

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY**

In re:	)	Chapter 11
SAINT MICHAEL’S MEDICAL CENTER, INC., <i>et al.</i> ,	)	Case No. 15-24999 (VFP)
Debtors. <sup>1</sup>	)	Jointly Administered

**DISCLOSURE STATEMENT RELATING TO JOINT CHAPTER 11 PLAN OF  
ORDERLY LIQUIDATION FOR SAINT MICHAEL’S MEDICAL CENTER, INC. AND  
ITS AFFILIATED DEBTORS**

**THIS IS NOT A SOLICITATION OF VOTES ON THE PLAN. VOTES MAY NOT BE SOLICITED UNTIL THE BANKRUPTCY COURT HAS APPROVED A DISCLOSURE STATEMENT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL BUT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT.**

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<sup>1</sup> The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal identification number are: Saint Michael’s Medical Center, Inc. (6046); Columbus Acquisition Corp. (6342); Saint James Care, Inc. (6230); and University Heights Property Company, Inc. (0162).

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
I. INTRODUCTION .....	4
II. NOTICE TO HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN .....	5
III. EXPLANATION OF CHAPTER 11 .....	8
A. Overview of Chapter 11 .....	8
B. Chapter 11 Plan.....	9
C. Confirmation of a Chapter 11 Plan .....	9
IV. OVERVIEW OF THE PLAN.....	10
A. Summary of the Terms of the Plan .....	10
B. Summary of Distributions Under the Plan.....	13
V. GENERAL INFORMATION .....	21
A. Organizational Structure .....	22
B. Employees.....	22
C. Pre-petition Capital Structure .....	23
D. The Debtors’ Efforts to Sell the Hospital .....	24
E. Factors That Precipitated the Debtors’ Chapter 11 Filing And Purpose Thereof.....	24
VI. THE CHAPTER 11 CASES .....	25
A. Filing of the Petitions and Debtor in Possession Status.....	25
B. First Day Pleadings and Orders .....	26
C. Employment of Professionals for the Debtors .....	26
D. Appointment of the Committee. ....	26
E. DIP Financing .....	26
F. Exclusivity .....	27
G. Claims Bar Date.....	27
H. Administrative Claim Bar Date .....	27
I. Payment of Administrative Expense Claims .....	28
J. Sale of the Debtors’ Business to the Buyer .....	28
VII. POTENTIAL LITIGATION .....	28
A. Estate Causes of Action. ....	28
B. Pending Litigation.....	29
VIII. THE TRINITY SETTLEMENT AGREEMENT .....	29
IX. THE BNYM SETTLEMENT AGREEMENT .....	32

X. THE CHAPTER 11 PLAN ..... 35

    A. Treatment of Claims Against and Equity Interests in SMMC (Debtor 1)..... 35

    B. Treatment of Claims Against and Equity Interests in UHPC (Debtor 2). .... 39

    C. Treatment of Claims Against and Equity Interests in CAC (Debtor 3)..... 40

    D. Treatment of Claims Against and Equity Interests in SJC (Debtor 4)..... 40

    E. Sources of Cash for Plan Distributions..... 41

    F. The Liquidation Trust ..... 41

    G. Releases and Exculpations..... 45

XI. CONFIRMATION AND CONSUMMATION PROCEDURES..... 48

    A. Overview..... 48

    B. Confirmation of the Plan..... 50

    C. Cramdown..... 53

    D. Effect of Confirmation..... 54

XII. TAX ISSUES ..... 54

XIII. RISK FACTORS..... 55

    A. Certain Bankruptcy Considerations ..... 55

    B. Certain Tax Considerations..... 57

XIV. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN ... 57

XV. CONCLUSION ..... 58

**EXHIBITS**

Chapter 11 Plan of Orderly Liquidation ..... Exhibit “A”

Disclosure Statement Order ..... Exhibit “B”

**SCHEDULES**

Chapter 7 Liquidation Analysis ..... Schedule 1

**I.**  
**INTRODUCTION**

All capitalized terms used in this Disclosure Statement and not otherwise defined herein shall have the meanings ascribed thereto in the Plan (see, e.g., Article I, Section 1.1 of the Plan). Unless otherwise stated, all references herein to “Schedules” and “Exhibits” are references to schedules and exhibits to this Disclosure Statement, respectively.

BY ORDER DATED \_\_\_\_\_, 2016 (THE “DISCLOSURE STATEMENT ORDER”), THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEW JERSEY (THE “BANKRUPTCY COURT”) APPROVED THE DISCLOSURE STATEMENT (THE “DISCLOSURE STATEMENT”) RELATING TO THE JOINT CHAPTER 11 PLAN OF ORDERLY LIQUIDATION FOR SAINT MICHAEL’S MEDICAL CENTER, INC. AND ITS AFFILIATED DEBTORS (THE “PLAN”).

THIS DISCLOSURE STATEMENT INCLUDES AND DESCRIBES THE PLAN, A COPY OF WHICH IS ATTACHED HERETO AS EXHIBIT “A”, FILED BY SAINT MICHAEL’S MEDICAL CENTER, INC. (“SMMC”) AND ITS AFFILIATED DEBTORS (COLLECTIVELY, THE “DEBTORS”). OTHER THAN CLASS 1A – PRIORITY NON-TAX CLAIMS AGAINST SMMC, AND CLASS 1B – NON-LENDER SECURED CLAIMS AGAINST SMMC, EACH OF WHICH ARE UNIMPAIRED UNDER THE PLAN AND ARE THEREFORE DEEMED TO HAVE ACCEPTED THE PLAN, AND CLASSES 1E, 2B, 3B, AND 4B, WHICH ARE NOT ENTITLED TO A DISTRIBUTION UNDER THE PLAN AND ARE THEREFORE DEEMED TO HAVE REJECTED THE PLAN, ALL CLASSES ARE ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN. ACCORDINGLY, THE DEBTORS ARE SOLICITING ACCEPTANCES OF THE PLAN FROM THE HOLDERS OF ALL CLAIMS AND EQUITY INTERESTS IN CLASSES 1C – 1D, 1F, 2A, 2C, 3A, 3C, 4A, AND 4C.

THE PLAN PROPONENTS BELIEVE THAT THE PLAN IS IN THE BEST INTEREST OF AND PROVIDES THE HIGHEST AND MOST EXPEDITIOUS RECOVERIES TO HOLDERS OF CLAIMS AND EQUITY INTERESTS. ALL HOLDERS OF CLAIMS ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN ARE URGED TO VOTE IN FAVOR OF THE PLAN.

TO BE COUNTED, YOUR BALLOT MUST BE DULY COMPLETED, EXECUTED AND RECEIVED BY \_\_:\_\_ .M., **PREVAILING EASTERN TIME, ON \_\_\_\_\_, 2016 (THE “VOTING DEADLINE”)**. FOR THE AVOIDANCE OF DOUBT, THE DEBTORS RESERVE THE RIGHT TO OBJECT TO CLAIMS AFTER THE VOTING DEADLINE. MOREOVER, FOR THE AVOIDANCE OF DOUBT, IT IS POSSIBLE THAT HOLDERS OF CLAIMS, INCLUDING UNSECURED CLAIMS, THAT DO NOT APPEAR ON THE DEBTORS’ SCHEDULES AND ARE NOT ALLOWED CLAIMS, WILL NOT RECEIVE A DISTRIBUTION ON ACCOUNT OF SUCH CLAIMS UNTIL THE EXPIRATION OF THE TIME PERIOD WITHIN WHICH CLAIM OBJECTIONS MUST BE FILED AS REFERENCED IN THE PLAN.

FOR YOUR ESTIMATED PERCENTAGE RECOVERY UNDER THE PLAN, PLEASE SEE THE CHART SET OUT IN “OVERVIEW OF THE PLAN – SUMMARY OF DISTRIBUTIONS UNDER THE PLAN.”

**II.**  
**NOTICE TO HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE**  
**PLAN**

The purpose of this Disclosure Statement is to enable you, as a creditor whose Claim or Equity Interest is impaired under the Plan, to make an informed decision in exercising your right to accept or reject the Plan.

**THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT INFORMATION THAT MAY BEAR UPON YOUR DECISION TO ACCEPT OR REJECT THE PLAN. PLEASE READ THIS DOCUMENT WITH CARE.**

**PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN, THE EXHIBITS ANNEXED TO THE PLAN AND THIS DISCLOSURE STATEMENT. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER THE DATE HEREOF. DELIVERY OF THIS DISCLOSURE STATEMENT AFTER THE DATE HEREOF DOES NOT IMPLY THAT THERE HAS BEEN NO CHANGE IN INFORMATION SET FORTH HEREIN SINCE THAT DATE. THE DEBTORS HAVE NO DUTY TO, AND EXPRESSLY DISCLAIM ANY OBLIGATION TO, UPDATE OR ALTER ANY FORWARD-LOOKING STATEMENTS WHETHER AS A RESULT OF NEW INFORMATION, FUTURE EVENTS OR OTHERWISE, UNLESS OTHERWISE ORDERED TO DO SO BY THE BANKRUPTCY COURT. IN THE EVENT OF ANY CONFLICT BETWEEN THE DESCRIPTIONS SET FORTH IN THIS DISCLOSURE STATEMENT AND THE TERMS OF THE PLAN, THE TERMS OF THE PLAN SHALL GOVERN.**

**THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 3016(b) AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAW OR OTHER NON-BANKRUPTCY LAW. THIS DISCLOSURE STATEMENT HAS NEITHER BEEN APPROVED NOR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION (THE “SEC”), NOR HAS THE SEC PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN. PERSONS OR ENTITIES TRADING IN OR OTHERWISE PURCHASING, SELLING OR TRANSFERRING CLAIMS OF THE DEBTORS SHOULD EVALUATE THIS DISCLOSURE STATEMENT AND THE PLAN IN LIGHT OF THE PURPOSE FOR WHICH THEY WERE PREPARED.**

**CERTAIN STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING ANY FINANCIAL INFORMATION, ILLUSTRATIVE CREDITOR**

**RECOVERIES AND OTHER FORWARD-LOOKING STATEMENTS, ARE BASED, AT LEAST IN PART, ON ESTIMATES AND ASSUMPTIONS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL BE REFLECTIVE OF ACTUAL OUTCOMES. MOREOVER, THE DEBTORS RESERVE ALL OF THEIR RESPECTIVE RIGHTS TO ASSERT THAT THE ALLOCATION OF VALUE MAY BE DIFFERENT.**

**AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER ACTIONS OR THREATENED ACTIONS, THE DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION, OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THE DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST, OR EQUITY INTERESTS IN, THE DEBTORS IN THESE CHAPTER 11 CASES.**

On \_\_\_\_\_, 2016, after notice and a hearing, the Bankruptcy Court entered the Disclosure Statement Order pursuant to section 1125 of the Bankruptcy Code, finding that the Disclosure Statement contains information of a kind, and in sufficient detail, adequate to enable a hypothetical, reasonable investor typical of holders of the solicited classes of Claims against the Debtors to make an informed judgment with respect to the acceptance or rejection of the Plan. **APPROVAL OF THIS DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT OF THE FAIRNESS OR MERITS OF THE PLAN OR OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT.**

Each holder of a Claim entitled to vote to accept or reject the Plan should read this Disclosure Statement and the Plan in their entirety before voting. No solicitation of votes to accept or reject the Plan may be made except pursuant to this Disclosure Statement and section 1125 of the Bankruptcy Code. Except for the Debtors and certain of the Professional Persons the Debtors have retained, no person has been authorized to use or promulgate any information concerning the Debtors, their businesses, or the Plan other than the information contained in this Disclosure Statement and if given or made, such information may not be relied upon as having been authorized by the Debtors. You should not rely on any information relating to the Debtors, their businesses, or the Plan other than that contained in this Disclosure Statement, the exhibits hereto, and the Plan itself.

After carefully reviewing this Disclosure Statement, including the attached exhibits, please indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the enclosed ballot (the "Ballot") and return the same to the address set forth on the Ballot, in the enclosed, postage prepaid, return envelope so that it will be actually received by Prime Clerk LLC (the "Solicitation Agent" or "Claims Agent," as applicable) no later than the Voting Deadline. All votes to accept or reject the Plan must be cast by using the appropriate ballot. Votes which are cast in any other manner will not be counted. **All ballots must be actually received by the Solicitation Agent no later than \_\_\_\_\_, 2016 at \_\_:\_\_ .m., prevailing**

**Eastern Time. For detailed voting instructions and the name, address and phone number of the person you may contact if you have questions regarding the voting procedures, see the Disclosure Statement Order attached hereto as Exhibit “B”.**

**DO NOT RETURN ANY OTHER DOCUMENTS WITH YOUR BALLOT.**

You may be bound by the Plan if it is accepted by the requisite holders of Claims even if you do not vote to accept the Plan, or if you are the holder of an unimpaired Claim.

**THE PLAN CONTAINS BROAD RELEASES AND INJUNCTIONS THAT WILL AFFECT YOUR RIGHTS AS DESCRIBED IN SECTION X (G) OF THIS DISCLOSURE STATEMENT AND ARTICLE VIII OF THE PLAN. THESE RELEASES AND INJUNCTIONS INCLUDE, AMONG OTHERS: (I) A PERMANENT INJUNCTION OF THE COMMENCEMENT OF ACTIONS AND THE PERFECTION OR ENFORCEMENT OF JUDGMENTS AND ENCUMBRANCES AGAINST THE DEBTORS AND THEIR ESTATES BY ANY ENTITY; (II) A RELEASE OF THE DEBTORS, THEIR DIRECTORS AND OFFICERS, THE LIQUIDATION TRUSTEE, THE COMMITTEE, AND ALL OTHER “RELEASED PARTIES” (AS DEFINED IN THE PLAN) BY ALL CREDITORS AND EQUITY SECURITY HOLDERS OF ALL LIENS, CLAIMS, CAUSES OF ACTION, LIABILITIES, ENCUMBRANCES, SECURITY INTERESTS, INTERESTS OR CHARGES OF ANY NATURE OR DESCRIPTION WHATSOEVER RELATING TO THE DEBTOR, THE CHAPTER 11 CASES OR AFFECTING PROPERTY OF THE ESTATES, WHETHER KNOWN OR UNKNOWN, SUSPECTED OR UNSUSPECTED, SCHEDULED OR UNSCHEDULED, CONTINGENT OR NOT CONTINGENT, UNLIQUIDATED OR FIXED, ADMITTED OR DISPUTED, MATURED OR UNMATURED, SENIOR OR SUBORDINATED, WHETHER ASSERTABLE DIRECTLY OR DERIVATIVELY BY, THROUGH, OR RELATED TO THE DEBTORS, AGAINST SUCCESSORS OR ASSIGNS OF THE DEBTORS AND THE INDIVIDUAL AND ENTITIES LISTED ABOVE, WHETHER AT LAW, IN EQUITY, OR OTHERWISE, BASED UPON ANY CONDITION, EVENT, ACT, OMISSION, OCCURRENCE, TRANSACTION, OR OTHER ACTIVITY, INACTIVITY, INSTRUMENT OR OTHER AGREEMENT OF ANY KIND OR NATURE OCCURRING, ARISING, OR EXISTING PRIOR TO THE EFFECTIVE DATE IN ANY WAY RELATING TO OR ARISING OUT OF, IN WHOLE OR IN PART, THE DEBTORS, THE CHAPTER 11 CASES, THE PURSUIT OF CONFIRMATION OF THE PLAN, THE NEGOTIATION AND CONSUMMATION OF THE SALE, THE CONSUMMATION OF THE PLAN, OR THE ADMINISTRATION OF THE PLAN, INCLUDING, WITHOUT LIMITATION, THE NEGOTIATION AND SOLICITATION OF THE PLAN, ALL REGARDLESS OF WHETHER (A) A PROOF OF CLAIM HAS BEEN FILED OR IS DEEMED TO HAVE BEEN FILED, (B) SUCH CLAIM IS ALLOWED; AND (III) A PERMANENT INJUNCTION OF ANY ACTION AGAINST ANY “RELEASED PARTY” RELATED TO ANY CLAIM, DEMAND, LIABILITY, OBLIGATION, DEBT, RIGHT, CAUSE OF ACTION, INTEREST, OR REMEDY RELEASED OR TO BE RELEASED PURSUANT TO THE PLAN.**

Pursuant to section 1128 of the Bankruptcy Code, the Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan (the “Confirmation Hearing”) for

\_\_\_\_\_, 2016 at \_\_: \_\_.m., prevailing Eastern Time, before the Honorable Vincent F. Papalia, United States Bankruptcy Judge of the United States Bankruptcy Court for the District of New Jersey. The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan be filed and served on or before \_\_\_\_\_, 2016 at \_\_:\_\_ .m., prevailing Eastern Time, in the manner described in the Disclosure Statement Order attached hereto as Exhibit “B”.

**THE PLAN PROPONENTS SUPPORT CONFIRMATION OF THE PLAN AND URGE ALL HOLDERS OF IMPAIRED CLAIMS TO ACCEPT THE PLAN.**

**III.**  
**EXPLANATION OF CHAPTER 11**

**A. Overview of Chapter 11**

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code pursuant to which a debtor may reorganize its business for the benefit of its creditors, equity holders and other parties in interest. The Debtors commenced these chapter 11 cases, captioned In re Saint Michael’s Medical Center, Inc., Case No. 15-24999 (VFP) (the “Chapter 11 Cases”), with the filing of voluntary petitions (the “Petitions”) for relief under chapter 11 of the Bankruptcy Code on August 10, 2015 (the “Petition Date”).

The commencement of a chapter 11 case creates an estate comprised of all the legal and equitable interests of a debtor in property as of the date the petition is filed. Sections 1101, 1107 and 1108 of the Bankruptcy Code provide that a debtor may continue to operate its business and remain in possession of its property as a “debtor in possession” unless the bankruptcy court orders the appointment of a trustee. In the Chapter 11 Cases, the Debtors have remained in possession of their property and continued to operate their business as debtors in possession up to the May 1, 2016 closing on the sale of their assets to the Buyer.

The filing of a chapter 11 petition triggers the automatic stay provisions of the Bankruptcy Code. Section 362 of the Bankruptcy Code provides, among other things, for an automatic stay of all attempts by creditors or other third parties to collect prepetition claims from the debtor or otherwise interfere with its property or business. Exempted from the automatic stay are governmental authorities seeking to exercise regulatory or policing powers. Except as otherwise ordered by the bankruptcy court, the automatic stay remains in full force and effect until the effective date of a confirmed chapter 11 plan.

The formulation of a chapter 11 plan is the principal purpose of a chapter 11 case. The plan sets forth the means for satisfying claims against and interests in a debtor’s estate. Unless a trustee is appointed, only a debtor may file a plan during the first 120 days of a chapter 11 case (the “Filing Period”), and the debtor will have 180 days to solicit acceptance of such plan (the “Solicitation Period” and, collectively with the Filing Period, the “Exclusive Periods”). However, section 1121(d) of the Bankruptcy Code permits the bankruptcy court to extend or reduce the Exclusive Periods upon a showing of “cause.” The Filing Period and Solicitation Period may not be extended beyond 18 months and 20 months, respectively, from a debtor’s petition date. In these Chapter 11 Cases, the Debtors filed the Plan within the applicable Filing



Period and, accordingly, no other creditor or party in interest may file a plan during the Exclusive Periods.

**B. Chapter 11 Plan**

A chapter 11 plan may provide anything from a complex restructuring of a debtor's business and its related obligations to a simple liquidation of a debtor's assets. In either event, upon confirmation of the plan, the plan becomes binding on a debtor and all of its creditors and equity holders, and the prior obligations owed by the debtor to such parties are compromised and exchanged for the obligations specified in the plan. For a description of key components of the Plan, see "Overview of the Plan," below.

After a chapter 11 plan has been filed, the holders of impaired claims against and equity interests in a debtor are permitted to vote to accept or reject the plan. Before soliciting acceptances of the proposed plan, section 1125 of the Bankruptcy Code requires the debtor to prepare and file a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment about the plan. **This Disclosure Statement is presented to holders of impaired claims against, and equity interests in, the Debtors to satisfy the requirements of section 1125 of the Bankruptcy Code in connection with the Debtors' solicitation of votes on the Plan.**

**C. Confirmation of a Chapter 11 Plan**

If all classes of claims and equity interests accept a chapter 11 plan, the bankruptcy court may confirm the plan if the bankruptcy court independently determines that the requirements of section 1129(a) of the Bankruptcy Code have been satisfied. See "Confirmation and Consummation Procedures – Confirmation of the Plan." **The Debtors believe that the Plan satisfies all the applicable requirements of section 1129(a) of the Bankruptcy Code.**

Chapter 11 of the Bankruptcy Code does not require that each holder of a claim or interest in a particular class vote in favor of a plan for the bankruptcy court to determine that the class has accepted the plan. See "Confirmation and Consummation Procedures."

In addition, classes of claims or equity interests that are not "impaired" under a chapter 11 plan are conclusively presumed to have accepted the plan and thus are not entitled to vote. Furthermore, classes that are to receive no distribution under the plan are conclusively deemed to have rejected the plan. See "Confirmation and Consummation Procedures." Accordingly, acceptances of a plan will generally be solicited only from those persons who hold claims or equity interests in an impaired class. Classes 1A and 1B are not impaired under the Plan, and the holders of Claims in such classes are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code and are not entitled to vote to accept or reject the Plan. Classes 1C – 1D, 2A, 2C, 3A, 3C, 4A, and 4C are impaired under the Plan, and the holders of Claims and Equity Interests in such classes are entitled to vote to accept or reject the Plan. Classes 1E, 1F, 2B, 3B, and 4B are impaired and will not receive or retain any property under the Plan, and the holders of Claims in such classes are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and are not entitled to vote to accept or reject the Plan.

In general, a bankruptcy court also may confirm a chapter 11 plan even though fewer than all the classes of impaired claims against and equity interests in a debtor accept such plan. For a chapter 11 plan to be confirmed, despite its rejection by a class of impaired claims or equity interests, the plan must be accepted by at least one class of impaired claims (determined without counting the vote of insiders) and the proponent of the plan must show, among other things, that the plan does not “discriminate unfairly” and that the plan is “fair and equitable” with respect to each impaired class of claims or equity interests that has not accepted the plan. See “Confirmation and Consummation Procedures – Cramdown.” **The Plan has been structured so that it will satisfy the foregoing requirements as to any rejecting class of Claims and can therefore be confirmed, if necessary, over the objection of any (but not all) classes of Claims.**

#### **IV. OVERVIEW OF THE PLAN**

The Plan provides for the treatment of Claims against and Equity Interests in each of the four Debtors in the Chapter 11 Cases (Saint Michael’s Medical Center, Inc.; Columbus Acquisition Corp.; Saint James Care, Inc.; and University Heights Property Company, Inc.). As set forth below and in the Plan, the classes of Claims against and Equity Interests in each of the Debtor are treated separately from the classes of Claims against and Equity Interests in the other three respective Debtors.

##### **A. Summary of the Terms of the Plan**

The Plan implements and is built around the following key elements:

- **The Plan incorporates two extensively negotiated settlements that were previously approved by the Bankruptcy Court:**
  - The Trinity Settlement Agreement (as defined below) by and among, the Debtors, the Committee and Trinity: The Trinity Settlement Agreement provided liquidity to fund the Chapter 11 Cases and excess funds to fund the proposed Plan. The Trinity Settlement Agreement provides, among other things, a \$15 million DIP, repayment of which was waived; a preferred distribution to general unsecured creditors prior to Trinity sharing on account of its >\$135 million unsecured claim; and funding of \$750,000 for the reasonable costs of preparing and confirming a plan of liquidation. In return, Trinity received a release of all claims of the Debtor against Trinity as set forth below and in the Trinity Settlement Agreement.
  - The BNYM Settlement Agreement (as defined below) by and among, the Debtors, the Committee and BNYM: The BNYM Settlement Agreement resolved the single largest claim against the Debtors – an asserted secured claim in excess of \$233 million by BNYM – for \$55.75 million, making possible the projected distribution in these cases. The BNYM Settlement Agreement provides, among other things, for the payment by the Debtors to BNYM in the amount of fifty-five million seven hundred and fifty thousand dollars (\$55,750,000.00) from the proceeds of the sale of substantially all the Debtors’ assets to the Buyer in exchange for a release of all claims, lien, encumbrances and interests of BNYM in, on and to the Debtors’ pre-petition collateral and the remaining cash proceeds from the sale.

- On the Effective Date, the authority, power and incumbency of the Debtors shall terminate, and vest in the Liquidation Trustee and Debtor Representative, and all Assets of the Debtors not sold to the Buyer or otherwise distributed in accordance with the Plan, including, without limitation, the Avoidance Actions, shall become assets of the Liquidation Trust. The Liquidation Trustee shall, among other things, (a) sell, lease, license, abandon or otherwise dispose of Liquidation Trust Assets, including SMMC's interest in Chestnut Risk; (b) prosecute through judgment and/or settling the Liquidation Trust Assets and any defense asserted by the Liquidation Trust in connection with any counterclaim or crossclaim asserted against the Liquidation Trust; (c) calculate and make distributions required under the Plan to be made from the Liquidation Trust Assets; (d) file all required tax returns, and paying obligations on behalf of the Liquidation Trust from the Liquidation Trust Assets; (e) otherwise administer the Liquidation Trust; (f) file quarterly reports with the Bankruptcy Court with respect to the expenditures, receipts, and distributions of the Liquidation Trust; and (g) perform such other responsibilities as may be vested in the Liquidation Trustee pursuant to the Liquidation Trust Agreement, the Confirmation Order, or as may be necessary and proper to carry out the provisions of the Plan relating to the Liquidation Trust.
- On the Effective Date, the Oversight Committee shall be formed. The Oversight Committee shall advise and assist the Liquidation Trustee in the implementation and administration of the Liquidation Trust pursuant to the Liquidation Trust Agreement and the Plan. A list of the proposed members of the Oversight Committee, whose appointment shall become effective as of the Effective Date of the Plan, shall be filed with the Bankruptcy Court as a Plan Document.
- Allowed Priority Non-Tax Claims against SMMC are unimpaired under the Plan, and holders of such claims shall be paid in full.
- Allowed Non-Lender Secured Claims against SMMC shall be treated in one of the following ways at the Liquidation Trustee's election: (i) the rights of the holder shall be reinstated, (ii) the holder shall retain a its lien and receive deferred cash payments totaling at least the value of the claim as of the Effective Date, (iii) the collateral security the claim shall be surrendered to the holder, or (iv) the holder shall be paid cash equal to the amount of the claim, as set forth more fully in Section 3.7(b) of the Plan.
- Allowed Non-Trinity General Unsecured Claims against SMMC and Allowed Trinity General Unsecured Claims against SMMC are impaired under the Plan and shall receive on the Plan Distribution Date, in full satisfaction of such claims, its Pro Rata Share of Cash based on the "waterfall" recoveries set forth in Sections 3.7(c) and 3.7(d) of the Plan.

- Holders of Allowed Intercompany Claims shall not receive or retain any property or rights under the Plan on account of such Claims.
- Each holder of an Allowed Equity Interest shall receive on the Plan Distribution Date, in full satisfaction of its Allowed Equity Interest, its Pro Rata Share of any Assets of the applicable Debtor and its Estate remaining available for distribution after all distributions to holders of Allowed Claims required under the Plan have been made.

**B. Summary of Distributions Under the Plan**

The following is a summary of the distributions under the Plan. It is qualified in its entirety by reference to the full text of the Plan, which is attached to this Disclosure Statement as Exhibit “A”. In addition, for a more detailed description of the terms and provisions of the Plan, see “The Chapter 11 Plan” section of this Disclosure Statement.

The claim amounts set forth below are based on information contained in the Debtors’ Schedules and filed proofs of claim, and reflect what the Debtors believe to be reasonable estimates of the likely resolution of outstanding disputed Claims. The amounts utilized may differ from the outstanding filed claims amounts.

The following chart summarizes the distribution to unclassified and classified Claims and Equity Interests under the Plan:

**DIP, Administrative Expense, and Priority Tax Claims**

Claims <sup>1</sup>	Treatment
DIP Claims Estimated Allowed Claims: \$15,750,000	Trinity waived, released and discharged the Debtors from any and all DIP Claims arising under or related to the DIP Documents and all attendant liens and security interests in and on the DIP Collateral, including, but not limited to, any lien on or claim to the Parking Lot, funds subject to the Indenture Trustee Adversary Proceeding and proceeds of the Avoidance Actions. Trinity shall not receive or retain any property or rights under the Plan on account of such Claims.  <b>Estimated Recovery: None</b>
Administrative Expense Claims	Except to the extent any Person entitled to

<sup>1</sup> DIP Claims, Administrative Claims and Tax Claims are treated in accordance with section 1129(a) (9) of the Bankruptcy Code. Pursuant to section 1123(a) (1) of the Bankruptcy Code, such Claims are not designated as classes of Claims for the purposes of the Plan.

<p>Estimated Allowed Claims:<sup>2</sup> \$5,632,351<sup>3</sup></p>	<p>payment of an Allowed Administrative Expense Claim has received payment on account of such Claim prior to the Effective Date or agrees to a different treatment, each holder of an Allowed Administrative Expense Claim shall receive, in full satisfaction if its Allowed Administrative Expense Claim, Cash in an amount equal to the amount of such Allowed Administrative Expense Claim on the later of (i) the Effective Date or (ii) the date of entry of a Final Order determining and allowing such Claim as an Allowed Administrative Expense Claim, or as soon thereafter as is practicable; provided, that such treatment shall not provide a return to such holder having a present value as of the Effective Date in excess of such holder's Allowed Administrative Expense Claim.</p> <p><b>Estimated Recovery: 100% of Allowed Claim</b></p>
<p>Priority Tax Claims Estimated Allowed Claims: \$0</p>	<p>At the election of the Liquidation Trustee, each holder of an Allowed Priority Tax Claim will receive in full satisfaction of such Allowed Priority Tax Claim (a) payments in Cash, in regular installments over a period ending not later than five (5) years after the Petition Date, of a total value, as of the Effective Date, equal to the amount of such Allowed Claim; (b) a lesser amount in one Cash payment as may be agreed upon in writing by such holder; or (c) such other treatment as may be agreed upon in writing by such holder; provided, that such agreed upon treatment may not provide such holder with a return having a present value as of the Effective Date that is greater than the amount of such holder's Allowed Priority Tax Claim or that is less favorable than the treatment provided to the most favored General</p>

<sup>2</sup> Excluding amounts already paid.

<sup>3</sup> The Debtors and the Committee have relied on the known and projected fees of estate professionals and the actual asserted amounts of filed administrative proofs of claim for this estimate.

	Unsecured Claims under the Plan.  <b>Estimated Recovery: 100% of Allowed Claim</b>
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**Claims and Equity Interests <sup>4</sup>**

**SMMC (Debtor 1)**

Classes	Treatment
Class 1A – Priority Non-Tax Claims Estimated Allowed Claims: \$122,991  <b>Unimpaired</b>	Each holder of an Allowed Priority Non-Tax Claim against SMMC shall be unimpaired under the Plan and, pursuant to section 1124 of the Bankruptcy Code, all legal, equitable and contractual rights of each holder of an Allowed Priority Non-Tax Claim with respect to such Claim shall remain unaltered, except as provided in sections 1124(2)(A)-(E) of the Bankruptcy Code, and such holder of an Allowed Priority Non-Tax Claim shall be paid Cash in an amount equal to its Allowed Priority Non-Tax Claim on the Plan Distribution Date.  <b>Estimated Recovery: 100% of Allowed Claim</b>
Class 2A – Non-Lender Secured Claims Estimated Allowed Claims: \$0  <b>Unimpaired</b>	In the sole discretion of the Liquidation Trustee, each holder of an Allowed Non-Lender Secured Claim against SMMC shall be treated in one of the following ways: (1) on the Effective Date, the legal, equitable, and contractual rights of each holder of an Allowed Non-Lender Secured Claim shall be reinstated in accordance with the provisions of section 1124(2); (2) on the Effective Date, the holder of an Allowed Non-Lender Secured Claim shall (i) retain a lien securing such Allowed Non-Lender Secured Claim, (ii) receive deferred Cash payments from the Liquidation Trust totaling at least the value of such

<sup>4</sup> The Debtors expect that based on their books and records, certain proofs of Claim filed in these Chapter 11 Cases will be objectionable. The Debtors, however, have not completed their analysis of the proofs of Claim filed in these Chapter 11 Cases at this time and cannot yet determine the final amount of the Allowed Claims at this time.

