UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
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In re: MBMG HOLDING, LLC, *et al.*,[1] Debtors.	Chapter 11 Cases Case No. 24-20576-CLC (Jointly Administered)

APPLICATION FOR ENTRY OF AN ORDER APPROVING AND AUTHORIZING THE PAYMENT OF MERU, LLC'S INCENTIVE FEE

The Debtors respectfully request that the Court schedule the hearing on this Application on January 30, 2025, at 3:00 p.m. (ET) which is the date and time on which the Court has already scheduled other matters for hearing in these Chapter 11 Cases.

MERU, LLC ("MERU") files this application (the "Application") seeking the entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Order"), approving and authorizing the payment of MERU's incentive fee in the amount of $250,000 (the "Incentive Fee") in accordance with the terms and conditions set forth in that certain engagement letter between MERU and the Debtors dated as of July 15, 2024, as amended on October 5, 2024 (together the "Engagement Letters"), copies of which are attached as Exhibit B to the Retention Application (defined herein). MERU was retained to provide the Debtors with the services of (i) Nicholas K. Campbell, as Chief Restructuring Officer ("CRO"), (ii) Brian Bonaviri, as Assistant Chief

[1] The address of the Debtors is 7500 S.W. 8th Street, Ste. 400, Miami, Florida 33144. The last four digits of the Debtors' federal tax identification numbers are: (i) Care Center Medical Group, LLC (9052); (ii) Care Center Network, LLC (5784); (iii) CCMC Physician Holdings, Inc. (4532); (iv) Clinical Care Pharmacy, LLC (2103); (v) Florida Family Primary Care Center, LLC (5005); (vi) Florida Family Primary Care Center of Pasco, LLC (8570); (vii) Florida Family Primary Care Centers of Orlando, LLC (3086); (viii) Florida Family Primary Care Centers of Pinellas, LLC (7075); (ix) Florida Family Primary Care Centers of Tampa, LLC (0631); (x) MB Medical Operations, LLC (8450); (xi) MB Medical Transport, LLC (3476); (xii) MBMG Holding, LLC (3880); (xiii) MBMG Intermediate Holding, LLC (9320); (xiv) Miami Beach Medical Centers, Inc. (3933); (xv) Miami Beach Medical Consultants, LLC (2737); and (xvi) Miami Medical & Wellness Center, LLC (2474).

Restructuring Officer ("Assistant CRO"), and (iii) supporting MERU personnel (collectively, the "Additional Staff", and together with the CRO and the Assistant CRO, collectively, the "Engagement Staff"). As set forth herein, MERU has earned and is entitled to payment of the Incentive Fee which is well within the range of reasonableness for such fees. In support of the Application, MERU respectfully relies upon the *Declaration of Brian Bonaviri in Support of Application for Entry of an Order Approving and Authorizing the Payment of MERU, LLC's Incentive Fee* (the "Bonaviri Declaration"), attached hereto as **Exhibit B**, and the *Declaration of Nicholas K. Campbell in Support of Chapter 11 Petitions and First Day Pleadings* [ECF No. 31] (the "First Day Declaration"),[2] each of which is incorporated herein by reference, and respectfully represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Application pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

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

3. The statutory predicates for the relief sought in this Application are sections 105(a), 330(a) and 363(b) of title 11 of the United States Code (as amended, the "Bankruptcy Code") and rule 6004 of the Federal Rules of Bankruptcy Procedure (as amended, the "Bankruptcy Rules").

PROCEDURAL BACKGROUND

4. On October 13, 2024 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (collectively, the "Chapter 11 Cases"). The Chapter 11 Cases are being jointly administered for procedural purposes only.

5. The Debtors continue to manage their affairs as debtors-in-possession pursuant to

[2] Capitalized terms used but not defined herein have the meanings given to them, as applicable in the First Day Declaration or the Bonaviri Declaration.

sections 1107(a) and 1108 of the Bankruptcy Code.

