

## PROTECTION OF CHARITABLE ASSETS AGREEMENT

This Agreement is effective upon execution, by and between the Michigan Department of Attorney General (“Attorney General”) and Prime Healthcare Foundation, Inc., a Delaware nonprofit corporation (“Prime Foundation”).

### RECITALS

A. Trinity Health-Michigan (“Seller”), Prime Healthcare Services – Port Huron LLC (“Buyer”), and Prime Healthcare Foundation, Inc. (“Prime Foundation”) are parties to an Asset Purchase Agreement dated November 19, 2014, as amended by that certain First Amendment to Asset Purchase Agreement, effective July 28, 2015, as further amended by that certain Second Amendment to Asset Purchase Agreement, effective July 28, 2015, and as further amended by that certain Third Amendment to Asset Purchase Agreement, effective August 20, 2015 (as amended, the “Purchase Agreement”), pursuant to which the Buyer and Prime Foundation will acquire substantially all of the assets of the hospital known as St. Joseph Mercy Port Huron and related assets from the Seller (the “Transaction”).

B. The St. Joseph Mercy Port Huron Foundation (the “Foundation”) is a division of St. Joseph Mercy Port Huron, which itself is a division of Trinity Health-Michigan, a Michigan nonprofit corporation.

C. The Peoples’ Clinic for Better Health (the “Peoples’ Clinic”) is an indigent care clinic operated by Seller in Port Huron, Michigan.

D. The Foundation is governed by a local advisory board, which is a subcommittee of the Trinity Health-Michigan board.

E. The Prime Foundation is a Delaware nonprofit corporation that owns and operates hospitals and their related facilities.

F. As part of the Transaction, the assets of the Foundation and the Peoples’ Clinic will be transferred to the Prime Foundation to be used for the continuing healthcare needs of the people of Port Huron and consistent with all donor restrictions.

G. Section 9.6 of the Purchase Agreement requires the Attorney General to approve or not object to the Transaction as a condition precedent to the Closing of the Transaction.

H. In order to protect and ensure proper disposition of the charitable assets that will be transferred from the Seller to the Prime Foundation, the Attorney General requires special assurances from the Prime Foundation as set forth in this Agreement.

For and in consideration of the premises, agreements, covenants and representations set forth herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree to the following:

## TERMS

### I. Defined Terms

All capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings set forth in the Purchase Agreement.

**Purchase Agreement:** Asset Purchase Agreement by and between Trinity Health-Michigan, Prime Healthcare Services – Port Huron LLC, Prime Healthcare Services, Inc., and Prime Healthcare Foundation, Inc., dated November 19, 2014, as amended by that certain First Amendment to Asset Purchase Agreement, effective July 28, 2015, and as further amended by that certain Second Amendment to Asset Purchase Agreement, effective July 28, 2015.

**Foundation:** St. Joseph Mercy Port Huron Foundation, a division of St. Joseph Mercy Port Huron, which itself is a division of Trinity Health-Michigan.

**Hospital:** St. Joseph Mercy Port Huron Hospital.

**Seller:** Trinity Health-Michigan, a Michigan nonprofit corporation.

**Buyer:** Prime Healthcare Services – Port Huron LLC, a Delaware limited liability company.

**Prime:** Prime Healthcare Services, Inc., a Delaware corporation.

**Prime Foundation:** Prime Healthcare Foundation, Inc., a Delaware nonprofit corporation.

**Transaction:** Buyer's acquisition of St. Joseph Mercy Port Huron assets from Seller pursuant to the terms and conditions of the Purchase Agreement.

**Transferred Assets:** All charitable assets transferred from Seller related to the Foundation and the Peoples' Clinic to the Prime Foundation pursuant to the Purchase Agreement, as more specifically identified on Schedule 1, dated June 30, 2015. Within 90 days of closing of the Transaction, Seller will submit a revised Schedule 1 showing the Foundation's assets as of the date of closing.

### II. Prime Foundation Covenants

A. The Prime Foundation will maintain a conflict of interest policy governing its directors, officers, and key employees.

B. Within three days prior to Closing, senior management of the Prime Foundation must attest in writing that no member of the Prime Foundation's Board of Directors or officers will receive any increase in salary, incentive payment or bonus, or other form of compensation from Buyer or Seller or any affiliate of Buyer or Seller in return for negotiating, supporting, or entering into the Purchase Agreement or any related agreement, promise or offer.