	<p>Allowed Non-Lender Secured Claim as of the Effective Date; (3) on the Effective Date, the collateral securing such Allowed Non-Lender Secured Claim shall be surrendered to the holder of such Allowed Non-Lender Secured Claim in full satisfaction of such Allowed Non-Lender Secured Claim; or (4) the holder of an Allowed Non-Lender Secured Claim shall be paid Cash in an amount equal to the value of such holders Allowed Non-Lender Secured Claim, on or before the later of (i) the Plan Distribution Date and (ii) the date that is ten (10) Business Days after the entry of a Final Order allowing such Claim.</p> <p><b>Estimated Recovery: 100% of Allowed Claim as set forth above</b></p>
<p>Class 1C – Allowed Non-Trinity General Unsecured Claims: Estimated Allowed Claims:<sup>5</sup> \$13,781,720 - \$50,460,105</p> <p><b>Impaired</b></p>	<p>Each holder of an Allowed Non-Trinity Unsecured Claim against the Debtors shall receive on the Plan Distribution Date, in full satisfaction of its Allowed Non-Trinity Unsecured Claim, its Pro Rata Share of the following: (1) if the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is greater than \$100,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to the sum of (i) the lesser of (a) 4% of the value of its Allowed Non-Trinity General Unsecured Claim and (b) its Pro Rata Share of \$8,000,000 and (ii) the holder’s Pro Rata Share of 70% of the remaining Assets of SMMC and its Estate available for distribution; (2) if the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$100,000,000 and \$75,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in and amount equal to the sum of (i) 8% of the value of its Allowed Non-Trinity General Unsecured Claim and (ii) the holder’s Pro Rata</p>

<sup>5</sup> Excluding any claims by Chestnut Risk and any purported litigation claims.



	<p>Share of 70% of the remaining Assets of SMMC and its Estate available for distribution; (3) if the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$74,999,999 and \$50,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to the sum of (i) 12% of the value of its Allowed Non-Trinity General Unsecured Claim and (ii) the holder's Pro Rata Share of 70% of the remaining Assets of SMMC and its Estate available for distribution; (4) if the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$49,999,999 and \$25,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to the sum of (i) 15% of the value of its Allowed Non-Trinity General Unsecured Claim and (ii) the holder's Pro Rata Share of 70% of the remaining Assets of SMMC and its Estate available for distribution; and (5) if the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is less than \$25,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to the sum of (i) 20% of the value of its Allowed Non-Trinity General Unsecured Claim and (ii) the holder's Pro Rata Share of 70% of the remaining Assets of SMMC and its Estate available for distribution.</p> <p><b>Estimated Recovery: 20.5% - 59.1%</b></p>
<p>Class 1D – Allowed Trinity Unsecured Claims: Estimated Allowed Claims: \$137,064,424</p> <p><b>Impaired</b></p>	<p>Each holder of an Allowed Trinity Unsecured Claim against the Debtors shall receive on the Plan Distribution Date, in full satisfaction of its Allowed Trinity Unsecured Claim, its Pro Rata Share of the following: (1) if the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is greater than \$100,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive</p>

	<p>the following on the Plan Distribution Date: Cash in an amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to the sum of the lesser of 4% of the value of its Allowed Non-Trinity General Unsecured Claim and its Pro Rata Share of \$8,000,000; (2) if the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$100,000,000 and \$75,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to 8% of the value of its Allowed Non-Trinity General Unsecured Claim; (3) If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$74,999,999 and \$50,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to 12% of the value of its Allowed Non-Trinity General Unsecured Claim; (4) if the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$49,999,999 and \$25,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to 15% of the value of its</p>
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	<p>Allowed Non-Trinity General Unsecured Claim; and (5) if the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is less than \$25,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to 20% of the value of its Allowed Non-Trinity General Unsecured Claim.</p> <p><b>Estimated Recovery: 0.8% - 1.7%</b></p>
<p>Class 1E – Allowed Intercompany Claims Estimated Allowed Claims: \$0</p> <p><b>Impaired</b></p>	<p>Holders of Allowed Intercompany Claims against SMMC shall not receive or retain any property or rights under the Plan on account of such Claims.</p> <p><b>Estimated Recovery: None</b></p>
<p>Class 1F – Allowed Equity Interests</p> <p><b>Impaired</b></p>	<p>All Equity Interests in SMMC shall be canceled effective as of the Effective Date, and no holder of an Equity Interest in SMMC shall receive any distribution under the Plan on account of its Equity Interest.</p> <p><b>Estimated Recovery: None</b></p>

**UHPC (Debtor 2)**

Classes	Treatment
<p>Class 2A – Allowed General Unsecured Claims Estimated Allowed Claims: \$0</p> <p><b>Impaired</b></p>	<p>Each holder of an Allowed General Unsecured Claim against UHPC shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed General Unsecured Claim: Cash in an amount equal to its Pro Rata Share of the Assets of UHPC and its Estate.</p> <p><b>Estimated Recovery: None (no Claims allowed)</b></p>

<p>Class 2B – Allowed Intercompany Claims Estimated Allowed Claims: \$0</p> <p><b>Impaired</b></p>	<p>Holders of Allowed Intercompany Claims against UHPC shall not receive or retain any property or rights under the Plan on account of such Claims.</p> <p><b>Estimated Recovery: None</b></p>
<p>Class 2C – Allowed Equity Interests</p> <p><b>Impaired</b></p>	<p>SMMC, as sole holder of all Allowed Equity Interests in UHPC, shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed Equity Interest in UHPC: any Assets of UHPC and its Estate remaining available for distribution after all distributions to holders of Allowed Claims in Classes 2(A)-(B) required under the Plan have been made.</p> <p><b>Estimated Recovery: 100% of Assets of UHPC</b></p>

**CAC (Debtor 3)**

<b>Classes</b>	<b>Treatment</b>
<p>Class 3A – Allowed General Unsecured Claims Estimated Allowed Claims: \$0</p> <p><b>Impaired</b></p>	<p>Each holder of an Allowed General Unsecured Claim against CAC shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed General Unsecured Claim: Cash in an amount equal to its Pro Rata Share of the Assets of CAC and its Estate.</p> <p><b>Estimated Recovery: None (no Claims allowed)</b></p>
<p>Class 3B – Allowed Intercompany Claims Estimated Allowed Claims: \$0</p> <p><b>Impaired</b></p>	<p>Holders of Allowed Intercompany Claims against CAC shall not receive or retain any property or rights under the Plan on account of such Claims.</p> <p><b>Estimated Recovery: None</b></p>
<p>Class 3C – Allowed Equity Interests</p> <p><b>Impaired</b></p>	<p>SMMC, as sole holder of all Allowed Equity Interests in CAC, shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed Equity Interest in</p>

	<p>CAC: any Assets of CAC and its Estate remaining available for distribution after all distributions to holders of Allowed Claims in Classes 3(A)-(B) required under the Plan have been made.</p> <p><b>Estimated Recovery: 100% of Assets of CAC</b></p>
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**SJC (Debtor 4)**

Classes	Treatment
<p>Class 4A – Allowed General Unsecured Claims Estimated Allowed Claims: \$0</p> <p><b>Impaired</b></p>	<p>Each holder of an Allowed General Unsecured Claim against SJC shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed General Unsecured Claim: Cash in an amount equal to its Pro Rata Share of the Assets of SJC and its Estate.</p> <p><b>Estimated Recovery: None (no Claims allowed)</b></p>
<p>Class 4B – Allowed Intercompany Claims Estimated Allowed Claims: \$163,142</p> <p><b>Impaired</b></p>	<p>Holders of Allowed Intercompany Claims against SJC shall not receive or retain any property or rights under the Plan on account of such Claims.</p> <p><b>Estimated Recovery: None</b></p>
<p>Class 4C – Allowed Equity Interests</p> <p><b>Impaired</b></p>	<p>SMMC, as sole holder of all Allowed Equity Interests in SJC, shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed Equity Interest in SJC: any Assets of SJC and its Estate remaining available for distribution after all distributions to holders of Allowed Claims in Classes 4(A)-(B) required under the Plan have been made.</p> <p><b>Estimated Recovery: 100% of Assets of SJC</b></p>

**V.  
GENERAL INFORMATION**

Established by the Franciscan Sisters of the Poor in 1867, Saint Michael’s Medical Center (the “Hospital”) is a 357-bed licensed regional tertiary-care, teaching, and research center

in the heart of Newark's business and educational district and is accredited by The Joint Commission. Combining state-of-the-art technology, the latest diagnostic and therapeutic procedures, leading-edge research, and a network of highly qualified physicians, nurses, and allied health professionals, the Hospital provides top-quality health care services delivered with compassionate care.

The Hospital is home to the Heart and Vascular Institute, which offers a comprehensive array of innovative cardiac treatments and procedures, and the Regional Cancer Center, which provides patients with state-of-the-art cancer treatment through the seamless integration of medical, surgical, and radiation oncology services. The Hospital has long enjoyed an outstanding reputation as a premier teaching and research institution and remains an international leader in the treatment and study of infectious diseases, such as HIV/AIDS and hepatitis. The mission of the Hospital is to provide excellence in health care to the communities it serves.

**A. Organizational Structure**

SMMC was incorporated in 2008 to serve as the party to a change of control transaction by which certain assets and liabilities of the Hospital and 2 other now defunct hospitals (Saint James Hospital and Columbus Hospital) were acquired from Cathedral Healthcare System Inc., a New Jersey nonprofit corporation. That transaction closed in August 2008.

SMMC is a second tier subsidiary of Trinity. The immediate sole corporate member of SMMC is Maxis Health System, a Pennsylvania not-for-profit corporation. Trinity is the sole corporate member of Maxis Health System. From August 2008 until July 1, 2014, the sole corporate member of SMMC was Catholic Health East ("CHE"), a Pennsylvania not-for-profit corporation. By virtue of the July 2014 merger of CHE, CHE-Trinity Inc. and Trinity, Trinity succeeded to the interests of CHE, as the surviving corporation in the merger. As that transaction is subject to the New Jersey Community Health Assets Protection Act, the merger transaction was subject to the review of the New Jersey Attorney General's Office. It was also subject to review by the New Jersey Department of Health under the certificate of need review and application process. As that transaction remained pending regulatory review in New Jersey, in order to facilitate the completion of the merger in other states, Trinity, CHE and the New Jersey Attorney General's Office reached an agreement whereby, pending the conclusion of that regulatory review process, Maxis Health System, then a subsidiary of CHE, would serve as sole corporate member of SMMC.

SMMC is the sole member of Saint James Care, Inc., Columbus Acquisition Corp. and University Heights Property Company, Inc. Saint James Care, Inc. and Columbus Acquisition Corp. are not operating and are inactive entities. University Heights Property Company, Inc. formerly owned the land upon which a parking lot for employees and visitors of the Hospital sits and certain other parcels contained on the Hospital campus. SMMC is also the sole member of Chestnut Risk Services, Ltd., SMMC's wholly owned captive insurance company.

**B. Employees**

As of the Petition Date, the Debtors employed 271 full-time salaried employees, and 1,197 hourly employees, for a total of 1,468 employees. The Hospital is a party to five (5)

separate collective bargaining agreements covering 932 union employees with (1) District 1199J, National Union of Hospital and Healthcare Employees, AFSCME, AFL-CIO (Service Employees) (308 employees), (2) District 1199J, National Union of Hospital and Healthcare Employees, AFSCME, AFL-CIO (Guild) (100 employees), (3) Committee of Interns and Residents/SEIU (82 employees), (4) JNESO, District Council 1, IUOE, AFL-CIO (422 employees), and (5) International Union of Operating Engineers, Local 68-68A-68B, affiliated with the AFL-CIO (20 employees).

**C. Pre-petition Capital Structure**

On July 31, 2008, the New Jersey Health Care Facilities Financing Authority (the “Authority”) issued \$252,545,000 in state contract bonds, Series 2008A (the “Series 2008A State Contract Bonds”), and then loaned the proceeds of such bond issuance to SMMC through the Hospital Asset Transformation Program (“HATP”). Consistent with the HATP and as part of CHE’s purchase of the Hospital, Saint James Hospital and Columbus Hospital from Cathedral Healthcare System Inc., the proceeds were used to pay off outstanding debt on the two now-closed hospitals (Saint James Hospital and Columbus Hospital) and renovate and expand the facilities at the Hospital.

SMMC entered into the following in connection with the loan from the Authority: (1) Loan Agreement, dated as of July 1, 2008, by and between the Company and the Authority (the “Loan Agreement”); (2) State Contract Promissory Note, dated July 31, 2008, issued by SMMC to the Authority (the “State Contract Note”); (3) Mortgage and Security Agreement dated July 31, 2008 (the “Mortgage”); (4) Master Trust Indenture, dated as of July 1, 2008, between SMMC and the Bank of New York Mellon (“BNYM”), as Master Trustee (as amended, the “Master Indenture”); (5) First Supplemental Indenture, dated as of July 1, 2008, between SMMC and BNYM, as Master Trustee (as amended, the “First Supplemental Indenture,” and together with the Master Indenture, collectively, the “Indenture Documents”); and (6) Hospital Asset Transformation Program State Contract Bond Resolution (Saint Michael’s Medical Center, Inc., Newark, N.J. Issue), adopted April 24, 2008, as supplemented by a Series Certificate dated as of July 22, 2008 (the “Resolution,” and together with the Loan Agreement, the State Contract Note, the Mortgage and the Indenture Documents, collectively, the “Loan Documents”).

The State Contract Note was issued pursuant to and is secured under the Indenture Documents between SMMC and BNYM. Under the Indenture Documents, SMMC sold, assigned, transferred, set over, pledged and granted a security interest to BNYM in all of its rights, title and interest in and to the “Collateral,” as defined in the Loan Documents. In addition, to further secure the Debtors’ obligations under the Loan Documents, the Debtors granted BNYM a mortgage on the Debtors’ real property, buildings, structures, improvements and fixtures located at 111 Central Avenue, Newark, NJ 07102 and general intangibles related thereto, (b) all rents and moneys payable in respect of any lease agreements executed by the Debtors with respect thereto, (c) all proceeds of insurance or condemnation awards with respect thereto and (d) warranties or service contracts existing with respect thereto.

On August 7, 2008, BNYM filed a UCC-1 financing statement with respect to its interest in the BNYM Collateral. On July 11, 2013, BNYM filed a UCC-3 continuation statement. As

of the Petition Date, the Debtors owed approximately \$227.8 million on account of the obligations under the Loan Documents.

**D. The Debtors' Efforts to Sell the Hospital**

On February 8, 2013, the Debtors entered into an asset purchase agreement (the "Prime APA") with the Buyer whereby the Buyer would purchase substantially all of the Debtors' assets.

On March 2, 2015, Navigant Consulting, Inc. ("Navigant") issued a report (the "Navigant Report") on behalf of the Authority that recommended a consolidation of healthcare services in Newark that included the closing of inpatient services at the Hospital and transforming the Hospital into an ambulatory care facility. Further, the Navigant Report concluded that a transfer of assets to the Buyer would not resolve the underlying overcapacity and unnecessary service duplication in Newark. At the time the Navigant Report was issued, the Debtors were still awaiting regulatory approval to consummate the transaction with the Buyer.

On April 6, 2015, Honigman Miller Schwartz and Cohn LLP issued a response to the Navigant Report on behalf of the Debtors, which concluded that if the recommendations in the Navigant Report were followed, an unregulated monopoly in inpatient hospital services would be created in Newark. That unregulated monopoly and concomitant dramatic reduction in competition in health care would result in higher prices and harm consumers. According to the response, the Navigant Report recommendations could easily cost Newark area consumers \$180 million or more annually.

**E. Factors That Precipitated the Debtors' Chapter 11 Filing And Purpose Thereof**

The Debtors' financial performance was hampered by a number of factors. Included among them are the following:



- Disproportionately low reimbursement rates, both in the governmental and private payor context. Of the inpatients at the Hospital, 65% were covered by Medicare or Medicaid and an additional 15% were self-pay / indigent. The high proportion of government payment continues to be a significant challenge to the Hospital's financial performance given reimbursement reductions from Medicare and Medicaid;
- Poor, below market reimbursement rates in the Hospital's managed care contracts that were negotiated by the Hospital's former parent company;
- Unsustainable debt levels relating to the Series 2008A State Contract Bonds. Noteworthy here is that of the \$252,549,000 total bond amount, only approximately \$80,000,000 was actually used by the Hospital, with the balance (i) being used to pay down the debt of Cathedral Health Services, the Hospital's former parent company, and (ii) clawed back by the State and used for continued debt service payments under the Loan Documents;
- Long-term and above-market lease obligations relating to the Hospital's former Columbus and Saint James operations that ceased; and
- Reduction in inpatient average daily census and revenue due to the uncertainty surrounding the Hospital's future as a result of the State's failure to timely process the Hospital's certificate of need and CHAPA applications.

In light of the State's inaction on the Debtors' request for approval of the sale of their assets to the Buyer, the recommended closure of inpatient services at the Hospital pursuant to the Navigant Report, and the Debtors' financial performance, the Debtors' management and Board of Directors, along with their advisors, evaluated various restructuring options and determined that the best way to maximize the Debtors' going concern value for the benefit of all stakeholders was to commence these Chapter 11 Cases and pursue a sale of substantially all the Debtors' assets pursuant to Section 363 of the Bankruptcy Code.

## **VI.** **THE CHAPTER 11 CASES**

### **A. Filing of the Petitions and Debtor in Possession Status**

On August 10, 2015, the Debtors filed the Petitions. Pursuant to sections 1101, 1107 and 1108 of the Bankruptcy Code, the Debtors operated their businesses and remained in possession of their property as "debtors in possession" until the closing on the sale of their assets to the Buyer on May 1, 2016.

**B. First Day Pleadings and Orders**

On or about the Petition Date, the Debtors filed the following motions with the Bankruptcy Court: motion for entry of an order authorizing the Debtors to obtain post-petition financing; motion establishing procedures for utility companies to request adequate assurance of payment; motion authorizing payment of employee wages; motion authorizing continued use of cash management system, bank accounts and business forms and waiving investment and deposit requirements; and a motion approving interim compensation procedures. A hearing was held in the Bankruptcy Court on August 11, 2015 on the above-referenced motions and Orders granting such motions were entered by the Bankruptcy Court shortly thereafter.

**C. Employment of Professionals for the Debtors**

Pursuant to employment applications filed with the Bankruptcy Court and subsequent orders entered by the Bankruptcy Court, the Debtors have employed the following professionals to assist them with the administration of the Chapter 11 Cases: (i) Cole Schotz P.C. as counsel; (ii) EisnerAmper LLP as financial advisor; and (iii) Prime Clerk, as Claims Agent. All professionals retained by the Debtors have been, or will be, paid their allowed fees and expenses incurred on behalf of the Debtors pursuant to Orders entered by the Bankruptcy Court.

**D. Appointment of the Committee.**

On August 18, 2015, the Office of the United States Trustee appointed the Committee, consisting of the following members: (i) JNESO District Council 1, (ii) St. James MedRealty, LLC, (iii) Cardinal Health, (iv) District 1199J, National Union of Hospital & Health Care Employees, (v) Accountable Healthcare Staffing, Inc., (vi) Sodexo Operations, LLC, and (vii) Med-Metrix, LLC. The Committee employed the law firm of Sills Cummis & Gross P.C. to serve as its bankruptcy counsel and CohnReznick LLP as its financial advisors. These professionals have been, or will be, paid their allowed fees and expenses incurred in the provision of their services to the Committee pursuant to Orders entered by the Bankruptcy Court.

**E. DIP Financing**

On August 11, 2015, this Court entered an Interim Order Authorizing Debtors in Possession to (I) Obtain Postpetition Financing Pursuant to 11 U.S.C. §§ 105, 362 and 363, and 364, (II) Grant Liens and Superpriority Claims to Postpetition Lenders Pursuant to 11 U.S.C. § 364; and (III) Scheduling Final Hearing Pursuant to Bankruptcy Rules 4001(B) and (C) and Local Bankruptcy Rule 4001-4 [Docket No. 32] (the “Initial Interim DIP Order”).

Subsequent to the entry of the Initial Interim DIP Order, the Debtors, Trinity, as DIP lender and the Committee agreed to amend, restate and replace and supercede the Initial Interim DIP Order. On September 18, 2015 the Court entered an Amended and Restated Consented to Interim Order Authorizing Debtors in Possession to (I) Obtain Postpetition Financing Pursuant to 11 U.S.C. §§ 105, 362 and 363, and 364, (II) Grant Liens and Superpriority Claims to Postpetition Lenders Pursuant to 11 U.S.C. § 364; and (III) Scheduling Final Hearing Pursuant to Bankruptcy Rules 4001(B) and (C) and Local Bankruptcy Rule 4001-4 [Docket No. 198] (the “Amended and Restated Interim DIP Order”).

Subsequently, the Debtors, Trinity and the Committee agreed to the entry of an Order amending the Amended and Restated Interim DIP Order (the “Second Amended Interim DIP Order”). The Court entered the Second Amended Interim DIP Order on September 30, 2015 [Docket No. 238] (together with the Initial Interim DIP Order and the Amended and Restated Interim DIP Order, the “Interim Orders”).

On October 16, 2015, as a result of extensive negotiation between the Debtors, the Committee and Trinity, the Bankruptcy Court entered a final order authorizing the Debtors to obtain post-petition financing from Trinity consisting of a secured revolving credit facility in the principal amount of up to \$15,000,000 (the “DIP Facility”) to be used to fund cash flow shortfalls, general working capital and liquidity purposes including the payment of professional fees and administrative expenses as described in that certain DIP Loan Term Sheet [Docket No. 282] (the “Final DIP Order”). The Final DIP Order also set forth provisions for the Trinity Settlement Agreement, discussed below.

**F. Exclusivity**

Pursuant to sections 1121(b) and (c)(3) of the Bankruptcy Code, the Debtors have a certain amount of time within which (a) to file their Plan; and (b) to solicit acceptances of their timely filed Plan before other parties in interest are permitted to file plans. The Court has entered Orders extending the Debtors’ Exclusive Periods within which to file a plan and solicit acceptances thereto to December 2, 2016, and January 31, 2017, respectively [Docket No. 864]. Accordingly, no other party may file a plan.

**G. Claims Bar Date**

The Bankruptcy Court established the following bar dates: (i) **December 15, 2015** as the deadline for each person or entity (other than governmental units, as defined in Section 101(27) of the Bankruptcy Code) to file proofs of claim for prepetition claims against the Debtors; (ii) **February 6, 2016** as the deadline for governmental units to file proofs of claim; and (iii) as further set forth below, **June 30, 2016** as the deadline to file proofs of claim for claims entitled to priority as administrative expenses.

In addition, the Bankruptcy Court entered an Order establishing **5:00 p.m. (prevailing Eastern Time) on November 18, 2016** as the supplemental deadline (the “Supplemental Bar Date”) for filing proofs of claim in the Debtors’ cases solely for select claimants that hold contingent, disputed and unliquidated litigation claims against the Debtors.

**H. Administrative Claim Bar Date**

On May 20, 2016, the Bankruptcy Court entered an Order Fixing a Bar Date for Filing Certain Administrative Claims, Including Administrative Claims Pursuant to Section 503(B) (9) of the Bankruptcy Code, Approving the Form and Manner of Notice Thereof and Approving Proof of Administrative Claim Forms [Docket No. 742], which established **June 30, 2016** as the deadline for each person or entity to file an Administrative Expense Claim or 20 Day Claim.

**I. Payment of Administrative Expense Claims**

Section 1129(a)(9) of the Bankruptcy Code states that unless the holder of an administrative expense claim agrees to a different treatment of such claim, the plan will provide that the holder of an administrative expense claim will receive on account of such claim cash equal to the allowed amount of such claim. 11 U.S.C. § 1129(a) (9).

Except to the extent that any entity entitled to payment of an Allowed Administrative Expense Claim agrees to a different treatment, each holder of an Allowed Administrative Expense Claim, shall be paid in full in Cash on the later of (i) the Effective Date, or (ii) the date of entry of a Final Order determining and allowing such Claim as an Allowed Administrative Expense Claim, or as soon thereafter as is practicable; provided, that such treatment shall not provide a return to such holder having a present value as of the Effective Date in excess of such holder's Allowed Administrative Expense Claim.

**J. Sale of the Debtors' Business to the Buyer**

On November 13, 2015, the Court entered *an Order Pursuant to 11 U.S.C. §§ 105(a), 363 and 365 (1) Authorizing the Debtors to Sell Substantially All of Their Assets Free and Clear of All Liens, Claims, Encumbrances and Interests; (2) Authorizing the Debtors to Assume and Assign Certain Executory Contracts and Unexpired Leases; and (3) Granting Other Related Relief* [Docket No. 383] (the "Sale Order"). The Sale Order authorized the sale of substantially all of the Debtors' assets to the Buyer pursuant to that certain First Amended and Restated Asset Purchase Agreement, dated November 6, 2015, by and among the Debtors and Buyer (as amended, the "Prime Amended APA").

On May 1, 2016, the Debtors closed on the sale of their assets to Buyer in accordance with the APA and the Sale Order.

SMMC is in the process of finalizing documents to close on the sale of the E&F Buildings, which had been excluded from the aforementioned sale, to 306 MLK BLVD LLC.

**VII.  
POTENTIAL LITIGATION**

**A. Estate Causes of Action.**

The Plan provides that the Liquidation Trust will retain and be authorized to pursue the Causes of Action (except Tort Claims, which will revert in the Debtors and the Debtor Representative will be authorized to pursue). The Liquidation Trustee will be authorized to prosecute all such claims on behalf of the Liquidation Trust, subsequent to the Effective Date and will determine whether to bring, settle, release, compromise or enforce such claims in accordance with the Plan and the Liquidation Trust Agreement. Tort Claims will be prosecuted, brought, settled, released, compromised or enforced in accordance with the Plan by the Debtor Representative.

**No Person may rely on the absence of a specific reference in the Plan or this Disclosure Statement to any Cause of Action against them as any indication that the**

**Debtors, the Liquidation Trust or another applicable party will not pursue any and all available Causes of Action against them. The Debtors, the Liquidation Trust, the Estates and the Debtor Representative expressly reserve all rights to prosecute any and all Causes of Action against any Person, except as otherwise provided in the Plan.** Unless any Causes of Action against a Person are expressly waived, relinquished, exculpated, released, compromised or settled in the Plan or a Final Order, the Debtors, the Liquidation Trust and the Debtor Representative expressly reserve all Causes of Action for later adjudication, and, therefore, no preclusion doctrine, including without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches, shall apply to such Causes of Action upon or after the confirmation or consummation of the Plan.

**B. Pending Litigation.**

As of the date hereof, the only material action pending is as follows: Saint Michael's Medical Center, Inc. v. Columbus MedRealty, LLC, et al., Case No. 15-02296, before the United States Bankruptcy Court for the District of New Jersey.

**VIII.  
THE TRINITY SETTLEMENT AGREEMENT**

As set forth in paragraph 31 of the Final DIP Order, the Debtors, the Committee and Trinity, as a result of extensive negotiations between the parties, agreed on the principal terms of a global settlement of any potential claims and causes of action that were subject to investigation and prosecution during the Committee's Challenge Period (as defined in the Final DIP Order). Pursuant to paragraph 31 of the Final DIP Order, the Committee had an unconditional, sole option (the "Committee Option") to accept Trinity's and the Debtors' offer to enter into a global settlement (the "Trinity Settlement Agreement") on the terms and conditions set forth in the Final DIP Order to be approved by Order of the Court in accordance with Bankruptcy Rule 9019 on or before 5 p.m. (EST) on November 23, 2015 (the "Challenge Deadline"). The Challenge Deadline was extended on consent of Trinity to January 29, 2016.

On January 26, 2016, after the completion of the Committee's investigation, the Committee sent a letter to Trinity and the Debtors stating that the Committee was exercising the Committee Option and accepted the Trinity Settlement Agreement, subject to Court approval. The Trinity Settlement Agreement reflects extensive negotiations among the parties and conferred significant benefits to the Estates. The Trinity Settlement Agreement provides, among other things, that:

- Budget and Wind Down. The DIP Budget shall be amended to include reasonable costs of preparing and confirming a plan of liquidation and provide sufficient funding to effectuate an orderly wind down of the Debtors' estates, including the payment of allowed priority and administrative expense claims all reasonably acceptable in substance, costs and funding to the Debtors, Trinity and the Committee but in any such event such costs and funding shall not be more than \$750,000 in the aggregate.
- DIP Loans. The DIP Loan is increased to \$15,750,000 and, to the extent the final DIP Loan balance is less than \$15,750,000, the Debtors shall have the right to draw down from the DIP loan an amount equal to the difference between the final DIP loan balance and \$15,750,000.
- DIP Obligations. Trinity shall waive all of its claims arising from or related to any and all of the DIP Obligations (as defined in the Final DIP Order) and all attendant liens and security interests, including, but not limited to, any lien on or claim to the Parking Lot, funds subject to the BONY adversary proceeding and proceeds of the Avoidance Actions.
- General Unsecured Claim. Trinity shall retain a general unsecured claim that will share in any distribution to the class of general unsecured creditors pursuant to a confirmed plan of liquidation as set forth in the sharing arrangement in the Plan.

- Releases. The Committee and each of the Debtors and each of the Debtors' respective agents, affiliates, subsidiaries, directors, officers and representatives absolutely, unconditionally and irrevocably waives, discharges and releases the Trinity Parties of and from any and all claims and causes of action that the Debtors have or may have against the Trinity Parties which arise out of or in any way relate to, directly or indirectly, the Trinity Parties' and Debtors' prepetition relationship, and/or any prepetition act, omission, event or transaction of the Trinity Parties whether accrued or not; and counterclaims, actions, debts, accounts, causes of action (including, without limitation, causes of action in the nature of "lender liability"), defenses or setoff rights that any of Debtors have or may have against Trinity Parties whether known or unknown, disputed or undisputed, at law or in equity, including, without limitation, (i) any re-characterization, subordination, avoidance or other claim arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state law, federal law or municipal law; (ii) any right or basis to challenge or object to the amount, validity or enforceability of the applicable Pre-Petition Debt or any payments made on account of the applicable Pre-Petition Debt; and (iii) any claims or causes of action under sections 502(d), 544, 545, 547, 548, 549, 550 or 553 of the Bankruptcy Code and any other avoidance actions under the Bankruptcy Code and the proceeds thereof and property received thereby whether by judgment, settlement, or otherwise and (iv) any action based on piercing the corporate veil, alter ego, successor liability or similar claim which seeks to hold Trinity liable for claims against any or all of the Debtors. The contents of this section shall be identified as the "Settlement Release Claims."
- Injunction. All entities (as that term is defined in 11 U.S.C. §101(15) and including limited liability companies) shall be permanently enjoined from asserting, prosecuting or filing any action or claim directed against the Trinity Parties (i) for the purpose of directly or indirectly collecting, recovering or receiving payment with respect to any Settlement Release Claims, and/or (ii) pursuing any derivative action related to Settlement Release Claims; and/or (iii) pursuing a duplicative claim that could have been brought by the Debtors against the Trinity Parties. To avoid doubt, nothing shall be deemed to release or enjoin any individual claims or causes of action that any third parties, other than the Committee or the Debtors, had, have or may have in the future against any Trinity Parties that are not derivative or duplicative of the Settlement Release Claims or that do not seek collection, recovery or payment with respect to any Settlement Release Claims.

On April 26, 2016, the Bankruptcy Court entered an Order approving the Trinity Settlement Agreement.



On May 23, 2016, the Debtors filed a motion (the “Motion To Enforce”) for entry of an Order enforcing (i) the automatic stay under Section 362 of the Bankruptcy Code, and (ii) the order approving the Trinity Settlement Agreement by and among the Debtors, Trinity and the Committee. On July 21, 2016, the Bankruptcy Court granted the Motion To Enforce. On August 2, 2016, Med Realty, LLC filed a notice of appeal of the Order granting the Motion To Enforce.

**IX.**  
**THE BNYM SETTLEMENT AGREEMENT**

On June 30, 2016, the Debtors filed a motion (the “BNYM Motion”) pursuant to Bankruptcy Rule 9019 for entry of an Order approving the settlement agreement dated June 30, 2016 (the “BNYM Settlement Agreement”) by and among (i) the Debtors; (ii) the Committee; (iii) BNYM, on behalf of itself as Master Trustee for, and on behalf of the holders of, State Contract Promissory Note, dated July 31, 2008, issued by the Debtors to the Authority; and (iv) the Authority.

The BNYM Settlement Agreement, like the Trinity Settlement Agreement, reflects extensive negotiations among the parties. The BNYM Settlement Agreement provides, among other things, that:



- Allowed Secured Claim. On the day the Order approving the BNYM Settlement Agreement becomes final and non-appealable, BNYM shall receive an allowed secured claim in the amount of fifty-five million seven hundred and fifty thousand dollars (\$55,750,000.00) (the “Settlement Claim”).
- Settlement Payment. The Settlement Claim shall be fully satisfied and paid by and through a payment by the Debtors in the amount of fifty-five million seven hundred and fifty thousand dollars (\$55,750,000.00) (the “Settlement Payment”) from the proceeds of the sale of substantially all the Debtors’ assets to the Buyer.
- Free and Clear Property. After payment of the Settlement Payment in good funds, all collateral that was not a part of the sale and all remaining cash proceeds from the sale shall be property of the Debtors free and clear of any and all liens, claims, encumbrances and interests. Notwithstanding anything to the contrary, upon the payment of the Settlement Payment in good funds, each of BNYM and the Authority and anyone claiming through them or on their behalf, shall be deemed to have fully and irrevocably waived, discharged and released any right to: (a) any property of the Debtors’ estates; and (b) participate in any and all distributions to creditors in these cases from the Debtors’ estates, any successors thereof or otherwise.
- Acknowledgements. BNYM and Authority acknowledge and agree that (i) the treatment of the Settlement Claim pursuant to Section 2 of the BNYM Settlement Agreement shall satisfy the requirements of Section 1129 of the Bankruptcy Code, and (ii) BNYM and the Authority shall not object to confirmation of any plan in the Chapter 11 Cases which is not inconsistent with the terms of the BNYM Settlement Agreement.
- Dismissal of Adversary Proceeding. The Debtors and the Committee agree that they shall cease and desist, withdraw, and shall not now or hereafter commence or otherwise participate in any litigation activity (including any related discovery) of any kind or description against BNYM relating to the extent, validity, priority or perfection of any liens. The Parties shall file a stipulation of dismissal of the adversary proceeding with prejudice.

