oconee shall enter into the Management Agreement pursuant to which Navicent shall provide management, consulting, and performance improvement services to the Sellers from the date of the entry of the Sale Order through the earlier of (a) the Closing; and (b) the termination of this Agreement pursuant to Section 8.1 (the "Management Agreement"). The Management Agreement shall provide that Navicent shall have the right to recommend the Sellers make recommendations to the Board and senior management, including recommendations for reductions in force or personnel changes and the Board of Directors or senior management (as applicable) of the applicable Seller shall reasonably consider each recommendation in good faith (it being understood that such Board and management may take into account the stage of the transactions contemplated by this Agreement in such consideration). The Management Agreement shall also provide that (i) reasonable and customary management fees shall accrue with respect to the services being provided by Navicent, but such accrued fees shall only become due and payable if this Agreement is terminated pursuant to Section 8.1 (other than a termination pursuant to Section 8.1(c)(i)).

ARTICLE VII
CONDITIONS TO CLOSING

Section 7.1 Conditions to Obligations of All Parties. The obligations of each Party to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, or waiver, at or prior to the Closing, of each of the following conditions:

(a) [Intentionally Deleted]

(b) No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Governmental Order which is in effect and has the effect of making the transactions contemplated by this Agreement illegal, otherwise restraining or prohibiting consummation of such transactions or causing any of the transactions contemplated hereunder to be rescinded following completion thereof;

(c) Navicent and Sellers shall have complied with the Hospital Act with respect to the transactions contemplated herein;

(d) Each Seller shall have received all consents, authorizations, orders and approvals from the Governmental Authorities referred to in Section 4.3 and Navicent shall have received all consents, authorizations, orders and approvals from the Governmental Authorities referred to in Section 5.3, in each case, in form and substance reasonably satisfactory to Navicent and such Seller, and no such consent, authorization, order and approval shall have been revoked.

Section 7.2 Conditions to Obligations of Navicent. The obligations of Navicent to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or Navicent's waiver, at or prior to the Closing, of each of the following conditions:

(a) The representations and warranties of each Seller contained in Article IV shall be true and correct in all material respects as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, which shall be true and correct in all respects as of that specified date); provided, however, that this condition shall be deemed satisfied unless, as a direct and proximate result of the failure of any such representation and warranty, Navicent reasonably expects that it will be required to expend in excess of Seven Hundred Fifty Thousand and No/100 Dollars ($750,000.00) or experiences a loss of anticipated revenue in excess of Two Million and No/100 Dollars ($2,000,000.00) during the three (3) year period following Closing;

(b) Each Seller shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement and each of the other Transaction Documents to be performed or complied with by it prior to or on the Closing Date;

(c) Each Seller shall have delivered to Navicent duly executed counterparts to the Transaction Documents (other than this Agreement) and such other customary instruments of transfer, assumption, filings or documents, in form and substance reasonably satisfactory to Navicent, as may be required to give effect to this Agreement;

(d) Sellers shall have delivered to Navicent duly executed copies of the Baldwin Real Property Transfer Agreement;

(e) Navicent shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of each Seller, that each of the conditions set forth in Section 7.2(a) and Section 7.2(b) have been satisfied (the "Seller Closing Certificates");

(f) Navicent shall have received a certificate of the Secretary (or equivalent officer) of each Seller certifying that attached thereto are true and complete copies of all resolutions adopted by the board of directors of such Seller authorizing the execution, delivery and performance of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby;

(g) Navicent shall have received a certificate of the Secretary (or equivalent officer) of each Seller certifying the names and signatures of the officers of such Seller authorized to sign this Agreement, the Transaction Documents and the other documents to be delivered hereunder and thereunder;

(h) Navicent shall have received a certificate pursuant to Treasury Regulations Section 1.1445-2(b) (the "FIRPTA Certificate") that each Seller is not a foreign person within the meaning of Section 1445 of the Code duly executed by each Seller;

(i) Sellers shall have delivered the consents set forth on Section 7.2(i) of the Disclosure Schedules;

(j) The Regulatory Matters shall have been disclosed to the applicable Governmental Authorities and resolved as set forth on Section 7.2(j) of the Disclosure Schedules;

(k) Between the Effective Date and the Closing Date, there shall not have occurred (nor shall Navicent have become aware of) any Material Adverse Effect or any development likely to result in a Material Adverse Effect;

(l) Sellers shall have delivered to Navicent releases and/or satisfactions executed by or on behalf of third parties (as contemplated by the Sale Order) evidencing the release of all Liens (other than the Permitted Liens) affecting the Purchased Assets and the Authority Real Property (including Liens securing the Bonds), in each case in form and substance acceptable to Navicent in its reasonable discretion;

(m) Navicent shall have been able to obtain at its expense a commitment for a title insurance policy or policies in form and substance and at rates satisfactory to Navicent ensuring Navicent that at the Closing it shall acquire good, marketable and insurable fee simple title to the Owned Real Property and the Authority Real Property, subject only to Permitted Liens. The Baldwin Authority or Sellers, as appropriate, shall have executed and delivered such owner's affidavits (in customary form for bankruptcy sales) as are necessary to enable Navicent to obtain any such title insurance policy or policies;

(n) (i) the Bankruptcy Court shall have entered the Sale Order in the form set forth as Exhibit D hereto, with any changes thereto that affect (directly or indirectly) Navicent satisfactory to Navicent in its sole discretion, and (ii) as of the Closing Date, the Sale Order shall be in full force and effect, shall not then be stayed, and shall not have been vacated, reversed, modified or amended without Navicent's prior written consent (which may be given or withheld in the sole discretion of Navicent);

(o) Oconee shall have executed and delivered the Management Agreement to Navicent in accordance with Section 6.24; and

(p) The Georgia Department of Community Health, Office of Health Planning either has (i) determined to Navicent's reasonable satisfaction that the transactions contemplated hereby are not subject to certificate of need review; or (ii) determined to Navicent's reasonable satisfaction that a certificate of need is required for the transactions contemplated hereby and has issued a certificate of need in favor of Navicent concerning the transactions contemplated hereby on or before September 15, 2017, or by such later date as is specified by Navicent in writing.

Section 7.3 Conditions to Obligations of Sellers. The obligations of Sellers to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or each Seller's waiver, at or prior to the Closing, of each of the following conditions:

(a) The representations and warranties of Navicent contained in Article V shall be true and correct in all material respects as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, which shall be true and correct in all respects as of that specified date);

(b) Navicent shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement and each of the other Transaction Documents to be performed or complied with by it prior to or on the Closing Date;

(c) Navicent shall have delivered to the Sellers the Closing Payment and shall have delivered to Sellers duly executed counterparts to the Transaction Documents (other than this Agreement) and such other documents and deliveries set forth in Section 3.2(b);

(d) Sellers shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of Navicent, that each of the conditions set forth in Section 7.3(a) and Section 7.3(b) have been satisfied (the "Navicent Closing Certificate");

(e) Sellers shall have received a certificate of the Secretary (or equivalent officer) of Navicent certifying that attached thereto are true and complete copies of all resolutions adopted by the board of directors of Navicent authorizing the execution, delivery and performance of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby;

(f) Sellers shall have received a certificate of the Secretary (or equivalent officer) of Navicent certifying the names and signatures of the officers of Navicent authorized to sign this Agreement, the Transaction Documents and the other documents to be delivered hereunder and thereunder;

(g) The Bankruptcy Court shall have entered the Sale Order substantially in the form set forth as Exhibit D hereto, with any changes thereto reasonably satisfactory to the Sellers.

ARTICLE VIII
TERMINATION

Section 8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by the mutual written consent of each Seller and Navicent;

(b) by Navicent by written notice to Sellers if:

(i) Navicent is not then in material breach of this Agreement and there has been a material breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by any Seller pursuant to this Agreement that would give rise to the failure of any of the conditions specified in Article VII and such breach, inaccuracy or failure is incapable of being cured by November 1, 2017 (the "Drop Dead Date") or, if capable of being so cured, has not been cured by such Seller within ten days of such Seller's receipt of written notice of such breach, inaccuracy or failure from Navicent; provided, however, that with respect breaches, inaccuracies or failures to perform causing failure of the conditions set forth in Section 7.2(a), 7.2(b), or 7.2(k), Navicent shall have no right to terminate pursuant to this Section 8.1(b)(i) unless, as a direct and proximate result of such material breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by any Seller, Navicent will be required to expend in excess of Seven Hundred Fifty Thousand and No/100 Dollars ($750,000.00) or experiences a loss of anticipated revenue in excess of Two Million Dollars and No/100 ($2,000,000.00) during the three (3) year period following Closing; or

(ii) any of the conditions set forth in Section 7.1 or Section 7.2 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by the Drop Dead Date, unless such failure shall be due to the failure of Navicent to perform or comply with any of the covenants, agreements or conditions hereof to be performed or complied with by it prior to the Closing; provided, however, that with respect to breaches, inaccuracies or failures to perform by Sellers causing a failure of the conditions set forth in Section 7.2(a), 7.2(b), or 7.2(k), Navicent shall have no right to terminate pursuant to this Section 8.1(b)(ii) unless, as a direct and proximate result of the failure of any such condition Navicent will be required to expend in excess of Seven Hundred Fifty Thousand and No/100 Dollars ($750,000.00) or experiences a loss of anticipated revenue in excess of Two Million and No/100 Dollars ($2,000,000.00) during the three (3) year period following Closing;

(iii) (A) the Case is converted to a case under Chapter 7 of the Bankruptcy Code, or (B) any trustee or examiner is appointed in the Case;

(iv) (A) the Bidding Procedures Order shall fail to be in full force and effect or shall be vacated, stayed, reversed, modified or amended in any respect without the prior written consent of Navicent, or (B) Sellers shall have failed to conduct the Auction or the sale process in strict compliance with the Bid Procedures;

(v) (A) the Sale Order shall not have been entered by the Bankruptcy Court within fifty-five (55) days of the Petition Date, or (B) following its entry, the Sale Order (1) shall fail to be in full force and effect or shall have been vacated, stayed or reversed, or (2) shall have been modified or amended in any respect without the prior written consent of Navicent; or

(vi) (A) one or more Sellers file a plan of reorganization or liquidation that does not provide for the consummation of the transactions contemplated by this Agreement, or (B) at the conclusion of the Auction, if the Sellers determine that the Prevailing Bid was not submitted by Navicent;

(c) by Sellers by written notice to Navicent if:

(i) Sellers are not then in material breach of any provision of this Agreement and there has been a material breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by Navicent pursuant to this Agreement that would give rise to the failure of any of the conditions specified in Article VII and such breach, inaccuracy or failure is incapable of being cured by the Drop Dead Date or, if capable of being so cured, has not been cured by Navicent within ten days of Navicent's receipt of written notice of such breach, inaccuracy or failure from Sellers;

(ii) any of the conditions set forth in Section 7.1 or Section 7.3 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by the Drop Dead Date, unless such failure shall be due to the failure of any Seller to perform or comply with any of the covenants, agreements or conditions hereof to be performed or complied with by it prior to the Closing;

(d) subject to Section 6.7, by Navicent or Sellers in the event that (i) there shall be any Law that makes consummation of the transactions contemplated by this Agreement illegal or otherwise prohibited; or (ii) any Governmental Authority shall have issued a Governmental Order restraining or enjoining the transactions contemplated by this Agreement, and such Governmental Order shall have become final and non-appealable.

Section 8.2 Effect of Termination. In the event of the termination of this Agreement in accordance with this Article VIII, this Agreement shall forthwith become void and there shall be no liability on the part of any Party hereto except as set forth in Section 2.5 or this Article VIII.

Section 8.3 Except as provided in Section 10.13, the Parties acknowledge and agree that Navicent's (and its Affiliates and those claiming through either) sole and exclusive remedy with respect to any and all claims (other than claims arising from intentional fraud on the part of a Party hereto in connection with the transactions contemplated by this Agreement) for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the provisions set forth in this Article VIII. In furtherance of the foregoing, Navicent hereto hereby waives, on its own behalf and on behalf of its respective Affiliates (and those claiming through either) to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement that it may have against any Seller and its Affiliates and any Seller Representatives arising under or based upon any Law, except pursuant to the provisions set forth in this Article VIII. Nothing in this Section 8.3 shall limit any Person's right to seek any equitable relief to which any Person shall be entitled pursuant to Section 10.13 or to seek any remedy on account of intentional fraud by any Party.

