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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:

Chapter 11

SOUND SHORE MEDICAL CENTER OF
WESTCHESTER, et al.,

Case No. 13-22840 (RDD)

Debtors.

(Jointly Administered)

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**MOTION OF DEBTORS PURSUANT TO 11 U.S.C. § 365(D)(4)
FOR EXTENSION OF TIME TO ASSUME OR REJECT
UNEXPIRED LEASES OF NON-RESIDENTIAL REAL PROPERTY**

Sound Shore Medical Center of Westchester ("SSMC"), and its debtor affiliates (each a "Debtor" and together, the "Debtors") in the above chapter 11 cases (the "Chapter 11 Cases"), hereby file this Motion (the "Motion") pursuant to section 365(d)(4) of title 11 of the United States Code (the "Bankruptcy Code"), for the entry of an Order, substantially in the form attached hereto as Exhibit A, extending the period within which Debtors may assume or reject those leases of nonresidential real property (the "Real Property Leases") that have not been previously assumed or rejected. In support of the Motion, the Debtors respectfully represent as follows:

SUMMARY OF RELIEF REQUESTED

1. By this Motion, the Debtors seek the entry of an Order, pursuant to Section 365(d)(4) of the Bankruptcy Code extending the period within which the Debtors may assume or reject the Real Property Leases. The Debtors are in the process of selling substantially all of their assets (the "**Sale**") to Montefiore SS Operations, Inc., Montefiore MV Operations, Inc., Montefiore HA Operations, Inc, and Montefiore SS Holdings, LLC, Montefiore MV Holdings, LLC, and Montefiore HA Holdings, LLC (collectively referred to herein as "**Buyer**"). It is anticipated that Buyer will continue operations at the Debtors' existing sites under its own auspices. As part of the sale process, the Debtors and the Buyer are assessing which of the Real Property Leases will be necessary for the continued operation of the Debtors' facilities following consummation of the proposed Sale. At this time, the Buyer has not yet finalized details pertaining to the future operation of the Debtors' facilities and as such, has not determined which of the Real Property Leases will be necessary for such continued operations.

2. The Sale and closing are being conducted on an expedited basis. The Debtors are targeting a closing date on or about the end of October or the beginning to middle of November, 2013. The Debtors are confident they will be in a better position to determine which of the Real Property Leases, if any, will be assumed and/or rejected by the anticipated closing date. In the interim, the Debtors and Buyer are continuing to diligently evaluate each of the Real Property Leases, and in certain instances, simultaneously negotiating amendments to the Real Property Leases and/or new leases in lieu of the existing leases. Accordingly, the Debtors will be in a position shortly to make a determination on the Real Property Leases.

JURISDICTION

3. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory basis for the relief requested in this Motion is section 365(d)(4) of the Bankruptcy Code.

BACKGROUND

4. On May 29, 2013 (the "**Petition Date**"), each Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered for procedural purposes only. On that same date, the Debtors filed the Sale Motion [Docket No. 17] seeking, inter alia, approval for the proposed sale of substantially all of their assets.

5. The Debtors remain in possession of their assets and continue to manage their businesses as debtors-in-possession pursuant to Bankruptcy Code sections 1107 and 1108.

6. On June 10, 2013, the United States Trustee for the Southern District of New York (the "**U.S. Trustee**") appointed an official committee of unsecured creditors (the "**Committee**") pursuant to section 1102 of the Bankruptcy Code. The Committee has engaged Alston & Bird LLP as its counsel. No trustee or examiner has yet been appointed in these cases.

7. On June 21, 2013, the Debtors filed a Supplemental Statement in Support of the Sale Motion (the "**Supplemental Statement**") [Docket No. 103] reflecting the terms of a revised agreement between the Debtors and Buyer. The Supplemental Statement also included provisions governing the manner for the assumption and assignment of the Debtors' executory contracts and unexpired leases (the "**Assumption Procedures**"). Pursuant to the Assumption Procedures, the

Buyer has up until ten days prior to closing to determine whether or not to assume any or all of the executory contracts and leases.

8. On June 25, 2013, the Bankruptcy Court entered an Order, inter alia, scheduling a hearing (the “**Sale Hearing**”) on the Sale Motion [Docket No. 119] (the “**Supplemental Scheduling Order**”), as modified by the Supplemental Statement and approving the Assumption Procedures.

9. On June 27, 2013, the Debtors filed the Amended and Restated Purchase Agreement (the “**Purchase Agreement**”) reflecting the revised terms of the Sale. [Docket No. 123-2]

10. The factual background relating to the Debtors’ commencement of these chapter 11 cases, including their business operations, their capital and debt structure, and the need to sell substantially all of their assets, is set forth in detail in the Affidavit of John Spicer Pursuant to Local Bankruptcy Rule 1007-2 and in Support of First Day Motions and Applications, [Docket No. 18] filed on the Petition Date and incorporated herein by reference.