- Mutual Releases. (A) Effective as of, and subject to the occurrence of, the Effective Date and the payment of the Settlement Payment in good funds, BNYM and the Authority, on behalf of themselves and their respective employees, officers, managers, directors, representatives, agents, successors, assigns and attorneys (collectively, the “Secured Parties”), hereby release, acquit and forever discharge each of the Debtors, their estates, and each of the Debtors’ respective affiliates, employees, officers, directors, managers, members, representatives, agents, attorneys, consultants, advisors, successors, predecessors and assigns, and in each case solely in such capacity with respect to the Debtors (collectively, the “Debtor Parties”), from any and all claims, rights, demands, causes of action, suits, debts, obligations, liabilities, damages, losses, fees, costs, expenses (including, without limitation, professional fees, costs and expenses) and indemnification obligations, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, of any kind, nature and/or description, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, actual or potential, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not asserted, threatened, alleged or litigated, at law, equity or otherwise, including, without limitation, the Secured Claim, the Unsecured Claim and the Adequate Protection Claim (collectively, “Claims”), that have arisen or could have arisen or that could arise in the future on account of, arising out of, relating to or resulting from any circumstances, conduct, facts, events, transactions, acts, occurrences, statements, representations, misrepresentations or omissions, errors, negligence, breach of contract, tort, violation of law, matter, or cause occurring or arising prior to the Effective Date or attributable to such period, in each case which any of the Secured Parties has had, now has or may have in the future against any of the Debtor Parties arising out of or relating to the Loan and/or the Debtors (the foregoing release being the “Secured Party Release”); provided, however, that the Secured Party Release shall not include Claims in connection with or arising out of the BNYM Settlement Agreement; and (B) Effective as of, and subject to the occurrence of, the Effective Date and the payment of the Settlement Payment in good funds, each of the Debtor Parties hereby release, acquit and forever discharge the Secured Parties from any and all Claims that have arisen or could have arisen or that could arise in the future on account of, arising out of, relating to, or resulting from any circumstances, conduct, facts, events, transactions, acts, occurrences, statements, representations, misrepresentations or omissions, errors, negligence, breach of contract, tort, violation of law, matter or cause occurring or arising prior to the Effective Date or attributable to such period, in each case which any of the Debtor Parties has had, now has, or may have in the future against any of the Secured Parties arising out of or relating to the Loan and/or the Debtors (the foregoing release being the “Debtor Release”); provided,

however, that the Debtor Release shall not include Claims in connection with or arising out of the BNYM Settlement Agreement.

On July 18, 2016, the Bankruptcy Court entered an Order [Docket No. 839] approving the BNYM Settlement Agreement. On July 20, 2016, the Debtors issued the Settlement Payment to BNYM.

**X.**  
**THE CHAPTER 11 PLAN**

As a result of the Chapter 11 Cases and through the Plan, the Debtors and the Committee submit that creditors will obtain a greater recovery under the Plan than any recovery that would be available if the Debtors' Assets were liquidated under chapter 7 of the Bankruptcy Code. The Plan is annexed hereto as Exhibit "A" and forms part of this Disclosure Statement. The summary of the Plan set forth below is qualified in its entirety by the more detailed provisions set forth in the Plan.

**A. Treatment of Claims Against and Equity Interests in SMMC (Debtor 1).**

The classes of Claims against and Equity Interests in SMMC shall be treated under the Plan as follows:

**1 Class 1A – Priority Non-Tax Claims Against SMMC**

Each holder of an Allowed Priority Non-Tax Claim against SMMC shall be unimpaired under the Plan and, pursuant to section 1124 of the Bankruptcy Code, all legal, equitable and contractual rights of each holder of an Allowed Priority Non-Tax Claim with respect to such Claim shall remain unaltered, except as provided in sections 1124(2)(A)-(E) of the Bankruptcy Code, and such holder of an Allowed Priority Non-Tax Claim shall be paid Cash in an amount equal to its Allowed Priority Non-Tax Claim on the Plan Distribution Date.

**2 Class 1B – Non-Lender Secured Claims Against SMMC**

In the sole discretion of the Liquidation Trustee, each holder of an Allowed Non-Lender Secured Claim against SMMC shall be treated in one of the following ways (for the avoidance of doubt, holders of Allowed Non-Lender Secured Claims against SMMC need not be treated in the same way as long as each is treated in one of the following ways):

- (i) on the Effective Date, the legal, equitable, and contractual rights of each holder of an Allowed Non-Lender Secured Claim shall be reinstated in accordance with the provisions of section 1124(2) of the Bankruptcy Code notwithstanding any contractual provision or applicable non-bankruptcy law that entitles the holder of an Allowed Non-Lender Secured Claim to demand or receive payment of such Allowed Non-Lender Secured Claim before the stated maturity of such Allowed Non-Lender Secured Claim from and after the occurrence of a default; provided, however, that any contractual right that does not pertain to the payment when due of principal and interest on the obligation on which such Claim is based,

including, but not limited to, financial covenant ratios, negative pledge covenants, covenants or restrictions on merger or consolidation, covenants regarding corporate existence, or covenants prohibiting certain transactions or actions contemplated by the Plan or conditioning such transactions or actions on certain factors, shall not be enforceable as to any breach that occurred on or prior to the Effective Date or any breach determined by reference back to a date preceding the Effective Date;

- (ii) on the Effective Date, the holder of an Allowed Non-Lender Secured Claim shall (i) retain a lien securing such Allowed Non-Lender Secured Claim and (ii) receive deferred Cash payments from the Liquidation Trust totaling at least the value of such Allowed Non-Lender Secured Claim as of the Effective Date;
- (iii) on the Effective Date, the collateral securing such Allowed Non-Lender Secured Claim shall be surrendered to the holder of such Allowed Non-Lender Secured Claim in full satisfaction of such Allowed Non-Lender Secured Claim; or
- (iv) the holder of an Allowed Non-Lender Secured Claim shall be paid Cash in an amount equal to the value of such holders Allowed Non-Lender Secured Claim, on or before the later of (i) the Plan Distribution Date and (ii) the date that is ten (10) Business Days after the entry of a Final Order allowing such Claim as a Non-Lender Secured Claim, or as soon thereafter as practicable. To the extent the collateral securing an Allowed Non-Lender Secured Claim has been or is sold pursuant to an Order of the Bankruptcy Court, the amount paid to the holder of such Allowed Non-Lender Secured Claim pursuant to the preceding sentence shall be net of the costs of sale of such collateral and otherwise subject to the rights of SMMC or the Liquidation Trustee pursuant to section 506(c) of the Bankruptcy Code.

### **3 Class 1C – Non-Trinity General Unsecured Claims Against SMMC**

Each holder of an Allowed Non-Trinity General Unsecured Claim against SMMC shall receive treatment as set forth below in full satisfaction of its Allowed Non-Trinity General Unsecured Claim:

- If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is greater than \$100,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to the sum of (i) the lesser of (a) 4% of the value of its Allowed Non-Trinity General Unsecured Claim and (b) its Pro Rata Share of \$8,000,000 and (ii) the holder's Pro Rata Share of 70% of the remaining Assets of SMMC and its Estate available for distribution;
- If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$100,000,000 and \$75,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to the sum of (i) 8% of the value of its Allowed Non-Trinity General Unsecured Claim and (ii) the holder's Pro Rata Share of 70% of the remaining Assets of SMMC and its Estate available for distribution;
- If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$74,999,999 and \$50,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to the sum of (i) 12% of the value of its Allowed Non-Trinity General Unsecured Claim and (ii) the holder's Pro Rata Share of 70% of the remaining Assets of SMMC and its Estate available for distribution;
- If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$49,999,999 and \$25,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to the sum of (i) 15% of the value of its Allowed Non-Trinity General Unsecured Claim and (ii) the holder's Pro Rata Share of 70% of the remaining Assets of SMMC and its Estate available for distribution; and
- If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is less than \$25,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to the sum of (i) 20% of the value of its Allowed Non-Trinity General Unsecured Claim and (ii) the holder's Pro Rata Share of 70% of the remaining Assets of SMMC and its Estate available for distribution.

#### **4 Class 1D – Trinity General Unsecured Claims Against SMMC**

The holder of the Allowed Trinity General Unsecured Claim against SMMC shall receive treatment as set forth below in full satisfaction of its Allowed Trinity General Unsecured Claim:

- If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is greater than \$100,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to the sum of the lesser of 4% of the value of its Allowed Non-Trinity General Unsecured Claim and its Pro Rata Share of \$8,000,000;
- If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$100,000,000 and \$75,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to 8% of the value of its Allowed Non-Trinity General Unsecured Claim;
- If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$74,999,999 and \$50,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to 12% of the value of its Allowed Non-Trinity General Unsecured Claim;
- If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$49,999,999 and \$25,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to 15% of the value of its Allowed Non-Trinity General Unsecured Claim; and
- If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is less than \$25,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to 20% of the value of its Allowed Non-Trinity General Unsecured Claim.

**5 Class 1E – Intercompany Claims Against SMMC**



Holders of Allowed Intercompany Claims against SMMC shall not receive or retain any property or rights under the Plan on account of such Claims.

**6 Class 1F – Equity Interests in SMMC**

All Equity Interests in SMMC shall be canceled effective as of the Effective Date, and no holder of an Equity Interest in SMMC shall receive any distribution under the Plan on account of its Equity Interest.

Notwithstanding anything to the contrary, including without limitation, the cancellation and extinguishment of the Equity Interests in SMMC pursuant to this Plan, each Debtor shall continue to exist as a separate corporate entity after the Effective Date solely for the purpose of implementing the Plan unless and until such Debtor is dissolved in accordance with applicable state law pursuant to Section 6.4 hereof.

The filing of the Debtors' certificates of dissolution and the adoption of any and all other corporate documents or resolutions necessary or appropriate to implement the Plan are hereby deemed authorized and approved in all respects without further action under any applicable law, regulation, order or rule, including without limitation, any action by the stockholders, members, board of directors or similar governing body of the Debtors.

**B. Treatment of Claims Against and Equity Interests in UHPC (Debtor 2).**

The classes of Claims against and Equity Interests in UHPC shall be treated under the Plan as follows:

**1 Class 2A – General Unsecured Claims Against UHPC**

Each holder of an Allowed General Unsecured Claim against UHPC shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed General Unsecured Claim: Cash in an amount equal to its Pro Rata Share of the Assets of UHPC and its Estate.

**2 Class 2B – Intercompany Claims Against UHPC**

Holders of Allowed Intercompany Claims against UHPC shall not receive or retain any property or rights under the Plan on account of such Claims.

**3 Class 2C – Equity Interests in UHPC**

SMMC, as sole holder of all Allowed Equity Interests in UHPC, shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed Equity Interest in UHPC: any Assets of UHPC and its Estate remaining available for distribution after all distributions to holders of Allowed Claims in Classes 2(A)-(B) required under the Plan have been made.

**C. Treatment of Claims Against and Equity Interests in CAC (Debtor 3).**

The classes of Claims against and Equity Interests in CAC shall be treated under the Plan as follows:

**1 Class 3A – General Unsecured Claims Against CAC**

Each holder of an Allowed General Unsecured Claim against CAC shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed General Unsecured Claim: Cash in an amount equal to its Pro Rata Share of the Assets of CAC and its Estate.

**2 Class 3B – Intercompany Claims Against CAC**

Holders of Allowed Intercompany Claims against CAC shall not receive or retain any property or rights under the Plan on account of such Claims.

**3 Class 3C – Equity Interests in CAC**

SMMC, as sole holder of all Allowed Equity Interests in CAC, shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed Equity Interest in CAC: any Assets of CAC and its Estate remaining available for distribution after all distributions to holders of Allowed Claims in Classes 3(A)-(B) required under the Plan have been made.

**D. Treatment of Claims Against and Equity Interests in SJC (Debtor 4).**

The classes of Claims against and Equity Interests in SJC shall be treated under the Plan as follows:

**1 Class 4A – General Unsecured Claims Against SJC**

Each holder of an Allowed General Unsecured Claim against SJC shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed General Unsecured Claim: Cash in an amount equal to its Pro Rata Share of the Assets of SJC and its Estate.

**2 Class 4B – Intercompany Claims Against SJC**

Holders of Allowed Intercompany Claims against SJC shall not receive or retain any property or rights under the Plan on account of such Claims.

**3 Class 4C – Equity Interests in SJC**

SMMC, as sole holder of all Allowed Equity Interests in SJC, shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed Equity Interest in SJC: any Assets of SJC and its Estate remaining available for distribution after all distributions to holders of Allowed Claims in Classes 4(A)-(B) required under the Plan have been made.



**E. Sources of Cash for Plan Distributions.**

All Cash necessary to make payments and Plan Distributions under the Plan shall be obtained from the liquidation of Liquidation Trust Assets (including the proceeds of any Tort Claims and related Insurance Policies).

**F. The Liquidation Trust**

**1 Execution of the Liquidation Trust Agreement**

The Liquidation Trust Agreement, in a form reasonably acceptable to the Debtors and the Committee, shall be executed on or before the Effective Date, and all other necessary steps shall be taken to establish the Liquidation Trust and the beneficial interests therein, which shall be for the benefit of holders of Allowed Claims as set forth herein. Article VII of the Plan sets forth certain of the rights, duties and obligations of the Liquidation Trustee. In the event of any conflict between the terms of Article VII of the Plan and the terms of the Liquidation Trust Agreement, the terms of the Liquidation Trust Agreement shall govern.

**2 Establishment and Purpose of Liquidation Trust**

On the Effective Date, the Liquidation Trust shall be established pursuant to the Liquidation Trust Agreement for the purposes of administering the Liquidation Trust Assets and making all distributions to Liquidation Trust Beneficiaries as provided for under the Plan. The

Liquidation Trust Agreement shall be substantially in the form provided in the Plan Documents. The beneficial interests in the Liquidation Trust shall not be certificated, unless otherwise provided in the Liquidation Trust Agreement.

**3 Vesting of Assets in the Liquidation Trust.**

On the Effective Date, in accordance with section 1141 of the Bankruptcy Code, all of the Liquidation Trust Assets (except the Tort Claims and proceeds of related Insurance Policies, which shall revert in the Debtors), as well as the rights and powers of the Debtors' and their Estates applicable to the Liquidation Trust Assets (except those applicable to the Tort Claims and proceeds of related Insurance Policies, which shall be transferred to the Liquidation Trust upon the entry of a final judgment or settlement), shall automatically vest in the Liquidation Trust, free and clear of all Claims and Equity Interests for the benefit of the Liquidation Trust Beneficiaries. For the avoidance of doubt, (i) in no event shall the term "Liquidation Trust Assets" be deemed to include any released claims against any Released Parties, and (ii) the Liquidation Trust shall not have the right to assert any released claims against any Released Parties. Upon the transfer of Liquidation Trust Assets to the Liquidation Trust, the Liquidation Trust shall succeed to all of the applicable Debtors' and Estates' rights, title and interest in such Liquidation Trust Assets, and the Debtors shall have no further interest in or with respect to such Liquidation Trust Assets.

**4 Governance of Liquidation Trust.**

The Liquidation Trust shall be governed and administered by the Liquidation Trustee, with the advice and assistance of the Oversight Committee, as provided under the Plan and the

Liquidation Trust Agreement. Notwithstanding anything to the contrary herein, the Oversight Committee shall act in furtherance of, and consistent with, the purpose of the Liquidation Trust and shall act in the best interests of the beneficiaries of the Liquidation Trust.

## **5 Role of the Liquidation Trustee and Debtor Representative.**

The Liquidation Trustee shall be authorized to exercise and perform the rights, powers, and duties held by the Debtors and the Estates with respect to the Liquidation Trust Assets upon their transfer to the Liquidation Trust, including, without limitation, the authority under section 1123(b)(3) of the Bankruptcy Code, and shall be deemed to be acting in the capacity of a bankruptcy trustee, receiver, liquidator, conservator, rehabilitator, creditors' committee or any similar official who has been appointed to take control of, supervise, manage or liquidate the Debtors and their Estates, to provide for the prosecution, settlement, adjustment, retention, and enforcement of the Liquidation Trust Assets.

The responsibilities of the Liquidation Trustee shall include, but shall not be limited to: (a) prosecuting through judgment and/or settling the Liquidation Trust Assets and any defense asserted by the Liquidation Trust in connection with any counterclaim or crossclaim asserted against the Liquidation Trust; (b) calculating and making distributions required under the Plan to be made from the Liquidation Trust Assets; (c) filing all required tax returns, and paying obligations on behalf of the Liquidation Trust from the Liquidation Trust Assets; (d) otherwise administering the Liquidation Trust; (e) filing quarterly reports with the Bankruptcy Court with respect to the expenditures, receipts, and distributions of the Liquidation Trust; and (f) such other responsibilities as may be vested in the Liquidation Trustee pursuant to the Liquidation Trust Agreement, the Confirmation Order, or as may be necessary and proper to carry out the provisions of the Plan relating to the Liquidation Trust.

The powers of the Liquidation Trustee will be set forth in full in the Liquidation Trust Agreement and shall include, among other things, the right, without any further approval from the Bankruptcy Court, to: (a) sell, lease, license, abandon or otherwise dispose of all Liquidation Trust Assets, including SMMC's interest in Chestnut Risk, subject to the terms of the Plan; (b) invest the Liquidation Trust Assets in short term certificates of deposit, in banks or other savings institutions, or other temporary, liquid investments, such as treasury bills, and withdraw funds of the Liquidation Trust; (c) employ Persons to assist the Liquidation Trustee or the Debtor Representative in carrying out his duties under the Plan and Liquidation Trust Agreement; (d) pay from the Liquidation Trust Assets all obligations of the Liquidation Trust and all costs and expenses of administering the Liquidation Trust and Liquidation Trust Assets, including fees and expenses of the Liquidation Trustee, the Debtor Representative, and Persons employed by the Liquidation Trustee or the Debtor Representative in carrying out his duties under the Plan and Liquidation Trust Agreement, taxes, and other obligations of the Liquidation Trust; (e) implement the Plan, including by making distributions pursuant to the Plan; (f) evaluate and determine strategy with respect to the Liquidation Trust Assets, and prosecute, compromise, release, abandon and/or settle or otherwise resolve any Liquidation Trust Assets, including any and all Avoidance Actions, Causes of Action, or other claims of the Debtors or their Estates except Tort Claims, which shall revert in the Debtors; (g) liquidate any Liquidation Trust Assets and provide for distributions therefrom in accordance with the provisions of the Plan; (h) otherwise administer the Liquidation Trust; (i) participate in any post-Effective Date motions to

amend or modify the Plan or the Liquidation Trust Agreement, or appeals from the Confirmation Order; (j) participate in actions to enforce or interpret the Plan; (k) bind the Liquidation Trust; (l) administer the Wind-Down Amounts Reserve in order to pay any remaining Wind-Down Amounts pursuant to the terms of the Plan; (m) continue any motions, defenses, or appeals initiated by the Committee prior to the Effective Date; (n) exercise such other powers and authority as may be vested in or assumed by the Liquidation Trustee by any Final Order, or as may be necessary and proper to carry out the provisions of the Plan relating to the Liquidation Trust; and (o) administer the closure of the Chapter 11 Cases.

In addition to the Liquidation Trustee, on the Effective Date, a Debtor Representative shall be appointed pursuant to section 1123(b)(3) of the Bankruptcy Code.

On the Effective Date, the Debtors' boards of directors or trustees shall be dissolved and the then-current board members shall be relieved of their positions and corresponding duties and obligations and the officers shall likewise be relieved of their positions and corresponding duties and obligations; provided, however, that the Debtor Representative shall be responsible for effectuating transfers of Assets in accordance with this Plan and otherwise satisfying the Debtors' obligations under the terms of this Plan, including executing and delivering all agreements, documents, instruments, notices and certificates as are contemplated by the Plan and taking all necessary actions required in connection therewith, in the name of and on behalf of the Debtor.

On and after the Effective Date, the Debtor Representative shall have full and complete authority to act on behalf of and bind the Debtors without further action or approval of the Bankruptcy Court or the board of directors or trustees of any Debtor, including (i) to take all steps necessary to wind down the affairs of the Debtors, including to dissolve any or all of the Debtors, as well as dissolve the Foundation, and (ii) notwithstanding Section 12.2 of the Asset Purchase Agreement, to monitor or make appropriate arrangements for the monitoring and enforcement of the Buyer's and the Buyer's Parent's obligations under the Asset Purchase Agreement, including those set forth in Sections 5.5, 5.9 and 5.15 of the Asset Purchase Agreement, and the Buyer's obligations under the Prime Management Services Agreement and Medicaid/Medicare Transition Agreement.

On the Effective Date, the Estates' interest in any Tort Claims and rights in and proceeds of any Insurance Policies necessary for the prosecution of all such Claims will revert in the Debtors. The Debtor Representative shall have standing and be authorized to institute and prosecute through final judgment or settle the Tort Claims. Upon entry of a final judgment or settlement, the relevant proceeds of the Tort Claims and relevant Insurance Policies shall be transferred to the Liquidation Trust for the benefit of holders of Allowed claims in accordance with the provisions of this Plan. **THIS PLAN SHALL BE INTERPRETED SO AS TO AFFORD, FOR THE BENEFIT OF ALL HOLDERS OF ALLOWED CLAIMS, THE GREATEST OPPORTUNITY FOR MAXIMUM RECOVERY BY THE LIQUIDATION TRUSTEE AND THE DEBTOR REPRESENTATIVE ON THE ASSETS TORT CLAIMS, AND RIGHTS IN AND PROCEEDS OF ANY INSURANCE POLICIES.**

After the Tort Claims are liquidated, the proceeds of Causes of Action are transferred to the Liquidation Trust in accordance with this Plan, and all other assets of the Liquidating Trust

are administered, the Debtor Representative shall be empowered, but not directed, to effectuate the dissolution of the Debtors in accordance with any applicable state law.

## **6 Compensation of the Liquidation Trustee**

In addition to reimbursement for actual out-of-pocket expenses incurred by the Liquidation Trustee, the Liquidation Trustee shall be entitled to receive reasonable compensation for services rendered on behalf of the Liquidation Trust on terms to be set forth in the Liquidation Trust Agreement. All such compensation and reimbursement shall be paid from the Liquidation Trust with Liquidation Trust Assets. Like terms shall apply to the fees and expenses of the Debtor Representative.

## **7 Retention of Professionals by the Liquidation Trustee**

The Liquidation Trustee may, without further order of the Bankruptcy Court, employ various Persons on behalf of the Liquidation Trust and Debtor Representative, including, but not limited to, attorneys, consultants and financial advisors, as needed to assist him/her in fulfilling his/her obligations under the Liquidation Trust Agreement and the Plan, and on whatever fee arrangement he/she deems appropriate, including, without limitation, contingency fee arrangements. For the avoidance of doubt, the Liquidation Trustee may retain professionals who represented parties in interest in the Chapter 11 Cases. Professionals engaged by the Liquidation Trustee shall not be required to file applications with the Bankruptcy Court in order to receive compensation for services rendered and reimbursement of actual out-of-pocket expenses incurred. All such compensation and reimbursement shall be paid from the Liquidation Trust with Liquidation Trust Assets.

## **8 Non-certificated Liquidation Trust Interests.**

The beneficial interests in the Liquidation Trust shall not be certificated, except as otherwise provided in the Liquidation Trust Agreement.

## **9 Dissolution of the Liquidation Trust.**

The Liquidation Trustee and the Liquidation Trust shall be discharged or dissolved, as the case may be, at such time as (i) all assets of the Liquidation Trust have been liquidated and (ii) all distributions required to be made by the Liquidation Trustee under the Plan have been made, but in no event shall the Liquidation Trust be dissolved later than five (5) years from the Effective Date; provided, however, that the Bankruptcy Court, upon motion by a party in interest, may extend the term of the Liquidation Trust for a finite period if (i) such extension is necessary to the purpose of the Liquidation Trust, (ii) the Liquidation Trustee receives an opinion of counsel or a ruling from the IRS stating that such extension would not adversely affect the status of the Liquidation Trust as a liquidating trust for federal income tax purposes, and (iii) such extension is obtained within the six (6) month period prior to the Liquidation Trust's fifth (5th) anniversary or the end of the immediately preceding extension period, as applicable. Upon dissolution of the Liquidation Trust, any remaining Cash on hand and other assets, with the exception of any Causes of Action will be distributed to the Liquidation Trust Beneficiaries in accordance with the Liquidation Trust Agreement. Upon the dissolution of the Liquidation Trust, all remaining Causes of Action shall be deemed void and abandoned and no

Liquidation Trust Beneficiary shall have any right, title or interest in or to any such Cause of Action.

## **10 Securities Exempt**

The issuance of any beneficial interests of the Liquidation Trust satisfies the requirements of section 1145 of the Bankruptcy Code and, therefore, such issuance is exempt from registration under the Securities Act of 1933, as amended, and any state or local law requiring registration.

### **G. Releases and Exculpations**

#### **1 Releases by the Debtors**

**Except as otherwise provided in the Plan, as of the Effective Date, for good and valuable consideration, including the obligations of the Debtors under the Plan and the contributions of the Released Parties to facilitate and implement the Plan, on and after the Effective Date, the Released Parties are deemed released and discharged by the Debtors and their Estates from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action and liabilities, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that the Debtors or their Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Equity Interest or other Person, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Chapter 11 Cases, the Plan or the Disclosure Statement, the purchase, sale or rescission of the purchase or sale of any security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Equity Interests before or during the Chapter 11 Cases, the negotiation, formulation or preparation of the Plan, the Liquidation Trust Agreement, the solicitation of votes with respect to the Plan, or any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date; except, that nothing in this section shall be construed to release any party or entity from willful misconduct, gross negligence, or intentional fraud as determined by a Final Order.**

#### **2 Releases by Creditors and Equity Security Holders**

**ON THE EFFECTIVE DATE, EXCEPT AS OTHERWISE PROVIDED HEREIN AND EXCEPT FOR THE RIGHT TO ENFORCE THIS PLAN, ALL PERSONS WHO HAVE (I) (A) VOTED TO ACCEPT THIS PLAN OR WHO ARE PRESUMED OR DEEMED TO HAVE VOTED TO ACCEPT THIS PLAN UNDER SECTION 1126(f) OF THE BANKRUPTCY CODE, (B) ARE ENTITLED TO VOTE TO ACCEPT OR REJECT THIS PLAN AND WHO VOTE TO REJECT THIS PLAN OR ABSTAIN FROM VOTING, OR (C) ARE DEEMED TO HAVE REJECTED THIS PLAN UNDER SECTION 1126(g) OF THE BANKRUPTCY CODE, AND (II) DO NOT MARK THEIR BALLOTS AS OPTING OUT OR OTHERWISE OPT OUT OF THE RELEASES**

**GRANTED UNDER THIS SECTION OR OPT OUT IN WRITING BY THE DEADLINE TO VOTE TO ACCEPT OR REJECT THIS PLAN, AS APPLICABLE, SHALL, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BE DEEMED TO FOREVER RELEASE, WAIVE AND DISCHARGE THE RELEASED PARTIES AND EACH OF THEIR RESPECTIVE CONSTITUENTS, PRINCIPALS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, REPRESENTATIVES, ATTORNEYS, PROFESSIONALS, ADVISORS, AFFILIATES, FUNDS, SUCCESSORS, PREDECESSORS, AND ASSIGNS OF AND FROM ALL LIENS, CLAIMS, CAUSES OF ACTION, LIABILITIES, ENCUMBRANCES, SECURITY INTERESTS, INTERESTS OR CHARGES OF ANY NATURE OR DESCRIPTION WHATSOEVER RELATING TO THE DEBTORS, THE CHAPTER 11 CASES OR AFFECTING PROPERTY OF THE ESTATES, WHETHER KNOWN OR UNKNOWN, SUSPECTED OR UNSUSPECTED, SCHEDULED OR UNSCHEDULED, CONTINGENT OR NOT CONTINGENT, UNLIQUIDATED OR FIXED, ADMITTED OR DISPUTED, MATURED OR UNMATURED, SENIOR OR SUBORDINATED, WHETHER ASSERTABLE DIRECTLY OR DERIVATIVELY BY, THROUGH, OR RELATED TO THE DEBTORS, AGAINST SUCCESSORS OR ASSIGNS OF THE DEBTORS AND THE INDIVIDUAL AND ENTITIES LISTED ABOVE, WHETHER AT LAW, IN EQUITY, OR OTHERWISE, BASED UPON ANY CONDITION, EVENT, ACT, OMISSION, OCCURRENCE, TRANSACTION, OR OTHER ACTIVITY, INACTIVITY, INSTRUMENT OR OTHER AGREEMENT OF ANY KIND OR NATURE OCCURRING, ARISING, OR EXISTING PRIOR TO THE EFFECTIVE DATE IN ANY WAY RELATING TO OR ARISING OUT OF, IN WHOLE OR IN PART, THE DEBTORS, THE CHAPTER 11 CASES, THE PURSUIT OF CONFIRMATION OF THE PLAN, THE NEGOTIATION AND CONSUMMATION OF THE SALE, THE CONSUMMATION OF THE PLAN, OR THE ADMINISTRATION OF THE PLAN, INCLUDING, WITHOUT LIMITATION, THE NEGOTIATION AND SOLICITATION OF THE PLAN, ALL REGARDLESS OF WHETHER (A) A PROOF OF CLAIM HAS BEEN FILED OR IS DEEMED TO HAVE BEEN FILED, (B) SUCH CLAIM IS ALLOWED, OR (C) THE HOLDER OF SUCH CLAIM HAS VOTED TO ACCEPT OR REJECT THE PLAN, EXCEPT FOR WILLFUL MISCONDUCT, GROSS NEGLIGENCE, OR INTENTIONAL FRAUD. FOR THE AVOIDANCE OF DOUBT, NOTHING CONTAINED IN THIS PARAGRAPH SHALL IMPACT THE RIGHT OF ANY HOLDER OF AN ALLOWED CLAIM TO RECEIVE A DISTRIBUTION ON ACCOUNT OF ITS ALLOWED CLAIM IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE PLAN.**

### **3 Exculpation**

**No Exculpated Party shall have or incur, and each Exculpated Party is hereby released and exculpated from any claim, obligation, Cause of Action or liability for any claim in connection with or arising out of, the administration of the Chapter 11 Cases, the entry into the DIP Documents and the DIP Facility, entry into the Liquidation Trust Agreement, entry into the Global Settlement Agreement, the Debtors' entry into any asset purchase agreement during the Chapter 11 Cases, the consummation of any transactions contemplated therein, the negotiation and pursuit of the Plan, or the solicitation of votes for, or confirmation of, the Plan, the funding of the Plan, the consummation of the Plan, or**



the administration of the Plan or the property to be distributed under the Plan, and the issuance of securities under or in connection with the Plan or the transactions contemplated by the foregoing, except for willful misconduct, gross negligence, or intentional fraud as finally determined by the Bankruptcy Court, but in all respects such Exculpated Party shall be entitled to reasonably rely upon the advice of counsel with respect to its duties and responsibilities pursuant to the Plan. The Exculpated Parties have participated in compliance with the applicable provisions of the Bankruptcy Code with regard to the solicitation and distribution of the securities pursuant to the Plan, and are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan, including the issuance of securities thereunder.