ARTICLE IX
BANKRUPTCY COURT MATTERS

Section 9.1 Sale Order. Sellers shall use their best efforts to have the Bankruptcy Court issue and enter the Sale Order as soon as practicable following the date of this Agreement and, in any event, shall cause the Sale Order to be entered by not later than July 6, 2017. Each of the Parties shall use its commercially reasonable efforts to cooperate, assist and consult with each other to obtain the issuance and entry of the Sale Order, including furnishing affidavits, declarations or other documents or information for filing with the Bankruptcy Court. The Sale Order shall provide, among other things, that pursuant to Sections 105, 363 and 365 of the Bankruptcy Code: (a) this Agreement is assumed by the Sellers pursuant to Section 365 of the Bankruptcy Code, and this Agreement and the transactions contemplated hereby are approved; (b) Navicent shall have and acquire at the Closing good, valid and marketable title to the Purchased Assets and the Purchased Assets shall be sold and conveyed to Navicent free and clear of any and all Liens (except for Permitted Liens and the Assumed Liabilities); (c) the Sellers shall assume and assign to Navicent all of the Assigned Contracts as of the Closing Date; (d) the Sellers shall, on or before the Closing Date, pay the Cure Costs to the appropriate parties as ordered by the Bankruptcy Court so as to permit the assumption and assignment of all Assigned Contracts; (e) the Assigned Contracts shall be in full force and effect from and after the Closing with non-debtor parties being barred and enjoined from asserting against Navicent, among other things, defaults, breaches or claims of pecuniary losses existing as of the Closing or by reason of the Closing; (f) Navicent is acquiring the Purchased Assets free and clear of the Excluded Liabilities, providing for a full release of Navicent with respect to the Excluded Liabilities, and providing for a general release by Sellers (individually and derivatively on behalf of any creditors) and their bankruptcy estates of any and all claims of any kind or nature whatsoever and relating to or arising out of the transactions contemplated by the Agreement (including the acquisition by Navicent of the Authority Real Property), except for the post-Closing obligations of Navicent under this Agreement; (g) the results of the Auction, if any, are approved; (h) Navicent shall be found to be a "good faith" purchaser within the meaning of Section 363(m) of the Bankruptcy Code; and (i) the Bankruptcy Court shall waive any stay that would otherwise be applicable to the immediate effectiveness of the Sale Order pursuant to Bankruptcy Rules 6004(g) and 6006(d).

Section 9.2 Notice. The Sellers shall provide timely written notice of this Agreement, the proposed sale of the Purchased Assets and the Sale Motion to: (a) the Office of the United States Trustee for the Middle District of Georgia; (b) all non-debtor parties to the Assigned Contracts; (c) all Persons who have asserted any Liens (other than Permitted Liens) in or upon any of the Purchased Assets; (d) the Internal Revenue Service and all taxing authorities in each jurisdiction applicable to any Seller; (e) the "Master Service List" established in the Case; (f) all Governmental Entities exercising jurisdiction with

respect to environmental matters affecting or relating to the Purchased Assets; (g) the Department of Health and Human Services and its Centers for Medicare and Medicaid Services; (h) the Office of the Attorney General of the State of Georgia; (i) the landlords for all non-residential real properties occupied by the Sellers as of the Petition Date; (j) counsel for Baldwin County, Georgia; (k) the Baldwin Authority; (l) Georgia Department of Community Health, Division of Healthcare Facility Regulation; (m) Georgia Department of Community Health, Office of General Counsel; (n) Georgia Department of Community Health, Division of Medical Assistance (Medicaid); (o) Georgia Department of Community Health, Office of Health Planning; (p) Georgia Board of Pharmacy; (q) Centers for Medicare & Medicaid Services, Division of Laboratory Services, Survey and Certification Group; (r) Centers for Medicare & Medicaid Services, Office of Financial Management; (s) Cahaba GBA; (t) City of Milledgeville, Business License division; (u) The Joint Commission (formerly known as JCAHO); (v) United States Department of Justice, Drug Enforcement Administration; (w) Georgia Department of Labor; (x) Georgia Department of Public Health, Food Service Permit division; and (y) any other Persons required by the Bankruptcy Court, requested by Navicent, or otherwise required by any applicable Law.

Section 9.3 Review of Pleadings. The Sellers shall provide Navicent with a reasonable opportunity to review and comment upon all motions, applications and supporting papers prepared by the Sellers and relating to this Agreement or the transactions contemplated hereby prior to the filing thereof in the Bankruptcy Case. All motions, applications and supporting papers prepared by the Sellers and relating (directly or indirectly) to Navicent's "good faith" determination to enter into this Agreement or the transactions contemplated hereby must be acceptable in form and substance to Navicent, in its reasonable discretion.

Section 9.4 [**Intentionally Deleted**]

Section 9.5 Cure Costs. As promptly as practicable following the Effective Date, but in any event with ten (10) days, the Sellers shall determine the Cure Costs under each Assumed Contract so as to permit the assumption and assignment of each such Assumed Contract pursuant to Section 365 of the Bankruptcy Code in connection with the transactions contemplated hereby. In connection with the assumption and assignment of the Assigned Contracts, at or prior to the Closing, Sellers shall have sole responsibility for curing any defaults under the Assigned Contracts by payment of any Cure Costs, and Navicent shall have no liability for any Cure Costs. Navicent shall be responsible for demonstrating and establishing adequate assurance of future performance before the Bankruptcy Court with respect to the Assigned Contracts.

ARTICLE X
MISCELLANEOUS PROVISIONS

Section 10.1 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such costs and expenses, whether or not the Closing shall have occurred.

Section 10.2 Designation of Navicent's Designee. No later than twenty (20) days after the Effective Date of this Agreement, Navicent Health, Inc. will inform the Seller in writing whether it has designated a wholly-owned subsidiary to serve as the purchaser of the Purchased Assets under this Agreement in the place of Navicent Health, Inc., and the Sellers (and the Baldwin Authority, as applicable) expressly agree that all of the provisions of this Agreement applicable to Navicent Health, Inc. will be applicable to, and enforceable by such Designee. Notwithstanding anything contained in this Agreement to the contrary, the obligations set forth in Section 2.5(a) shall be the joint obligations of Navicent Health, Inc. and such Designee subsequent to timely designation of such Designee under this

Section 10.2. In the event Navicent Health, Inc. timely designates such Designee as the purchaser of the Purchased Assets pursuant to this Section 10.2, none of the provisions of this Agreement, with the exception of Section 2.5(a), shall be enforceable against Navicent Health, Inc.

Section 10.3 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the third (3rd) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 10.3):

If to Sellers:
Oconee Regional Medical Center, Inc.
812 N. Cobb Street
Milledgeville, Georgia 31059
Attention: CEO
Facsimile:
Email: sjohnson@ormcinc.org

with a copy to:
James-Bates-Brannan-Groover LLP
3399 Peachtree Road, NE
Suite 1700
Atlanta, Georgia 30326
Attention: Chason L. Harrison, Jr.
Facsimile: 404-997-6021
E-mail: charrison@jamesbatesllp.com

with a copy to:
Bryan Cave, LLP
1201 West Peachtree Street, NW
Atlanta, Georgia 30309
Attention: Mark I. Duedall
Facsimile: 404-420-0611
E-mail: mark.duedall@bryancave.com

If to Navicent:
Navicent Health, Inc.
777 Hemlock Street
Macon, GA 31201
Attention: Rhonda Perry
Facsimile: 478-633-1452
E-mail: Perry.Rhonda@NavicentHealth.org

with a copy to:
Alston & Bird LLP
1201 West Peachtree Street
Atlanta, Georgia 30309
Attention: Dennis J. Connolly
Michelle A. Williams
Facsimile: 404-253-8274
E-mail: michelle.williams@alston.com
dennis.connolly@alston.com

Section 10.4 Interpretation. For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections, Disclosure Schedules and Exhibits mean the Articles and Sections of, and Disclosure Schedules and Exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Disclosure Schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

Section 10.5 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 10.6 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 10.7 Entire Agreement; Time. This Agreement and the other Transaction Documents constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous representations, warranties, understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and those in the other Transaction Documents, the Exhibits and Disclosure Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement will control. Time is of the essence with respect to this Agreement.

Section 10.8 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party may assign its rights or obligations hereunder without the prior written consent of the other party, in its sole discretion; provided, however, that Navicent may assign this Agreement to an Affiliate. No assignment shall relieve the assigning party of any of its obligations hereunder.

Section 10.9 Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each Party hereto. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No waiver by any Party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder

preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 10.10 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(a) This Agreement shall be governed by and construed in accordance with the internal Laws of the State of Georgia without giving effect to any choice or conflict of law provision or rule (whether of the State of Georgia or any other jurisdiction);

(b) Each Party hereby irrevocably agrees that any Legal Dispute shall be brought only to the exclusive jurisdiction of the federal courts located in the State of Georgia, and each Party hereby consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding that is brought in any such court has been brought in an inconvenient forum. During the period a Legal Dispute that is filed in accordance with this Section 10.9 is pending before a court, all actions, suits or proceedings with respect to such Legal Dispute or any other Legal Dispute, including any counterclaim, cross-claim or interpleader, shall be subject to the exclusive jurisdiction of such court. Each Party hereby waives, and shall not assert as a defense in any Legal Dispute, that (a) such Party is not subject thereto, (b) such action, suit or proceeding may not be brought or is not maintainable in such court, (c) such Party's property is exempt or immune from execution, (d) such action, suit or proceeding is brought in an inconvenient forum or (e) the venue of such action, suit or proceeding is improper. A final judgment in any action, suit or proceeding described in this Section 10.9(b) following the expiration of any period permitted for appeal and subject to any stay during appeal shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable Laws. Notwithstanding anything to the contrary herein, for so long as the Bankruptcy Case remains pending, the Bankruptcy Court shall have exclusive jurisdiction over all disputes arising under or related to this Agreement, the Bidding Procedures Order or the Sale Order;

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE OTHER TRANSACTION DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.9(c).

Section 10.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 10.12 Non-recourse. This Agreement may only be enforced against, and any claim, action, suit or other legal proceeding based upon, arising out of, or related to this Agreement, or the

negotiation, execution or performance of this Agreement, may only be brought against the entities that are expressly named as parties hereto and then only with respect to the specific obligations set forth herein with respect to such Party. No past, present or future director, officer, employee, incorporator, manager, member, partner, stockholder, Affiliate, agent, attorney or other Representative of any Party hereto or of any Affiliate of any Party hereto, or any of their successors or permitted assigns, shall have any liability for any obligations or liabilities of any Party hereto under this Agreement or for any claim, action, suit or other legal proceeding based on, in respect of or by reason of the transactions contemplated hereby.

Section 10.13 Survival. The representations and warranties contained herein and in any certificate or other writing delivered pursuant hereto shall not survive the Closing Date or the termination of this Agreement. The covenants and agreements herein that relate to actions to be taken on or before the Closing Date shall not survive the Closing Date. The covenants and agreements herein that relate to actions to be taken after the Closing Date (the "Post-Closing Covenants") shall survive until the expiration of the applicable statute of limitations.

Section 10.14 Specific Performance. The Parties agree that it may be impossible to measure in money the damages which may accrue to one or more of them by reason of the failure of a Party to perform its respective Post-Closing Covenants after Closing. Any Party seeking to enforce any Post-Closing Covenant following Closing shall have the right to petition a court of competent jurisdiction for an injunction, other equitable relief or any other remedies available to it or them.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed, as of the date first above written.

Oconee:

OCONEE REGIONAL HEALTH SYSTEMS, INC.

By:_____
Name: Steven Johnson
Title: CEO

Other Sellers:

OCONEE REGIONAL HEALTH SERVICES, INC.

By:_____
Name: Theodore Zarkowsky
Title: Chairman

OCONEE REGIONAL MEDICAL CENTER, INC.

By:_____
Name: Phyllis M. Parks-Veal
Title: Chairman

OCONEE REGIONAL EMERGENCY MEDICAL SERVICES, INC.

By:_____
Name: Theodore Zarkowsky
Title: Chairman

OCONEE REGIONAL HEALTH VENTURES, INC.

By:_____
Name: Prabhdeep Brar
Title: Chairman

OCONEE REGIONAL SENIOR LIVING, INC.

By:_____
Name: Steven Johnson
Title: Chairman

OCONEE INTERNAL MEDICINE, LLC

By:Oconee Regional Health Ventures, Sole Member

_____
Name: Prabhdeep Brar
Title: Chairman

OCONEE ORTHOPEDICS, LLC

By:Oconee Regional Health Ventures, Sole Member

_____
Name: Prabhdeep Brar
Title: Chairman

ORHV SANDERSVILLE FAMILY PRACTICE, LLC

By:_____
Name: Prabhdeep Brar
Title: Manager

Baldwin Authority:

BALDWIN COUNTY HOSPITAL AUTHORITY

By:_____
Name: Cay Quattlebaum
Title: Chairman

Navicent:

NAVICENT HEALTH, INC. (on behalf of itself and its Designee, as applicable)

By: Ninfa M. Saunders

Name: Ninfa M. Saunders
Title: Chief Executive Officer

DEFINITIONS ADDENDUM

The following terms have the meanings specified or referred to in this Definitions Addendum:

"1998 Bonds" means those certain Baldwin County Hospital Authority Revenue Bonds (Oconee Regional Medical Center) Series 1998.

"2016 Bonds" means those certain Baldwin County Hospital Authority Revenue Bonds (Oconee Regional Medical Center) Series 2016.

"2017 Bonds" means those certain Senior Secured Baldwin County Hospital Authority Revenue Bonds (Oconee Regional Medical Center) Series 2017, as debtor in possession financing of the Sellers in the Bankruptcy Case.

"Accounts Receivable" has the meaning set forth in Section 2.1(a).

"Accrued Payroll Obligations" means with respect to the Transferred Employees: (i) accrued payroll as of the close of business on the day immediately preceding the Closing Date, to be determined by multiplying (x) the actual daily wages (salary and hourly) payable to employees and (y) the number of days since the end of the immediately preceding pay period through the day immediately preceding the Closing Date (the "Stub Payroll Period"), (ii) employer and withheld employee portions of federal, state and local withholding and payroll, employment and unemployment tax incurred during the Stub Payroll Period, including federal UTA, Georgia SUTA, FICA, and Medicare, and (iii) accrued employer contribution and match, and employee deferral, obligations incurred during the Stub Payroll Period under the Seller Retirement Plans.

"Administrator" means the head official in charge of health administration at the Hospital.