11. On August 8, 2013, the Court entered an Order [Docket No. 259] (the “**Sale Order**”) approving the sale of substantially all of the Debtors’ assets to Buyer, pursuant to Purchase Agreement. Under the provisions of the Sale Order, the Debtors are authorized to assume and assign all unexpired contracts and leases designated for assignment to the Buyer, in accordance with the Assumption Procedures set forth in the Supplemental Scheduling Order.

RELIEF REQUESTED

12. The Debtors request entry of an order pursuant to Bankruptcy Code section 365(d)(4), extending the 120 day deadline (the “**Deadline**”) to assume or reject the Real Property Leases for a period ninety (90) days, through and including December 25, 2013, without prejudice to the Debtors’ right to seek further extensions of such deadline with the consent of the affected landlords, as provided in section 365(d)(4)(B)(ii) of the Bankruptcy Code.

BASIS FOR RELIEF

13. Section 365(d)(4)(A) of the Bankruptcy Code provides for an initial period of 120 days after the commencement of a chapter 11 case during which a debtor may assume or reject leases of nonresidential real property under which the debtor is the lessee. See 11 U.S.C. § 365(d)(4)(A). However, Section 365(d)(4)(B)(i) of the Bankruptcy Code further provides that the Court may extend this initial 120 day period for an additional 90 days “for cause”. See 11 U.S.C. § 364(d)(4)(B).

14. The term “cause” as used in section 365(d)(4) is not defined in the Bankruptcy Code nor does the Bankruptcy Code establish formal criteria for evaluating a request for an extension of the initial 120-day period. Thus, Courts have substantial discretion in determining if sufficient cause exists to extend the time for a debtor to assume or reject unexpired leases of nonresidential real property. Traditionally, when making such a determination, Courts have relied on several factors, including, among others, the following:

- (i) whether the debtor was paying for the use of the property;
- (ii) whether the debtor’s continued occupation ... could damage the lessor beyond the compensation available under the Bankruptcy Code;

(iii) whether the leases are an important assets of the estate; and

(iv) whether any other facts or circumstances exist which indicate that additional time is necessary to decide whether to reject, assume or assign the leases.

Here, the foregoing factors weigh in favor of granting the requested extension and cause to extend the deadline has been established.

15. As set forth above, the Debtors are working towards the closing of the Sale of their assets in accordance with the Sale Order entered on August 8, 2013. Given the Debtors' focus on the consummation of the proposed Sale and the ongoing administration of their estates and the Buyer's focus on transition issues, the Debtors have not had sufficient time to make a determination on the assumption of the Real Property Leases. Accordingly, an extension of the Debtors' time to assume or reject the Leases is appropriate and indeed necessary under the circumstances. See South St. Seaport L.P. v. Burger Boys, Inc. (In re Burger Boys, Inc.), 94 F.3d 755, 761 (2d Cir. 1996) (citing Theatre Holding Corp. v. Mauro, 681 F.2d 102, 105-06 (2d Cir. 1982) and noting that the list of factors "is by no means exhaustive," and a bankruptcy court may consider others, such as the complexity of the debtor's case and the number of leases the debtor must evaluate); In re Wedtech Corp., 72 B.R. 464, 471-72 (Bankr. S.D.N.Y. 1987) (considering, among other factors, the complexity of the case facing the debtor and the number of leases the debtor must evaluate); see also, e.g. In re Channel Home Ctrs., Inc., 989 F.2d 682, 689 (3d Cir. 1993) (Alito, J.) ("It is permissible for a bankruptcy court to consider a particular debtor's need for more time in order to analyze leases in light of the plan it is formulating." (citing Wedtech, 72 B.R. at 471-72)); In re Unit Portions of Del., Inc., 53 B.R. 83, 85 (Bankr. E.D.N.Y. 1985) ("Congress recognized that there may be times when it is not possible for the trustee to make a careful and informed assessment of the benefits and burdens of the lease within this [statutory] period.

Accordingly, it empowered the court to grant a trustee who demonstrates cause for extension additional time to make this assessment.”).

16. Further, the Debtors are making timely payments for the use of the premises associated with the Real Property Leases, and are continuing to perform their other obligations under the Real Property Leases in a timely fashion, to the extent required by section 365(d)(3) of the Bankruptcy Code and the Purchase Agreement.

