

FIRST AMENDMENT TO THE ASSET PURCHASE AGREEMENT
AMONG
TRINITY HEALTH-MICHIGAN, PRIME HEALTHCARE SERVICES-PORT HURON,
LLC AND PRIME HEALTHCARE FOUNDATION, INC.

This **FIRST AMENDMENT** to the **ASSET PURCHASE AGREEMENT** (“**First Amendment**”) between Trinity Health-Michigan, a Michigan nonprofit corporation (“**Seller**”) and Prime Healthcare Services-Port Huron, LLC (“**Purchaser**”) is hereby entered into among Seller, Purchaser and Prime Healthcare Foundation, Inc., a Delaware nonprofit corporation (“**Prime Foundation**”) and effective as of July 28, 2015 (“**First Amendment Effective Date**”).

RECITALS:

WHEREAS, Seller and Purchaser entered into a certain Asset Purchase Agreement dated as of November 19, 2014 (“**Agreement**”); and

WHEREAS, Seller and Purchaser desire to amend the Agreement to clarify certain post-closing covenants of Purchaser and make certain other amendments to the Agreement.

NOW, THEREFORE, in consideration of the premises, covenants, representations and warranties set forth herein, the receipt and adequacy of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

AGREEMENT:

1. **Title**. The title of the Agreement is hereby changed to the following: “Asset Purchase Agreement Among Trinity Health-Michigan, Prime Healthcare Services-Port Huron, LLC and Prime Healthcare Foundation, Inc.”

2. **Opening Paragraph**. The opening paragraph of the Agreement is hereby deleted in its entirety and replaced with the following opening paragraph:

“THIS ASSET PURCHASE AGREEMENT (the “*Agreement*”), dated as of November 19, 2014, is among Trinity Health-Michigan, a Michigan nonprofit corporation (“*Seller*”), Prime Healthcare Services-Port Huron, LLC, a Delaware limited liability company (“*Purchaser*”) and Prime Healthcare Foundation, Inc., a Delaware non-stock, nonprofit corporation (“*Prime Foundation*”)”

3. **Definitions**. The following defined term shall be added to Section 1.1:

“*Employee Transition Services Agreement*” has the meaning given to it in Subsection 12.1 (l).

“*Prime Foundation*” has the meaning given it in the opening paragraph of this First Amendment.

“*Restricted Assets*” has the meaning given to it in Subsection 2.1(m).

“*Takeover Date*” means the date immediately following the expiration of the Employee Transition Services Agreement or the earlier termination of the Employee Transition Services Agreement on a date mutually agreed to by Purchaser and Seller that is on or before December 31, 2015.

4. **Purchase of Purchased Assets-Subsection 2.1(m)**. Subsection 2.1(m) is hereby deleted in its entirety and replaced with the following Subsection 2.1(m):

“(m) all donor restricted funds and restricted assets, if permissible (excluding leases and other contractual rights, which are being transferred separately to Purchaser or one of its Affiliates), and those funds or assets of Seller related to the operation of The Peoples’ Clinic for Better Health held by the Hospital for its foundation activities or otherwise (the “*Restricted Assets*”), subject to the continued operation and ownership of the Hospital as provided in Sections 12.12 and 12.17; provided; however, that such Restricted Assets shall be transferred by Seller to Purchaser’s Affiliate, Prime Foundation, rather than to Purchaser;”

5. **Assignment of Interest in Hospital Partners-Subsection 2.3(b)**. Subsection 2.3(b) is hereby deleted in its entirety.