"Adverse Compliance Action" has the meaning set forth in Section 6.7(a).

"Affiliate" of a Person means any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such Person.

"AG" has the meaning set forth in Section 6.7(a).

"Agreement" has the meaning set forth in the preamble.

"Allocation Schedule" has the meaning set forth in Section 2.8.

"Applicable Provisions" means Section 2.6; Section 3.2(a)(viii); Section 3.2(a)(ix); Section 3.2(a)(xi); Section 4.1(b); Section 4.2(b); Section 6.8(b); Section 6.8(c); Section 6.17; Section 6.18; Section 6.22; and Section 7.2(m)

"Assigned Causes of Action" has the meaning set forth in Section 2.1(n).

"Assigned Contracts" has the meaning set forth in Section 2.1(d).

"Assignment and Assumption Agreement" has the meaning set forth in Section 3.2(a)(ii).

"Assignment and Assumption of Lease" has the meaning set forth in Section 3.2(a)(iv).

"Assumed Liabilities" has the meaning set forth in Section 2.3.

"Assumed Vacation Time" has the meaning set forth in Section 6.4(c).

"Auction" has meaning set forth in the Bidding Procedures Order.

"Audited Financial Statements" has the meaning set forth in Section 4.4.

"Authority Lease Agreement" means the Contract pursuant to which the Baldwin Authority (as lessor) leases to ORMC (as lessee) the Authority Real Property.

"Authority Real Property" has the meaning set forth in the recitals hereof.

"Balance Sheet" has the meaning set forth in Section 4.4.

"Balance Sheet Date" has the meaning set forth in Section 4.4.

"Baldwin Authority" has the meaning set forth in the preamble.

"Baldwin Real Property Transfer Agreement" has the meaning set forth in Section 2.6.

"Bankruptcy Case" shall have the meaning ascribed to it in the recitals hereof.

"Bankruptcy Code" shall have the meaning ascribed to it in the recitals hereof.

"Bankruptcy Court" shall have the meaning ascribed to it in the recitals hereof.

"Benefit Plan" has the meaning set forth in Section 4.19(a).

"Bid Procedures" means the "Bid Procedures" set forth in the Bidding Procedures Order.

"Bidding Procedures Order" means the Order (a) Approving Bid Procedures and Authorizing and Scheduling an Auction at which the Debtors will Solicit the Highest or Best Bid for the Sale of Substantially all of their Assets, (b) Approving Notice Procedures Relating to The Assumption and Assignment of Certain Executory Contracts and Unexpired Licenses and Leases, (C) Approving Breakup Fee and Expense Reimbursement, and (D) Approving the Debtors' Assumption of the Consulting Agreement with Prime Healthcare Foundation, Inc. entered by the Bankruptcy Court on May 26, 2017 (Docket No. 101), as the same may be modified or amended.

"Bill of Sale" has the meaning set forth in Section 3.2(a)(i).

"Books and Records" has the meaning set forth in Section 2.1(k).

"Bonds" means the 1998 Bonds, the 2016 Bonds and the 2017 Bonds.

"Business Day" means any day except Saturday, Sunday or any other day on which commercial banks located in Atlanta, Georgia are authorized or required by Law to be closed for business.

"Bylaws" has the meaning set forth in Section 6.19.

"CEO" means chief executive officer.

"CERCLA" means the United States Comprehensive Environmental Response, Compensation and Liability Act and the rules and regulations promulgated thereunder.

"Chief of Staff" means the head chief of staff at the Hospital.

"Closing" has the meaning set forth in Section 3.1.

"Closing Date" has the meaning set forth in Section 3.1.

"Closing Payment" has the meaning set forth in Section 2.5(a).

"Code" means the United States Internal Revenue Code of 1986.

"Confidentiality Agreement" means the Confidentiality Agreement previously executed by Navicent and Oconee with respect to or related to the Purchased Assets.

"Contracts" means all legally binding written contracts, leases, mortgages, licenses, instruments, notes, commitments, undertakings, indentures and other agreements.

"Control" means, when used with respect to any specified Person, the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract, by control over board composition, or otherwise.

"Cure Costs" means the amounts necessary to cure all defaults, if any, and to pay all actual pecuniary losses, if any, that have resulted from such defaults, under the Assigned Contracts, in each case as of the Closing Date and to the extent required by Section 365 of the Bankruptcy Code and any order of the Bankruptcy Court.

"Data Room" means the electronic documentation site established by Intralinks, Inc. on behalf of Sellers containing the documents set forth in the index of the Disclosure Schedules.

"Deed" has the meaning set forth in Section 3.2(a)(iii).

"Designated Account" means a bank account of the Sellers, either existing as of the Effective Date or to be created in the future (but prior to the Closing Date), into which the Sellers may aggregate all funds prior to the Closing Date which are Excluded Assets, provided that the Designated Account cannot be any account which has historically been used for payors or other third parties to may payments, remittances, or the like to the Sellers on account of the Operations.

"Disclosure Schedules" means the Disclosure Schedules delivered by Oconee and Navicent concurrently with the execution and delivery of this Agreement.

"Dollars" or "$" means the lawful currency of the United States.

"Drop Dead Date" has the meaning set forth in Section 8.1(b)(i).

"Effective Date" has the meaning set forth in the preamble.

"Employee Liability Statement" has the meaning set forth in Section 2.3(b).

"Employees" means those Persons employed by any Seller who worked for the business immediately prior to the Closing.

"Employment Agreement" means any employment Contract, consulting Contract, termination, retention or severance Contract, change of control Contract or any other Contract respecting the terms and conditions of employment or payment of compensation, or of a consulting or independent contractor relationship in respect to any current or former officer, employee, consultant or independent contractor.

"Environmental Claim" means any Governmental Order, action, suit, claim, investigation or other legal proceeding by any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from: (a) the presence, Release of, or exposure to, any Hazardous Materials; or (b) any actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

"Environmental Law" means any applicable Law, and any Governmental Order or binding agreement with any Governmental Authority: (a) relating to pollution (or the cleanup thereof) or the protection of natural resources, endangered or threatened species, human health or safety, or the environment (including ambient air, soil, surface water or groundwater, or subsurface strata); or (b) concerning the presence of, exposure to, or the management, manufacture, use, containment, storage, recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal or remediation of any Hazardous Materials. The term "Environmental Law" includes the following (including their implementing regulations and any state analogs): the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; and the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 et seq.

"Environmental Notice" means any written directive, notice of violation or infraction, or notice respecting any Environmental Claim relating to actual or alleged non-compliance with any Environmental Law or any term or condition of any Environmental Permit.

"Environmental Permit" means any License, letter, clearance, waiver, closure, exemption, decision or other action required under or issued, granted, given, authorized by or made pursuant to Environmental Law.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

"Excluded Assets" has the meaning set forth in Section 2.2.

"Excluded Liabilities" has the meaning set forth in Section 2.4.

"Execution Period" has the meaning set forth in Section 6.22.

"Exercise Notice" has the meaning set forth in Section 6.22.

"Expense Reimbursement" has the meaning set forth in the Bidding Procedures Order.

"Experimental Procedure" means any human research project or study in which the data obtained are derived in any way through observation of, treatment of, manipulation of behavior of, or interviewing of, human subjects, except for the following: (a) gathering existing data in an anonymous form (e.g., review of existing medical records without recording identities of the subjects); (b) non-interventional observation of human behavior in a natural setting; (c) use of human tissues and specimens which are obtained for other purposes (e.g., anonymous use of tissues such as blood left over from clinical use); and (d) anonymous questionnaires which do not involve questions which, when answered, could lead to the identity of the subject; provided, however, that the exceptions described above are not applicable if they involve vulnerable populations, such as children, mentally or emotionally impaired subjects or prisoners.

"Financial Statements" has the meaning set forth in Section 4.4.

"FIRPTA Certificate" has the meaning set forth in Section 7.2(h).

"FMLA" means the United States Family and Medical Leave Act and the rules and regulations promulgated thereunder.

"GAAP" means United States generally accepted accounting principles in effect from time to time.

"Good Faith Deposit" has the mean set forth in Section 2.5(b).

"Governmental Authority" or "Governmental Authorities" means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

"Governing Board" has the meaning set forth in Section 6.15.

"Governmental Order" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

"Hazardous Materials" means: (a) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case, whether naturally occurring or man-made, that is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws; and (b) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation and polychlorinated biphenyls.

"Healthcare Information Laws" means all federal and state Law relating to patient or individual healthcare information, including the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, as amended including by the Health Information Technology for Economic and Clinical Health Act, and any rules or regulations promulgated thereunder.

"Hospital" has the meaning set forth in the recitals.

"Hospital Act" has the meaning set forth in Section 6.7(a).

"Indebtedness" shall mean all (a) indebtedness for borrowed money, (b) obligations evidenced by notes, bonds, debentures or similar instruments, (c) amounts drawn under outstanding letters of credit, (d) capitalized lease obligations (but excluding operating lease obligations), (e) guaranties and obligations secured by a Lien (but excluding operating lease obligations), (f) amounts due under any future derivative, swap, collar, put, call, forward purchase or sale transaction, fixed price contract or other agreement that is intended to benefit from, relate to or reduce or eliminate the risk of fluctuations in interest rates, currencies basis risk or the price of commodities, and (g) with respect to each of the foregoing existing as of the Closing, (i) interest accrued thereon and (ii) prepayment or similar premiums, penalties and expenses with respect thereto but, in the case of clause (ii), only if and to the extent such indebtedness is repaid in full as of the Closing Date or in connection with the Closing.

"Indenture Trustees" means the indenture trustees of the 1998 Bonds and the 2016 Bonds pursuant to the applicable documents.

"Intellectual Property" means any and all of the following in any jurisdiction throughout the world: (a) trademarks and service marks, trade names, business names, trade dress and any other indicia of source, including all applications and registrations and the goodwill connected with the use of or otherwise related to, by or with any of the foregoing; (b) copyrights, including all applications and registrations for copyright, and works or authorship, whether or not copyrightable; (c) trade secrets, confidential information and know-how; (d) patents and patent applications (including all provisionals, continuations, divisionals, continuations-in-part, requests for continued examination, continued prosecution applications, extensions, renewals, reissues, and reexaminations, and any patents issuing or granted from any of the foregoing applications or claiming priority to any of the foregoing applications or patents or serving as a basis for a claim or priority for any of the foregoing applications or patents), industrial and utility models, industrial designs, and certificates of invention; (e) websites and internet domain names, internet domain name registrations, uniform resource locator and alphanumeric designations and all other electric identifiers (e.g., Twitter and Facebook handles); and (f) all other intellectual property and industrial property rights and assets, and all rights, interests and protections that are associated with, similar to, or required for the exercise of any of the foregoing, including, but not limited to, the right to sue for past, present and future damages.

"Intellectual Property Agreements" means all Contracts by or through which other Persons grant any Seller or any Seller grants any other Persons any exclusive or non-exclusive rights or interests in or to any Intellectual Property that is used exclusively in connection with the Operations.

"Intellectual Property Assets" means (a) all Intellectual Property Registrations set forth in Section 4.10(a) of the Disclosure Schedules as well as all Intellectual Property that is the subject of or covered by any of such Intellectual Property Registrations; and (b) all other Intellectual Property that is owned by or for the benefit of the Sellers, including, but not limited to, such Intellectual Property that is used in connection with the Operations.

"Intellectual Property Registrations" means all Intellectual Property that is subject to any issuance, registration, application or other filing by, to or with any Governmental Authority or authorized private registrar in any jurisdiction, including, but not limited to, registered trademarks, domain names, and copyrights, issued and reissued patents and pending applications for any of the foregoing.

"Interim Balance Sheet" has the meaning set forth in Section 4.4.

"Interim Balance Sheet Date" has the meaning set forth in Section 4.4.

"Interim Financial Statements" has the meaning set forth in Section 4.4.

"IRS" means the Internal Revenue Service.

"Inventory" has the meaning set forth in Section 2.1(c).

"Jasper Receivable" has the meaning set forth in Section 2.2(l).

"JHS" means Jasper Health Services, Inc., a Georgia nonprofit corporation.

"Knowledge of Seller" or "Seller's Knowledge" or any other similar knowledge qualification, means the actual knowledge of any one or more of the following individuals after due inquiry: with respect to each Seller, the CEO, CFO, CMO, COO, Compliance Officer and any individual holding a Vice President designation or higher.

"Law" or "Laws" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any Governmental Authority.

"Leased Real Property" has the meaning set forth in Section 4.9(b).

"Leases" has the meaning set forth in Section 4.9(b).

"Legal Dispute" means any action, suit or proceeding between or among the Parties and their respective Affiliates arising in connection with any disagreement, dispute, controversy or claim arising out of or relating to this Agreement or any related document.

"Legal Requirements" means any applicable Law, bylaw, corporate integrity agreement, reimbursement manual, program memorandum, policy, restriction, writ, injunction, determination, award or similar command of any Governmental Authority. Without limiting the foregoing, "Legal Requirements" shall specifically include the Laws of the State of Georgia; Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395hhh (the Medicare statute), including, the Ethics in Patient Referrals Act, as amended, 42 U.S.C. § 1395nn (the Stark Law); 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, and the regulations promulgated thereunder, including 45 C.F.R. §§ 160, 162, and 164; the Clean Water Act, 33 U.S.C. §§ 1251 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq.; the Immigration and Reform Control Act of 1986; the Workers Adjustment and Retraining Notification Act, 29 U.S.C. §§ 2101 et seq.; the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 et seq.; the Consolidated Omnibus Budget Reconciliation Act of 1985 and the Public Health Service Act; the Code (as defined in this Definitions Addendum); the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.; and other Legal Requirements relating to: (a) pollution or protection of human health (as relating to the environment or the workplace) and the environment (including ambient air, surface water, ground water, land surface or sub-surface strata), (b) emissions, discharges, releases or threatened releases of Materials of Environmental Concern, or (c) the use, treatment, storage, disposal, transport or handling of Materials of Environmental Concern, each as may have been amended or supplemented or may be amended in the future, and any applicable Laws.

