

**Daughters of Charity Health System (“DCHS”) and Prime Healthcare Services, Inc. and  
Prime Healthcare Foundation, Inc. (collectively “Prime”)**

*Summary of Key Business and Legal Issues Presented by Prime’s markup of the Definitive Agreement on June 26, 2014 (the “Agreement”)*

<u>CATEGORY</u>	<u>DCHS RESPONSE</u>
<b>I. Deposit/Break-Up Fee</b>	
<b>Deposit Amount</b> (Section 2.5)	<ul style="list-style-type: none"> <li>– Deposit of \$50m to be provided at signing</li> <li>– Need clarification on the terms of the Letter of Credit (must be a binding commitment subject to limited customary conditions)</li> </ul>
<b>Break-Up Fee</b> (Section 2.5(a)-(f))	<ul style="list-style-type: none"> <li>– DCHS to retain full deposit if Prime “walks” for no reason before the Outside Date or if Prime’s financing falls through and the parties are otherwise in a position to close</li> </ul>
<b>Qualifying Offer</b> (Section 6.6)	<ul style="list-style-type: none"> <li>– Concept of a qualifying offer to be retained, however, DCHS non-solicitation language also to be maintained. Parties to discuss the inclusion of a break-up fee if DCHS elects to pursue a qualifying offer</li> </ul>
<b>II. Consideration</b>	
<b>Commitment Letter</b> (Section 5.9)	<ul style="list-style-type: none"> <li>– Prime to provide binding commitment letter for cash consideration projected at closing as of signing of the Agreement</li> </ul>
<b>Purchased Assets</b> (Section 2.1(c))	<ul style="list-style-type: none"> <li>– DCHS will not be assigning the office space at 26000 Altamont Road, Los Altos Hills, CA (DCHS does not own the office space)</li> <li>– Parties to discuss the use of this system office for a transition period</li> </ul>
<b>IP/Name Rights</b> (Section 2.2)	<ul style="list-style-type: none"> <li>– Parties to discuss use of hospital names, logos, IP, etc. post-closing</li> </ul>
<b>Assumed Liabilities</b> (Section 2.3)	<ul style="list-style-type: none"> <li>– Prime to assume all liabilities, including those related to any professional liability claim or similar third party litigation or violations of Health Care Laws</li> </ul>
<b>Release / Disclaimer of Warranties</b> (Section 3.5)	<ul style="list-style-type: none"> <li>– Release to be reinserted</li> <li>– DCHS trustee to retain enforcement rights against Prime for breach of any post-closing covenant</li> </ul>
<b>Casualty</b> (Section 3.4)	<ul style="list-style-type: none"> <li>– Parties to discuss casualty amount</li> </ul>
<b>III. Reps and Warranties</b>	
<b>Reps and Warranties</b> (Articles 4 and 5)	<ul style="list-style-type: none"> <li>– Reps and warranties to be revised consistent with a “market” approach</li> <li>– Prime to rely upon its own diligence related to environmental matters and Phase I reports commissioned by DCHS which should be available shortly</li> <li>– DCHS will be adding a representation regarding any of Prime’s pending subpoenas, investigations, etc.</li> </ul>

<b><u>CATEGORY</u></b>	<b><u>DCHS RESPONSE</u></b>
<b>Knowledge</b> (Definitions)	– Parties to discuss expansion of knowledge group
<b>MAE</b> (Definitions)	– There should be no specific monetary threshold in the MAE definition
<b>IV. Covenants</b>	
<b>AG Approval</b> (Section 6.3(a))	– Parties to discuss AG approval and mandated conditions
<b>Collective Bargaining Agreements</b> (Section 6.2(b))	– Parties to discuss negotiation process with unions as set forth in the agreement – Parties also to discuss process associated with effects bargaining
<b>ERDS</b> (Section 7.9(d))	– Covenant added to operate hospitals in compliance with ERDs post-closing should be deleted (Prime’s decision but not a contractual term) – Pastoral care expectations to be included (5 years) – DCHS to provide a schedule of historical costs
<b>Employees</b> (Section 7.4)	– Prime to assume and adhere to DCHS’ policies regarding severance for a defined period post-closing – Parties to discuss payment of certain employee’s severance and other benefits at closing – DCHS to provide details
<b>Pension Liabilities</b> (Section 7.5)	– Prime to assume sponsorship of the plans as of the Closing Date (not the Effective Time)
<b>D&amp;O Policy</b> (Section 6.8)	– DCHS will be “pre-funding” a D&O tail policy pre-closing to cover claims occurring on or after signing
<b>Consulting Agreement</b> (Section 6.9)	– Parties to discuss scope of consulting agreement
<b>V. Termination</b>	
<b>Outside Date</b> (Section 10.1(b))	– Parties to discuss closing date timing (after last governmental approval is obtained) – If Outside Date is reached and transaction does not close (except due to DCHS breach) DCHS retains a percentage of the deposit
<b>VI. Other</b>	
<b>Closing of Financials</b> (Section 12.4)	– No indemnity for post-closing liabilities associated with the closing of financials
<b>Cost Reports</b> (Section 11.2)	– Prime to file cost reports for all periods ending prior to, on or after the Closing Date that have not been filed as of the Closing Date (not the date of signing)
<b>Benefit</b> (Section 13.8)	– DCHS trustee / designee to have the ability to enforce DCHS’ rights post-closing
<b>Audited Financials</b> (Section 6.5(b))	– DCHS will likely be unable to provide audited financials within 120 days of fiscal year end