

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

JORDAN HEALTH PRODUCTS I, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-12271 (TMH)

(Jointly Administered)

**Proposed Hrg. Date: November 22, 2024,
11:00 a.m. (ET)
Proposed Obj. Deadline: November 21, 2024,
4:00 p.m. (ET).**

**JOINT MOTION OF DEBTORS AND CREDITORS' COMMITTEE TO APPROVE
SETTLEMENT TERM SHEET AMONG DEBTORS, CREDITORS' COMMITTEE,
AND AHS ACQUISITION HOLDINGS, LLC**

The above-captioned debtors and debtors in possession (collectively, the “**Debtors**”), along with the official committee of unsecured creditors appointed in the Debtors’ Chapter 11 Cases² (the “**Committee**” and, together with the Debtors, the “**Movants**”), hereby submit this motion (this “**Motion**”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Proposed Settlement Order**”): (a) approving the settlement term sheet among (i) the Debtors, (ii) the Committee, and (iii) AHS Acquisition Holdings, LLC, a Delaware limited liability company (in its capacities as the Prepetition Secured Party, the DIP Secured Party and as the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: Jordan Health Products I, Inc. (9981); Global Medical Imaging, LLC (8828); D.R.E. Medical Group, Inc. (2356); Oncology Services International, Inc. (2514); Technical Options of Georgia, Inc. (5488); Jordan Health Products III, Inc. (9350); Transtate Equipment Company, Inc. (4201); Equipment Maintenance Solutions, Inc. (7216); Ultra Solutions Holdings, Inc. (2305); Ultra Solutions, LLC (3425); Pacific Medical Group, Inc. (4339); and Pacific Medical Holdings, Inc. (2135). The Debtors’ service address is 8700 W Bryn Mawr Ave., Suite 720S, Chicago, IL 60631. Debtor Jordan Health Products I, Inc. is doing business as Avante Health Solutions.

² Capitalized terms used but not otherwise defined in this Motion shall have the meanings ascribed to them in the *Debtors’ Emergency Motion for Interim and Final Orders Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503 and 507 (I) Authorizing the Debtors to Obtain Senior Secured Superpriority Postpetition Financing; (II) Granting (A) Liens and Superpriority Administrative Expense Claims and (B) Adequate Protection To Certain Prepetition Lenders; (III) Authorizing Use Of Cash Collateral; (IV) Scheduling a Final Hearing; and (V) Granting Related Relief* (the “**DIP Motion**”).

Stalking Horse Purchaser, collectively, “**AHS**” and together with the Debtors and the Committee, the “**Settlement Parties**”); and (b) granting related relief. The terms of the proposed settlement are set forth in the term sheet attached as Exhibit 1 to the Proposed Settlement Order (the “**Settlement Term Sheet**”). In support of this Motion, the Movants respectfully state as follows:

PRELIMINARY STATEMENT

1. With support from the Debtors, the Committee has undertaken an investigation of the claims held by AHS in its capacity as the Prepetition Secured Party. After extensive negotiations between the Committee and AHS, the Settlement Parties have reached an agreement regarding, among other things (a) resolution of the Committee’s objection to the entry of the *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503 and 507 (I) Authorizing the Debtors to Obtain Senior Secured Superpriority Postpetition Financing; (II) Granting (A) Liens and Superpriority Administrative Expense Claims And (B) Adequate Protection To Certain Prepetition Lenders; (III) Authorizing Use Of Cash Collateral; (IV) Scheduling a Final Hearing; And (V) Granting Related Relief* (the “**Final DIP Order**”); (b) termination of the Challenge Period and the allowance of AHS’s prepetition secured claims; (c) the modification of the Stalking Horse Purchase Agreement to provide that Purchaser will assume all allowed 503(b)(9) claims; (d) the definition of “Acquired Assets” shall be modified as provided for in the “Estate Assets” section of the Settlement Term Sheet; (e) the provision of additional funding to provide for the payment of administrative expenses (including an increase to the Committee’s professional fee budget); (f) the Committee’s support for the sale of the Debtors’ assets to AHS (subject to higher and better offers); (g) AHS’ agreement to waive any recovery on account of its deficiency claim; and (h) the Settlement Parties’ rights to consult with respect to the appropriate case resolution mechanic (including confirmation of a liquidating chapter 11 plan, if appropriate).

