THIS IS NOT A SOLICITATION OF ACCEPTANCE OR REJECTION OF THE PLAN. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL BUT HAS NOT BEEN APPROVED BY THE COURT.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
Daytop Village Foundation Incorporated, *et al.*,[1]	Case No. 12-11436 (SCC)
Debtors.	(Jointly Administered)

DISCLOSURE STATEMENT FOR MODIFIED FIRST AMENDED PLANS OF REORGANIZATION PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE DEBTORS

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[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtors' federal tax identification number, are: (1) Daytop Village Foundation Incorporated (6772) and (2) Daytop Village, Inc. (1438). The location of the Debtors' headquarters is 104 West 40th Street, 3rd Floor, New York, New York 10018.

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DISCLAIMER

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS INCLUDED HEREIN FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE MODIFIED FIRST AMENDED CHAPTER 11 PLANS OF REORGANIZATION OF DAYTOP VILLAGE FOUNDATION INCORPORATED AND DAYTOP VILLAGE, INC. (COLLECTIVELY, THE "**PLAN**") AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN. NO PERSON MAY GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DISCLOSURE STATEMENT REGARDING THE PLAN OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN.

ALL CREDITORS SHOULD READ THIS DISCLOSURE STATEMENT AND ALL EXHIBITS HERETO, INCLUDING THE PLAN, BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN AND THE EXHIBITS ANNEXED TO THE DISCLOSURE STATEMENT AND THE PLAN. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF UNLESS ANOTHER TIME IS SPECIFIED HEREIN. THE TRANSMISSION OF THIS DISCLOSURE STATEMENT SHALL NOT CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE INFORMATION STATED SINCE THE DATE HEREOF. AFTER THE DATE HEREOF, THERE CAN BE NO ASSURANCE THAT (A) THE INFORMATION AND REPRESENTATIONS CONTAINED HEREIN WILL BE MATERIALLY ACCURATE, AND (B) THIS DISCLOSURE STATEMENT CONTAINS ALL MATERIAL INFORMATION.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE, AND NOT IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER NON-BANKRUPTCY LAW. THIS DISCLOSURE STATEMENT HAS NEITHER BEEN APPROVED NOR DISAPPROVED BY THE SEC, NOR HAS THE SEC PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN. THIS DISCLOSURE STATEMENT WAS PREPARED TO PROVIDE HOLDERS OF CLAIMS AGAINST THE DEBTORS WITH "*ADEQUATE INFORMATION*" (AS DEFINED IN THE BANKRUPTCY CODE) SO THAT THEY CAN MAKE AN INFORMED JUDGMENT ABOUT THE PLAN. PERSONS OR ENTITIES TRADING IN, OR OTHERWISE PURCHASING, SELLING, OR TRANSFERRING, SECURITIES OF THE DEBTORS SHOULD NOT RELY UPON THIS DISCLOSURE STATEMENT FOR SUCH PURPOSES AND SHOULD EVALUATE THIS DISCLOSURE STATEMENT AND THE PLAN IN LIGHT OF THE PURPOSE FOR WHICH THEY WERE PREPARED.

THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, AS A STIPULATION OR AS A WAIVER, BUT, RATHER, AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN

ANY NON-BANKRUPTCY PROCEEDING INVOLVING THE DEBTORS OR ANY OTHER PARTY, NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN ON HOLDERS OF CLAIMS AGAINST THE DEBTORS.

I.

INTRODUCTION

A. Overview

On April 5, 2012, Daytop Village Foundation Incorporated ("**Foundation**") and Daytop Village, Inc. ("**DVI**") (collectively, "**Daytop**" or the "**Debtors**"[2]) filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York.

This Disclosure Statement is submitted pursuant to section 1125 of the Bankruptcy Code for the solicitation of votes on the Plan filed concurrently with this Disclosure Statement. The Plan is submitted herewith.

This Disclosure Statement describes certain aspects of the Plan, the Debtors' operations, history and significant events that occurred during the Debtors' chapter 11 cases (the "**Chapter 11 Cases**"), the process relating to confirmation of the Plan by the Bankruptcy Court, and related matters. This introduction is intended solely as a summary of the Plan and is qualified in its entirety by the Plan and the other portions of this Disclosure Statement. If there is any inconsistency between the Plan (including the exhibits and schedules attached thereto and any supplements to the Plan) and the descriptions in the Disclosure Statement, the terms of the Plan (and the exhibits and schedules attached thereto and any supplements to the Plan) will control.

Capitalized terms used in this Disclosure Statement and not otherwise defined herein shall have the definitions ascribed to such terms in the Plan.

For a description of the Plan as it relates to Holders of Claims against the Debtors, please see Section VI below ("Summary of the Plan").

As discussed further below in Section III, the Plan generally provides for the reorganization of DVI and Foundation. Although the Debtors' cases have been jointly administered pursuant to an order of the Bankruptcy Court, the Debtors will not be seeking to substantively consolidate their respective estates. Thus, the Plan constitutes two distinct chapter 11 plans, one for each of the Debtors. However, because some of the procedural provisions of the Plan are the same for each Debtor, and to save the Debtors' estates the costs of the duplicative efforts that would be involved in drafting and soliciting approval of two separate chapter 11 plans and disclosure statements, the Debtors are submitting a single Plan and Disclosure Statement for both Debtors. Accordingly, the Plan generally applies to both of the Debtors, except where otherwise indicated.

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[2] For purposes of simplicity, the terms "Daytop" and the "Debtors" are used herein interchangeably. Such indiscriminate use shall not, however, constitute an admission by the either Foundation or DVI that, among other things, their businesses, assets and liabilities are not in all respects separate and distinct, or that their estates should be substantively consolidated, with respect to which the Debtors believe there to be no legal or factual basis of any kind that would support such an extraordinary remedy.

FOR A COMPLETE UNDERSTANDING OF THE PLAN, YOU SHOULD READ THE DISCLOSURE STATEMENT, THE PLAN, AND THE EXHIBITS THERETO IN THEIR ENTIRETY.

This Disclosure Statement, the Plan and any documents attached or referred to in the Disclosure Statement and the Plan are the only materials that Creditors should use to determine whether to vote to accept or reject the Plan. A ballot (the "**Ballot**") for accepting or rejecting the Plan is being submitted to Holders of Claims that the Debtors believe are entitled to vote to accept or reject the Plan.

The last day to vote to accept or reject the Plan is April 15, 2013 (the "Voting Deadline"). To be counted, your Ballot must actually be received by the Voting Agent (identified below) by 4:00 p.m. (prevailing Eastern Time) on the Voting Deadline. Any Ballots received after the Voting Deadline will not be counted. Claimants must return their Ballots to the Voting Agent in accordance with the Voting Instructions that accompany the Ballots. Ballots will not be accepted if sent by facsimile, e-mail or other electronic means.

March 13, 2013 is the "Voting Record Date," which is the date on which the identity of Holders of Claims against the Debtors will be determined for the purpose of establishing an entitlement, if any, to receive certain notices and vote on the Plan.

By the Disclosure Statement Approval Order dated March 13, 2013, the Bankruptcy Court approved this Disclosure Statement for dissemination to Holders of Claims against the Debtors. Approval of this Disclosure Statement by the Bankruptcy Court does not constitute a determination by the Bankruptcy Court as to the fairness or merits of the Plan. The Debtors believe that approval of the Plan maximizes the recovery to Creditors.

The Debtors strongly urge Creditors to vote to accept the Plan by completing and returning their Ballots so that they will be received on or before the Voting Deadline: April 15, 2013, at 4:00 p.m., prevailing Eastern Time.

B. Qualification Concerning Summaries Contained in this Disclosure Statement

This Disclosure Statement contains summaries of certain provisions of the Plan, certain statutory provisions, certain documents related to the Plan, certain events in the Chapter 11 Cases, and certain financial information. Although the Debtors believe that the summaries of the Plan and related document summaries contained herein are fair and accurate, such summaries are qualified to the extent that they do not set forth the entire text of such documents, statutory provisions or financial information. All of the exhibits to the Plan and this Disclosure Statement and other pleadings and orders relating to the Debtors' chapter 11 cases are available for inspection during regular business hours (9:00 a.m. to 4:00 p.m. weekdays, except legal holidays) at the Office of the Clerk of the Court, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004-1408, or online at www.nysb.uscourts.gov. A PACER password is required to access case information,

which can be obtained at www.pacer.psc.uscourts.gov, or by calling 1-800-676-6856. These documents are also available free of charge at http://dm.epiq11.com/DVF.

C. Source of Information Contained in this Disclosure Statement

Factual information contained in this Disclosure Statement has been provided from numerous sources, including (1) the Debtors' books and records, (2) the Debtors' counsel, Chief Restructuring Officer and other professionals and management, and (3) pleadings filed with the Bankruptcy Court. The Debtors are unable to warrant or represent that the information contained herein, including the financial information, is without any inaccuracy or omission.

D. Reliance on Disclosure Statement

This Disclosure Statement may not be relied on for any purpose other than to determine whether to vote to accept or reject the Plan, and nothing stated herein shall constitute an admission of any fact or liability by any party, or be admissible in any proceeding involving any Debtor or any other party other than proceedings to approve this Disclosure Statement and confirm the Plan, or be deemed evidence of the tax or other legal effects of the Plan on any Debtor or Holders of Claims. Holders of Claims entitled to vote should read this Disclosure Statement and the Plan carefully and in their entirety and may wish to consult with counsel prior to voting on the Plan.

E. No Duty to Update

The statements contained in this Disclosure Statement are made by the Debtors as of the date hereof, unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has been no change in the information set forth herein since that date. The Debtors have no duty to update this Disclosure Statement unless otherwise ordered to do so by the Bankruptcy Court.

F. Representations and Inducements Not Included in this Disclosure Statement

No representations concerning or related to any Debtor, the Debtors' Chapter 11 Cases, or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this Disclosure Statement. You should not rely on any representations or inducements made to secure your acceptance or rejection of the Plan not contained in this Disclosure Statement.

Further, the various other agreements or forms referred to herein are exhibits hereto and/or to the Plan and are incorporated herein by reference. The summary of certain provisions of these documents is qualified in its entirety by reference thereto. The descriptions of these documents and the copies of these documents included as exhibits hereto and/or to the Plan have been included to provide information regarding the terms of these documents. These documents contain representations and warranties made by and to the parties thereto as of specific dates. The representations and warranties of each party set forth in each document have been made solely for the benefit of the other party to such document. In addition, such representations and

warranties (1) may have been qualified by confidential disclosures made to the other party in connection with such document, (2) may be subject to a materiality standard which may differ from what may be viewed as material by other readers, (3) were made only as of the date of such documents or such other date as is specified therein and (4) may have been included in such documents for the purpose of allocating risk between or among the parties thereto rather than establishing matters as facts.

G. Authorization of Information Contained in this Disclosure Statement

For the purposes of this Disclosure Statement and the confirmation of the Plan, no representations or other statements concerning any Debtor, the Debtors' Chapter 11 Cases, or the Plan, including, but not limited to, representations and statements regarding asset valuation, are authorized by any Debtor, other than those expressly set forth in this Disclosure Statement.

H. SEC Review

This Disclosure Statement has not been approved or disapproved by the U.S. Securities and Exchange Commission (the "SEC"), nor has the SEC passed upon the accuracy or adequacy of the statements contained herein.

I. Legal or Tax Advice

The contents of this Disclosure Statement should not be construed as legal, business or tax advice. Each Creditor should consult his, her, or its own legal counsel and accountant as to legal, tax and other matters concerning his, her, or its Claim.

This Disclosure Statement is not legal advice to you. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to confirmation of the Plan.

J. Forward-Looking Statements

This Disclosure Statement contains forward-looking statements with respect to the Plan.

Forward-looking statements include:

- descriptions of plans and litigation;
- projections of income tax and other contingent liabilities, and other financial items; and
- any descriptions of assumptions underlying or relating to any of the foregoing.

Forward-looking statements discuss matters that are not historical facts. Because they discuss future events or conditions, forward-looking statements often include words such as "anticipate," "believe," "estimate," "expect," "intend," "plan," "project," "target," "can," "could," "may," "should," "will," "would" or similar expressions. Forward-looking statements

should not be unduly relied upon. They indicate the Debtors' expectations about the future and are not guarantees. Forward-looking statements speak only as of the date they are made and the Debtors have no obligation to update them to reflect changes that occur after the date they are made. There are several factors, many beyond the Debtors' control, which could cause results to differ significantly from expectations. For examples of such factors refer to Section VII below ("Certain Factors to be Considered").

II.

PLAN VOTING INSTRUCTIONS AND PROCEDURES

A. Notice to Holders of Claims

This Disclosure Statement is being transmitted to Holders of certain Claims against the Debtors. The primary purpose of this Disclosure Statement is to provide those parties voting on the Plan with adequate information to make a reasonably informed decision with respect to the Plan before voting to accept or to reject the Plan.

On March 13, 2013, following a hearing on the Disclosure Statement (the "**Disclosure Statement Hearing**"), the Bankruptcy Court entered the Disclosure Statement Approval Order approving this Disclosure Statement, finding that it contains information of a kind and in sufficient detail to enable the Holders of Claims against the Debtors that are entitled to vote to make an informed judgment about the Plan. THE BANKRUPTCY COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT CONSTITUTES NEITHER A GUARANTY OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN, NOR AN ENDORSEMENT OF THE PLAN BY THE BANKRUPTCY COURT.

IF CONFIRMED BY THE BANKRUPTCY COURT, THE PLAN WILL BIND ALL HOLDERS OF CLAIMS AGAINST EACH OF THE DEBTORS, WHETHER OR NOT THEY ARE ENTITLED TO VOTE OR DID VOTE ON THE PLAN AND WHETHER OR NOT THEY RECEIVE OR RETAIN ANY DISTRIBUTIONS OF PROPERTY UNDER THE PLAN. THUS, YOU ARE ENCOURAGED TO READ THIS DISCLOSURE STATEMENT CAREFULLY. IN PARTICULAR, HOLDERS OF IMPAIRED CLAIMS WHO ARE ENTITLED TO VOTE ON THE PLAN ARE ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND ANY EXHIBITS HERETO, THE PLAN, AND ANY EXHIBITS TO THE PLAN CAREFULLY AND IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR TO REJECT THE PLAN.

CERTAIN OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS BY ITS NATURE FORWARD LOOKING OR CONTAINS OR MAY CONTAIN ESTIMATES, ASSUMPTIONS AND PROJECTIONS THAT MAY BE MATERIALLY DIFFERENT FROM ACTUAL FUTURE RESULTS.

Except as otherwise specifically and expressly stated herein, this Disclosure Statement does not reflect any events that may occur after the date hereof and that may have a material impact on the information contained in this Disclosure Statement. Further, the Debtors do not anticipate that any amendments or supplements to this Disclosure Statement will be distributed to reflect such occurrences. Accordingly, the delivery of this Disclosure Statement shall not

under any circumstance imply that the information herein is correct or complete as of any time after the date hereof.

B. Solicitation Package

In addition to approving this Disclosure Statement, the Bankruptcy Court approved certain voting procedures, scheduled the Confirmation Hearing at which the Bankruptcy Court will consider confirmation of the Plan, and approved the form of notice regarding the Confirmation Hearing (the "**Confirmation Hearing Notice**"). Accompanying this Disclosure Statement are copies of (1) the Plan; (2) the Confirmation Hearing Notice, which provides notice of, among other things, the time for submitting Ballots to accept or reject the Plan, the date, time and place of the hearing to consider confirmation of the Plan and related matters, and the time for filing objections to confirmation of the Plan; and (3) for Creditors whose Claims are classified in Classes 2 or 4, one or more Ballots to be used in voting to accept or to reject the Plan. If you did not receive a Ballot and believe that you should have, please contact the Voting Agent identified below in the next subsection.

C. Voting Procedures, Ballots and Voting Deadline

If you are entitled to vote to accept or reject the Plan, a Ballot is enclosed for the purpose of voting on the Plan. After carefully reviewing the Plan, this Disclosure Statement, and the detailed instructions accompanying your Ballot, please (1) indicate your acceptance or rejection of the Plan by checking the appropriate boxes and providing requested information on the enclosed Ballot and (2) complete and sign your **original** Ballot (copies will not be accepted) and return it in the envelope provided to the Voting Agent (defined below) so that it is **RECEIVED** by the Voting Deadline (as defined below). **No ballot will be accepted if it is sent by facsimile, e-mail or other electronic means.**

Each Ballot has been coded to reflect the Class of Claims it represents. Accordingly, in voting to accept or reject the Plan, you must use only the coded Ballot or Ballots sent to you with this Disclosure Statement. If you believe you received the wrong Ballot, please contact the Voting Agent.

FOR YOUR VOTE TO BE COUNTED, YOUR BALLOT MUST BE PROPERLY COMPLETED AS SET FORTH ABOVE AND IN ACCORDANCE WITH THE VOTING INSTRUCTIONS ACCOMPANYING THE BALLOT AND RECEIVED NO LATER THAN THE VOTING DEADLINE, **April 15, 2013, AT 4:00 P.M.**, PREVAILING EASTERN TIME, BY THE VOTING AGENT, EPIQ BANKRUPTCY SOLUTIONS, LLC, AT THE FOLLOWING ADDRESS:

Via Post office:

Epiq Bankruptcy Solutions, LLC
FDR Station, P.O. Box 5112
New York, NY 10150-5112

Via overnight delivery or hand-delivery:

Epiq Bankruptcy Solutions, LLC
757 Third Avenue, 3rd Floor
New York, NY 10017

Any Ballot that is executed and returned but does not indicate an acceptance or rejection of the Plan will not be counted.

DO NOT RETURN ANY DEBT INSTRUMENTS WITH YOUR BALLOT.

If you have any questions about the procedure for voting your Impaired Claim or with respect to the packet of materials that you have received, please contact the Voting Agent at (646) 282-2500.

If you wish to obtain, at your own expense (unless otherwise specifically required by Bankruptcy Rule 3017(d)), an additional copy of the Plan, this Disclosure Statement, or any exhibits to such documents, please contact the Voting Agent.

D. Confirmation Hearing and Deadline for Objections to Confirmation

The Bankruptcy Court has scheduled the Confirmation Hearing for **April 25, 2013, at 1:00 p.m. (prevailing Eastern Time)**, or as soon thereafter as counsel may be heard, before the Honorable Shelley C. Chapman, United States Bankruptcy Judge, in the United States Bankruptcy Court, Room 621, One Bowling Green, New York, New York 10004. The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan must be filed with the Clerk of the Bankruptcy Court, in accordance with the electronic filing requirements as set forth online at www.nysb.uscourts.gov, with a copy to the Chambers of Judge Chapman, and served so that they are **RECEIVED on or before April 15, 2013 at 4:00 p.m. (prevailing Eastern Time) by**:

Lowenstein Sandler LLP
1251 Avenue of the Americas
New York, New York 10020
Facsimile: (212) 262-7402
Attn: Norman N. Kinel, Esq.
Attn: Thomas A. Pitta, Esq.
Counsel for the Debtors

Office of the United States Trustee for the District of New York
33 Whitehall Street
21st Floor
New York, NY 10004
Facsimile: (212) 668-2255
Attn: Susan D. Golden, Esq.

Robinson Brog Leinwand Greene Genovese & Gluck P.C.
875 Third Avenue, 9th Floor
New York, New York 10022
Phone: 212-603-6300
Facsimile: 212-956-2164
Attn: Robert R. Leinwand, Esq.
Attn: Fred B. Ringel, Esq.

Counsel for the Official Committee of Unsecured Creditors

The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for the announcement of the adjournment date made at the Confirmation Hearing or at any subsequent adjourned Confirmation Hearing.

III.

OVERVIEW OF THE PLAN

The purpose of the Plan is to effectuate a reorganization of the Debtors, maximize the available recovery to creditors, and make distributions in respect of any Allowed Claims against the Debtors' Estates. The Plan will preserve the Debtors' business operations and going concern value, will be funded by way of the Debtors' cash on hand, revenues from ordinary course operations, and proceeds of strategic asset sales. **There will be no substantive consolidation of the Debtors' Estates under the Plan**. However, as described in greater detail below, in order to achieve a consensual resolution of assertions by (i) the Committee that the estates of DVI and Foundation should be substantively consolidated and (ii) the Prepetition Lenders regarding their entitlement to specified recoveries under the Plan, the Debtors have reached a settlement and compromise with the Committee and the Prepetition Lenders pursuant to which, in part, (i) Holders of Allowed General Unsecured Claims against DVI will receive a greater and enhanced recovery than the Debtors believe they would otherwise be entitled and (ii) the Prepetition Lenders will receive a new Prepetition Lender Term Note (with the terms and conditions as specified in the Plan) in consideration for the sharing and/or releasing of a portion of the Prepetition Lenders' collateral or the proceeds thereof (in particular, with respect to the Springwood Property), which will facilitate an enhanced and more certain recovery for Allowed General Unsecured Claims against DVI. The Debtors believe that by doing so they will have avoided the uncertainty and expense of potentially protracted litigation which would prolong the Chapter 11 Cases and threaten the Debtors' long-term prospects for reorganization.

On the Effective Date, the Debtors will transfer and assign to each of the Reorganized Debtors substantially all property and assets of each respective Debtor. Pursuant to the Plan, the Reorganized Debtors will pay all Allowed Priority Claims, Allowed Administrative Claims and Statutory Fees in full that have not previously been paid by the Debtors, unless otherwise agreed to by the Holder of such Claims. All Holders of (i) Prepetition Lender Secured Claims will receive the Prepetition Lender Term Note, (ii) Prepetition Lender Secured Claims against Foundation will receive (in addition to the Prepetition Lender Term Note) from Reorganized Foundation the Brooklyn Net Proceeds (which proceeds shall reduce the amounts outstanding under the Prepetition Lender Term Note); and (iii) Allowed Other Secured Claims will receive either the collateral securing such Allowed Other Secured Claim or reinstatement and cure of its agreement with Foundation and/or DVI, as applicable. Each Holder of (i) an Allowed General Unsecured Claims against DVI shall receive its Pro Rata Share of (a) the DVI Creditors Secured Note Payments, (b) if the Required Mandatory Prepayment is not received by the Prepetition Lenders prior to the Springwood Sale, the DVI Creditors Secured Note Mandatory Prepayments (which DVI Creditors Secured Note Mandatory Prepayments shall reduce the amounts outstanding under the DVI Creditors Secured Note), (c) if the Springwood Lien Release occurs prior to the Springwood Sale, the Springwood Net Proceeds (which Springwood Net Proceeds

shall reduce the amounts outstanding under the DVI Creditors Secured Note), and (d) the Additional DVI Creditors Secured Note Real Estate Proceeds if the Springwood Lien Release does not occur within twenty-four (24) months of the Effective Date (which Additional DVI Creditors Secured Note Real Estate Proceeds shall reduce the amounts outstanding under the DVI Creditors Secured Note), provided however, that the Reorganized Debtors shall retain a portion of the DVI Creditors Secured Note Prepayment Amounts, as applicable, equal to the Excess Principal Payments, if any, provided further however, that the Reorganized Debtors obligation to remit the Additional DVI Creditors Secured Note Real Estate Proceeds shall be fully satisfied at such time as the DVI Creditors Secured Note Prepayment Amounts total $2,500,000; and (ii) Allowed General Unsecured Claims against Foundation at its sole and absolute discretion to be made pursuant to the Election Notice, shall elect to receive either (a) deferred cash payments of a value, as of the Effective Date under the Plan, equal to 100% the Allowed Amount of such Claim, in the form of twenty (20) equal quarterly payments aggregating 100% of the Allowed Amount of such Claim, together with interest thereon at the rate of 3% per annum, payable on the first day of the calendar quarter following the first anniversary of the Effective Date of the Plan and on the first day of each of the following nineteen (19) calendar quarters (the "**DVF Quarterly Payment Option**") or (b) payment in full in Cash of 25% its Claim not later than sixty (60) days following the Effective Date, in full and final satisfaction of such Claim (the "**Lump Sum Option**"). If any holder of an allowed general unsecured claim against Foundation fails to make an election with respect to its choice of treatment, such holder shall be deemed to have elected the Lump Sum Option. In the event that the aggregate to be paid by the Debtors in connection with the Lump Sum Option exceeds $50,000, then all creditors who have elected the Lump Sum Option shall receive their pro rata share of $50,000, with the balance of their Claim to be treated as if the claimant had elected the DVF Quarterly Payment Option.

All Intercompany Claims shall be unaffected by the Plan or Confirmation thereof, but Holders of Allowed Intercompany Claims (i) shall not receive any distributions under the Plan and (ii) shall not receive any payments in respect of such Intercompany Claims until the DVI Creditors Secured Note is paid in full.