C. The Prime Foundation agrees that, for any Transferred Assets that include donor restrictions, the Prime Foundation will use these donor-restricted funds solely for the purpose(s)

designated or approved by the donor. Following Closing, if any funds should be discovered that cannot be used consistent with the donors' intent, the Prime Foundation will cooperate with the donors and the Attorney General to re-purpose these funds in accord with Michigan charitable trust law.

D. The Prime Foundation agrees to maintain a separate Port Huron division within the Prime Foundation whose purpose shall be the operation of the People's Clinic and other healthcare-related charitable purposes of the Port Huron area. The Prime Foundation agrees to modify its corporate bylaws to reflect the maintenance of this new division and its related purposes. The Port Huron division shall have a local board that will be responsible for the operation of the People's Clinic and for the governance of the Transferred Assets. The local board of the Port Huron division will have two classes of equal number of local directors. Class A directors will be appointed by the Prime Foundation. Class B directors will initially be appointed by the local advisory board for the Foundation; successor Class B directors will be appointed by the body of Class B directors then sitting on the board. As the Port Huron division will be holding Michigan charitable assets, the Port Huron division of the Prime Foundation must register as a charitable trust with the Michigan Attorney General and annually report regarding the assets held.

### III. **Transfer of the Transferred Assets**

A. After the Closing Date, the Prime Foundation agrees not to transfer the Transferred Assets without prior approval of the Attorney General, except as follows:

1. To make grants, scholarships, donations, program or mission-related investments and other similar expenditures in furtherance of the charitable purposes of the Foundation's Port Huron division;

B. The Attorney General acknowledges and agrees that the Prime Foundation shall not be subject to any restriction or approval of the Attorney General with respect to any funds or assets held by the Prime Foundation prior to the Closing Date ("Pre-Closing Foundation Assets"), or funds or assets received after the Closing Date ("Post-Closing Foundation Assets"). The Attorney General acknowledges and agrees that the Pre-Closing Foundation Assets and Post-Closing Foundation Assets are not covered by the terms of this Agreement.

### IV. **Order of Michigan Court Replaces Unreasonably Withheld Attorney General Approval**

In the event the Prime Foundation believes in good faith that the Attorney General has unreasonably withheld written approval of an action under Section III.A above, the Prime Foundation may seek an order from a Michigan court of competent jurisdiction permitting the action. The Prime Foundation shall provide the Attorney General with twenty-one (21) days written notice prior to any hearing and shall provide the court with a copy of this Agreement with any pleadings.

V. **Notice**

A. To the Attorney General

All written notices to the Attorney General required under this Agreement must be addressed to:

**Overnight:** Attorney General  
525 W. Ottawa – 7<sup>th</sup> Floor  
Lansing, MI 48933

And Department of Attorney General  
Corporate Oversight Division  
Attn: Charitable Trust Section Attorney – Time Sensitive  
525 W. Ottawa – 6<sup>th</sup> Floor  
Lansing, MI 48933

Or

**US Mail:** Attorney General  
P.O. Box 30212  
Lansing, MI 48909

And Department of Attorney General  
Charitable Trust Section  
Attn: Charitable Trust Section Attorney – Time Sensitive  
P.O. Box 30755  
Lansing, MI 48909

B. To the Prime Foundation

All written notices to the Prime Foundation under this Agreement must be addressed to:

Prime Foundation  
3300 East Guasti Road  
Ontario, CA 91761  
Attn: General Counsel

or at such other address as the Prime Foundation shall have designated by notice in writing given in the manner set forth above to the Attorney General.

VI. **Remedies**

The Prime Foundation recognizes that monetary damages will be inadequate for breach of the obligations contained in this Agreement. In addition to any legal remedies, the Attorney General may have, the Attorney General shall be entitled to specific performance, injunctive relief, and such other equitable remedies as a court of competent jurisdiction may deem

appropriate for breach of the obligations contained in this Agreement, without the requirement to post any bond in connection therewith.