2. The Settlement Term Sheet is the product of significant negotiation between the Settlement Parties and is reflective of their collective business judgment, with the goal of achieving a compromise in the best interests of the Debtors and their estates. The Settlement Term Sheet represents an arm's-length agreement, with each interconnected term combining to create a value-maximizing path to allow for the sale of the Debtors' assets to close promptly, while providing a runway to an efficient and orderly wind-down of the Debtors' estates.

3. For the reasons stated herein, the Movants believe that the Settlement Term Sheet falls well within the range of reasonable litigation outcomes and, in the Debtors' and the Committee's business judgment, is in the best interests of creditors and the Debtors' estates and, therefore, should be approved by the Court.

JURISDICTION AND VENUE

4. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

5. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), the Movants consent to the entry of a final order or judgment by the Court in connection with this Motion if it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

6. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

7. The statutory predicates for the relief requested herein are sections 105(a) and 363 of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and Local Rule 4001-2(a)(i).

BACKGROUND

8. On October 8, 2024 (the “**Petition Date**”), each of the Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors are authorized to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On October 17, 2024, the Office of the United States Trustee for the District of Delaware (the “**U.S. Trustee**”) appointed the Committee.

9. Additional information regarding the Debtors’ business, their capital structure, and the circumstances leading to the filing of these chapter 11 cases is set forth in the *Declaration of Rob Hubbard in Support of the Debtors’ Chapter 11 Motions and First Day Relief* [D.I. 10] (the “**First Day Declaration**”).

A. The Stalking Horse Agreement

10. Prior to the Petition Date the Debtors and AHS agreed on the terms of an asset purchase agreement (the “**Stalking Horse Agreement**”). The Stalking Horse Agreement provides for the acquisition of substantially all of the Debtors’ assets through a sales process under section 363 of the Bankruptcy Code (the “**Stalking Horse Transaction**”). As consideration, among other things, AHS has agreed to credit bid \$72,500,000.00 of its debt under section 363(k) of the Bankruptcy Code (comprised of 100% of the DIP Obligations and the remainder as forgiveness of prepetition secured obligations) and agreed to assume certain liabilities, including all accounts payable incurred in the ordinary course of business from and after the Petition Date (the “**Stalking Horse Bid**”).

11. In accordance with the sale and bidding procedures previously approved by the Court (the “**Bidding Procedures**”), the Debtors, with the assistance of their advisors, are conducting a thorough marketing process for the Debtors’ assets. The bid deadline under the Bidding Procedures is November 15, 2024.

B. In addition to providing the Stalking Horse Bid, AHS has also (a) consented to use of cash collateral, and (b) provided a \$3,500,000 debtor in possession financing facility, to provide the Debtors with the liquidity necessary to administer these cases and maximize the recoveries for all parties through the sale process. The Settlement Term Sheet

12. On November 9, 2024, the Settlement Parties finalized the terms of the Settlement Term Sheet, which, among other things, provides for: (a) resolution of the Committee's objection to the entry of the Final DIP Order; (b) termination of the Challenge Period and the allowance of AHS's prepetition secured claims; (c) the modification of the Stalking Horse Purchase Agreement to provide that Purchaser will assume all allowed 503(b)(9) claims; (d) the definition of "Acquired Assets" shall be modified as provided for in the "Estate Assets" section of the Settlement Term Sheet; (e) the provision of additional funding to provide for the payment of administrative expenses (including an increase to the Committee's professional fee budget); (f) the Committee's support for the sale of the Debtors' assets to AHS (subject to higher and better offers); (g) AHS' agreement to waive any recovery on account of its deficiency claim; and (h) the Settlement Parties' rights to consult with respect to the appropriate case resolution mechanic (including confirmation of a liquidating chapter 11 plan, if appropriate).