6. **Excluded Assets-Subsection 2.4(s)**. Subsection 2.4(s) is hereby deleted in its entirety and replaced with the following Subsection 2.4(s):

“(s) Seller’s interest in MCL A Co-Tenancy Laboratory at Warde Medical Laboratory; and”

7. **Excluded Assets-Subsection 2.4(q)**. Subsection 2.4(q) is hereby deleted in its entirety and replaced with the following Subsection 2.4(q):

“(q) 20 of the 164 beds licensed to the Hospital, which 20 licensed beds were previously transferred to the Hospital from another hospital owned by Seller and currently are not operational at Hospital;”

8. **Actions of Purchaser at Closing-Section 3.2**. The first sentence of Section 3.2 is hereby deleted in its entirety and replaced with the following:

“At Closing, and unless otherwise waived by Seller in writing, Purchaser or Prime Foundation, as applicable, will deliver to Seller the following:”

9. **Actions of Purchaser at Closing-Subsection 3.2(b)**. Subsection 3.2(b) is hereby modified to add the words “or Prime Foundation, as applicable” after the word “Purchaser” in the two places where the word “Purchaser” appears.

10. **Actions of Purchaser at Closing-Subsection 3.2(c)**. Subsection 3.2(c) is hereby deleted in its entirety and replaced with the following:

“A copy of the assignment and assumption of Seller’s interest in each Hospital Partner described in Section 2.3 duly executed by Purchaser or Prime Foundation, as applicable.”

11. **Actions of Purchaser at Closing-Subsection 3.2(e)**. Subsections 3.2(e) through 3.2(i) are hereby deleted in their entirety and replaced with the following Subsections 3.2(e) through 3.2(i):

“(e) copies of resolutions duly adopted by the Board of Directors of Purchaser, Prime Foundation and Prime Healthcare Services, Inc., authorizing and approving the performance of the transactions contemplated hereby and the execution and delivery of this Agreement and the other documents described herein, each certified as true, complete and in fully force and effect as of the Closing Date by appropriate officers of Purchaser, Prime Foundation and Prime Healthcare Services, Inc.;

(f) certificates of the duly authorized officers of Purchaser and Prime Foundation certifying that each covenant and agreement of Purchase and Prime Foundation, respectively, to be performed prior to or as of Closing pursuant to this Agreement has been performed in all material respects;

(g) certificates of incumbency of the officers of Purchaser and Prime Foundation executing this Agreement and the other documents described herein, dated as of the Closing Date;

(h) certificates of existence and good standing of Purchaser and Prime Foundation from the State of Michigan, dated the most recent practical date prior to the Closing Date, together with a copy of the articles of organization and operating agreement of Purchaser and the articles of incorporation and bylaws of Prime Foundation;

(i) certificates of the duly authorized officers of Purchaser and Prime Foundation certifying that the representations and warranties of Purchaser and Prime Foundation set forth in this Agreement are true and correct in all material respects as of the Closing Date;”

12. **Actions of Purchaser at Closing-Subsection 3.2(j)**. Subsection 3.2(j) is hereby deleted in its entirety and replaced with the following:

“If necessary, one or more Transition Services Agreements as described in Section 12.13 duly executed by Purchaser.”

13. **Actions of Seller at Closing-Section 3.3**. The first sentence of Section 3.3 is hereby deleted in its entirety and replaced with the following:

“At Closing, or unless otherwise stated herein or waived by Purchaser or Prime Foundation, as applicable, in writing, Seller shall deliver to Purchaser or Prime Foundation, as applicable, the following:”

14. **Actions of Seller at Closing-Subsections 3.3(b), (c), (e) and (n).** The words “or Prime Foundation, as applicable,” are hereby added following the word “Purchaser” in each place that it appears in Subsections 3.3(b), (c), (e) and (n).

15. **Actions of Seller at Closing-Subsection 3.3(l).** The word “Agreement” in Subsection 3.3(l) is hereby changed to “Agreements.”

16. **Representations and Warranties of Purchaser-Article V.** The opening paragraph of Article V is hereby deleted in its entirety and replaced with the following opening paragraph:

“As of the date hereof and, except as otherwise provided, as of the Closing, Purchaser and Prime Foundation (and for purposes of Sections 5.2 through 5.7 below, Purchaser expressly includes Prime Foundation) represents and warrants to Seller that the statements contained in this Article V are true and correct as of the date hereof and will be true and correct as of the Closing Date.”