#### 4 Injunction

Except as otherwise provided in the Plan or the Confirmation Order, or to the extent necessary to enforce the terms and conditions of the Plan, the Confirmation Order, or a separate Order of the Bankruptcy Court, as of the Confirmation Date, but subject to the occurrence of the Effective Date, all Persons who have held, hold or may hold Claims against or Equity Interests in the Debtors or the Estates are, with respect to any such Claims or Equity Interests, permanently enjoined after the Confirmation Date from: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtors, the Estates or any of their Assets, the Liquidation Trustee, the Buyer, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons or any property of any such transferee or successor; (ii) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against the Debtors, the Estates or any of their Assets, the Liquidation Trustee, the Buyer, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons, or any property of any such transferee or successor; (iii) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtors, the Estates or any of their Assets, the Liquidation Trustee, the Buyer, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons; (iv) commencing or continuing in any manner or in any place, any suit, action or other proceeding on account of or respecting any Claim, demand, liability, obligation, debt, right, Cause of Action, interest or remedy released or to be released, satisfied, or otherwise addressed pursuant to the Plan or the Confirmation Order, including, but not limited to, through the releases and exculpations provided under the Plan; (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan to the fullest extent permitted by applicable law; and (vi) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan; provided, however, that nothing contained herein shall preclude such persons from exercising their rights pursuant to and

**consistent with the terms of the Plan. Each holder of an Allowed Claim or Allowed Equity Interest shall be deemed to have specifically consented to the injunctions set forth herein.**

**FROM AND AFTER THE EFFECTIVE DATE, TO THE EXTENT OF THE RELEASES AND EXCULPATIONS GRANTED IN THE PLAN, THE RELEASING PARTIES SHALL BE PERMANENTLY ENJOINED FROM COMMENCING OR CONTINUING IN ANY MANNER AGAINST THE RELEASED PARTIES AND THE EXCULPATED PARTIES AND THEIR ASSETS AND PROPERTIES, AS THE CASE MAY BE, ANY SUIT, ACTION, OR OTHER PROCEEDING, ON ACCOUNT OF OR RESPECTING ANY CLAIM, DEMAND, LIABILITY, OBLIGATION, DEBT, RIGHT, CAUSE OF ACTION, INTEREST, OR REMEDY RELEASED OR TO BE RELEASED PURSUANT TO THE PLAN.**

## **XI.**

### **CONFIRMATION AND CONSUMMATION PROCEDURES**

#### **A. Overview**

A chapter 11 plan may provide anything from a complex restructuring of a debtor's business and its related obligations to a liquidation of the debtor's assets. In either event, upon confirmation of the plan, it becomes binding on the debtor and all of its creditors and equity holders, and the obligations owed by the debtor to such parties are compromised and exchanged for the obligations specified in the plan. Before soliciting acceptances of the proposed plan, section 1125 of the Bankruptcy Code requires the debtor to prepare and file a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment about the plan. **This Disclosure Statement is presented to holders of impaired Claims against the Debtors to satisfy the requirements of section 1125 of the Bankruptcy Code in connection with the Debtors' solicitation of votes on the Plan.**

If all classes of claims and equity interests accept a chapter 11 plan, the bankruptcy court may confirm the plan if the bankruptcy court independently determines that the requirements of section 1129(a) of the Bankruptcy Code have been satisfied. Section 1129(a) sets forth the requirements for confirmation of a plan and, among other things, requires that a plan meet the "best interests of creditors" test and be "feasible." The "best interests of creditors" test generally requires that the value of the consideration to be distributed to the holders of claims or equity interests under a plan may not be less than those parties would receive if the debtor were liquidated pursuant to a hypothetical liquidation occurring under chapter 7 of the Bankruptcy Code. Under the "feasibility" requirement, the bankruptcy court generally must find that there is a reasonable probability that the debtor will be able to meet its obligations under its plan without the need for further financial reorganization. **The Debtors believe that the Plan satisfies all applicable requirements of section 1129(a) of the Bankruptcy Code, including, in particular, the best interests of creditors' test and the feasibility requirement.**

The Bankruptcy Code does not require that each holder of a claim or interest in a particular class vote in favor of a chapter 11 plan for the bankruptcy court to determine that the class has accepted the plan. Rather, a class of creditors will be determined to have accepted the



plan if the bankruptcy court determines that the plan has been accepted by a majority in number and two-thirds in amount of those claims actually voting in such class. Similarly, a class of equity security holders will have accepted the plan if the bankruptcy court determines that the plan has been accepted by holders of two-thirds of the number of shares actually voting in such class.

In addition, classes of claims or equity interests that are not “impaired” under a chapter 11 plan are conclusively presumed to have accepted the plan and thus are not entitled to vote. Furthermore, classes that are to receive no distribution under the plan are conclusively deemed to have rejected the plan. Accordingly, acceptances of a plan will generally be solicited only from those persons who hold claims or equity interests in an impaired class. A class is “impaired” if the legal, equitable or contractual rights associated with the claims or equity interests of that class are modified in any way under the plan. Modification for purposes of determining impairment, however, does not include curing defaults and reinstating maturity on the effective date of the plan. **Classes 1A and 1B are not impaired under the Plan, and the holders of Claims in such classes are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code and are not entitled to vote to accept or reject the Plan. Classes 1C – 1D, 2A, 2C, 3A, 3C, 4A, and 4C are impaired under the Plan, and the holders of Claims or Equity Interests in such classes are entitled to vote to accept or reject the Plan. Classes 1E, 1F, 2B, 3B, and 4B are impaired and will not receive or retain any property under the Plan, and the holders of Claims in such classes are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and are not entitled to vote to accept or reject the Plan.**

The bankruptcy court also may confirm a chapter 11 plan even though fewer than all of the classes of impaired claims and equity interests accept such plan. For a chapter 11 plan to be confirmed despite its rejection by a class of impaired claims or equity interests, the plan must be accepted by at least one class of impaired claims (determined without counting the vote of insiders) and the proponent of the plan must show, among other things, that the plan does not “discriminate unfairly” and that the plan is “fair and equitable” with respect to each impaired class of claims or equity interests that has not accepted the plan.

Under section 1129(b) of the Bankruptcy Code, a plan is “fair and equitable” as to a rejecting class of claims or equity interests if, among other things, the plan provides: (a) with respect to secured claims, that each such holder will receive or retain on account of its claim property that has a value, as of the effective date of the plan, equal to the allowed amount of such claim; and (b) with respect to unsecured claims and equity interests, that the holder of any claim or equity interest that is junior to the claims or equity interests of such class will not receive or retain on account of such junior claim or equity interest any property from the estate, unless the senior class receives property having a value equal to the full amount of its allowed claim.

A plan does not “discriminate unfairly” against a rejecting class of claims or equity interests if (a) the relative value of the recovery of such class under the plan does not differ materially from that of any class (or classes) of similarly situated claims or equity interests, and (b) no senior class of claims or equity interests is to receive more than 100% of the amount of the claims or equity interest in such class.

The Plan has been structured so that it will satisfy the foregoing requirements as to any rejecting classes of Claims and Equity Interests.

**B. Confirmation of the Plan**

**1 Elements of Section 1129 of the Bankruptcy Code**

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the conditions to confirmation under section 1129 of the Bankruptcy Code are satisfied.

Such conditions include the following:

- a. The Plan complies with the applicable provisions of the Bankruptcy Code.
- b. The Debtors have complied with the applicable provisions of the Bankruptcy Code.
- c. The Plan has been proposed in good faith and not by any means proscribed by law.
- d. Any payment made or promised by the Debtors or by a person issuing securities or acquiring property under the Plan for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, has been approved by, or is subject to the approval of, the Bankruptcy Court as reasonable.
- e. The Debtors have disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director, officer or voting trustee of the Debtors or a successor to the Debtors under the Plan and the appointment to, or continuance in, such office of such individual is consistent with the interests of creditors and equity holders and with public policy, and the Debtors have disclosed the identity of any insider that will be employed or retained by the Debtors, and the nature of any compensation for such insider.
- f. With respect to each impaired class of Claims or Equity Interests, each holder of an impaired Claim or impaired Equity Interest either has accepted the Plan or will receive or retain under the Plan, on account of the Claims or Equity Interests held by such entity, property of a value, as of the Effective Date, that is not less than the amount that such entity would receive or retain if the Debtors were liquidated on such date under chapter 7 of the Bankruptcy Code.
- g. In the event that the Debtors do not seek to confirm the Plan non-consensually, each class of Claims or Equity Interests entitled to vote has either accepted the Plan or is not impaired under the Plan.

h. Except to the extent that the holder of a particular Claim has agreed to a different treatment of such Claim, the Plan provides that Administrative Claims and Priority Claims will be paid in full, in Cash, on the Effective Date and Tax Claims will be paid in regular installments over a period ending not later than five (5) years after the Petition Date, of a total value, as of the Effective Date, equal to the allowed amount of such Tax Claims.

i. At least one impaired class of Claims has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a Claim in such class.

j. 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 other successor to the Debtors under the Plan, unless such liquidation or reorganization is proposed in the Plan.

k. All fees payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, have been paid or the Plan provides for the payment of all such fees on the Effective Date of the Plan.

**The Debtors and the Committee believe that the Plan will satisfy all the statutory provisions of chapter 11 of the Bankruptcy Code, that it has complied or will have complied with all of the provisions of the Bankruptcy Code, and that the Plan is being proposed and submitted to the Bankruptcy Court in good faith.**

## **2 Acceptance**

A class of Claims will have accepted the Plan if the Plan is accepted, with reference to a class of Claims, by at least two-thirds in amount and more than one-half in number of the Allowed Claims of each such class of Claims actually voting. Each class of Equity Interests will have accepted the Plan if the Plan is accepted with reference to a class of Equity Interests, by at least two-thirds in amount of the Allowed Equity Interests of each class of Equity Interests actually voting.

## **3 Best Interests of Creditors Test**

With respect to each impaired class of holders of Claims and Equity Interests, confirmation of the Plan requires that each such holder either (a) accept the Plan or (b) receive or retain under the Plan property of a value, as of the applicable consummation date under the Plan, that is not less than the value such holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.

To determine what holders of Claims and Equity Interests of each impaired class would receive if the Debtors were liquidated, the Bankruptcy Court must determine the proceeds that would be generated from the liquidation of the properties and interests in property of the Debtors in a chapter 7 liquidation case. The proceeds that would be available for satisfaction of impaired Claims against and Equity Interests in the Debtors would consist of the proceeds generated by disposition of the unencumbered equity in the properties and interests in property of the Debtors and the cash held by the Debtors at the time of the commencement of the liquidation case. Such

proceeds would be reduced by the costs and expenses of the liquidation and by such additional administration and priority claims that may result from the use of chapter 7 for the purposes of liquidation.

The costs of liquidation under chapter 7 of the Bankruptcy Code would include the fees payable to a trustee in bankruptcy, and the fees that would be payable to additional attorneys and other professionals that such a trustee may engage, plus any unpaid expenses incurred by the Debtors during the Chapter 11 Cases, such as compensation for attorneys, financial advisors, accountants and costs that are allowed in the chapter 7 cases. Whereas the Liquidation Trustee and its counsel has the background and familiarity with the remaining assets to be liquidated to realize the most money for the costs to be incurred to complete the process, a chapter 7 trustee and the persons it employs would need time to develop the necessary industry and debtor specific knowledge necessary to assist the chapter 7 trustee examine and distribute the Debtors' assets. In addition, Claims would arise by reason of the breach or rejection of obligations incurred and executory contracts entered into or assumed by the Debtors during the pendency of the Chapter 11 Cases.

The foregoing types of Claims and such other Claims which may arise in the liquidation cases or result from the pending Chapter 11 Cases would be paid in full from the liquidation proceeds before the balance of those proceeds would be made available to pay impaired Claims arising on or before the Petition Date. In addition to the foregoing, it is expected that the liquidation of remaining assets, including SMMC's interest in Chestnut Risk, under chapter 7 of the Bankruptcy Code would yield less value due to the expeditious liquidation as required by chapter 7 than they are expected to yield under the Plan.

To determine if the Plan is in the best interests of each impaired class, the present value of the distributions from the proceeds of the liquidation of the properties and interests in property of the Debtors (net of the amounts attributable to the aforesaid claims) is then compared with the present value offered to such classes of Claims and Equity Interests under the Plan.

After consideration of the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to creditors in the Chapter 11 Cases, including (i) the additional costs associated with the appointment of the chapter 7 trustee and (ii) the erosion in value of assets in chapter 7 cases, including SMMC's interest in Chestnut Risk, in the context of the expeditious liquidation required under chapter 7, the Debtors and the Committee have determined that confirmation of the Plan will provide each holder of an impaired Claim with a greater recovery than it would receive pursuant to liquidation of the Debtors under chapter 7 of the Bankruptcy Code.

#### **4 Feasibility**

The Bankruptcy Code conditions confirmation of a chapter 11 plan on, among other things, a finding that it is not likely to be followed by the liquidation or the need for further financial reorganization of a debtor. For purposes of determining whether the Plan satisfies this condition, the Debtors have analyzed the Liquidation Trustee's capacity to service its obligations under the Plan. Based upon their analysis, the Debtors submit that the Liquidation Trustee will be able to make all payments required to be made under the Plan.

### C. Cramdown

In the event that any impaired class does not accept the Plan, the Debtors nevertheless may move for confirmation of the Plan. To obtain such confirmation, it must be demonstrated to the Bankruptcy Court that the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to such classes and any other classes of Claims that vote to reject the Plan.

#### 1 No Unfair Discrimination

A chapter 11 plan “does not discriminate unfairly” if (a) the legal rights of a non-accepting class are treated in a manner that is consistent with the treatment of other classes whose legal rights are similar to those of the non-accepting class, and (b) no class receives payments in excess of that which it is legally entitled to receive for its Claims or Equity Interests. The Debtors and the Committee believe that under the Plan all impaired classes of Claims and Equity Interests are treated in a manner that is consistent with the treatment of other classes of Claims and Equity Interests that are similarly situated, if any, and no class of Claims or Equity Interests will receive payments or property with an aggregate value greater than the aggregate value of the Allowed Claims and Allowed Equity Interests in such class. Accordingly, the Debtors believe the Plan does not discriminate unfairly as to any impaired class of Claims or Equity Interests.

#### 2 Fair and Equitable Test

The Bankruptcy Code establishes different “fair and equitable” tests for classes of secured claims, unsecured claims and equity interests as follows:

- (a) **Secured Claims.** Either (i) each holder of a claim in an impaired class of secured claims retains its liens securing its secured claim and it receives on account of its secured claim deferred cash payments having a present value equal to the amount of its allowed secured claim, (ii) each holder of a claim in an impaired class of secured claims realizes the indubitable equivalent of its allowed secured claim or (iii) the property securing the claim is sold free and clear of liens, with such liens to attach to the proceeds and the treatment of such liens on proceeds as provided in clause (i) or (ii) of this subparagraph.
- (b) **Unsecured Claims.** Either (i) each holder of a claim in an impaired class of unsecured claims receives or retains under the plan property of a value equal to the amount of its allowed claim or (ii) the holders of claims and interests that are junior to the claims of the dissenting class will not receive any property under the chapter 11 plan, subject to the applicability of the judicial doctrine of contributing new value.
- (c) **Equity Interests.** Either (i) each holder of an equity interest in an impaired class of interests will receive or retain under the chapter 11 plan property of a value equal to the greater of (A) the fixed liquidation preference or redemption price, if any, of such stock or (B) the value of the stock or (ii) the holders of interests that are junior to the stock will not receive any property under the chapter 11 plan, subject to the applicability of the judicial doctrine of contributing new value.

**D. Effect of Confirmation**

Under section 1141 of the Bankruptcy Code, the provisions of a confirmed plan bind the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor or equity security holder, whether or not the claim or interest of such creditor or equity security holder is impaired under the plan and whether or not such creditor or equity security holder voted to accept the plan. Further, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors and equity security holders, except as otherwise provided in the plan or the confirmation order.

**XII.  
TAX ISSUES**

For federal income tax purposes, (i) all parties (including, without limitation, the Debtors, the Liquidation Trustee, and the Liquidation Trust Beneficiaries) shall treat the Liquidation Trust as a liquidating trust within the meaning of Treasury Regulation section 301.7701-4(d) and IRS Revenue Procedure 94-45, 1994-2 C.B. 684, (ii) the transfer of Assets of the Debtors to the Liquidation Trust under the Plan shall be treated as a deemed transfer to the Liquidation Trust Beneficiaries in satisfaction of their Claims followed by a deemed transfer of the Assets by the Liquidation Trust Beneficiaries to the Liquidation Trust, (iii) the Liquidation Trust Beneficiaries will be deemed to be the grantors and owners of the Liquidation Trust and its assets, and (iv) the Liquidation Trust will be taxed as a grantor trust within the meaning of sections 671-677 of the Internal Revenue Code owned by the Liquidation Trust Beneficiaries. The Liquidation Trust will file federal income tax returns as a grantor trust under Internal Revenue Code section 671 and Treasury Regulation section 1.671-4 and report, but not pay tax on, the Liquidation Trust's tax items of income, gain, loss deductions and credits ("Tax Items"). The Liquidation Trust Beneficiaries will report such Tax Items on their federal income tax returns and pay any resulting federal income tax liability. All parties will use consistent valuations of the Assets transferred to the Liquidation Trust for all federal income tax purposes. The Assets shall be valued based on the Liquidation Trustee's good faith determination of their fair market value.

The Liquidation Trustee may, for U.S. federal income tax purposes (and, to the extent permitted by law, for state and local income tax purposes), (i) make an election pursuant to Treasury Regulation section 1.468B-9 to treat the LT Reserve(s) as a "disputed ownership fund" within the meaning of that section, (ii) allocate taxable income or loss to the LT Reserve(s), with respect to any given taxable year (but only for the portion of the taxable year with respect to which such Claims are Disputed Claims), and (iii) distribute assets from the LT Reserve(s) as, when, and to the extent, such Disputed Claims either become Allowed or are otherwise resolved. The Liquidation Trust Beneficiaries shall be bound by such election, if made by the Liquidation Trustee, in consultation with the Oversight Committee, and as such shall, for U.S. federal income tax purposes (and, to the extent permitted by law, for state and local income tax purposes), report consistently therewith.

For federal and applicable state income tax purposes, all parties (including, without limitation, the Debtors, the Liquidation Trustee, and the Liquidation Trust Beneficiaries) shall treat the transfers of Assets to the Liquidation Trust in accordance with the terms of the Plan as a sale by the Debtors and/or their Estates of such Assets to the Liquidation Trust at a selling price



equal to the fair market value of such Assets on the date of transfer. The Liquidation Trust shall be treated as the owner of all Assets that it holds.

**In connection with the Plan, the Debtors and the Liquidation Trustee, as applicable, shall comply with all withholding and reporting requirements imposed by federal, state, local and foreign taxing authorities and all Plan Distributions hereunder shall be subject to such withholding and reporting requirements. Notwithstanding the above, each holder of an Allowed Claim that is to receive a Plan Distribution shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any government unit, including income, withholding and other tax obligations, on account of such Plan Distribution. The Liquidation Trustee has the right to withhold a Plan Distribution until such holder has made arrangements satisfactory to the Liquidation Trustee for payment of any such tax obligations. The Liquidation Trustee has the right to withhold a Plan distribution until the holder of the Claim upon which distribution is to be made provides the Liquidation Trustee with IRS Form W-9 and any other information determined by the Liquidation Trustee to be necessary or appropriate to effect information reporting and the withholding of taxes. If the Liquidation Trustee has not received IRS Form W-9 or other requested tax reporting information from the holder of a Claim before the relevant Plan Distribution Date, any property or Cash to be distributed pursuant to the Plan shall, pending receipt of IRS Form W-9 or such other requested information, be treated as an unclaimed distribution under the Plan, as set forth in Section 9.3.2.**

**THE FOREGOING HAS BEEN PROVIDED FOR INFORMATIONAL PURPOSES ONLY. ALL HOLDERS OF ALLOWED CLAIMS AND EQUITY INTERESTS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS WITH RESPECT TO THE U.S. FEDERAL, STATE, LOCAL OR FOREIGN TAX CONSEQUENCES OF THE IMPLEMENTATION OF THE PLAN.**

### **XIII.** **RISK FACTORS**

There are many risks and uncertainties in respect of the Plan and its implementation. The holders of Claims against and Equity Interests in the Debtors should read and carefully consider the following factors, as well as the other information set forth in this Disclosure Statement, before deciding whether to vote to accept or reject the Plan. The risk factors identified below they should not be regarded as the only risks present in connection with the Debtors' businesses or the Plan and its implementation.

#### **A. Certain Bankruptcy Considerations**

##### **1 Parties in Interest May Object to the Plan's Classification of Claims and Equity Interests**

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests in such class. The Debtors and the Committee believe that the classification of Claims against and Equity Interests in the Debtors under the Plan complies with the requirements

set forth in the Bankruptcy Code because the Debtors created Classes of Claims and Equity Interests, each encompassing Claims or Equity Interests, as applicable, that are substantially similar to the other Claims and Equity Interests in each such Class. Nevertheless, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

## **2 Failure to Satisfy Vote Requirements**

If votes are received in number and amount sufficient to enable the Bankruptcy Court to confirm the Plan, the Debtors and the Committee intend to seek, as promptly as practicable thereafter, confirmation of the Plan. In the event that sufficient votes are not received, the Debtors may seek to confirm an alternative chapter 11 plan. There can be no assurance that the terms of any such alternative chapter 11 plan would be similar or as favorable to the holders of Allowed Claims or Allowed Equity Interests as those proposed in the Plan.

## **3 The Debtors and the Committee May Not Be Able Secure Confirmation or Consummation of the Plan**

The Plan requires the acceptance of a requisite number of holders of Claims or Equity Interests that are entitled to vote on the Plan, and the approval of the Bankruptcy Court, as described in the section of this Disclosure Statement entitled “Confirmation and Consummation Procedures – Overview.” There can be no assurance that such acceptances and approvals will be obtained and therefore, that the Plan will be confirmed. In addition, confirmation of the Plan and the occurrence of the Effective Date of the Plan are subject to the satisfaction of certain conditions precedent. Although the Debtors and the Committee believe that the conditions precedent to the confirmation of the Plan and to the occurrence of the Effective Date of the Plan will be met, there can be no assurance that all such conditions precedent will be satisfied. If any condition precedent is not satisfied or waived pursuant to the Plan, the Plan may not be confirmed or the Effective Date may not occur.

Furthermore, although the Debtors and the Committee believe that the Plan will be confirmed and the Effective Date will occur reasonably soon after the Confirmation Date, there can be no assurance as to the timing or as to whether the Effective Date will occur. Further, and notwithstanding the foregoing or anything in the Plan to the contrary, the Debtors have reserved their rights pursuant to the Plan to (in consultation with the Committee) delay the occurrence of the Effective Date with respect to one or more of the Debtors’ Estates to a later date; provided, however, that any such election by the Debtors to delay the occurrence of the Effective Date with respect to one Estate shall not prevent the occurrence of the Effective Date with respect to any of the other Estates. If the Plan is not confirmed or the Effective Date does not occur, there can be no assurance that any alternative chapter 11 plan would be on terms as favorable to the holders of Claims and Equity Interests as the terms of the Plan. In addition, if a protracted reorganization or liquidation were to occur, there is a substantial risk that holders of Claims and Equity Interests would receive less than they would receive under the Plan. A liquidation analysis prepared by the Debtors with the assistance of their advisors is attached hereto as Schedule 1.

If the Plan is not confirmed and does not go effective for any reason and the Debtors or some other party in interest decide to prosecute a different plan, recoveries to holders of Claims



against or Equity Interests in the Debtors may be negatively impacted. If the Plan is confirmed but the Effective Date does not occur, it may become necessary to amend the Plan to provide for alternative treatment of Claims and Equity Interests. There can be no assurance that any such alternative treatment would be on terms as favorable to the holders of Claims and Equity Interests as the treatment provided under the Plan. If any modifications to the Plan are materially adverse to any holders of Claims or Equity Interests, it would be necessary to resolicit votes from holders of such Claims or Equity Interests, which would, at the very least, further delay confirmation and consummation of the Plan, and could jeopardize the consummation of the Plan.

#### **4 Actual Plan Distributions May Be Less than Estimated for the Purposes of this Disclosure Statement**

The Debtors and the Committee project that the Claims and Equity Interests asserted against the Debtors will be resolved in and reduced to an amount that approximates the estimates set forth herein. However, there can be no assurance that these estimates will prove accurate. In the event the allowed amounts of such Claims and/or Equity Interests are materially higher than the projected estimates, actual distributions to holders of Allowed Claims could be materially less than estimated herein.

#### **B. Certain Tax Considerations**

There are a number of material income tax considerations, risks and uncertainties associated with consummation of the Plan. Holders of Claims and Equity Interests, and other interested parties, should read carefully the discussion set forth in the article of this Disclosure Statement entitled "Certain U.S. Federal Income Tax Consequences" for a discussion of certain U.S. federal income tax consequences of the transactions contemplated under the Plan.

### **XIV.** **ALTERNATIVES TO CONFIRMATION AND** **CONSUMMATION OF THE PLAN**

The Debtors and the Committee have concluded that the Plan will maximize recoveries to holders of Claims and Equity Interests. If no plan of reorganization can be confirmed, the Chapter 11 Cases of the Debtors may be converted to cases under chapter 7, in which event a trustee would be elected or appointed to liquidate the properties and interests in property of the Debtors for distribution to their creditors in accordance with the priorities established by the Bankruptcy Code. The Debtors and the Committee believe that liquidation under chapter 7 would result in smaller distributions being made to creditors than those provided for under the Plan because (i) the chapter 7 trustee's unfamiliarity with the Debtor and its industry would lead to additional costs for the Estates and (ii) in a liquidation of the Debtors under chapter 11, the Causes of Action retained by the Estates likely will be pursued in a more orderly fashion and over a more extended period of time than in a liquidation under chapter 7, potentially resulting in greater recoveries. Accordingly, the Debtors and the Committee have determined that confirmation of the Plan will likely provide each holder of a Claim or Equity Interest with a greater recovery than it would receive pursuant to liquidation of the Debtors under chapter 7.


**XV.**  
**CONCLUSION**

The Debtors and the Committee believe that the Plan is in the best interest of all holders of Claims and Equity Interests, and urge all holders of impaired Claims and Equity Interests in the Debtors to vote to accept the Plan and to evidence such acceptance by returning their Ballots in accordance with the instructions accompanying the Disclosure Statement.

Dated: November 1, 2016

Respectfully submitted,

SAINT MICHAEL'S MEDICAL CENTER,  
INC., on behalf of itself and each of the  
other Debtors

By:   
Name: David Ricci  
Title: Chief Executive Officer

-and-

OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS OF SAINT  
MICHAEL'S MEDICAL CENTER INC.,  
ET AL.

By: \_\_\_\_\_  
Name: Douglas A. Placa  
Title: Chairperson

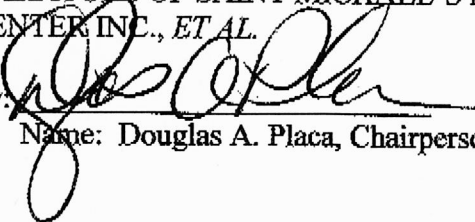
Respectfully submitted,

SAINT MICHAEL'S MEDICAL CENTER, INC.,  
on behalf of itself and each of the other Debtors

By: \_\_\_\_\_  
Name: David A. Ricci  
Title: Chief Executive Officer

-and-

OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS OF SAINT MICHAEL'S MEDICAL  
CENTER INC., *ET AL.*

By:   
Name: Douglas A. Placa, Chairperson

**EXHIBIT A**

**THE PLAN**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY**

In re:	)	
	)	Chapter 11
SAINT MICHAEL’S MEDIAL CENTER, INC.,	)	
<i>et al.</i> ,	)	Case No. 15-24999 (VFP)
	)	
Debtors. <sup>1</sup>	)	Jointly Administered

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**JOINT CHAPTER 11 PLAN OF ORDERLY LIQUIDATION FOR SAINT MICHAEL’S  
MEDICAL CENTER, INC. AND ITS AFFILIATED DEBTORS**

---

Dated: November 1, 2016	<p><b>COLE SCHOTZ P.C.</b>  Michael D. Sirota, Esq.  <a href="mailto:msirota@coleschotz.com">msirota@coleschotz.com</a>  Ryan T. Jareck, Esq.  <a href="mailto:rjareck@coleschotz.com">rjareck@coleschotz.com</a>  Court Plaza North  25 Main Street  P.O. Box 800  Hackensack, New Jersey 07602-0800  (201) 489-3000  (201) 489-1536 Facsimile  <i>Counsel to the Debtors</i></p> <p style="text-align: center;">-and-</p> <p><b>SILLS CUMMIS &amp; GROSS P.C.</b>  Andrew H. Sherman, Esq.  <a href="mailto:asherman@sillscummis.com">asherman@sillscummis.com</a>  One Riverfront Plaza  Newark, New Jersey 07102  (973) 643-7000  (973) 643-6500 Facsimile  <i>Counsel to the Official Committee of  Unsecured Creditors</i></p>
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<sup>1</sup> The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal identification number are: Saint Michael’s Medical Center, Inc. (6046); Columbus Acquisition Corp. (6324); Saint James Care, Inc. (6230); and University Heights Property Company, Inc. (0162)

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
<b><u>ARTICLE I. DEFINITIONS; RULES FOR INTERPRETATION</u></b> .....	3
1.1    Definitions.....	3
1.2    Rules for Interpretation.....	17
1.3    Computation of Time.....	18
1.4    Appendices and Plan Documents.....	18
<b><u>ARTICLE II. TREATMENT OF ADMINISTRATIVE, PRIORITY TAX AND UNCLASSIFIED CLAIMS</u></b> .....	19
2.1    Treatment of Administrative Expense Claims.....	19
2.2    Treatment of Quarterly Fees.....	20
2.3    Treatment of Priority Tax Claims.....	20
2.4    Treatment of DIP Claims.....	20
2.5    Treatment of Indenture Trustee Claims.....	20
<b><u>ARTICLE III. CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS</u></b> .....	21
3.1    General.....	21
3.2    Classification of Claims and Equity Interests Against SMMC (Debtor 1).....	21
3.3    Classes of Claims and Equity Interests Against UHPC (Debtor 2).....	21
3.4    Classes of Claims and Equity Interests Against CAC (Debtor 3).....	22
3.5    Classes of Claims and Equity Interests Against SJ (Debtor 4).....	22
3.6    Separate Classification of Non-Lender Secured Claims.....	22
3.7    Treatment of Claims Against and Equity Interests in SMMC (Debtor 1).....	23
3.8    Treatment of Claims Against and Equity Interests in UHPC (Debtor 2).....	27
3.9    Treatment of Claims Against and Equity Interests in CAC (Debtor 3).....	27
3.10   Treatment of Claims Against and Equity Interests in SJ (Debtor 4).....	28
<b><u>ARTICLE IV. IDENTIFICATION OF IMPAIRED CLASSES OF CLAIMS AND EQUITY INTERESTS</u></b> .....	28
4.1    Unimpaired Classes of Claims and Equity Interests.....	28
4.2    Impaired Classes of Claims and Equity Interests.....	28
4.3    Impairment Controversies.....	29
<b><u>ARTICLE V. ACCEPTANCE OR REJECTION OF THE PLAN; EFFECT OF REJECTION BY ONE OR MORE CLASSES OF CLAIMS OR EQUITY INTERESTS</u></b> .....	29
5.1    Classes Entitled to Vote.....	29
5.2    Acceptance by an Impaired Class of Claims.....	29

5.3	Confirmability and Severability of this Plan. ....	30
<b>ARTICLE VI. <u>MEANS FOR IMPLEMENTATION OF THE PLAN</u></b> .....		31
6.1	No Substantive Consolidation.....	31
6.2	Corporate Action.....	31
6.3	Establishment of the Liquidation Trust and Appointment of the Liquidation Trustee.	31
6.4	Appointment of the Debtor Representative, Vesting of Authority in the Debtor Representative, and Revesting of the Tort Claims and Insurance Policies.....	32
6.5	Sources of Cash for Plan Distributions.....	32
6.6	Use of Existing Accounts.....	33
6.7	Cancellation of Instruments. ....	33
6.8	Dissolution of the Committee. ....	33
<b>ARTICLE VII. <u>THE LIQUIDATION TRUST</u></b> .....		33
7.1	Establishment of Liquidation Trust. ....	33
7.2	Execution of the Liquidation Trust Agreement. ....	33
7.3	Liquidation Trust Assets. ....	34
7.4	Governance of Liquidation Trust.....	34
7.5	Liquidation Trustee.....	34
7.6	Oversight Committee.....	37
7.7	Indemnification. ....	37
7.8	LT Reserves. ....	38
7.9	Discharge of Liquidation Trustee and Dissolution. ....	38
7.10	Taxes.....	39
<b>ARTICLE VIII. <u>INJUNCTIONS, RELEASES AND EXCULPATION</u></b> .....		40
8.1	Term of Bankruptcy Injunction or Stays. ....	40
8.2	Releases by the Debtors.....	41
8.3	Releases by Creditors and Equity Security Holders. ....	41
8.4	Injunction. ....	42
8.5	Releases in Favor of the Trinity Parties.....	43
8.6	Injunction in Favor of the Trinity Parties. ....	43
8.7	Exculpation. ....	43
8.8	Limitation on Liability of Liquidation Trustee and Debtor Representative. ....	44
<b>ARTICLE IX. <u>PLAN DISTRIBUTION PROVISIONS</u></b> .....		44
9.1	Plan Distributions.....	44
9.2	Timing of Plan Distributions. ....	44
9.3	Delivery of Plan Distributions and Undeliverable or Unclaimed Distributions. ....	44



9.4	Manner of Payment under the Plan.....	45
9.5	Minimum Distributions.....	45
9.6	Rounding.....	46
9.7	Settlement of Claims and Controversies.....	46
9.8	Setoffs and Recoupments.....	46
9.9	Claims Paid or Payable by Third Parties.....	46
<b><u>ARTICLE X. PROCEDURES FOR RESOLVING AND TREATING CONTESTED CLAIMS</u></b> .....		47
10.1	Claim Objection Deadline.....	47
10.2	Prosecution of Contested Claims.....	47
10.3	Claims Settlement.....	47
10.4	Entitlement to Plan Distributions upon Allowance.....	47
10.5	Estimation of Claims.....	48
<b><u>ARTICLE XI. CONDITIONS PRECEDENT TO CONFIRMATION OF THE PLAN AND THE OCCURRENCE OF THE EFFECTIVE DATE</u></b> .....		48
11.1	Conditions Precedent to Confirmation.....	48
11.2	Conditions Precedent to the Occurrence of the Effective Date.....	48
11.3	Waiver of Conditions.....	49
11.4	Effect of Non-Occurrence of the Effective Date.....	49
11.5	Option to Delay Occurrence of the Effective Date.....	49
<b><u>ARTICLE XII. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES</u></b> .....		49
12.1	Assumption and Rejection of Executory Contracts and Unexpired Leases.....	49
12.2	Claims Arising from Rejection, Expiration or Termination.....	50
<b><u>ARTICLE XIII. RETENTION OF JURISDICTION</u></b> .....		51
<b><u>ARTICLE XIV. MISCELLANEOUS PROVISIONS</u></b> .....		52
14.1	Lead Debtor Name and Case Name.....	52
14.2	Religious Articles and Ethical and Religious Directives.....	52
14.3	Satisfaction of Claims.....	53
14.4	Special Provisions Regarding Insurance Policies and Insured Claims.....	53
14.5	Third Party Agreements; Subordination.....	54
14.6	Service of Documents.....	54
14.7	Headings.....	55
14.8	Governing Law.....	55
14.9	Exemption from Transfer Taxes.....	55

14.10	Notice of Entry of Confirmation Order and Relevant Dates. ....	55
14.11	Interest and Attorneys' Fees. ....	55
14.12	Modification of the Plan. ....	56
14.13	Revocation of Plan.....	56
14.14	Compliance with Tax Requirements.....	56
14.15	Binding Effect.....	57
14.16	Rates.....	57
14.17	Nondischarge of the Debtors. ....	57
14.18	Extensions of Time. ....	57
14.19	No Admissions.....	57

## INTRODUCTION<sup>2</sup>

Saint Michael's Medical Center, Inc. and its affiliated debtors in the above-captioned chapter 11 cases hereby collectively and jointly propose the following chapter 11 plan of orderly liquidation for the resolution of all outstanding Claims against and Equity Interests in all of the Debtors in the Chapter 11 Cases.