"Licenses" means all notifications, licenses, permits (including environmental, construction and operation permits), franchises, certificates, certificates of need, accreditations, approvals, exemptions, waivers, classifications, registrations, consents and other similar documents and authorizations issued by any Governmental Authority, and applications therefor.

"Lien" means any lien (statutory or otherwise), encumbrance, claim (as defined in Section 101(5) of the Bankruptcy Code), Indebtedness, obligation, right, demand, charge, right of setoff, mortgage, deed of trust, pledge, security interest, preference, option, lease, license, Tax, right of first refusal or similar interests, title defects, hypothecations, easements, rights of way, restrictive covenants, encroachments, judgments, conditional sales or other title retention agreements and other impositions, imperfections or defects of title or restrictions on transfer or use of any nature whatsoever, or any other interest (as used in any applicable section of the Bankruptcy Code, including Section 363(f)) (including (i) any conditional sale or other title retention agreement and any lease having substantially the same effect as any of the foregoing, (ii) any assignment or deposit arrangement in the nature of a security devise, and (iii) any claim based on any theory that Navcicent is a successor, successor in interest, continuation or substantial continuation of the Sellers or the business conducted by Sellers), whether secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, contingent or liquidated, material or non-material, known or unknown.

"Management Agreement" means the Management Agreement between Navicent and Oconee, in the form attached hereto as Exhibit E, with such changes that are expressly agreed upon by the intended parties thereto prior to the execution thereof.

"Material Adverse Effect" means any event, occurrence, fact, condition or change that is materially adverse to (a) the business, the Real Property, the Authority Real Property, the results of operations, financial condition or assets of the Sellers, taken as a whole, or (b) the ability of any Seller to consummate the transactions contemplated hereby; provided, however, that "Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions; (ii) conditions generally affecting the industries in which the Sellers' business operates; (iii) any changes in financial, banking or securities markets in general, including any disruption thereof and any decline in the price of any security or any market index or any change in prevailing interest rates; (iv) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; (v) any action required or permitted by this Agreement or any action taken (or omitted to be taken) with the written consent of or at the written request of Navicent; (vi) any changes in applicable Laws or accounting rules (including GAAP) or the enforcement, implementation or interpretation thereof; (vii) the announcement, pendency or completion of the transactions contemplated by this Agreement, including losses or threatened losses of employees, customers, suppliers, distributors or others having relationships with any Seller; or (viii) any failure by the business to meet any internal or published financial projections, forecasts or revenue or earnings predictions (provided that the underlying causes of such failures (subject to the other provisions of this definition) shall not be excluded).

"Material Contracts" has the meaning set forth in Section 4.6(a).

"Materials of Environmental Concern" means chemicals, pollutants, contaminants, Hazardous Materials, hazardous substances, hazardous wastes, medical waste, toxic substances, petroleum and petroleum products and by-products, asbestos-containing materials, PCBs, and any other chemicals, pollutants, substances or wastes, in each case regulated under any Legal Requirements.

"Navicent" has the meaning set forth in the preamble.

"Navicent Closing Certificate" has the meaning set forth in Section 7.3(d).

"Notice Period" has the meaning set forth in Section 6.22.

"Oconee" has the meaning set forth in the preamble.

"Oconee Affiliate" or "Oconee Affiliates" has the meaning set forth in the recitals.

"Oconee Services" has the meaning set forth in the recitals.

"Operations" has the meaning set forth in the recitals.

"ORHF" has the meaning set forth in the recitals.

"ORMC" has the meaning set forth in the recitals.

"Owned Real Property" has the meaning set forth in Section 4.9(a).

"Participation Agreement" means the Participation Agreement, effective August 1, 2011, by and between Georgia Health Care Insurance Company SPC and Oconee Regional Health Systems, Inc., attached hereto as Exhibit F.

"Party" or "Parties" has the meaning set forth in the preamble.

"PCB" or "PCBs" means a polychlorinated biphenyl, an organic chlorine compound.

"Permitted Liens" means (i) non-monetary Liens that do not detract from the value of any underlying Purchased Asset or interfere with the ability of Navicent to own and operate any underlying Purchased Asset in substantially the manner as owned and operated by the Sellers immediately prior to the date of this Agreement; and (ii) in the case of Real Property, zoning, building or other restrictions, variances, covenants, rights of way, encumbrances, easements and other minor irregularities in title, none of which, individually or in the aggregate, (a) interfere in any material respect with the present use of or occupancy of the affected parcel by any Seller or any other Person, (b) have more than an immaterial effect on the value thereof or its use or (c) would impair the ability of such parcel to be sold, leased or subleased.

"Person" means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

"Petition Date" means the date of the filing by Sellers of the Bankruptcy Cases.

"Post-Closing Covenants" has the meaning set forth in Section 10.13.

"Prevailing Bid" means the Qualifying bid selected by the Debtors as the highest and best bid at the Auction.

"Prime" means Prime Healthcare Foundation, Inc. and Prime Healthcare Foundation—Oconee, LLC.

"Proposed Transaction" has the meaning set forth in Section 6.22.

"Purchased Assets" has the meaning set forth in Section 2.1.

"Purchase Price" has the meaning set forth in Section 2.5(a).

"Qualified Benefit Plan" has the meaning set forth in Section 4.19(b).

"Qualified Bidder" has the meaning set forth in the Bidding Procedures Order.

"Real Property" means, collectively, the Owned Real Property and the Leased Real Property.

"Regulatory Matters" means (a) the matters arising under Subpoena Control Number 17095 to Oconee Orthopedics, (b) the matters described in that certain October 3, 2016 letter from Thomas D. Bever, Esq., counsel to Sellers, to Todd P. Swanson, Assistant U.S. Attorney for the Middle District of Georgia, and (c) the failure (if any) of any financial relationships between any Seller and any referring physician to meet an applicable exception to the Ethics in Patient Referrals Act, 42 U.S.C. § 1395nn.

"Release" means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, disposing or allowing to escape or migrate into or through the environment (including ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

"Representative" means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

"Required Compliance Actions" has the meaning set forth in Section 6.7(a).

"ROFR" has the meaning set forth in Section 6.22.

"Sale Order" means an Order of the Bankruptcy Court, in the form attached hereto as Exhibit D, with such changes as are acceptable to Navicent in its sole discretion.

"Schedule Supplement" has the meaning set forth in Section 6.3.

"Seller" or "Sellers" has the meaning set forth in the preamble.

"Seller Closing Certificates" has the meaning set forth in Section 7.2(e).

"Seller Healthcare Programs" means (i) the Oconee Regional Medical Center Health Care Program, Plan No. 501, effective January 1, 2006, as amended and restated effective January 1, 2013, as further modified and amended, and (ii) the Oconee Health Ventures Health Care Program, Plan No. 501, effective January 1, 2014, as modified and amended.

"Seller Healthcare Program Receivables" means amounts due any Seller from or with respect to any of the Seller Healthcare Programs.

"Seller Retirement Plans" means (i) the Oconee Regional Medical Center, Inc. 401(a) Plan, effective October 1, 1980, as amended and restated effective January 1, 2015, and as further modified and amended, and (ii) the Oconee Regional Medical Center, Inc. 403(b) Plan, effective January 1, 1992, as amended and restated effective January 1, 2009, and as further modified and amended.

"Senior Living" has the meaning set forth in the recitals.

"Specified Employee Obligations" means the Assumed Vacation Time, and Accrued Payroll Obligations.

"Specified Employee Obligation Variance" means: (A) One Million and No/100 Dollars ($1,000,000.00), minus (B) the sum of: (i) Accrued Payroll Obligations; and (ii) Assumed Vacation Time expressed as a dollar amount.

"Stub Payroll Period" has the meaning set forth in the definition of "Accrued Payroll Obligations".

"Subsidiary" of a Person shall mean (a) any entity Controlled by such Person, (b) any entity in which such Person has any other interest and that is consolidated with such Person for financial reporting purposes, and (c) any other entity in which a Person owns or holds any capital stock, membership, other ownership interest or nonprofit membership interest.

"Tail Coverage Insurance Amount" has the meaning set forth in Section 6.5.

"Tail Insurance" has the meaning set forth in Section 6.5.

"Tangible Personal Property" has the meaning set forth in Section 2.1(f).

"Tax" or "Taxes" means all federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

"Tax Return" means any return, declaration, report, claim for refund, information return or statement or other document required to be filed with respect to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"The Joint Commission" means The Joint Commission, a nonprofit 501(c) organization that accredits and certifies approximately twenty-one thousand (21,000) health care organizations and programs in the United States.

"Transition Services Agreement" means that certain transition services agreement, substantially in the form attached hereto as Exhibit G or as the intended parties thereto may otherwise agree.

"Transaction Documents" means this Agreement, the Baldwin Real Property Transfer Agreement, the Management Agreement and the other agreements, instruments and documents required to be delivered at the Closing.

"Transaction Professional Relationships" means those rights of Sellers (including any causes of action related thereto) arising in connection with the negotiation, preparation, investigation, and performance of this Agreement, the other Transaction Documents and the transactions contemplated hereby and thereby, including relationships with Sellers' counsel, accountants, investment bankers, consultants, advisers and others (regardless of whether the fees and expenses of same have been paid by Sellers), together with all correspondence, discussions, calculations, projections, analyses, materials and other documents and information (whether oral or written) furnished, delivered or received incident to or as a result of such relationships.

"Transferred Employees" has the meaning set forth in Section 6.4(b).

"Treasury Regulations" means the Income Tax Regulations, including Temporary Regulations, promulgated under the Code.

"Ventures" has the meaning set forth in the recitals.

"WARN Act" means the federal Worker Adjustment and Retraining Notification Act of 1988, and similar state, local and foreign Laws related to plant closings, relocations, mass layoffs and employment losses.

Execution Version

FIRST AMENDMENT TO ASSET PURCHASE AGREEMENT

THIS FIRST AMENDMENT TO ASSET PURCHASE AGREEMENT (this "Amendment") is entered into as of September 29, 2017, among and on behalf of Navicent Health Oconee, LLC (as designee of Navicent Health, Inc.) ("Navicent"), Oconee Regional Health Systems, Inc., a Georgia nonprofit corporation ("Oconee"), certain Subsidiaries of Oconee listed on the signature pages hereto (together with Oconee each individually a "Seller", and collectively, the "Sellers"), and, as to the Applicable Provisions, the Baldwin County Hospital Authority, an authority organized under the Georgia Hospital Authorities Law (the "Baldwin Authority"). Navicent, Sellers, and the Baldwin Authority are sometimes individually referred to herein as a "Party" and collectively as the "Parties."

WHEREAS, Purchaser, Sellers, and the Baldwin Authority entered into that certain Asset Purchase Agreement, dated June 27, 2017 (the "Purchase Agreement");

WHEREAS, the parties desire to amend the Purchase Agreement as provided herein;

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

1. Section 2.1(p) of the Purchase Agreement is deleted in its entirety and replaced with the following:

(p) all rights to any lump sum payments received after the Effective Closing Date payable by any governmental payor or programs such as Medicaid DSH, ICTF, UPL, Medicare DSH or similar programs regardless of whether such payments related to any services prior to the Effective Closing Date or are associated with the Hospital's status or designation related to pre-Closing services; and

2. Section 2.1(q) of the Purchase Agreement is deleted in its entirety and replaced with the following:

(q) any other assets used in (or related to) the Operations, including any rights of coverage or recovery under any insurance policies relating to the period prior to the Effective Closing Date (except such rights of coverage or recovery which relate to the Tail Insurance or the Malpractice Tail Insurance) and any rights to any Tax refunds.

3. Section 2.6 of the Purchase Agreement shall be deleted in its entirety and replaced with the following:

Section 2.6 Transfer of Real Property. Upon delivery by Navicent of the Escrow Release Letter (as defined herein) to First American Title Insurance Company (the "Title Company") pursuant to the Escrow Agreement (as defined herein), the Title Company shall release, date and record (as applicable) the Real Estate Transaction Documents (as defined herein) in accordance with the Escrow Agreement, and upon such release and recordation the

Baldwin Authority shall have conveyed and transferred to Navicent (such transfer being the "Real Estate Transfer" and the date on which such transfer occurs in accordance with the Escrow Agreement, the "Real Estate Transfer Date") fee simple title to the Authority Real Property, insurable by the Title Company, with the standard exceptions and the creditor's rights exclusion deleted, free and clear of all Liens, subject only to the following "Permitted Exceptions":

(a) the lien of all ad valorem real estate taxes and assessments not yet due and payable as of the Effective Closing Date, subject to proration and adjustment as herein provided;

(b) local, state and federal laws, ordinances or governmental regulations, including but not limited to, building, zoning and land use laws, ordinances and regulations, now or hereafter in effect relating to the Authority Real Property; and

(c) the encumbrances listed on Exhibit H attached to this Amendment.