6. On November 4, 2024, the Office of the United States Trustee (the "U.S. Trustee") filed a notice on the docket of the Chapter 11 Cases indicating that the U.S. Trustee will not appoint a committee of unsecured creditors [ECF No. 155].

7. As of the date of this Application, no trustee or examiner has been appointed in these Chapter 111 Cases.

8. For a detailed description of the Debtors, the circumstances leading to the commencement of these Chapter 11 Cases and information regarding the Debtors' businesses and capital structure, the Debtors respectfully refer the Court and parties-in-interest to the First Day Declaration.

9. On October 13, 2024, the Debtors filed the *Debtors' Emergency Application for Entry of an Order Authorizing the Retention of MERU, LLC to Provide, on an Interim and Final Basis and Effective as of the Petition Date, the Services of (I) Nicholas K. Campbell, as Chief Restructuring Officer, (II) Brian Bonaviri, as Assistant Chief Restructuring Officer, and (III) Additional Staff for the Debtors* [ECF No. 26] (the "Retention Application"), pursuant to which the Debtors requested this Court to authorize the retention of MERU.

10. The Court approved the Debtors' retention of MERU on an interim basis on October 17, 2024 [ECF No. 94] (the "Interim Retention Order") and on a final basis on November 7, 2024 [ECF No. 169] (the "Final Retention Order", and together with the Interim Retention Order, collectively, the "Retention Orders").

SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS

11. Approximately a year prior to the Petition Date, on October 26, 2023, MERU was originally retained in connection with assisting with the preparation of the Debtors' financial

forecasting processes. Subsequently, on July 15, 2024, MERU was retained to provide the Debtors with the services of (i) Nicholas K. Campbell, as the CRO, (ii) Brian Bonaviri, as Assistant CRO, and (iii) the Additional Staff for the Debtors, each in accordance with the Engagement Letters.

12. For more than a year prior to the Petition Date, the Debtors engaged in an extensive and wide-ranging marketing process in an effort to sell the Debtors' business and protect the Debtors' patient population, as well as to maximize the value for the benefit of all of the Debtors' stakeholders. That process culminated in the Purchase Agreement (defined below), providing for the going concern sale of substantially all the Debtors' assets with the support of (1) their senior secured lenders, affiliates of Kohlberg Kravis Roberts & Co. L.P. ("KKR"), and (2) their junior secured lenders, Sun Capital.

13. On November 20, 2024, the Court entered the *Order Granting Debtors' Motion for Entry of an Order (I) Approving Asset Purchase Agreement and Authorizing the Private Sale of Substantially All of the Assets of the Debtors Outside the Ordinary Course of Business, (II) Authorizing the Sale of Assets Free and Clear of All Liens and Interests Except for Permitted Liens and Assumed Liabilities, (III) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief* [ECF No. 218] (the "Sale Order").

14. The Sale Order, among other things, authorized the Debtors to enter into and perform under that certain *Asset Purchase Agreement*, dated as of October 12, 2024 (as may be amended or otherwise modified from time to time and including all related instruments, documents, exhibits, schedules, and agreements thereto, collectively, the "Purchase Agreement"), substantially in the form attached as Exhibit B to the Debtors' *Motion for Entry of an Order (I) Approving Asset Purchase Agreement and Authorizing the Private Sale of Substantially All of the*

Assets of the Debtors Outside the Ordinary Course of Business, (II) Authorizing the Sale of Assets Free and Clear of All Liens and Interests Except for Permitted Liens and Assumed Liabilities, (III) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief [ECF No. 29] (the "Sale Motion"), by and among (a) 14 of the Debtors[3] (each, a "Seller" and collectively, "Sellers") and (b) Conviva Medical Center Management, LLC, a Delaware limited liability company that is a controlled affiliate of Humana Inc. ("Buyer"), for the private going concern sale of substantially all of the assets of the Sellers (*i.e.*, the Purchased Assets) outside of the ordinary course of business for a purchase price of $45 million (the "Purchase Price") pursuant to the terms of the Purchase Agreement and the Sale Order (the "Sale").