The following table divides the Claims against the Debtors into five (5) separate Classes, further divides certain Classes into sub-Classes, and summarizes the treatment for each Class. The table also identifies which Classes are entitled to vote on the Plan. Finally, the table indicates an estimated recovery for each Class, expressed as a percentage of the estimated, aggregate Allowed Claims in such Class. Certain unclassified Claims, including Administrative Claims and Priority Tax Claims, will be paid in full in Cash to the extent such Claims are Allowed Claims. The recoveries described in the following table represent the Debtors' best estimates based on the information available at this time, and certain significant assumptions described throughout this Disclosure Statement. Unless otherwise specified, the information in the following table is based on calculations as of February 5, 2013.

CLASS	DESCRIPTION	TREATMENT	ENTITLED TO VOTE	ESTIMATED ALLOWED AMOUNTS ($)	ESTIMATED RECOVERY (%)
Not classified	Administrative Claims	Unimpaired; payment in full, in Cash, of the allowed amount of such Claim (or as otherwise agreed).	No.	$2 million - $3.5 million, exclusive of Professional Fees[3]	100%
Not classified	Priority Tax Claims	Unimpaired; payment in full, in Cash, to the extent and in the manners allowed by §1129 of the Bankruptcy Code (or as otherwise agreed).	No.	$0 - $2,000,000[4]	100%
Not classified	Statutory Fees	The Debtors shall pay all United States Trustee quarterly fees under 28 U.S.C. § 1930(a)(6), plus interest due and payable under 31 U.S.C. § 3717, on all disbursements, including Plan payments and disbursements in and outside the ordinary course of the Debtors' businesses, until the entry of a Final Order or decree concluding the Debtors' Bankruptcy Cases, dismissal of the Bankruptcy Cases, or conversion of the Bankruptcy Cases to chapter 7.	No.	Undetermined	100%
1A	Priority Non-Tax Claims against DVI	Unimpaired; payment in full, in Cash, of the allowed amount of such Claim (or as otherwise agreed).	No.	$0 - $800,000	100%
1B	Priority Non-Tax Claims against Foundation	Unimpaired; payment in full, in Cash, of the allowed amount of such Claim (or as otherwise agreed).	No.	$0 - $10,000	100%
2A	Prepetition Lender Secured Claims against DVI	Impaired; will receive Prepetition Lender Term Note.	Yes	As Set Forth in Section IV.B.2. below	100%
2B	Prepetition Lender Secured Claims against Foundation	Impaired; will receive (i) Prepetition Lender Term Note and (ii) the Brooklyn Net Proceeds, which proceeds shall reduce the amounts outstanding under the Prepetition Lender Term Note if such Brooklyn Net Proceeds are received after the Effective Date.	Yes	As Set Forth in Section IV.B.2. below	100%
3A	Other Secured Claims against DVI	Unimpaired; return of collateral or reinstatement.	No.	$4,000,000 - $5,000,000	100%
3B	Other Secured Claims against Foundation	Unimpaired; return of collateral or reinstatement.	No.	$400,000 - $500,000	100%

[3] The Administrative Claims range is only an estimate based, in part, on filed Administrative Claims and is (i) inclusive of claims owed to the Prepetition Lenders pursuant to the Final DIP Order, but (ii) exclusive of Professional Fees, which cannot be estimated at this time. Furthermore, the Proponents cannot state at this time what the total amount of Allowed Administrative Claims will aggregate on the Effective Date because the Administrative Claims Bar Date has not yet passed and the Debtors have been paying undisputed Administrative Claims in amounts permitted by order of the Bankruptcy Court in the ordinary course of the Debtors' business.

[4] While several Claims have been filed by various taxing authorities giving rise to the estimated allowed amounts range of $0 - $2,000,000 for Priority Tax Claims, the Debtors do not believe such Claims (to the extent valid) to be entitled to priority under the relevant Bankruptcy Code section(s). The Debtors intend to file a motion to reclassify these claims as General Unsecured Claims prior to the Confirmation Hearing.

CLASS	DESCRIPTION	TREATMENT	ENTITLED TO VOTE	ESTIMATED ALLOWED AMOUNTS ($)	ESTIMATED RECOVERY (%)
4A	General Unsecured Claims against DVI	Impaired; will receive Pro Rata Share of (i) the DVI Creditors Secured Note Payments, (ii) if the Required Mandatory Prepayment is not received by the Prepetition Lenders prior to the Springwood Sale, the DVI Creditors Secured Note Mandatory Prepayments (which DVI Creditors Secured Note Mandatory Prepayments shall reduce the amounts outstanding under the DVI Creditors Secured Note), (iii) if the Springwood Lien Release occurs prior to the Springwood Sale, the Springwood Net Proceeds (which Springwood Net Proceeds shall reduce the amounts outstanding under the DVI Creditors Secured Note), and (iv) the Additional DVI Creditors Secured Note Real Estate Proceeds if the Springwood Lien Release does not occur within twenty-four (24) months of the Effective Date (which Additional DVI Creditors Secured Note Real Estate Proceeds shall reduce the amounts outstanding under the DVI Creditors Secured Note), provided however, that the Reorganized Debtors shall retain a portion of the DVI Creditors Secured Note Prepayment Amounts, as applicable, equal to the Excess Principal Payments, if any, provided further, however, that the Reorganized Debtors obligation to remit the Additional DVI Creditors Secured Note Real Estate Proceeds shall be fully satisfied at such time as the DVI Creditors Secured Note Prepayment Amounts total $2,500,000.	Yes.	$16,000,000 - $20,000,000	17.5% - 21.8% (higher recovery possible if Net Proceeds from sale of Springwood Property exceed $3.5 million)
4B	General Unsecured Claims against Foundation	Impaired; will elect to receive at its sole and absolute discretion pursuant to the Election Notice, **either** the (i) DVF Quarterly Payment Option **or** (ii) Lump Sum Option. Any Non-Electing Class 4B Holder shall be deemed to have elected the Lump Sum Option. In the event that the aggregate to be paid by the Debtors in connection with the Lump Sum Option exceeds $50,000, then all creditors who have elected the Lump Sum Option shall receive their pro rata share of $50,000, with the balance of their claim to be treated as if the claimant had elected the DVF Quarterly Payment Option.	Yes.	$135,000 – $650,000	100%

CLASS	DESCRIPTION	TREATMENT	ENTITLED TO VOTE	ESTIMATED ALLOWED AMOUNTS ($)	ESTIMATED RECOVERY (%)
5A	Intercompany Claims against DVI	Impaired; Holders of Allowed Intercompany Claims against DVI shall be unaffected by the Plan or Confirmation thereof, but Holders of Allowed Intercompany Claims against DVI (i) shall not receive any distributions under the Plan and (ii) shall not receive any payments in respect of such Intercompany Claims from DVI until the DVI Creditors Secured Note is paid in full.	No.	$23,401,955.92	0%
5B	Intercompany Claims against Foundation	Impaired; Holders of Allowed Intercompany Claims against Foundation shall be unaffected by the Plan or Confirmation thereof, but Holders of Allowed Intercompany Claims against Foundation (i) shall not receive any distributions under the Plan and (ii) shall not receive any payments in respect of such Intercompany Claims from Foundation until the DVI Creditors Secured Note is paid in full.	No.	N/A	0%

ALTHOUGH THE DEBTORS BELIEVE FROM THEIR REVIEW OF THE CLAIMS THAT THEIR ESTIMATION OF CLAIMS AND RECOVERIES IS REASONABLE, THERE IS NO ASSURANCE THAT THE ACTUAL AMOUNT OF ALLOWED CLAIMS IN EACH CLASS WILL NOT MATERIALLY EXCEED THE ESTIMATED AGGREGATE AMOUNTS SHOWN HEREIN. THE DEBTORS ARE CONTINUING THEIR INVESTIGATION OF THE CLAIMS AND HAVE NOT MADE A FINAL DETERMINATION OF ALL THE CLAIMS THAT MAY BE OBJECTED TO. THE ACTUAL RECOVERIES UNDER THE PLAN WILL BE DEPENDENT UPON A VARIETY OF FACTORS INCLUDING, BUT NOT LIMITED TO, WHETHER, AND IN WHAT AMOUNT, CONTINGENT CLAIMS, IF ANY, AGAINST EITHER OF THE DEBTORS BECOME NON-CONTINGENT AND FIXED AND WHETHER, AND TO WHAT EXTENT DISPUTED CLAIMS, IF ANY, ARE RESOLVED IN FAVOR OF THE ESTATES, RATHER THAN THE CLAIMANTS. ACCORDINGLY, NO REPRESENTATION CAN BE OR IS BEING MADE WITH RESPECT TO WHETHER EACH ESTIMATED RECOVERY SHOWN IN THE TABLE ABOVE WILL BE REALIZED BY THE HOLDER OF AN ALLOWED CLAIM IN ANY PARTICULAR CLASS.

IV.

HISTORY OF THE DEBTORS AND COMMENCEMENT OF THE CASES

A. Overview of Prepetition Operations

1. Debtors' Business

In 1963, Father William O'Brien and Dr. Alexander Bassin founded the Daytop Lodge, a substance abuse treatment facility, in Staten Island. This first rehabilitation facility was designed for 22 male probationers from the Brooklyn corrections system. The basics of the treatment program were group therapy sessions, role modeling, job assignments and a hierarchy of peers.

As residents progressed, they received more responsible duties, and earned more privileges. Those coming after them could see that others like themselves were gaining respect, and that life without drugs was possible. These basic elements have remained as the therapeutic community evolved to meet the changing populations and needs of its clients.

In late 1964, Daytop incorporated as Daytop Village, a not-for-profit corporation under New York State Law. Daytop was by then a full-fledged therapeutic community, whose residents included men and women, comprised of arrestees as well as voluntary referrals. As Daytop's success in drug treatment became known, the need for treatment centers grew. Father O'Brien and the Board of Trustees found space in Sullivan County, New York, and the first residential facility, Daytop Swan Lake, opened in June 1966.

Over the ensuing years, it became evident that there were many casual drug users who could respond to treatment in an outpatient center. Daytop's first outpatient facility opened in Mount Vernon, Westchester County in 1968 and served residents of the community. Daytop expanded with more residential facilities, and more outpatient centers throughout the New York area.

Foundation was incorporated as a not-for-profit corporation under New York State Law during March 1967. Foundation serves primarily as a real estate holding company. It owns or leases substantially all of the Debtors' real property and leases those properties to DVI. Foundation has also historically conducted charitable fund-raising activities to support DVI's activities. Foundation has no employees and conducts no business operations.

Daytop's mission is to provide treatment for individuals and families leading to a healthy, drug-free life through services that are individual, comprehensive and multidisciplinary without regard to race, religion, nationality or socio-economic status. Daytop seeks to offer a full continuum of care to every substance abusing adolescent and adult in New York, either directly or through affiliation with other healthcare providers. Daytop continually assesses, redesigns and improves itself in order to provide treatment based on proven concepts of the therapeutic community and contemporary treatment modalities.

Today, Daytop is the third largest substance abuse agency operating in the State of New York. It provides compassionate, family-oriented substance abuse treatment for adults and adolescents. Through their residential facilities and outreach clinics in New York, Daytop offers individual treatment plans by providing professional counseling, medical, social and spiritual attention.

The Debtors currently employ approximately 380 employees and 29 consultants. Approximately 336 of the Debtors' employees are full-time salaried employees, while the remainder of the Debtors' employees are temporary or hourly employees. The Debtors' monthly payroll is currently approximately $1.3 million.

The Debtors' operations are overseen and funded in part by the New York State Office of Alcoholism and Substance Abuse Services ("**OASAS**"). OASAS is an agency of the New York State government established to plan, develop and regulate the state's system of chemical dependence and gambling treatment agencies. OASAS licenses, funds, and supervises chemical dependence treatment programs, including the Debtors' programs and facilities. OASAS

inspects and monitors the programs to guarantee quality of care and to ensure compliance with state and national standards.

OASAS provides critical subsidies that fund much of the Debtors' operations. During the fiscal year ended June 30, 2011, OASAS provided over $14 million in funding for the Debtors, which constituted approximately 35% of the Debtors' total revenues.

In addition to OASAS, the Debtors rely heavily on other forms of government funding, including state block grants, Medicaid reimbursements and Human Resources Administration ("**HRA**") funding.

During fiscal 2011, the Debtors received over $22 million in payments for services from welfare and other forms of public assistance, accounting for approximately 54% of total revenues. Other government funding accounted for an additional 6% of 2011 revenues, while private pay, including private health insurance and cash payment by patients, comprised only 3% of total revenues. An additional 2% of the Debtors' revenue is derived from other sources, including contributions.

2. Daytop Provides Critical Services to Its Patients and the Community-At-Large

Daytop provides service to its clients regardless of their ability to pay for their care. Daytop's clients are almost universally unable to pay for Daytop's services themselves, so they would be turned away by most for-profit rehabilitation centers. In certain of Daytop's locations, there is no viable replacement for Daytop's services available to Daytop's current clients.

B. Capital Structure

1. Summary of the Debtors' Prepetition Capital Structure

The Debtors maintained a complex prepetition capital structure consisting of various layers of secured debt. As of the Petition Date, the Debtors had approximately (i) $32,786,655[5] of outstanding secured indebtedness owing to the Prepetition Agent (defined below) and/or the Prepetition Lenders (defined below) under certain prepetition credit facilities; and (ii) $3,628,735 of outstanding secured indebtedness owing to the Dormitory Authority of the State of New York ("**DASNY**") in respect of certain loans provided from DASNY[6] to the Debtors related to DASNY bond offerings.[7]

[5] This amount does not include $326,882 in principal outstanding motor vehicle and equipment loan debt owed by Foundation to HVB as of the Petition Date, which amount has not been paid down post-petition.

[6] OASAS acts on behalf of DASNY, as agent, under these loan agreements.

[7] On February 25, 1998, First National Bank of Jeffersonville ("**FNBJ**") apparently made a loan to Foundation (the "**FNBJ Loan**"). A mortgage on a portion of the Debtors' property at 4504/4505 Route 55, Swan Lake, NY 12783 (the "**Swan Lake Property**") was granted to FBNJ on account of the FNBJ Loan (the "**FNBJ Lien**"). As of the Petition Date, the outstanding principal balance of the FNBJ Loan was approximately $64,500. The FNBJ Loan matured on December 25, 2012.

2. Prepetition Credit Facilities

The Debtors are parties to certain prepetition credit facilities (the "**Prepetition Facilities**", and together with all documents with respect to such facilities, including but not limited to all amendments, notes, security agreements, mortgages, and forbearances thereto, referred to herein collectively the "**Prepetition Credit Documents**") with Signature Bank ("**Signature**") and/or Hudson Valley Bank ("**HVB**", and together with Signature, the "**Prepetition Lenders**" or the "**Lenders**").[8] The total outstanding debt owed to the Prepetition Lenders (as of the Petition Date) was approximately $32,786,655[9] and related to the following Prepetition Facilities, each as summarized and described below:

	DATE	BANK	PRINCIPAL BALANCE (approximate as of the Petition Date)	DEBTOR INDEBTED/GUARANTOR	PRINCIPAL BALANCE (approximate as of 12/31/2012)
1.	June 9, 2005	Hudson Valley Bank	$1,625,281	Foundation only (no guarantor)	$1,624,305
2.	March 2, 2006	Signature Bank	$2,606,839	Foundation (guaranteed by DVI)	$2,606,839
3.	July 12, 2006	Hudson Valley Bank	$1,332,559	Foundation only (no guarantor)	$1,332,559
4.	January 24, 2007	Prepetition Lenders	$19,920,381	Foundation: $13,921,048 (guaranteed by DVI) DVI: $5,999,333 (guaranteed by Foundation)	Foundation: $4,914,697 (guaranteed by DVI); partially satisfied via proceeds of sale of Headquarters building DVI: Satisfied via proceeds of sale of Headquarters building
5.	July 31, 2008	Prepetition Lenders	$2,548,127	Foundation (guaranteed by DVI)	$2,510,325
6.	February 23, 2011	Prepetition Lenders	$1,797,929	Foundation (guaranteed by DVI)	$1,797,929
7.	October 31, 2011	Prepetition Lenders	$2,824,967	Foundation (guaranteed by DVI)	Satisfied via proceeds of sale of Headquarters building
8.	July 25, 2012	Prepetition Lenders	N/A	Foundation (guaranteed by DVI)	$257,892 (created following termination of HQ landlord letter of credit)

[8] Signature served as agent on behalf of the Prepetition Lenders (the "**Prepetition Agent**") with respect to the various Prepetition Facilities entered into between the Debtors and the Prepetition Lenders in January 2007, July 2008, February 2011, and October 2011, respectively.

[9] As discussed below, this amount has been paid down post-petition from a portion of the proceeds from the 40th Street Sale to approximately $15,044,546 as of December 31, 2012.

June 2005 HVB Loans

Pursuant to certain mortgage loans entered into between HVB and Foundation, dated as of June 9, 2005, as amended, Foundation (as of the Petition Date) was indebted to HVB in the approximate amount of $1,625,281. This amount was secured by (i) a first-priority mortgage on Foundation's outpatient facility located at 2614-18 Halperin Avenue, Bronx, New York 10461 (the "**Bronx Facility**"); (ii) second-priority mortgages on Foundation's outpatient facilities located at 620 Route 303, Blauvelt, New York 10913 (the "**Rockland Facility**") and 2075 New York Avenue, Huntington Station, New York 11746 (the "**Suffolk Facility**"); and (iii) a third-priority mortgage on Foundation's residential facility located at 4504/4505 Route 55, Swan Lake, New York 12783 (the "**Swan Lake Facility**").

March 2006 Signature Facility

Pursuant to a certain credit facility entered into between Signature and Foundation, dated as of March 2, 2006, as amended (the "**March 2006 Financing**"), Foundation (as of the Petition Date) was indebted to Signature in the approximate amount of $2,606,839. This amount was secured by a first-priority mortgage on Foundation's residential facility located at 316 Beach 65th Street, Far Rockaway, New York 11692 (the "**Far Rockaway Facility**"). As additional security, Signature reserved the right to apply amounts in any Foundation accounts held by Signature against outstanding liabilities of Foundation to Signature under the March 2006 Financing and any future facility held by Signature, whether individually or as part of a syndicate. Further, the March 2006 Financing was guaranteed by DVI. As security for DVI's guaranty, Signature was granted a security interest in any DVI accounts held by Signature against outstanding liabilities of DVI to Signature under the March 2006 Financing guaranty and any obligations of DVI owed to Signature.

July 2006 HVB Facility

Pursuant to a certain credit facility entered into between HVB and Foundation, dated as of July 12, 2006, as amended (the "**July 2006 Financing**"), Foundation (as of the Petition Date) was indebted to HVB in the approximate amount of $1,332,559. This amount was secured by a (i) first-priority mortgage on Foundation's outpatient facility located at 246 North Central Park Avenue, Hartsdale, New York 10530 (the "**Westchester Facility**"); (ii) third-priority mortgages on the Rockland and Suffolk Facilities; and (iii) a fourth-priority mortgage on the Swan Lake Facility. Foundation's obligations under the July 2006 Financing were also secured, in part, by a security agreement pursuant to which Foundation pledged to HVB a security interest in all of Foundation's accounts, inventory, equipment, general intangibles, deposit accounts, claims and other personal property and proceeds.

January 2007 Credit Facility

Pursuant to a certain credit facility entered into between, *inter alia*, the Prepetition Agent, Foundation and DVI, dated as of January 24, 2007, as amended (the "**January 2007 Financing**"), the Debtors (as of the Petition Date) were indebted to the Prepetition Lenders in the approximate amount of $19,920,381 comprised of: (i) a term loan provided to Foundation (the "**2007 Term Loan**") with an outstanding balance of approximately $13,771,048; (ii) two

revolving lines of credit provided to DVI (the "**2007 Revolving Loans**") with an outstanding balance of approximately $5,999,333; and (iii) an additional term loan provided to Foundation under a December 13, 2007 amendment to the January 2007 Financing with an outstanding balance of approximately $150,000 (the "**Additional 2007 Term Loan**").[10] DVI provided guaranties of the 2007 Term Loan and the Additional 2007 Term Loan, and Foundation provided a guaranty of the 2007 Revolving Loans.[11]

Foundation's obligations under the 2007 Term Loan were secured by first-priority mortgages granted to the Prepetition Agent on Foundation's (a) headquarter office building located at 54-56 West 40th Street, New York, New York 10018 (the "**Headquarters**");[12] (b) outpatient facility located at 1915 Forest Avenue, Staten Island, New York 10303 (the "**Staten Island Facility**"); (c) outpatient facility located at 401 State Street, Brooklyn, New York 11217 (the "**Brooklyn Facility**"); and (d) residential facility located at 437 Parksville Road, Parksville, New York 12768 (the "**Parksville Facility**"). Foundation's obligations under the Additional 2007 Term Loan were secured by a fourth-priority mortgage granted to the Prepetition Agent on Foundation's Headquarters.

To secure DVI's (i) obligations under the 2007 Revolving Loans and (ii) guaranties of the 2007 Term Loan and the Additional 2007 Term Loan, DVI granted to the Prepetition Agent a security interest in all of DVI's accounts, inventory, equipment, general intangibles, deposit accounts, claims and other personal property and proceeds. Foundation's obligations under its guaranty of the 2007 Revolving Loans were secured by second and third-priority mortgages granted to the Prepetition Agent on the Headquarters and the Staten Island, Brooklyn and Parksville Facilities.

July 2008 Line of Credit Financing

Pursuant to a certain credit facility entered into between, *inter alia*, the Prepetition Agent and Foundation dated as of July 31, 2008, as amended (the "**July 2008 Financing**"), the Debtors (as of the Petition Date) were indebted to the Prepetition Lenders in the approximate amount of $2,548,127. This amount was (i) secured by first-priority mortgages granted to the Prepetition

[10] This Additional 2007 Term Loan was apparently funded on March 21, 2008.

[11] Three non-debtor affiliates, Daytop Village, Inc. (California), The Daytop Preparatory School and Daytop International, Inc. also guaranteed the January 2007 Financing. During fiscal year 2008, Daytop Village Inc. (California) ceased operating and this entity no longer exists.

[12] As discussed below, the Headquarters (also known as the 40th Street Building) was sold by Foundation during the pendency of the Chapter 11 Cases. Accordingly, the Prepetition Lenders' liens on the Headquarters building, following the closing of the sale, have attached to the 40th Street Net Proceeds from the sale, which proceeds are currently held in an attorney trust account by Debtors' counsel. Additionally, following the closing of the 40th Street Sale (defined below), the Prepetition Lenders received the Paydown Amount (defined below), resulting in the Debtors having repaid the 2007 Revolving Loans, the Additional 2007 Term Loan and the October 2011 Financing (defined below, the 2007 Revolving Loans, the Additional 2007 Term Loan and the October 2011 Financing are collectively referred to as the "**Repaid Facilities**"). Accordingly, the mortgages securing the Repaid Facilities were released by the Prepetition Lenders.

Lenders on the Rockland and Suffolk Facilities; (ii) secured by a second-priority mortgage granted to the Prepetition Lenders on the Swan Lake Facility; and (iii) guaranteed by DVI.[13]

To secure DVI's guaranty obligations under the July 2008 Financing, DVI granted to the Prepetition Agent a security interest in all of DVI's accounts, inventory, equipment, general intangibles, deposit accounts, claims and other personal property and proceeds otherwise subject to a security interest of the Prepetition Lenders.

February 2011 Bridge Loan Facility

Pursuant to a certain credit facility entered into between, *inter alia*, the Prepetition Agent and Foundation dated as of February 23, 2011, as amended (the "**February 2011 Financing**"), the Debtors (as of the Petition Date) were indebted to the Prepetition Lenders in the approximate amount of $1,797,929. This amount was (i) secured by a first-priority mortgage granted to the Prepetition Agent on Foundation's residential facility located at 44 Springwood Drive, Rhinebeck, New York 12572 (the "**Springwood Facility**") and (ii) guaranteed by DVI.[14] To secure Foundation's and DVI's obligations under the February 2011 Financing, Foundation and DVI granted to the Prepetition Agent a security interest in all of Foundation's and DVI's respective accounts, inventory, equipment, general intangibles, deposit accounts, claims and other personal property and proceeds.

October 2011 Bridge Loan Facility

Pursuant to a certain credit facility entered into between, *inter alia*, the Prepetition Agent and Foundation dated as of October 31, 2011, as amended (the "**October 2011 Financing**"), the Debtors (as of the Petition Date) were indebted to the Prepetition Lenders in the approximate amount of $2,824,967. This amount was (i) secured by a second-priority mortgage granted to the Prepetition Agent on the Springwood Facility, fourth-priority mortgages granted to the Prepetition Agent on the Parksville, Brooklyn and Staten Island Facilities and a fifth-priority mortgage granted to the Prepetition Agent on the Headquarters and (ii) guaranteed by DVI.[15] To secure Foundation's and DVI's obligations under the October 2011 Financing, Foundation and DVI granted to the Prepetition Agent a security interest in all of Foundation's and DVI's respective accounts, inventory, equipment, general intangibles, deposit accounts, claims and other personal property and proceeds.

The maturity date of the March 2006, January 2007, July 2008 and October 2011 Financings was March 28, 2012 and the maturity date of the February 2011 Financing was March 26, 2012. The Debtors and the Prepetition Lenders were negotiating for an extension to these dates, but failed to reach any agreement prior the Petition Date.

