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Preliminary Due Diligence Request List

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Preliminary Due Diligence Request List

March 2019

The following is a preliminary list of documents and other information which Greenberg Traurig would like to review in connection with our due diligence examination of the business and operations of _____, a _____ corporation and its affiliated entities (the “Company”). Please note that this request list does not include any items relating to financial information and tax matters, which we understand will be provided separately by _____ and/or its advisers.

Please note that this request is based upon our standard list of documents and information which we typically review in connection with our due diligence examination. Accordingly, we would appreciate if you would advise us of any requests that are overly burdensome, immaterial or which are not applicable to the Company and we will attempt to modify such request appropriately. This list is not intended to be exclusive. Consequently, if there are other documents of a material nature that are not covered by this list, we request that those documents also be made available to us. Also, in the course of conducting our due diligence, matters may come to our attention that may require examination of documents and other information not included on this preliminary list and we may therefore supplement this list from time to time.

Inevitably, new documents may be created and new information may become available during the due diligence process which are responsive to our request list, and we would appreciate being furnished with all documents as soon as they are available. In addition, in the event that the Company intends to enter into any agreements or documents of the type identified in this list (other than non-material agreements entered into in the ordinary course of business), we would appreciate an opportunity to review the agreement or document prior to its execution.

We would appreciate if you would provide a written response to each of the items described below by providing copies of the requested documents or schedules of the requested information, stating which item the document or schedule is responsive to or stating that the request is inapplicable. If there are any questions regarding any of the requested items, please call David Peck or _____ of Greenberg Traurig at (954) 768-8265 or _____.

General Corporate Matters

1. Articles of Incorporation and Bylaws, each as amended to date, of the Company.
2. Minutes of meetings and written consents of the Company’s equityholders, Board of Directors (the “Board”) and any committees of the Board, since January 1, 2013.
3. All foreign entity qualifications (if any), registrations, certificates of authority or other authorization from a state or local governmental agency and the name and address of the Company’s registered agent in each jurisdiction in which the Company is qualified to do business.

4. Schedule of all jurisdictions in which the Company files tax returns, is registered to pay taxes or pays taxes (including sales taxes).
5. Schedule of all jurisdictions in which the Company is not qualified to do business and does not file tax returns but in which it maintains an office, employees or an agent or it has significant operations or properties, together with a description thereof.
6. Schedule of all corporations, partnerships, associations, joint ventures and other business entities in which the Company owns, directly or indirectly, any interest. For each such entity, state the nature of the interest, the percentage ownership of such entity, the jurisdiction in which such entity was formed, each jurisdiction in which such entity is qualified to do business and the business presently conducted and, if different, proposed to be conducted, by such entity. For each such entity, please provide the Articles of Incorporation, partnership agreement, operating agreement or any other organizational documents, as amended to date.
7. Schedule of all names under which the Company or any predecessor thereof has done business since the date of its organization.
8. Schedule of all officers, directors and managers of the Company.
9. Detailed organizational chart of the Company, showing all operating divisions and the management responsible for each such division.

Securities

1. Schedule of all issued and outstanding options, warrants, phantom equity and other securities convertible into or exchangeable for equity interests of the Company, and a list of each holder thereof, the date of issuance or grant, the expiration date, the number and type of interests obtainable upon conversion or exercise thereof and the consideration to be received by the Company upon conversion and exercise thereof.
2. Member voting agreements, registration rights agreements, shareholder agreements, preemptive rights agreements, and any other agreements relating to the voting, sale or transfer of securities of the Company.
3. Disclosure documents used in private placements of securities, or institutional or bank loan applications. All agreements, memoranda, registration statements, prospectus or offering circulars pertaining to the acquisition, sale or attempted sale of securities of the Company.

Financing Documents

1. Schedule of all long-term and short-term debt, indicating principal amounts, interest rates, outstanding amounts and maturity dates.

2. Loan agreements, lines of credit, indentures, promissory notes and other debt instruments, and all guarantees by or for the benefit of the Company, and any related documentation to which the Company is a party.
3. Mortgages, liens, pledges, security interests, charges and other encumbrances to which any property of the Company is subject and any related documentation.
4. Interest rate caps, hurdles, swaps and other hedging mechanisms relating to any debt arrangements to which the Company is party.
5. Correspondence with lenders and other debt securityholders since the Company's inception (including all consents, notices and waivers of default).
6. Documents relating to any proposed new indebtedness such as term sheets, commitment letters and draft agreements.
7. Letters of credit, performance guarantees and bonds.