13. In sum, the Settlement Term Sheet provides for the following:³

- Purchaser agrees to assume all allowed 503(b)(9) claims, which will be paid over time (18 months) or on such other terms as may be agreed between Purchaser and the holder of such claim.
- The definition of "Acquired Assets" in the Stalking Horse Purchase Agreement shall be modified to reflect that Avoidance Actions, causes of action, commercial tort claims, and any proceeds from insurance policies insuring against such claims (including claims assertable against the Debtors' sponsors, Dentons, the Debtors' former officers and directors, and any other non-go forward third parties) shall not be Acquired Assets; *provided, however*, that Avoidance Actions, causes of action, and

³ In the event this summary of the Settlement Term Sheet differs from the terms of the Settlement Term Sheet, the terms of the Settlement Term Sheet shall control.

commercial tort claims with respect to (a) Messrs. Leidl, Stallkamp, Tschanz and Hubbard, (b) any employee of any Debtor that accepts an offer of employment from Purchaser or any affiliate of Purchaser in any capacity prior to the commencement of any proceeding with respect to any potential claim (provided however that neither the Debtors nor the Committee nor any other estate representative will commence any such proceeding prior to the Closing Date of the Sale and without confirming with Purchaser the status of such individual's employment with Purchaser), and (c) go-forward third parties (including without limitation, customers, suppliers, banks, vendors, merchants, all holders of allowed Section 503(b)(9) claims, and any counterparties to any Assigned Contracts), in each case as determined by Purchaser in its sole discretion, shall be Acquired Assets and shall not be retained by the Debtors' estates. Purchaser shall not enforce or prosecute any of the foregoing claims or causes of action with respect to such Acquired Assets (but may utilize any such claims as a defense, setoff or other means to reduce liability);

- The Committee agrees to withdraw its objection to entry of Final DIP Order, including granting of customary 506(c) and 552(b) waivers and liens on proceeds of avoidance actions (subject to this Court's approval of the Settlement Term Sheet).
- The Committee agrees to immediate termination of the Challenge Period.
- The Prepetition Secured Party's claims shall be deemed allowed and the releases set forth in the Final DIP Order shall become effective.
- DIP lender agrees to increase the Committee professional fee budget by \$175k to a total of \$300k for all Committee professionals.
- Any amounts remaining in the Professional Fee Reserve may be used to either (a) pay Committee professional fees in excess of \$300k or (b) fund a litigation trust (if one is created pursuant to a confirmed plan of liquidation).
- The Committee agrees to support the sale of the Debtors' assets to Purchaser subject to higher or better offers.
- Debtors, DIP Secured Parties and Committee will consult on case resolution mechanic (liquidating plan, dismissal, etc.).

14. The Movants submit that moving forward with the Settlement Term Sheet, in conjunction with a timely sale closing, will save the Debtors' estates considerable resources and will allow the business to quickly exit from chapter 11 as a new company.

RELIEF REQUESTED

15. By this Motion, the Movants seek entry of an order (a) approving the Settlement Term Sheet and authorizing the Movants to take all actions that they deem necessary or desirable to consummate the Settlement Term Sheet; and (b) granting related relief.

BASIS FOR RELIEF REQUESTED

I. The Settlement Term Sheet Satisfies the Standards of Bankruptcy Rule 9019 and Should Be Approved.

16. Bankruptcy Rule 9019(a) provides, in relevant part, that “[o]n motion by the [debtor in possession] and after notice and a hearing, the court may approve a compromise or settlement.” Fed. R. Bankr. P. 9019(a). Settlements and compromises are “a normal part of the process of reorganization.” *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 428 (1968). It is well settled that in order to “minimize litigation and expedite the administration of a bankruptcy estate, ‘[c]ompromises are favored in bankruptcy.’” *Myers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir. 1996) (quoting 9 COLLIER ON BANKRUPTCY 9019.03[1] (15th ed. 1993)); *see also Will v. Northwestern Univ. (In re Nutraquest, Inc.)*, 434 F.3d 639, 644 (3d Cir. 2006) (finding that “[s]ettlements are favored [in bankruptcy]”); *In re Adelpia Commc’n Corp.*, 361 B.R. 337, 348 (Bankr. D. Del. 2007) (same). Accordingly, when required, “courts are able to craft flexible remedies that, while not expressly authorized by the [Bankruptcy] Code, affect the result the [Bankruptcy] Code was designed to obtain.” *Official Comm. of Unsecured Creditors of Cybergenics Corp. v. Chinery*, 330 F.3d 548, 568 (3d Cir. 2003).