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[13] Two non-debtor affiliates, The Daytop Preparatory School and Daytop International, Inc. also guaranteed the July 2008 Financing.

[14] Two non-debtor affiliates, The Daytop Preparatory School and Daytop International, Inc. also guaranteed the February 2011 Financing.

[15] Two non-debtor affiliates, The Daytop Preparatory School and Daytop International, Inc. also guaranteed the October 2011 Financing.

As more fully set forth in certain of the Prepetition Credit Documents, prior to the Petition Date, the Debtors granted security interests in and liens to the Prepetition Lenders (the "**Prepetition Liens**") on (i) substantially all of the personal property assets of the Debtors, including without limitation, all of the Debtors' respective accounts, inventory, equipment, general intangibles, deposit accounts, claims and other personal property and proceeds and (ii) various of the real property facilities (the "**Facilities**") owned by Foundation.[16]

3. The DASNY Obligations

DASNY, through its predecessor, the New York State Medical Care Facilities Finance Agency, issued various series of public bonds (the "**Bonds**") to Daytop. Pursuant to five loan agreements (collectively, the "**DASNY Bond Obligations**") dated as of (i) April 29, 1996; (ii) June 18, 1999; (iii) December 18, 2008; (iv) June 24, 2009; and (v) July 16, 2010, entered into between DASNY (acting by its agent, OASAS) and the Debtors, a portion of the proceeds of the Bonds were loaned to the Debtors for purposes of financing building construction and/or improvements to certain of the Debtors' facilities. As of October 31, 2012, the Debtors were indebted to DASNY under the DASNY Bond Obligations in the approximate principal amount of $3,595,957.

The DASNY Bond Obligations were secured by (i) mortgages granted to OASAS/DASNY (the "**DASNY/OASAS Mortgages**") on (a) Foundation's residential facilities located at 15, 88, 214/216, and 248 Fox Hollow Road, Rhinebeck, New York 12572 (the "**Rhinebeck West Property**"); (b) Foundation's residential facility located at 55 Ramble Hill Lane Millbrook, New York 12545 (the "**Millbrook Facility**") and (c) Foundation's residential facility located at 4504/4505 Route 55, Swan Lake, New York 12783 (the "**Swan Lake Facility**"); and (ii) fixture filings with respect to any and all collateral currently or subsequently in existence or used in connection with the Rhinebeck West Property, the Millbrook Facility and/or the Swan Lake Facility.

The Debtors do not make payments with respect to the DASNY Bond Obligations. Each of the Bonds self-amortizes over a period of years as long as the Debtors comply with the terms of the DASNY Bond Obligations.

Each of the DASNY Bond Obligations contains language prohibiting the granting of additional liens on the properties subject to the DASNY/OASAS Mortgages without the consent of OASAS.

4. The Retirement Plan

Daytop sponsors and maintains the Daytop Village, Inc. Retirement Plan (the "**Retirement Plan**"), a defined contribution plan. The Retirement Plan was established as of July 1, 1993, and was originally designed as a Money Purchase Pension Plan. A Money Purchase Pension Plan is a type of defined contribution plan that, for purposes of minimum

[16] Details of the relative priority of liens encumbering the respective Facilities as of the Petition Date and as of December 31, 2012 are set forth in the *Debtors' Motion for Entry Order (I) Authorizing Additional Use of Cash Collateral, (II) Granting Adequate Protection, and (III) Modifying the Automatic Stay* [Docket No. 535] (the "**Supplemental Cash Collateral Motion**"),
available at http://dm.epiq11.com/DVF/Document/GetDocument/2200022.

funding requirements, is treated like a defined benefit plan. The employer's annual contribution is determined by a specific formula, usually involving a percentage of compensation of covered employees or a flat dollar amount. The Retirement Plan received a favorable determination as to its tax qualified status under the Internal Revenue Code from the Internal Revenue Service on July 7, 2011. The Retirement Plan was "frozen" (*i.e.*, future benefit accruals were eliminated) by an amendment dated December 15, 2010. The effect of this amendment is that no employer contributions to the Retirement Plan are required to be made by Daytop for the plan year ending on June 30, 2011, or subsequent to that date. Prior to the elimination of benefit accruals, the Retirement Plan's contribution formula provided for annual contributions in an amount equal to (1) 5% of the compensation of each eligible participant who had less than 5 years of service; (2) 6% of the compensation of each eligible participant who had at least 5 years of service, but less than 10 years of service; (3) 9% of the compensation of each eligible participant who had at least 10, but less than 15 years of service; (4) 12% of the compensation of each eligible participant who had at least 15, but less than 20 years of service; (5) 15% of the compensation of each eligible participant who had 20 or more years of service, or who was an officer holding the office of Senior Vice President or above with 10 years of consecutive service in any capacity with Daytop. The Retirement Plan also provided for an additional contribution for all eligible participants who were a member of the Daytop Village Supplemental Plan as of June 30, 1999, equal to the percent they received under that plan for the year ended June 30, 1999. Under the terms of the Retirement Plan, Daytop reserved the right to reduce, suspend or discontinue contributions for any reason at any time. On June 27, 2011, the Retirement Plan was amended and restated to provide for discretionary profit sharing contributions in lieu of the required employer contributions under the money purchase plan formulae.

As a consequence of the severe cash crisis resulting from various challenges, including those relating to the Lenders (discussed more fully below), for the plan years ending on June 30, 2008, 2009 and 2010, respectively, Daytop failed to make certain contributions, resulting in total delinquent contributions to the Retirement Plan in an amount equal to approximately $4,676,694 (plus accrued pre-petition interest, the "**Pension Contribution Amount**"). Commencing in August, 2010, the Internal Revenue Service conducted a compliance check to ascertain whether excise taxes should have been reported and paid on the delinquent Retirement Plan contributions. The compliance check was subsequently closed in December 2011, and it was determined that due to amendments to the Internal Revenue Code by the Pension Protection Act of 2006, the imposition of the excise tax and corresponding reporting requirements had been eliminated.

The Pension Contribution Amount is an obligation of only Debtor DVI and is owed solely to the Retirement Plan. Thus, the Retirement Plan, rather than individual participants in the Retirement Plan, is the creditor with respect to the outstanding Pension Contribution Amount and for purposes of voting on the Plan.

C. Events Leading to Chapter 11 Filing

From fiscal 2006 through fiscal 2011,[17] the Debtors incurred cumulative operating losses of approximately $28.25 million. The operating losses were largely attributable to a significant

[17] The Debtors' fiscal year ends on June 30.

decline in Daytop's residential patient census (*i.e.*, the number of in-patient residents at the Debtors' residential facilities, which is the leading generator of the Debtors' revenues), together with an oversized expense structure. In particular, the residential census declined from a high of approximately 1100 in 2006 to 724 in October 2010, when the Debtors retained new management.

As Daytop's operating losses increased to a total of $16 million from fiscal 2006 to 2008, the Lenders extended $16 million of new credit to Daytop, primarily to cover those operating losses. During this same three-year period, the Debtors' bank and trade debt increased from $25 million to $39 million and its annual debt service obligation increased from $1.7 million to $3 million, above Daytop's ability to pay by any historical measure.

By the end of 2008, as real estate values plummeted and Daytop's performance continued to decline, the Lenders stopped lending to Daytop. Over the next two years, the Debtors managed their cash by, among other things, suspending payments to their pension plan and "stretching" their trade payables from an average aging of 90 days to nearly 150 days. The Debtors' liquidity and operating reserves, however, were hopelessly mismatched to their growing liabilities. As a result, by mid-2010, Daytop found itself with $10.4 million in current liabilities related to pension and trade payables, without access to any operating reserves or credit capacity to protect against default.

Faced with this cash crisis, the Debtors decided to enter into a contract (the "**Prepetition Sale Agreement**") with 54 West 40th Realty LLC ("**Allied**") to sell their Headquarters building owned by Foundation and located at 54 West 40th Street in Manhattan (the "**40th Street Building**"). The closing date of the Prepetition Sale Agreement was originally scheduled to occur on or about March 26, 2012, which date was extended as a result of a brief forbearance by the Lenders following the retention by the Debtors of a restructuring advisor to facilitate discussions concerning the Debtors' urgent need for usage of the sale proceeds. Absent a timely closing, the Debtors were faced with an acceleration of all of their obligations to the Lenders and, potentially, a complete inability to access cash to operate their businesses. However, the Debtors were unable to reach agreement with the Lenders with respect to the disposition of the proceeds of the Sale Agreement.

Accordingly, on April 5, 2012, each of the Debtors filed a petition with the Bankruptcy Court under chapter 11 of the Bankruptcy Code to provide the Debtors with the opportunity to preserve and maximize the value of their assets for the benefit of all stakeholders, de-leverage their balance sheet through select asset sales, restructure their long and short-term debt obligations, and ultimately emerge from chapter 11 with the necessary operational changes to continue to provide the high level of critical services to the community that they have throughout their history.

V.

THE CHAPTER 11 CASES

A. Continuation of Business; Stay of Litigation and Enforcement of Creditors' Rights

Since the Petition Date, the Debtors continued to operate as debtors in possession subject to the supervision of the Bankruptcy Court. Although the Debtors are authorized to operate in the ordinary course of business, transactions out of the ordinary course of business have required Bankruptcy Court approval.

An immediate effect of the Debtors' filing their voluntary chapter 11 petitions was the imposition of the automatic stay under the Bankruptcy Code, which, with limited exceptions, enjoins the commencement or continuation of all collection efforts by Creditors, the enforcement of liens against property of the Debtors and the continuation of litigation against the Debtors. The automatic stay of an act against property of the Debtors' Estates remains in effect, unless modified by the Bankruptcy Court, until such property no longer is property of the Debtors' Estates; the stay of all other acts encompassed by the automatic stay continues until the earlier of the time the Debtors' chapter 11 cases are closed or dismissed.

B. Parties in Interest and Advisors

Described below are the primary parties that have played significant roles in the Debtors' Chapter 11 Cases to date.

1. The Bankruptcy Court

The Debtors' Chapter 11 Cases were filed in the United States Bankruptcy Court for the Southern District of New York, located in New York, New York. The Honorable Shelley C. Chapman, United States Bankruptcy Judge, is presiding over the Debtors' Chapter 11 Cases.

2. Advisors to the Debtors

a. Bankruptcy and Special Counsel

The Debtors sought authority to retain Lowenstein Sandler P.C. ("**Lowenstein**")[18] as bankruptcy counsel for the Debtors' and Garfunkel Wild, P.C. ("**Garfunkel**") as special healthcare counsel. The orders approving the retention of Lowenstein and Garfunkel were entered by the Bankruptcy Court on May 17, 2012 and August 17, 2012, respectively.

b. Crisis Manager/Chief Restructuring Officer

The Debtors sought authority to retain Marotta Gund Budd & Dzera, LLC ("**MGBD**") as crisis managers and appointed Stephen Marotta of MGBD as Chief Restructuring Officer, and Neil Peritz of MGBD as Assistant Chief Restructuring Officer. The order approving the

[18] The law practice of Lowenstein Sandler PC is now being conducted by Lowenstein Sandler LLP in all of its offices, effective as of January 1, 2013.

retention of MGBD and the appointment of the Chief Restructuring Office and Assistant Chief Restructuring Officer was entered by the Bankruptcy Court on May 17, 2012.

c. Independent Auditors and Accountants

Because of the Debtors' critical need to complete an audit for their fiscal year ending as of June 30, 2011, the Debtors sought authority to retain O'Connor Davies, LLP ("**O'Connor**") as independent auditors and accountants for the Debtors. The order approving the retention of O'Connor was entered by the Bankruptcy Court on July 2, 2012.

d. Ordinary Course and Other Professionals

On September 4, 2012, the Debtors sought authority to continue to employ (or retain) certain professionals to assist them on a day-to-day basis to provide services relating to labor and employment, tort litigation, and corporate services, subject to monthly caps on compensation. On September 21, 2012, the Court entered an Order authorizing the Debtors to retain each of the following as ordinary course professionals: John Novak, Esq. (corporate legal services); Hardin, Kundla, McKeon & Poletto, P.A. (tort litigation legal services); and Fugazy & Rooney LLP (labor and employment legal services).

Additionally, in connection with an anticipated contested hearing regarding the Debtors' requested use of the Prepetition Lenders' cash collateral, the Debtors sought and received authority to retain GA Keen Realty Advisors, LLC ("**GA Keen**") as special real estate advisors for the Debtors. The order approving the retention of GA Keen was entered by the Bankruptcy Court on May 18, 2012.

Further, (i) Foundation sought and received Bankruptcy Court approval to retain Massey Knakal Realty of Manhattan LLC ("**MKR**") as real estate broker to market certain real property owned by Foundation[19] and (ii) the Debtors sought and received approval to enter into a security consulting agreement with Global Risk & Investigative Diligence, LLC ("**GRID**"), pursuant to which GRID has evaluated the security and incident management capabilities with respect to Daytop's various client treatment facilities, and provided recommendations to Daytop regarding same.

3. The Creditors' Committee and Its Advisors

On April 17, 2012, the United States Trustee, pursuant to its authority under section 1102 of the Bankruptcy Code, appointed the Committee to serve in the Debtors' Chapter 11 Cases. The Committee was appointed to represent the interests of, and to serve as a fiduciary for, the Debtors' unsecured creditors.

[19] To date, no such real property sales have closed, although as discussed further below, on January 30, 2013, Foundation entered into a contract for the sale of the Brooklyn Property to 401 State LLC (the "**Brooklyn Purchaser**") (which is the subject of a pending motion filed on Februrary 1, 2013 seeking approval of sale and bidding procedures), and the Debtors are negotiating the sale of several additional properties, which sales may or may not occur prior to the Effective Date.

The members of the Committee are as follows:

Morgan Fuel & Heating Co., Inc., d/b/a "Bottini Fuel"
Millin Associates LLC ("**Millin**")
Chem Rx Pharmacy Services, LLC
Bendiner & Schlesinger Inc.
K.J.L. Realty Company

Since the Committee's formation, the Debtors have consulted with the Committee concerning the administration of the Chapter 11 Cases and all significant issues that have arisen in the Chapter 11 Cases. The Debtors have kept the Committee informed with respect to their operations and have sought the concurrence of the Committee for actions and transactions outside the ordinary course of the Debtors' business, including, without limitation (and all as discussed further below), authorization to use cash collateral and procure debtor-in-possession financing, the sale process with respect to the 40th Street Building, issues related to the Patient Care Ombudsman, and the Debtors' business plan.

The Committee retained Robinson Brog Leinwand Greene Genovese & Gluck P.C. ("**Robinson**") as its legal counsel and Alvarez & Marsal Healthcare Industry Group LLC ("**A&M**") as its financial advisor. Orders approving the retention of Robinson and A&M were entered by the Bankruptcy Court on May 17, 2012 and May 31, 2012, respectively.

4. The Patient Care Ombudsman and His Counsel

On June 1, 2012, the United States Trustee appointed Eric Huebscher as Patient Care Ombudsman (the "**PCO**") in these Chapter 11 Cases in accordance with section 333(a)(2) of the Bankruptcy Code. The PCO's role is to monitor the quality of the Debtors' patient care and to represent the interests of the Debtors' patients. The PCO formally reports his findings to the Bankruptcy Court every 60 days.

Following his appointment, on June 13, 2012, the PCO filed an application seeking authorization to retain Baker & Hostetler LLP ("**Baker**") as his counsel. Both the Debtors and the Committee prepared and prosecuted objections to the retention by the PCO of Baker. Following discussions between the PCO, the Debtors and the Committee regarding total fees and expenses chargeable for services rendered in the aggregate by the PCO and Baker for the period June 1, 2012 through December 31, 2012, an order approving the retention of Baker was entered on July 30, 2012. This order limited the scope of the Baker retention, and provided for a fee cap covering both the PCO and Baker.[20]

On July 16, 2012, the PCO filed a notice indicating that he would be filing his first written report (the "**First Report**"), and on August 7, 2012, the First Report was filed with the Bankruptcy Court.

[20] The total fees and expenses chargeable to the Debtors' estates for services rendered in the aggregate by the PCO and Baker Hostetler for the period from June 1, 2012 through December 31, 2012 was capped at $253,500.00, subject to modification by (a) further Order of the Court on appropriate application by the PCO for good cause shown, or (b) written agreement of the Debtors, the Committee and the PCO.

On September 14, 2012, the PCO filed a notice indicating that he would be filing his second written report (the "**Second Report**"), and on October 1, 2012, the Second Report was filed with the Bankruptcy Court.

On November 16, 2012, the PCO filed a notice indicating that he would be filing his third written report (the "**Third Report**"), and on November 30, 2012, the Third Report was filed with the Bankruptcy Court.

On January 17, 2013, the PCO filed a notice indicating that he would be filing his fourth written report (the "**Fourth Report,**" and together with the First Report, Second Report, and Third Report, the "**PCO Reports**"), and on February 5, 2013, the Fourth Report was filed with the Bankruptcy Court.

The Debtors have disagreed with information and conclusions contained in the PCO Reports and voiced their concerns to the PCO with respect to the PCO Reports when provided with drafts of such reports. Although the PCO Reports as filed were revised in part based on comments provided by the Debtors, the Debtors continue to disagree with many aspects of the PCO Reports. Nevertheless, the Debtors have worked with and will continue to cooperate with the PCO regarding his role in monitoring and reporting with respect to the care of Daytop's clients.

5. The Examiner Appointment

At a hearing held before the Bankruptcy Court on February 7, 2013, the Bankruptcy Court expressed certain concerns regarding the PCO's Fourth Report. Thereafter, on February 11, 2013, the Bankruptcy Court ordered the United States Trustee, pursuant to section 1104(d) of the Bankruptcy Code, to appoint an examiner (the "**Examiner**") to conduct an investigation (the "**Investigation**") regarding the preparation of the PCO Reports, including, without limitation, (i) the actions taken by the Debtors and by the PCO in connection with the preparation of such reports, and (ii) the accuracy and veracity of the information contained in the Fourth PCO Report. The Bankruptcy Court further ordered the Examiner to prepare and file a preliminary report (the "**Examiner's Report**") no later than March 20, 2013 (unless such deadline is further extended by the Bankruptcy Court) and limited the Examiner's (and his or her professional's) fees and expenses to $50,000 (unless any such greater amount is approved by the Court).

On February 14, 2013, the United States Trustee appointed The Honorable Barbara S. Jones, a retired Judge of the United States District Court for the Southern District of New York and currently a partner at the law firm of Zuckerman Spaeder LLP, as the Examiner. The Examiner's Investigation is ongoing.

The Debtors do not anticipate that any findings contained in the Examiner's Report will affect the feasibility or confirmation of the Plan.

C. First and Second Day Orders

On the Petition Date, the Debtors filed numerous "first day" motions seeking various relief intended to ensure a seamless transition between the Debtors' prepetition and postpetition business operations and to facilitate the smooth administration of the Chapter 11 Cases. The

relief requested in these orders, among other things, allowed the Debtors to continue certain normal business activities that may not be specifically authorized under the Bankruptcy Code or as to which the Bankruptcy Code may have otherwise required additional Bankruptcy Court approval. Substantially all of the relief requested in the Debtors' "first day" motions was granted by the Bankruptcy Court. These motions and orders are available for review and download free of charge at the Debtors' case information website maintained by the Debtors' claims and noticing agent, Epiq Bankruptcy Solutions, LLC ("**Epiq**") (located at www.dm.epiq11.com/dvf).

The orders entered pursuant to the Debtors' "first day" motions authorized the Debtors to, among other things:

- jointly administer the Debtors' Chapter 11 Cases solely for procedural purposes;
- establish certain notice, case management and administrative procedures;
- obtain an extension of the time to file the Debtors' schedules and statements of financial affairs and file a consolidated list of creditors;
- retain Epiq as the Debtors' noticing and claims agent;
- continue use of existing cash management system, bank accounts and business forms;
- immediately pay the following prepetition amounts: (i) certain employee wages, compensation and employee benefits, and (ii) prepetition insurance obligations;
- continue and renew their insurance programs and insurance premium financing arrangements;
- establish an orderly, regular process for the monthly compensation and reimbursement of estate professionals;
- establish procedures pursuant to which utilities are prohibited from discontinuing service except in certain circumstances; and
- reject a non-residential real property lease with Bonafide Estates, Inc.

D. Debtor-in-Possession Financing and Cash Collateral

On the Petition Date, the Debtors filed a motion seeking authority to use cash collateral generated from their operations and to obtain a priming debtor-in-possession credit facility with Island Funding LLC (the "**Island Facility**"). Pursuant to the proposed Island Facility, the

Debtors would obtain access to $5 million of financing to fund their activities during the Chapter 11 Cases. At the conclusion of the Debtors' "first day" hearing held in these Chapter 11 Cases on April 9, 2012, the Bankruptcy Court approved the Island Facility on an interim basis and permitted the Debtors to immediately borrow $1.5 million thereunder.

During the Final Hearing to consider approval of the Island Facility, the Bankruptcy Court expressed concern regarding the cost to the Debtors of the Island Facility. As a result, the Debtors entered into negotiations with the Prepetition Lenders regarding the terms of a debtor-in-possession facility on terms more favorable for the estates than the Island Facility.

As a result of these negotiations, the Debtors and the Prepetition Lenders agreed upon the terms of a credit facility (the "**Prepetition Lenders DIP Facility**") that provided the Debtors up to $5 million of additional liquidity over and above the $1.5 million Island Facility. The Prepetition Lenders DIP Facility also incorporated a settlement with respect to a partial disposition of the funds to be received from the sale of the 40th Street Building (discussed below, the "**40th Street Sale**"). Pursuant to the terms of the Prepetition Lenders DIP Facility, the Prepetition Lenders agreed to permit the Debtors access to $1.5 million of the sale proceeds as working capital after the repayment of the Island Facility and the Prepetition Lenders DIP Facility and the payment of $13.5 million towards the prepetition claims of the Prepetition Lenders (the "**Paydown Amount**"). The Bankruptcy Court entered an order (the "**Final DIP Order**") approving the Prepetition Lenders DIP Facility on April 24, 2012.

In connection with the closing of the sale of the 40th Street Building (discussed below), Allied requested that the Debtors facilitate the transfer of the mortgage on the 40th Street Building held by Signature in order to reduce the mortgage recording tax payable upon the transfer. The Debtors agreed to this accommodation as well as an increase in the Paydown Amount from $13.5 million to $18 million, in exchange for which the Prepetition Lenders agreed to convert the Prepetition Lenders DIP Facility to a revolving line of credit at a reduced interest rate. This agreement, which amended the terms of the Final DIP Order, was memorialized in a stipulation and agreed order modifying the Final DIP Order, which was approved by the Bankruptcy Court on July 2, 2012 (the "**DIP Amendment Order**"). Pursuant to the Prepetition Lenders DIP Facility (as amended by the DIP Amendment Order), the Debtors (as of December 31, 2012) were indebted to the Prepetition Lenders in the approximate principal amount of $3.5 million, and all Prepetition Lenders DIP Obligations (as defined and amended in the Final DIP Order and DIP Amendment Order, respectively) were due to be repaid by the Debtors on March 31, 2013 (the "**DIP Due Date**").

The Prepetition Lenders' receipt of the $18 million Paydown Amount resulted in the Debtors having repaid (i) in full the 2007 Revolving Loans, the Additional 2007 Term Loan and the October 2011 Financing (the 2007 Revolving Loans, the Additional 2007 Term Loan and the October 2011 Financing are collectively referred to herein as the "**Repaid Facilities**"); and (ii) in part the 2007 Term Loan.[21] Accordingly, the mortgages securing the Repaid Facilities (*i.e.* the

[21] $8,850,669 of the $13,765,366 outstanding under the 2007 Term Loan (as of June 30, 2012) was paid down from the Paydown Amount. Of the remainder of the Paydown Amount, $150,000 was used to repay the Additional 2007 Term Loan, $2,999,999 was used to repay the October 2011 Financing, and $5,999,333 was used to repay the 2007 Revolving Loans.

facilities fully paid off) were released by the Prepetition Lenders in connection with the 40th Street Sale.

With respect to the mortgages securing the 2007 Term Loan (which was partially paid down in connection with the receipt of the Paydown Amount), the Lenders released the first priority mortgages granted under the January 2007 Financing in the Staten Island, Brooklyn, and Parksville Facilities, and the Lenders were granted substitute first priority mortgages (the "**2012 Substitute Mortgage**") in the Staten Island, Brooklyn, and Parksville Facilities for the approximate remaining principal balance of $4.9 million outstanding under the 2007 Term Loan.