Material Agreements

1. Any agreements concerning services performed for, or products supplied to, the Company, together with all amendments or modifications thereto, including, without limitation those relating to equipment maintenance and waste disposal.
2. Renewal history for contracts expiring during the next three years.
3. Analysis of all material contracts terminated since the beginning of fiscal 2014.
4. Any agreements concerning services performed or products supplied by the Company, including all contracts with payors, managed care entities, hospitals or other facilities (including facility agreements, back-up hospital, etc.).
5. Any standard forms of agreements used by the Company.
6. Any currently effective guarantees given by the Company concerning the payment or performance of obligations of third parties.
7. Any agreements to which the Company is (or was since the Company's inception) a party and in which any officer, director, manager, employee or member of the Company has or had a direct or indirect interest.
8. Any agreements between the Company and any not-for-profit entities.
9. Any agreements restricting the ability of the Company to compete in any line of business with any person or entity, or committing the Company to continue in any line of business, or under which the Company is the beneficiary of a third party's agreement not to compete.

10. Any agreements granting the Company any right of first refusal to acquire any business or assets, or pursuant to which the Company has granted any such rights to any third party.
11. Any licensing, royalty, franchising, joint venture or partnership agreements to which the Company is a party.
12. Any agreements or plans for mergers, consolidations, reorganizations, acquisitions for the purchase or sale of assets involving the Company, or agreements in principle or letters of intent, currently in effect, with respect thereto.
13. Any management or services agreements, designating any such agreement in which any officer, director, manager, employee or member of the Company or any of their respective affiliates has or had a direct or indirect interest.
14. Any consulting and management services agreements, including without limitation such services as utilization review and case management. A description of the methodology used to determine the compensation paid under any of these agreements, including how each of the Company's Entities documents the FMV for services provided under the agreement and copies of any independent third-party FMV opinions supporting the compensation paid
15. Any waiver or agreement of the Company canceling claims or rights of substantial value other than in the ordinary course of business, or any document relating to material write-downs or write-offs of notes or accounts receivables other than in the ordinary course of business.
16. Agreements concerning the merger, acquisition or disposition of companies, significant assets or operations within the past five years.
17. A model agreement and representative sample of contracts with providers of health care, including physicians, mid-level providers and any medical directorship services, and any compensation arrangement of any kind or form with any health care provider. A description of the methodology used to determine the compensation paid under any of these agreements.
18. Any agreements to which the Company is a party or by which the Company is bound which are not otherwise requested herein, but which are material to the Company.

Insurance

1. Insurance policies, including casualty, property, liability, errors and omissions, officers and directors, general liability, products liability, workers' compensation, key employee and environmental impairment insurance. To the extent insurance carriers and coverages have changed since the Company's inception, please so indicate. Also, please summarize any material claims filed since January 1, 2013.

2. Schedule of methodology for determining reserves, including incurred but not reported claims since the Company's inception.
3. Schedule of any claims which have been made against the Company during the last five years and the resolution of any such claim.

Tax Matters

1. All tax and information returns filed since January 1, 2013.
2. Workpapers for income tax returns.
3. If Subchapter S corp, copy of S election.
4. Explanation of how the Seller is addressing unclaimed property tracking and remittances and copies of all unclaimed property reports filed since January 1, 2013.
5. For each taxing jurisdiction, a schedule of all open tax years and all open tax years presently under audit, including a summary of each issue under audit.
6. Schedule of all pending tax liabilities.
7. Schedule of all real and personal property taxes and sales taxes paid since January 1, 2013.
8. All tax sharing or tax allocation agreements, tax rulings or determination letters relating to the Company, and tax opinions relating to the Company and any related representations of the Company.
9. Information relating to audits (including the date of the last audit by the Internal Revenue Service and the last state tax audit), investigations and inquiries since January 1, 2013 by any governmental authority relating to tax matters of the Company, including audit reports, notices of audits or investigations, and correspondence with such governmental authority.

Properties and Equipment

1. Schedule of street addresses and legal descriptions of any real property currently owned or leased by the Company.
2. In the case of any real property owned by the Company, a copy of the deed evidencing ownership of the property, the latest owner's title insurance policy issued with respect to such property, the most recent survey covering such property and copies of any mortgages, easement agreements and other encumbrances with respect to such property.
3. All leases for use of the real property owned or leased by the Company.