Reference is made to the Disclosure Statement for a discussion of the Debtors' history, businesses, properties and operations, risk factors, a summary and analysis of this Plan, and certain related matters. Subject to certain restrictions and requirements set forth herein, including, without limitation, Sections 14.12 and 14.13 of this Plan, and in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtors reserve the right to alter, amend, modify, revoke or withdraw this Plan prior to its substantial consummation in accordance with the terms hereof, the Confirmation Order, and the Bankruptcy Code.

**TRANSMITTED WITH THIS PLAN IS A COPY OF THE DISCLOSURE STATEMENT REQUIRED BY SECTION 1125 OF THE BANKRUPTCY CODE (TOGETHER WITH ITS EXHIBITS, AND AS AMENDED FROM TIME TO TIME, THE "DISCLOSURE STATEMENT") THE PLAN PROPONENTS URGE ALL CLAIMANTS AND OTHER PARTIES IN INTEREST TO READ THIS PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY. NO SOLICITATION MATERIALS OTHER THAN THE DISCLOSURE STATEMENT AND ANY DOCUMENTS, SCHEDULES, EXHIBITS OR LETTERS ATTACHED THERETO OR REFERENCED THEREIN HAVE BEEN AUTHORIZED BY THE PLAN PROPONENTS OR THE BANKRUPTCY COURT FOR USE IN SOLICITING ACCEPTANCES OR REJECTIONS OF THIS PLAN.**

**THE VOTING DEADLINE TO ACCEPT OR REJECT THIS PLAN IS \_\_\_\_\_, EASTERN TIME, \_\_\_\_\_, 2016, UNLESS EXTENDED BY ORDER OF THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEW JERSEY.**

**THE PLAN PROPONENTS BELIEVE THAT THIS PLAN WILL ENABLE THE ESTATES TO EFFICIENTLY LIQUIDATE THEIR ASSETS FOR THE BENEFIT OF THEIR RESPECTIVE CREDITORS AND ACCOMPLISH THE OBJECTIVES OF CHAPTER 11. ADDITIONALLY, THE PLAN PROPONENTS BELIEVE THE PLAN PRESENTS THE MOST ADVANTAGEOUS OUTCOME FOR ALL THE DEBTORS' CREDITORS AND THAT, THEREFORE, CONFIRMATION OF THE PLAN IS IN THE BEST INTERESTS OF THE ESTATES. THE PLAN PROPONENTS RECOMMEND THAT CREDITORS VOTE TO ACCEPT THE PLAN.**

**BY ORDER DATED \_\_\_\_\_, 2016, THE BANKRUPTCY COURT APPROVED THE DISCLOSURE STATEMENT AS CONTAINING ADEQUATE INFORMATION TO PERMIT THE HOLDERS OF CLAIMS AGAINST THE DEBTORS TO MAKE REASONABLY INFORMED DECISIONS IN EXERCISING THEIR RIGHT**

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<sup>2</sup> Capitalized terms otherwise undefined in this Introduction shall have the meanings subsequently ascribed to them in this Plan.

**TO VOTE ON THE PLAN. APPROVAL OF THE DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT, HOWEVER, DOES NOT CONSTITUTE A DETERMINATION ON THE MERITS OF THIS PLAN.**

**THERE HAS BEEN NO INDEPENDENT AUDIT OF THE INFORMATION CONTAINED IN THE DISCLOSURE STATEMENT OR THIS PLAN EXCEPT AS EXPRESSLY INDICATED THEREIN. THE DISCLOSURE STATEMENT AND PLAN WERE COMPILED FROM INFORMATION OBTAINED BY THE PLAN PROPONENTS FROM NUMEROUS SOURCES AND ARE BELIEVED TO BE ACCURATE TO THE BEST OF THEIR KNOWLEDGE, INFORMATION AND BELIEF. HOLDERS OF CLAIMS MUST RELY ON THEIR OWN EXAMINATION OF THE DEBTORS AND THE TERMS OF THIS PLAN, INCLUDING WITH RESPECT TO THE MERITS AND RISKS INVOLVED. FOR THE CONVENIENCE OF HOLDERS OF CLAIMS, THE DISCLOSURE STATEMENT SUMMARIZES THE TERMS OF THIS PLAN. IF ANY INCONSISTENCY EXISTS BETWEEN THE PLAN AND THE DISCLOSURE STATEMENT, THE TERMS OF THIS PLAN ARE CONTROLLING. THE DISCLOSURE STATEMENT MAY NOT BE RELIED ON FOR ANY PURPOSE OTHER THAN TO DETERMINE WHETHER TO VOTE TO ACCEPT OR REJECT THIS PLAN. NOTHING STATED IN THE DISCLOSURE STATEMENT SHALL BE DEEMED OR CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, OR BE ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DEBTORS OR ANY OTHER PARTY, OR BE DEEMED CONCLUSIVE EVIDENCE OF THE TAX OR OTHER LEGAL EFFECTS OF THIS PLAN ON THE DEBTORS OR HOLDERS OF CLAIMS. CERTAIN STATEMENTS CONTAINED IN THE DISCLOSURE STATEMENT, BY THEIR NATURE, ARE FORWARD-LOOKING AND CONTAIN ESTIMATES AND ASSUMPTIONS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL REFLECT ACTUAL OUTCOMES.**

**SUMMARIES OF PROVISIONS OF AGREEMENTS REFERRED TO IN THIS PLAN AND THE DISCLOSURE STATEMENT DO NOT PURPORT TO BE COMPLETE, AND ARE SUBJECT TO AND QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO, THE FULL TEXT OF THE APPLICABLE AGREEMENT, INCLUDING THE DEFINITIONS OF TERMS CONTAINED IN SUCH AGREEMENT.**

**HOLDERS OF CLAIMS SHOULD NOT CONSTRUE THE CONTENTS OF THIS PLAN OR THE DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. EACH SUCH HOLDER SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS CONCERNING THE SOLICITATION, THIS PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY.**

**HOLDERS OF CLAIMS AND OTHER THIRD PARTIES SHOULD BE AWARE THAT THIS PLAN CONTAINS INJUNCTIONS AND RELEASES THAT MAY MATERIALLY AFFECT THEIR RIGHTS.**

## ARTICLE I.

### **DEFINITIONS; RULES FOR INTERPRETATION**

#### **1.1 Definitions.**

As used herein, capitalized terms shall have the respective meanings set forth below. Any term that is not otherwise defined herein, but that is used in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning given to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable.

1.1.1 20 Day Claim means a Claim filed by a supplier of goods for the value of goods sold to the Debtors in the ordinary course of business and received by the Debtors within 20 days before the Petition Date entitled to priority under section 503(b)(9) and 507(a)(2) of the Bankruptcy Code.

1.1.2 Acquired Avoidance Actions means all Causes of Action of the Estates that arise under section 542, 544, 545, 547, 548, 549, 550, 551, 552 and/or 553 of the Bankruptcy Code against the counterparties to any Assumed Contracts and/or Assumed Leases.

1.1.3 Acute Care Hospital means the acute care hospital known as Saint Michael's Medical Center located at 111 Central Avenue, Newark, New Jersey 07102.

1.1.4 Administrative Bar Date means June 30, 2016, the deadline to file proofs of claim in the Chapter 11 Cases with respect to certain Administrative Expense Claims, including 20 Day Claims, established by the Administrative Bar Date Order.

1.1.5 Administrative Bar Date Order means the Bankruptcy Court's Order establishing June 30, 2016 as the bar date for filing certain Administrative Expense Claims, including 20 Day Claims, approving the form and manner of notice thereof, and approving proof of administrative expense claim forms [Docket No. 742].

1.1.6 Administrative Expense Claim means a Claim (other than a Claim included in a Class under this Plan) that is entitled to priority in accordance with sections 503(b) and 507(a)(2) of the Bankruptcy Code or Order of the Bankruptcy Court, including, without limitation, (i) Claims incurred by the Debtors (or their Estates) on or after the Petition Date and before the Effective Date for the actual, necessary costs and expenses of preserving the Estates, including, without limitation, Fee Claims, and (ii) 20 Day Claims.

1.1.7 Affiliate shall have the meaning ascribed to such term in section 101(2) of the Bankruptcy Code, and when used with reference to any Debtor, shall include, but not be limited to, each of the other Debtors.

1.1.8 Allowed, when used

a. with respect to any Claim, means such Claim to the extent it is not a Contested Claim or a Disallowed Claim; and

b. with respect to Equity Interests in any Debtor, means the Equity Interests in such Debtor as reflected in the stock ledger or similar register of such Debtor as of the Effective Date.

For the avoidance of doubt, to the extent a Claim is not Allowed, such Claim is still subject to objection based upon any potentially applicable rights of avoidance, setoff, or subordination, and any other grounds or defenses.

For the further avoidance of doubt, any Claims allowed solely for the purpose of voting to accept or reject the Plan pursuant to an Order of the Bankruptcy Court shall not be considered "Allowed" under this Plan absent further Order of the Bankruptcy Court. Unless otherwise specified in this Plan or by Order of the Bankruptcy Court, "Allowed" Claims shall not, for the purposes of computation of distributions under the Plan, include interest on such Claims from and after the Petition Date.

1.1.9 Assets means each and every item of property and interest of the Debtors or the Estates as of the Effective Date, whether tangible or intangible, legal or equitable, liquidated or unliquidated, wherever located, including, without limitation, (i) all rights, titles, and interests of the Estates in property of any kind as specified in section 541 of the Bankruptcy Code; (ii) all assets not sold or otherwise disposed of by the Debtors under the Asset Purchase Agreement or MLK APA; (iii) the interests of SMMC and its Estate in Chestnut Risk; (iv) all Cash (including, without limitation, all Prime Sale Proceeds and MLK Sale Proceeds) and Causes of Action (including, without limitation, Avoidance Actions) belonging to the Debtors or their Estates; (v) all rights in and proceeds of insurance policies applicable to the Debtors or their Estates; and (vi) any other rights, privileges, including but not limited to the attorney-client privilege, deferred taxes, claims, causes of action or defenses, whether arising by statute or common law, and whether arising under the laws of the United States, other countries, or applicable state or local law, belonging to the Debtors or their Estates.

1.1.10 Asset Purchase Agreement means the First Amended and Restated Purchase Agreement dated November 6, 2015, by and among the Debtors and the Buyer, as amended from time to time.

1.1.11 Assumed Contracts means the contracts assumed by the Debtors under section 365 of the Bankruptcy Code pursuant to the Asset Purchase Agreement, Prime Sale Order, or any other Order of the Bankruptcy Court.

1.1.12 Assumed Leases means the real and personal property leases assumed by the Debtors under section 365 of the Bankruptcy Code pursuant to the Asset Purchase Agreement, Prime Sale Order, or any other Order of the Bankruptcy Court.

1.1.13 Avoidance Actions means all Causes of Action of the Estates that arise under chapter 5 of the Bankruptcy Code, including under section 502, 542, 544, 545, 547, 548, 549, 550, 551, 552 and/or 553 of the Bankruptcy Code, and any other avoidance actions under the Bankruptcy Code (including the MedRealty Avoidance Action) and the proceeds thereof and property received thereby whether by judgment, settlement, or otherwise, except the Acquired Avoidance Actions.

1.1.14 Bankruptcy Code means the Bankruptcy Reform Act of 1978, as codified at title 11 of the United States Code, as amended from time to time and applicable to the Chapter 11 Cases.

1.1.15 Bankruptcy Court means the United States Bankruptcy Court for the District of New Jersey.

1.1.16 Bankruptcy Rules means the Federal Rules of Bankruptcy Procedure, as promulgated by the United States Supreme Court pursuant to section 2075 of title 28 of the United States Code and any local rules of the Bankruptcy Court, as applicable to the Chapter 11 Cases.

1.1.17 Bar Dates means the General Bar Date, the Administrative Claim Bar Date, and any other applicable deadline to file a proof of claim in the Chapter 11 Cases.

1.1.18 Bar Date Notice means the Notice of Chapter 11 Bankruptcy Cases, Meeting of Creditors & Deadlines [Docket No. 86], which set December 15, 2015 as the General Bar Date.

1.1.19 Bid Procedures Order means the order of the Bankruptcy Court approving procedures for the Sale of the Debtors' Assets and scheduling the auction with respect thereto [Docket No. 121].

1.1.20 BNYM Settlement Agreement means the global settlement agreement dated June 30, 2016 by and among the Debtors, the Indenture Trustee and the Committee approved by the BNYM Settlement Agreement Approval Order.

1.1.21 BNYM Settlement Agreement Approval Order means the Bankruptcy Court's Order Approving the BNYM Settlement Agreement by and among (I) the Debtors, (II) the Indenture Trustee, and (III) the Committee [Docket No. 839].

1.1.22 Business Day means any day other than a Saturday, a Sunday, a "legal holiday" (as defined by Bankruptcy Rule 9006(a)), or any other day on which commercial banks are required or authorized to close for business in New York, New York.

1.1.23 Buyer means Prime Healthcare Services – St. Michael's, LLC.

1.1.24 Buyer's Parent means Prime Healthcare Services, Inc.

1.1.25 CAC means Columbus Acquisition Corp., a Debtor in the Chapter 11 Cases.

1.1.26 Cash means legal tender of the United States of America or equivalents thereof, including, without limitation, payment in such tender by check, wire transfer or any other customary payment method.

1.1.27 Causes of Action means all claims, actions, causes of action, choses in action, liabilities, obligations, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses,



damages or judgments, remedies, rights of setoff, third-party claims, subrogation claims, contribution claims, reimbursement claims, indemnity claims, counterclaims, and crossclaims, whether known, unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, foreseen, unforeseen, asserted, assertable directly or derivatively, arising in law, equity or otherwise, that are or may be pending on the Effective Date or that may be instituted or prosecuted by the Liquidation Trustee on behalf of the Estates, or by the Debtor Representative on behalf of the Debtors, against any Person, whether asserted or unasserted as of the Effective Date, including, without limitation: (i) the right to object to Claims; (ii) all avoidance powers, actions (including Avoidance Actions), rights, remedies or affirmative defenses under federal or state law, including the Bankruptcy Code; and (iii) all Tort Claims. Any and all Causes of Action are preserved under the Plan.

1.1.28 Chapter 11 Cases means the cases commenced on the Petition Date by the Debtors in the Bankruptcy Court under chapter 11 of the Bankruptcy Code and being jointly administered by the Bankruptcy Court under the lead case styled In re Saint Michael's Medical Center, Inc., Case No. 15-24999 (VFP).

1.1.29 Chestnut Risk means Chestnut Risk Services, Ltd., the wholly owned captive insurance company of Saint Michael's Medical Center, Inc.

1.1.30 Claim shall have the meaning ascribed to such term in section 101(5) of the Bankruptcy Code. For the avoidance of doubt, "Claim" includes, without limitation, a right to payment, or equitable relief that gives rise to a right to payment, that has or has not accrued under non-bankruptcy law that is created by one or more acts or omissions of the Debtors if: (a) the act(s) or omission(s) occurred before or at the time of the Effective Date; (b) the act(s) or omission(s) may be sufficient to establish liability when injuries/damages are manifested; and (c) at the time of the Effective Date, the Debtors have received one or more demands for payment for injuries or damages arising from such acts or omissions.

1.1.31 Claim Objection Deadline means the deadline for filing objections to Claims as set forth in Section 10.1 of this Plan.

1.1.32 Claims Agent means Prime Clerk LLC, retained as claims and noticing agent pursuant to 28 U.S.C. § 156(c) in the Chapter 11 Cases.

1.1.33 Class means a category of Claims or Equity Interests set forth in Article III of this Plan, as such term is used and described in section 1122 and section 1123(a)(1) of the Bankruptcy Code.

1.1.34 Committee means the official committee of unsecured creditors appointed in the Chapter 11 Cases by the U.S. Trustee pursuant to section 1102(a) of the Bankruptcy Code.

1.1.35 Confirmation Date means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order on its docket.

1.1.36 Confirmation Hearing means the hearing held by the Bankruptcy Court to consider confirmation of the Plan, as such hearing may be continued from time to time.

1.1.37 Confirmation Order means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

1.1.38 Contested, when used

a. with respect to a Claim, means such Claim

i. to the extent it is listed in the Schedules as disputed, contingent, or unliquidated, in whole or in part, and as to which no proof of claim has been filed;

ii. if it is listed in the Schedules as undisputed, liquidated, and not contingent and as to which a proof of claim has been filed with the Bankruptcy Court, to the extent (A) the proof of claim amount exceeds the amount indicated in the Schedules, or (B) the proof of claim priority differs from the priority set forth in the Schedules, in each case as to which an objection was filed on or before the Claim Objection Deadline, unless and to the extent allowed in amount and/or priority by a Final Order of the Bankruptcy Court or the Plan;

iii. if it is not listed in the Schedules or was listed in the Schedules as disputed, contingent or unliquidated, in whole or in part, but as to which a proof of claim has been filed with the Bankruptcy Court, in each case as to which an objection was filed on or before the Claim Objection Deadline, unless and to the extent allowed in amount and/or priority by a Final Order of the Bankruptcy Court or the Plan; or

iv. as to which an objection has been filed on or before the Claim Objection Deadline; provided, that a Claim that is fixed in amount and priority pursuant to the Plan or by Final Order on or before the Effective Date shall not be a Contested Claim; and

b. with respect to an Equity Interest, means such Equity Interest to the extent it is not reflected on the applicable Debtor's stock transfer register as of the Effective Date.

1.1.39 D&O Claims means any and all rights and claims against the Debtors' former directors and officers for, *inter alia*, breach of fiduciary duty and the proceeds of any such claims, including any Insurance Policies associated therewith.

1.1.40 D&O Policies means, collectively, any "Directors and Officers" and other fiduciary liability insurance policies belonging to the Debtors or under with any of the Debtors are named as an insured or additional insured.

1.1.41 Debtors means, collectively, Saint Michael's Medical Center, Inc., Columbus Acquisition Corp., Saint James Care, Inc. and University Heights Property Company, Inc.

1.1.42 Debtor in Possession means any of the Debtors, in its capacity as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

1.1.43 Debtor Representative means the debtor representative selected to serve pursuant to Section 6.4 of this Plan. The identity of the debtor representative shall be filed with

the Bankruptcy Court as a Plan Document no later than five (5) Business Days prior to the hearing on the adequacy of the Disclosure Statement.

1.1.44 DIP Claim means any Claim against the Debtors arising from or related to the DIP Documents and any Claim by the DIP Lender under the Final DIP Order, including, but not limited to, principal, interest, fees, costs and expenses thereunder.

1.1.45 DIP Collateral has the meaning ascribed to it in the Final DIP Order.

1.1.46 DIP Documents means the DIP Loan Term Sheet, together with all documents, instruments and agreements executed or entered into in connection therewith, and any amendments thereto.

1.1.47 DIP Facility means that certain debtor-in-possession financing facility governed by the Final DIP Order and the DIP Documents.

1.1.48 DIP Loan Term Sheet means that certain debtor-in-possession credit agreement dated as of August 7, 2015, by and among the Trinity, as lender, and the Debtors, as borrowers, as amended from time to time.

1.1.49 Disallowed, when used with respect to a Claim, means all or such part of a Claim that has been disallowed or released by a Final Order, operation of law, written release or settlement, the provisions of this Plan, or otherwise, or withdrawn by the holder of the Claim.

1.1.50 Disclosure Statement means the disclosure statement filed with respect to the Plan, as it may be amended, supplemented or otherwise modified from time to time, and the exhibits and schedules thereto.

1.1.51 Disclosure Statement Order means the order entered by the Bankruptcy Court (a) approving the Disclosure Statement as containing adequate information required under section 1125 of the Bankruptcy Code, and (b) authorizing the use of the Disclosure Statement for soliciting votes on the Plan.

1.1.52 E&F Buildings means that certain real property consisting of a portion of Block 42, Lot 44 in the City of Newark, State of New Jersey, as more particularly described in the MLK APA.

1.1.53 Effective Date means, with respect to each Debtor, a date selected by such Debtor which shall be a Business Day that is no later than three (3) days after all of the conditions specified in Section 11.2 have been satisfied or waived in accordance with Section 11.3 of this Plan.

1.1.54 Equity Interest means (i) any outstanding ownership interest in any of the Debtors, including, without limitation, interests evidenced by common or preferred stock, membership interests, options, stock appreciation rights, restricted stock, restricted stock units or their equivalents, or other rights to purchase or otherwise receive any ownership interest in any Debtor and any right to payment or compensation based upon any such interest, whether or not such interest is owned by the holder of such right to payment or compensation, and (ii) any

Claim against any of the Debtors that is subordinated and has the same priority as common or preferred stock by operation of the Bankruptcy Code or any order entered by the Bankruptcy Court.

1.1.55 Estate(s) means, individually or collectively, as applicable, the estate or estates of the Debtors created under section 541 of the Bankruptcy Code.

1.1.56 Estate Cash means, all Cash of the Debtors and the Estates as of the Effective Date, including the: (i) Estate Proceeds; (ii) Unused DIP; and (iii) Wind-Down Amounts Reserve (to the extent the Cash comprising the Wind-Down Amounts Reserve is not already accounted for by the Estate Proceeds an Unused DIP).

1.1.57 Estate Proceeds means the Prime Sale Proceeds, minus the Indenture Trustee Settlement Payment, plus the MLK Sale Proceeds and the proceeds of any sale or liquidation of the Excluded Assets, including, but not limited to, the Religious Articles and SMMC's equity interest in Chestnut Risk.

1.1.58 Excluded Assets means all assets of the Debtors not sold or otherwise transferred to the Buyer under Section 1.8 of the Asset Purchase Agreement.

1.1.59 Excluded Contracts means all contracts that are not Assumed Contracts.

1.1.60 Excluded Leases means all leases that are not Assumed Leases.

1.1.61 Exculpated Parties means all Persons that are or were at any time on or after the Petition Date, and whether or not any such Person currently retains such capacity or position, (i) the Debtors; (ii) the directors, officers, agents, members of management and other employees of the Debtors, respectively; (iii) the Committee and its members; (iv) predecessors, successors and assigns, subsidiaries, affiliates, members, partners, officers, directors, agents, attorneys, advisors, accountants, investment bankers, consultants, and other professionals, to the extent such parties are or were acting in such capacity of any of the Persons identified in (i) and (ii) above on or after the Petition Date; and (v) predecessors, successors and assigns, subsidiaries, affiliates, members, partners, officers, directors, agents, attorneys, advisors, accountants, investment bankers, consultants, and other professionals, to the extent such parties are or were acting in such capacity of any of the Persons identified in (iii) above.

1.1.62 Fee Application means an application for allowance and payment of a Fee Claim.

1.1.63 Fee Claim means a Claim of a Professional Person or a Claim for substantial contribution or reimbursement of expenses incurred as a member of the Committee pursuant to section 503(b) of the Bankruptcy Code.

1.1.64 Final DIP Order means the order approving the DIP Loan Term Sheet and related documents on a final basis entered by the Bankruptcy Court on October 16, 2015 [Docket No. 282], as the same may be amended or modified from time to time.

1.1.65 Final Order means (a) an order or judgment of the Bankruptcy Court (or any other court or adjudicative body of competent jurisdiction) entered on the docket of such court, which has not been reversed, vacated or stayed and as to which (a) the time to appeal, petition for certiorari or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for certiorari, motion for a new trial, reargument or rehearing shall then be pending, or (b) if an appeal, writ of certiorari, new trial, reargument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court (or any other court or adjudicative body) shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for a new trial, reargument or rehearing shall have expired; provided, however, no order or judgment shall fail to be a Final Order solely because of the possibility that a motion pursuant to section 502(j) of the Bankruptcy Code, Rule 59 or Rule 60 of the Federal Rules of Civil Procedure or Bankruptcy Rule 9024 may be filed with respect to such order.

1.1.66 Financing Authority means the New Jersey Health Care Facilities Financing Authority.

1.1.67 First Supplemental Indenture means the First Supplemental Indenture, dated as of July 1, 2008, between the Debtors and the Indenture Trustee.

1.1.68 Foundation means Saint Michael's Foundation.

1.1.69 General Bar Date means December 15, 2015, the general deadline to file proofs of claim in the Chapter 11 Cases established by the Bar Date Notice.

1.1.70 General Unsecured Claim means any Claim against the Debtors that is not an Administrative Expense Claim (including Fee Claims), a fee payable pursuant to section 1930 of title 28 of the United States Code, a Priority Tax Claim, a Priority Non-Tax Claim, a DIP Claim, an Indenture Trustee Claim, a Non-Lender Secured Claim, an Insured Claim, an Intercompany Claim, or a Trinity Unsecured Claim and shall not include Disallowed Claims.

1.1.71 Hospital means the Acute Care Hospital and the Other Businesses.

1.1.72 Indenture Documents means the Master Indenture and First Supplemental Indenture.

1.1.73 Indenture Trustee means The Bank of New York Mellon Trust Company, as Master Trustee with respect to the State Contract Bonds.

1.1.74 Indenture Trustee Adversary Proceeding means that certain adversary proceeding commenced by the Debtors against the Indenture Trustee under Adv. Pro. No. 15-02113-VFP.

1.1.75 Indenture Trustee Claim means any Claim of the Indenture Trustee arising under the Loan Documents.

1.1.76 Indenture Trustee Collateral means the collateral granted under the applicable Loan Documents, including (i) the “Collateral,” which includes (a) all receipts, revenues, income and other moneys received by or on behalf of an the Debtors, including, without limitation, contributions, donations and pledges whether in the form of cash, securities, deposit accounts, or other personal property, revenues derived from the operation of the Debtors’ facilities, and all rights to receive the same, whether in the form of accounts receivable, contract rights, chattel paper, instruments or other rights, and the proceeds thereof, and any insurance or condemnation proceeds thereon, whether now existing or hereafter coming into existence and whether now owned or held or hereafter acquired by the Debtors (the “Gross Receipts”); provided, however, that Gross Receipts shall not include (1) gifts, grants, bequests, donations and contributions heretofore or hereafter made, designated at the time of making thereof by the donor or maker as being for certain specific purposes, and the income therefrom, to the extent required by such designation, and (2) rents, profits or revenues of any nature derived exclusively from property securing non-recourse indebtedness; (b) any and all property of the Debtors, including, without limitation, all accounts, as-extracted collateral, chattel paper, commercial tort claims, deposit accounts, documents, farm products, fixtures, general intangibles, goods (including, without limitation, inventory and equipment), instruments, investment property and letter of credit rights, whether presently owned or hereafter acquired, together with all Proceeds (as defined in the UCC) and products thereof; provided, however, that Collateral shall not include gifts, grants, bequests, donations and contributions heretofore or hereafter made which are designated at the time of the making thereof by the donor or maker as being for certain specified dedicated purposes, and the income therefrom, to the extent required by such designation; (ii) all moneys, securities and investments held in the Revenue Fund (as defined in the applicable Loan Documents), (iii) all Proceeds (as defined in the UCC) of any and all of the property described in clauses (i) and (ii); and (iv) a (a) mortgage on the Mortgaged Property and general intangibles related thereto, (b) all rents and moneys payable in respect of any lease agreements executed by the Debtors with respect thereto, (c) all proceeds of insurance or condemnation awards with respect thereto, and (d) warranties or service contracts existing with respect thereto.

1.1.77 Indenture Trustee Settlement Payment means \$55,750,000.00, paid to the Indenture Trustee pursuant to the terms of the BNYM Settlement Agreement Approval Order.

1.1.78 Insider means a Person that would fall within the definition ascribed to such term in section 101(31) of the Bankruptcy Code.

1.1.79 Insurance Policies means, collectively, any policies of insurance coverage of any kind (including any and all amendments, endorsements, renewals, and extensions thereof) that at any time belonged or belong to or included or include any Debtors as a named insured, additional insured, or beneficiary, including, without limitation, the D&O Policies.

1.1.80 Insured Claim means any Claim against a Debtor for which the Debtor is entitled to indemnification, reimbursement, contribution or other payment under a policy of insurance wherein the Debtor is an insured or beneficiary of the coverage of any of the Debtors or any other Person.

1.1.81 Intercompany Claim means a Claim held by any Debtor against any other Debtor.



1.1.82 Internal Revenue Code means the Internal Revenue Code of 1986, as amended, codified at title 26 of the United States Code, together with any applicable rulings, regulations (including temporary and proposed regulations) promulgated thereunder, judicial decisions, and notices, announcements and other releases of the United States Treasury Department or the IRS.

1.1.83 IRS means the Internal Revenue Service.

1.1.84 Liquidation Trust means the trust established pursuant to Article VII of the Plan.

1.1.85 Liquidation Trust Agreement means the agreement, in a form reasonably acceptable to the Debtors and the Committee, to be dated as of the Effective Date establishing the terms and conditions of the Liquidation Trust, which shall be substantially in the form filed with the Bankruptcy Court as a Plan Document.

1.1.86 Liquidation Trust Assets means the Debtors' and the Estates' right, title and interest in all of the Assets, including, without limitation, the Excluded Assets, the Estate Cash, and the Avoidance Actions, and the proceeds of any Tort Claims and Insurance Policies applicable thereto.

1.1.87 Liquidation Trust Beneficiaries means all individuals and entities entitled to a Plan Distribution from the Liquidation Trust.

1.1.88 Liquidation Trust Expenses means all reasonable costs and expenses incurred on or after the Effective Date by the Liquidation Trustee and the Oversight Committee associated with the implementation and administration of the Liquidation Trust and the Plan.

1.1.89 Liquidation Trust Indemnified Parties has the meaning set forth in Section 7.7 of this Plan.

1.1.90 Liquidation Trustee means the trustee (and any successor trustee) selected to serve trustee pursuant to Article VII of this Plan and under the Liquidation Trust Agreement. The identity of the initial trustee shall be filed with the Bankruptcy Court as a Plan Document no later than five (5) Business Days prior to the hearing on the adequacy of the Disclosure Statement.

1.1.91 Loan Agreement means the Loan Agreement, dated as of July 1, 2008, by and between the Debtors and the Financing Authority.

1.1.92 Loan Documents means the Loan Agreement, the State Contract Note, the Mortgage, the Indenture Documents, and the Resolution, together with all documents, instruments and agreements executed or entered into in connection therewith, and any amendments thereto.

1.1.93 LT Reserve means any reserve established by the Liquidation Trustee on account of Contested Claims held by any Liquidation Trust Beneficiary that, if Allowed, would entitle such Liquidation Trust Beneficiary to a Plan Distribution.

1.1.94 Master Indenture means the Master Trust Indenture, dated as of July 1, 2008, between the Debtors and the Indenture Trustee.

1.1.95 MedRealty means collectively, Saint James MedRealty, LLC, Columbus MedRealty, LLC, Med Realty, LLC and Hospital Med Realty, LLC.

1.1.96 MedRealty Avoidance Action means the adversary proceeding commenced by Debtor St. Michael's Medical Center, Inc. styled *St. Michael's Medical Center, Inc. v. Columbus MedRealty, LLC et al.*, Adv. Proc. No. 15-2296 (VFP).

1.1.97 MedRealty Injunction Orders means collectively, (i) the Trinity Settlement Approval Order entered by the Bankruptcy Court on April 26, 2016 approving the Trinity Settlement Agreement; and (ii) that certain Order [Docket No. 848] entered by the Bankruptcy Court on July 21, 2016 enforcing the automatic stay and the Trinity Settlement Approval Order.