Following the closing of the sale of the 40th Street Building, approximately $7.9 million of the 40th Street Net Proceeds was held in an attorney trust account by Debtors' counsel. As a result of (a) the severe losses the Debtors sustained due to the effects of Hurricane Sandy ("**Sandy**"), including (i) significant damage to one of the Debtors' facilities and loss of power to many of the other facilities, (ii) a large decline in revenue due to a reduction in client census as a result of Sandy, (iii) significant additional costs incurred in providing care to the Debtors' clients both during and after Sandy, including moving patients to other facilities and preparing damaged or shut down facilities for reopening, and (b) the lengthier than hoped for time that the Debtors have remained in chapter 11, on January 25, 2013, the Debtors filed the Supplemental Cash Collateral Motion for authority to withdraw $2 million of the 40th Street Net Proceeds for use as working capital.

In response to the filing of the Supplemental Cash Collateral Motion, on February 5, 2013, Signature Bank filed a response indicating that it would consent to the relief requested in the Supplemental Cash Collateral Motion provided that the Debtors agreed to a $2,000,000 pay-down of the amounts outstanding under the Prepetition Lenders DIP Facility (the "**DIP Paydown**"). The Debtors agreed to the DIP Paydown provided that the Prepetition Lenders consented to an extension of the DIP Due Date through May 31, 2013. Accordingly, on February 7, 2013, the Bankruptcy Court entered an order approving the Supplemental Cash Collateral Motion. Pursuant to this order, the DIP Due Date was extended to May 31, 2013 and the Debtors were granted authority to (i) withdraw $2 million of the 40th Street Net Proceeds for use as working capital; and (ii) proceed with the DIP Paydown, both of which have occurred.

E. Sale of 40th Street Building

As noted above, on the Petition Date, the Debtors were party to a Prepetition Sale Agreement with Allied, pursuant to which Allied had agreed to purchase the 40th Street Building for a purchase price of $26.5 million. Following the Petition Date, the Debtors evaluated their options with respect to the Prepetition Sale Agreement and the 40th Street Building. The Debtors determined, after consultation with their advisors, that the clearest method for maximizing the value of the 40th Street Building was to proceed with a competitive bidding process.

At the same time, the Debtors continued to negotiate with Allied regarding the possibility of Allied serving as the stalking horse bidder pursuant to a post-petition agreement with an increased purchase price. Ultimately, the Debtors, after negotiating with several parties, concluded that Allied's greatly improved offer for the purchase of the 40th Street Building, subject to certain negotiated bid protections -- including an agreed-upon claim in respect of the

damages that would have been claimed by Allied had the Prepetition Sale Agreement been rejected -- was the best offer. Accordingly, the Debtors (i) entered into a new sale agreement (the "**Postpetition Sale Agreement**") with Allied, whereby Allied agreed to a new purchase price of $32 million and (ii) agreed to select Allied as the stalking horse bidder and conduct a competitive bidding process.

Accordingly, on May 8, 2012, the Debtors filed a motion to approve bidding procedures and the selection of Allied as the stalking horse bidder with respect to the 40th Street Building, subject to higher and bidder offers (the "**Sale and Bidding Procedures Motion**"). The Bankruptcy Court entered an order approving the Sale and Bidding Procedures Motion on May 17, 2012 (the "**Sale and Bidding Procedures Order**").

The Debtors coordinated a process to solicit additional parties interested in acquiring the 40th Street Building, including extensive word-of-mouth marketing and advertisements in a prominent New York real estate publication and The New York Times. After this further marketing effort following entry of the Sale and Bidding Procedures Order, Allied was the only party to submit a binding offer for the property and was selected as the successful bidder. On June 22, 2012, the Debtors obtained Bankruptcy Court approval of the Postpetition Sale Agreement and authorization to proceed with the sale of the 40th Street Building to Allied. The sale of the 40th Street Building to Allied closed on July 2, 2012 and resulted in the Debtors receiving $5.5 million more in sale proceeds than would have been realized had the Debtors consummated the sale under the Prepetition Sale Agreement.

F. Automatic Stay Related Issues

During the Chapter 11 Cases, the Debtors have dealt with various issues related to the enforcement of the automatic stay. The Debtors have (i) responded and/or negotiated with respect to motions filed by third parties to lift the automatic stay and (ii) entered into negotiations and/or stipulations (subsequently approved by the Bankruptcy Court) with certain parties in order to facilitate the resolution of disputes affecting the Debtors and their assets.

1. New York State Department of Health Medicaid Offsets

The Debtors engaged in extensive discussions, correspondence and negotiations with the Office of the Attorney General of the State of New York (the "**OAG**") concerning certain offsets taken by the New York State Department of Health from the Debtors' post-petition Medicaid funding (the "**Medicaid Offsets**"). The Medicaid Offsets, which totaled nearly $300,000, placed a meaningful burden on the Debtors' cash flow. The Debtors communicated regularly with the OAG to cause the (a) cessation of the Medicaid Offsets and (b) payment to the Debtors of the amounts previously offset. As a result of these discussions, the Medicaid Offsets were reversed and paid to the Debtors during June 2012, without the need for any litigation in this regard.

2. Empire Blue Cross/Blue Shield

Following the Petition Date, Empire Blue Cross/Blue Shield ("**Empire**") failed to honor numerous health insurance claims made by the Debtors' employees on account of the Debtors' alleged failure to make timely premium payments. Empire also sent the Debtors notices of non-

renewal of their employee health insurance policies, which the Debtors believed constituted a violation of the automatic stay.

The Debtors engaged in extensive discussions and negotiations with Empire in an effort to resolve the issues. When these efforts proved unsuccessful, the Debtors drafted and prosecuted a motion to enforce the automatic stay and an order to show cause, which was entered by the Court on June 12, 2012. Ultimately, these efforts resulted in a stipulation and agreed order (the "**Empire Stipulation**") entered into between the Debtors and Empire resolving the dispute, whereby the Debtors obtained (a) sufficient time to obtain replacement health care coverage for their employees and (b) clarity with respect to timing of payment of premiums going forward. The Empire Stipulation was approved by the Bankruptcy Court on June 14, 2012.

3. Health Business Solutions' Motion for Permissive Abstention

The Debtors retained Health Business Solutions ("**HBS**") during 2010 to perform the Debtors' billing functions. Due to HBS's consistently poor performance, the Debtors determined to terminate HBS for cause and replaced it with Millin. HBS disputes the Debtors' position and allegations and contends that the termination was without cause. Litigation commenced by HBS in the Federal District Court for the Southern District of New York prior to the Petition Date arising out of their termination has been stayed since the Petition Date (the "**HBS Litigation**"). On June 14, 2012, HBS filed a motion for permissive abstention to allow the HBS Litigation to proceed in the District Court (the "**HBS Motion**").

On July 10, 2012, the Debtors filed an objection to the HBS Motion, arguing that no factual or legal basis existed for the relief sought in the HBS Motion. On July 30, 2012, the Bankruptcy Court sustained the Debtors' objection and denied the HBS Motion, without prejudice. Accordingly, to date, the HBS Litigation remains stayed.

4. 104 West 40th Street

As of the Petition Date the Debtors leased two (2) floors from 104 West 40th Street Property Investors I, LLC (the "**Landlord**") at 104 West 40th Street New York, New York (the "**HQ Lease**"). Following the Petition Date, the Landlord asserted a right under the HQ Lease to (a) pay its prepetition claims from the letter of credit securing the HQ Lease (the "**LC**") prior to the expiration of the LC; (b) cause the Debtors to renew the LC; and (c) cause the Debtors to "refill" the LC following the draw by the Landlord. Following extensive negotiations between the Debtors and the landlord, the parties reached an agreement and entered into a stipulation that permitted the Landlord to make the draw but did not require the Debtors to renew or refill the LC, resulting in approximately $160,000 in additional liquidity for the Debtors. The Bankruptcy Court entered an order approving this stipulation regarding the LC on July 17, 2012.

On August 21, 2012, the Landlord filed a motion (the "**HQ Motion**") seeking to compel the Debtors to timely perform their post-petition obligations under the Lease and remove a post-petition mechanics' lien in the amount of $80,176.20 (the "**Macro Lien**") filed by Macro Consultants, LLC (the "**Contractor**"), a party that performed work pre-petition with respect to the Debtors' office space at 104 West 40th Street leased pursuant to the HQ Lease. Following negotiations, the Debtors, the Landlord and the Contractor agreed to a stipulation and order (the

"**HQ Stipulation**") resolving the HQ Motion pursuant to which the Contractor agreed to satisfaction of the Macro Lien for $75,000 and the Debtors agreed to reimburse $3,500 of the Landlord's fees relating to the discharge of the Macro Lien. On October 22, 2012, the Debtors filed the HQ Stipulation for approval by the Bankruptcy Code. On October 24, 2012, the Committee filed a limited objection to the HQ Stipulation. On October 29, 2012, the Debtors filed a reply in response to the Committee's limited objection to the HQ Stipulation, and on November 7, 2012, the Landlord filed a response to the Committee's limited objection to the HQ Stipulation. Following negotiations between and among the Debtors, the Committee, the Landlord and the Contractor, the parties agreed to file a revised HQ Stipulation resolving the HQ Motion, and on December 6, 2012, the Bankruptcy Court entered an order approving the HQ Stipulation.

Additionally, after exploring various other alternatives (such as relocating the Debtors' Headquarters to (x) smaller rental space in Manhattan or an outer borough, and (y) other premises already owned by Foundation), the Debtors entered into negotiations with the Landlord concerning an amendment to the HQ Lease to address the Debtors' desire to reduce the space leased pursuant thereto in order to (a) more closely correlate to the Debtors' needs following a downsizing of the Debtors' administrative personnel and (b) reduce its rental obligations. As a result of those negotiations, the Debtors, the Landlord and an entity with whom the Landlord had contracted for the sale of the building agreed to an amendment of the HQ Lease (the "**Lease Amendment**") to, among other things, (x) permit the Debtors to give back one of the two floors that they were leasing as of January 15, 2013, (y) reduce the rent by one-half, without penalty, and (z) provide for the waiver of any claims in the Chapter 11 Cases by the Landlord.

On October 13, 2012, the Debtors filed a motion to assume the HQ Lease as amended pursuant to the Lease Amendment (the "**HQ Lease Assumption Motion**"). On October 24, 2012, the Committee filed an objection to the HQ Lease Assumption Motion. On October 29, 2012, the Debtors' filed a reply in support of the HQ Lease Assumption Motion.

Following negotiations between and among the Debtors, the Landlord and the Committee, the parties agreed to a revised proposed order approving the HQ Lease Assumption Motion, and on January 3, 2013, the Bankruptcy Court entered the HQ Lease Assumption Order approving the assumption of the HQ Lease, as amended, by the Debtors. Within the earlier of (i) five (5) days after the Effective Date or (ii) April 30, 2013, the Debtors are obligated to refill the HQ Lease Letter of Credit. As a result of the Lease Amendment, the Debtors' annual rent for their Headquarters was reduced from $1,259,496.00 to $629,748.00 per year for the remainder of the first five (5) years of the remaining term of the HQ Lease and from $1,409,436.00 to $704,718.00 for the final five (5) years of the remaining ten year term of the HQ Lease, resulting in an aggregate saving to the Debtors of $6,672,330.00.

5. First National Bank of Jeffersonville's Motion for Stay Relief

On September 13, 2012, FNBJ filed a motion (the "**FNBJ Motion**") seeking stay relief as to the FNBJ Lien. FNBJ alleged that the FNBJ Lien was oversecured and that the Debtors had failed to make any post-petition payments on account of the FNBJ Loan. Following the filing of the FNBJ Motion, the Debtors and FNBJ commenced discussions regarding a refinancing of the FNBJ Loan. The Debtors anticipate entering into an agreement with FNBJ to

extend and refinance the FNBJ Loan. Pursuant to the Plan, the FNBJ Loan will be treated as a Class 3B Claim and will be reinstated.

6. Ford Motor Credit Company LLC Motion for Stay Relief

On February 14, 2013, Ford Motor Credit Company LLC ("**Ford**") filed a motion (the "**Ford Motion**") seeking stay relief to pursue insurance proceeds related to the destruction of a certain motor vehicle owned by Daytop and in which Ford held a purchase money security interest (the "**Ford Collateral**"). The Ford Collateral purportedly secured a retail installment loan entered into by the Debtors on July 28, 2008. However, the Ford Collateral was destroyed during Hurricane Sandy. The Debtors anticipate entering into a stipulation with Ford to resolve the Ford Motion.

7. Personal Injury Stipulations

During the Chapter 11 Cases, the Debtors entered into certain stipulations (subsequently approved by the Bankruptcy Court) with certain litigants in order to facilitate the resolution of prepetition disputes without materially affecting the Debtors and their assets. These stipulations were entered into with certain individual plaintiffs to modify the automatic stay to allow them to proceed with prepetition state court litigation in order to attempt to recover funds only against available liability insurance proceeds, if any. These stipulations, and the date approved by the Bankruptcy Court, are set forth below:

- So Ordered Stipulation and Agreed Order Between the Debtors, Trevor Vaughn and Shante Vaughn to (I) Settle Personal Injury Claim Pursuant to Terms of Executed Release; (II) Grant Relief from the Automatic Stay, to the Extent Necessary, to Allow Payment from Insurance Policy; and (III) Resolve Proof of Claim (approved on 9/21/2012);

- So Ordered Stipulation and Agreed Order Resolving Motion of Laura McMorrough for Relief From the Automatic Stay (approved on 9/21/2012);

- So Ordered Stipulation and Agreed Order Resolving Motion of Edward Shindnes by Guardian Ad Litem Margarita Shindnes for Relief from the Automatic Stay (approved on 9/21/2012); and

- So Ordered Stipulation and Agreed Order Resolving Motion of Douglas Bell for Relief from the Automatic Stay (approved on 11/9/2012).

G. The Debtors' Business Plan

The Debtors, together with their advisors, spent significant time developing their business plan to emerge from the Chapter 11 Cases (the "**Business Plan**"). In concert with formulating the Business Plan, the Debtors engaged in active discussions with OASAS concerning the future of certain of the Debtors' operations, including which facilities the Debtors will continue to

operate and whether to consolidate or close certain facilities. The Debtors have also had ongoing discussions with OASAS with respect to efforts to re-open and increase census at certain of their facilities. The successful implementation by the Debtors of the Business Plan will, as discussed below, ensure the feasibility of the Plan.

On November 15, 2012, following months of active discussions with OASAS, OASAS notified Daytop that those aspects of the Business Plan that required OASAS action were approved, including authorizing Daytop to (i) relocate patients and staff from the OASAS-certified intensive residential program located at the Debtors' Parksville Facility to the OASAS-certified intensive residential program located at the Debtors' Swan Lake Facility; (ii) sell the Far Rockaway Facility; and (iii) re-open the Millbrook Facility and operate it as a 65-bed short term intensive residential program, subject to OASAS and Daytop agreeing to a budget for program operations.

These approvals were a significant milestone in the Chapter 11 Cases, as they solidified the Debtors' ability to implement necessary restructuring initiatives required for the Debtors to successfully emerge from these Chapter 11 Cases.

H. Proposed Sale of Brooklyn Property

Pursuant to the Business Plan, the Debtors have determined to, *inter alia*, sell the Brooklyn Property owned by Foundation and currently leased by Foundation to DVI, which is used as an outpatient facility (the "**Brooklyn Facility**"), in a further step in the de-leveraging of their respective balance sheets. The Brooklyn Facility is much larger than is required for the purpose for which it is being used and the Debtors intend to find and relocate the Brooklyn Facility to an alternate site on a rental basis of a size that is more commensurate with their needs.

As noted above, the Debtors determined in late July 2012 to retain and employ MKR as real estate broker to DVF to assist with the marketing and sale process with respect to, inter alia, the Brooklyn Property. MKR has extensively marketed the Brooklyn Property. MKR received numerous calls from parties interested in purchasing the Brooklyn Property and conducted nearly 70 tours of and received over 30 offers for the Brooklyn Property. Two (2) parties subsequently entered into extensive negotiations with the Debtors to serve as a potential stalking horse bidder (the "**Stalking Horse Bidder**"). In light of the current operations of the Brooklyn Facility at the Brooklyn Property, the Debtors required that any potential purchaser agree to permit the leaseback of the Brooklyn Property to DVI for a minimum of nine (9) months following the closing of the sale of the Brooklyn Property (the "**Leaseback**") while the Debtors seek a suitable replacement rental location for the Brooklyn Facility.

Ultimately, the Debtors concluded that the offer of the Brooklyn Purchaser for the purchase of the Brooklyn Property (including the Leaseback agreement terms incorporated in the Brooklyn Sale Agreement) in exchange for $4.2 million was the best purchase offer they had received and the Debtors accordingly selected the Brooklyn Purchaser as the Stalking Horse Bidder and on January 30, 2013 entered into a sale agreement (the "**Brooklyn Sale Agreement**") with the Brooklyn Purchaser. The Brooklyn Sale Agreement is subject to higher and better offers. Accordingly, on February 1, 2013, the Debtors filed a *Motion for Entry of Orders (A)(I) Scheduling Hearing to Consider Sale of Certain Non-Residential Real Property Free and Clear of Liens, Claims and Encumbrances Pursuant to Section 363 of the Bankruptcy Code; (II)*

Approving the Form and Manner of Notice of Hearing; (III) Establishing Bidding and Auction Procedures, Bid Protections and Deadlines for Objections; and (B) Approving Sale After Sale Hearing and Granting Related Relief (Case No. 12-11436, Docket No. 549) (the "**Brooklyn Auction and Sale Motion**").

On February 15, 2013, the Bankruptcy Court entered an order (the "**Brooklyn Sale Procedures Order**") approving the auction and bidding procedures requested in the Brooklyn Auction and Sale Motion. Pursuant to the Brooklyn Sale Procedures Order, (i) the deadline for submitting bids for the Brooklyn Property was February 26, 2013 at 4:00 p.m. (prevailing Eastern Time) (the "**Bid Deadline**"); and (ii) if qualified bids (other than Brooklyn Purchaser's bid pursuant to the Brooklyn Sale Agreement) were received by the Debtors, an auction (the "**Brooklyn Auction**") would have been conducted by the Debtors in respect of the Brooklyn Property pursuant to the terms and conditions set forth in the Brooklyn Sale Procedures Order. However, no qualified bids were received by the Debtors prior to the Bid Deadline and the Brooklyn Auction was therefore cancelled.

Accordingly, the Debtors sought approval of the Brooklyn Sale Agreement at a sale hearing on March 5, 2013. Following such hearing, the Court approved the Brooklyn Sale Agreement and sale of the Brooklyn Property to the Brooklyn Purchaser (the "**Brooklyn Sale**") pursuant to an order entered on March 5, 2013. The Debtors anticipate the closing of the Brooklyn Sale to take place during April, 2013.

I. Exclusivity Extensions

Section 1121(b) of the Bankruptcy Code establishes an initial period of 120 days after the Bankruptcy Court enters an order for relief under Chapter 11 of the Bankruptcy Code, during which only the debtor may file a plan of reorganization. If the debtor files such a plan within that initial 120-day period, section 1121(c)(3) of the Bankruptcy Code extends the exclusivity period by an additional 60 days to permit the debtor to seek acceptances of such plan. Section 1121(d) of the Bankruptcy Code also permits the Bankruptcy Court to extend these exclusivity periods, within certain limitations, "for cause." Without further order of the Bankruptcy Court, the Debtors' initial exclusive period to file a plan would have expired on August 3, 2012. However, by an order entered on July 17, 2012, the Bankruptcy Court extended the Debtors' exclusive period within which to file a plan of reorganization through and including November 1, 2012 and the Debtors' exclusive period within which to seek acceptance of such plan through and including December 31, 2012.

To permit the Debtors to continue negotiating with the Committee, the Lenders and OASAS regarding the terms of a consensual plan of reorganization, on October 12, 2012, the Debtors filed their second motion to extend their exclusive periods for an additional 60 days (the "**Second Exclusivity Motion**"). On October 24, 2012, the Committee filed an objection to the Second Exclusivity Motion. On October 29, 2012, the Debtors filed a reply in support of the Second Exclusivity Motion. In light of Hurricane Sandy and the postponement of the October 31, 2012 omnibus hearing in this Bankruptcy cases, on October 30, 2012, the Bankruptcy Court entered a Bridge Order extending the exclusive periods until the Court ruled on the Second Exclusivity Motion. Following additional discussions between the Debtors and the Committee, the parties agreed to a further extension of the Debtors' exclusive periods within which to file a plan or plans of reorganization through and including January 10, 2013 and the Debtors'

exclusive periods within which to seek acceptance of such plan or plans through and including March 15, 2013 (the "**Second Exclusivity Extension**").

On December 12, 2012, the Bankruptcy Court entered an order granting the Second Exclusivity Extension.

J. Debtors' Settlements with Committee and Prepetition Lenders Regarding (i) Proposed Recovery for Holders of Allowed General Unsecured Claims Against DVI and Foundation and (ii) Prepetition Lender Secured Claims

DVI's unsecured creditors hold the majority of the unsecured debt in these Chapter 11 Cases, yet the majority of assets owned by the Debtors are held by Foundation, an entity the Debtors believe was and remains solvent. The Debtors further believed that, in light of the limited assets held and/or owned by DVI, Holders of Allowed General Unsecured Claims against DVI would be legally entitled to **no** or only a very limited recovery under the Plan.

The Committee took the position from the outset of the Chapter 11 Cases that they would seek to commence litigation in order to have the Bankruptcy Court enter an order substantively consolidating the Debtors' Estates. As discussed below (Section VI.B.2), the Debtors believe that no factual basis exists for the Debtors' Estates to be substantively consolidated (and indeed, the Plan does **not** provide for any such consolidation). Despite the Debtors' position, the Debtors and Committee engaged in months of lengthy, complex and good faith negotiations (i) for purposes of achieving a consensual resolution of the issues related to substantive consolidation of the Estates of DVI and Foundation and the recovery for Holders of Allowed General Unsecured Claims against DVI and (ii) to avoid the uncertainty and expense of potentially complicated and protracted substantive consolidation litigation that would prolong these Chapter 11 Cases and threaten the Debtors' long-term prospects for reorganization. Moreover, although the Debtors believed that as a legal matter absent substantive consolidation DVI's unsecured creditors would be entitled to no or a very limited recovery, the Debtors also felt it appropriate to provide for as reasonable a recovery as possible for all of DVI's unsecured creditors under the circumstances. Accordingly, following these negotiations and significant concessions from both sides, the Debtors and Committee in January 2013 reached a settlement and compromise and entered into a term sheet (as revised and amended pursuant to a revised term sheet dated as of March 11, 2013, the "**Debtors/Committee Settlement**"), pursuant to which, in part, Holders of Allowed General Unsecured Claims against DVI will receive a much greater and enhanced recovery than would otherwise be possible.

The original Debtors/Committee Settlement was predicated upon the Prepetition Lenders agreeing to release their pre-petition liens on the Springwood Property, which property was to be marketed to be sold and used to paydown the DVI Creditors Secured Note. While the Prepetition Lenders would not agree to an outright release of their lien on the Springwood Property, they ultimately agreed to certain sharing and lien release provisions discussed further below, and on March 11, 2013, the Debtors, Prepetition Lenders and Committee entered into a term sheet (the "**Prepetition Lenders Settlement**"), which incorporates certain modified terms of the Debtors/Committee Settlement and resolves all issues with the Prepetition Lenders

regarding the treatment of their claims under the Plan, thereby avoiding any potential "cramdown" litigation with the Prepetition Lenders.

More specifically, pursuant to the Debtors/Committee Settlement and Prepetition Lenders Settlement:[22]

- The Debtors will make the DVI Creditors Secured Note Payments to Holders of Allowed General Unsecured Claims against DVI on the DVI Creditors Secured Note, which ten-year note will (a) bear interest at three (3.0%) percent per annum and (b) be issued by DVI on the Effective Date and guaranteed by Foundation in the initial principal amount of $3.5 million (less any costs relating to the cramdown of Class 4A, if necessary) to a Committee Representative to be appointed by the Committee as a fiduciary for the Holders of Allowed Class 4A General Unsecured Claims against DVI.

- As security for the DVI Creditors Secured Note, the Committee Representative will be granted (as of the Effective Date) the Class 4A Mortgages, which will include second liens on the Springwood Property (junior in priority to the liens of the Prepetition Lenders as of the Effective Date) and additional junior liens (which liens will be subordinate to the Senior Liens of the Prepetition Lenders existing as of the Effective Date) on all of the other Debtors' owned real estate assets other than the following properties: (i) the Springwood Property; (ii) the Brooklyn Property; and (iii) the DASNY Properties.