17. A bankruptcy court may approve a compromise or settlement under Bankruptcy Rule 9019 so long as the proposed settlement is fair, reasonable, and in the best interest of the estate. *See In re Louise’s Inc.*, 211 B.R. 798, 801 (D. Del. 1997) (“The decision whether to approve a compromise under Rule 9019 is committed to the sound discretion of the Court, which must

determine if the compromise is fair, reasonable, and in the interest of the estate.”); *In re Marvel Entm’t Group, Inc.*, 222 B.R. 243, 249 (D. Del 1998) (“[T]he ultimate inquiry [is] whether ‘the compromise is fair, reasonable, and in the interest of the estate.’” (citation omitted)); *In re Northwestern Corp.*, No. 03-12872 (KJC), 2008 WL 2704341, at *6 (Bankr. D. Del. July 10, 2008) (“[T]he bankruptcy court must determine whether the compromise is fair, reasonable, and in the best interests of the estate.”) (citation omitted); *In re Key3Media Group, Inc.*, 336 B.R. 87, 92 (Bankr D. Del. 2005) (“[T]he bankruptcy court has a duty to make an informed, independent judgment that the compromise is fair and equitable.”). “Ultimately, the decision whether or not to approve a settlement agreement lies within the sound discretion of the Court.” *In re Nortel Networks, Inc.*, 522 B.R. 491, 510 (Bankr. D. Del. 2014).

18. In *Martin*, the Third Circuit held that, when considering approval of settlement agreements, bankruptcy courts should balance the following four-factors: “(1) the probability of success in litigation; (2) the likely difficulties in collection; (3) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (4) the paramount interest of the creditors.” *Martin*, 91 F.3d at 393; *see also In re Nutraquest*, 434 F.3d at 644–45 (applying the four-factor *Martin* test to affirm district court’s order approving settlement); *Key3Media*, 336 B.R. at 93 (holding that, when determining whether a compromise is in the best interests of the estate, courts must “assess and balance the value of the claim that is being compromised against the value of the estate of the acceptance of the compromise proposal”).

19. Importantly, it is well-established that a settlement proponent need not convince the Court that a settlement is the best possible compromise but only that the settlement falls “within the reasonable range of litigation possibilities somewhere above the lowest point in the range of reasonableness.” *In re Nutritional Sourcing Corp.*, 398 B.R. 816, 833 (Bankr. D. Del. 2008); *see*

also *In re W.R. Grace & Co.*, 475 B.R. 34, 77–78 (Bankr. D. Del. 2012) (“In analyzing the compromise or settlement agreement under the *Martin* factors, courts should not have a ‘mini-trial’ on the merits, but rather should canvass the issues and see whether the settlement falls below the lowest point in the range of reasonableness.”); *Nortel*, 522 B.R. at 510 (same).

20. The Movants respectfully submit that the Settlement Term Sheet is fair and reasonable, in the best interests of the Debtors’ estates and creditors, and should be approved pursuant to Bankruptcy Rule 9019. Indeed, the Settlement Term Sheet is the product of intensive, good-faith discussions and arm’s-length bargaining among the Settlement Parties. The Settlement Parties agree that the Settlement Term Sheet represents a highly attractive outcome for the Debtors’ estates and unsecured creditors and falls well within the range of reasonableness under the Martin factors.

21. First, based on diligence performed by the Movants, Movants do not believe that there are credible bases to assert any material Challenge to the liens and claim of AHS as the Prepetition Secured Party. As a result, absent the settlement, these estates could be rendered administratively insolvent with creditors receiving little or no recovery.

22. Second, and consistent with the foregoing, the Settlement Term Sheet provides reasonable comfort that all administrative expenses will be paid, including allowed 503(b)(9) claims.

23. Third, absent the Settlement Term Sheet, AHS will not move forward with the sale closing until the Challenge Period expires, thus placing more stress on the Debtors’ businesses from the extended time in bankruptcy, and more risk on the Debtors and other creditors of further degradation in the underlying assets.

24. Fourth, the Settlement Term Sheet leaves open the possibility of a consensual chapter 11 plan process versus a dismissal or conversion to chapter 7 that otherwise could have resulted.

25. Finally, the Settlement Term Sheet provides that AHS will waive its deficiency claim allowing the prospect for recoveries for other creditor classes from the claims and causes of action remaining with the Debtors' estates.