4. All leases of furniture, fixtures and equipment.
5. All U.S. and foreign patents, trademarks, trade names, copyrights and other intangible assets owned or licensed by the Company, all pending applications therefor, all assignment, licensing and ownership documents relating thereto, and a summary of all any allegations of infringements of proprietary rights of others.
6. All options, rights of first refusal and other rights to acquire any property or assets.
7. Schedule and copies of all leases of equipment by the Company as lessor together with rent being paid, date of commencement and termination of lease and name of lessee.
8. Description of current computer systems used, including hardware and software and projected utilization and enhancement/replacement plans.
9. Description of disaster recovery plan, if any.
10. Listing of any personal-type assets owned by the Company (i.e. automobiles, planes, yachts).

Management and Employees

1. Schedule of all employees and officers of the Company, setting forth each employee's name, position, remuneration for the past and present fiscal year paid or payable by the Company, including salaries, directors' fees, commissions, bonuses and deferred compensation.
2. Schedule of all employee benefit plans and programs offered to employees of the Company, including all group life insurance plans, major medical plans, medical reimbursement plans, supplemental unemployment benefit plans or welfare plans, salary continuation plans and bonus plans and copies of any brochures, agreements and other documentation relating thereto, as well as schedule of costs and employee contributions and schedule showing employee enrollment details.
3. Schedule of all perquisites and other fringe benefits offered to employees of the Company, including severance payments, moving expenses, tuition reimbursement, loans, advances, vacations, holidays and sick leaves.
4. Schedule of all pension and profit sharing plans, as amended to date (and any changes in such plans which have been prepared, agreed upon or are under consideration), and copies of any actuarial reports, if applicable, trust instruments and trust balance sheets, if any, summary plan descriptions, the latest application for determination to the IRS, any IRS determination letters, and the latest Annual Report on Form 5500, 5500-C or 5500-K.
5. Schedule of terminated pension plans and unfunded pension liabilities.

6. Schedule of any deferred compensation programs affecting officers, directors, managers or employees of the Company and the amount accrued and paid since the Company's inception under such programs and copies of any agreements or documentation relating thereto.
7. Schedule of any 401(k) and similar benefit plans maintained by the Company at any time and copies of the plan documents, summary plan descriptions, any matching policy and any discrimination testing with compliance issues since the Company's inception.
8. Schedule of any worker's compensation plans/policies, loss runs, premium payments, DEK sheets, modification factors and/or estimated premium refunds of the Company for each of the last five fiscal years.
9. All severance, "golden parachute" or similar agreements to which the Company is a party or by which the Company is bound.
10. All ownership plans, option plans, stock appreciation rights plans, incentive stock option plans, bonus plans or similar arrangements of the Company.
11. Any employment agreements, consulting agreements or independent contractor agreements to which the Company is a party or by which the Company is bound. A description of the methodology used to determine the compensation paid under any of these agreements.
12. Any agreements with management or key personnel other than employment or consulting agreements.
13. Any confidentiality, non-competition or similar agreements between the Company and any present or former officers, employees, directors, managers, consultants or agents.
14. Indemnification contracts and similar arrangements between the Company and any of its past or present officers, directors, managers and employees.
15. Copies of all labor agreements and collective bargaining agreements to which the Company or any of its clients is a party and the number of employees covered by each such agreement.
16. Schedule of "labor unrest" situations and pending or threatened labor strikes experienced by the Company or any of its clients since the Company's inception.
17. Schedule of all unfair labor practice and equal employment opportunity complaints lodged since the Company's inception involving the Company or any of its clients.
18. Loans and guarantees to or from members, directors, managers, officers or employees of the Company and all other agreements documenting transactions between the Company and its officers, directors, managers or members.