- In addition to receiving the DVI Creditors Secured Note Payments, each Holder of an Allowed General Unsecured Claim against DVI will also receive its Pro Rata Share of: (i) if the Required Mandatory Prepayment is not received by the Prepetition Lenders prior to the Springwood Sale, the DVI Creditors Secured Note Mandatory Prepayments (which DVI Creditors Secured Note Mandatory Prepayments shall reduce the amounts outstanding under the DVI Creditors Secured Note), (ii) if the Springwood Lien Release occurs prior to the Springwood Sale, the Springwood Net Proceeds (which Springwood Net Proceeds shall reduce the amounts outstanding under the DVI Creditors Secured Note), and (iii) the Additional DVI Creditors Secured Note Real Estate Proceeds if the Springwood Lien Release does not occur within twenty-four (24) months of the Effective Date (which Additional DVI Creditors Secured Note Real Estate Proceeds shall reduce the amounts outstanding under the DVI Creditors Secured Note), provided however, that the Reorganized Debtors shall retain a portion of the DVI Creditors Secured Note Prepayment Amounts, as applicable, equal to the Excess Principal Payments, if any, provided further, however, that the Reorganized Debtors' obligation to remit the Additional DVI Creditors Secured

[22] The description of the Debtors/Committee Settlement and Prepetition Lenders Settlement herein is qualified in its entirety by the terms of the Plan, which incorporates the entirety of the Debtors/Committee Settlement and Prepetition Lenders Settlement. In the event of a conflict between the terms described herein and the actual terms of the Debtors/Committee Settlement and/or the Prepetition Lenders Settlement as incorporated in the Plan, the Plan shall govern.

Note Real Estate Proceeds shall be fully satisfied at such time as the DVI Creditors Secured Note Prepayment Amounts total $2,500,000.

- In sum, each Holder of an Allowed General Unsecured Claim against DVI has the possibility (but no certainty or guarantee of any kind) of achieving a greater recovery than its Pro Rata Share of the DVI Creditors Secured Note Payments to the extent the Springwood Net Proceeds obtained from the sale of the Springwood Property exceed $3.5 million (note that the Springwood Property will be marketed and sold for a period of time after the Effective Date by the Committee Representative, in consultation with the Reorganized Debtors) as follows:

    - Assuming the Required Mandatory Prepayment is received by the Prepetition Lenders prior to the Springwood Sale, the Prepetition Lenders will effectuate the Springwood Lien Release, and Holders of Allowed General Unsecured Claims against DVI shall keep all Springwood Net Proceeds, provided that the Debtors shall be entitled to recover from the Springwood Net Proceeds any previously made Principal Payments on the DVI Creditors Secured Note, such that the total recovery by Class 4A does not exceed the greater of (a) the initial principal amount of the DVI Creditors Secured Note and (b) the Springwood Net Proceeds. The Springwood Net Proceeds, if any, will reduce the amount of the DVI Creditors Secured Note.

    - If the Required Mandatory Prepayment has not been received by the Prepetition Lenders prior to the Springwood Sale (and thus the Springwood Lien Release has not been effectuated), but the Springwood Sale has occurred, the Springwood Sale Proceeds and additional Net Proceeds from the sale of other Sale Properties sales will be shared between the Prepetition Lenders, Holders of Allowed General Unsecured Claims against DVI, and the Reorganized Debtors as further described in the Plan.[23]

[23] The sharing arrangement and provisions regarding property sales in the Prepetition Lenders Settlement is implemented throughout the Plan, but is intended to work as follows, and the Plan provisions should be interpreted consistent with the intent set forth as follows: Within thirty-six (36) months from the Effective Date, the Debtors are required to have sold real property other than the Springwood Property and Brooklyn Property (the "**Agreed Sale Properties**") sufficient to result in Mandatory Prepayments of the Prepetition Lender Term Note in the aggregate amount of at least $4,000,000 (the "**Agreed Required Prepayment**"). If the Senior Lenders have received the Agreed Required Prepayment before the Springwood Property is sold, then the Senior Lenders shall release their lien and mortgage on the Springwood Property (the "**Agreed Springwood Release**"). If the Springwood Property is sold before the Senior Lenders have received the Agreed Required Prepayment, then (a) the greater of 66% or $1,665,000 of the Springwood Net Proceeds (or such lesser amount as is required, when combined with previously made Mandatory Prepayments, to total the Agreed Required Prepayment) shall be treated as a Mandatory Prepayment of the Prepetition Lender Term Note and the remaining balance of the Springwood Net Proceeds shall be a mandatory prepayment of the DVI Creditors Secured Note, and (b) upon the sale of the Agreed Sale Properties, from the Net Proceeds of any such sales there shall be a mandatory prepayment of the DVI Creditors Secured Note in an amount equal to the Mandatory Prepayment of the Prepetition Lender Term Note resulting from the sale of the Springwood Property, and the balance shall be a mandatory prepayment of the Prepetition Lender Term Note. At such time as the Prepetition Lenders have received Mandatory Prepayments of

- Each Holder of Allowed General Unsecured Claims against Foundation in its sole and absolute discretion to be made pursuant to the Election Notice, shall elect to receive either the DVF Quarterly Payment Option or the Lump Sum Option. If any Holder of an Allowed General Unsecured Claim against Foundation fails to make an election with respect to its choice of treatment, such holder shall be deemed to have elected the Lump Sum Option. In the event that the aggregate to be paid by the Debtors in connection with the Lump Sum Option exceeds $50,000, then all creditors who have elected the Lump Sum Option shall receive their pro rata share of $50,000, with the balance of their Claim to be treated as if the claimant had elected the DVF Quarterly Payment Option.

- The details regarding the proposed sale of the Springwood Property (which property remains subject to the Prepetition Lenders' liens) and the use of the Springwood Property pending any such sale are included in Article IV to the Plan and Section VI below.

- If Class 4A General Unsecured Claims against DVI votes to reject the Plan in accordance with section 1126 of the Bankruptcy Code and the Debtors are required to "cram-down" the Plan as against Class 4A General Unsecured Claims against DVI (the "**DVI Cram-Down**"), then the reasonable attorneys' fees and costs incurred by the Debtors that are attributable to the DVI Cram-Down and which otherwise would not have been incurred shall reduce the amount of the DVI Creditors Secured Note by an equal amount.

- The Reorganized Debtors shall waive the right to recover any preferential transfers from each Holder of (i) an Allowed Class 4A Claim that votes in favor of the Plan, or (ii) a General Unsecured Claim against DVI as of the Voting Record Date, which Claim is later disqualified to vote on the Plan because of a pending objection to such Claim.

- The Prepetition Lenders will receive the Prepetition Lender Term Note.

- In consideration for entry into the Prepetition Lenders Settlement, the Debtors and Prepetition Lenders will grant mutual releases to the Prepetition Lender Releasees and Debtor Releasees, respectively.

Pursuant to Bankruptcy Rule 9019 and section 1123(b)(3)(A) of the Bankruptcy Code, and in consideration for (i) the classification, Distribution and other benefits provided to Holders of (a) Allowed General Unsecured Claims against DVI and Foundation (the "**Unsecured Creditor Benefits**") and (b) Prepetition Lender Secured Claims under the Plan, and (ii) the

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the Prepetition Lender Term Note in the aggregate amount of $5,000,000 resulting from the sales of Agreed Sale Properties, then (x) if the Springwood Lien Release has not occurred within twenty-four (24) months after the Effective Date, 10% of all additional Net Proceeds of the Agreed Sale Properties shall be a mandatory prepayment of the DVI Creditors Secured Note until such time as the Debtors have made payments aggregating $2,500,000 against the DVI Creditors Secured Note from the sale of the Springwood Property and the Agreed Sale Properties, (y) 10% of all additional Net Proceeds of the Agreed Sale Properties shall be retained by Foundation free and clear of all liens and encumbrances, and (z) the remaining balance of such additional Net Proceeds shall be Mandatory Prepayments of the Prepetition Lender Term Note.

Unsecured Creditor Benefits made possible through the Prepetition Lenders Settlement, these provisions of the Plan shall constitute a good faith compromise and settlement between the Debtors, the Committee, and the Prepetition Lenders and the Debtors therefore believe that the Debtors/Committee Settlement and the Prepetition Lenders Settlement (as and to the extent embodied in the terms of the Plan) should be approved (pursuant to the Confirmation Order) as in the collective best interests of all constituencies in light of the risks of litigation and delay.

K. Letters Regarding Pension Obligations and Proposed Treatment of Pension Claims

Since the Petition Date, the Court has received approximately thirty-four (34) letters (several of which were unsigned or submitted anonymously) written mainly by former employees of DVI (the "**Pension Letters**"). The majority of the Pension Letters (i) assert that certain pension contributions which DVI promised prior to the Petition Date to make to the Retirement Plan were never made; and (ii) request the Court's assistance in providing for reimbursement in full of the Pension Contribution Amount owed by DVI to the Retirement Plan.

The Bankruptcy Code does not permit the Debtors or the Court to provide for a recovery on the Pension Contribution Amount different than the recovery to be provided to the Holders of other Allowed General Unsecured Claims. The Committee has in an exercise of its fiduciary duties to all unsecured creditors – including the beneficiaries of the Retirement Plan – negotiated the Debtors/Committee Settlement for the benefit of all Holders of Allowed General Unsecured Claims, including the Retirement Plan Claim.

As detailed above, Section IV.B.4., the amount owed to the Retirement Plan is an unsecured, non-priority obligation of only DVI and is owed solely and directly to the Retirement Plan, not to individual participants in the Retirement Plan (such as the authors of many of the Pension Letters).[24] The United States Department of Labor (the "**USDOL**") has filed a proof of claim on behalf of the Retirement Plan asserting an unsecured, non-priority claim against DVI in the amount of $5,107,495 (the "**Retirement Plan Claim**"). Assuming confirmation of the Plan, the Debtors intend to treat the Retirement Plan Claim as a Class 4A Allowed General Unsecured Claim against DVI. As such, **the Retirement Plan Claim will be entitled to receive the same recovery that all Class 4A Allowed General Unsecured Claims against DVI will receive and any distributions to the holders of claims against the Retirement Plan will be made by the Retirement Plan**. The Class 4A treatment is discussed in Section VI.C.iv.g. below.

[24] To the extent that individual participants in the Retirement Plan have filed proofs of claim (either priority, secured or unsecured claims) against the Debtors, such claims are duplicative of the USDOL's Retirement Plan Claim and the Debtors intend to file a motion seeking the disallowance of such claims. Any holder of individual claims against the Retirement Plan will be provided with adequate and proper notice of any motion to disallow to be filed by the Debtors.

L. Claims Process and Bar Date

1. Schedules and Statements

On May 21, 2012, each of the Debtors filed with the Bankruptcy Court a statement of financial affairs, and schedules of assets, liabilities and executory contracts and unexpired leases (collectively, the "**Schedules**").

2. Bar Date

By order dated July 23, 2012, the Bankruptcy Court set September 4, 2012 as the general deadline for filing prepetition proofs of claim (including claims under section 503(b)(9) of the Bankruptcy Code) and October 2, 2012 as the deadline for governmental units to file prepetition proofs of claim.

3. Preparation of Claims Estimates and Recoveries

The Debtors have prepared their preliminary estimates of Claims and recoveries by Holders of such Claims based primarily on the following: (a) projections based on anticipated future Claim reconciliations and Claim objections, and (b) other legal and factual analyses unique to particular types of Claims.

The Debtors' preliminary estimates of Allowed Claims are identified in the chart set forth in Section III above and form the basis of projected recoveries in Classes 1 (Priority Non-Tax Claims), 2 (Prepetition Lender Secured Claims), 3 (Other Secured Claims) 4 (General Unsecured Claims), and 5 (Intercompany Claims). Notwithstanding the Debtors' efforts in developing their preliminary Claims estimates, the preparation of such estimates is inherently uncertain and no motions have yet been filed seeking to reduce, recharacterize, reclassify or expunge any Claims. Accordingly, there is no assurance that such estimates will accurately predict the actual amount of Allowed Claims in the Debtors' chapter 11 cases. As a result, the actual amount of Allowed Claims may differ materially from the Debtors' preliminary Claims estimates contained herein.

4. Omnibus Claim Objection and Settlement Procedures

In anticipation of resolving objections to a portion of the over 500 filed proof of claim against the Debtors, on February 19, 2013, the Debtors filed a motion (the "**Claim Procedures Motion**") seeking entry of an order establishing procedures for (i) objections by the Debtors to proofs of claim filed in these Chapter 11 Cases; (ii) settling objections to proofs of claim; and (iii) amending the Debtors' respective schedules of assets and liabilities (the "**Amendment Procedures**") and granting related relief. The relief sought in the Claims Procedures Motion will provide the Debtors with a mechanism to address amendments to their Schedules and claim objections via omnibus and individualized procedures, and will further provide for settlement procedures based on the settled claims' dollar ranges to permit the Debtors to settle claims efficiently and cost effectively.

On March 5, 2013, the Court entered an order approving the Claim Procedures Motion.

M. Estimated Value of Debtors' Assets

As of March 8, 2013, the Debtors had approximately $1.4 million in cash on hand (exclusive of restricted funds).

The Debtors remaining material assets and their estimated values are as follows:

i. 40th Street Net Proceeds (*i.e.* proceeds from the sale of the 40th Street Building) currently held in an attorney trust account by Debtors' counsel: $3.9 million;

ii. Real Property: $33,955,000 million;[25]

iii. Other miscellaneous assets[26]: $2.5 million; and

iv. Causes of Action: The Debtors cannot estimate any proceeds from the pursuit of Causes of Action, or any other actions and Claims due to the Debtors' Estates.

VI.

SUMMARY OF THE PLAN

A. Introduction

This Article provides a summary of the terms and provisions of the Plan, including the classification and treatment of Claims under the Plan and the means for implementation of the Plan. The summary is qualified in its entirety by reference to the Plan, which is submitted herewith. The statements contained in this Disclosure Statement include summaries of the provisions contained in the Plan and in documents referred to therein. The statements contained in this Disclosure Statement do not purport to be precise or complete statements of all the terms of the Plan or the documents referred to therein; reference is made to the Plan and to such documents for the full and complete statements of such terms.

The Plan itself and the documents referred to therein control the actual treatment of Claims against the Debtors under the Plan and will, upon the Effective Date, be binding upon all Holders of Claims against the Debtors, their Estates and other parties in interest.

[25] This value (other than with respect to the Brooklyn and Far Rockaway Properties) is based upon appraisals prepared by Cushman & Wakefield, Inc. in February and March 2011 and which were commissioned by the Prepetition Lenders. Given the appreciation in real estate values since that time, the Debtors believe that the actual values may be materially greater than those reflected in the appraisals. The Debtors have used values of $4.2 million and $4.0 million for the Brooklyn and Far Rockaway properties, respectively. The $4.2 million for the Brooklyn Property represents the current purchase price under the executed Brooklyn Purchase Agreement, and the $4.0 million is an estimate based on current negotiations for the potential sale of the Far Rockaway Property.

[26] Other assets include, among other things, equipment and vehicles used in the Debtors' business and excess furniture. Estimated values are based upon book values as of June 30, 2012.

B. Overall Structure of the Plan

1. Classification of Claims

Under the Plan, Claims are divided into five (5) separate Classes, and each Class will contain sub-Classes for each of the Debtors (*i.e.*, there will be two sub-Classes in each Class), with varying treatment proposed for each. Administrative Expense Claims, Priority Tax Claims, Statutory Fees and Priority Non-Tax Claims are not impaired and will not be classified for purposes of voting on the Plan.

The Classes of Claims against the Debtors created under the Plan, the treatment of those Classes under the Plan, the means for implementation of the Plan and the Distributions to be made under the Plan are described in more detail below.

2. No Substantive Consolidation[27]

The Plan does not provide for substantive consolidation of the Debtors' estates. In general, substantive consolidation is an extraordinary remedy resulting in the pooling of two or more debtors' assets and liabilities so that each of the debtor's liabilities are satisfied from the common pool of assets created by the substantive consolidation. While various other factors may be considered by courts, generally, bankruptcy courts order substantive consolidation of multiple debtors only if it is demonstrated that (i) the operational and financial affairs of the debtors are so entangled that the accurate identification and allocation of assets and liabilities cannot be achieved, or (ii) creditors dealt with the debtors as a single economic unit and did not rely on the separate identity of an individual debtor in extending credit.

During the course of formulating the Plan, the Debtors (through their professionals) considered whether any valid factual and legal basis might exist for the substantive consolidation of the Debtors' Estates. Based on, among others, the following facts, the Debtors believe that no basis exists for the Debtors' Estates to be substantively consolidated:

- The Debtors maintained separate books and records for each Debtor entity, which data can be readily identified and reconciled on a Debtor-by-Debtor basis.

- The Debtors maintained intercompany balances with respect to transactions conducted by and between Debtor entities, recording the same as "payables" or "receivables" depending upon whether the applicable Debtor maintained a positive or negative balance from such transactions.

- The Debtors' operations were structured such that individual Debtor entities served separate purposes and

[27] The following discussion regarding the factors which a court might consider in ordering the extraordinary remedy of substantive consolidation generally, or as they may apply specifically to the Debtors is not intended to be comprehensive or to reflect a full factual or legal analysis, or any admission on the part of the Debtors, but rather is for informational purposes only.

functions and, accordingly, had separate bases for existence and different assets and liabilities.

- In addition, historically, creditors of the various Debtors and their non-debtor subsidiaries transacted business with the Debtors in a manner that respected the separateness of such entities.

All of these facts, among others, would preclude the extraordinary remedy of substantive consolidation with respect to the Debtors' Estates.

While the Plan does not provide for Substantive Consolidation, pursuant to the Debtors/Committee Settlement discussed above, Holders of Allowed General Unsecured Claims against DVI will be receiving a far greater recovery than the Debtors believe they are otherwise legally entitled to receive, which will be funded primarily through a contribution by Foundation of real estate assets which are the property of Foundation alone.

C. Classification and Treatment of Claims and Equity Interests under the Plan

1. Classification Generally

Under the Plan, Claims against the Debtors are divided into different Classes. Classification of Claims in the Plan are for all purposes, including voting, Confirmation and Distribution pursuant to the Plan.

A Claim shall be deemed classified in a particular Class only to the extent that the Claim qualifies within the description of that Class and shall be deemed classified in a different Class only to the extent that any portion of such Claim qualifies within the description of such different Class. A Claim is placed in a particular Class only to the extent that such Claim is Allowed in that Class and has not been paid, released or otherwise settled prior to the Effective Date.

Notwithstanding any Distribution provided for in the Plan, no Distribution on account of any Claim is required or permitted unless and until such Claim becomes an Allowed Claim, which might not occur, if at all, until after the Effective Date.

The classification of Claims set forth in the Plan and explained below shall apply separately to each of the Debtors. All of the potential Classes for the Debtors are set forth in the Plan and explained below. Certain of the Debtors may not have Holders of Claims in a particular Class or Classes, and such Classes shall be treated as set forth in Article III.D. of the Plan. For all purposes under the Plan, each Class will contain sub-Classes for each of the Debtors (*i.e.*, there will be two (2) sub-Classes in each Class).

2. Unclassified Claims Under the Plan

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Priority Tax Claims, and Statutory Fees have not been classified and thus are excluded from the Classes of Claims set forth in Article III of the Plan.

a. Administrative Claims

Except with respect to Administrative Claims that constitute Professional Fees and except to the extent that a Holder of an Allowed Administrative Claim and the applicable Debtor, as applicable, agree to less favorable treatment to such Holder, on, or as soon as reasonably practicable after (i) the Effective Date, if such Administrative Claim is an Allowed Administrative Claim as of the Effective Date, or (ii) the date on which such Administrative Claim becomes an Allowed Administrative Claim or as otherwise determined by the Debtors or Liquidating Trustee, as applicable, each Holder (other than a Professional) of an Allowed Administrative Claim shall receive, in full settlement, satisfaction and release of, and in exchange for, such Allowed Administrative Claim, (a) Cash in an amount equal to the unpaid amount of such Allowed Administrative Claim, or (b) such other treatment as may be agreed upon in writing by such Holder and the Debtors, provided, however, that the Reorganized Debtors shall be authorized to pay Allowed Administrative Claims that arise in the ordinary course of the Reorganized Debtors' business, in full, in the ordinary course of business in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to, such transactions, post-confirmation.

The Debtors cannot estimate at this time what the amount of Allowed Administrative Claims will aggregate on the Effective Date because the Administrative Claims Bar Date (as defined below) has not yet passed and the Debtors have been paying undisputed Administrative Claims in the ordinary course of the Debtors' businesses to the extent permitted by order of the Bankruptcy Court.

The bar date or last date for the filing any Proof of Claim for an Administrative Claim *exclusive of* Professional Fee Claims (which are addressed in Article II.B. of the Plan), that has accrued between the Petition Date and the Effective Date of the Plan shall be thirty (30) days after the Effective Date (the "**Administrative Claims Bar Date**"). Such Administrative Claims must be filed with the Claims Agent as follows:

Via post office:

Epiq Bankruptcy Solutions, LLC
FDR Station, P.O. Box 5112
New York, NY 10150-5112

Via overnight delivery or hand-delivery:

Epiq Bankruptcy Solutions, LLC
757 Third Avenue, 3rd Floor
New York, NY 10017

A copy of the Administrative Claim must also be sent to counsel for the Debtors at the address listed in Section II.D above. The failure to timely file such an Administrative Claim accruing between the Petition Date and the Effective Date as required by this provision **shall bar the Administrative Claim from being paid** (with the sole exception of any Professional Fee Claim).

b. Professional Fees

Notwithstanding any other provision of the Plan concerning Administrative Claims, any Professional seeking an award by the Bankruptcy Court of an Allowed Administrative Claim on account of Professional Fees incurred from the Petition Date through and including the Effective Date (i) shall, no later than thirty (30) days after the Effective Date, file a final application for allowance of compensation for services rendered and reimbursement of expenses incurred through and including the Effective Date and (ii) shall receive, as soon as reasonably practicable after such claim is Allowed, in full settlement, satisfaction and release of, and in exchange for, such Allowed Administrative Claim, Cash in an amount equal to the unpaid amount of such Allowed Administrative Claim in accordance with the Order relating to or allowing any such Administrative Claim.

c. Priority Tax Claims

On, or as soon as reasonably practicable after (i) the Initial Distribution Date, if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date, or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim against a Debtor shall receive, (1) Cash in an amount equal to the amount of such Allowed Priority Tax Claim, (2) Cash in an amount agreed to by such Holder and agreed to and paid by the Debtors, provided that such parties may further agree for the payment of such Allowed Priority Tax Claim to occur at a later date without any further notice to or action, order, or approval of the Bankruptcy Court, or (3) at the sole discretion of the Debtors, Cash in the aggregate amount of such Allowed Priority Tax Claim, payable in installment payments over a period not more than five years from the Petition Date with payment of interest to be determined by the Bankruptcy Court in accordance with section 511 of the Bankruptcy Code and applicable non-bankruptcy law.

d. Statutory Fees

The Debtors shall pay all United States Trustee quarterly fees under 28 U.S.C. § 1930(a)(6), plus interest due and payable under 31 U.S.C. § 3717, on all disbursements, including Plan payments and disbursements in and outside the ordinary course of the Debtors' businesses, until the entry of a Final Order or decree concluding the Debtors' Bankruptcy Cases, dismissal of the Bankruptcy Cases, or conversion of the Bankruptcy Cases to chapter 7.

3. Summary of Classes

Pursuant to the Plan, Holders of Claims in Class 1 (Priority Non-Tax Claims) and Class 3 (Other Secured Claims) are unimpaired and, therefore, the Holders of such Claims are "conclusively presumed" to have voted to accept the Plan.

Pursuant to the Plan, Holders of Claims in Class 2 (Prepetition Lender Secured Claims) and Class 4 (General Unsecured Claims) are impaired and entitled to vote to accept or reject the Plan. Holders of Claims in Class 5 (Intercompany Claims) are impaired and are not receiving any recovery and are, therefore, deemed to reject the Plan.