26. Given the breadth of the Investigation Material provided to the Committee and the lack of meaningful credible Challenge by any party to AHS's claims and liens, any litigation efforts would face significant challenges and be unduly costly—all at the expense of general unsecured creditors and the Debtors' other stakeholders. The uncertainty and cost of prosecuting claims weighs in favor of compromise under these circumstances. *See In re Capmark Fin. Grp. Inc.*, 438 B.R. 471, 518 (Bankr. D. Del. 2010) (finding uncertainty weighs in favor of settlement). Furthermore, any judgment obtained may be subject to appeal, with no guarantee as to the ultimate outcome. On the other hand, the Settlement Term Sheet allows the Settlement Parties to reach a just, reasonable, and consensual outcome, and avoids the uncertainty of protracted and expensive litigation.

27. Finally, the Movants believe (for the reasons stated above) that the Settlement Term Sheet is in the paramount interests of the Debtors' creditors.

28. For these reasons, the Settlement Term Sheet satisfies the *Martin* balancing test, and the Movants submit that the Court should enter the Proposed Settlement Order.

II. Consummating the Settlement Term Sheet Is a Sound Exercise of the Debtors' Business Judgment Under Section 363(b)(1) of the Bankruptcy Code.

29. Section 363(b)(1) of the Bankruptcy Code authorizes a debtor in possession to "use, sell, or lease, other than in the ordinary course of business, property of the estate," after notice and

a hearing. A settlement of claims and causes of action by a debtor in possession constitutes a use of property of the estate. *See Northview Motors, Inc. v. Chrysler Motors Corp.*, 186 F.3d 346, 350–51 (3d Cir. 1999) (“[The scope of [11 U.S.C. § 541] is broad. It includes all kinds of property, including tangible or intangible property, causes of action . . . and all other forms of property currently specified in section 70a of the Bankruptcy Act.” (quoting H.R. Rep. No. 95–595, at 367 (1977), reprinted in 1978 U.S.C.C.A.N. 5963, 6323)). If a settlement is outside of the ordinary course of business of the debtor, it requires approval of the bankruptcy court pursuant to section 363(b) of the Bankruptcy Code. *See id.*; *see also Martin*, 91 F.3d at 395 n.2 (“Section 363 of the Code is the substantive provision requiring a hearing and court approval; Bankruptcy Rule 9019 sets forth the procedure for approving an agreement to settle or compromise a controversy.”).

30. It is well established in this jurisdiction that a debtor may use property of the estate outside of the ordinary course of business under this provision if there is a good business reason for doing so. *See, e.g., Martin*, 91 F.3d at 395 (“Under Section 363, the debtor in possession can sell property of the estate . . . if he has an ‘articulated business justification’”); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999); *In re Delaware & Hudson Ry. Co.*, 124 B.R. 169, 175–76 (D. Del. 1991); *In re Trans World Airlines, Inc.*, No. 01-00056 (PJW), 2001 WL 1820326, at *10 (Bankr. D. Del. Apr. 2, 2001). As a rule, deference to a debtor’s decision to use property of the estate outside of the ordinary course of business shields a debtor’s management decisions from judicial second-guessing and enjoys a strong presumption “that in making a business decision the directors acted on an informed basis, in good faith and in an honest belief that the action taken was in the best interests of the company.” *In re Integrated Res., Inc.*, 147 B.R. 650, 656 (Bankr. S.D.N.Y. 1992) (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)); *see also In re Filene’s Basement, LLC*, No. 11-13511 (KJC), 2014 WL 1713416, at *12

(Bankr. D. Del. Apr. 29, 2014) (“If a valid business justification exists, then a strong presumption follows that the agreement at issue was negotiated in good faith and is in the best interests of the estate”) (citations omitted)); *In re Montgomery Ward*, 242 B.R. at 153 (“In determining whether to authorize the use, sale or lease of property of the estate under [section 363(b)], courts require the debtor to show that a sound business purpose justifies such actions.”).

31. By entering into the Settlement Term Sheet, the Settlement Parties—who are intimately familiar with the Debtors’ business, operations, and stakeholders, and have spent significant time, effort, and money in a good faith attempt to maximize value for all constituents—have agreed that there are ample business justifications for resolving their disputes at this juncture of the Chapter 11 Cases. In the Movants’ business judgment, the Settlement Term Sheet significantly benefits all stakeholders by: (a) providing comfort that all administrative expense claims (including allowed 503(b)(9) claims) will be paid in full; (b) allowing the Debtors’ management team and professionals to focus on closing the Stalking Horse Transaction without the costs and burdens of a contested plan process; and (c) avoiding the cost and uncertainty of litigation challenging AHS’s claims and liens. Accordingly, the Movants have ample business justifications for entering into the Settlement Term Sheet, which the Movants submit the Court should approve by entering the Proposed Settlement Order.