1.1.98 MLK means 306 MLK BLVD LLC.

1.1.99 MLK APA means that certain Agreement of Sale, between Debtor Saint Michael's Medical Center, Inc. and MLK, dated March 31, 2015, as amended by that certain Amendment to the Agreement of Sale dated July 15, 2016.

1.1.100 MLK Sale Proceeds means the proceeds of the Debtors' sale of the E&F Buildings.

1.1.101 Mortgage means the Mortgage and Security Agreement dated July 31, 2008 by and among the Debtors and the Financing Authority.

1.1.102 Mortgaged Property means the Debtors' real property, buildings, structures, improvements and fixtures located at 111 Central Avenue, Newark, NJ 07102.

1.1.103 Non-Lender Secured Claim means a Claim, other than a DIP Claim or Indenture Trustee Claim, that is (a) secured by a lien on any Assets, which lien is valid, perfected and enforceable under applicable law and is not subject to avoidance under the Bankruptcy Code or applicable non-bankruptcy law, and which is duly established in the Chapter 11 Cases, but only to the extent of the value of the holder's interest in the collateral that secures payment of the Claim; (b) asserted against any Debtor that is subject to a valid right of recoupment or setoff under section 553 of the Bankruptcy Code, but only to the extent of the Allowed amount subject to recoupment or setoff as provided in section 506(a) of the Bankruptcy Code; or (c) deemed or treated under the Plan as a Non-Lender Secured Claim.

1.1.104 Non-Trinity Unsecured Claim means any General Unsecured Claim against SMMC held by any Person other than Trinity.

1.1.105 Notice of Confirmation means the notice of entry of the Confirmation Order to be filed with the Bankruptcy Court and mailed by the Claims Agent to holders of Claims and Equity Interests.



1.1.106 Other Businesses means the outpatient, ancillary and other healthcare businesses incident to the operation of the Acute Care Hospital as specifically identified on Schedule A-1 to the Asset Purchase Agreement.

1.1.107 Oversight Committee means the committee consisting of members selected by the Committee that are or represent Liquidation Trust Beneficiaries, as set forth in Section 7.6 of this Plan, established pursuant to Article VII of this Plan to advise and assist the Liquidation Trustee in the implementation and administration of the Liquidation Trust pursuant to the Liquidation Trust Agreement and this Plan. A list of the proposed members of the Oversight Committee shall be filed with the Bankruptcy Court as a Plan Document.

1.1.108 Parking Lot means that certain real property located in the City of Newark, State of New Jersey, with the following lot and block information: lots 1, 2, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 in block 2857 and lots 10, 12, 14, 15, 16, 23, 43 and 50 in block 2858.

1.1.109 Person means an individual, corporation, partnership, limited liability company, limited liability partnership, joint stock company, joint venture, trust, estate, unincorporated association, unincorporated organization, or any government, governmental entity, or political subdivision, department, agency, or instrumentality thereof, or any other entity.

1.1.110 Petition Date means August 10, 2015, the date on which the Debtors commenced the Chapter 11 Cases.

1.1.111 Plan means this chapter 11 plan for the Debtors in the Chapter 11 Cases, including all supplements, appendices and schedules hereto, either in their present form or as same may be amended, supplemented or otherwise modified from time to time in accordance with the Bankruptcy Code and the terms hereof.

1.1.112 Plan Distribution means the payment or distribution under the Plan of Cash, Assets, securities or instruments evidencing an obligation under the Plan to the holder of an Allowed Claim.

1.1.113 Plan Distribution Date means (i) with respect to any Claim other than an Unsecured Claim, (a) if such Claim is Allowed on the Effective Date, a date that is as soon as reasonably practicable after the Effective Date, or (b) if such Claim is not Allowed on the Effective Date, a date that is as soon as reasonably practicable after the date such Claim becomes Allowed, and (ii) with respect to any Unsecured Claim, such date(s) that the Liquidation Trustee determines in its reasonable discretion.

1.1.114 Plan Documents means the compilation of documents and forms of documents, schedules and exhibits to the Plan that aid in effectuating the Plan as specifically identified as such herein and filed with the Bankruptcy Court as specified in Section 1.4 of the Plan including, without limitation, the Liquidation Trust Agreement.

1.1.115 Plan Proponents means the Debtors and the Committee (each a "Plan Proponent").

1.1.116 Prime Management Services Agreement means that certain management services agreement by and among SMMC and the Buyer dated May 1, 2016.

1.1.117 Prime Sale means the sale of substantially all of the Debtors' assets to the Buyer.

1.1.118 Prime Sale Order means the Order of the Bankruptcy Court approving the Prime Sale [Docket No. 383].

1.1.119 Prime Sale Proceeds means the total consideration received by the Debtors from the Buyer in the Prime Sale.

1.1.120 Priority Non-Tax Claim means any Claim to the extent such Claim is entitled to priority in right of payment under section 507(a) of the Bankruptcy Code, other than Non-Lender Secured Claims, Indenture Trustee Claims, Administrative Expense Claims and Tax Claims.

1.1.121 Priority Tax Claim means any secured or unsecured Claim of a governmental unit of the kind entitled to priority in payment as specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

1.1.122 Professional Person means a Person retained or to be compensated for services rendered or costs incurred on or after the Petition Date and on or prior to the Effective Date pursuant to sections 327, 328, 329, 330, 331, 503(b), or 1103 of the Bankruptcy Code in the Chapter 11 Cases.

1.1.123 Pro Rata Share means the proportion that an Allowed Claim or an Allowed Equity Interest in a particular Class bears to the aggregate amount of all Allowed Claims or Allowed Equity Interests in such class, including Contested Claims, but excluding Disallowed Claims, (a) as calculated by the Liquidation Trustee; or (b) as determined or estimated by the Bankruptcy Court.

1.1.124 Released Parties means all Persons that are or were at any time on or after the Petition Date, and whether or not any such Person currently retains such capacity or position, (i) Debtors; (ii) directors, officers, agents, members of management and other employees of the Debtors, respectively; (iii) the Liquidation Trustee; (iv) the Committee and its members; (v) predecessors, successors and assigns, subsidiaries, officers, directors, attorneys, advisors, accountants, investment bankers, consultants, and other professionals, to the extent such parties are or were acting in such capacity of any of the Persons identified in (i) and (ii) above on or after the Petition Date; and (vi) predecessors, successors and assigns, subsidiaries, officers, directors, attorneys, advisors, accountants, investment bankers, consultants, and other professionals, to the extent such parties are or were acting in such capacity of any of the Persons identified in (iii) through (iv) above.

1.1.125 Religious Articles means religious articles and artifacts, which were excluded from the sale to the Buyer under Section 1.8(f) of the Asset Purchase Agreement.

1.1.126 Resolution means the Hospital Asset Transformation Program State Contract Bond Resolution (Saint Michael's Medical Center, Inc., Newark, N.J. Issue), adopted April 24, 2008, as supplemented by a Series Certificate dated as of July 22, 2008.

1.1.127 Schedules means, unless otherwise stated, the schedules of assets and liabilities and list of Equity Interests and the statements of financial affairs filed by the Debtors with the Bankruptcy Court, as required by section 521 of the Bankruptcy Code and in conformity with the Official Bankruptcy Forms of the Bankruptcy Rules, as such schedules and statements have been or may be amended or supplemented by the Debtors from time to time in accordance with Bankruptcy Rule 1009.

1.1.128 Securities Act means the Securities Act of 1933, 15 U.S.C. §§ 77a, et seq.

1.1.129 SJC means Saint James Care, Inc., a Debtor in the Chapter 11 Cases.

1.1.130 SMMC means St. Michael's Medical Center, Inc., the Debtor in Case No. 15-24999 (VFP).

1.1.131 State Contract Bonds means those certain New Jersey Health Care Facilities Financing Authority State Contract Bonds Series 2008A Bonds issued on July 31, 2008.

1.1.132 State Contract Note means the State Contract Promissory Note, dated July 31, 2008, issued by Saint Michael's Medical Center, Inc. to the Financing Authority.

1.1.133 State Court Complaint means that certain complaint filed by MedRealty against Trinity and various individuals, including Judith Persichilli, Alexander Hatala and Peter DeAngelis, Jr., in the Superior Court of New Jersey, Essex County, Docket No. ESX-L-8270-15.

1.1.134 Tort Claims means any and all claims of the Debtors based on any tort, including, but not limited to D&O Claims.

1.1.135 Trinity means Trinity Health Corporation.

1.1.136 Trinity Parties means Trinity and any of its respective or former agents, employees, affiliates, subsidiaries, directors, members, partners, managers, officers, representatives, attorneys, advisors, predecessors, successors or assigns; provided, however, that the foregoing (exclusive of Trinity) are Trinity Parties only in their capacities as agents, employees, affiliates, subsidiaries, directors, members, partners, managers, officers, representatives, attorneys, advisors, predecessors, successors or assigns of Trinity and are not Trinity Parties in their capacities as agents, employees, affiliates, subsidiaries, directors, members, partners, managers, officers, representatives, attorneys, advisors, predecessors, successors or assigns of any other Person.

1.1.137 Trinity Release Claims means any and all claims and causes of action that the Debtors have or may have against the Trinity Parties which arise out of or in any way relate to, directly or indirectly, Trinity Parties' and Debtors' prepetition relationship, and/or any prepetition act, omission, event or transaction of the Trinity Parties whether accrued or not, and counterclaims, actions, debts, accounts, causes of action (including, without limitation, causes of

action in the nature of lender liability), defenses or setoff rights that any of Debtors have or may have against Trinity Parties whether known or unknown, disputed or undisputed, at law or in equity, including, without limitation, (i) any re-characterization, subordination, avoidance or other claim arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state law, federal law or municipal law; (ii) any right or basis to challenge or object to the amount, validity or enforceability of the applicable Pre-Petition Debt or any payments made on account of the applicable Pre-Petition Debt; and (iii) any Avoidance Actions, and (iv) any action based on piercing the corporate veil, alter ego, successor liability or similar claim which seeks to hold Trinity liable for claims against any or all of the Debtors.

1.1.138 Trinity Settlement Agreement means the global settlement agreement dated March 8, 2016 by and among the Debtors, Trinity and the Committee approved by the Trinity Settlement Agreement Approval Order.

1.1.139 Trinity Settlement Agreement Approval Order means the Bankruptcy Court's Order Approving the Trinity Settlement Agreement By and Among (I) the Debtors, (II) the DIP Lender, and (III) the Committee [Docket No 647].

1.1.140 Trinity General Unsecured Claim means the Allowed General Unsecured Claim against SMMC held by Trinity pursuant to the Final DIP Order. The Trinity General Unsecured Claim is Trinity's only classified Claim under the Plan.

1.1.141 UHPC means University Heights Property Company, Inc., a Debtor in the Chapter 11 Cases.

1.1.142 Unused DIP means \$12,443,227.96, which was funded to the Debtors by Trinity on July 29, 2016.

1.1.143 Voting Deadline means the deadline established by an Order of the Bankruptcy Court for voting to accept or reject the Plan.

1.1.144 Wind-Down Budget means the budget attached as Schedule 1 to the Disclosure Statement.

1.1.145 Wind-Down Amounts means \$750,000.00 as set forth in the Wind-Down Budget.

1.1.146 Wind-Down Amounts Reserve means the Cash reserve set aside on the Effective Date, as determined by the Debtors, in consultation with the Committee, to adequately provide for the payment of any Wind-Down Amounts that remain unpaid, which reserve shall be subject to, and consistent with, the Wind-Down Budget.

## **1.2 Rules for Interpretation.**

For purposes of this Plan, unless otherwise provided herein: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, will include both the singular and the plural and terms denoting one gender shall include the other gender; (b) the

Disclosure Statement may be referred to for purposes of interpretation to the extent any term or provision of the Plan is determined by the Bankruptcy Court to be ambiguous; (c) any reference in this Plan to a contract, instrument, release, or other agreement or document attached as an Exhibit to this Plan or included in the Plan Documents being in a particular form or on particular terms and conditions means that such document will be substantially in such form or substantially on such terms and conditions; (d) any reference in this Plan to an existing document, schedule or exhibit filed or to be filed means such document, schedule or exhibit, as it may have been or may be amended, modified, or supplemented pursuant to this Plan; (e) any reference to a Person as a holder of a Claim or Equity Interest includes that Person's successors and assigns; (f) all references in this Plan to Sections and Articles are references to Sections and Articles of or to this Plan or the Plan Documents, as the same may be amended, waived or modified from time to time; (g) the words "herein," "hereof," "hereto," "hereunder" and other words of similar import refer to this Plan as a whole and not to any particular Section, subsection or clause contained in this Plan; (h) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of this Plan; (i) unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and the Bankruptcy Rules), the laws of the State of New Jersey, without giving effect to the conflicts of laws principles thereof, shall govern the construction of the Plan and any agreements, documents and instruments executed in connection with the Plan, except as otherwise expressly provided in such instruments, agreements or documents. (j) the rules of construction set forth in section 102 of the Bankruptcy Code will apply; and (k) the term "including" shall be construed to mean "including, but not limited to," "including, without limitation," or words of similar import.

### **1.3 Computation of Time.**

In computing any period of time prescribed or allowed by this Plan, unless otherwise expressly provided, the provisions of Bankruptcy Rule 9006(a) shall apply. In the event that any payment, distribution, act or deadline under this Plan is required to be made or performed or occurs on a day that is not a Business Day, then the making of such payment or distribution, the performance of such act or the occurrence of such deadline shall be deemed to be on the next succeeding Business Day, and if so made, performed or completed by such next succeeding Business Day shall be deemed to have been completed or to have occurred as of the required date.

### **1.4 Appendices and Plan Documents.**

All appendices to this Plan and the Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Except as otherwise provided herein, all Plan Documents shall be filed with the Bankruptcy Court not less than five (5) days prior to the Voting Deadline. Holders of Claims and Equity Interests may obtain a copy of the Plan Documents, once filed, at <https://cases.primeclerk.com/smmc>, or by a written request sent to:

**COLE SCHOTZ P.C.**  
Court Plaza North  
25 Main Street  
P.O. Box 800  
Hackensack, New Jersey 07602-0800  
Attention: Ryan T. Jareck  
Facsimile: (201) 489-1536

## **ARTICLE II.**

### **TREATMENT OF ADMINISTRATIVE, PRIORITY TAX, AND UNCLASSIFIED CLAIMS**

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims have not been classified for purposes of this Plan or for the purposes of sections 1123, 1124, 1125, 1126 or 1129 of the Bankruptcy Code, respectively. All Administrative Expense Claims and Priority Tax Claims shall instead be treated separately as unclassified Claims along with certain other unclassified Claims under the terms set forth in this Article II.

#### **2.1 Treatment of Administrative Expense Claims.**

Administrative Expense Claims shall be treated as follows, as applicable:

(a) Time for Filing.

All holders of Administrative Expense Claims (other than certain claims, including Fee Claims, excepted from the Administrative Bar Date under the Administrative Bar Date Order) were required to file and serve proofs of claim with respect to their Administrative Expense Claims by the Administrative Bar Date, June 30, 2016. **Failure to timely file and serve a proof of claim with respect to any such Administrative Expense Claim in accordance with the Administrative Bar Date Order resulted in the Administrative Expense Claim being forever barred and discharged, and no distribution shall be made under this Plan on account of any such barred and discharged Claim.**

Each Professional Person who holds or asserts a Fee Claim shall be required to file with the Bankruptcy Court, and serve on all parties required to receive notice, a Fee Application within forty-five (45) days after the Effective Date. **The failure to timely file and serve such Fee Application shall result in the Fee Claim being forever barred and discharged, and no distribution shall be made under this Plan on account of any such barred and discharged Claim.**

(b) General.

Except to the extent any Person entitled to payment of an Allowed Administrative Expense Claim has received payment on account of such Claim prior to the Effective Date or agrees to a different treatment, each holder of an Allowed Administrative Expense Claim shall receive, in full satisfaction of its Allowed Administrative Expense Claim, Cash in an amount



equal to the amount of such Allowed Administrative Expense Claim on the later of (i) the Effective Date or (ii) the date of entry of a Final Order determining and allowing such Claim as an Allowed Administrative Expense Claim, or as soon thereafter as is practicable; provided, that such treatment shall not provide a return to such holder having a present value as of the Effective Date in excess of such holder's Allowed Administrative Expense Claim.

(c) Fee Claims.

A Fee Claim in respect of which a Fee Application has been properly filed and served pursuant to Section 2.1(a) shall become an Allowed Administrative Expense Claim only to the extent allowed by Order of the Bankruptcy Court. All Allowed Fee Claims shall be treated as Allowed Administrative Expense Claims as set forth in Section 2.1(b) above, or shall be paid on such other terms as may be agreed upon in writing by the holder of the applicable Claim.

**2.2 Treatment of Quarterly Fees.**

All fees payable pursuant to section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid by the Debtors on or before the Effective Date. All such fees arising after the Effective Date shall be an administrative expense of the Liquidation Trust and shall be paid by the Liquidation Trustee from the Liquidation Trust Assets.

**2.3 Treatment of Priority Tax Claims.**

At the election of the Liquidation Trustee, each holder of an Allowed Priority Tax Claim will receive in full satisfaction of such Allowed Priority Tax Claim (a) payments in Cash, in regular installments over a period ending not later than five (5) years after the Petition Date, of a total value, as of the Effective Date, equal to the amount of such Allowed Claim; (b) a lesser amount in one Cash payment as may be agreed upon in writing by such holder; or (c) such other treatment as may be agreed upon in writing by such holder; provided, that such agreed upon treatment may not provide such holder with a return having a present value as of the Effective Date that is greater than the amount of such holder's Allowed Priority Tax Claim or that is less favorable than the treatment provided to the most favored General Unsecured Claims under the Plan.

**2.4 Treatment of DIP Claims.**

On April 26, 2016, Trinity waived, released and discharged the Debtors from any and all DIP Claims arising under or related to the DIP Documents and all attendant liens and security interests in and on the DIP Collateral, including, but not limited to, any lien on or claim to the Parking Lot, funds subject to the Indenture Trustee Adversary Proceeding and proceeds of the Avoidance Actions, pursuant to the Trinity Settlement Agreement Approval Order. Trinity shall not receive or retain any property or rights under the Plan on account of such Claims.

**2.5 Treatment of Indenture Trustee Claims.**

On July 18, 2016, the Indenture Trustee waived, released and discharged the Debtors from any and all Indenture Trustee Claims arising under or related to the Loan Documents and

all attendant liens and security interests in and on the Indenture Trustee Collateral pursuant to the BNYM Settlement Agreement Approval Order. The Indenture Trustee shall not receive or retain any property or rights under the Plan on account of such Claims.

**ARTICLE III.**

**CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS**

**3.1 General.**

(a) Pursuant to sections 1122 and 1123 of the Bankruptcy Code, all Claims and Equity Interests are classified for all purposes, including, without express or implied limitation, voting, confirmation and distribution pursuant to this Plan, as set forth herein. A Claim or Equity Interest shall be deemed classified in a particular class only to the extent that the Claim or Equity Interest qualifies within the description of that class, and shall be deemed classified in a different class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different class. A Claim or Equity Interest is in a particular class only to the extent that such Claim or Equity Interest is Allowed in that class and has not been paid or otherwise satisfied prior to the Effective Date. In no event shall any holder of an Allowed Claim be entitled to receive payments that in the aggregate exceed the Allowed amount of such holder's Claim.

(b) This Plan constitutes a separate chapter 11 plan of liquidation for each Debtor. For purposes of brevity and convenience, the classification and treatment of Claims and Equity Interests has been set forth in four groups, one for each Debtor: (i) SMMC, (ii) UHPC, (iii) CAC, and (iv) SJC.

**3.2 Classification of Claims and Equity Interests Against SMMC (Debtor 1).**

The following chart assigns a number and letter to each class against SMMC for purposes of identifying each separate class:

<u>Class</u>	<u>Claim or Equity Interest</u>
1A	Priority Non-Tax Claims
1B	Non-Lender Secured Claims
1C	Non-Trinity General Unsecured Claims
1D	Trinity General Unsecured Claim
1E	Intercompany Claims
1F	SMMC Equity Interests

**3.3 Classes of Claims and Equity Interests Against UHPC (Debtor 2).**



The following chart assigns a number and letter to each class against UHPC for purposes of identifying each separate class:

<u>Class</u>	<u>Claim or Equity Interest</u>
2A	General Unsecured Claims
2B	Intercompany Claims
2C	UHPC Equity Interests

No Priority Non-Tax Claims or Non-Lender Secured Claims are asserted against UHPC, and none shall be Allowed or receive or retain any property or rights under the Plan.

**3.4 Classes of Claims and Equity Interests Against CAC (Debtor 3).**

The following chart assigns a number and letter to each class against CAC for purposes of identifying each separate class:

<u>Class</u>	<u>Claim or Equity Interest</u>
3A	General Unsecured Claims
3B	Intercompany Claims
3C	CAC Equity Interests

No Priority Non-Tax Claims or Non-Lender Secured Claims are asserted against CAC, and none shall be Allowed or receive or retain any property or rights under the Plan.

**3.5 Classes of Claims and Equity Interests Against SJC (Debtor 4).**

The following chart assigns a number and letter to each class against SJC for purposes of identifying each separate class:

<u>Class</u>	<u>Claim or Equity Interest</u>
4A	General Unsecured Claims
4B	Intercompany Claims
4C	SJC Equity Interests

No Priority Non-Tax Claims or Non-Lender Secured Claims are asserted against SJC, and none shall be Allowed or receive or retain any property or rights under the Plan.

**3.6 Separate Classification of Non-Lender Secured Claims.**

Although Non-Lender Secured Claims against SMMC have been placed in one category for purposes of nomenclature, each such Non-Lender Secured Claim shall be treated as a separate class for purposes of voting on the Plan and receiving Plan Distributions (to be designated as Class 1B-1, 1B-2, 1B-3, etc . . .).

### **3.7 Treatment of Claims Against and Equity Interests in SMMC (Debtor 1).**

The classes of Claims against and Equity Interests in SMMC shall be treated under the Plan as follows:

(a) Class 1A – Priority Non-Tax Claims Against SMMC.

Each holder of an Allowed Priority Non-Tax Claim against SMMC shall be unimpaired under the Plan and, pursuant to section 1124 of the Bankruptcy Code, all legal, equitable and contractual rights of each holder of an Allowed Priority Non-Tax Claim with respect to such Claim shall remain unaltered, except as provided in sections 1124(2)(A)-(E) of the Bankruptcy Code, and such holder of an Allowed Priority Non-Tax Claim shall be paid Cash in an amount equal to its Allowed Priority Non-Tax Claim on the Plan Distribution Date.

(b) Class 1B – Non-Lender Secured Claims Against SMMC.

In the sole discretion of the Liquidation Trustee, each holder of an Allowed Non-Lender Secured Claim against SMMC shall be treated in one of the following ways (for the avoidance of doubt, holders of Allowed Non-Lender Secured Claims against SMMC need not be treated in the same way as long as each is treated in one of the following ways):

(1) on the Effective Date, the legal, equitable, and contractual rights of each holder of an Allowed Non-Lender Secured Claim shall be reinstated in accordance with the provisions of section 1124(2) of the Bankruptcy Code notwithstanding any contractual provision or applicable non-bankruptcy law that entitles the holder of an Allowed Non-Lender Secured Claim to demand or receive payment of such Allowed Non-Lender Secured Claim before the stated maturity of such Allowed Non-Lender Secured Claim from and after the occurrence of a default; provided, however, that any contractual right that does not pertain to the payment when due of principal and interest on the obligation on which such Claim is based, including, but not limited to, financial covenant ratios, negative pledge covenants, covenants or restrictions on merger or consolidation, covenants regarding corporate existence, or covenants prohibiting certain transactions or actions contemplated by the Plan or conditioning such transactions or actions on certain factors, shall not be enforceable as to any breach that occurred on or prior to the Effective Date or any breach determined by reference back to a date preceding the Effective Date;

(2) on the Effective Date, the holder of an Allowed Non-Lender Secured Claim shall (i) retain a lien securing such Allowed Non-Lender Secured Claim and (ii) receive deferred Cash payments from the Liquidation Trust totaling at least the value of such Allowed Non-Lender Secured Claim as of the Effective Date;

(3) on the Effective Date, the collateral securing such Allowed Non-Lender Secured Claim shall be surrendered to the holder of such Allowed Non-Lender Secured Claim in full satisfaction of such Allowed Non-Lender Secured Claim; or

(4) the holder of an Allowed Non-Lender Secured Claim shall be paid Cash in an amount equal to the value of such holder's Allowed Non-Lender Secured Claim, on or before the later of (i) the Plan Distribution Date and (ii) the date that is ten (10) Business Days after the entry of a Final Order allowing such Claim as a Non-Lender Secured Claim, or as soon thereafter as practicable. To the extent the collateral securing an Allowed Non-Lender Secured Claim has been or is sold pursuant to an Order of the Bankruptcy Court, the amount paid to the holder of such Allowed Non-Lender Secured Claim pursuant to the preceding sentence shall be net of the costs of sale of such collateral and otherwise subject to the rights of SMMC or the Liquidation Trustee pursuant to section 506(c) of the Bankruptcy Code.

The failure of any party to object to any Non-Lender Secured Claim in the Chapter 11 Cases shall be without prejudice to the rights of SMMC or the Liquidation Trustee to contest or otherwise defend against such Claim in the Bankruptcy Court when and if such Claim is sought to be enforced by the holder of such Claim.

Notwithstanding section 1141(c) or any other provision of the Bankruptcy Code, all pre-petition liens on property of SMMC held with respect to an Allowed Non-Lender Secured Claim shall survive the Effective Date and continue in accordance with the contractual terms or statutory provisions governing such Claim until such Claim is satisfied, at which time such lien shall be released, shall be deemed null and void, and shall be unenforceable for all purposes; provided, however, that SMMC or the Liquidation Trustee, as the case may be, may condition delivery of any final payment upon receipt of an executed release of the lien. Any and all liens securing any Non-Lender Secured Claim that is not Allowed shall be released, shall be deemed null and void, and shall be unenforceable for all purposes. Nothing in this Plan shall preclude SMMC or the Liquidation Trustee from challenging the validity of any alleged lien on any asset of SMMC or the value of the property that secures any alleged lien.

Treatment of an Allowed Non-Lender Secured Claim in accordance with the foregoing shall not affect any Allowed General Unsecured Claim held by the same claimant that is a deficiency claim under section 506 of the Bankruptcy Code.

No lien with respect to any Non-Lender Secured Claim shall attach to any property sold free and clear pursuant to the Asset Purchase Agreement, the MLK APA, or any other applicable purchase agreement.

(c) Class 1C – Non-Trinity General Unsecured Claims Against SMMC.

Each holder of an Allowed Non-Trinity General Unsecured Claim against SMMC shall receive treatment as set forth below in full satisfaction of its Allowed Non-Trinity General Unsecured Claim:

(1) If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is greater than \$100,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount

equal to the sum of (i) the lesser of (a) 4% of the value of its Allowed Non-Trinity General Unsecured Claim and (b) its Pro Rata Share of \$8,000,000 and (ii) the holder's Pro Rata Share of 70% of the remaining Assets of SMMC and its Estate available for distribution;

(2) If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$100,000,000 and \$75,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in and amount equal to the sum of (i) 8% of the value of its Allowed Non-Trinity General Unsecured Claim and (ii) the holder's Pro Rata Share of 70% of the remaining Assets of SMMC and its Estate available for distribution;

(3) If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$74,999,999 and \$50,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to the sum of (i) 12% of the value of its Allowed Non-Trinity General Unsecured Claim and (ii) the holder's Pro Rata Share of 70% of the remaining Assets of SMMC and its Estate available for distribution;

(4) If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$49,999,999 and \$25,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to the sum of (i) 15% of the value of its Allowed Non-Trinity General Unsecured Claim and (ii) the holder's Pro Rata Share of 70% of the remaining Assets of SMMC and its Estate available for distribution; and

(5) If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is less than \$25,000,000, then each holder of an Allowed Non-Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to the sum of (i) 20% of the value of its Allowed Non-Trinity General Unsecured Claim and (ii) the holder's Pro Rata Share of 70% of the remaining Assets of SMMC and its Estate available for distribution.

(d) Class 1D – Trinity General Unsecured Claims Against SMMC.

The holder of the Allowed Trinity General Unsecured Claim against SMMC shall receive treatment as set forth below in full satisfaction of its Allowed Trinity General Unsecured Claim:

(1) If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is greater than \$100,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to the sum of the lesser of 4% of the value of its Allowed Non-Trinity General Unsecured Claim and its Pro Rata Share of \$8,000,000;

(2) If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$100,000,000 and \$75,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an

amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to 8% of the value of its Allowed Non-Trinity General Unsecured Claim;

(3) If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$74,999,999 and \$50,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to 12% of the value of its Allowed Non-Trinity General Unsecured Claim;

(4) If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is between \$49,999,999 and \$25,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to 15% of the value of its Allowed Non-Trinity General Unsecured Claim; and

(5) If the amount of Allowed Non-Trinity General Unsecured Claims against SMMC is less than \$25,000,000, then the holder of the Allowed Trinity General Unsecured Claim shall receive the following on the Plan Distribution Date: Cash in an amount equal to 30% of the Assets of SMMC and its Estate remaining available for distribution after Cash distributions from such Assets to each holder of Allowed Non-Trinity General Unsecured Claims in an amount equal to 20% of the value of its Allowed Non-Trinity General Unsecured Claim.

(e) Class 1E – Intercompany Claims Against SMMC.

Holders of Allowed Intercompany Claims against SMMC shall not receive or retain any property or rights under the Plan on account of such Claims.

(f) Class 1F – Equity Interests in SMMC.

All Equity Interests in SMMC shall be canceled effective as of the Effective Date, and no holder of an Equity Interest in SMMC shall receive any distribution under this Plan on account of its Equity Interests.

Notwithstanding anything to the contrary, including without limitation, the cancellation and extinguishment of the Equity Interests in SMMC pursuant to this Plan, each Debtor shall continue to exist as a separate corporate entity after the Effective Date solely for the purpose of implementing the Plan unless and until such Debtor is dissolved in accordance with applicable state law pursuant to Section 6.4 hereof.

The filing of the Debtors' certificates of dissolution and the adoption of any and all other corporate documents or resolutions necessary or appropriate to implement the Plan are hereby deemed authorized and approved in all respects without further action under any

applicable law, regulation, order or rule, including without limitation, any action by the stockholders, members, board of directors or similar governing body of the Debtors.

**3.8 Treatment of Claims Against and Equity Interests in UHPC (Debtor 2).**

The classes of Claims against and Equity Interests in UHPC shall be treated under the Plan as follows:

(a) Class 2A – General Unsecured Claims Against UHPC.

Each holder of an Allowed General Unsecured Claim against UHPC shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed General Unsecured Claim: Cash in an amount equal to its Pro Rata Share of the Assets of UHPC and its Estate.

(b) Class 2B – Intercompany Claims Against UHPC.

Holders of Allowed Intercompany Claims against UHPC shall not receive or retain any property or rights under the Plan on account of such Claims.

(c) Class 2C – Equity Interests in UHPC.

SMMC, as sole holder of all Allowed Equity Interests in UHPC, shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed Equity Interest in UHPC: any Assets of UHPC and its Estate remaining available for distribution after all distributions to holders of Allowed Claims in Classes 2(A)-(B) required under the Plan have been made.

**3.9 Treatment of Claims Against and Equity Interests in CAC (Debtor 3).**

The classes of Claims against and Equity Interests in CAC shall be treated under the Plan as follows:

(a) Class 3A – General Unsecured Claims Against CAC.

Each holder of an Allowed General Unsecured Claim against CAC shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed General Unsecured Claim: Cash in an amount equal to its Pro Rata Share of the Assets of CAC and its Estate.

(b) Class 3B – Intercompany Claims Against CAC.

Holders of Allowed Intercompany Claims against CAC shall not receive or retain any property or rights under the Plan on account of such Claims.

(c) Class 3C – Equity Interests in CAC.

SMMC, as sole holder of all Allowed Equity Interests in CAC, shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed Equity Interest in CAC: any Assets of CAC and its Estate remaining available for distribution after all distributions to holders of Allowed Claims in Classes 3(A)-(B) required under the Plan have been made.



**3.10 Treatment of Claims Against and Equity Interests in SJC (Debtor 4).**

The classes of Claims against and Equity Interests in SJC shall be treated under the Plan as follows:

(a) Class 4A – General Unsecured Claims Against SJC.

Each holder of an Allowed General Unsecured Claim against SJC shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed General Unsecured Claim: Cash in an amount equal to its Pro Rata Share of the Assets of SJC and its Estate.

(b) Class 4B – Intercompany Claims Against SJC.

Holders of Allowed Intercompany Claims against SJC shall not receive or retain any property or rights under the Plan on account of such Claims.

(c) Class 4C – Equity Interests in SJC.

SMMC, as sole holder of all Allowed Equity Interests in SJC, shall receive the following on the Plan Distribution Date in full satisfaction of its Allowed Equity Interest in SJC: any Assets of SJC and its Estate remaining available for distribution after all distributions to holders of Allowed Claims in Classes 4(A)-(B) required under the Plan have been made.