15. The Sale closed on December 12, 2024.

INCENTIVE FEE TERMS

16. The Engagement Letters and the Retention Application provide for payment of the Incentive Fee in the amount of $250,000 payable upon the sale, transfer, or other disposition of all or a substantial portion of the assets or equity of the Debtors in one or more transactions.

17. Specifically, the Engagement Letter dated October 5, 2024, states in relevant part, the following: "MERU will receive incentive compensation (the "Incentive Fee") payable upon the sale, transfer, or other disposition of all or a substantial portion of the assets or equity of the

[3] The Sellers are the following Debtors: (i) MB Medical Operations, LLC, (ii) MB Medical Transport, LLC, (iii) Care Center Network, LLC, (iv) Care Center Medical Group, LLC, (v) Clinical Care Pharmacy, LLC, (vi) Florida Family Primary Care Center, LLC, (vii) Florida Family Primary Care Centers of Orlando, LLC, (viii) Florida Family Primary Care Centers of Tampa, LLC, (ix) Florida Family Primary Care Centers of Pasco, LLC, (x) Florida Family Primary Care Centers of Pinellas, LLC, (xi) CCMC Physician Holdings, Inc., (xii) Miami Medical & Wellness Center LLC, (xiii) Miami Beach Medical Centers, Inc. f/k/a Rodolfo Dumenigo, M.D., P.A., and (xiv) Miami Beach Medical Consultants, LLC.

[Debtors] in one or more transactions. The Incentive Fee will be $250,000…" *See* Retention Application, subparagraph "(c)", ECF p. 37 out of 66 ECF pages.

18. The Incentive Fee was negotiated in good faith and at arms-length as part of the overall fee and expense structure agreed to in the Engagement Letters and as approved by this Court.

19. The Final Retention Order provides that the Incentive Fee will be evaluated by the Court using a "reasonableness standard." *See* Final Retention Order, ¶ 5(k).

20. By the entry of the Sale Order and the consummation of the Sale, MERU has earned the Incentive Fee which is well within the range of reasonableness for such fees.

THE COURT SHOULD APPROVE
THE PAYMENT OF THE INCENTIVE FEE TO MERU

21. Section 363(b) of the Bankruptcy Code permits a bankruptcy court, after notice and a hearing, to authorize a debtor to "use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). In determining whether to authorize the use, sale or lease of property of the estate under this section, courts require the debtor to show that a reasonable business purpose justifies such actions. *See, e.g., In re Royal Palm 160, LLC,* 600 B.R. 119, 129 (S.D. Fla. 2019); *In re Diplomat Const., Inc*., 481 B.R. 215, 218 (Bankr. N.D. Ga. 2012) (chapter 7). Furthermore, section 105 of the Bankruptcy Code provides that "the court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title."

22. Courts review incentive fees, transaction fees or completion fees under the "reasonableness standard" of section 330 of the Bankruptcy Code. *See, e.g., In re Residential Capital, LLC*, 504 B.R. 358, 366 (Bankr. S.D.N.Y. 2014) . In considering an incentive fee, courts consider (a) whether the services were necessary and beneficial to the debtors' estates at the time

they were rendered; and (b) whether the incentive fee is reasonable based upon a market comparison. *Id.* at 366. In determining the reasonableness of an incentive fee and whether the services were necessary and beneficial to the debtor's estate, courts will look at "the nexus between the tasks performed and the results achieved," as well as "the impact of the advisor's effort in that regard." *Id.* at 367. In determining the reasonableness of fee awards under section 330, courts consider whether the services provided are "services which are reasonably likely to benefit the debtors' estates." *Id.* at 366.