WAIVER OF BANKRUPTCY RULE 6004(h)

32. For the successful implementation of the foregoing, the Movants seek a waiver of the fourteen-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). As set forth above, the relief requested in this Motion is necessary to facilitate a value-maximizing sale of the Debtors’ assets and to deliver value to the general unsecured creditors. Accordingly, ample cause exists to justify the waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h), to the extent it applies.

NOTICE

33. Notice of this Motion will be provided via overnight delivery to (a) the U.S. Trustee, (b) counsel for the Committee and the other Settlement Parties, (c) all known creditors of the Debtors; and (d) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Movants believe that no further notice is required.

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WHEREFORE the Debtors respectfully request entry of the Proposed Settlement Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: November 11, 2024
Wilmington, Delaware

POLSINELLI PC

/s/ Christopher A. Ward

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EXHIBIT A

Proposed Settlement Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

JORDAN HEALTH PRODUCTS I, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-12271 (TMH)

(Jointly Administered)

Re: Docket No. ____

**ORDER APPROVING SETTLEMENT TERM SHEET AMONG DEBTORS,
CREDITORS' COMMITTEE, AND
AHS ACQUISITION HOLDINGS, LLC**

Upon consideration of the *Joint Motion of Debtors and Creditors' Committee to Approve Settlement Term Sheet Among Debtors, Creditors' Committee, and AHS Acquisition Holdings, LLC* (the "**Motion**"),² filed by the above-captioned debtors and debtors in possession (collectively, the "**Debtors**") and the Official Committee of Unsecured Creditors (the "**Committee**"); and this Court having reviewed the Motion and having considered the statements of counsel with respect to the Motion at the hearing; and this Court having found that (i) this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012, (ii) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), (iv) service and notice of the Motion was sufficient

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² All terms not otherwise defined herein shall be given the meanings ascribed to them in the Motion.

under the circumstances, and (v) good and sufficient cause having been shown; and after due deliberation and sufficient cause appearing therefor

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** as set forth herein.
2. The Settlement Term Sheet attached hereto as **Exhibit 1** is **APPROVED**; provided, however, for the avoidance of doubt, nothing contained in this Order shall be deemed as approval of any chapter 11 plan, or any trust, disclosure statement, or any release or exculpation under such chapter 11 plan or otherwise.
3. The Settlement Parties are authorized and empowered to take any and all actions they deem necessary to implement the terms of the Settlement Term Sheet and this Order.
4. Notwithstanding the possible applicability of Bankruptcy Rule 6004(h), the terms and provisions of this Order shall be immediately effective and enforceable upon its entry.
5. This Court shall retain jurisdiction over any and all matters arising from the interpretation or implementation of this Order and the Settlement Term Sheet.

EXHIBIT 1

Settlement Term Sheet

Settlement Term Sheet

SETTLEMENT TERMS	
Settlement Parties	The Debtors, the Committee, and AHS Acquisition Holdings, LLC (in its capacities as the DIP Agent, DIP Lender, Prepetition Agent, Prepetition Lender and Purchaser under the Stalking Horse Agreement) (collectively, the “ <u>Settlement Parties</u> ”)
Effective Date	The effective date of this settlement shall be the date on which the Bankruptcy Court enters an order, in form and substance reasonably acceptable to all Settlement Parties, approving this settlement pursuant to Rule 9019 of the Bankruptcy Rules and other applicable provisions of the Bankruptcy Code. The Settlement Parties agree that they shall not take any action inconsistent with this settlement prior to the later of (a) the hearing on the motion to approve this settlement, and (b) a determination by the Bankruptcy Court to deny the request for approval of the settlement.
Allowance of Claims of Prepetition Agent and Prepetition Lender	The Prepetition Agent and Prepetition Lender shall have allowed claims against the Debtors in the amounts set forth in Paragraph E(i) of the Final DIP Order.
Right to Credit Bid; No Objection	The DIP Agent (on behalf of itself and the DIP Lenders) and the Prepetition Agent (on behalf of itself and the Prepetition Lenders) shall have the right to credit bid the outstanding amount of the DIP Obligations and the allowed amount of the Prepetition Obligations pursuant to Section 363(k) of the Bankruptcy Code. The Committee waives any right to object to or otherwise seek to limit the credit bid rights of the DIP Agent and Prepetition Agent.
Committee Carve Out	The Approved Budget shall be modified to increase the Carve Out for the payment of allowed fees and expenses of the Committee’s Professionals to \$300,000, which amount shall be funded into the Professional Fee Reserve in the accordance with the terms of the Final DIP Order (the “<u>Committee Professional Fee Carve Out Funds</u>”). In the event the allowed Professional Fees of the Debtors are less than the amounts allocated in the Approved Budget (and deposited to the Professional Fee Reserve) for payment of the fees and expenses of the Debtors’ Professionals, such excess shall be available to pay allowed fees and expenses of the Committee Professionals in excess of \$300,000.