17. **Organization and Authorization of Purchaser-Section 5.1.** Section 5.1 is hereby deleted in its entirety and replaced with the following Section 5.1:

5.1 Organization and Authorization of Purchaser and Prime Foundation. Purchaser is a limited liability company duly organized, validly existing and with active status under the laws of the State of Delaware and is duly authorized to transact business in the State of Michigan. Prime Foundation is a nonprofit corporation duly organized, validly existing and with active status under the laws of the State of Delaware and is duly authorized to transact business in the State of Michigan. Each of Purchaser and Prime Foundation has the requisite power and authority to enter into this Agreement and the other documents contemplated hereby and thereby, perform their respective obligations hereunder and thereunder.”

18. **Certain Employee Matters-Subsection 12.1(a).** In light of the contemplated lease of employees by Purchaser or its Affiliates as described in the addition of Subsection 12.1(l) below, Section 12.1(a) is revised in its entirety to read as follows:

“(a) Except as otherwise provided in Subsection 12.1(l), below, immediately prior to the Closing and except as otherwise mutually agreed by the parties, Purchaser shall or shall cause one of its Affiliates to offer to employ, on an “*at will*” basis, all of the employees of Seller or an Affiliate of Seller who are assigned to the operations of Hospital, and who are eligible to be hired upon satisfactory completion of Purchaser’s customary pre-employment screening procedures as set forth on Schedule 12.1(a)-1, as of the Closing Date, including employees on vacation, paid time off, family leave, military leave, short-term disability or other types of leave (excluding employees with employment agreements, which Purchaser shall assume, and excluding physicians whose employment agreements are being assumed by an Affiliate of Purchaser) in positions and at compensation levels consistent with those being provided by Seller immediately prior to Closing. All such employees who accept Purchaser’s offer of employment shall be referred to herein each as a “*Hired Employee*” and, collectively, as the “*Hired*”

Employees”. Purchaser will ensure that the level of benefits of each of the Hired Employees immediately following the Closing is comparable, in the aggregate, to those provided the Hired Employee immediately preceding the Closing.

Notwithstanding the foregoing, an employee who is on a short-term or long-term disability leave, military leave or other authorized leave of absence as of the date immediately prior to the Effective Time is not required to be employed by Purchaser as of the Effective Time but any right to re-employment of such an employee pursuant to the terms of this Agreement or Law shall be the obligation of Purchaser or an Affiliate of Purchaser (as applicable) and such individuals shall become Hired Employees as of the date they return to work prior to the expiration of their authorized leave or the last date required by Law; provided, however, that, if such an employee returns to work prior to the Takeover Date, the employee will become a Hired Employee on the Takeover Date. Additionally, (i) any employee who commences long-term disability leave on or after the Effective Time and remains on long-term disability leave as of the date immediately prior to the Takeover Date is not required to be employed by Purchaser as of the Takeover Date but any right to re-employment of such an employee pursuant to the terms of this Agreement or Law shall be the obligation of Purchaser or an Affiliate of Purchaser (as applicable) and such individuals shall become Hired Employees as of the date they return to work prior to the expiration of their authorized leave or the last date required by Law; and (ii) any employee who commences short-term disability leave, military leave or other authorized leave of absence other than long-term disability leave (*e.g.*, PTO) on or after the Effective Time and remains on such leave as of the date immediately prior to the Takeover Date shall become employed by Purchaser or an Affiliate of Purchaser (as applicable) and shall become Hired Employees as of the Takeover Date. As of the Takeover Date, Purchaser or an Affiliate of Purchaser shall become directly responsible for any associated disability, PTO, or other benefits due to such Hired Employees described in (ii) in the preceding sentence. For the period of time covered by the Employee Transition Services Agreement, including any run-off period, Purchaser or an Affiliate of Purchaser shall reimburse Seller or an Affiliate of Seller for the cost of or premium for any benefits provided to employees on short-term or long-term disability leave, military leave or other authorized leave of absence (*e.g.*, PTO) in accordance with the terms of the Employee Transition Services Agreement. Schedule 12.1(a)-2 provides a list of employees of Seller who are on short-term or long-term disability or on leave of absence pursuant to Seller’s policies or Law (each, an “Inactive Employee” and collectively “Inactive Employees”), provides the date such absence began, and provides the date, if known, that the employee is expected to return to work. The list of Inactive Employees on Schedule 12.1(a)-2 will be updated as of the Effective Time. Except as provided in Section 12.1(1), in the event that a Hired Employee is terminated without cause within one (1) year after the Effective Time, Purchaser, or an Affiliate of Purchaser, as applicable, shall provide severance benefits to such terminated Hired Employee on terms consistent with Purchaser severance benefits plan or policy as amended from time to time or the Trinity Health Corporation Severance Pay Plan as in effect on the Closing Date, whichever would provide the better benefits. A copy of the Trinity Health Corporation Severance Benefits schedule applicable to the Hired