The foregoing Real Estate Transfer shall be effectuated solely by Navicent's delivery of an escrow release letter pursuant to the Escrow Agreement (the "Escrow Release Letter"), whereby Navicent shall instruct the Title Company to (a) release and date the Real Estate Transaction Documents, (b) record the Authority Deed and Quitclaim Deed (as applicable), (c) record the Termination of the Navicent Ground Lease, and (d) issue endorsements to Navicent's leasehold title insurance policy converting it to an owner's policy.

Notwithstanding anything contained herein to the contrary, on the Closing Date, the Baldwin Authority shall be obligated to discharge all mortgages and other monetary liens encumbering the Authority Real Property, including, but not limited to, tax liens and past due assessments affecting the Authority Real Property. On or before the Real Estate Transfer Date, the Baldwin Authority shall be obligated to discharge any additional mortgages and any other liens encumbering the Authority Real Property that have arisen since the Closing Date or otherwise were not previously discharged, and any other items appearing of record that are not Permitted Exceptions, unless any of the foregoing were directly caused by the acts or omissions of Navicent. The term "mortgage" as used herein includes any mortgage, deed of trust, deed to secure debt and similar security instrument securing an indebtedness of the Baldwin Authority and encumbering the Authority Real Property or any portion thereof; the terms "discharge" and "discharged" as used herein include compliance with a statutory bonding procedure that has the legal effect of removing the mortgage or other item as a lien on the Authority Real Property.

For the avoidance of doubt, following execution and delivery of the Escrow Agreement and the Real Estate Transaction Documents into escrow with the Title Company as contemplated by this Amendment, Navicent and the Title Company may cause the Real Estate Transfer to occur without any further action by the Baldwin Authority, and the Baldwin Authority shall have no right to revoke or otherwise limit the rights provided to Navicent pursuant to this Section 2.6 and as set forth in the Escrow Agreement in connection therewith.

4. Section 2.7 of the Purchase Agreement shall be deleted in its entirety and replaced with the following:

Section 2.7 Reconstituted Board of ORHF. At the Closing, Sellers shall deliver to Navicent resignations from all existing board members of the Board of Directors or ORHF, which shall be effective as of the Effective Closing Date. After the Effective Closing Date, the Board of Directors of ORHF shall consist of individuals appointed by Navicent and set forth in Section 2.7 of the Disclosure Schedules.

5. Section 2.12 shall be added to the Purchase Agreement and state as follows:

Section 2.12. Credits and Prorations. All income and expenses in connection with the operation of the Authority Real Property and the Operations shall be apportioned, as of 12:01 A.M., on the Effective Closing Date, such that, except as otherwise expressly provided to the contrary in this Agreement, ORMC shall have the benefit of income and the burden of expenses for the day preceding the Effective Closing Date and Navicent shall have the benefit of income and the burden of expenses for the Effective Closing Date and thereafter. Any utility costs and other operating expenses or other items pertaining to the Authority Real Property and the Operations will be prorated at Closing utilizing the information known at that time, and a post-closing "true-up" shall take place within ninety (90) days of the Effective Closing Date to adjust said prorations, as necessary.

6. Section 2.13 shall be added to the Purchase Agreement and state as follows:

Section 2.13. Closing Costs. The Baldwin Authority shall pay the (a) fees of any counsel representing the Baldwin Authority in connection with this transaction, (b) the costs of curing all title objections for which the Baldwin Authority is responsible under this Agreement, and (c) the costs of recording all mortgage cancellations, if applicable, and recording the Quitclaim Deed (if applicable). Navicent shall pay (t) the fees of any counsel representing Navicent in connection with this transaction, (u) the premiums for any title insurance policy and endorsements, (v) title insurance coverage in excess of the Purchase Price, (w) the costs of any financing obtained by Navicent, (x) the cost of Navicent's inspections of the Authority Real Property, (y) the cost of any updates or revisions to any survey, and (z) all applicable transfer taxes, documentary stamp taxes and similar charges relating to the transfer of the Authority Real Property and the cost of recording the Termination of the Authority Lease, the Memorandum of Navicent Ground Lease, the Authority Deed, the Quitclaim Deed (if applicable) and the Termination of Navicent Ground Lease. All other costs and expenses incident to this transaction and the closing thereof shall be paid by the Party incurring the same.

7. Section 3.1 of the Purchase Agreement shall be deleted in its entirety and replaced with the following:

Section 3.1 Closing. Subject to the terms and conditions of this Agreement, the consummation of the transaction contemplated by this Agreement (the "Closing") shall take place at the offices of Alston & Bird LLP, 1201 West Peachtree Street, Atlanta, Georgia 30309, at 10:00 a.m. Eastern Standard Time on September 29, 2017, on the condition that all of the conditions to Closing set forth in Article VII are either satisfied or waived (other than conditions which, by their nature, are to be satisfied on the Closing Date) on or before that time, to be effective for financial, tax, accounting and other purposes at 12:01 a.m. on October 1, 2017, or at such other time, date or place as the Parties may mutually agree upon in writing (the "Effective

Closing Date"); *provided, however*, that Navicent shall be responsible for all ongoing expenses and liabilities relating to or arising from the Assumed Liabilities and the Purchased Assets only on and after the Effective Closing Date. The date upon which Closing occurs shall be referred to herein as the "Closing Date."

8. The references to "Closing" or "Closing Date" in Sections 2.3; 2.4(a); 2.4(c); 2.4(f); 2.4(g); 2.4(h); 2.4(i); 2.5(b); 4.7; 6.1; 6.2; 6.4; 6.5; 6.8; 6.14; 6.16; 6.17; 6.19; 6.21 and 6.22 of the Purchase Agreement are hereby amended and replaced with "Effective Closing Date."

9. Section 3.2 of the Purchase Agreement shall be deleted in its entirety and replaced with the following:

Section 3.2 Closing Deliverables.

(a) At the Closing, Sellers (and the Baldwin Authority with respect to Sections 3.2(a)(vii), 3.2(a)(viii), 3.2(a)(ix); 3.2(a)(x); and 3.2(a)(xi) only) shall deliver to Navicent the following:

(i) Bills of sale in a form agreed to by the Parties and their counsel (each, a "Bill of Sale") and duly executed by the applicable Sellers, transferring the tangible personal property and the Intellectual Property to Navicent;

(ii) Assignment and assumption agreements in a form agreed to by the Parties and their counsel (each, an "Assignment and Assumption Agreement") and duly executed by the applicable Sellers, effecting the transfer and conveyance to and assumption by Navicent of the Purchased Assets and Assumed Liabilities, which Assignment and Assumption Agreements must include assignments of Intellectual Property;

(iii) With respect to any Lease that constitutes an Assigned Contract, an Assignment and Assumption of Lease in a form agreed to by the Parties and their counsel (each, an "Assignment and Assumption of Lease"), duly executed and notarized (as applicable) by the applicable Sellers;

(iv) The Seller Closing Certificates;

(v) The FIRPTA Certificates;

(vi) The certificates of the Secretary (or equivalent officer) of each Seller required by Section 7.2(g);

(vii) (A) written termination of the Authority Lease Agreement in a recordable form reasonably acceptable to Navicent and the Title Company (the "Termination of Authority Lease"), executed and notarized by the Baldwin Authority and ORMC, and (B) written evidence satisfactory to Navicent that the Baldwin Authority has waived any and all right to receive upon the termination of the Authority Lease Agreement pursuant to any reversion or other clause,

including, without limitation, the reversion provisions of Section 12.8 of the Authority Lease Agreement, any of the Purchased Assets (other than the Leased Facilities (as defined in the Authority Lease Agreement)), including, without limitation, any Purchased Assets included in the Existing Operations (as defined in the Authority Lease Agreement) and the Lessee Related Operations (as defined in the Authority Lease Agreement);

(viii) (A) a ground lease of the Authority Real Property in substantially the form attached to this Amendment as Exhibit I (the "Navicent Ground Lease"), executed by the Baldwin Authority, and (B) a memorandum evidencing the Navicent Ground Lease, in recordable form and acceptable to Navicent and the Title Company in their sole discretion (the "Memorandum of Navicent Ground Lease"), executed and notarized by the Baldwin Authority;

(ix) An escrow agreement by and among the Baldwin Authority, Navicent, and the Title Company providing that the Real Estate Transaction Documents have been delivered to the Title Company on or before Closing to be held in escrow and later recorded by the Title Company upon notice from Navicent at Navicent's sole discretion, in the form attached to this Amendment as Exhibit J (the "Escrow Agreement");

(x) An owner's affidavit in the form attached this Amendment as Exhibit K, executed and sworn to by the Baldwin Authority;

(xi) A legal opinion from counsel to the Baldwin Authority in the form attached to the Agreement as Exhibit C;

(xii) All books and records relating to the establishment, preservation, maintenance or enforcement of the Intellectual Property identified pursuant to Section 4.10(a), and all books and records relating to the Intellectual Property Agreements identified pursuant to Section 4.10(a);

(xiii) Transfer documents reasonably acceptable to Navicent transferring all of the Sellers' equity and membership interests in Oconee Sleep and Wellness Center, LLC and Stratus Healthcare, LLC to Navicent; and

(xiv) Such other customary instruments of transfer, assumption, filings or documents, in form and substance reasonably satisfactory to Navicent, as may be requested by Navicent to give effect to this Agreement.

(b) At the Closing, Navicent shall deliver to Sellers the following:

(i) the Closing Payment;

(ii) the Assignment and Assumption Agreement duly executed by Navicent;

(iii) a written release reasonably sufficient to release all claims held by Navicent against the Baldwin Authority, the Sellers and their bankruptcy estates, and any other obligors or guarantors thereunder arising from (1) the Subordinate Secured Promissory Note

between certain of the Sellers or affiliates thereof and Navicent dated March 21, 2016 in the principal amount of One Hundred Thousand and No/100 Dollars ($100,000.00); or (2) the Subordinate Unsecured Promissory Note between certain of the Sellers or affiliates thereof and Navicent dated March 21, 2016 in the principal amount of One Hundred Fifty Thousand and No/100 Dollars ($150,000.00);

(iv) with respect to each Lease that constitutes an Assigned Contract, an Assignment and Assumption of Lease duly executed and notarized by Navicent;

(v) the Navicent Closing Certificate;

(vi) the Navicent Ground Lease and Memorandum of Navicent Ground Lease, duly executed and notarized, as applicable, by Navicent;

(vii) the Escrow Agreement duly executed by Navicent and the Title Company;

(viii) certificates of the Secretary (or equivalent officer) of Navicent required by Section 7.3(e) and Section 7.3(f);

(ix) written evidence reasonably satisfactory to Sellers that Navicent has complied with its obligations in Section 6.11; and

(x) such other customary instruments of transfer, assumption, filings or documents, in form and substance reasonably satisfactory to Sellers, as may be required to give effect to this Agreement.

(c) At the Closing, the Parties shall deliver the following fully executed and undated documents (the "Real Estate Transaction Documents") to the Title Company to be held in escrow until the Real Estate Transfer Date in accordance with the Escrow Agreement:

(i) a limited warranty deed from the Baldwin Authority to Navicent in the form attached to the Amendment as Exhibit L (the "Authority Deed"), duly executed and notarized by the Baldwin Authority, pursuant to which the Baldwin Authority shall convey the Real Property to Navicent;

(ii) if requested by Navicent or the Title Company, the Baldwin Authority shall deliver a quitclaim deed to Navicent, duly executed by the Baldwin Authority, pursuant to which the Baldwin Authority shall quitclaim the Authority Real Property to Navicent using a legal description of the Authority Real Property taken from Navicent's survey of the Real Property (the "Quitclaim Deed");

(iii) a written termination of the Navicent Ground Lease in a recordable form reasonably acceptable to Navicent and the Title Company (the "Termination of Navicent Ground Lease"), executed and notarized by the Baldwin Authority and Navicent;

(iv) a certificate or affidavit of the Baldwin Authority, as is required under applicable provisions of Georgia law and regulation, to assure the Title Company that Georgia sales tax withholding is not required. If the Baldwin Authority fails to deliver such certificate or affidavit, and otherwise fails to provide the Title Company reasonably satisfactory assurance that withholding is not required, then the Title Company shall be entitled to withhold applicable Georgia sales taxes if and to the extent required by applicable Georgia law and regulation; and

(v) such additional documents as shall be reasonably requested or required by the Title Company to consummate the conveyance of fee simple title of the Authority Real Property from the Baldwin Authority to Navicent, but only to the extent such documents are effective on the Closing Date.

(d) At Closing, Navicent shall pay the Closing Payment as set forth in Section 2.5(a) as directed by Sellers.

10. Section 6.3 of the Purchase Agreement shall be deleted in its entirety and replaced with the following:

Supplement to Disclosure Schedules. From time to time prior to the Closing, Sellers shall have the right (but not the obligation) to supplement or amend the Disclosure Schedules hereto, and if applicable, the appropriate references herein, with respect to any matter hereinafter arising or of which they become aware after the Effective Date (each a "Schedule Supplement"), and each such Schedule Supplement shall be deemed to be incorporated into and to supplement, qualify and amend the Disclosure Schedules as of the Effective Closing Date; provided, however, that in the event such event, development or occurrence which is the subject of such Schedule Supplement is material to the Operations, then Navicent shall have the right to terminate this Agreement for failure to satisfy the closing condition set forth in Section 7.2(a); provided, further, that if Navicent has the right, but does not elect, to terminate this Agreement within fifteen (15) Business Days after its receipt of such Schedule Supplement, then Navicent shall be deemed to have irrevocably waived any right to all remedies available pursuant to this Agreement and any right to terminate this Agreement with respect to such matter under any of the conditions set forth in Section 7.2(a).