Residual Funds in Professional Fee Reserve	To the extent the allowed fees and expenses of all Professionals are less than the aggregate amounts provided in the Approved Budget (and deposited to the Professional Fee Reserve), the Committee retains the exclusive right to allocate any such excess to the funding of a GUC Trust (as defined below).
Challenge Period; Waiver of Challenge Rights	The Challenge Period set forth in Section 4.1 of the Interim DIP Order and Final DIP Order shall be terminated. The Committee irrevocably waives and relinquishes any and all rights to raise or prosecute any Challenge (as such term is defined in Section 4.1 of the Interim DIP Order and Final DIP Order).
Administrative Expense Claims	The DIP Agent and the DIP Lender agree to extend the DIP Loans to the Debtors in accordance with the terms of the DIP Loan Note and the Final DIP Order to enable the Debtors to pay postpetition administrative expenses as and to the extent set forth in the Approved Budget. Purchaser shall pay all costs and expenses incurred by the Debtors in providing services under the “Transition Services Agreement” contemplated by the Stalking Horse Agreement in accordance with a budget to be agreed between the Debtors and the Purchaser.
Treatment of Allowed 503(b)(9) Claims	Purchaser shall amend the Stalking Horse Agreement to provide for Purchaser’s assumption of allowed Section 503(b)(9) claims. The Debtors and Committee shall not consent to the allowance of any Section 503(b)(9) claim without the consent of Purchaser. All allowed Section 503(b)(9) claims assumed by Purchaser shall be paid over an 18 month period after the closing of the transactions contemplated by the Stalking Horse Agreement (or on such other terms as may be agreed by the holder of such allowed Section 503(b)(9) claim and the Purchaser. For the avoidance of doubt, neither the Debtors nor the Committee shall have the obligation to review or object to any asserted Section 503(b)(9) claim, provided that the Debtors shall provide to Purchaser all information reasonably requested by Purchaser to allow Purchaser to review and, if appropriate, object to any asserted Section 503(b)(9) claim.
Joint Plan and Disclosure Statement	After closing of the Sale, the Debtors and the Committee shall work cooperatively and in good faith to determine if a combined chapter 11 plan of liquidation and disclosure statement (the “ <u>Plan</u> ”) consistent with this Settlement Term Sheet is feasible; <i>provided, however</i> , that the effectiveness of any Plan shall be conditioned on a resolution, acceptable to the Committee, being reached with applicable state taxing authorities in connection with the Debtors’ priority sales tax liabilities. The Committee agrees to use commercially reasonable efforts to include in any such resolution a release by such taxing authorities of Messrs. Arrowsmith, Campbell, Pully, Leidl, Tschanz, Stallkamp and Hubbard, <i>provided further</i> that the Debtors’ estates shall not be obligated to expend any funds or incur any liabilities in connection with procuring any such release.