Employees under the Trinity Health Corporation Severance Pay Plan is attached as Exhibit D.”

19. **Certain Employee Matters-Subsection 12.1(l).** The following Subsection 12.1(l) is hereby added to the Agreement:

“(l) In the event that Purchaser is unable to employ the employees of Seller or an Affiliate of Seller who are assigned to the operations of Hospital effective as of the Closing Date as required by this Section 12.1, then, during the period from the Effective Time until the date immediately prior to the Takeover Date, Seller or an Affiliate of Seller shall continue to employ all of the employees of Seller or of an Affiliate of Seller who are assigned to the operations of Hospital immediately prior to the Effective Time (including, without limitation, those employees described in Subsection 12.1(j)), or the employees listed on Exhibit A to the Employee Transition Services Agreement, if different (each such employee is referred to herein as a “Transition Employee” and such employees are collectively referred to herein as the “Transition Employees”), subject to Seller’s or Seller’s Affiliate’s employment policies, as applicable, and Purchaser shall lease such Transition Employees from Seller or an Affiliate of Seller pursuant to the terms and conditions of the Employee Transition Services Agreement substantially in the form of Exhibit E hereto (“Employee Transition Services Agreement”); provided, however, any then-current employees of Seller or an Affiliate of Seller who fill a Transition Employee vacancy during the term of the Employee Transition Services Agreement and any employees hired by Seller or an Affiliate of Seller during the term of the Employee Transition Services Agreement to provide services for the operation of the Hospital or its Affiliates under the ownership of Purchaser or its Affiliates, excluding any system-office level employees, are also “Transition Employees.” Purchaser shall, or shall cause one of its Affiliates to, offer employment to each of the then-current Transition Employees before the Takeover Date, with such employment to be effective on the Takeover Date as required by this Section 12.1 in positions and at compensation levels consistent with those being provided by Seller or Seller’s Affiliate, as applicable, immediately prior to the Takeover Date. All such Transition Employees who accept Purchaser’s or its Affiliate’s offer of employment shall become “Hired Employees” on the Takeover Date. Purchaser shall ensure that the level of benefits of each of the Hired Employees on and immediately following the Takeover Date is comparable in the aggregate to those provided to the Hired Employees immediately prior to the Takeover Date. Further, with respect to the Transition Employees who become Hired Employees, the following references in Section 12.1 shall be changed to “Takeover Date”: (i) the references to “Closing” in the third sentence of the first paragraph of Subsection 12.1(a); (ii) the reference to the “Effective Time” in the seventh sentence of the second paragraph of Subsection 12.1(a); provided, however, to the extent that the employment of any Transition Employees is terminated by Seller or an Affiliate of Seller at the request of Purchaser or one of its Affiliates prior to the Takeover Date, Seller or an Affiliate of Seller shall provide severance benefits to such terminated Transition Employees on terms consistent with, and to the extent they are eligible for severance benefits under, the Trinity Health Corporation Severance Pay Plan as in effect on the Closing Date, and Purchaser or an Affiliate of Purchaser shall reimburse Seller or an Affiliate of Seller for the amount of such severance benefits in accordance with the terms of the Employee

Transition Services Agreement, and (iii) the references to the “Effective Time” in Subsections 12.1(b) through 12.1(k), except the reference to the “Effective Time” in the last sentence of Subsection 12.1(d).”