VII. **Severability**

If any provision of this Agreement is held or determined to be illegal, invalid, or unenforceable and if the rights or obligations of any party under this Agreement will not be materially and adversely affected thereby; (a) such provisions will be fully severable; (b) this Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision has never comprised part of this Agreement; (c) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the severance of the illegal, invalid, or unenforceable provision; and (d) in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as part of this Agreement a legal, valid, and enforceable provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible.

VIII. **Amendment**

This Agreement may be amended only by a writing executed by authorized representatives of the Attorney General and the Prime Foundation.

IX. **Waiver**

Any waiver by any party of any breach by another party shall not be deemed to be a waiver against a different party or waiver of any subsequent or continuing breach.

X. **Execution**

This Agreement may be executed in any number of counterparts, all of which taken together constitute one contract, and any of the parties may execute this Agreement by signing any one counterpart.

XI. **Governing Law and Jurisdiction**

This Agreement shall be subject to, applied, and interpreted according to the laws of the State of Michigan. No action shall be commenced against the Department of Attorney General or the Attorney General, his designee, agents or employees, or against any other party to this Agreement for any matter whatsoever arising out of the Agreement, in any courts other than a court of competent jurisdiction of the State of Michigan. In addition to each party consenting to the jurisdiction of Michigan courts, each party waives any objection to venue laid therein and any defense or inconvenient forum regarding the maintenance of any action or proceeding so brought.

XII. **Entire Agreement**

This Agreement, together with other written contracts related to the Transaction and to which the Attorney General and the Prime Foundation are parties, represent the entire agreement

among the parties and supersede all proposals or other prior agreements, oral or written, and all other communications among the parties relating to the matters described herein.

**XIII. No Effect on Authority of Attorney General or Court Jurisdiction**

The Attorney General's rights and privileges provided in this Agreement are in addition to the Attorney General's existing powers. Nothing in this Agreement shall be construed to impair or restrict the authority of the Attorney General or the jurisdiction of any court with respect to any matter.

**XIV. Authority to Bind Principal**

Each individual who signs this Agreement covenants that he or she has the power to bind the principal.

[Signature page follows].

In Witness Whereof, a designee of the Attorney General and a duly authorized representative of the Foundation have executed this Agreement as of the day and year first above written.

**Michigan Department of Attorney General**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Carol Isaacs, Chief Deputy Attorney General

**Prime Healthcare Foundation**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Troy Schell, General Counsel and Secretary

Schedule 1 - June 30, 2015

FUNDS TRANSFERRING		FOUNDATION FUNDS		
		Non-People's Clinic	People's Clinic	TOTAL
<b><u>Peoples' Clinic (patient care)</u></b>				
285189	WINE TASTING EVENT		\$11,125.00	\$11,125.00
285188	Prescription Grant (from MAVO)		\$4,431.87	\$4,431.87
285196	UNITED WAY GRANT (Prescription)		\$4,456.64	\$4,456.64
285178	PEOPLE'S CLINIC GRANTS		\$12,607.81	\$12,607.81
285198	PEOPLES CLINIC		\$9,615.79	\$9,615.79
285132	GOLF OUTING (Golf outing/Peoples' Clinic)		\$30,025.54	\$30,025.54
<b>Peoples' Clinic Fund Total</b>		<b>\$0.00</b>	<b>\$72,262.65</b>	<b>\$72,262.65</b>
<b><u>Women's Center (patient care)</u></b>				
285114	Look Good Feel Better-Betty Kearns	\$53.38		\$53.38
285115	WOMEN'S H/C-SNIDER CAMPAIGN	\$5,504.04		\$5,504.04
285192	WOMEN'S CENTER-PINK RIBBON	\$78,912.53		\$78,912.53
<b>Women's Center Funds Total</b>		<b>\$84,469.95</b>	<b>\$0.00</b>	<b>\$84,469.95</b>
<b><u>Patient Emergency (patient care)</u></b>				
285126	ER - SENIOR PROGRAM	\$120.00		\$120.00
285127	Drs Kraus and Caloia for ER	\$2,000.00		\$2,000.00
285190	PATIENT EMERGENCIES	\$700.78		\$700.78
<b>Patient Emergency Funds Total</b>		<b>\$2,820.78</b>	<b>\$0.00</b>	<b>\$2,820.78</b>
<b><u>Other (misc. patient care and community education)</u></b>				
285174	Angels of Mercy Oncology Fund	\$3,850.00		\$3,850.00
285124	DIABETIC PATIENT EDUCATION	\$1,118.88		\$1,118.88
285185	RESPIRATORY CARE-Breathers Club	\$1,609.27		\$1,609.27
285184	COMMUNITY EDUCATION	\$1,532.91		\$1,532.91
<b>Other Funds Total</b>		<b>\$8,111.06</b>	<b>\$0.00</b>	<b>\$8,111.06</b>
<b><u>Employee Funds</u></b>				
285191	EMPLOYEE EMERG. FUND	\$2,353.75		\$2,353.75
285165	ACHESON HOUSING PROGRAM	\$8,500.00		\$8,500.00
<b>Employee Funds Total</b>		<b>\$10,853.75</b>	<b>\$0.00</b>	<b>\$10,853.75</b>
<b>Transferring Funds Total</b>		<b>\$106,255.54</b>	<b>\$72,262.65</b>	<b>\$178,518.19</b>

**CAPITAL FUNDS (to be spent/will not transfer)****Cardiovascular**

285112	Cardiovascular	\$63.91		\$63.91
285123	Nursing Fund	\$1,360.18		\$1,360.18
<b>Cardiovascular Funds Total</b>		<b>\$1,424.09</b>	<b>\$0.00</b>	<b>\$1,424.09</b>

**Other (misc. capital funds)**

285121	ICU Waiting Room	\$70.47		\$70.47
285180	Ambulatory Center (Mercy Health Center)	\$0.00		\$0.00
285119	Plant Replacement	\$921.10		\$921.10
285182	SURGERY	\$6,968.00		\$6,968.00
285120	MAVO-Donation to Hospital Departments	\$2,800.00		\$2,800.00
<b>Other Funds Total</b>		<b>\$10,759.57</b>	<b>\$0.00</b>	<b>\$10,759.57</b>

**Oncology (capital designation)**

285176	RENOVATION & EXP.	\$1,589.67		\$1,589.67
285111	ONCOLOGY	\$2,117.56		\$2,117.56
285125	CAMPUS RENEWAL	\$18,568.84		\$18,568.84
285122	LINEAR ACCELERATOR	\$201,450.00		\$201,450.00
<b>Oncology Capital Total</b>		<b>\$223,726.07</b>	<b>\$0.00</b>	<b>\$223,726.07</b>

**Trauma (capital designation)**

285187	DR. GRANNIS MEMORIAL	\$1,897.27		\$1,897.27
285117	REGION 2 NORTH-Planning	\$453.63		\$453.63
<b>Trauma Capital Total</b>		<b>\$2,350.90</b>	<b>\$0.00</b>	<b>\$2,350.90</b>

**Faith/Spiritual Care**

285118	CHAPEL	\$0.77		\$0.77
285197	BIBLE PURCHASE FUND	\$440.02		\$440.02
285194	PASTORAL CARE	\$723.36		\$723.36
<b>Faith/Spiritual Care Funds Total</b>		<b>\$1,164.15</b>	<b>\$0.00</b>	<b>\$1,164.15</b>

<b>Capital Funds (Spend) Total</b>		<b>\$239,424.78</b>	<b>\$0.00</b>	<b>\$239,424.78</b>
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<b>Temporary Specific Purpose Funds Total</b>	<b>\$345,680.32</b>	<b>\$72,262.65</b>	<b>\$417,942.97</b>
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**ENDOWMENT FUNDS (Permanently Restricted Funds)**

284108	PEOPLE'S CLINIC		\$442,610.44	\$442,610.44
284110	SNIDER CAMPAIGN	\$100,000.00		\$100,000.00
284112	MERCY CAPITAL	\$156,827.16		\$156,827.16
284115	MCDONALD FAMILY	\$17,945.80		\$17,945.80
284118	ANWARS	\$12,014.72		\$12,014.72
<b>Endowed Funds Total</b>		<b>\$286,787.68</b>	<b>\$442,610.44</b>	<b>\$729,398.12</b>
<b>Restricted Funds Total</b>		<b>\$632,468.00</b>	<b>\$514,873.09</b>	<b>\$1,147,341.09</b>