	The Committee shall have consultation rights with the Debtors with respect to the pursuit of a plan process or conversion the cases to cases under Chapter 7 of the Bankruptcy Code so that the relevant causes of action and commercial tort claims are preserved. For the avoidance of doubt, to the extent the Debtors and the Committee agree that it is not feasible to pursue confirmation the Plan, the Debtors agree to take the necessary steps to obtain entry of an order converting the cases to cases under Chapter 7 of the Bankruptcy Code as soon as reasonably practical following the expiration of the Transition Services Period contemplated by the Stalking Horse Agreement and the Closing of the Sale.
Estate Assets	The Settlement Parties agree that the following assets (the “<u>Estate Assets</u>” shall be preserved for the Debtors’ estates to be pursued for the benefit of general unsecured creditors through either (i) the establishment of a dedicated trust (the “<u>GUC Trust</u>”) for general unsecured creditors if it is determined that confirmation the Plan is feasible, or (ii) conversion of the cases to cases under Chapter 7 of the Bankruptcy Code: • Only those Avoidance Actions and any proceeds from insurance policies insuring against such Avoidance Actions (including claims assertable against the Debtors’ sponsors, Dentons, the Debtors’ former officers and directors, and any other non-go forward third parties); <i>provided, however</i>, that Avoidance Actions with respect to (a) Messrs. Leidl, Stallkamp, Tschanz and Hubbard), (b) any employee of any Debtor that accepts an offer of employment from Purchaser or any affiliate of Purchaser in any capacity prior to the commencement of any proceeding with respect to any potential claim (provided however that neither the Debtors nor the Committee nor any other estate representative will commence any such proceeding prior to the Closing Date of the Sale and without confirming with Purchaser the status of such individual’s employment with Purchaser), and (c) go-forward third parties (including without limitation, customers, suppliers, banks, vendors, merchants, all holders of allowed Section 503(b)(9) claims, and any counterparties to any Assigned Contracts), in each case as determined by Purchaser in its sole discretion, shall be Acquired Assets and shall not be retained by the Debtors’ estates. Purchaser shall not enforce or prosecute any of the foregoing claims or causes of action with respect to such Acquired Assets (but may utilize any such claims as a defense, setoff or other means to reduce liability); • Only those causes of action and commercial tort claims and any proceeds from insurance policies insuring against such claims and causes of action (including claims assertable against the Debtors’ sponsors, Dentons, the Debtors’ former officers and directors, and any other non-go forward third parties, but specifically excluding any and all claims and judgments against Philips and its affiliates) to the extent not constituting Acquired Assets. For the avoidance of doubt the Acquired Assets shall include all commercial tort claims (under any theory of liability) against any of Messrs. Leidl, Tschanz, Stallkamp or Hubbard,) and any employee of any Debtor that accepts an offer of employment from Purchaser or any affiliate of Purchaser in any

	capacity prior to the commencement of any proceeding with respect to any potential claim (provided however that neither the Debtors nor the Committee nor any other estate representative will commence any such proceeding prior to the Closing Date of the Sale and without confirming with Purchaser the status of such individual's employment with Purchaser), but shall not include such claims against the Debtors' current directors; • Claims, causes of action, and rights relating to Tax credits and refunds or recovery of Taxes that relate to claims and causes of action preserved for the Debtors' estates as part of the resolution embodied herein and not constituting Acquired Assets; and • The unused portion of the Professional Fee Reserve.
Proceeds from Estate Assets	To the extent the GUC Trust is established, proceeds from the Estate Assets shall be distributed to holders of allowed general unsecured claims, net of (i) any GUC Trust expenses (including allowed professional fees) and (ii) distributions made to creditors senior in priority to general unsecured creditors in accordance with the priority waterfall under the Bankruptcy Code. To the extent the cases are converted to cases under Chapter 7 of the Bankruptcy Code, proceeds from the Estate Assets shall be distributed to holders of allowed general unsecured claims, net of (i) any expenses of the Chapter 7 Trustee (including allowed professional fees) and (ii) distributions made to creditors senior in priority to general unsecured creditors in accordance with the priority waterfall under the Bankruptcy Code.
Deficiency Claim	Prepetition Agent and Prepetition Lender agree to waive their deficiency claim for purposes of distributions of the Estate Assets, including any unpaid deficiency general unsecured claim.
Plan Releases	To the extent confirmation of the Plan is feasible, the Committee agrees to support usual and customary Plan releases and exculpation.
Committee Support/Non-Objection to Various Pleadings	The Committee agrees to not object to pleadings consistent with this Settlement Term Sheet, including (a) entry of the Final DIP Order, (b) the Debtors' request for approval of the Stalking Horse Agreement (subject to a customary "fiduciary out" with respect to higher or better offers), and (c) the Debtors' request to establish an early administrative claims bar date.