4. Classification and Treatment Under the Plan

a. Class 1A – Priority Non-Tax Claims against DVI (Unimpaired; not entitled to vote)

Class 1A consists of Priority Non-Tax Claims against DVI. On or as soon as practicable after the Effective Date, each Holder of an Allowed Priority Non-Tax Claim against DVI shall receive, in full and final satisfaction of such Claim, payment in full in Cash of its Allowed Priority Non-Tax Claim against DVI (or as otherwise agreed).

b. Class 1B – Priority Non-Tax Claims against Foundation (Unimpaired; not entitled to vote)

Class 1B consists of Priority Non-Tax Claims against Foundation. On or as soon as practicable after the Effective Date, each Holder of an Allowed Priority Non-Tax Claim against Foundation shall receive, in full and final satisfaction of such Claim, payment in full in Cash of its Allowed Priority Non-Tax Claim against Foundation (or as otherwise agreed).

c. Class 2A – Prepetition Lender Secured Claims against DVI (Impaired; entitled to vote)

Class 2A consists of the Prepetition Lender Secured Claims against DVI. Each Holder of a Prepetition Lender Secured Claim against DVI shall be entitled to receive the Prepetition Lender Term Note in full and final satisfaction of such Claim.

d. Class 2B – Prepetition Lender Secured Claims against Foundation (Impaired; entitled to vote)

Class 2B consists of Prepetition Lender Secured Claims against Foundation. Each Holder of a Prepetition Lender Secured Claim against Foundation shall be entitled to receive, in full and final satisfaction of such Claim, (i) the Prepetition Lender Term Note, and (ii) the Brooklyn Net Proceeds, which proceeds shall reduce the amounts outstanding under the Prepetition Lender Term Note.

e. Class 3A – Other Secured Claims Against DVI (Unimpaired; deemed to accept)

Class 3A consists of Other Secured Claims against DVI. Except to the extent that a Holder of an Allowed Other Secured Claim against DVI agrees to a different treatment, on or as soon as practicable after the Effective Date, each Holder of an Allowed Other Secured Claim against DVI shall receive, in full and final satisfaction of such Claim, either (a) the collateral securing such Allowed Other Secured Claim, or (b) reinstatement and cure of its agreement with DVI.

f. Class 3B – Other Secured Claims Against Foundation (Unimpaired; deemed to accept)

Class 3B consists of Other Secured Claims against Foundation. Except to the extent that a Holder of an Allowed Other Secured Claim against Foundation agrees to a different treatment,

on or as soon as practicable after the Effective Date, each Holder of an Allowed Other Secured Claim against Foundation shall receive, in full and final satisfaction of such Claim, either (a) the collateral securing such Allowed Other Secured Claim, or (b) reinstatement and cure of its agreement with Foundation.

g. Class 4A – General Unsecured Claims Against DVI (Impaired; entitled to vote)

Class 4A consists of the Holders of Allowed General Unsecured Claims against DVI. Each Holder of an Allowed General Unsecured Claim against DVI shall receive, in full and final satisfaction, settlement, discharge and release of its Allowed General Unsecured Claim, its Pro Rata Share of: (i) the DVI Creditors Secured Note Payments, (ii) if the Required Mandatory Prepayment is not received by the Prepetition Lenders prior to the Springwood Sale, the DVI Creditors Secured Note Mandatory Prepayments (which DVI Creditors Secured Note Mandatory Prepayments shall reduce the amounts outstanding under the DVI Creditors Secured Note), (iii) if the Springwood Lien Release occurs prior to the Springwood Sale, the Springwood Net Proceeds (which Springwood Net Proceeds shall reduce the amounts outstanding under the DVI Creditors Secured Note), and (iv) the Additional DVI Creditors Secured Note Real Estate Proceeds if the Springwood Lien Release does not occur within twenty-four (24) months of the Effective Date (which Additional DVI Creditors Secured Note Real Estate Proceeds shall reduce the amounts outstanding under the DVI Creditors Secured Note), provided however, that the Reorganized Debtors shall retain a portion of the DVI Creditors Secured Note Prepayment Amounts, as applicable, equal to the Excess Principal Payments, if any, provided further, however, that the Reorganized Debtors obligation to remit the Additional DVI Creditors Secured Note Real Estate Proceeds shall be fully satisfied at such time as the DVI Creditors Secured Note Prepayment Amounts total $2,500,000.

h. Class 4B – General Unsecured Claims Against Foundation (Impaired; entitled to vote)

Class 4B consists of the Holders of Allowed General Unsecured Claims against Foundation. Each Holder of an Allowed General Unsecured Claim against Foundation, at its sole and absolute discretion to be made pursuant to the Election Notice, shall elect to receive **either** the (i) DVF Quarterly Payment Option or (ii) Lump Sum Option. Any Non-Electing Class 4B Holder shall be deemed to have elected the Lump Sum Option. In the event that the aggregate to be paid by the Debtors in connection with the Lump Sum Option exceeds $50,000, then all creditors who have elected the Lump Sum Option shall receive their pro rata share of $50,000, with the balance of their claim to be treated as if the claimant had elected the DVF Quarterly Payment Option.

i. Class 5A – Intercompany Claims Against DVI (Impaired; not entitled to vote)

Class 5A consists of Intercompany Claims against DVI. All Intercompany Claims against DVI shall be unaffected by the Plan or Confirmation thereof, but Holders of Allowed Intercompany Claims against Foundation (i) shall not receive any distributions under the Plan and (ii) shall not receive any payments in respect of such Intercompany Claims from DVI until the DVI Creditors Secured Note is paid in full.

j. Class 5B - Intercompany Claims Against Foundation (Impaired; not entitled to vote)

Class 5B consists of Intercompany Claims against Foundation. All Intercompany Claims against Foundation shall be unaffected by the Plan or Confirmation thereof, but Holders of Allowed Intercompany Claims against Foundation (i) shall not receive any distributions under the Plan and (ii) shall not receive any payments in respect of such Intercompany Claims from Foundation until the DVI Creditors Secured Note is paid in full.

D. Means for Implementation of the Plan

1. Reorganized Debtors

a. Reorganized Entities Upon Effective Date

The Articles of Incorporation and Bylaws (collectively, the "**Articles**") of DVI and Foundation shall be unaffected and shall remain in full force and effect from and after the Effective Date. The Articles of DVI and Foundation shall preserve the power of their respective Boards of Trustees set forth therein. Prior to the closing of the Debtors' Chapter 11 Cases, any amendments to the Reorganized Debtors' Articles shall be filed with the Bankruptcy Court.

b. Boards of Trustees and Officers of Reorganized DVI and Reorganized Foundation

The respective existing Boards of Trustees and officers of DVI and Foundation shall remain in place as of the Effective Date and shall continue to serve for Reorganized DVI and Reorganized Foundation, subject to all rights of DVI and Foundation to replace members of the boards of officers as is permitted pursuant to the Articles or otherwise; provided, however, that the Chief Executive Officer of DVI and Foundation (the "**CEO**") as of the Effective Date shall not be a member of the Boards of Trustees at any time during which the outstanding indebtedness under the Prepetition Lender Term Note is not less than $6,500,000..

c. Chief Restructuring Officer

Until such time as the indebtedness owed pursuant to the Prepetition Lender Term Note is $6,500,000 or less, DVI shall retain a Chief Restructuring Officer (the "**CRO**") on a part-time basis and the CEO shall report directly to the CRO. The primary responsibilities of the CRO shall be to (a) monitor and execute the Reorganized Debtors' business plan, (b) monitor and manage cash forecasting, cash receipts, and disbursements, and (c) together with the Board of Trustees of Foundation, monitor and execute the marketing and sale of the Springwood Property and the Sale Properties and/or the refinancing of the Prepetition Lender Term Note, subject to the Committee Representative's powers and responsibilities with respect to the marketing and sale of the Springwood Property.

d. Funding of Plan

The Plan will be funded from (a) the Debtors' cash on hand (including the 40th Street Net Proceeds), (b) revenues from ordinary course operations, including OASAS subsidies, (c) proceeds of strategic asset sales, including the Brooklyn Net Proceeds, (d) charitable

fundraising, (e) proceeds of Causes of Action, and (f) such other sources as the Reorganized Debtors deem appropriate. The Debtors are currently in negotiations with respect to the potential sale of one or more pieces of owned real estate.

e. Vesting of Assets in Reorganized Debtors

On the Effective Date, all of the Debtors' and Estates' Assets (including Causes of Action) shall vest in the Reorganized Debtors free and clear of all Claims, liens, charges or other encumbrances, except as set forth in the Plan. For the avoidance of doubt, each Reorganized Debtor will be vested on the Effective Date with the particular Estate Assets belonging to that Debtor prior to the Effective Date. The 40th Street Net Proceeds currently held in an attorney trust account by Debtors' counsel, Lowenstein Sandler LLP, will be released to the Debtors to fund (a) any necessary payments to be made under the Plan (including, but not limited to, the Allowed Secured Claims owed to the Prepetition Lenders pursuant to the Final DIP Order), and (b) the Reorganized Debtors' working capital needs following the Effective Date. Once the Proceeds Sharing Threshold has been met, Foundation shall retain all Foundation Real Estate Proceeds.

2. Reservation of Rights Regarding Causes of Action

The Debtors and, after the Effective Date, the Reorganized Debtors, reserve the right to pursue any and all Causes of Action not relinquished, released, compromised or settled in the Plan or through any Final Order, and the Debtors hereby reserve the rights of the Debtors and the Reorganized Debtors to pursue, administer, settle, litigate, enforce and liquidate consistent with the terms and conditions of the Plan such Causes of Action. The Reorganized Debtors shall, pursuant to Section 1123 and all applicable law, have the requisite standing to prosecute, pursue, administer, settle, litigate, enforce and liquidate any and all Causes of Action. Notwithstanding anything contained in the Plan or the Disclosure Statement to the contrary, all Causes of Action shall be retained by the Debtors and the Reorganized Debtors against all creditors and parties in interest notwithstanding any allowance of, or treatment provided for such creditors' or parties' in interests' Claims; provided however, that the Reorganized Debtors shall (a) waive the right to recover any preferential transfers from each Holder of (i) an Allowed Class 4A Claim that votes in favor of the Plan, or (ii) a General Unsecured Claim against DVI as of the Voting Record Date, which Claim is later disqualified to vote on the Plan because of a pending objection to such Claim and (b) waive the right to pursue and shall release all claims and causes of action against the Prepetition Lender Releasees as set forth in Article IX. of the Plan.

The Reorganized Debtors shall, pursuant to Section 1123 and all applicable law, have the requisite standing to prosecute, pursue, administer, settle, litigate, enforce and liquidate any and all Causes of Action. Except for Causes of Action against a Person or Entity expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order, the Debtors (before the Effective Date) and the Reorganized Debtors (after the Effective Date), expressly reserve all Causes of Action for later adjudication, including, without limitation, the following actions:

i. In the Debtors' respective Schedules of Assets and Liabilities ("**SOAL**") and/or Statements of Financial Affairs ("**SOFA**," and together with the SOAL, the "**Schedules**"), each of which is incorporated herein by reference, the Debtors

listed (i) all payments made by the Debtors within ninety (90) days prior to the Petition Date to creditors (SOFA Section 3(b) and/or SOFA Rider 3b attached to SOFA), (ii) all payments made by the Debtors within one (1) year prior to the Petition Date to creditors who are or were insiders of the Debtors (SOFA Section 3(c) and/or SOFA Rider 3c attached to SOFA), (iii) prepetition lawsuits with respect to which the Debtors were parties (SOFA Section 4(a)), and (iv) pre-petition leases and contracts to which the Debtors were parties (SOAL Schedule G). SOFA Sections 3(b), 3(c), and 4(a), SOFA Riders 3b and 3c and SOAL Schedule G filed, respectively, for each of the Debtors[28] are incorporated herein by reference, and all Persons listed in each of those are collectively the "**Potential Defendant Lists**". The Schedules can be viewed at the Debtors' restructuring website at http://dm.epiq11.com/dvf or through the website maintained by the United States Bankruptcy Court for the Southern District of New York at www.nysb.uscourts.gov. Except as otherwise barred by an applicable statute of limitations which has not been tolled, either by the commencement of these Chapter 11 cases, by agreement of the parties or otherwise, the rights of the Debtors to pursue Causes of Action related to any of the foregoing, including, without limitation, all Causes of Action for avoidance and recovery pursuant to Section 550 of the Bankruptcy Code of transfers avoidable by reason of Section 544, 545, 547, 548, 549 or 553(b) of the Bankruptcy Code, or otherwise, including, without limitation, from the parties listed on the Potential Defendant Lists and whether or not such Causes of Action have been commenced prior to the Effective Date and whether or not such Persons have been identified on the Schedules as having received a payment made by the Debtors within ninety (90) days prior to the Petition Date or, if such person is an insider of the Debtors, within one (1) year prior to the Petition Date, as well as the rights of the Debtors to pursue Causes of Action related to any other transfer, lawsuit, lease or contract inadvertently omitted from the Schedules, are hereby retained and preserved. Recovery related to any Cause of Action shall not be limited to any amounts set forth in the Schedules;

ii. Causes of Action for avoidance and recovery pursuant to Section 550 of the Bankruptcy Code of transfers avoidable by reason of Section 544, 545, 547, 548, 549 or 553(b) of the Bankruptcy Code, or otherwise, including, without limitation, from the New York State Department of Labor related to the filing of warrants (tax or otherwise) and/or liens or encumbrances and/or specifications and levies against the Debtors, their estates or Assets, within ninety (90) days prior to the Petition Date;

iii. Causes of Action arising out of or relating to the sale or sales of any of the Debtors' Assets or any agreements ancillary thereto, whether such sales occurred prior to the Effective Date or after the Effective Date;

[28] SOFA Riders 3b and 3c were only filed on the DVI SOFA.

iv. Causes of Action to recover accounts receivable or other receivables or rights to payment created or arising in the ordinary course of any of the Debtors' businesses;

v. Causes of Action against any current or former director, officer, employee or agent of the Debtors arising out of employment related matters;

vi. Causes of Action against insurance carriers, reinsurance carriers, underwriters or surety bond issuers relating to coverage, indemnity, contribution, reimbursement or other matters;

vii. Causes of Action, counterclaims and defenses relating to loans, notes, mortgages, bonds or other contractual obligations;

viii. Causes of Action against local, state, federal, and foreign taxing authorities for refunds of overpayments or other payments and/or for reversal of improperly applied setoffs;

ix. Causes of Action against utilities, vendors, suppliers of services or goods, or other parties for wrongful or improper termination, suspension of services or supply of goods, or failure to meet other contractual or regulatory obligations;

x. Causes of Action against vendors, suppliers of goods or services, or other parties for failure to fully perform or to condition performance on additional requirements under contracts with any one or more of the Debtors before the assumption or rejection of the subject contracts;

xi. Causes of Action of the Debtors arising under section 362 of the Bankruptcy Code;

xii. Causes of Action for turnover of estate property arising under sections 542 or 543 of the Bankruptcy Code;

xiii. Equitable subordination Causes of Action arising under section 510 of the Bankruptcy Code or other applicable law; and

xiv. Causes of Action for unfair competition, interference with contract or potential business advantage, conversion, infringement of intellectual property or other business tort claims, including without limitation, claims or counterclaims against HBS.

3. Dissolution of the Committee

On the Effective Date, the Committee shall be dissolved and the members of the Committee shall be released and discharged from any further authority, duties, responsibilities, liabilities and obligations related to, or arising from, the Chapter 11 Cases, except that the Committee shall have standing and capacity to prepare and prosecute (i) applications for or objections to the payment of fees and reimbursement of expenses incurred by the Committee or any of the estates' Professionals, and (ii) any pending appeals of Confirmation Order.

4. Termination of Patient Care Ombudsman

On the Confirmation Date, the Patient Care Ombudsman shall be terminated and forever discharged from his duties as Patient Care Ombudsman in these Bankruptcy Cases, except that the Patient Care Ombudsman shall have standing and capacity, subject to the fee caps imposed by the Bankruptcy Court on the Patient Care Ombudsman and his counsel, Baker & Hostetler LLP, to prepare and prosecute applications for the payment of fees and reimbursement of expenses incurred by the Patient Care Ombudsman and his counsel.

5. Appointment of Committee Representative

i. On or prior to the Confirmation Hearing, the Committee shall select, and File a notice of designation of, the Committee Representative. The Committee Representative shall serve until all amounts outstanding under the DVI Creditors Secured Note are paid in full (or reduced to zero on account of the Net Proceeds). The Committee Representative shall have the right to file a designation of its successor with the Bankruptcy Court in the event the Committee Representative is unable to serve until the DVI Creditors Secured Note is paid in full.

ii. On the Effective Date, the Debtors shall issue the DVI Creditors Secured Note and the Class 4A Mortgages to the Committee Representative as a fiduciary for the Holders of Allowed Class 4A Claims. The Committee Representative shall enter into any intercreditor or subordination agreement consistent with the Plan required by the Prepetition Lenders in respect of the Class 4A Mortgages and the DVI Creditors Secured Note, in form reasonably satisfactory to the Reorganized Debtors and the Prepetition Lenders, so long as such intercreditor or subordination agreement (a) prohibits the Committee Representative from taking any action under the Class 4A Mortgages and the DVI Unsecured Creditors Secured Note against the Sale Properties and/or the Springwood Property without the consent of the Prepetition Lenders, and (b) does not impair the right of the Committee Representative to receive the DVI Creditors Secured Note Prepayment Amounts (in all respects subject to Article IV.E.6. to the Plan and Section VI.D.5.vi. below) from the sale of each of the Sale Properties and/or the Springwood Property.

iii. On or as soon as practicable after the Effective Date, but in no event later than thirty (30) days after the Effective Date, the Debtors shall deliver to the Committee Representative a current Claims Register for purposes of calculating the amount of or, to the extent there are proceeds of the DVI Creditors Secured Note available for distribution at such time, establishing the Disputed Claims Reserve. The Debtors shall promptly update the Claims Register, at least quarterly, until all objections to Claims have been fully and finally resolved. Payments to Holders of Allowed Class 4A Claims shall be made by the Reorganized Debtors and the Reorganized Debtors shall provide the Committee Representative with proof of such distributions.

iv. To the extent the Plan requires the Reorganized Debtors to obtain the consent of the Committee following the Effective Date, the Committee Representative shall be the only person authorized to provide such consent.

v. Commencing on the Effective Date, and annually thereafter until the DVI Creditors Secured Note is paid in full, the Debtors shall pay to the Committee Representative the

Committee Representative Compensation, which shall be used by the Committee Representative as compensation for the Committee Representative and to retain and compensate counsel or any other professionals, persons or entities to assist the Committee Representative with the discharge of its duties. Payments of Committee Representative Compensation shall not reduce the amounts due under or the balance of the DVI Creditors Secured Note. Committee Representative Payment Deductions may be deducted from the DVI Creditors Secured Note Payments, but other than in the event of a default in the obligation of the Debtors or the Reorganized Debtors to make the DVI Creditors Secured Note Payments, the Committee Representative shall have no further claim against the Debtors or the Reorganized Debtors in respect of any fees, expenses, attorneys' fees or otherwise. Notwithstanding any Committee Representative Payment Deductions, the full amount of each DVI Creditors Secured Note Payment shall be credited against the Debtors' obligations under the DVI Creditors Secured Note and shall therefore serve to reduce the amount payable under the DVI Creditors Secured Note.

vi. All DVI Creditors Secured Note Prepayment Amounts, less the Excess Principal Payments, if any, which Excess Principal Payments shall be retained by the Reorganized Debtors, shall be distributed to the Holders of Allowed Class 4A Claims at such times as may be reasonably directed by the Committee Representative and shall reduce the amounts outstanding under the DVI Creditors Secured Note. All DVI Creditors Secured Note Prepayment Amounts shall be held by the Reorganized Debtor in an attorney's trust account or other segregated escrow arrangement reasonably satisfactory to the Committee Representative for the benefit of the Committee Representative until distributed to Holders of Allowed Class 4A Claims as soon as practicable thereafter. In the event any of the Sale Properties is sold by the Debtors prior to the Effective Date, the DVI Creditors Secured Note Prepayment Amounts, if any, from any such sale shall be distributed in accordance with the terms of the Plan. DVI Creditors Secured Note Prepayment Amounts shall not constitute property of the Debtors or Reorganized Debtors.

6. The Springwood Property.

i. The Committee Representative, in consultation with the Reorganized Debtors, shall use commercially reasonable efforts to sell the Springwood Property as soon as practicable after the Effective Date. Provided that the Committee Representative has used commercially reasonable efforts to sell the Springwood Property, the Committee Representative shall have the sole right to require Reorganized Foundation to enter into a contract for the sale of the Springwood Property for a period of eighteen (18) months after the Effective Date, after which either the Reorganized Debtors may enter into, or the Committee Representative may require Reorganized Foundation to enter into, a contract for the sale of the Springwood Property, upon reasonable notice thereof to the other party. The Springwood Property shall be sold only for cash payable at closing. The terms of the sale of the Springwood Property, including the price, shall at all times be subject to the consent of the Reorganized Debtors, with such consent not to be unreasonably withheld. The Committee Representative shall select the broker to list, market and show the Springwood Property, provided, however, that the selection of such broker shall at all times be subject to the consent of the Reorganized Debtors, with such consent not to be unreasonably withheld.

ii. The Springwood Property shall be vacant and untenanted and shall be free and clear of all other liens, claims and encumbrances on the Effective Date, provided however,

that the Reorganized Debtors shall be entitled to continue to use the Miller House rent-free for a period ending on the date which is one hundred twenty (120) days after the date the Committee Representative gives the Reorganized Debtors notice of the scheduled closing date for the sale of the Springwood Property, but in all events, not to exceed five (5) years from the Effective Date.

iii. Pending the sale of the Springwood Property:

- The Debtors or Reorganized Debtors shall maintain the Springwood Property in a manner no less favorable than how the Springwood Property was maintained during the Chapter 11 Cases. Routine repairs or maintenance of the Springwood Property reasonably necessary to preserve its sale value shall be made at the Reorganized Debtors' expense;

- The Debtors shall maintain property insurance on the Springwood Property in the amount of $9,536,234, with a deductible in the amount of $5,000 and maintain liability insurance in the amount of $1,000,000 with a deductible in the amount of $0 (or such other amounts as may be agreed to by the Reorganized Debtors and the Committee Representative), with the Committee Representative being named as an additional Loss Payee;

- The Springwood Property may not be leased without the written consent of the Committee Representative, which consent may be withheld for any reason;

- The Reorganized Debtors shall not (a) refinance or (b) permit any liens or any other encumbrances, other than the Prepetition Lenders Springwood Lien, to be placed on the Springwood Property after the Effective Date; provided, however, that the use of Miller House in accordance with the terms set forth herein shall be permitted and shall not constitute a prohibited lien, encumbrance or an impermissible lease of the Springwood Property;

- The Reorganized Debtors shall provide the Committee Representative, or his designee, with access to the Springwood Property at any time upon reasonable notice; and

- The Committee Representative shall be entitled to obtain an annual engineering inspection of the Springwood Property at the Committee Representative's sole expense to determine the Reorganized Debtors' compliance with their obligation to maintain the Property in the manner set forth above.

- The Debtor shall provide the Committee, at the estate's expense, with a title report on the Springwood Property no later than thirty (30) days prior to the first scheduled date for the Confirmation

Hearing. To the extent the title report show there are encumbrances or other defects of title on the Springwood Property, such encumbrances shall be cleared as a condition to the Effective Date at the Debtors' sole expense.

7. Issuance and Recording of the Class 4A Mortgages and Unsecured Note Coverage Ratio

i. The Class 4A Mortgages shall be granted to the Committee Representative and perfected by virtue of (a) the Confirmation Order and (b) the recordation on, or as soon as reasonably practicable after the Effective Date, of such Class 4A Mortgages in the proper recording office.

ii. Notwithstanding anything contained in the Plan to the contrary, it shall be a default under the DVI Creditors Secured Note if the DVI Creditors Secured Note Coverage Ratio is greater than sixty (60%) percent unless, in the event the DVI Creditors Secured Note Coverage Ratio exceeds 60%, the Reorganized Debtors make a payment to the Committee Representative to be applied to the DVI Creditors Secured Note that reduces the DVI Creditors Secured Note Coverage Ratio below 60%. The Reorganized Debtors shall certify annually to the Committee Representative that the equity value of the properties (based on appraisals obtained as needed based on the following two sentences in this paragraph) pledged as collateral for the Note are sufficient to establish that the DVI Creditors Secured Note Coverage Ratio complies with the requirements of this section. For purpose of calculating the DVI Creditors Secured Note Coverage Ratio, the appraisals referenced in the Rule 1017 Affidavit executed by Michael Dailey on the Petition Date may be used by the Reorganized Debtors for a period of two (2) years following the Effective Date. Thereafter, the Reorganized Debtors shall have the appraisal(s) updated or the Pledged Properties reappraised by an MAI appraiser licensed in the state in which the property is located in connection with its annual certification of the DVI Creditors Secured Note Coverage Ratio if the relevant appraisal(s) is more than thirty-six (36) months old.

8. Prepetition Lender Transactions

i. Until the Prepetition Lender Term Note has been repaid in full, the Reorganized Debtors shall pay the Mandatory Prepayments, if any, to the Prepetition Lenders, which Mandatory Prepayments shall be credited against and reduce the balance of the Prepetition Lender Term Note.

ii. It shall constitute a default under the Prepetition Lender Term Note if the Reorganized Debtors fail to make the Required Mandatory Prepayment within thirty-six (36) months of the Effective Date.

iii. If the Springwood Sale closes prior to the Prepetition Lenders receipt of the Required Mandatory Prepayment, the Prepetition Lenders shall be entitled to receive the Mandatory Senior Lender Springwood Prepayment; provided, however, if the Mandatory Senior Lender Springwood Prepayment and Required Mandatory Prepayment together exceed $4,000,000, then the Mandatory Senior Lender Springwood Prepayment and the Required Mandatory Prepayment, to the extent in excess of $4,000,000, shall be (a) treated as and increase

the DVI Creditors Secured Note Mandatory Prepayments and (b) reduce the amounts outstanding under the DVI Creditors Secured Note.

iv. If the Prepetition Lenders receive the Required Mandatory Prepayment prior to the Springwood Sale, the Prepetition Lenders shall take all actions necessary to effectuate the Springwood Lien Release.

v. Any Mandatory Prepayments made during the Prepetition Lender Term Note Initial Amortization Period shall be applied as a credit against any remaining Initial Amortization Payments.

vi. On the Effective Date, Signature shall apply the Prepetition HQ Landlord Letter of Credit Collateral in repayment of the Prepetition HQ Landlord Letter of Credit Reimbursement Obligation, including interest at the contract rate. Signature shall issue a new letter of credit in the amount of approximately $420,000, which amount shall be cash-collateralized on usual and customary terms at Signature by the Reorganized Debtors, which cash collateral may be provided in whole or part by (a) the remaining balance of the Prepetition HQ Landlord Letter of Credit Collateral and/or (b) the 40th Street Net Proceeds.

vii. On the Effective Date, the Debtors shall issue the Prepetition Lender Term Note to the Prepetition Lenders.