19. All employee handbooks, guidelines, policies and bulletins.

Compliance with Laws

1. List of all federal, state, local, and foreign governmental permits, licenses, certificates of need, accreditations and approvals (excluding those listed elsewhere herein) either held or required to be held by the Company or its subsidiaries for the conduct of their businesses.
2. All documents related to the Company's: (a) health care compliance program, including without limitation, copies of the Company's policies and procedures applicable to sales and marketing, credentialing and other healthcare compliance matters, and (b) training and educational materials regarding the same.
3. All correspondence, reports, and notices for the past six years relating to interactions with or compliance by the Company or its subsidiaries with laws and regulations administered by any federal, state, local, or foreign governmental agency including HCFA, EPA, the IRS, the Office of Inspector General (OIG), Office of Civil Rights ("OCR"), Centers for Medicare & Medicaid Services or any of its contractors (*e.g.*, Medicare Administrative Contractors), state Medicaid fraud control units, state Medicaid agencies, Department of Justice, U.S. Attorneys' Office, or any other federal or state healthcare regulatory authority, including without limitation correspondence regarding audits or notices of any threatened or pending investigation, audit, overpayment determination, request for refund, or other program sanctions in connection with the Medicare or Medicaid programs.
4. List and brief description of any of the contracts, leases, security agreements, licenses, authorizations, etc. of the Company or any of its subsidiaries that may require the consent of any third party (including any governmental agency or instrumentality) to the proposed transactions.
5. To the extent not otherwise disclosed in accordance with this due diligence request, copies of all agreements or arrangements with physicians, other health care providers and any other parties in a position to make or influence referrals to or otherwise generate business for the Company or any of its subsidiaries, summaries of such agreements or arrangements if they are oral, and a list of all payments (whether or not pursuant to an agreement or arrangement) to any such parties during the past three years.
6. Indicate any other notification required to be given to or consents required from any third party (including any governmental agency or instrumentality) in connection with the proposed transactions.
7. Copy of most recent accreditation letter from any accrediting bodies.
8. Medicare, Medicaid, and other regulatory audits of the Company or its facilities.
9. CLIA Waivers or CLIA certification.

10. Certificate of Need, where applicable.
11. Documentation relating to CMS certification and evidence of issuance of Medicare Provider Number
12. Access to all correspondence and documentation with respect to status of licenses of Company.
13. Description of any investigations of the Company or any of its subsidiaries, pending or threatened, by any federal, state, local, or foreign authorities.
14. Copies of: (a) any general regulatory compliance plan and policies & procedures; (b) the minutes of any compliance or fraud and abuse committee of the Company during the last three years; (c) copies of any internal audits or reports conducted or prepared in the last three years; and (d) any compliance reporting logs and any material complaint or disclosure made through the Company's compliance hotline or any other means, as well as a description of any action plan or steps taken in response to any of the same.
15. If the Company has received any legal opinions prepared by outside healthcare legal counsel, a brief description of the topic of each opinion, as well as copies of the legal opinions, including, without limitation, legal opinions pertaining to the Company's compliance with state fee-splitting and corporate practice of medicine laws and, if applicable, whether the Company's professional entities can provide professional services in each state as a foreign entity.
16. Copies of any analysis or opinions pertaining to state licensing laws (including fee splitting and corporate practice of medicine), reimbursement issues, antitrust or other regulatory issues affecting the organizational structure of the Company.
17. Copies of any HIPAA policies and procedures, HIPAA compliance manual(s), notice of privacy practices, business associate agreements (if applicable), subcontractor agreements and/or any other documentation of the Company's compliance efforts with respect to federal and state privacy and security law requirements.
18. Copies of any reports of breaches of unsecured protected health information that would require notification under the HITECH Act, comparable state privacy/security laws, or their respective implementing regulations, including copies of any notifications provided to governmental entities, business associates or individuals.

Legal Matters

1. Schedule of any pending or threatened claim, lawsuit, arbitration or investigation against or affecting the Company or for which the Company may be responsible or in which any of the Company's officers, directors, managers, employees or agents are parties, as a result of such status or as a result of action taken in such position. Copies of all litigation files, including complaints, pleadings, briefs and other documents pertaining to any such litigation, arbitration or investigation.

2. Responses of the Company's outside counsel to audit inquiry letters in connection with the examination of the Company's financial statements since the Company's inception, including summaries of litigation, if any.
3. All judgments, orders, decrees, consent decrees or settlement agreements to which the Company is subject or which affect the conduct of the Company's businesses.
4. Schedule of fines and penalties incurred by the Company arising out of its business and operations.
5. A description of any bankruptcy, criminal or other judicial proceeding pending, expected or completed within the past ten years involving the Company or any of the Company's officers, directors or managers.

Environmental Matters

1. Any environmental audits or investigations, including, without limitation, Phase I or Phase II studies, assessments or similar reports, relating to current or former Company properties.
2. Any internal Company reports concerning environmental matters relating to current or former Company properties and current or former Company employees.
3. Any notices, complaints, suits, or similar documents sent to, received by, or served upon the Company by the Environmental Protection Agency, any state department of environmental regulation, or any similar state or local regulatory body, authority or agency.

Billing

1. Description of the Company's medical billing, claims management and process policies and procedures and related documents including a description of billing procedures, including timing of bills and rates billed to various payers and timing for booking contractual adjustments
2. List and description of any overpayments to the Company and any unreconciled payments.
3. Any communications or documents pertaining to the Company's liability or potential liability to refund or not receive any monies from any payer (including Medicare).