11. Section 7.2(d) of the Purchase Agreement shall be deleted in its entirety and replaced with the following:

[Intentionally deleted]

12. Section 7.2(m) of the Purchase Agreement shall be deleted in its entirety and replaced with the following:

(m) Navicent shall have been able to obtain at its expense a commitment for a title insurance policy or polices in form and substance and at rates satisfactory to Navicent ensuring Navicent that at the Closing it shall acquire a good, marketable and insurable leasehold interest in the Authority Real Property and upon recordation of the Authority Deed and, as applicable,

the Quitclaim Deed, good, marketable and insurable fee simple title to the Authority Real Property, subject only to Permitted Exceptions. The Baldwin Authority or Sellers, as appropriate, shall have executed and delivered such owner's affidavits (in customary form for bankruptcy sales) as are necessary to enable Navicent to obtain any such title insurance policy or policies;

13. Section 7.2(p) of the Purchase Agreement shall be deleted in its entirety and replaced with the following:

(p) the Sellers shall cause the Bankruptcy Court to enter an order, in a form acceptable to Navicent in its sole discretion, approving the Parties' execution of the Amendment and directing the Parties to effectuate the transaction contemplated by the Purchase Agreement, as amended by the Amendment.

14. Section 7.3(h) shall be added to the Purchase Agreement and state as follows:

(h) The Bankruptcy Court shall have entered an order, in a form acceptable to Navicent in its sole discretion, approving the Parties' execution of the Amendment and directing the Parties to effectuate the transaction contemplated by the Purchase Agreement, as amended by the Amendment.

15. The references to "Closing" or "Closing Date" in the definition of "Accrued Payroll Obligations" are hereby amended and replaced with "Effective Closing Date."

16. The definition of "Authority Real Property" in the Definitions Addendum attached to the Purchase Agreement shall be deleted in its entirety and replaced with the following:

"Authority Real Property" means that certain real property located at or near 821 N. Cobb Street, Milledgeville, Georgia 31061, and at or near 812 Matheson Road, Milledgeville, Georgia, as more particularly described on Exhibit M attached to this Amendment, including all right, title and interest with respect to any easements, rights of ways, privileges, appurtenances or covenants, all structures and other improvements, and any tangible personal property related thereto.

17. The definition of "Applicable Provisions" in the Definitions Addendum attached to the Purchase Agreement shall be deleted in its entirety and replaced with the following:

"Applicable Provisions" means Section 2.6; Section 2.12; Section 2.13; Section 3.2(a)(vii); Section 3.2(a)(viii); Section 3.2(a)(ix); Section 3.2(a)(x); Section 3.2(a)(xi); Section 3.2(c); Section 4.1(b); Section 4.2(b); Section 6.8(b); Section 6.8(c); Section 6.17; Section 6.18; Section 6.22 and Section 7.2(m).

18. The definition of "Baldwin Real Property Transfer Agreement" in the Definitions Addendum attached to the Purchase Agreement shall be deleted in its entirety.

19. The definition of "Transaction Documents" in the Definitions Addendum attached to the Purchase Agreement shall be deleted in its entirety and replaced with the following:

"Transaction Documents" means this Agreement, the Management Agreement and the other agreements, instruments and documents required to be delivered by any Party at the Closing.

20. The definition of "Assignment and Assumption of Lease" in the Definitions Addendum attached to the Purchase Agreement shall be deleted in its entirety and replaced with the following:

"Assignment and Assumption of Lease" has the meaning set forth in Section 3.2(a)(iii).

21. The following definitions shall be added to the Definitions Addendum:

"Authority Bill of Sale" has the meaning set forth in Section 3.2(c).

"Authority Deed" has the meaning set forth in Section 3.2(c)(i).

"Escrow Agreement" has the meaning set forth in Section 3.2(a)(ix).

"Escrow Release Letter" has the meaning set forth in Section 2.6.

"Malpractice Tail Insurance" means any malpractice or professional liability insurance policies provided by or in connection with the Oconee Regional Health Systems Segregated Portfolio.

"Memorandum of Navicent Ground Lease" has the meaning set forth in Section 3.2(a)(viii).

"Navicent Ground Lease" has the meaning set forth in Section 3.2(a)(viii).

"Permitted Exceptions" has the meaning set forth in Section 2.6.

"Quitclaim Deed" has the meaning set forth in Section 3.2(c)(ii).

"Real Estate Transaction Documents" has the meaning set forth in Section 3.2(c).

"Real Estate Transfer" and "Real Estate Transfer Date" have the meanings set forth in Section 2.6.

"Termination of Authority Lease" has the meaning set forth in Section 3.2(a)(vii).

"Termination of Navicent Ground Lease" has the meaning set forth in Section 3.2(c)(iii).

"Title Company" has the meaning set forth in Section 2.6.

22. Exhibit B, the Baldwin Real Property Transfer Agreement and all exhibits thereto, shall be deleted in its entirety from the Purchase Agreement and replaced with the following:

[Reserved]

23. The attachment to Exhibit C, the Form of Authority Counsel Opinion, shall be deleted in its entirety from the Purchase Agreement and replaced with the following:

FORM OF AUTHORITY COUNSEL OPINION

The Baldwin Authority's counsel will deliver an opinion with respect to the following matters in connection with the preparation, execution and delivery of (x) the Asset Purchase Agreement dated July 27, 2017, as has been or may be amended or modified (the "Purchase Agreement") between and among Navicent Health, Inc. or its designee, as applicable ("Navicent"), Oconee Regional Health Systems, Inc., a Georgia nonprofit corporation ("Oconee"), certain Subsidiaries of Oconee listed on the signature pages thereto (together with Oconee, each individually a "Seller" and collectively, the "Sellers"), and, as to the Applicable Provisions (as defined in the Purchase Agreement), the Baldwin County Hospital Authority, an authority organized under the Georgia Hospitals Authorities Law (the "Baldwin Authority"), and (y) the Navicent Ground Lease (as defined in the Purchase Agreement) by and between Navicent and the Baldwin Authority (the "Lease" and collectively with the Purchase Agreement and ancillary documents and instruments related to each, the "Agreements"):

1. The Baldwin Authority is a hospital authority validly existing and in good standing under the laws of the State of Georgia and has all requisite power and authority to own, lease and operate its properties and to carry on its business as now being conducted.

2. The Baldwin Authority has full power and authority to execute and deliver the Agreements and perform its obligations under the Agreements and to consummate the transactions contemplated thereby. The execution and delivery of the Agreements by the Baldwin Authority, and the performance by the Baldwin Authority of its obligations thereunder and the consummation of the transactions provided for therein have been duly and validly authorized by all necessary action on the part of the Baldwin Authority. The Agreements have been duly executed and delivered by the Baldwin Authority and constitute the valid and binding agreements of the Baldwin Authority, enforceable against it in accordance with their respective terms.

3. The execution, delivery and performance of the Agreements, the consummation of the transactions contemplated by the Agreements and the fulfillment of and compliance with the terms and conditions of the Agreements do not and will not violate or conflict with,

constitute a breach or default under, permit the acceleration of any obligation under or create in any party the right to terminate, modify, or cancel (a) any term or provision of the authorizing resolutions or bylaws of the Baldwin Authority, (b) any other contract, agreement, permit, franchise, license or other instrument applicable to the Baldwin Authority, (c) any judgment, decree or order of any court or governmental authority or agency to which the Baldwin Authority is a party or by which the Baldwin Authority or any of its properties are bound or (d) any existing statute, law, or regulation applicable to or governing the Baldwin Authority.

The foregoing opinions of such counsel may be subject to customary qualifications, limitations, and exceptions.

24. Except as expressly amended hereby, the Purchase Agreement shall remain in full force and effect. In the event of a conflict between the terms of the Purchase Agreement and this Amendment, the terms of this Amendment shall control.

25. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of the signature page to this Amendment by PDF shall be as effective as delivery of a manually executed counterpart of this Amendment and shall be given full legal effect in accordance with the Uniform Electronic Transactions Act codified at O.C.G.A. § 10-12-2.

26. All exhibits attached to the Agreement and this Amendment are hereby incorporated into and made a part of the Agreement.

[*Signatures on following page*]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed, as of the date first above written.

OCONEE:

OCONEE REGIONAL HEALTH SYSTEMS, INC.

By: _____
Name: Steven Johnson
Title: CEO

OTHER SELLERS:

OCONEE REGIONAL HEALTH SERVICES, INC.

By: _____
Name: Theodore Zarkowsky
Title: Chairman

OCONEE REGIONAL MEDICAL CENTER, INC.

By: _____
Name: Phyllis M. Parks-Veal
Title: Chairman

OCONEE REGIONAL EMERGENCY MEDICAL SERVICES, INC.

By: _____
Name: Theodore Zarkowsky
Title: Chairman

OCONEE REGIONAL HEALTH VENTURES, INC.

By: _____
Name: Prabhdeep Brar
Title: Chairman

OCONEE REGIONAL SENIOR LIVING, INC.

By: _____
Name: Steven Johnson
Title: Chairman

OCONEE INTERNAL MEDICINE, LLC

By: Oconee Regional Health Ventures, Sole Member

By: _____
Name: Prabhdeep Brar
Title: Chairman

OCONEE ORTHOPEDICS, LLC

By: Oconee Regional Health Ventures, Sole Member

By: _____
Name: Prabhdeep Brar
Title: Chairman

ORHV SANDERSVILLE FAMILY PRACTICE, LLC

By: _____
Name: Prabhdeep Brar
Title: Manager

BALDWIN AUTHORITY: **BALDWIN COUNTY HOSPITAL AUTHORITY**

By: _____
Name: Cay Quattlebaum
Title: Chairman

NAVICENT:

NAVICENT HEALTH, INC. (on behalf of itself and its Designee, as applicable)

By: _____
Name: Ken Banks
Title: Secretary

EXHIBIT A-2

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ATTORNEYS AT LAW
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577 MULBERRY STREET
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D. MARK BAXTER
CHRISTOPHER W. TERRY
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Writer's E-mail: dbury@stoneandbaxter.com

October 27, 2017

Via Federal Express and Electronic Mail (mark.duedall@bryancave.com)
Oconee Regional Health Systems, Inc., *et al.*[1]
c/o Mark Duedall, Esq.
Bryan Cave, LLP
1201 West Peachtree Street 14th Floor
One Atlantic Center
Atlanta, Georgia 30309

Via Federal Express and Electronic Mail (dennis.connolly@alston.com)
Navicent Health, Inc.
c/o Dennis Connolly, Esq.
Alston & Bird, LLP
One Atlantic Center
1201 West Peachtree St., NW
Atlanta, Georgia 30309

Via Federal Express and Electronic Mail (dcranshaw@mmmlaw.com)
Jasper Health Services, Inc.
c/o David Cranshaw, Esq.
Morris, Manning & Martin, LLP
3343 Peachtree Road, NE
1600 Atlanta Financial Center
Atlanta, Georgia 30326

Re: COBRA Continuation Coverage for James Extine, D.O.

Gentlemen:

As you know, we represent Dr. Extine in connection with the Oconee Chapter 11 bankruptcy cases (Bankr. M.D. Ga. Main Case No. 17-51005). The purpose of this letter is to

[1] Oconee Regional Health Systems, Inc. and its eight affiliate debtors, which are as follows: (i) Oconee Regional Medical Center, Inc.; (ii) Oconee Regional Health Services, Inc.; (iii) Oconee Regional Emergency Medical Services, Inc.; (iv) Oconee Regional Health Ventures, Inc.; (v) Oconee Internal medicine, LLC; (vi) Oconee Orthopedics, LLC; (vii) ORHV Sandersville Family Practice, LLC; and (viii) Oconee Regional Senior Living, Inc.

inquire about the availability of continuation coverage for Dr. Extine and his family under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("**COBRA**"). Your receipt of this letter reflects our initial conclusion that your client(s) may be subject to COBRA and related IRS Regulations and, thus, required to offer and provide continuation coverage to the Extines.

By way of background, Dr. Extine is a party to that certain Employment Agreement with Debtor Oconee Orthopedics, LLC dated December 10, 2013 and that certain Emergency On-Call Service Agreement with Debtor Oconee Regional Medical Center, Inc. dated February 1, 2017 (collectively, the "**Agreements**"). Pursuant to the Agreements, Dr. Extine, Kimberly Extine (his spouse), and Elijah, Madison, and Edward Extine (his dependents) (collectively, the "**Extines**") are participants, or were participants through and including on or about September 30, 2017, in the Oconee Health Ventures Health Care Program (the "**Health Plan**").

On information and belief, the Health Plan is a self-funded Plan administered by Secure Health Plans of Georgia, LLC ("**Secure Health**"), its third party administrator. By its terms, as stated in its Summary Plan Description, and as a clear matter of law, the Health Plan is subject to COBRA. Further, Debtors have represented that certain of their former employees are entitled to and/or were receiving COBRA coverage as of the Petition Date. Dkt. 5 at ¶21. Further with respect to the applicability of COBRA and for reasons that may be relevant to the Extines' entitlement to COBRA coverage, it appears that the relevant "controlled group" on the Debtors' side includes, at a minimum, the nine Debtors and Jasper Health Services, Inc. ("**Jasper**"), a non-Debtor affiliate owned 100% by Oconee Regional Health Systems, Inc. ("**Oconee**").