23. The Incentive Fee constitutes a sound exercise of the Debtors' business judgment and reasonably compensates MERU for leading the Debtors and their stakeholders to a value-maximizing, going-concern exit. MERU performed substantial and necessary services both prior to and during these Chapter 11 Cases, which were paramount to preventing further economic loss to the Debtors' bankruptcy estates as well as maximizing the value of the Debtors' assets for the benefit of their creditors. MERU's work, both prior to and after the Petition Date, has been critical to effectuating the sale of substantially all of the Debtors' assets and an orderly winddown.

24. MERU's services and involvement in the Debtors' pursuit of a value-maximizing transaction were essential to a successful Sale closing on December 12, 2024. The Sale resulted in the Purchase Price in the amount of $45,000,000, subject to certain holdbacks as more particularly described in the Purchase Agreement. As such, the Incentive Fee in the amount of $250,000, represents less than one (1%) percent of the Purchase Price.

25. The quantitative results and value-accreditive actions described above provide ample justification for the allowance of the Incentive Fee under a reasonableness standard. As a result of MERU's efforts, Debtors were able to complete a sale process successfully and quickly. MERU was instrumental in assisting Debtors in achieving this outcome. The positive impact Sale

in maintaining what was the Debtors' business provides ample reasonable justification for the allowance of the Incentive Fee. There is no question that MERU played a vital role in supporting and implementing the transactions that effectuated the market test of value and the eventual Sale. As a result, the payment of the Incentive Fee to MERU should be approved.

26. Bankruptcy Rule 6004(h) provides that an "order authorizing the use, sale, or lease of property . . . is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." The Debtors respectfully request that the Order granting this Application be effective immediately by the Court waiving the fourteen (14) day stay period under Bankruptcy Rules 6004(h).

WHEREFORE, the MERU respectfully request that this Court enter an order, substantially in the form attached hereto as **Exhibit A**, (a) granting the Application; (b) awarding and authorizing immediate payment to MERU of the Incentive Fee in the amount of $250,000; and (c) granting such other relief as is just and proper.

Dated: January 16, 2025

Respectfully submitted,

MERU, LLC
1175 Peachtree Street, N.E.
Building 100, Suite 1000
Atlanta, GA 30361

Signed by:

By: Brian Bonaviri
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Brian Bonaviri
Brian.Bonaviri@wearemeru.com

Exhibit A

Proposed Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
www.flsb.uscourts.gov

In re: MBMG HOLDING, LLC, *et al.*,[1] Debtors.	Chapter 11 Cases Case No. 24-20576-CLC (Jointly Administered)

ORDER GRANTING APPLICATION FOR ENTRY OF AN ORDER APPROVING AND AUTHORIZING THE PAYMENT OF MERU, LLC'S INCENTIVE FEE

THIS MATTER came before the Court for a hearing on ________, 2025, at ____ a.m./p.m. in Miami, Florida (the "Hearing") upon the *Application for Entry of an Order Approving*

[1] The address of the Debtors is 7500 S.W. 8th Street, Ste. 400, Miami, Florida 33144. The last four digits of the Debtors' federal tax identification numbers are: (i) Care Center Medical Group, LLC (9052); (ii) Care Center Network, LLC (5784); (iii) CCMC Physician Holdings, Inc. (4532); (iv) Clinical Care Pharmacy, LLC (2103); (v) Florida Family Primary Care Center, LLC (5005); (vi) Florida Family Primary Care Center of Pasco, LLC (8570); (vii) Florida Family Primary Care Centers of Orlando, LLC (3086); (viii) Florida Family Primary Care Centers of Pinellas, LLC (7075); (ix) Florida Family Primary Care Centers of Tampa, LLC (0631); (x) MB Medical Operations, LLC (8450); (xi) MB Medical Transport, LLC (3476); (xii) MBMG Holding, LLC (3880); (xiii) MBMG Intermediate Holding, LLC (9320); (xiv) Miami Beach Medical Centers, Inc. (3933); (xv) Miami Beach Medical Consultants, LLC (2737); and (xvi) Miami Medical & Wellness Center, LLC (2474).