9. Method of Distribution Under Plan

a. Rights and Duties of Reorganized Debtors

i. On the Effective Date, the Reorganized Debtors shall, among other things, be responsible for (i) investigating and, where appropriate, pursuing Causes of Action, (ii) resolving all Disputed Claims and (iii) making all Distributions as provided for in the Plan. Distributions to be made by the Reorganized Debtors may be made by any Person designated or retained by the Reorganized Debtors to serve as Disbursing Agent without the need for any further order of the Bankruptcy Court.

10. Cancellation of Existing Agreements

On the Effective Date, except to the extent otherwise provided in the Plan, all notes, stock, instruments, certificates, and other documents evidencing any Claims shall be canceled, shall be of no further force, whether surrendered for cancellation or otherwise, and the obligations of the Debtors thereunder or in any way related thereto shall be discharged.

11. Exemption from Certain Fees and Taxes

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant to the Plan, including the granting or recordation of the Class 4A Mortgages, the Senior Liens or any liens to be granted upon the issuance of the Prepetition Lender Term Note, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate state or local governmental officials or agents to forego the collection of any such tax

or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment. Any sale of Assets by the Reorganized Debtors after the Confirmation Date of the Plan, including the sales of the Brooklyn Property, the Far Rockaway Property and the Springwood Property, shall be deemed to be a sale pursuant to the Plan and not subject to such tax to the fullest extent permitted by section 1146(a) of the Bankruptcy Code.

E. Provisions Governing Distributions

The manner of payment, timing of distributions, and issues related to (i) undeliverable distributions, (ii) allocation of distributions between principal and interest, and (iii) *de minimis* distributions are described in depth in Article VI. of the Plan.

1. Setoffs

The Debtors or the Reorganized Debtors may, but shall not be required to, set-off against, or recoup from any Claim (whether Secured, Administrative, Priority, Unsecured or other), any claims of any nature whatsoever that the Debtors or the Reorganized Debtors may have against the Holder of such Claim (including Causes of Action), but neither the failure to do so nor the allowance of any Claim under the Plan shall constitute a waiver or release by the Debtors or the Reorganized Debtors of any such claim the Debtors or the Reorganized Debtors may have against the Holder of such Claim.

2. Compliance with Tax Requirements

In connection with the Plan and all Distributions hereunder, to the extent applicable, the Debtors or the Reorganized Debtors, as applicable, are authorized to take any and all actions that may be necessary or appropriate to comply with all tax withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all Distributions pursuant to the Plan shall be subject to any such withholding and reporting requirements. The Reorganized Debtors shall be authorized to require each Creditor to provide it with an executed Form W-9 or similar tax form as a condition precedent to being sent a Distribution. If a Holder of an Allowed Unsecured Claim does not provide the Reorganized Debtors with an executed Form W-9 or similar form within 45 days of written request, said Creditor shall be deemed to have forfeited their Distribution.

3. Release of Liens

Except as otherwise provided by Article III of the Plan or in any contract, instrument, release or other agreement or document created or assumed in connection with the Plan, on the Effective Date and concurrently with the applicable Distributions made pursuant to this Article VI, all mortgages, deeds of trust, liens, pledges or other security interests against the property of the Debtors' Estates shall be fully released and discharged, and all of the right, title and interest of any Holder of such mortgages, deeds of trust, liens, pledges or other security interests shall revert to the applicable Estate.

4. Subordination

Except as otherwise provided herein, all subordination rights and claims relating to the subordination by the Debtors or the Reorganized Debtors of any Allowed Claim shall remain valid, enforceable and unimpaired in accordance with section 510 of the Bankruptcy Code or otherwise.

Except as otherwise provided herein or ordered by the Bankruptcy Court, each Holder of a Claim shall be deemed to have waived all contractual, legal and equitable subordination rights that they may have, whether arising under general principles of equitable subordination, section 510(c) of the Bankruptcy Code or otherwise, with respect to any and all Distributions to be made under the Plan, and all such contractual, legal or equitable subordination rights that each Holder has individually and collectively with respect to any such Distribution made pursuant this Plan shall be discharged and terminated, and all actions related to the enforcement of such subordination rights will be permanently enjoined.

F. Procedures for Resolving Disputed Claims

1. Prosecution of Objections to Claims

The Debtors will make reasonable efforts to commence all necessary and appropriate objections to Claims and/or requests for estimation of any Claims prior to the voting deadline established by the Bankruptcy Court with respect to the solicitation of the Plan.

On and after the Effective Date, any pending objections to and/or requests for estimation of any Claims shall vest in the Reorganized Debtors and any additional objections to and/or requests for estimation of any Claims may be interposed and prosecuted only by the Reorganized Debtors, who shall consult with the Committee Representative with respect to any such objections and/or the settlement or resolution thereof. Such objections and requests for estimation shall be served on the respective claimant and filed with the Bankruptcy Court on or before the later of (a) one hundred twenty (120) days after the Effective Date and (b) such other later date as may be fixed by the Bankruptcy Court upon a motion filed by the Reorganized Debtors and served only on the Rule 2002 service list (which motion to extend the objection deadline shall not be deemed a modification of the Plan).

G. Treatment of Executory Contracts and Unexpired Leases

1. Assumption and Rejection of Executory Contracts and Unexpired Leases

a. Any Executory Contracts that are listed as executory contracts or unexpired leases to be assumed in Exhibit A to the Plan, which exhibit will be filed at least ten (10) business days prior to the Confirmation Hearing Date and incorporated therein, or are to be assumed pursuant to the terms hereof, shall be deemed assumed by the Debtors as of immediately prior to the Effective Date, and the entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of any such assumptions pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

b. With respect to any Executory Contracts to be assumed by the Debtors pursuant to Article V.A.1 of the Plan or otherwise, Cure Claims shall be satisfied, pursuant to section 365(b) of the Bankruptcy Code, by payment of the Cure Claims in Cash on the Effective Date or as soon as reasonably practicable thereafter, or on such other terms as the parties to each such Executory Contract may otherwise agree. In the event of a dispute regarding: (1) the amount of any Cure Claim; (2) the ability of the Reorganized Debtors to provide "adequate assurance of future performance" (within the meaning of section 365(b) of the Bankruptcy Code), if applicable, under the Executory Contract to be assumed; or (3) any other matter pertaining to assumption, the Cure Claims shall be paid following the entry of a Final Order resolving the dispute and approving the assumption of such Executory Contracts; provided, however, that the Debtors or the Reorganized Debtors, as the case may be, may settle any dispute regarding the amount of any Cure Claim without any further notice to or action, order, or approval of the Bankruptcy Court.

c. Assumption of any Executory Contract pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract at any time before the effective date of the assumption

d. Any Executory Contract which has not expired by its own terms on or prior to the Effective Date, and which has not been assumed, assumed and assigned, or rejected with the approval of the Bankruptcy Court, or which the Debtors have obtained the authority to reject but have not rejected as of the Effective Date, or which is not the subject of a motion to assume the same pending as of the Effective Date, shall be deemed rejected by the Debtors effective as of the Confirmation Date, and the entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such rejection pursuant to sections 365(e) and 1123(b)(2) of the Bankruptcy Code.

2. Rejection Damages Claims

Proofs of all Claims arising out of the rejection of an executory contract or an unexpired lease pursuant to the Plan shall be filed with the Claims Agent and a copy served upon the Reorganized Debtors not later than thirty (30) days after notice of the occurrence of the Confirmation Date has been served. Any such Claims covered by the preceding sentence not filed within such time shall be forever barred from assertion against the Debtors, their Estates, the Reorganized Debtors, and their respective properties and interests.

3. Indemnification Obligations

Any obligations of the Debtors pursuant to their corporate charters and bylaws or agreements, including amendments, entered into any time prior to the Effective Date, to indemnify, reimburse, or limit the liability of any Person or Entity pursuant to the Debtors' certificates of incorporation, bylaws, policy of providing employee indemnification, applicable state law, or specific agreement in respect of any claims, demands, suits, causes of action, or proceedings against such Person or Entity based upon any act or omission related to such Person or Entity's service with, for, or on behalf of the Debtors prior to the Effective Date with respect to all present and future actions, suits, and proceedings relating to the Debtors shall continue as

obligations of the Reorganized Debtors, and shall survive confirmation of the Plan and shall be discharged, irrespective of whether any such defense, indemnification, reimbursement, or limitation of liability accrued or is owed in connection with an occurrence before or after the Petition Date, provided, however, that all monetary obligations under Article V.C. of the Plan shall be limited solely to available insurance coverage and neither the Reorganized Debtors nor any of their Assets shall be liable for any such obligations assuming the Person or Entity seeking such indemnification timely filed a Proof of Claim. Any Claim based on the Debtors' obligations set forth in Article V of the Plan shall not be a Disputed Claim or subject to any objection in either case by reason of section 502(e)(1)(B) of the Bankruptcy Code. This provision for indemnification obligations shall not apply to or cover any Claims, suits or actions against a Covered Person that result in a final order determining that such Person or Entity is liable for fraud, willful misconduct, gross negligence, bad faith, self-dealing or breach of the duty of loyalty; any such Claim, suit or action shall be deemed discharged pursuant hereto.

4. HQ Lease

Notwithstanding anything to the contrary herein or on Exhibit A to the Plan, the HQ Lease was assumed by Foundation as of the date of the HQ Lease Assumption Order, which assumption shall remain in effect before and after the Effective Date and the HQ Lease shall not be rejected or deemed rejected by operation of the Plan or Confirmation Order. In addition, nothing herein shall be deemed to alter or modify the HQ Lease Assumption Order, the HQ Lease Amendment or the Debtors' obligation to post the HQ Lease Letter of Credit pursuant to the terms of the HQ Lease Assumption Order and HQ Lease Amendment, the obligations of which shall expressly survive confirmation of the Plan.

H. Condition Precedent to Confirmation

The Plan shall not be confirmed, and the Confirmation Date shall not be deemed to occur, unless and until the Confirmation Order, in form and substance satisfactory to the Debtors, has been entered on the docket maintained by the Clerk of the Bankruptcy Court.

1. Conditions Precedent to the Effective Date

The Effective Date shall not occur and the Plan shall not become effective unless and until the following conditions have been satisfied in full or waived by the Debtors in writing:

a. the Confirmation Order, in form and substance satisfactory to the Debtors, shall be entered by the Bankruptcy Court, shall become a Final Order, shall be in full force and effect and shall not be subject to a stay or an injunction which would prohibit the transactions under the Plan;

b. the Confirmation Order shall, among other things, provide that all transfers of property by the Debtors (a) to the Reorganized Debtors (i) are or shall be legal, valid, and effective transfers of property, (ii) vest or shall vest the Reorganized Debtors with good title to such property free and clear of all liens, charges, claims, encumbrances or interests, except as expressly provided in the Plan or Confirmation Order, (iii) do not and shall not constitute voidable transfers under the Bankruptcy Code or under applicable non-bankruptcy law, (iv) shall be exempt from any stamp or other similar tax (which exemption shall also apply to the transfers

by the Reorganized Debtors) and (v) do not and shall not subject the Reorganized Debtors or Holders of Claims to any liability by reason of such transfer under the Bankruptcy Code or under applicable non-bankruptcy law, including, without limitation, any laws affecting successor or transferee liability and (b) to Holders of Claims under the Plan are for good consideration and value;

c. the final version of the Plan and any supplemental documents and exhibits contained therein shall have been Filed in a form and substance satisfactory to the Debtors;

d. all actions and transfers and all agreements, instruments, or other documents necessary to implement the terms and provisions of the Plan, including all transfers to the Reorganized Debtors, shall have been effected or executed and delivered, as applicable, in form and substance satisfactory to the Debtors;

e. all governmental and regulatory approvals required or necessary for confirmation of the Plan, if any, shall have been obtained;

f. all authorizations, consents, and regulatory approvals, if any, required by the Debtors in connection with the consummation of the Plan shall have been obtained and not revoked;

g. all defects of title or encumbrances against the Springwood Property shall have been cleared as of record in accordance with Article IV.E.6.d.vii of the Plan;

h. the Prepetition Lender Term Note and DVI Creditors Secured Note and all necessary documents relating thereto (including all documents regarding the granting of liens and mortgages with respect to the Prepetition Lender Term Note and DVI Creditors Secured Note, as applicable) shall have been issued and executed; and

i. all amounts owed to the Prepetition Lenders pursuant to the Final DIP Order shall have been paid and fully satisfied.

2. Waiver of Conditions

Any of the conditions to Confirmation of the Plan and/or to the Effective Date set forth in Articles VIII.A. and VIII.B. of the Plan, other than entry of the Confirmation Order in form and substance satisfactory to the Debtors, may be waived with the express written consent of the Debtors without leave or order of the Bankruptcy Court, and without any formal action; except that the condition set forth in Article VIII.B.7 of the Plan may only be waived with express written consent from the Committee.

3. Satisfaction of Conditions

Any actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously, and no such action shall be deemed to have occurred prior to the taking of any other such action. If the Debtors determine that one of the conditions precedent set forth in Articles VIII.A. and VIII.B. of the Plan cannot be satisfied and the occurrence of such condition is not waived or cannot be waived, then the Debtors shall file a notice of the failure of the Effective Date with the Bankruptcy Court.

4. Effect of Nonoccurrence of Conditions

If each of the conditions to occurrence of the Effective Date set forth in Article VIII.B of the Plan has not been satisfied or duly waived on or before the first Business Day that is one hundred and eighty (180) days after the Confirmation Date, or such later date as shall be determined by the Debtors, the Confirmation Order may be vacated by the Bankruptcy Court. If the Confirmation Order is so vacated, the Plan shall be null and void in all respects, and nothing contained in the Plan shall constitute a waiver or release of any Claims against any of the Debtors or release of any claims or interests by the Debtors or the Estates.

I. Settlement, Injunction and Related Provisions

1. Discharge and Injunction

Except as otherwise expressly provided by the Plan or the Confirmation Order, Confirmation of the Plan shall discharge the Debtors and the Reorganized Debtors from all Claims or other debts that arose at any time before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not: (a) a proof of claim based on such debt is filed or deemed filed under Section 501 of the Bankruptcy Code; (b) a Claim based on such debt is Allowed under section 502 of the Bankruptcy Code; or (c) the holder of a Claim has accepted the Plan.

Except as otherwise set forth in the Plan or Confirmation Order, to the fullest extent permitted by law, Confirmation of the Plan shall act as an injunction against the commencement or continuation of any action, employment of process, or act to collect, offset, or recover a Claim against the Debtors, the Debtors' Assets or properties, or the Reorganized Debtors. Except as otherwise expressly provided in the Plan or the Confirmation Order, all Persons who have held, hold, or may hold Claims or other debt or liability against any of the Debtors, the Debtors' Assets or properties shall be permanently enjoined, on and after the Effective Date and to the full extent provided under section 524(a) of the Bankruptcy Code, from (a) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim against the Debtors, and the Debtors' Assets and property, (b) the enforcement, attachment, collection, or recovery by any manner or means of any judgment, award, decree, or order against any of the Debtors, Debtors' Assets or properties on account of any such Claim, and (c) creating, perfecting, or enforcing any encumbrance of any kind against any of the Debtors' Assets or properties on account of any such Claim. The foregoing injunction shall apply to the Reorganized Debtors and follow the Debtors' Assets or properties upon any transfer including, without limitation, to the Reorganized Debtors.

2. Preservation of Causes of Action

In accordance with section 1123(b) of the Bankruptcy Code, and except where such Causes of Action have been expressly released, the Reorganized Debtors shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action (including but not limited to the Causes of Action specifically enumerated above, Section VI.D.2.), whether arising before or after the Petition Date or the Confirmation Date, including (but not limited to) any actions specifically enumerated in the Plan, in any supplemental

documents, or herein (and any exhibits or attachments thereto), and the Reorganized Debtors' rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. The Reorganized Debtors may pursue such Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtors' beneficiaries. No Entity may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Cause of Action against them as any indication that the Debtors or the Reorganized Debtors, as applicable, will not pursue any and all available Causes of Action against them. Except with respect to Causes of Action as to which the Debtors have released any Entity on or prior to the Effective Date, the Debtors or the Reorganized Debtors, as applicable, expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan. Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Bankruptcy Court order, the Reorganized Debtors expressly reserve all Causes of Action, for later adjudication.

3. Exculpation and Reliance

To the fullest extent permissible by law under section 1125(e) of the Bankruptcy Code, the Exculpated Parties shall neither have, nor incur, any liability to any Entity (including any holder of a Claim or Interest or any other Entity) for any act taken or omitted to be taken, forbearance from action, decision, or exercise of discretion taken at any time after the Petition Date in connection with, relating to, or arising out of, the Bankruptcy Cases, formulating, negotiating, soliciting, preparing, disseminating, implementing, confirming, or effecting the Plan, the Consummation of the Plan, the Disclosure Statement, the administration of the Plan or the property to be distributed under the Plan or related to the issuance, distribution, and/or sale of any security, or any contract, instrument, release, or other agreement or document created or entered into in connection with the Plan through and including the Effective Date; provided, however, that the foregoing (i) shall not affect the liability of any Person that otherwise would result from any such act or omission to the extent such act or omission is determined by a Final Order to have constituted fraud, willful misconduct, gross negligence, bad faith, self-dealing or breach of duty of loyalty; and (ii) shall not limit the liability of professionals of the Debtors, Reorganized Debtors, or the Committee to their respective clients pursuant to N.Y. Comp. Codes R. & Regs. tit. 22 § 1200.8, Rule 1.8(h)(1) (2009). The Exculpated Parties may reasonably rely upon the opinions of their respective counsel, accountants, and other experts and professionals and such reliance, if reasonable, shall conclusively establish good faith and the absence of gross negligence or willful misconduct; provided, however, that a determination that such reliance is unreasonable shall not, by itself, constitute a determination or finding of bad faith, gross negligence or willful misconduct. The Exculpated Parties shall have all of the benefits and protections afforded under Section 1125(e) of the Bankruptcy Code and applicable law.

4. Injunction Related to Exculpation

The Confirmation Order shall permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action or liabilities exculpated pursuant to Article IX.C. of the Plan.

5. Releases Relating to Prepetition Lenders

In consideration of the agreements reflected in the Prepetition Lenders Term Sheet, on the Effective Date, (a) the Prepetition Lenders shall release and discharge the Debtor Releasees from and against any and all claims, obligations, suits, judgments, debts, damages, rights, causes of action and liabilities that are based in whole or part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date and relating in any way to the Debtors, the Chapter 11 Cases or the Plan, provided, however, that no Debtor Releasee shall be released or discharged from its obligations under the Plan or the Confirmation Order; and (b) the Debtors on their own behalf and on behalf of their estates shall release and discharge the Prepetition Lender Releasees from and against any and all claims, obligations, suits, judgments, debts, damages, rights, causes of action and liabilities that are based in whole or part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date and relating in any way to the Debtors, the Chapter 11 Cases or the Plan, including without limitation Avoidance Actions, provided, however, that no Prepetition Lender Releasee shall be released or discharged from its obligations under the Plan or the Confirmation Order.

J. Retention of Jurisdiction

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court will retain jurisdiction over all matters arising in, arising under or related to the Bankruptcy Cases to the extent legally permissible, including, without limitation, jurisdiction as to the enumerated matters set forth in Article X of the Plan.

K. Post-Confirmation Status Reports

Upon the Effective Date, the Reorganized Debtors will be relieved from the duty to make the reports required by Bankruptcy Rules 2015 and 2015.3. Notwithstanding the foregoing, the Reorganized Debtors will file and serve post-confirmation reports at such times and for such period as required pursuant to Local Bankruptcy Rule 3021-1 and the United States Trustee's Chapter 11 Operating Guidelines. The post-confirmation reports will include a report detailing the Reorganized Debtors' disbursements.

VII.

CERTAIN FACTORS TO BE CONSIDERED

ALL HOLDERS OF IMPAIRED CLAIMS SHOULD READ AND CAREFULLY CONSIDER THE FACTORS SET FORTH BELOW AS WELL AS THE OTHER INFORMATION SET FORTH OR OTHERWISE REFERENCED IN THIS DISCLOSURE STATEMENT PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN.

A. Financial Information; Disclaimer

Although the Debtors have used their best efforts to ensure the accuracy of the financial information provided in this Disclosure Statement, the financial information contained in this

Disclosure Statement has not been audited and is based upon an analysis of data available to the Debtors at the time of the preparation of the Plan and Disclosure Statement. While the Debtors expect that such financial information fairly reflects the financial condition of the Debtors, the Debtors are unable to warrant or represent that the information contained herein and attached hereto is without inaccuracies.

B. Failure to Confirm Plan

Even if the Impaired Classes accept or could be deemed to have accepted the Plan, the Plan may not be confirmed by the Bankruptcy Court. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation and requires, among other things, (1) that the confirmation of the Plan not be followed by liquidation or a need for further financial reorganization, unless, as is the case here, the Plan provides for such liquidation or reorganization, (2) that the value of distributions to dissenting holders not be less than the value of distributions to such holders if the Debtors were liquidated under chapter 7 of the Bankruptcy Code, and (3) that the Plan and the Debtors, as proponents of the Plan, otherwise comply with the applicable provisions of the Bankruptcy Code. Although the Debtors believe that the Plan will meet all applicable tests, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

C. Nonconsensual Confirmation

Pursuant to the "cramdown" provisions of section 1129(b) of the Bankruptcy Code, the Bankruptcy Court can confirm the Plan notwithstanding the non-acceptance of the Plan by an Impaired Class of Claims if at least one other Impaired Class has accepted the Plan (with such acceptance being determined without including the acceptance of any insider (as defined in section 101(31) of the Bankruptcy Code) in such Class) and, as to each Impaired Class which has not accepted the Plan, the Bankruptcy Court determines that the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to Impaired Classes. In accordance with section 1129(a)(8) of the Bankruptcy Code, the Debtors intend to request confirmation of the Plan in accordance with section 1129(b) of the Bankruptcy Code.

Although the Debtors believe that the Plan satisfies the requirements of section 1129(b), there is no guaranty that the Bankruptcy Court will reach that conclusion. Moreover, although the Debtors encourage all Creditors in an impaired Class to vote in favor of the Plan and the Debtors believe that they are likely to have at least one impaired Class vote in favor of the Plan, there is no guaranty that this will occur. If no impaired Class votes in favor of the Plan, the Plan cannot be confirmed as written.

D. Delays of Confirmation or Effective Date

Any delays of either confirmation or effectiveness of the Plan could result in, among other things, increased administrative costs, including Professional Fee Claims. These negative effects of delays of either confirmation or effectiveness of the Plan could endanger the ultimate approval of the Plan by the Bankruptcy Court.

E. Certain Bankruptcy Considerations

Although the Debtors believe that the Plan will satisfy all requirements necessary for confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will reach the same conclusion. Moreover, there can be no assurance that modifications of the Plan will not be required for confirmation or that such modifications would not necessitate the re-solicitation of votes. In addition, although the Debtors believe that the Effective Date will occur during calendar year 2013, there can be no assurance as to such timing.

F. Certain Tax Considerations

There are a number of material United States federal income tax considerations, risks and uncertainties associated with consummation of the Plan. Interested parties should read carefully the discussion set forth in Section VIII of this Disclosure Statement ("Certain United States Federal Income Tax Consequences of the Plan") for a discussion of the material United States federal income tax consequences and risks for Holders of Claims resulting from the transactions occurring in connection with the Plan.

G. No Duty to Update

The statements contained in this Disclosure Statement are made by the Debtors as of the date hereof, unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has been no change in the information set forth herein since that date. The Debtors have no duty to update this Disclosure Statement unless otherwise ordered to do so by the Bankruptcy Court.

H. Claims Could Be More Than Projected, Assets Could Be Less Than Projected

The Allowed amount of Claims in each Class could be greater than projected, which in turn, could cause the amount of Distributions to Creditors to be reduced substantially. Likewise, the amount of Cash available to be used for Distributions could be less than projected, which could cause the Reorganized Debtors to be unable to make the Distributions provided for under the Plan.

I. No Legal Or Tax Advice Is Provided To You By This Disclosure Statement

The contents of this Disclosure Statement should not be construed as legal, business, or tax advice. Each Claim or Equity Interest Holder should consult his, her, or its own legal counsel and accountant as to legal, tax, and other matters concerning his, her, or its Claim or Equity Interest.

This Disclosure Statement is not legal advice to you. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to confirmation of the Plan.