Of course, we all understand that Navicent Health, Inc. or some member of its controlled group ("**Navicent**"), being the successful bidder at bankruptcy auction, purchased all or substantially all of the assets of the nine Debtors, with Court authorization being granted on July 6, 2017 (Dkt. 270) and the sale closing on or about September 30, 2017 (the "**Closing Date**"). In connection with the sale, Dr. Extine's employment with Debtor Oconee Orthopedics, LLC terminated on the Closing Date, notwithstanding any notice period required under the Agreements. Although Navicent picked-up and employed a substantial portion of Debtors' employees, we understand, based on other employee inquiries to our firm on this issue, that at least 15 other employees of Debtors were terminated in the week leading-up to the Closing Date.

We also now understand that Debtors will continue to maintain the Health Plan for the very limited purpose of winding-up remaining claims through the Closing Date. We're told that, when the wind-up is complete, Debtors will move to terminate the Health Plan, such that Debtors will no longer have any health plans in place. On that assumption, Debtors contend that Debtors' COBRA obligations, if any, will cease. To be sure, Dr. Extine received written correspondence on September 22, 2017 from Sherri P. Smith, former Director of Medical Staff Services for

Oconee and now a Navicent employee, that "I talked with HR after I got your voice mail. She said that your insurance is current through the end of the month. Once your employment is over, the paperwork will [be] sent to you for your cobra, but it may take a few weeks. Once you fill out the paper work and send it back with your premium it will be retroactive to October 1st. Let me know if you have any further questions." Nevertheless, Oconee's counsel informed us on October 25, 2017 that, on account of the anticipated termination, Debtors will *not* be making COBRA coverage available to any former employees, including the Extines, as promised.[2]

In advance of any litigation regarding COBRA, our contention is as follows and is informed by the IRS M&A Regulations (26 C.F.R. 54.4980B-9) regarding business reorganizations. **First**, the sale to Navicent is an "asset sale"-type "business reorganization" as it involved a "transfer of substantial assets . . . or substantially all the assets of a trade or business." *See* Q-1. **Second**, the "selling group" for the asset sale consists of the "controlled group of corporations . . . selling the assets" (i.e., the nine Debtors and, potentially, Jasper). *See* Q-3. The "buying group" for the asset sale consists of the "controlled group of corporations . . . buying the assets" (i.e., Navicent, at a minimum). *Id.*

Third, each of the Extines is an "M&A qualified beneficiary" because Dr. Extine is a "qualified beneficiary whose qualifying event occurred prior to or in connection with the sale and who is, or whose qualifying event occurred in connection with, a covered employee whose last employment prior to the qualifying event was associated with the assets being sold." *See* Q-4. That is, the termination of Dr. Extine's employment was not only a COBRA qualifying event, generally, but it was also in connection with the sale to Navicent.[3] Similarly, his employment was associated with the assets being sold, as Navicent purchased his employer's assets. **Fourth**, we cannot find anywhere in the Asset Purchase Agreement or other related available documents where Oconee and Navicent "allocated by contract the responsibility to make COBRA continuation coverage available to M&A qualified beneficiaries." *See* Q-7. It wouldn't matter in this instance if they had made such an allocation, as the party who would otherwise be bound under the M&A Regulations is still bound if the other party fails to perform. *Id.*

Fifth, we get to the issue of which of your clients, if any, is subject to COBRA with respect to Dr. Extine and, for that matter, all similarly-situated terminated employees. Generally, if the "seller group [Oconee] maintains a group health plan after the sale," then a "group health plan maintained by the selling group [Oconee] has the obligation to make COBRA continuation coverage available to M&A qualified beneficiaries with respect to" the asset sale. *See* Q-8. From our discussions with Debtors' counsel, it appears that Debtors do not intend to maintain any

[2] We also understand, but have not confirmed, that Steve Johnson, Oconee's interim CEO, made similar representations about COBRA coverage availability to at least one other terminated employee.
[3] Also, Navicent, as part of the buying group, did not employ Dr. Extine immediately after the sale. *See* Q-6.

group health plans after the sale and, when the Plan wind-up is complete, they will terminate the Plan. To be sure, the Regulations indicate that Oconee will be deemed as *not* maintaining any group health plans after the sale, even if they maintain the Health Plan for wind-up and *then* terminate the Health Plan *after* the Closing Date. *See* Q-8, Ex. 8 (indicating that the buyer group's obligations begin when the wind-up is done and the plan is terminated). Thus, except for the issue below regarding Jasper, the question is whether Navicent is liable to the Extines.

In that regard, the Regulations provide that "if the selling group [Oconee] ceases to provide any group health plan to any employee in connection with the sale and if the buying group [Navicent] continues the business operations associated with the assets purchased from the selling group without interruption or substantial change, then the buying group is a successor employer to the selling group in connection with that asset sale." *See* Q-8. Notwithstanding the wholly-unsupported and gratuitous comfort language in the Sale Order on the issue of successors and business continuity, we submit that Navicent is a "successor employer" and, thus, a group plan in its controlled group is required to make COBRA continuation coverage available to Dr. Extine and all similarly-situated Oconee employees on the later of (i) the Closing Date and (ii) the date that Oconee ceases to provide a group health plan. Indeed, on these "facts and circumstances" issues and determinations, a "buying group [like Navicent] does not fail to be a successor employer in connection with an asset sale merely because the asset sale takes place in connection with a proceeding in bankruptcy under title 11 of the United States Code." *Id.* We submit that Examples 6 and 8 for Q-8 illustrate Oconee's and Navicent's COBRA liability.

With respect to Jasper, see Example 5 for Q-8. If Jasper (i) is in Oconee's controlled group on account of Oconee's 100% ownership of Jasper and (ii) continues to maintain a group health plan, then Jasper is obligated to make COBRA available to the Extines and similarly-situated qualified beneficiaries. In fact, according to Example 5, Jasper may also have that obligation with respect to employees that Navicent took over. We invite Jasper to clarify or supplement our understanding of the facts as they apply to Jasper's potential liability.

In short, the Extines are entitled to COBRA continuation coverage from Oconee, Navicent, and/or Jasper in any number of possible combinations. With this letter, we intend to resolve this issue in good faith without the need to seek relief from the Sale Order under Rule 60(b)[4] and without becoming a COBRA plaintiff for the purpose of seeking coverage, establishing daily excise taxes and ERISA penalties, and obtaining other relief, including damages and attorneys' fees in the appropriate forum. For the moment, we respectfully request:

[4] My client's position doesn't depend on the sufficiency of notice on the Sales Order. However, we see no indication that former employees (as of the Petition Date) or current employees (other than contract counterparties) received any notice whatsoever that the Court would alienate their potential COBRA claims against Navicent.

1. **From All:** A response to this letter at or before **5 p.m. on Monday, October 30, 2017**. Our client, approaching the 30th day after his termination, is in a precarious situation regarding transition to a new insurance policy, potential "Special Enrollments," ACA penalties, etc. We cannot assume any coverage gaps and reserve all claims related to resulting gaps.

2. **From Oconee**: (a) confirmation of the date, if any, on which the Extines' coverage under the Health Plan terminated and delivery of any necessary certificates in that regard, including, without limitation, a Certificate of Creditable Coverage; (b) any and all notices required under the Health Plan and applicable law, including COBRA; (c) identification of any group plans in Oconee's controlled group that will remain in place; (d) information about the Extines' conversion rights and available plans to convert to, if any; (e) written confirmation that Oconee will make continuation coverage available to the Extines from September 30, 2017 through and including the date on which Oconee terminates the Plan; and (f) equal participation by Dr. Extine in any severance benefits offered to other terminated employees.

3. **From Jasper**: A confirmation regarding whether (i) its agrees that it is in the Oconee "controlled group" and (ii) it will continue to maintain a group health plan.

4. **From Navicent**: A confirmation that, upon the termination of available group health plans in the applicable Oconee controlled group, it will make COBRA continuation coverage available to the Extines and all similarly-situated qualified beneficiaries.

I'm sending this letter as a professional courtesy, knowing full well that the lawyers involved will either work to narrow or resolve these issues quickly or will let their disagreement be known quickly so as to put the burden on my client to determine whether to litigate.

Thanks in advance for your clients' consideration.

Best regards,

David L. Bury, Jr.

DLB/ju
cc: John Elrod, Esq. for the Unsecured Creditors Committee (email only)
Robert Fenimore, Esq. for the United States Trustee (email only)
Burt Wilkerson, Esq. for Secure Health Plans of Georgia, LLC (email only)

EXHIBIT A-3

ALSTON & BIRD

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1201 West Peachtree Street
Atlanta, GA 30309-3424
404-881-7000 | Fax: 404-881-7777

Dennis J. Connolly Direct Dial: 404-881-7269 Email: dennis.connolly@alston.com

October 30, 2017

VIA EMAIL & U.S. MAIL

Stone & Baxter, LLP
c/o David J. Bury, Jr.
Fickling & Co. Building
Suite 800
577 Mulberry Street
Macon, Georgia 31201
dbury@stoneandbaxter.com

Re: ORMC - October 27, 2017 letter concerning COBRA coverage

Dear Dave:

We are in receipt of your letter dated October 27, 2017 related to asserted COBRA coverage for Dr. Extine and his family (the "Extines"). As you are aware, Navicent Health Oconee, LLC ("Navicent") did not accept assignment of the Oconee Debtors' (the "Debtors") contracts related to Dr. Extine.

With respect to your assertion that Navicent is required to provide COBRA coverage for the Extines, the Sale Order clearly provides that it is not. In addition to the language in the Sale Order which you referenced in your letter, which holds that Navicent is not a successor to the Debtors, the Bankruptcy Court specifically held in the Sale Order that the purchased assets were sold to Navicent free and clear of all COBRA coverage claims or rights. *See* Sale Order ¶ T. The language of the Sale Order is clear and unambiguous, and we reject the implication in footnote four of your letter that your client did not receive notice that Navicent would not be liable for the Debtors' COBRA obligations (if any). Indeed, your client received proper notice of the Sale Order because, among other reasons, you entered an appearance on behalf of your client in the Bankruptcy Case more than a month prior to the entry of the Sale Order, which is now final and non-appealable. In addition, a draft sale order, which was filed by the Debtors in the Bankruptcy Case on May 11, 2017, approximately six weeks prior to the sale hearing, provided that the purchaser of the Debtors' assets would not be liable for COBRA

coverage. Despite the clear language in the Sale Order concerning COBRA rights and your client's notice thereof, Dr. Extine filed no objection to the entry of the Sale Order in the Bankruptcy Case and raised no issue at the sale hearing with respect to the factual findings of the Court or the language in the Sale Order related to the Debtors' purported COBRA obligations.

Moreover, any alleged representations made by agents or employees of the Debtors prior to Navicent's purchase of the Debtors' assets cannot be attributed to Navicent. Among other reasons, Mr. Smith and Mr. Johnson were not agents of Navicent, nor were they authorized to make any communication on Navicent's behalf.

Accordingly, Navicent disagrees with your contention that it is liable to the Extines for COBRA continuation coverage, and will not make such coverage available to the Extines. We trust that this letter will resolve the issues raised in your October 27, 2017 letter as they relate to Navicent. Navicent reserves all defenses, claims and positions that it may have against and/or with respect to the Extines, whether or not specifically raised or addressed in this letter. If you have any questions, or would like to discuss the contents of this letter further, please don't hesitate to call at the number above.

Sincerely,

Dennis J. Connolly

cc: Mark Duedall (via email) for Oconee Regional Health Systems, Inc., *et al.*
David Cranshaw (via email) for Jasper Health Services, Inc.
John Elrod (via email) for the Unsecured Creditors Committee
Robert Fenimore (via email) for the United States Trustee
Burt Wilkerson (via email) for Secure Health Plans of Georgia, LLC

EXHIBIT A-4

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

In re:	:	
	:	
OCONEE REGIONAL HEALTH SYSTEMS, INC., *et al.,*	:	Chapter 11
	:	Case No. 17-51005-AEC
	:	(Jointly Administered)
Debtors.[1]	:	
	:	

BLOCKS' AMENDED INITIAL DISCLOSURES FOR CLAIMS ESTIMATION PROCEEDING

COME NOW, Deborah L. Block and Jeffrey D. Block (collectively, the "**Blocks**"), each a creditor and party-in-interest in the above-styled cases, and, pursuant to F.R.C.P. 26, made applicable in these proceedings by F.R.B.P. 7026, provide these initial disclosures to the Debtors, via Clifford Zucker, Debtors' Liquidating Trustee (collectively, the "**Debtors**"), Willis R. Roberts, Jr., M.D. and Catherine Roberts, M.D. (collectively, the "**Roberts**"), James H. Extine, D.O., and Navicent Health, Inc. and its relevant affiliates (collectively, "**Navicent**"). Reserving their right to amend and supplement, the Blocks disclose as follows:

1. The name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.

Response: Individuals likely to have discoverable information, with contact information listed, if known, include the following:[2]

[1] For the purposes of this pleading, "Debtors" means, collectively, the nine individual debtors in these jointly administered cases, which are as follows: (i) Oconee Regional Medical Center, Inc.; (ii) Oconee Regional Health Systems, Inc.; (iii) Oconee Regional Health Services, Inc.; (iv) Oconee Regional Emergency Medical Services, Inc.; (v) Oconee Regional Health Ventures, Inc.; (vi) Oconee Internal medicine, LLC; (vii) Oconee Orthopedics, LLC; (viii) ORHV Sandersville Family Practice, LLC; and (ix) Oconee Regional Senior Living, Inc.