**ARTICLE IV.**

**IDENTIFICATION OF IMPAIRED  
CLASSES OF CLAIMS AND EQUITY INTERESTS**

**4.1 Unimpaired Classes of Claims and Equity Interests.**

The following Classes are not impaired under the Plan:

- (a) Class 1A – Priority Non-Tax Claims against SMMC.
- (b) Class 1B – Non-Lender Secured Claims against SMMC.

**4.2 Impaired Classes of Claims and Equity Interests.**

The following Classes are impaired under the Plan:

- (a) Class 1C – Non-Trinity General Unsecured Claims against SMMC.
- (b) Class 1D – Trinity General Unsecured Claims against SMMC.
- (c) Class 1E – Intercompany Claims against SMMC.
- (d) Class 1F – Equity Interests in SMMC.
- (e) Class 2A – General Unsecured Claims against UHPC.

- (f) Class 2B – Intercompany Claims against UHPC.
- (g) Class 2C – Equity Interests in UHPC.
- (h) Class 3A – General Unsecured Claims against CAC.
- (i) Class 3B – Intercompany Claims against CAC.
- (j) Class 3C – Equity Interests in CAC.
- (k) Class 4A – General Unsecured Claims against SJC.
- (l) Class 4B – Intercompany Claims against SJC.
- (m) Class 4C – Equity Interests in SJC.

#### **4.3 Impairment Controversies.**

If a controversy arises as to whether any Claim or Equity Interest, or any class of Claims or Equity Interests, is impaired under the Plan, the Bankruptcy Court shall, after notice and a hearing, determine such controversy.

### **ARTICLE V.**

#### **ACCEPTANCE OR REJECTION OF THE PLAN; EFFECT OF REJECTION BY ONE OR MORE CLASSES OF CLAIMS OR EQUITY INTERESTS**

##### **5.1 Classes Entitled to Vote.**

Classes 1A and 1B are not impaired under the Plan, and the holders of Claims in such classes are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code and are not entitled to vote to accept or reject the Plan.

Classes 1C – 1D, 2A, 2C, 3A, 3C, 4A, and 4C are impaired under the Plan, and the holders of Claims or Equity Interests in such classes are entitled to vote to accept or reject the Plan.

Classes 1E, 1F, 2B, 3B, and 4B are impaired and will not receive or retain any property under the Plan, and the holders of Claims in such classes are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and are not entitled to vote to accept or reject the Plan.

##### **5.2 Acceptance by an Impaired Class of Claims.**

5.2.1 Pursuant to section 1126(c) of the Bankruptcy Code, an impaired class of Claims shall have accepted the Plan if, after excluding any Claims held by any holder designated pursuant to section 1126(e) of the Bankruptcy Code, (a) the holders of at least two-thirds (2/3) in



amount and more than one-half (1/2) in number of the Allowed Claims actually voting in such class have voted to accept such Plan.

5.2.2 Except for holders of Claims in classes that are deemed or presumed to have accepted or rejected this Plan pursuant to the terms of this Plan other than this Section 5.2.2, **HOLDERS OF CLAIMS IN IMPAIRED CLASSES OF CLAIMS UNDER THE PLAN ARE HEREBY GIVEN NOTICE THAT THE FAILURE OF ANY HOLDERS OF CLAIMS IN A GIVEN IMPAIRED CLASS OF CLAIMS TO VOTE OR ACCEPT OR REJECT THE PLAN WILL RESULT IN SUCH IMPAIRED CLASS BEING DEEMED TO HAVE ACCEPTED THE PLAN.**

### **5.3 Confirmability and Severability of this Plan.**

5.3.1 Consensual Confirmation. The confirmation requirements of section 1129(a) of the Bankruptcy Code must be satisfied separately with respect to each Debtor. Therefore, notwithstanding the combination of the separate plans of liquidation of all Debtors in this joint plan of liquidation for purposes of, among other things, economy and efficiency, this Plan shall be deemed a separate chapter 11 plan for each such Debtor.

5.3.2 Cramdown. If all applicable requirements for confirmation of the Plan are met as set forth in section 1129(a)(1) through (16) of the Bankruptcy Code, except subsection (8) thereof, then the Plan shall be treated as a request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code on the basis that the Plan is fair and equitable and does not discriminate unfairly with respect to each class of Claims and Equity Interests that is impaired under, and has not accepted, the Plan.

5.3.3 Reservation of Rights. Subject to Sections 14.12 and 14.13 of this Plan, the Plan Proponents reserve the right to modify or withdraw this Plan, in its entirety or in part, for any reason, including, without limitation, in the event that the Plan as it applies to any particular Debtor is not confirmed. In addition, and also subject to Sections 14.12 and 14.13 of this Plan, should this Plan fail to be accepted by the requisite number and amount of Claims and Equity Interests voting, as required to satisfy section 1129 of the Bankruptcy Code, and notwithstanding any other provision of this Plan to the contrary, the Plan Proponents reserve the right to reclassify Claims or Equity Interests or otherwise amend, modify or withdraw this Plan in its entirety, in part or with respect to a particular Debtor. Without limiting the foregoing, if the Plan Proponents withdraw the Plan as to any particular Debtor because the Plan with respect to such Debtor fails to be accepted by the requisite number and amount of Claims voting or due to the Court, for any reason, denying Plan confirmation with respect to such Debtor, then at the option of such Debtor (a) the Chapter 11 Case for such Debtor may be dismissed or (b) such Debtor's assets may be sold to a Debtor that is a Plan Proponent, such sale to be effective at or prior to the Effective Date of the Plan for such proponent, and the sale price shall be paid to the seller in Cash and shall be in an amount equal to the fair value of such assets as proposed by SMMC and approved by the Court.

5.3.4 Severability of Plan Provisions. If any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable

to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

## ARTICLE VI.

### **MEANS FOR IMPLEMENTATION OF THE PLAN**

#### **6.1 No Substantive Consolidation.**

Although the Plan is presented as a joint plan of orderly liquidation, this Plan does not provide for the substantive consolidation of the Debtors' Estates, and on the Effective Date, the Debtors' Estates shall not be deemed to be substantively consolidated for any reason. Allowed Claims held against one Debtor will be satisfied solely from the Assets of such Debtor and its Estate. Except as specifically set forth herein, nothing in this Plan or the Disclosure Statement shall constitute or be deemed to constitute an admission that any one or all of the Debtors is subject to or liable for any Claims against any other Debtor. A Claim against multiple Debtors will be treated as a separate Claim against each Debtor's Estate for all purposes including, but not limited to, voting and distribution; provided, however, that no Claim will receive value in excess of 100% of the Allowed amount of such Claim under the Plan.

#### **6.2 Corporate Action.**

The entry of the Confirmation Order shall constitute authorization for the Debtors, the Liquidation Trustee, and the Debtor Representative, as applicable, to take or cause to be taken all corporate actions necessary or appropriate to implement all provisions of, and to consummate, the Plan and the Plan Documents prior to, on and after the Effective Date and all such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Bankruptcy Court without further approval, act or action under any applicable law, order, rule or regulation, including, without limitation, (a) the incurrence of all obligations contemplated by the Plan and the making of Plan Distributions, (b) the implementation of all settlements and compromises as set forth in or contemplated by the Plan and (c) the execution, delivery, filing and/or recording of any contracts, agreements, instruments or other documents contemplated by the Plan Documents (or necessary or desirable to effectuate the transactions contemplated by the Plan Documents).

#### **6.3 Establishment of the Liquidation Trust and Appointment of the Liquidation Trustee**

The Liquidation Trust shall be established and the Liquidation Trustee shall be appointed as set forth below in Article VII.

**6.4 Appointment of the Debtor Representative, Vesting of Authority in the Debtor Representative, and Revesting of the Tort Claims and Insurance Policies**

On the Effective Date, a Debtor Representative shall be appointed pursuant to section 1123(b)(3) of the Bankruptcy Code.

On the Effective Date, the Debtors' boards of directors or trustees shall be dissolved and the then-current board members shall be relieved of their positions and corresponding duties and obligations and the officers shall likewise be relieved of their positions and corresponding duties and obligations; provided, however, that the Debtor Representative shall be responsible for effectuating transfers of Assets in accordance with this Plan and otherwise satisfying the Debtors' obligations under the terms of this Plan, including executing and delivering all agreements, documents, instruments, notices and certificates as are contemplated by the Plan and taking all necessary actions required in connection therewith, in the name of and on behalf of the Debtor.

On and after the Effective Date, the Debtor Representative shall have full and complete authority to act on behalf of and bind the Debtors without further action or approval of the Bankruptcy Court or the board of directors or trustees of any Debtor, including (i) to take all steps necessary to wind down the affairs of the Debtors, including to dissolve any or all of the Debtors, as well as dissolve the Foundation, and (ii) notwithstanding Section 12.2 of the Asset Purchase Agreement, to monitor or make appropriate arrangements for the monitoring and enforcement of the Buyer's and the Buyer's Parent's obligations under the Asset Purchase Agreement, including those set forth in Sections 5.5, 5.9 and 5.15 of the Asset Purchase Agreement, and the Buyer's obligations under the Prime Management Services Agreement and Medicaid/Medicare Transition Agreement.

On the Effective Date, the Estates' interest in any Tort Claims and rights in and proceeds of any Insurance Policies necessary for the prosecution of all such Claims will revert in the Debtors. The Debtor Representative shall have standing and be authorized to institute and prosecute through final judgment or settle the Tort Claims. Upon entry of a final judgment or settlement, the relevant proceeds of the Tort Claims and relevant Insurance Policies shall be transferred to the Liquidation Trust for the benefit of holders of Allowed claims in accordance with the provisions of this Plan. **THIS PLAN SHALL BE INTERPRETED SO AS TO AFFORD, FOR THE BENEFIT OF ALL HOLDERS OF ALLOWED CLAIMS, THE GREATEST OPPORTUNITY FOR MAXIMUM RECOVERY BY THE LIQUIDATION TRUSTEE AND THE DEBTOR REPRESENTATIVE ON THE ASSETS TORT CLAIMS, AND RIGHTS IN AND PROCEEDS OF ANY INSURANCE POLICIES.**

After the Tort Claims are liquidated, the proceeds of Causes of Action are transferred to the Liquidation Trust in accordance with this Plan, and all other assets of the Liquidating Trust are administered, the Debtor Representative shall be empowered, but not directed, to effectuate the dissolution of the Debtors in accordance with any applicable state law.

**6.5 Sources of Cash for Plan Distributions.**

All Cash necessary to make payments and Plan Distributions under the Plan shall be obtained from the liquidation of Liquidation Trust Assets (including the proceeds of any Tort Claims and related Insurance Policies).

**6.6 Use of Existing Accounts.**

The Liquidation Trustee may use the Debtors' existing bank accounts (as of the Effective Date) for the purposes set forth in the Plan to the extent possible and desired. The Liquidation Trustee may also close the Debtors' existing bank accounts at his discretion and transfer all amounts therein to one or more accounts in accordance with the terms of the Plan.

**6.7 Cancellation of Instruments.**

Except as otherwise provided herein, all notes, bonds, indentures or other instruments or documents evidencing or creating any indebtedness or obligation of any Debtor shall be deemed cancelled on the Effective Date.

**6.8 Dissolution of the Committee.**

Upon the Effective Date, the Committee shall dissolve automatically, whereupon its members, professionals and agents shall be released from any further duties and responsibilities in the Chapter 11 Cases and under the Bankruptcy Code, except with respect to applications for Fee Claims or reimbursement of expenses incurred as a member of the Committee.

**ARTICLE VII.**

**THE LIQUIDATION TRUST**

**7.1 Establishment of Liquidation Trust.**

On the Effective Date, the Liquidation Trust shall be established pursuant to the Liquidation Trust Agreement for the purposes of administering the Liquidation Trust Assets and making all distributions to Liquidation Trust Beneficiaries as provided for under this Plan. The Liquidation Trust Agreement shall be substantially in the form provided in the Plan Documents.

The beneficial interests in the Liquidation Trust shall not be certificated, unless otherwise provided in the Liquidation Trust Agreement. The issuance of any beneficial interests of the Liquidation Trust satisfies the requirements of section 1145 of the Bankruptcy Code and, therefore, such issuance is exempt from registration under the Securities Act of 1933, as amended, and any state or local law requiring registration.

**7.2 Execution of the Liquidation Trust Agreement.**

The Liquidation Trust Agreement, in a form reasonably acceptable to the Debtors and the Committee, shall be executed on or before the Effective Date, and all other necessary steps shall be taken to establish the Liquidation Trust and the beneficial interests therein, which shall be for the benefit of holders of Allowed Claims as set forth herein. This Article VII sets forth certain of the rights, duties and obligations of the Liquidation Trustee. In the event of any conflict between

the terms of this Article VII and the terms of the Liquidation Trust Agreement, the terms of the Liquidation Trust Agreement shall govern.

### **7.3 Liquidation Trust Assets.**

7.3.1 On the Effective Date, in accordance with section 1141 of the Bankruptcy Code, all of the Liquidation Trust Assets (except the Tort Claims and proceeds of related Insurance Policies, which shall revert in the Debtors), as well as the rights, privileges (including but not limited to the attorney-client privilege), and powers of the Debtors' and their Estates applicable to the Liquidation Trust Assets (except those applicable to the Tort Claims and proceeds of related Insurance Policies, which shall be transferred to the Liquidation Trust upon the entry of a final judgment or settlement), shall automatically vest in the Liquidation Trust, free and clear of all Claims and Equity Interests for the benefit of the Liquidation Trust Beneficiaries. For the avoidance of doubt, (i) in no event shall the term "Liquidation Trust Assets" be deemed to include the Trinity Release Claims or any released claims against any Released Parties, and (ii) the Liquidation Trust shall not have the right to assert the Trinity Release Claims or any released claims against any Released Parties. Upon the transfer of Liquidation Trust Assets to the Liquidation Trust, the Liquidation Trust shall succeed to all of the applicable Debtors' and Estates' rights, title and interest in such Liquidation Trust Assets, and the Debtors shall have no further interest in or with respect to such Liquidation Trust Assets.

Notwithstanding the foregoing, the Plan Proponents reserve the right to modify the Plan to exclude certain assets from transfer to the Liquidation Trust. The Confirmation Order shall constitute a determination that the transfers of Assets to the Liquidation Trust are legal and valid and consistent with the laws of the State of New Jersey.

All parties shall execute any documents or other instruments necessary to cause title to the Assets to be transferred to the Liquidation Trust. The Assets will be held in trust for the benefit of all holders of Allowed Claims pursuant to the terms of the Plan and Liquidation Trust Agreement.

7.3.2 The transfer of each of the Liquidation Trust Assets to the Liquidation Trust shall be treated for U.S. federal income tax purposes as a transfer of the Liquidation Trust Assets to the Liquidation Trust Beneficiaries, who will immediately thereafter be deemed to have automatically transferred all such Assets to the Liquidation Trust.

### **7.4 Governance of Liquidation Trust.**

The Liquidation Trust shall be governed and administered by the Liquidation Trustee, with the advice and assistance of the Oversight Committee, as provided under this Plan and the Liquidation Trust Agreement. Notwithstanding anything to the contrary herein, the Oversight Committee shall act in furtherance of, and consistent with, the purpose of the Liquidation Trust and shall act in the best interests of the beneficiaries of the Liquidation Trust.

### **7.5 Liquidation Trustee.**

The Liquidation Trustee shall be authorized to exercise and perform the rights, powers, and duties held by the Debtors and the Estates with respect to the Liquidation Trust Assets upon

their transfer to the Liquidation Trust, including, without limitation, the authority under section 1123(b)(3) of the Bankruptcy Code, and shall be deemed to be acting in the capacity of a bankruptcy trustee, receiver, liquidator, conservator, rehabilitator, creditors' committee or any similar official who has been appointed to take control of, supervise, manage or liquidate the Debtors and their Estates, to provide for the prosecution, settlement, adjustment, retention, and enforcement of the Liquidation Trust Assets.

7.5.1 Responsibilities of Liquidation Trustee.

The responsibilities of the Liquidation Trustee shall include, but shall not be limited to: (a) prosecuting through judgment and/or settling the Liquidation Trust Assets and any defense asserted by the Liquidation Trust in connection with any counterclaim or crossclaim asserted against the Liquidation Trust; (b) calculating and making distributions required under the Plan to be made from the Liquidation Trust Assets; (c) filing all required tax returns, and paying obligations on behalf of the Liquidation Trust from the Liquidation Trust Assets; (d) otherwise administering the Liquidation Trust; (e) filing quarterly reports with the Bankruptcy Court with respect to the expenditures, receipts, and distributions of the Liquidation Trust; and (f) such other responsibilities as may be vested in the Liquidation Trustee pursuant to the Liquidation Trust Agreement, the Confirmation Order, or as may be necessary and proper to carry out the provisions of the Plan relating to the Liquidation Trust.

The Liquidation Trustee shall maintain good and sufficient books and records of account relating to the Liquidation Trust Assets, the management thereof, all transactions undertaken by the Liquidation Trustee, all expenses incurred by or on behalf of the Liquidation Trustee, and all distributions to Liquidation Trust Beneficiaries contemplated or effectuated under the Plan. In addition, the Liquidation Trustee shall maintain the Debtors' organizational or corporate record books, minute books and tax records not sold to the Buyer under the Asset Purchase Agreement (the "Retained Records") until the dissolution of the Liquidation Trust, at which time the Retained Records may be disposed of in the Liquidation Trustee's discretion.

7.5.2 Authority and Powers of Liquidation Trustee.

The powers of the Liquidation Trustee are set forth in full in the Liquidation Trust Agreement and shall include, among other things, the right, without any further approval from the Bankruptcy Court, to: (a) sell, lease, license, abandon or otherwise dispose of all Liquidation Trust Assets subject to the terms of this Plan; (b) invest the Liquidation Trust Assets in short term certificates of deposit, in banks or other savings institutions, or other temporary, liquid investments, such as treasury bills, and withdraw funds of the Liquidation Trust; (c) employ Persons to assist the Liquidation Trustee or the Debtor Representative in carrying out his duties under the Plan and Liquidation Trust Agreement; (d) pay from the Liquidation Trust Assets all obligations of the Liquidation Trust and all costs and expenses of administering the Liquidation Trust and Liquidation Trust Assets, including fees and expenses of the Liquidation Trustee, the Debtor Representative, and Persons employed by the Liquidation Trustee or the Debtor Representative in carrying out his duties under the Plan and Liquidation Trust Agreement, taxes, and other obligations of the Liquidation Trust; (e) implement the Plan, including by making distributions pursuant to the Plan; (f) evaluate and determine strategy with respect to the Liquidation Trust Assets, and prosecute, compromise, release, abandon and/or settle or otherwise



resolve any Liquidation Trust Assets, including any and all Avoidance Actions, Causes of Action, or other claims of the Debtors or their Estates except Tort Claims, which shall revert in the Debtors; (g) liquidate any Liquidation Trust Assets and provide for distributions therefrom in accordance with the provisions of the Plan; (h) otherwise administer the Liquidation Trust; (i) participate in any post-Effective Date motions to amend or modify this Plan or the Liquidation Trust Agreement, or appeals from the Confirmation Order; (j) participate in actions to enforce or interpret the Plan; (k) bind the Liquidation Trust; (l) administer the Wind-Down Amounts Reserve in order to pay any remaining Wind-Down Amounts pursuant to the terms of the Plan; (m) continue any motions, defenses, or appeals initiated by the Committee prior to the Effective Date; (n) exercise such other powers and authority as may be vested in or assumed by the Liquidation Trustee by any Final Order, or as may be necessary and proper to carry out the provisions of the Plan relating to the Liquidation Trust; and (o) administer the closure of the Chapter 11 Cases.

The authority of the Liquidation Trustee will commence as of the Effective Date and will remain and continue in full force and effect until all of the Assets have liquidated in accordance with the Plan, the funds in the Liquidation Trust have been completely distributed in accordance with the Plan, all tax returns and any other required filings or reports have been filed with the appropriate state or federal regulatory authorities, and the Order closing the Chapter 11 Cases is a Final Order.

7.5.3 Liquidation Trustee as Successor in Interest to the Debtors and Committee.

Except as to the Tort Claims, the Liquidation Trustee is the successor in interest to the Debtors and the Committee, and thus, after the Effective Date, to the extent the Plan requires an action by the Debtors (and except as it relates to the Tort Claims), the action shall be taken by the Liquidation Trustee on behalf of the Debtors or the Committee, as applicable.

7.5.4 Retention of Professionals by Liquidation Trustee.

As set forth in Section 7.5.2 of this Plan and the Liquidation Trust Agreement, the Liquidation Trustee may, without further order of the Bankruptcy Court, employ various Persons on behalf of the Liquidation Trust and Debtor Representative, including, but not limited to, attorneys, consultants and financial advisors, as needed to assist him/her in fulfilling his/her obligations under the Liquidation Trust Agreement and this Plan, and on whatever fee arrangement he/she deems appropriate, including, without limitation, contingency fee arrangements. For the avoidance of doubt, the Liquidation Trustee may retain professionals who represented parties in interest in the Chapter 11 Cases. Professionals engaged by the Liquidation Trustee shall not be required to file applications with the Bankruptcy Court in order to receive compensation for services rendered and reimbursement of actual out-of-pocket expenses incurred. All such compensation and reimbursement shall be paid from the Liquidation Trust with Liquidation Trust Assets.

7.5.5 Compensation of Liquidation Trustee.

In addition to reimbursement for actual out-of-pocket expenses incurred by the Liquidation Trustee, the Liquidation Trustee shall be entitled to receive reasonable compensation

for services rendered on behalf of the Liquidation Trust on terms to be set forth in the Liquidation Trust Agreement. All such compensation and reimbursement shall be paid from the Liquidation Trust with Liquidation Trust Assets. Like terms shall apply to the fees and expenses of the Debtor Representative.

## **7.6 Oversight Committee.**

### **7.6.1 Appointment of the Oversight Committee.**

On the Effective Date, the Oversight Committee shall be formed. The Oversight Committee shall advise and assist the Liquidation Trustee in the implementation and administration of the Liquidation Trust pursuant to the Liquidation Trust Agreement and this Plan. A list of the proposed members of the Oversight Committee, whose appointment shall become effective as of the Effective Date of this Plan, shall be filed with the Bankruptcy Court as a Plan Document.

The Oversight Committee shall consist of not less than three (3) Persons that are Liquidation Trust Beneficiaries, and shall include at least one member of Class 1C or a delegate chosen by a majority of the holders of Allowed Class 1C Claims. The Oversight Committee may also include such other Persons (including ex officio members) as may be requested by the Oversight Committee, which Person shall have agreed to participate in the performance of the Oversight Committee's functions as set forth in the Plan. The members of the Oversight Committee shall serve without compensation, but may be reimbursed for reasonable expenses incurred in the performance of their duties as members of the Oversight Committee.

### **7.6.2 Duties of the Oversight Committee.**

The Oversight Committee shall have the functions, duties and rights provided in the Liquidation Trust Agreement. No other Liquidation Trust Beneficiary shall have any consultation rights whatsoever in respect of management and operation of the Liquidation Trust.

## **7.7 Indemnification.**

From and after the Effective Date, the Liquidation Trustee, the Debtor Representative, the members of the Oversight Committee and the all Persons retained by the Liquidation Trust (collectively, the "Liquidation Trust Indemnified Parties" and each a "Liquidation Trust Indemnified Party") shall be, and hereby are, indemnified by the Liquidation Trust, to the fullest extent permitted by applicable law, from and against any and all claims, debts, dues, accounts, actions, suits, causes of action, bonds, covenants, judgments, damages, attorneys' fees, defense costs, and other assertions of liability arising out of any such Liquidation Trust Indemnified Party's good faith exercise of what such Liquidation Trust Indemnified Party reasonably understands to be its powers or the discharge of what such Liquidation Trust Indemnified Party reasonably understands to be its duties conferred by the Liquidation Trust Agreement, the Plan, or any order of the Bankruptcy Court entered pursuant to, or in furtherance of, the Plan, applicable law, or otherwise (except only for actions or omissions to act to the extent determined by a Final Order to be due to its own fraud, self-dealing, intentional misrepresentation, gross negligence or willful misconduct), including but not limited to, acts or omissions concerning pursuing or not pursuing the Liquidation Trust Assets, on and after the Effective Date. The



foregoing indemnification shall also extend to matters directly or indirectly in connection with, arising out of, based on, or in any way related to (a) the Plan; (b) the Liquidation Trust Agreement; (c) the services to be rendered pursuant to the Plan or Liquidation Trust Agreement; (d) any document or information, whether verbal or written, referred to herein or supplied to the Liquidation Trustee or Debtor Representative; or (e) proceedings by or on behalf of any creditor or Debtor. The Liquidation Trust shall, on demand, advance or pay promptly out of the Liquidation Trust Assets, on behalf of each Liquidation Trust Indemnified Party, reasonable and documented attorneys' fees and other expenses and disbursements to which such Liquidation Trust Indemnified Party would be entitled pursuant to the foregoing indemnification obligation; provided, however, that any Liquidation Trust Indemnified Party receiving any such advance shall execute a written undertaking to repay such advance if a court of competent jurisdiction ultimately determines that such Liquidation Trust Indemnified Party is not entitled to indemnification hereunder due to the fraud, self-dealing, intentional misrepresentation, gross negligence or willful misconduct of such Liquidation Trust Indemnified Party. In any matter covered by the first two sentences of this subsection, any Person entitled to indemnification shall have the right to employ such Person's own separate counsel reasonably acceptable to the Liquidation Trustee, at the Liquidation Trust's expense, subject to the foregoing terms and conditions.

#### **7.8 LT Reserves.**

The Liquidation Trustee may establish one or more LT Reserves on account of Contested Claims, the holders of which would be Liquidation Trust Beneficiaries were such Contested Claims ultimately Allowed. The amount held back in the LT Reserve(s) shall be equal to the amount necessary to satisfy the Plan Distributions to which the holders of the relevant Contested Claims would be entitled if all such Contested Claims were to be subsequently Allowed.

#### **7.9 Discharge of Liquidation Trustee and Dissolution.**

The Liquidation Trustee and the Liquidation Trust shall be discharged or dissolved, as the case may be, at such time as (i) all assets of the Liquidation Trust have been liquidated and (ii) all distributions required to be made by the Liquidation Trustee under the Plan have been made, but in no event shall the Liquidation Trust be dissolved later than five (5) years from the Effective Date; provided, however, that the Bankruptcy Court, upon motion by a party in interest, may extend the term of the Liquidation Trust for a finite period if (i) such extension is necessary to the purpose of the Liquidation Trust, (ii) the Liquidation Trustee receives an opinion of counsel or a ruling from the IRS stating that such extension would not adversely affect the status of the Liquidation Trust as a liquidating trust for federal income tax purposes, and (iii) such extension is obtained within the six (6) month period prior to the Liquidation Trust's fifth (5th) anniversary or the end of the immediately preceding extension period, as applicable. Upon dissolution of the Liquidation Trust, any remaining Cash on hand and other assets, with the exception of any Causes of Action will be distributed to the Liquidation Trust Beneficiaries in accordance with the Liquidation Trust Agreement. Upon the dissolution of the Liquidation Trust, all remaining Causes of Action shall be deemed void and abandoned and no Liquidation Trust Beneficiary shall have any right, title or interest in or to any such Cause of Action.

At such time as the Liquidation Trust has been fully administered (i.e., when all things requiring action by the Liquidation Trustee – including the liquidation of all Liquidation Trust assets and the making of all distributions required under the Plan – have been done, and the Plan has been substantially consummated), the Liquidating Trustee shall file an application for approval of his final report and the entry of a final decree with the Bankruptcy Court.

#### **7.10 Taxes.**

For federal income tax purposes, (i) all parties (including, without limitation, the Debtors, the Liquidation Trustee, and the Liquidation Trust Beneficiaries) shall treat the Liquidation Trust as a liquidating trust within the meaning of Treasury Regulation section 301.7701-4(d) and IRS Revenue Procedure 94-45, 1994-2 C.B. 684, (ii) the transfer of Assets of the Debtors to the Liquidation Trust under the Plan shall be treated as a deemed transfer to the Liquidation Trust Beneficiaries in satisfaction of their Claims followed by a deemed transfer of the Assets by the Liquidation Trust Beneficiaries to the Liquidation Trust, (iii) the Liquidation Trust Beneficiaries will be deemed to be the grantors and owners of the Liquidation Trust and its assets, and (iv) the Liquidation Trust will be taxed as a grantor trust within the meaning of sections 671-677 of the Internal Revenue Code owned by the Liquidation Trust Beneficiaries. The Liquidation Trust will file federal income tax returns as a grantor trust under Internal Revenue Code section 671 and Treasury Regulation section 1.671-4 and report, but not pay tax on, the Liquidation Trust's tax items of income, gain, loss deductions and credits ("Tax Items"). The Liquidation Trust Beneficiaries will report such Tax Items on their federal income tax returns and pay any resulting federal income tax liability. All parties will use consistent valuations of the Assets transferred to the Liquidation Trust for all federal income tax purposes. The Assets shall be valued based on the Liquidation Trustee's good faith determination of their fair market value.

The Liquidation Trustee may, for U.S. federal income tax purposes (and, to the extent permitted by law, for state and local income tax purposes), (i) make an election pursuant to Treasury Regulation section 1.468B-9 to treat the LT Reserve(s) as a "disputed ownership fund" within the meaning of that section, (ii) allocate taxable income or loss to the LT Reserve(s), with respect to any given taxable year (but only for the portion of the taxable year with respect to which such Claims are Disputed Claims), and (iii) distribute assets from the LT Reserve(s) as, when, and to the extent, such Disputed Claims either become Allowed or are otherwise resolved. The Liquidation Trust Beneficiaries shall be bound by such election, if made by the Liquidation Trustee, in consultation with the Oversight Committee, and as such shall, for U.S. federal income tax purposes (and, to the extent permitted by law, for state and local income tax purposes), report consistently therewith.

For federal and applicable state income tax purposes, all parties (including, without limitation, the Debtors, the Liquidation Trustee, and the Liquidation Trust Beneficiaries) shall treat the transfers of Assets to the Liquidation Trust in accordance with the terms of the Plan as a sale by the Debtors and/or their Estates of such Assets to the Liquidation Trust at a selling price equal to the fair market value of such Assets on the date of transfer. The Liquidation Trust shall be treated as the owner of all Assets that it holds.

## ARTICLE VIII.

### INJUNCTIONS, RELEASES AND EXCULPATION

#### **8.1 Term of Bankruptcy Injunction or Stays.**

All injunctions or stays provided for in the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date, except for any injunction in the MedRealty Injunction Orders and Orders approving the Prime Sale and sale pursuant to the MLK APA, which shall remain in full and force and effect until then and at all times after the Effective Date.

Except as otherwise provided in the Plan or the Confirmation Order, or to the extent necessary to enforce the terms and conditions of the Plan, the Confirmation Order, or a separate Order of the Bankruptcy Court, as of the Confirmation Date, but subject to the occurrence of the Effective Date, all Persons who have held, hold or may hold Claims against or Equity Interests in the Debtors or the Estates are, with respect to any such Claims or Equity Interests, permanently enjoined after the Confirmation Date from: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtors, the Estates or any of their Assets, the Liquidation Trustee, the Buyer, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons or any property of any such transferee or successor; (ii) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against the Debtors, the Estates or any of their Assets, the Liquidation Trustee, the Buyer, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons, or any property of any such transferee or successor; (iii) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtors, the Estates or any of their Assets, the Liquidation Trustee, the Buyer, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons; (iv) commencing or continuing in any manner or in any place, any suit, action or other proceeding on account of or respecting any Claim, demand, liability, obligation, debt, right, Cause of Action, interest or remedy released or to be released, satisfied, or otherwise addressed pursuant to the Plan or the Confirmation Order, including, but not limited to, through the releases and exculpations provided under the Plan; (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of this Plan to the fullest extent permitted by applicable law; and (vi) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of this Plan; provided, however, that nothing contained herein shall preclude such persons from exercising their rights pursuant to and consistent with the terms of this Plan. Each holder of an Allowed Claim or Allowed Equity Interest shall be deemed to have specifically consented to the injunctions set forth herein.

The foregoing injunctions shall extend for the benefit of the Debtor Representative, the Liquidating Trustee, and any successors of the Debtors, and to any property and interest in property subject to this Plan.

All entities (as that term is defined in 11 U.S.C. § 101(15) and including limited liability companies) shall be permanently enjoined from asserting, prosecuting or filing any action or claim directed against the Trinity Parties (i) for the purpose of directly or indirectly collecting, recovering or receiving payment with respect to any Trinity Release Claims, and/or (ii) pursuing any derivative action related to Trinity Release Claims; and/or (iii) pursuing a duplicative claim that could have been brought by the Debtors against the Trinity Parties. To avoid doubt, nothing shall be deemed to release or enjoin any individual claims or causes of action that any third parties, other than the Committee or the Debtors, had, have or may have in the future against any Trinity Parties that are not derivative or duplicative of the Trinity Release Claims or that do not seek collection, recovery or payment with respect to any Trinity Release Claims.