VIII.

CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

THE FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN ARE COMPLEX. ALL HOLDERS OF CLAIMS AGAINST THE DEBTORS SHOULD CONSULT WITH THEIR TAX ADVISORS AS TO THE PARTICULAR TAX CONSEQUENCES TO THEM OF THE PLAN AND THE OWNERSHIP AND DISPOSITION OF PROCEEDS FROM CLAIMS INCLUDING THE APPLICABILITY AND EFFECT OF ANY STATE, LOCAL OR FOREIGN (NON-US) TAX LAWS AND OF ANY CHANGE IN APPLICABLE TAX LAWS.

The following discussion addresses certain United States federal income tax consequences of the consummation of the Plan. This discussion is based upon the United States Tax Code, as amended, existing and proposed regulations thereunder, current administrative rulings, and judicial decisions as in effect on the date hereof, all of which are subject to change, possibly retroactively. No rulings or determinations by the IRS have been obtained or sought by the Debtors with respect to the Plan. An opinion of counsel has not been obtained with respect to the tax aspects of the Plan. This discussion does not purport to address the federal income tax consequences of the Plan to particular classes of taxpayers (such as foreign persons, S corporations, mutual funds, small business investment companies, regulated investment companies, broker-dealers, insurance companies, tax-exempt organizations and financial institutions) or the state, local or foreign income and other tax consequences of the Plan.

IRS CIRCULAR 230 NOTICE: TO ENSURE COMPLIANCE WITH IRS CIRCULAR 230, HOLDERS OF CLAIMS AGAINST THE DEBTORS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF FEDERAL TAX ISSUES CONTAINED OR REFERRED TO IN THIS DISCLOSURE STATEMENT IS NOT INTENDED TO OR WRITTEN TO BE USED, AND CANNOT BE USED, BY SUCH HOLDERS FOR THE PURPOSE OF AVOIDING PENALITIES THAT MAY BE IMPOSED ON THEM UNDER THE INTERNAL REVENUE CODE; (B) SUCH DISCUSSION IS WRITTEN IN CONNECTION WITH THE PROMOTION OR MARKETING OF THE PLAN; AND (C) SUCH HOLDERS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

A. Federal Income Tax Consequences to Holders of Claims and Interests

A Holder of an Allowed Claim will generally recognize ordinary income to the extent that the amount of cash or property received (or to be received) under the Plan is attributable to interest that accrued on a Claim but was not previously paid by the Debtors or included in income by the Holder of the Allowed Claim. A Holder of an Allowed Claim will generally recognize gain or loss equal to the difference between the Holder's adjusted basis in its claim and the amount realized by the Holder upon consummation of the Plan that is not attributable to accrued but unpaid interest. The amount realized will equal the sum of cash and the fair market value of other consideration received (or to be received).

The character of any gain or loss that is recognized will depend upon a number of factors, including the status of the Holder, the nature of the Claim in its hands, whether the Claim was purchased at a discount, whether and to what extent the Holder has previously claimed a bad

debt deduction with respect to the Claim, and the Holder's holding period of the Claim. If the Claim in the Holder's hands is a capital asset, the gain or loss realized will generally be characterized as a capital gain or loss. Such gain or loss will constitute long-term capital gain or loss if the Holder held such Claim for longer than one year or short-term capital gain or loss if the Holder held such Claim for one year or less. If the Holder realizes a capital loss, the Holder's deduction of the loss may be subject to limitation.

A Holder of an Allowed Claim who receives, in respect of its claim, an amount that is less than its tax basis in such claim or equity interest may be entitled to a bad debt deduction under section 166(a) of the Tax Code or a worthless securities deduction under section 165(g) of the Tax Code. The rules governing the character, timing, and amount of these deductions depend upon the facts and circumstances of the Holder, the obligor, and the instrument with respect to which a deduction is claimed. Accordingly, Holders are urged to consult their tax advisors with respect to their ability to take such a deduction if either: (1) the Holder is a corporation; or (2) the Claim constituted (a) a debt created or acquired (as the case may be) in connection with a trade or business of the Holder or (b) a debt the loss from the worthlessness of which is incurred in the Holder's trade or business. A Holder that has previously recognized a loss or deduction in respect of its claim or equity interest may be required to include in its gross income (as ordinary income) any amounts received under the Plan to the extent such amounts exceed the Holder's adjusted basis in such Claim.

Holders of Claims who were not previously required to include any accrued but unpaid interest in their gross income on a Claim may be treated as receiving taxable interest income to the extent any consideration they receive under the Plan is allocable to such interest. Holders previously required to include in their gross income any accrued but unpaid interest on a Claim may be entitled to recognize a deductible loss to the extent such interest is not satisfied under the Plan. Under the Plan, to the extent that any Allowed Claim entitled to a Distribution is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall, for federal income tax purposes, be allocated to the principal amount of the Claim first and then, to the extent the Distribution exceeds the principal amount of the Claim, to the portion of such Claim representing accrued but unpaid interest.

A Holder of a Claim constituting any installment obligation for tax purposes may be required to currently recognize any gain remaining with respect to such obligation if, pursuant to the Plan, the obligation is considered to be satisfied at other than its face value, distributed, transmitted, sold or otherwise disposed of within the meaning of section 453B of the Tax Code.

Whether the Holder of Claims will recognize a loss, a deduction for worthless securities or any other tax treatment will depend upon facts and circumstances that are specific to the nature of the Holder and its Claims. Accordingly, Holders of Claims should consult their own tax advisors.

Under backup withholding rules, a Holder of an Allowed Claim may be subject to backup withholding with respect to payments made pursuant to the Plan unless such Holder (i) is a corporation or is otherwise exempt from backup withholding and, when required, demonstrates this fact or (ii) provides a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the Holder is not subject to backup withholding because of failure to report all dividend and interest income. Any amount

withheld under these rules will be credited against the Holder's federal income tax liability. Holders of Claims may be required to establish an exemption from backup withholding or to make arrangements with regard to payment thereof.

IX.

PROCESS OF VOTING AND CONFIRMATION

The following is a brief summary regarding the voting procedures and the requirements for confirmation of the Plan. Holders of Claims are encouraged to review the relevant provisions of the Bankruptcy Code or to consult their own attorneys. Additional information regarding voting procedures is set forth in the Notice accompanying this Disclosure Statement.

A. Voting Instructions

This Disclosure Statement, accompanied by a Ballot to be used for voting on the Plan, is being distributed to Holders of Allowed Claims in Classes 2a, 2b, 4a, and 4b. Only such Holders of Allowed Claims are entitled to vote to accept or reject the Plan, and may do so by completing the Ballot and returning it to the Voting Agent:

Via Post office:

Epiq Bankruptcy Solutions, LLC
FDR Station, P.O. Box 5112
New York, NY 10150-5112

Via overnight delivery or hand-delivery:

Epiq Bankruptcy Solutions, LLC
757 Third Avenue, 3rd Floor
New York, NY 10017

In light of the benefits to be attained under the Plan by the Holders in each Impaired Class of Claims, **the Debtors recommend that Holders of Claims in the Impaired Classes vote to accept the Plan and return the Ballot prior to the Voting Deadline referred to below**.

BALLOTS MUST BE RECEIVED BY THE VOTING AGENT ON OR BEFORE THE VOTING DEADLINE OF April 15, 2013 AT 4:00 P.M. (PREVAILING EASTERN TIME). ANY BALLOTS RECEIVED AFTER THE FOREGOING TIME MAY NOT BE COUNTED. ANY BALLOT WHICH IS EXECUTED BY THE HOLDER OF AN ALLOWED CLAIM BUT WHICH DOES NOT INDICATE AN ACCEPTANCE OR REJECTION OF THE PLAN SHALL NOT BE COUNTED AS AN ACCEPTANCE OR REJECTION OF THE PLAN. A BALLOT TRANSMITTED TO THE VOTING AGENT BY FACSIMILE, EMAIL OR OTHER ELECTRONIC METHOD WILL NOT BE COUNTED.

Except to the extent permitted by the Bankruptcy Court, Ballots received after the Voting Deadline will not be accepted or counted by the Debtors in connection with the Debtors' request

for confirmation of the Plan. The Debtors expressly reserve the right to amend, at any time and from time to time, the terms of the Plan (subject to compliance with the requirements of section 1127 of the Bankruptcy Code). If the Debtors make a material change to the terms of the Plan or waive a material condition thereof, they can only do so with Bankruptcy Court approval which may require the Debtors to disseminate additional solicitation materials and extend the Voting Deadline.

If a Ballot is signed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation or other Person or Entity acting in a fiduciary or representative capacity, such person must so indicate and, unless otherwise determined by the Debtors, must submit evidence satisfactory to the Debtors of such person's authority.

Except as ordered by the Bankruptcy Court, unless the Ballot being furnished is timely submitted on or prior to the Voting Deadline, the Debtors may, in their discretion, reject such Ballot as invalid and decline to recognize such Ballot in connection with confirmation of the Plan by the Bankruptcy Court.

In the event that a Claim is disputed or a designation is requested under section 1126(e) of the Bankruptcy Code, any vote cast to accept or reject the Plan with respect to such Claim **will not be counted** for purposes of determining whether the Plan has been accepted or rejected, unless the Bankruptcy Court orders otherwise.

The method of delivery of Ballots to be delivered to the Voting Agent is at the election and risk of each Holder of a Claim. Except as otherwise provided herein, such delivery will be deemed made only when actually received by the Voting Agent. Instead of effecting delivery by mail, it is recommended that such Holders use an overnight or hand delivery service. In all cases, sufficient time should be allowed to assure timely delivery.

Any Holder of Impaired Claims that has delivered a valid Ballot may withdraw its vote solely in accordance with Rule 3018(a) of the Federal Rules of Bankruptcy Procedure.

Subject to an order of the Bankruptcy Court, the Debtors reserve the absolute right to reject any and all Ballots not proper in form and the acceptance of which would, in the opinion of the Debtors or their counsel, not be in accordance with the provisions of the Bankruptcy Code, Bankruptcy Rules and applicable case law. Subject to an order of the Bankruptcy Court, the Debtors further reserve the right to waive any defects or irregularities or conditions of delivery as to any particular Ballot. Unless ordered by the Bankruptcy Court, any defects or irregularities in connection with deliveries of Ballots must be cured within such time as the Debtors (or the Bankruptcy Court) determine. Neither the Debtors, nor any other Person or Entity, will be under any duty to provide notification of defects or irregularities with respect to the delivery of Ballots and neither the Debtors, nor any other Person or Entity, will incur any liability for failure to provide such notice. Unless ordered by the Bankruptcy Court, delivery of such Ballots will not be deemed to have been made until such irregularities have been cured or waived. Ballots as to which any irregularities have not theretofore been cured or waived will not be counted.

B. Confirmation Hearing

Section 1128(a) of the Bankruptcy Code requires that the Bankruptcy Court, after notice, hold a hearing on confirmation of a plan. Section 1128(b) of the Bankruptcy Code provides that any party-in-interest may object to confirmation of such plan.

The Confirmation Hearing in respect of the Plan has been scheduled for April 25, 2013 at 1:00 p.m. (prevailing Eastern Time), or as soon thereafter as counsel may be heard, before the Honorable Shelley C. Chapman, United States Bankruptcy Judge, in the United States Bankruptcy Court for the Southern District of New York, Room 621, One Bowling Green, New York, New York 10004. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for any announcement of the adjourned date made at the Confirmation Hearing or any adjournment thereof.

Objections to confirmation of the Plan must be filed and served on or before April 15, 2013 at 4:00 p.m. (prevailing Eastern Time) in accordance with the Notice accompanying this Disclosure Statement**. UNLESS OBJECTIONS TO CONFIRMATION OF THE PLAN ARE TIMELY SERVED AND FILED IN COMPLIANCE WITH THE DISCLOSURE STATEMENT APPROVAL ORDER, THEY WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.**

C. Statutory Requirements for Confirmation of the Plan

At the Confirmation Hearing, the Bankruptcy Court shall determine whether the requirements of section 1129 of the Bankruptcy Code have been satisfied. If so, the Bankruptcy Court shall enter the Confirmation Order. The Debtors believe that the Plan satisfies or will satisfy the applicable requirements, as follows:

- The Plan complies with the applicable provisions of the Bankruptcy Code.
- The Debtors have complied with the applicable provisions of the Bankruptcy Code.
- The Plan has been proposed in good faith and not by any means forbidden by law.
- Any payment made or to be made under the Plan for services or for costs and expenses in or in connection with the Debtors' chapter 11 cases has been disclosed to the Bankruptcy Court and any such payment made before the confirmation of the Plan is reasonable or if such payment is to be fixed after the confirmation of the Plan, such payment is subject to the approval of the Bankruptcy Court.
- With respect to each Class of Impaired Claims, either each Holder of a Claim in such Class had accepted the Plan or each such Holder

will receive or retain under the Plan on account of such Claim property of a value as of the Effective Date of the Plan that is not less than the amount that such Holder would receive or retain if the Debtors were liquidated on such date under chapter 7 of the Bankruptcy Code.

- Each Class of Claims that is entitled to vote on the Plan has either accepted the Plan or is not impaired under the Plan.

- Except to the extent that the Holder of a particular Claim agrees to a different treatment of such Claim, the Plan provides that Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Non-Tax Priority Claims, and Allowed Secured Claims[29] will be paid in full on the Effective Date or as soon thereafter as practicable.

- At least one Class of Impaired Claims (not including any acceptance of the Plan by any Insider (as defined in section 101(31) of the Bankruptcy Code) holding a Claim in such Class) has accepted the Plan.

- Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors or any successor to the Debtors under the Plan, unless such liquidation or reorganization is proposed in the Plan.

- The Debtors have no retiree benefits within the meaning of section 1129(a)(13) of the Bankruptcy Code.

- All fees of the type described in 28 U.S.C. § 1930, including the fees of the United States Trustee, will be paid as of the Effective Date.

The Debtors believe that (1) the Plan satisfies or will satisfy all of the statutory requirements of chapter 11 of the Bankruptcy Code; (2) they have complied or will have complied with all of the requirements of chapter 11 of the Bankruptcy Code; and (3) the Plan has been proposed in good faith.

Best Interests of Creditors Test

Before the Plan may be confirmed, the Bankruptcy Court must find (with certain exceptions) that the Plan provides, with respect to each Class, that each Holder of a Claim in such Class either (a) has accepted the Plan or (b) will receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the amount that such Holder would receive or retain if the Debtors liquidated under chapter 7 of the Bankruptcy Code.

[29] Except to the extent the Debtors elect to return the collateral securing such Claim.

In chapter 7 liquidation cases, unsecured creditors and equity interest holders of a debtor are paid from available assets generally in the following order, with no lower class receiving any payments until all amounts due to senior classes have been paid fully or payment has been provided for:

- Secured creditors (to the extent of the value of their collateral).
- Administrative creditors.
- Priority creditors.
- Unsecured creditors.
- Debt expressly subordinated by its terms or by order of the Bankruptcy Court.
- Equity interest holders.

In order to determine whether the Plan satisfies the "best interests" test, it is first necessary to determine the amount of proceeds Holders in each Impaired Class of Claims would receive in the context of a chapter 7 liquidation. To establish this amount, the Bankruptcy Court must determine the dollar amount that would be generated from the liquidation of the Debtors' assets and properties in a Chapter 7 liquidation case. The amount that would be available for satisfaction of Allowed Claims against each of the Debtors would consist of the proceeds resulting from the disposition of each of the Debtors' assets, augmented by the cash held by the Debtors at the commencement of the Chapter 7 case. Such amount would be reduced by the amount of any Claim secured by the Debtors' assets, the costs and expenses of the liquidation, including costs incurred during the chapter 11 case and allowed under chapter 7 of the Bankruptcy Code (such as professionals' fees and expenses), the fees payable to a chapter 7 trustee, as well as those which might be payable to attorneys, financial advisors, appraisers, accountants and other professionals that such trustee may engage to assist in the liquidation, and such additional Administrative Claims and Priority Non-Tax Claims that may result from the termination of the Debtors' business.

The costs incurred as a result of the liquidation under chapter 7 would become Administrative Claims with the highest priority against the proceeds of liquidation. Moreover, claims entitled to administrative priority may arise by reason of any breach or rejection of any executory contracts entered into by the Debtors during the pendency of the Chapter 11 Cases.

After satisfying Administrative Claims arising in the course of the chapter 7 liquidation, the proceeds of the liquidation would then be payable to satisfy any unpaid expenses incurred during the time the Bankruptcy Cases were pending under chapter 11, including compensation for attorneys, financial advisors, appraisers, accountants and other professionals retained by the Debtors and the Committee. Only after these expenses are paid would general creditor claims be taken into consideration.

After careful review of the estimated recoveries in the proposed Plan scenario and a chapter 7 liquidation scenario, the Debtors have concluded that the recoveries to Creditors will

be maximized by making distributions pursuant to the Plan. Attached hereto as **Exhibit B** is a liquidation analysis (unaudited) that demonstrates that Creditors will receive a greater distribution under the Plan than they would in a chapter 7 liquidation.[30]

The Debtors believe that the Debtors' Estates have value that would not be fully realized by Creditors in a chapter 7 liquidation primarily because, among other reasons, (i) General Unsecured Creditors of DVI would likely receive nothing in a liquidation scenario; (ii) while General Unsecured Creditors of Foundation might receive payment in full of their claims in a liquidation under chapter 7, a liquidation of Foundation's real estate holdings for full value will require a significant investment of time and capital and could lead to potential litigation (absent the Debtors/Committee Settlement) regarding whether all Allowed General Unsecured Creditors Claims should be permitted to recover from the Estates of both Foundation and DVI, to the extent a Court were to find substantive consolidation were appropriate (notwithstanding that the Debtors do not believe any such substantive consolidation would be appropriate); (iii) additional administrative expenses would be incurred in a chapter 7 liquidation, including those of a chapter 7 trustee charging statutory fees of up to 3% of disbursements, any costs of the chapter 7 trustee' professionals becoming familiar with the facts and circumstances of these cases and the costs of maintaining the Debtors' properties without generating any revenue therefrom; (iv) potentially significantly decreased recoveries from the sale of certain assets; and (v) the additional delay in distributions that would occur if the Debtors' Chapter 11 Cases were converted to a case under chapter 7.

D. Plan Feasibility

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtors or any successors to the Debtors under the Plan, unless such liquidation or reorganization is proposed in the Plan. The Plan provides for the reorganization of the Debtors and Distribution of certain Assets to Creditors, with other Creditors (including Creditors holding Allowed Secured Claims, and Allowed General Unsecured Claims) being paid certain percentages over time from future earnings and cash flow of the Debtors.

The ability to make distributions described in the Plan depends on future earnings or operations of the Reorganized Debtors, the capability of which is demonstrated based on the forecast attached hereto as **Exhibit C**.[31] Accordingly, the Debtors believe that the Plan is feasible and meets the requirements of section 1129(a)(11) of the Bankruptcy Code.

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[30] Exhibit B hereto was filed prior to the Disclosure Statement Hearing, and is incorporated herein. *See Notice of Filing of Exhibits B and C to Disclosure Statement for First Amended Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code Proposed by the Debtors*, dated March 1, 2013 (Case No. 12-11436, Docket No. 616), and Schedule 1 attached thereto.

[31] Exhibit C hereto was filed prior to the Disclosure Statement Hearing, and is incorporated herein. *See Notice of Filing of Exhibits B and C to Disclosure Statement for First Amended Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code Proposed by the Debtors*, dated March 1, 2013 (Case No. 12-11436, Docket No. 616), and Schedule 2 attached thereto.

E. Section 1129(b): Unfair Discrimination and the "Fair and Equitable" Test

The Debtors will request Confirmation of the Plan under section 1129(b) of the Bankruptcy Code, and they have reserved the right to modify the Plan to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification. The Bankruptcy Court may confirm the Plan over the rejection or deemed rejection of the Plan by an Impaired Class of Claims or Equity Interests if the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to such Class.

1. No Unfair Discrimination

The "unfair discrimination" test applies to Impaired Classes of Claims or Equity Interests that are of equal priority and are receiving disparate treatment under the Plan. The test does not require that the treatment of such Classes be the same or equivalent, but only that the treatment be "fair." Here, the Plan does not discriminate unfairly and satisfies the "unfair discrimination" test.

While Creditors Holding General Unsecured Claims against Foundation are being provided different treatment than Creditors Holding General Unsecured Claims against DVI, that is on account of their being separate and distinct legal entities, the non-substantive consolidation of the Plans for DVI and Foundation and the different Assets owned by DVI and Foundation. In light of the likely solvency of Foundation, the Creditors thereof will receive payment in full of their Claims over time (*i.e.* the DVF Quarterly Payment Option) or the Lump Sum option in order to satisfy the "Best Interests of Creditors" test under section 1129(a)(7) of the Bankruptcy Code. General Unsecured Creditors of DVI will be entitled to their Pro Rate Share of the (i) the DVI Creditors Secured Note Payments and (ii) the Springwood Net Proceeds, provided however, that the Debtors shall be entitled to retain a portion of the Springwood Net Proceeds equal to the Excess Principal Payments.

2. Fair and Equitable Test: "Cramdown"

The Bankruptcy Code provides a non-exclusive definition of the phrase "fair and equitable." The Bankruptcy Code establishes "cramdown" tests for dissenting classes of secured creditors, unsecured creditors and equity holders. As to each dissenting class, the test prescribes different standards, depending on the type of claims or equity interests in such class:

Secured Creditors. With respect to each class of secured claims that rejects the plan, the plan must provide (i)(a) that each holder of a Secured Claim in the rejecting class retain the liens securing those claims, whether the property subject to those liens is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such secured claim and (b) that the Secured Creditor receives on account of its secured claim deferred cash payments having a value, as of the effective date of the plan, of at least the value of the allowed amount of such secured claim; (ii) for the sale of any property that is subject to the liens securing the claims included in the rejecting class, free and clear of such liens, with such liens to attach to the proceeds of the sale, and the treatment of such liens on proceeds under clause (i) or (iii) of this subparagraph; or (iii) for the realization by the Secured Creditor of the "indubitable equivalent" of its Secured Claim.

Unsecured Creditors. With respect to each Impaired Class of unsecured Claims that rejects the plan, the plan must provide (A) that each holder of a claim in the rejecting class will receive or retain on account of that claim property that has a value, as of the effective date of the plan, equal to the allowed amount of such claim; or (B) that no holder of a claim or interest that is junior to the claims of such rejecting class will receive or retain under the plan any property on account of such junior claim or interest.

Equity Interests. With respect to each Impaired Class of equity interests that rejects the plan, the plan must provide (I) that each holder of an equity interest included in the rejecting class receive or retain on account of that equity interest property that has a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the value of such equity interest; or (II) that no holder of an equity interest that is junior to the equity interests of such rejecting class will receive or retain under the plan any property on account of such junior interest.

The Debtors believe that the Plan may be confirmed pursuant to the above-described "cramdown" provisions, over the dissent of certain Classes of Claims in view of the treatment proposed for such Classes. The Debtors believe that the treatment under the Plan of the Holders of Classes 2 and 4 will satisfy the "fair and equitable" test. Additionally, as noted above, the Debtors do not believe that the Plan unfairly discriminates against any dissenting Class.

Finally, because the Debtors do not have any equity interests, no holder of a claim or interest that is junior to the claims of any rejecting class will receive or retain under the Plan any property on account of such junior claim or interest.

X.

ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

A. Liquidation Under Chapter 7

If no chapter 11 plan can be confirmed, the Debtors' Chapter 11 Cases may be converted to cases under chapter 7 of the Bankruptcy Code in order to liquidate the assets of the Debtors for distribution in accordance with the priorities established by the Bankruptcy Code. The Debtors believe that liquidation under chapter 7 would result in lower distributions being made to creditors than those provided for in the Plan for the reasons set forth in Section IX.C above under the section "Best Interests of Creditors Test" and the liquidation analysis attached hereto as Exhibit "B".

B. Alternative Plan of Reorganization

The Debtors, with the assistance of their professionals, have considered their options and have concluded that the Plan offers the best and highest recoveries for Creditors. The Debtors have concluded that the Plan provides greater potential recoveries for Creditors than any feasible alternative.

RECOMMENDATION

In the opinion of the Debtors, the Plan is preferable to the alternatives described herein. It provides for larger distribution to the Holders than would otherwise result in liquidation under chapter 7 of the Bankruptcy Code. In addition, any alternative other than confirmation of the Plan could result in extensive delays and increased administrative expenses resulting in smaller distributions to the Holders of Claims. **Accordingly, the Debtors recommend that Holders of Claims entitled to vote to accept or reject the Plan support confirmation of the Plan and vote to accept the Plan.**

Dated: March 13, 2013

Daytop Village, Inc.

By: /s/ Stephen Marotta
Name: Stephen Marotta
Title: Chief Restructuring Officer

Daytop Village Foundation Incorporated

By: /s/ Stephen Marotta
Name: Stephen Marotta
Title: Chief Restructuring Officer

Respectfully submitted,

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