- **Phyllis Parks-Veal**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Ted Zarkowsky**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Vanessa Walker**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Michael Anderson**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Tyrone Evans**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Alice Loper**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Michael Duke**, **M.D.**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Marshall Ivey, M.D.**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Prabdheep Brar, M.D.**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Harinder Brar, M.D.**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **George Martinez, M.D.**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Steven Johnson**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Michael Vaughn**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

[2] Unless noted, each of these individuals or entities should have knowledge regarding the treatment of COBRA matters in the Bankruptcy Sale and/or Debtors' COBRA obligations and compliance.

- **Lois Richardson**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Chason L. Harrison, Jr.**, who may be contacted at James Bates Brannan Groover, LLP, 3399 Peachtree Road NE Suite 1700, Atlanta, Georgia 30326, 404.997.6020;

- **Andrew T. Barksdale**, who may be contacted at James Bates Brannan Groover, LLP, 3399 Peachtree Road NE Suite 1700, Atlanta, Georgia 30326, 404.997.6020;

- **Lee M. Gillis, Jr.**, who may be contacted at James Bates Brannan Groover, LLP, 231 Riverside Drive, Macon, Georgia 31201, 478.742.4280;

- **Thomas Huyck**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Mark I. Duedall**, who may be contacted at Bryan Cave Leighton Paisner, One Atlantic Center, 14th Floor, 1201 W. Peachtree St., N.W., Atlanta, GA 30309-3471, 404.572.6611;

- **Rhonda Perry**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Darren Pearce**, who may be contacted using the contact information maintained in Navicent's business records;

- **Judy Ware**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Robyn Burney**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Sherri P. Smith**, who may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records;

- **Joselyn Baker**, who may be contacted at 404.929.908;

- **The Official Committee of Unsecured Creditors in the Bankruptcy Case**, which may be contacted through its counsel of record in the Bankruptcy Case;

- **Jasper Health Services, Inc.**, which may be contacted through its counsel of record in the Bankruptcy Case;

- **Secure Health Plans of Georgia, LLC**, which may be contacted through its counsel of record in the Bankruptcy Case;

- **Andrew Turnbull of Houlihan Lokey**, who may be contacted via the following link: https://www.hl.com/us/teammembers/andrew-turnbull/

- **James G. Lennon, D.O.**, who may be contacted at Georgia Cancer Specialists, an affiliate of Northside Hospital Cancer Institute, at 624 W. Martin Luther King Jr. Dr., Milledgeville, Georgia 31061, 478.453.1806. Dr. Lennon has general and specific knowledge about medical treatments received by Ms. Block.

- **Seth Rion, M.D.**, who may be contacted at Piedmont Surgical, 750 N. Cobb Street, Milledgeville, Georgia 31061, 478.452.1024. Dr. Rion has general and specific knowledge about medical treatments received by Ms. Block.

- **Charles M. Mendenhall, M.D.**, who may be contacted at Radiation Oncology Associates, Phoebe Putney Memorial Hospital, 425 Third Avenue, Lower Level, Albany, Georgia 31071. Dr. Mendenhall has general and specific knowledge about medical treatments received by Ms. Block.

- **Tripp Simpson, M.D.**, who may be contacted at Oconee Radiation Oncology, 821 N. Cobb Street, Milledgeville, Georgia 31061, 478.454.3805. Dr. Simpson has general and specific knowledge about medical treatments received by Ms. Block.

- **Dragos Filimon, M.D.**, who may be contacted at Internal Medicine, 127 Main Street, Gordon, Georgia 31031, 478.628.1636. Dr. Filimon has general and specific knowledge about medical treatments received by Ms. Block.

- **Lawrence Steinfeld, M.D.**, who may be contacted at Navicent Health Baldwin, 821 N. Cobb Street, Milledgeville, Georgia 31061. Dr. Steinfeld has general and specific knowledge about medical treatments received by Ms. Block.

- Categorically, all members of the Debtors' Board of Directors as constituted throughout the Chapter 11 sales process and the time period leading up to it; Debtors may be contacted through counsel for the Liquidating Trustee in the Bankruptcy Case;

- Categorically, all Navicent business persons who were involved in Navicent's purchase of certain of the Debtors' assets in the Bankruptcy Case; Navicent may be contacted through its counsel of record in the Bankruptcy Case;

- Categorically, all Prime Health Services, Inc. ("**Prime**") business persons who were involved in Prime's unsuccessful attempt to purchase certain of the Debtors' assets in the Bankruptcy Case; Prime may be contacted through its counsel of record in the Bankruptcy Case; and

- Categorically, all former employees of Debtors who had their employment with Debtors terminated contemporaneously with Ms. Blocks' employment; such former employees may be contacted using the contact information maintained in Debtors' and, if applicable, Navicent's business records.

2. A copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

Response: Categorically, supporting documents in disclosing party's possession, custody, or control include the following:

- All documents filed in the *Block v. Oconee Regional Medical Center, Inc., et al.*, Case No. 5:17-cv-00470 (M.D. Ga. Nov. 29, 2017) lawsuit (the "**COBRA Lawsuit**");

- All documents filed in the Bankruptcy Case, including, without limitation, those documents filed by the Blocks and the other disclosing parties;

- The Blocks' medical records and related medical invoices and claims for all time periods relevant to the COBRA Lawsuit and related administrative claim in the Bankruptcy Case;

- All human resource records of the Blocks maintained by Debtors or Navicent to the extent that the Blocks are deemed to have custody or control of such documents.

3. A computation of each category of damages claimed by the disclosing party—who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.

Response: With respect to Ms. Block's severance claim, as more particularly outlined at Dkt. 659, Ms. Block claims Debtors owe her at least three (3) months of severance pay in an amount not less than $35,193.00, exclusive of interest and attorneys' fees, which she is also claiming. With respect to the Blocks' COBRA claims, as more particularly outlined at Dkt. 659 and in the COBRA Lawsuit, the Blocks' COBRA damages are, in many respects, unliquidated and continuing and, thus, no final computation of damages is possible, included, or required.

To be sure, the Blocks' administrative claim against the Debtors for COBRA falls into 2 categories: (i) their damages against the Debtors for such period of time that Debtors are determined to have been directly responsible for COBRA as to the Blocks, at the exclusion of all other potentially liable parties, if any, and (ii) their damages against the Debtors for such period of time *after* Debtor's direct liability period to the extent that there is a determination that the COBRA liabilities of other potentially liable parties attach to the proceeds of the Bankruptcy Sale. By way of example only, the Court could determine that Debtors, and only Debtors, have COBRA liability from October 1, 2017 through December 5, 2017, the date that Debtors sent notice of cancellation of the Oconee Health Plan. That is the first category of damages. The Court could then determine that Navicent or Jasper is liable to the Blocks for COBRA coverage from December 5, 2017 through March 31, 2019, with March 31, 2019 representing the last day of the 18 month COBRA period that commenced on October 1, 2017. If the Court determines that such post-December liability is a direct obligation of Navicent or Jasper, then the Blocks would likely not have an administrative claim against Debtors for that period—a category 2 period. If, however, the Court determines, rather inexplicably, that the Blocks are owed COBRA for that post-December period but the Blocks are limited in relief to the proceeds of the sale (with neither Navicent nor Jasper having any direct COBRA liability), then the Blocks would have a damages claim for COBRA against Debtors in both categories described above.

At a minimum, the Blocks' have already asserted in the COBRA Lawsuit and the related administrative claim, and hereby reassert, a claim for all categories of damages available under ERISA for COBRA violations, including, without limitation, (i) actual medical expenses incurred by the Blocks during all relevant time periods (including the 18 month period of time during which they were and still are entitled to COBRA coverage from any one or more of the COBRA Lawsuit Defendants), with required adjustments under ERISA, if any, for reimbursements and alternative coverage; (ii) statutory penalties, and (iii) attorneys' fees, costs, and expenses. Additionally, there is the possibility that certain of the Defendants in the COBRA Lawsuit will be liable to the IRS for excise taxes on account of COBRA violations. Although it doesn't appear that the Blocks would be a direct beneficiary of such excise taxes, the amount of such taxes could be administrative claims against Debtors by the IRS or, if assessed against Navicent, claims for which Navicent would seek indemnity as a part of its claim.

As of the date of these disclosures, the Blocks articulate the following costs that they are aware of that would be relevant in any damages determination:

- Prescriptions from October through December: $175.18.
- Out-of-pocket paid to Northside Hospital Cancer Institute (NSH-CIPS): at least $5,193.59 (an amount which reflects significant discounting by NSH-CIPS as a gratuitous accommodation to the Blocks in light of Debtors' termination of insurance)
- Amount written off by NSH-CIPS: at least $16,534.02.
- Baldwin County Health: $21.93.
- RespShop: $146.20.
- Frank Arnold, DDS: $94.00.
- Lab Corp: $132.00.

- COBRA premiums through temporary employer, 4/1/18 to 5/31/18: $1,300/month.
- Deductible under current COBRA insurance through agency: $5,000.00.
- Amounts unknown as of 5/7/18:

    - cost of certain unbilled radiation treatments from late 2017 to the present
    - cost of ongoing radiation and other medical treatments from 5/7/18 to 3/31/19
    - monthly cost of COBRA coverage through the Debtors
    - monthly cost of COBRA coverage through Navicent
    - monthly cost of COBRA coverage through Jasper
    - other health coverage features of Debtor, Navicent, and Jasper coverage (e.g., deductibles, coverage limitations, etc.)
    - deductible under permanent insurance commencing 6/1/18, if any

- Statutory penalty per qualified beneficiary through 5/7/18: $19,030 (i.e., up to $110/day from 11/15/17 to 5/7/18, with 11/15 being the 45th day after coverage loss)
- Litigation costs and expenses from 11/1/17 to 5/7/18: $911.29
- Litigation attorneys' fees from 11/1/17 to 5/7/18: $47,759.50

The Blocks disclose as follows regarding Ms. Block's employment and insurance status since September 30, 2017, her last day of employment with Debtors:

- 10/1/17 to 11/30/17: No insurance coverage
- 10/30/17: Ms. Block, through Aureus Medical, started her temporary employment in Albany with Phoebe Putney Memorial Hospital as its Interim Manager
- 11/29/18: Blocks filed the COBRA Lawsuit in response to potential coverage gaps
- 12/1/17: The Blocks obtained health insurance through C&A Industries, which is the parent company for Aureus Medical
- 03/30/18: Temporary employment/insurance w/ Phoebe Putney Memorial/C&A ends
- 04/01/18: The Blocks obtained COBRA coverage through C&A at $1,352 per month
- 4/16/18: Ms. Block's permanent employment with Effingham Health System began
- 05/31/18: The Blocks' COBRA coverage through C&A is set to end
- 06/01/18: The Blocks' permanent insurance through Effingham Health System begins

Clearly, some of the information necessary for a calculation of damages is unavailable, either because the Blocks are not yet privy to such information or because such information is based on the occurrence of future events (e.g., the incurrence of medical expenses, premiums, etc. in the future). Further, the best and controlling determination of the Blocks' COBRA damages will be that determination made in the COBRA Lawsuit, whether that final determination is made by the District Court or by the Bankruptcy Court. Nothing about these initial disclosures, which are intended solely to facilitate a claims estimate "for purposes of establishing reserves to be retained by the Liquidating Trustee," Dkt. 750 at 2, is intended as a waiver of the Blocks' right to obtain (i) the declaratory relief sought in the COBRA Lawsuit,

some of which is non-monetary in nature and not grounded in a claim for damages and (ii) a binding and final determination of which Defendants are liable, if any, and the damages amount.

Further, the Blocks object to any contention that the Estimation Order (Dkt. 750) somehow accelerates any requirement that the Blocks prove-up their damages, as the discovery period in the COBRA Lawsuit, no matter where that suits, is just beginning.

4. For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Response: Not applicable.

Respectfully submitted this 7th day of May, 2018.

STONE & BAXTER, LLP
By:
/s/ David L. Bury, Jr.
David L. Bury, Jr.
Georgia Bar No. 133066
G. Daniel Taylor
Georgia Bar No. 528521
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing **AMENDED INITIAL DISCLOSURES FOR CLAIMS ESTIMATION PROCEEDING** via electronic mail upon the following:

Dennis J. Connolly
Dennis.Connolly@alston.com

Patrick C. DiCarlo
Pat.DiCarlo@alston.com

Thomas P. Clinkscales
Tom.Clinkscales@alston.com

John D. Elrod
elrodj@gtlaw.com

Benjamin D. Keck
keckb@gtlaw.com

This 7th day of May, 2018.

/s/ David L. Bury, Jr.
David L. Bury, Jr.
Georgia Bar No. 133066

Certificate of Service

I hereby certify that on September 17, 2018, I filed the above documents via the Court's CM/ECF system and served such documents via U.S. Mail on the following attorneys:

David L. Bury, Jr.
Stone & Baxter, LLP
577 Mulberry Street – Suite 800
Macon, Georgia 31201

David W. Cranshaw
Morris, Manning & Martin, LLP
3343 Peachtree Road, NE
1600 Atlanta Financial Center
Atlanta, GA 30326

John D. Elrod
Greenberg Traurig, LLP
Terminus 200
3333 Piedmont Road NE
Suite 2500
Atlanta, GA 30305

This 17th day of September, 2018

/s/Thomas P. Clinkscales
One of the Attorneys for Navicent Health, Inc., Navicent Health Oconee, LLC and Navicent Health Baldwin, Inc.