20. **Governance-Section 12.11.** The existing Section 12.11 is hereby amended to become Subsection (a) of that Section and a new Subsection (b) is hereby added to read in its entirety as follows:

(b) Prime Foundation shall create and maintain a local advisory board to oversee the Restricted Assets consistent with the requirements set forth in that certain Protection of Charitable Assets Agreement being executed by the Charitable Trust Division of the Michigan Department of Attorney General and Prime Foundation as of the Effective Time, or as otherwise imposed by the Charitable Trust Division of the Michigan Department of Attorney General from time to time.

21. **Charity Care Policy and Community Benefit-Section 12.15.** Section 12.15 is hereby amended to add the following to the end of that subsection:

“In furtherance of the foregoing, during the period of time that Prime owns the Hospital, Purchaser or one of its Affiliates shall contribute to the Peoples' Clinic for Better Health on an annual basis: (i) an amount equal to \$150,000, plus (ii) any additional amount necessary to sustain the operations of the Peoples' Clinic for Better Health in a manner consistent with its historical operations after taking into account other sources of People's Clinic revenue and its ongoing needs and expenses.”

22. **Covenant Not to Sell Hospital-Section 12.17.** The following Section 12.17 is hereby added to the Agreement:

“**12.17 Covenant Not to Sell Hospital.** For a period of five (5) years following the Effective Time, Purchaser shall not sell the assets of the Hospital to a third party, and Purchaser shall remain a direct or indirect subsidiary of Prime Healthcare; provided, however, this restriction shall not prohibit Purchaser from transferring the Hospital, its business or assets to: (i) any other Affiliate of Prime Healthcare; (ii) Prime Foundation; or (iii) any acquirer or successor, by merger, asset purchase, stock purchase, lease or otherwise, of all or substantially all of the ownership interest in or assets of Prime Healthcare.”

23. **Restriction on Bed Transfer-Section 12.18.** The following Section 12.18 is hereby added to the Agreement:

“**12.18 Restriction on Bed Transfer.** For a period of five (5) years following the Effective Time, Purchaser shall not sell or transfer the remaining 25 of the 45 licensed beds that were previously transferred to the Hospital from another Hospital owned by Seller, and which are currently not operational at Hospital, to any other hospital or health care facility.”

24. **Amendment.** A new Section 13.13 is hereby added to read in its entirety as follows:

“13.13 **Amendment.** This Agreement may be amended, and the terms hereof may be modified, only by a writing executed by each of the parties hereto, and any matter referred to herein to be mutually agreed to or designated by the parties in the future must be evidenced by such writing.”

25. **List of Schedules and Exhibits.** The following is hereby added to the end of the list of Schedules and Exhibits:

“Exhibit D Employee Transition Services Agreement.”

26. **Miscellaneous.** Except as otherwise expressly set forth herein, the remaining terms of the Agreement remain in full. Defined terms not otherwise defined herein shall have the meaning attributed thereto in the Agreement. This First Amendment may be executed in counterparts, each of which will be deemed an original, and together, one instrument.

IN WITNESS WHEREOF, the Parties have caused this First Amendment to be executed by their authorized officers, effective as of the date and year first written above. This First Amendment may be executed in counterparts, each of which will be deemed an original, and together, one instrument.

PURCHASER:

**PRIME HEALTHCARE SERVICES-PORT
HURON, LLC**

Name: _____

Title: _____

SELLER:

TRINITY HEALTH-MICHIGAN

Name: _____

Title: _____

PRIME FOUNDATION:

PRIME HEALTHCARE FOUNDATION, INC.

Name: _____

Title: _____