and Authorizing the Payment of MERU, LLC's Incentive Fee [ECF No. ___] (the "Application")[2] filed by MERU, LLC ("MERU"). The Court finds that: (i) it has jurisdiction over the matters raised in the Application pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A); (iii) it may enter a final order consistent with Article III of the United States Constitution; (iv) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; (v) notice of the Application and the Hearing were appropriate under the circumstances and no other or further notice need be provided; (vi) the relief requested in the Application is in the best interests of the Debtors, their estates, their creditors, and other parties-in-interest; and (vii) upon review of the record before the Court, including the legal and factual bases set forth in the Application, the Bonaviri Declaration and the First Day Declaration and the record of the Hearing, all of which are incorporated herein, the Court determines that good and sufficient cause exists to grant the relief requested in the Application. Accordingly, it is

ORDERED that:

1. The Application is **GRANTED**.

2. MERU is awarded the Incentive Fee in the amount of $250,000.

3. The Debtors are authorized and directed to pay MERU the Incentive Fee within three business days of the date of the entry of this Order.

4. Notwithstanding the provisions of Bankruptcy Rule 6004(h) or any applicable provisions of the Local Rules, this Order will not be stayed after the entry hereof, but will be effective and enforceable immediately upon entry, and the fourteen (14) day stay provided in Bankruptcy Rule 6004(h) is hereby expressly waived and will not apply.

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[2] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to it in the Application.

5. The Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

# # #

Submitted by:
Paul Steven Singerman, Esq.
BERGER SINGERMAN LLP
1450 Brickell Avenue, Ste. 1900
Miami, FL 33131
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Facsimile: (305) 714-4340
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(Attorney Singerman is directed to serve this order upon all non-registered users who have yet to appear electronically in this case and file a conforming certificate of service.)

Exhibit B

Bonaviri Declaration

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
www.flsb.uscourts.gov

In re: MBMG HOLDING, LLC, *et al.*,[1] Debtors.	Chapter 11 Cases Case No. 24-20576-CLC (Jointly Administered)

DECLARATION OF BRIAN BONAVIRI IN SUPPORT OF APPLICATION FOR ENTRY OF AN ORDER APPROVING AND AUTHORIZING THE PAYMENT OF MERU, LLC'S INCENTIVE FEE

I, Brian Bonaviri, declare under penalty of perjury that, to the best of my knowledge and belief, and after reasonable inquiry, the following is true and correct:

1. I am the Assistant Chief Restructuring Officer of MBMG Holding, LLC ("MBMG Holding") and its affiliated debtors and debtors in possession (collectively, the "Debtors").

2. I am also a Managing Director of MERU, LLC ("MERU"), a restructuring advisory firm.

3. I am authorized to make this Declaration (this "Declaration") on behalf of MERU in support of the *Application for Entry of an Order Approving and Authorizing the Payment of MERU, LLC's Incentive Fee* (the "Application").[2] The information provided herein is based upon

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[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

my work in these cases and so constitutes the best of my knowledge, information and belief at this time.

4. MERU was retained to provide the Debtors with the services of (i) Nicholas K. Campbell, as Chief Restructuring Officer ("CRO"), (ii) myself, as Assistant Chief Restructuring Officer ("Assistant CRO"), and (iii) supporting MERU personnel (collectively, the "Additional Staff", and together with the CRO and the Assistant CRO, collectively, the "Engagement Staff").

5. I have personally performed many of the services rendered by MERU for the Debtors, and am thoroughly familiar with all other work performed on behalf of the Debtors by the other Engagement Staff.

6. The facts set forth in the foregoing Application are true and correct to the best of my knowledge, information and belief, and are incorporated by reference herein.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: January 16, 2025

Signed by:
Brian Bonaviri
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Brian Bonaviri