17. There is no reason why the Debtors’ proposed extension of the time to assume or reject the Real Property Leases could or would damage the lessors that are party to the Real Property Leases in an amount beyond such compensation as is available to the lessors under the Bankruptcy Code. Moreover, pending the Debtors’ election to assume or reject the Real Property Leases, the Debtors will continue to perform all of their undisputed obligations arising after the Petition Date, including the payment of postpetition rent, in a timely fashion to the extent required by section 365(d)(3) of the Bankruptcy Code.

18. The Real Property Leases also remain valuable assets of the Debtors and the Debtors’ estates until such time as it is determined that they will not be included as part of the sale transaction. As discussed above, the Debtors and the Buyer are diligently working to determine which Real Property Leases will be assumed and assigned to the Buyer. It is important that the Debtors be afforded sufficient time to fully evaluate each of the Real Property Leases and alternative leasing facilities. The Debtors should not be forced to incur administrative claims or reject what may prove to be necessary assets under the Purchase Agreement before they have had a full opportunity to determine their needs and requirements with respect to the Real Property Leases. The Debtors need additional time

to evaluate and assess the value of the Real Property Leases and whether there are reasonable alternatives so that they may assume and/or reject the Real Property Leases in a manner that maximizes value for the Debtors' estates. The extension of time requested will facilitate the Debtors' efforts to maximize value by allowing the Debtors additional time to analyze the Real Property Leases thoroughly.

19. Where the initial period to assume or reject Remaining Leases has proven to be inadequate, bankruptcy courts have routinely extended such periods. See, e.g., In re Finlay Enterprises, Inc., Case No. (Bankr. S.D.N.Y. Dec. 17, 2009); In re Extended Stay Inc., Case No. 09-13764 (JMP) (Bankr. S.D.N.Y. Oct. 8, 2009); In re Motors Liquidation Co., Case No. 09- 50026 (REG) (Bankr. S.D.N.Y. Sept. 14, 2009); In re General Growth Properties, Inc., Case No. 09-11977 (JMP) (Bankr. S.D.N.Y. July 22, 2009).

20. Consequently, the Debtors submit that cause exists for the Court to extend the time within which the Debtors may assume or reject any of the Real Property Leases for ninety (90) days through and including December 25, 2013, without prejudice to the Debtors' right to seek further extensions of such deadline with the consent of the affected landlords, as provided in section 365(d)(4)(B)(ii) of the Bankruptcy Code.

NOTICE

21. Notice of this Motion has been provided to all parties in interests, including all counterparties to the Real Property Leases in accordance with the Administrative Order Establishing Case Management and Scheduling Procedures (the "**Case Management Order**"), entered on June 4, 2013, notice of this Motion has been given to the parties identified on the

General Service List and the Master Service List (as such terms are identified in the Case Management Order). The Debtors submit that no other or further notice need be provided.

NO PRIOR REQUEST

22. No prior request for the relief sought herein has been made to this or any other court.

WHEREFORE, the Debtors respectfully request entry of the attached Order granting the relief requested herein and that the Court grant such other and further relief as is just and proper.

Dated: September 17, 2013
Great Neck, New York

Respectfully submitted,

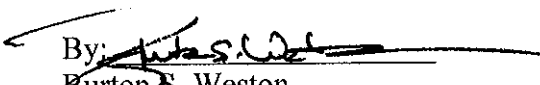
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EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:

Chapter 11

SOUND SHORE MEDICAL CENTER OF
WESTCHESTER, et al.,

Case No. 13-22840 (RDD)

Debtors.

(Jointly Administered)
----- x

**ORDER PURSUANT TO 11 U.S.C. §365(d)(4) EXTENDING
THE DEBTORS' TIME TO ASSUME OR REJECT UNEXPIRED
LEASES OF NON-RESIDENTIAL REAL PROPERTY**

Upon the motion (the "**Motion**")¹ of Sound Shore Medical Center of Westchester ("**SSMC**"), and its debtor affiliates (each a "**Debtor**" and together, the "**Debtors**") in the above chapter 11 cases (the "**Chapter 11 Cases**"), dated September 17, 2013, to extend the Debtors' time to assume or reject unexpired leases of non-residential real property through and including December 25, 2013, and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided; and it appearing that no other or further notice need be provided; and it appearing that the relief requested in the Motion being in the best interests of the Debtors, their estates, and creditors; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before the Court (the "**Hearing**"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all prior

¹ Capital terms not defined herein shall have the same meaning ascribed to them in the Motion.

proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, that the deadline set by Section 365(d)(4)(A) of the Bankruptcy Code for the Debtors to assume or reject the Real Property Leases is hereby extended through and including December 25, 2013; and it is further

ORDERED, that this Order is without prejudice to the Debtors' right to seek further extensions of such deadline with the consent of the affected landlords.

Dated: White Plains, New York
December __, 2013

HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE