

PROTECTION OF CHARITABLE ASSETS AGREEMENT

This Agreement is effective upon execution, by and between the Michigan Department of Attorney General (“Attorney General”) and Western Marquette County Health Foundation, a Michigan nonprofit corporation (“Foundation”).

RECITALS

A. Bell Memorial Hospital, a Michigan nonprofit corporation (“BMH”), Bell Medical Center, a Michigan nonprofit corporation (“BMC”, and together with BMH, the “Seller Group”), and Acquisition Bell Hospital, LLC, a Delaware limited liability company (“Buyer”) are parties to an Asset Purchase Agreement, dated June 19, 2013 (the “Purchase Agreement”) pursuant to which Seller Group is selling substantially all of its assets relating to Bell Hospital, a 25-bed acute care critical access facility located at 901 Lakeshore Drive, Ishpeming, Michigan (the “Hospital”), the medical out-patient clinic located at 100 Malton Road, Negaunee, Michigan (the “Clinic”), and certain ancillary facilities, to the Buyer (the “Transaction”).

B. The Foundation, formerly Bell Foundation, is an independent Michigan nonprofit directorship corporation previously controlled by Superior Healthcare System.

C. As part of the Transaction, certain funds will be transferred to the Foundation to be used to further the charitable purposes of the Foundation.

D. Section 6.4 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.

E. In order to protect and ensure proper disposition of the charitable assets that will be transferred to the Foundation (the “Transferred Assets”), the Attorney General requires special assurances from the 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.

BMC: Bell Medical Center, a Michigan nonprofit corporation.

BMH: Bell Memorial Hospital, a Michigan nonprofit corporation.

Buyer: Acquisition Bell Hospital, LLC, a Delaware limited liability company.

Clinic: The medical out-patient clinic located at 100 Malton Road, Negaunee, Michigan.

Facilities: The Hospital, Clinic and ancillary facilities.

Foundation: Western Marquette County Health Foundation, a Michigan nonprofit corporation exempt from federal income tax as a Section 501(c)(3) organization.

Hospital: Bell Hospital, a 25-bed acute care critical access facility located at 901 Lakeshore Drive, Ishpeming, Michigan.

Purchase Agreement: Asset Purchase Agreement by and among Seller Group and Buyer dated June 19, 2013.

Seller Group: BMC and BMH.

Transaction: The acquisition of assets by Buyer of substantially all of Seller Group's assets relating to the Facilities pursuant to the terms and conditions of the Purchase Agreement.

Transferred Assets: All charitable assets transferred to the Foundation under the Purchase Agreement.

II. **Attorney General Approval of Amendment to Foundation Organizational Documents**

A. The Attorney General acknowledges that it has received and approves the restated Articles of Incorporation and restated Bylaws of the Foundation as currently in effect.

B. Foundation agrees that it will submit to the Attorney General for its review and approval, any proposed amendment to or restatement of the Foundation's Articles of Incorporation or Bylaws which changes the purposes of the Foundation or in any way adversely affects the administration of the Transferred Assets.

III. **Foundation Covenants**

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

B. To the extent that the Foundation has donor restricted funds, the Foundation agrees that it will use the donor-restricted funds solely for the purpose(s) designated or approved by the donor. The parties agree and acknowledge that the Transferred Assets are not donor-restricted.

C. Within three days prior to Closing, senior management of the Foundation must attest in writing that no member of the 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

any affiliate of Buyer in return for negotiating, supporting, or entering into the Purchase Agreement or any related agreement, promise or offer.

D. The Attorney General may appoint one member to the Foundation's Board of Directors (the "Attorney General Designee"). The Attorney General Designee's term shall begin upon appointment and shall continue until such time as he or she resigns or is removed by the sitting Attorney General. In the event of a vacancy in the Attorney General Designee position, the vacancy shall not be filled except by appointment of the sitting Attorney General.

IV. Transfer of the Transferred Assets

A. After the Closing Date, the 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 Foundation's charitable purposes;
2. To make payments in the ordinary course of business in order to satisfy the operating and administrative expenses of the Foundation, including without limitation:
 - a. payroll and benefits;
 - b. office and occupancy expenses;
 - c. supplies and office furnishings;
 - d. information technology expenses;
 - e. fundraising expenses; and
 - f. professional services.

B. The Attorney General acknowledges and agrees that the Foundation may make any required payments to any State, Federal or local government in the ordinary course of business.

C. The Attorney General acknowledges and agrees that the Foundation shall not be subject to any restriction or approval of the Attorney General with respect to any funds or assets held by the Foundation prior to the Closing Date ("Pre-Closing Foundation Assets") or received after the Closing Date ("Post-Closing Foundation Assets"), except as set forth in Section XIV hereof. 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.

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

In the event the Foundation believes in good faith that the Attorney General has unreasonably withheld written approval of an action under Sections II B or IV A above, the Foundation may seek an order from a Michigan court of competent jurisdiction permitting the action. The 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.

VI. **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 – 7th Floor
Lansing, MI 48933

And Department of Attorney General
Corporate Oversight Division
Attn: Charitable Trust Section Attorney – Time Sensitive
525 W. Ottawa – 6th 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 30213
Lansing, MI 48909

B. To the Foundation

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

Western Marquette County Health Foundation
1366 US Hwy 41 W
Ishpeming, Michigan 49849

And Clark Hill PLC

500 Woodward Avenue, Suite 3500
Detroit, MI 48226
Attention: Duane L. Tarnacki

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

VII. **Remedies**

The 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.

VIII. **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.

IX. **Amendment**

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

X. **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.

XI. **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.

XII. 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.

XIII. Entire Agreement

This Agreement, together with other written contracts related to the Transaction and to which the Attorney General and the 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.

XIV. 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.

XV. 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: _____

Bill Schuette, Attorney General or designee

Western Marquette County Health Foundation

Dated: _____

Dr. Ronald J. Meyer, President