Counts I-III of the State Court Complaint assert claims that are property of the estate under Section 541 of the Bankruptcy Code and subject to the automatic stay under Section 362 of the Bankruptcy Code; (2) Counts I-III of the State Court Complaint assert claims that are Trinity Release Claims under the Trinity Settlement Approval Order and Trinity Settlement Agreement; (3) Counts I-III of the State Court Complaint assert claims that have been absolutely, unconditionally and irrevocably waived, discharged and released against Trinity and any of its respective or former agents, employees, affiliates, subsidiaries, directors, member, partners, managers, officers, representatives, attorneys, advisors, predecessors, successors or assigns pursuant to the Global Settlement Order and Global Settlement Agreement; and (4) MedRealty is permanently enjoined from prosecuting Counts I-III of the State Court Complaint and as provided in the Trinity Settlement Approval Order and Trinity Settlement Agreement.

## **8.2 Releases by the Debtors.**

Except as otherwise provided herein, as of the Effective Date, for good and valuable consideration, including the obligations of the Debtors under this Plan and the contributions of the Released Parties to facilitate and implement this Plan, on and after the Effective Date, the Released Parties are deemed released and discharged by the Debtors and their Estates from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action and liabilities, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that the Debtors or their Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Equity Interest or other Person, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Chapter 11 Cases, the Plan or the Disclosure Statement, the purchase, sale or rescission of the purchase or sale of any security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in this Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Equity Interests before or during the Chapter 11 Cases, the negotiation, formulation or preparation of this Plan, the Liquidation Trust Agreement, the solicitation of votes with respect to this Plan, or any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date; except, that nothing in this section shall be construed to release any party or entity from willful misconduct, gross negligence, or intentional fraud as determined by a Final Order.

## **8.3 Releases by Creditors and Equity Security Holders.**

**ON THE EFFECTIVE DATE, EXCEPT AS OTHERWISE PROVIDED HEREIN AND EXCEPT FOR THE RIGHT TO ENFORCE THIS PLAN, ALL PERSONS WHO HAVE (I) (A) VOTED TO ACCEPT THIS PLAN OR WHO ARE PRESUMED OR DEEMED TO HAVE VOTED TO ACCEPT THIS PLAN UNDER SECTION 1126(f) OF THE BANKRUPTCY CODE, (B) ARE ENTITLED TO VOTE TO ACCEPT OR REJECT THIS PLAN AND WHO VOTE TO REJECT THIS PLAN OR ABSTAIN FROM VOTING, OR (C) ARE DEEMED TO HAVE REJECTED THIS PLAN UNDER SECTION 1126(g) OF THE BANKRUPTCY CODE, AND (II) DO NOT MARK THEIR BALLOTS AS OPTING OUT OR OTHERWISE OPT OUT OF THE RELEASES GRANTED UNDER THIS SECTION OR OPT OUT IN WRITING BY THE DEADLINE TO VOTE TO ACCEPT OR REJECT THIS PLAN, AS APPLICABLE, SHALL, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BE DEEMED TO FOREVER RELEASE, WAIVE AND DISCHARGE THE RELEASED PARTIES AND EACH OF THEIR RESPECTIVE CONSTITUENTS, PRINCIPALS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, REPRESENTATIVES, ATTORNEYS, PROFESSIONALS, ADVISORS, AFFILIATES, FUNDS, SUCCESSORS, PREDECESSORS, AND ASSIGNS OF AND FROM ALL LIENS, CLAIMS, CAUSES OF ACTION, LIABILITIES, ENCUMBRANCES, SECURITY INTERESTS, INTERESTS OR CHARGES OF ANY NATURE OR DESCRIPTION WHATSOEVER RELATING TO THE DEBTORS, THE CHAPTER 11 CASES OR AFFECTING PROPERTY OF THE ESTATES, WHETHER KNOWN OR UNKNOWN, SUSPECTED OR UNSUSPECTED, SCHEDULED OR UNSCHEDULED, CONTINGENT OR NOT CONTINGENT, UNLIQUIDATED OR FIXED, ADMITTED OR DISPUTED, MATURED OR UNMATURED, SENIOR OR SUBORDINATED, WHETHER ASSERTABLE DIRECTLY OR DERIVATIVELY BY, THROUGH, OR RELATED TO THE DEBTORS, AGAINST SUCCESSORS OR ASSIGNS OF THE DEBTORS AND THE INDIVIDUAL AND ENTITIES LISTED ABOVE, WHETHER AT LAW, IN EQUITY, OR OTHERWISE, BASED UPON ANY CONDITION, EVENT, ACT, OMISSION, OCCURRENCE, TRANSACTION, OR OTHER ACTIVITY, INACTIVITY, INSTRUMENT OR OTHER AGREEMENT OF ANY KIND OR NATURE OCCURRING, ARISING, OR EXISTING PRIOR TO THE EFFECTIVE DATE IN ANY WAY RELATING TO OR ARISING OUT OF, IN WHOLE OR IN PART, THE DEBTORS, THE CHAPTER 11 CASES, THE PURSUIT OF CONFIRMATION OF THIS PLAN, THE NEGOTIATION AND CONSUMMATION OF THE SALE, THE CONSUMMATION OF THIS PLAN, OR THE ADMINISTRATION OF THIS PLAN, INCLUDING, WITHOUT LIMITATION, THE NEGOTIATION AND SOLICITATION OF THIS PLAN, ALL REGARDLESS OF WHETHER (A) A PROOF OF CLAIM HAS BEEN FILED OR IS DEEMED TO HAVE BEEN FILED, (B) SUCH CLAIM IS ALLOWED, OR (C) THE HOLDER OF SUCH CLAIM HAS VOTED TO ACCEPT OR REJECT THE PLAN, EXCEPT FOR WILLFUL MISCONDUCT, GROSS NEGLIGENCE, OR INTENTIONAL FRAUD. FOR THE AVOIDANCE OF DOUBT, NOTHING CONTAINED IN THIS PARAGRAPH SHALL IMPACT THE RIGHT OF ANY HOLDER OF AN ALLOWED CLAIM TO RECEIVE A DISTRIBUTION ON ACCOUNT OF ITS ALLOWED CLAIM IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS PLAN.**

**8.4 Injunction.**



**FROM AND AFTER THE EFFECTIVE DATE, TO THE EXTENT OF THE RELEASES AND EXCULPATIONS GRANTED IN THIS PLAN, THE RELEASING PARTIES SHALL BE PERMANENTLY ENJOINED FROM COMMENCING OR CONTINUING IN ANY MANNER AGAINST THE RELEASED PARTIES AND THE EXCULPATED PARTIES AND THEIR ASSETS AND PROPERTIES, AS THE CASE MAY BE, ANY SUIT, ACTION, OR OTHER PROCEEDING, ON ACCOUNT OF OR RESPECTING ANY CLAIM, DEMAND, LIABILITY, OBLIGATION, DEBT, RIGHT, CAUSE OF ACTION, INTEREST, OR REMEDY RELEASED OR TO BE RELEASED PURSUANT TO THIS PLAN.**

**8.5 Releases in Favor of the Trinity Parties.**

The Committee and each of the Debtors and each of the Debtors' respective agents, affiliates, subsidiaries, directors, officers and representatives absolutely, unconditionally and irrevocably waives, discharges and releases the Trinity Parties of and from the Trinity Release Claims.

**8.6 Injunction in Favor of the Trinity Parties.**

All Persons shall be permanently enjoined from asserting, prosecuting or filing any action or claim directed against the Trinity Parties (i) for the purpose of directly or indirectly collecting, recovering or receiving payment with respect to any Trinity Release Claims, and/or (ii) pursuing any derivative action related to the Trinity Release Claims; and/or (iii) pursuing a duplicative claim that could have been brought by the Debtors against the Trinity Parties. To avoid doubt, nothing herein shall be deemed to release or enjoin any individual claims or causes of action that any third parties, other than the Committee or the Debtors, had, have or may have in the future against any Trinity Parties that are not derivative or duplicative of the Trinity Release Claims or that do not seek collection, recovery or payment with respect to any Trinity Release Claims.

**8.7 Exculpation.**

No Exculpated Party shall have or incur, and each Exculpated Party is hereby released and exculpated from any claim, obligation, Cause of Action or liability for any claim in connection with or arising out of, the administration of the Chapter 11 Cases, the entry into the DIP Documents and the DIP Facility, entry into the Liquidation Trust Agreement, entry into the Global Settlement Agreement, the Debtors' entry into any asset purchase agreement during the Chapter 11 Cases, the consummation of any transactions contemplated therein, the negotiation and pursuit of this Plan, or the solicitation of votes for, or confirmation of, this Plan, the funding of this Plan, the consummation of this Plan, or the administration of this Plan or the property to be distributed under this Plan, and the issuance of securities under or in connection with this Plan or the transactions contemplated by the foregoing, except for willful misconduct, gross negligence, or intentional fraud as finally determined by the Bankruptcy Court, but in all respects such Exculpated Party shall be entitled to reasonably rely upon the advice of counsel with respect to its duties and responsibilities pursuant to this Plan. The Exculpated Parties have participated in compliance with the applicable provisions of the Bankruptcy Code with regard to the solicitation and distribution of the securities pursuant to the Plan, and are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule

or regulation governing the solicitation of acceptances or rejections of this Plan or such distributions made pursuant to this Plan, including the issuance of securities thereunder.

**8.8 Limitation on Liability of Liquidation Trustee and Debtor Representative.**

Neither the Liquidation Trustee or the Debtor Representative will be liable for any act he may do or omit to do as Liquidation Trustee or Debtor Representative under the Plan and the Liquidation Trust Agreement, as applicable, while acting in good faith and in the exercise of his reasonable business judgment; nor will the Liquidation Trustee or the Debtor Representative be liable in any event except for willful misconduct, gross negligence, or intentional fraud. The foregoing limitation on liability will also apply to any Person (including any professional) employed by the Liquidation Trustee (including on behalf of the Debtor Representative) and acting on behalf of the Liquidation Trustee or Debtor Representative in the fulfillment of their respective duties hereunder or under the Liquidation Trust Agreement.

**ARTICLE IX.**

**PLAN DISTRIBUTION PROVISIONS**

**9.1 Plan Distributions.**

The Liquidation Trustee shall make all Plan Distributions in accordance with the Plan and the Liquidation Trust Agreement. In the event a Plan Distribution shall be payable on a day other than a Business Day, such Plan Distribution shall instead be paid on the immediately succeeding Business Day, but shall be deemed to have been made on the date otherwise due. For federal income tax purposes, except to the extent a Plan Distribution is made in connection with reinstatement of an obligation pursuant to section 1124 of the Bankruptcy Code, a Plan Distribution will be allocated first to the principal amount of a Claim and then, to the extent the Plan Distribution exceeds the principal amount of the Claim, to the portion of the Claim representing accrued but unpaid interest and other fees, premiums and charges, as applicable. Except as otherwise provided herein, Plan Distributions shall be made to the holders of Allowed Claims as reflected in the registry of claims maintained by the Claims Agent on the Effective Date. The Liquidation Trustee and its agents shall have no obligation to recognize any transfer of a Claim after the Effective Date.

**NO DISTRIBUTION SHALL BE MADE PURSUANT TO THIS PLAN TO A HOLDER OF A CLAIM UNLESS AND UNTIL SUCH CLAIM IS OR BECOMES AN ALLOWED CLAIM.**

**9.2 Timing of Plan Distributions.**

Each Plan Distribution shall be made on the relevant Plan Distribution Date therefor and shall be deemed to have been timely made if made on such date or within ten (10) days thereafter.

**9.3 Delivery of Plan Distributions and Undeliverable or Unclaimed Distributions.**



9.3.1 Delivery of Plan Distributions in General. Subject to Bankruptcy Rule 9010, any Plan Distribution to a holder of an Allowed Claim shall be made at the last known address of such holder as set forth (i) in the Schedules, (ii) on the proof of Claim filed by such holder, (iii) in any notice of transfer of claim filed with the Bankruptcy Court with respect to such Claim pursuant to Bankruptcy Rule 3001(e) or (iv) in any notice served by such holder giving details of a change of address.

9.3.2 Undeliverable and Unclaimed Plan Distributions.

a. General. The Liquidation Trustee shall have no duty to make distributions to any holder of an Allowed Claim with an undeliverable address as determined by any undeliverable or returned notice to the Liquidation Trustee unless and until the Liquidation Trustee is notified in writing of such holder's then-current address prior the Plan Distribution Date. If the distribution to any holder of an Allowed Claim is returned to the Liquidation Trustee as undeliverable or is otherwise unclaimed, no further Plan Distribution shall be made to such holder unless the Liquidation Trustee is notified of such holder's then-current address within ninety (90) days after such Plan Distribution was returned. After such date, if such notice was not provided, a holder shall have forfeited its right to such Plan Distribution, and the other holders of Allowed Claims in such holder's Class shall receive a Pro Rata Share of such undeliverable or unclaimed Plan Distribution, free of any restrictions thereon.

b. Non-Negotiated Checks. Checks issued in respect of Allowed Claims shall be null and void if not presented within ninety (90) days after the date of issuance thereof. Requests for reissuance of any voided check shall be made directly to the Liquidation Trustee by the holder of the Allowed Claim to whom such check was originally issued. Any claim in respect of such a voided check shall be made within ninety (90) days after the date of issuance of such check. If no request is made as provided in the preceding sentence, any claim in respect of such voided check shall be discharged and forever barred and the other holders of Allowed Claims in such holder's Class shall receive a Pro Rata Share of such undeliverable Plan Distribution, free of any restrictions thereon.

**9.4 Manner of Payment under the Plan.**

Unless the Person receiving a Plan Distribution agrees otherwise, any Plan Distribution to be made in Cash under the Plan shall be made by check drawn on a domestic bank or by wire transfer from a domestic bank. Cash payments to foreign creditors may, in addition to the foregoing, be made in such funds and by such means as are necessary or customary in a particular foreign jurisdiction.

**9.5 Minimum Distributions.**

If the amount of Cash to be distributed to the holder of an Allowed Claim is less than fifty dollars (\$50.00) on a Plan Distribution Date, the Liquidation Trustee may hold the Cash distributions to be made to such Holder until the aggregate amount of Cash to be distributed to such Holder is in an amount equal to or greater than \$50. Notwithstanding the preceding sentence, if the amount of Cash distribution to any Holder of an Allowed Claim never aggregates more than \$50, then the Liquidation Trustee shall not be required to distribute Cash to any such

holder, and the resultant savings shall be distributed Pro Rata to other holders of Allowed Claims.

**9.6 Rounding.**

Whenever any payment of a fraction of a cent would otherwise be called for, the actual payment shall reflect a rounding of such fraction to the nearest whole cent, with one-half cent being rounded up to the nearest whole cent.

**9.7 Settlement of Claims and Controversies.**

Pursuant to sections 363 and 1123(b) of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to this Plan, the provisions of this Plan shall constitute a good faith compromise of all Claims and controversies relating to the contractual, legal and subordination rights that a holder of a Claim may have with respect to any Allowed Claim, or any distribution to be made on account of such Allowed Claim. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates and holders of Claims and is fair, equitable and reasonable.

**9.8 Setoffs and Recoupments.**

The Liquidation Trustee may, pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, exercise the right of setoff or recoupment against any Allowed Claim and the distributions to be made pursuant to the Plan on account of such Claim (before distribution is made on account of such Claim) of the claims, rights and causes of action of any nature that the Debtor may hold against the holder of such Allowed Claim; provided, however, that neither the failure to effect such a setoff or recoupment nor the allowance of any Claim hereunder shall constitute a waiver or release by the Liquidating Trustee of any such claims, rights and causes of action that the Liquidating Trust may possess against such holder.

**9.9 Claims Paid or Payable by Third Parties.**

(a) Claims Paid by Third Parties

The Debtors shall reduce in full a Claim, and such Claim shall be Disallowed without a Claim objection having to be filed and without any further notice to or action, order, or approval of the Court, to the extent that the holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtor. To the extent a holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not a Debtor on account of such Claim, such holder shall, within two weeks of receipt thereof, repay or return the distribution to the Liquidation Trust to the extent the holder's total recovery on account of such Claim from the third party and under the Plan exceeds the Allowed amount of such Claim.

(b) Claims Payable by Third Parties

No distributions under the Plan shall be made on account of an Allowed Claim that is payable by a third party, including pursuant to one of the Debtors' Insurance Policies, until the holder of such Allowed Claim has exhausted all remedies with respect to such third party or Insurance Policy. To the extent that one or more of the Debtors' insurers or another third party agrees to satisfy in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such agreement, the applicable portion of such Claim may be expunged without a Claim objection having to be filed and without any further notice to or action, order, or approval of the Court.

## **ARTICLE X.**

### **PROCEDURES FOR RESOLVING AND TREATING CONTESTED CLAIMS**

#### **10.1 Claim Objection Deadline.**

Objections to Claims shall be filed by the Liquidation Trustee with the Bankruptcy Court and served upon the holders of each of the Claims to which objection is made within 180 days after the Effective Date of this Plan. The time period for filing objections to Claims shall automatically renew for successive periods of 180 days each until the earlier of (i) the date upon which all Claims have been Allowed or Disallowed or (ii) the date fixed by the Court upon motion of the Liquidation Trustee or a holder of a Claim.

#### **10.2 Prosecution of Contested Claims.**

After the Effective Date, the Liquidation Trustee may (i) prosecute any objection to a Claim filed by the Debtors prior to the Effective Date and (ii) object to the allowance of Claims filed with the Bankruptcy Court before, on or after the Effective Date with respect to which liability is Contested. All objections that are filed and prosecuted as provided herein shall be litigated to Final Order or compromised and settled in accordance with Section 10.3.

#### **10.3 Claims Settlement.**

Notwithstanding any requirements that may be imposed pursuant to Bankruptcy Rule 9019, from and after the Effective Date, the Liquidation Trustee shall have authority to settle or compromise all Claims and Causes of Action without further review or approval of the Bankruptcy Court.

#### **10.4 Entitlement to Plan Distributions upon Allowance.**

Notwithstanding any other provision of the Plan, except as otherwise agreed by the Liquidation Trustee, no Plan Distribution shall be made with respect to any Claim to the extent it is a Contested Claim, unless and until such Contested Claim becomes an Allowed Claim, subject to the setoff rights as provided in Section 9.8. When a Claim that is not an Allowed Claim as of the Effective Date becomes an Allowed Claim (regardless of when) the holder of such Allowed Claim shall thereupon become entitled to receive the Plan Distributions in respect of such Claim, the same as though such Claim had been an Allowed Claim on the Effective Date.

### **10.5 Estimation of Claims.**

The Liquidation Trustee may, at any time, request that the Bankruptcy Court estimate any Contested Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Liquidation Trustee or the Debtors previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any Contested Claim, that estimated amount will constitute the Allowed amount of such Claim for all purposes under the Plan. All of the objection, estimation, settlement and resolution procedures set forth in the Plan are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

## **ARTICLE XI.**

### **CONDITIONS PRECEDENT TO CONFIRMATION OF THE PLAN AND THE OCCURRENCE OF THE EFFECTIVE DATE**

#### **11.1 Conditions Precedent to Confirmation.**

The following shall be conditions precedent to confirmation of the Plan:

(a) the Bankruptcy Court shall have entered an Order or Orders (i) approving the Disclosure Statement as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code, (ii) authorizing the solicitation of votes with respect to the Plan, (iii) determining that all votes are binding and have been properly tabulated as acceptances or rejections of the Plan, (iv) confirming and giving effect to the terms and provisions of the Plan, (v) determining that all applicable tests, standards and burdens in connection with the Plan have been duly satisfied and met by the Debtors and the Plan, (vi) approving the Plan Documents and (viii) authorizing the Debtors to execute, enter into and deliver the Plan Documents, and to execute, implement and to take all actions otherwise necessary or appropriate to give effect to the transactions and transfer or reversion of Assets contemplated by the Plan and the Plan Documents;

(b) the Confirmation Order, the Plan Documents and the Plan are each in a form and substance satisfactory to the Debtors and the Committee; and

(c) the Confirmation Order shall include determinations that all of the settlements and compromises contained in the Plan meet the applicable standards under section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019 for approval and implementation.

#### **11.2 Conditions Precedent to the Occurrence of the Effective Date.**

The following shall be conditions precedent to the occurrence of the Effective Date with respect to each of the Debtors’ Estates:

(a) the Confirmation Order shall have been entered by the Bankruptcy Court, be in full force and effect and not be subject to any stay or injunction, and the Debtors shall not have elected to delay the occurrence of the Effective Date with respect to such Estate in accordance with Section 11.5 of this Plan;

(b) the Liquidation Trustee shall have accepted, in writing, the terms of his service and compensation, and such terms and compensation shall have been approved by the Bankruptcy Court in the Confirmation Order;

(c) the Liquidation Trust shall have been established; and

(d) all necessary consents, authorizations and approvals shall have been given for the transfers or revestings of property and the payments provided for or contemplated by the Plan and the Plan Documents, including, without limitation, satisfaction or waiver of all conditions to the obligations of the Debtors under the Plan and the Plan Documents.

### **11.3 Waiver of Conditions.**

The Debtors, in consultation with the Committee, may waive any one or more of the conditions set forth in Section 11.1 or Section 11.2 in a writing without notice or order of the Bankruptcy Court and without notice to any other parties in interest.

### **11.4 Effect of Non-Occurrence of the Effective Date.**

If the Effective Date shall not occur (except as provided in Section 11.5 hereof), the Plan shall be null and void and nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims against or Equity Interests in the Debtors; (b) prejudice in any manner the rights of the Debtors, including, without limitation, any right to seek an extension of the exclusivity periods under section 1121(d) of the Bankruptcy Code; or (c) constitute an admission, acknowledgement, offer or undertaking by the Debtors.

### **11.5 Option to Delay Occurrence of the Effective Date.**

Notwithstanding the foregoing or anything in the Plan to the contrary, the Debtors, in consultation with the Committee, reserve the right to delay the occurrence of the Effective Date with respect to one or more of the Debtors' Estates to a later date; provided, however, that any such election by the Debtors to delay the occurrence of the Effective Date with respect to one Estate shall not prevent the occurrence of the Effective Date with respect to any of the other Estates.

## **ARTICLE XII.**

### **TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

#### **12.1 Assumption and Rejection of Executory Contracts and Unexpired Leases.**

(a) On the Effective Date, except to the extent inconsistent with Section 14.4, all executory contracts and unexpired leases of the Debtors shall be rejected pursuant to the

provisions of section 365 of the Bankruptcy Code, except: (i) any executory contracts and unexpired leases that are the subject of separate motions to reject, assume or assume and assign filed pursuant to section 365 of the Bankruptcy Code by the Debtors before the entry of the Confirmation Order; (ii) contracts and leases that were assumed and assigned to the Buyer by Order of the Bankruptcy Court before the entry of the Confirmation Order; (iii) any guaranty or similar agreement executed by a third party which guarantees repayment or performance of an obligation owed to the Debtors or to indemnify the Debtors; (iv) agreements with third parties regarding preservation of the confidentiality of documents produced by the Debtors; and (v) agreements with the Buyer and MLK that are executory contracts on the Effective Date. Any Order entered post-confirmation by the Bankruptcy Court, after notice and a hearing, authorizing the rejection of an executory contract or unexpired lease shall cause such rejection to be a prepetition breach under sections 365(g) and 502(g) of the Bankruptcy Code, as if such relief was granted and such order was entered pre-confirmation.

(b) Receipt of this Plan by the counterparties to the executory contracts and unexpired leases of the Debtors rejected pursuant to Section 12.1(a) shall constitute adequate and sufficient notice that (i) any Claims arising under the contract, lease or other agreement or related thereto shall be treated under the Plan as General Unsecured Claims as against the respective Debtor that was a party to the contract, lease or other agreement, and (ii) the Debtors are no longer bound by, or otherwise obligated to perform, any such obligations, transactions, or undertakings relating thereto or arising thereunder.

(c) The Plan shall constitute a motion to reject such executory contracts and unexpired leases rejected pursuant to this section, and the Debtors shall have no liability thereunder except as is specifically provided in the Plan. Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such rejections pursuant to section 365(a) of the Bankruptcy Code and a finding by the Bankruptcy Court that each such rejected agreement, executory contract or unexpired lease is burdensome and that the rejection thereof is in the best interests of the Debtors and their estates.

(d) Notwithstanding the rejection of any of the Debtors' executory contracts under this Plan or by separate motion, the Debtors or the Liquidation Trustee, as applicable, shall retain and be entitled to enforce any warranties provided to, or for the benefit of, the Debtors under applicable federal or state law; provided, however, for the avoidance of doubt, that the foregoing does not include any warranties provided to, or for the benefit of, the Debtors pursuant to any contract that has been assumed and assigned by order entered by the Bankruptcy Court on or before the Effective Date.

## **12.2 Claims Arising from Rejection, Expiration or Termination.**

Claims created by the rejection of executory contracts and unexpired leases pursuant to this Plan must be filed with the Bankruptcy Court no later than thirty (30) days after the Confirmation Date. **Any such Claims for which a proof of claim is not filed and served by the deadlines set forth above will be forever barred from assertion and shall not be enforceable against the Debtors, their Estates or their Assets.** Unless otherwise ordered by the Bankruptcy Court, all such Claims that are timely filed as provided herein shall be treated as General Unsecured Claims under the Plan subject to objection by the Liquidation Trustee.



### ARTICLE XIII.

#### RETENTION OF JURISDICTION

Pursuant to sections 105(a) and 1142 of the Bankruptcy Code, the Bankruptcy Court shall retain and shall have exclusive jurisdiction over any matter (a) arising under the Bankruptcy Code, (b) arising in or related to the Chapter 11 Cases or the Plan or (c) that relates to the following:

- (i) to hear and determine any and all motions or applications pending on the Confirmation Date or thereafter brought in accordance with Article XII hereof for the assumption, assumption and assignment or rejection of executory contracts or unexpired leases to which any Debtor is a party or with respect to which a Debtor may be liable;
- (ii) to hear and determine any and all Claims and any related disputes, including, without limitation, the exercise or enforcement of setoff or recoupment rights, or rights against any third party or the property of any third party resulting therefrom or from the expiration, termination or liquidation of any executory contract or unexpired lease;
- (iii) to determine any and all adversary proceedings, applications, motions and contested or litigated matters that may be pending on the Effective Date or that, pursuant to the Plan, may be instituted by the Liquidation Trustee after the Effective Date;
- (iv) to hear and determine any objections to the allowance of Claims, whether filed, asserted, or made before or after the Effective Date, including, without express or implied limitation, to hear and determine any objections to the classification of any Claim and to allow, disallow or estimate any Contested Claim in whole or in part;
- (v) to issue such orders in aid of execution of the Plan to the extent authorized or contemplated by section 1142 of the Bankruptcy Code;
- (vi) to consider any modifications of the Plan, remedy any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;
- (vii) to hear and determine all Fee Applications and applications for allowances of compensation and reimbursement of any other fees and expenses authorized to be paid or reimbursed under the Plan or the Bankruptcy Code;
- (viii) to hear and determine all controversies, suits and disputes that may relate to, impact upon or arise in connection with the Plan, the Liquidation Trust Agreement, and any other Plan Documents or their interpretation, implementation, enforcement or consummation (including, without limitation, the liquidation of SMMC's equity interest in Chestnut Risk as well as the dissolution of the Foundation);
- (ix) to hear and determine all controversies, suits and disputes that may relate to, impact upon or arise in connection with the Confirmation Order (and all exhibits to the Plan) or its interpretation, implementation, enforcement or consummation;



(x) to resolve any disputes concerning whether a Person or Entity had sufficient notice of the Chapter 11 Cases, the General Bar Date, the hearing on the approval of the Disclosure Statement as containing adequate information, the hearing on the confirmation of the Plan for the purpose of determining whether a Claim is discharged hereunder or for any other purpose;

(xi) to the extent that Bankruptcy Court approval is required, to consider and act on the compromise and settlement of any Claim or Cause of Action by, on behalf of or against the Estates;

(xii) to determine such other matters that may be set forth in the Plan or the Confirmation Order, or that may arise in connection with the Plan or the Confirmation Order;

(xiii) to hear and determine matters concerning state, local and federal taxes, fines, penalties or additions to taxes for which the Debtors may be liable in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;

(xiv) to hear and determine all controversies, suits and disputes that may relate to, impact upon or arise in connection with any setoff and/or recoupment rights of the Debtors, Liquidation Trustee or any Person under the Plan;

(xv) to hear and determine all controversies, suits and disputes that may relate to, impact upon or arise in connection with Causes of Action of the Debtors (including Avoidance Actions) commenced by the Liquidation Trustee, the Debtors, the Debtor Representative, or any third parties, as applicable, before or after the Effective Date;

(xvi) to enter an order or final decree closing the Chapter 11 Cases;

(xvii) to issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Person with consummation, implementation or enforcement of the Plan or the Confirmation Order; and

(xviii) to hear and determine any other matters related hereto and not inconsistent with chapter 11 of the Bankruptcy Code.

#### **ARTICLE XIV.**

#### **MISCELLANEOUS PROVISIONS**

##### **14.1 Lead Debtor Name and Case Name**

On the occurrence of the Effective Date, SMMC shall be known as “SMMC Liquidation Corp.” for the purposes of the Chapter 11 Cases, the Chapter 11 Cases’ name and heading shall be changed accordingly, and the Clerk of the Court is directed to take any action necessary to cause the Bankruptcy Court docket to reflect such changes.

##### **14.2 Religious Articles and Ethical and Religious Directives**

The Liquidation Trustee shall consult with the Roman Catholic Archdiocese of Newark regarding the appropriate disposition of the Religious Articles.

Notwithstanding Section 12.2 of the Asset Purchase Agreement, on the occurrence of the Effective Date, all rights with respect to provisions of the Asset Purchase Agreement pertaining to Ethical and Religious Directives for Catholic Health Care Services, including the right to enforce those provisions, shall automatically be assigned to the Roman Catholic Archdiocese of Newark.

### **14.3 Satisfaction of Claims.**

(a) Subject to the occurrence of the Effective Date, as of the Effective Date, except as provided in the Plan, the distributions and rights afforded under the Plan and the treatment of Claims and Equity Interests under the Plan shall be in exchange for and in complete satisfaction of all Claims against the Debtors, and in satisfaction of all Equity Interests. Except as otherwise specifically provided in the Plan, as of the Effective Date any interest accrued on Claims against the Debtors from and after the Petition Date shall be cancelled.

(b) Subject to the occurrence of the Effective Date, as of the Effective Date, except as provided in the Plan, all Persons shall be precluded from asserting against the Debtors, the Liquidation Trustee or their respective successors or property, any other or further Claims, debts, rights, Causes of Action, liabilities or Equity Interests based upon any act, omission, transaction or other activity of any kind or nature that occurred prior to the Petition Date, including any Claims or Equity Interests that are not placed in a Class under the Plan.

(c) No Person holding a Claim may receive any payment from, or seek recourse or recovery against, any Assets that are to be distributed under the Plan, other than Assets required to be distributed to that Person under the Plan.

### **14.4 Special Provisions Regarding Insurance Policies and Insured Claims.**

14.4.1 Insurance Policies. For the avoidance of doubt, the Debtors' and Estates' rights with respect to all Insurance Policies (including all Insurance Policies that may have expired prior to the Petition Date, all Insurance Policies in existence on the Petition Date, all Insurance Policies entered into by the Debtors after the Petition Date, and all Insurance Policies under which any of the Debtors holds rights to make, amend, prosecute and benefit from claims) shall revert in the Debtors and/or Debtor Representative as necessary to pursue and prosecute any Causes of Action, and to the extent that any Insurance Policies are not necessary for the pursuit and prosecution of any Causes of Action, all the Debtors' and Estates' rights with respect to such Insurance Policies shall be transferred to the Liquidation Trust from the Effective Date until its dissolution.

Notwithstanding anything to the contrary in the Plan, any Insurance Policy in effect as of the Effective Date shall continue in effect after the Effective Date pursuant to its terms and conditions. Nothing in the Plan shall relieve any insurer from performing its obligations under the Insurance Policies, regardless of whether such obligations arise prior to or after the Effective Date.

Notwithstanding any default by the Debtors with respect to any of the Insurance Policies, nothing in the Orders approving the Prime Sale or the sale pursuant to the MLK APA, any underlying agreements, or this Plan shall be construed or applied to modify, impair, or otherwise affect the enforceability of the Insurance Policies or any coverage thereunder with regard to any claims or Causes of Action. The Plan shall be liberally construed to protect the interests of all creditors in all Causes of Action and to limit any Claims against the Estates.

14.4.2 Insured Claims shall be satisfied from the proceeds of any applicable Insurance Policy. Insured Claims are not classified and, pursuant to Section 9.9(b), are not entitled to any distributions under the Plan until the relevant holder has exhausted all remedies with respect to the applicable Insurance Policy. To the extent an Insured Claim is not satisfied in full from the proceeds of the applicable Insurance Policy, any Claim remainder shall be classified in the applicable Class under the Plan and, if allowed, treated in accordance with the treatment of Claims in that Class under the Plan. Nothing in this Section 14.4.2 shall constitute a waiver of any claim, right or cause of action the Debtors or their Estates may hold against any Person, including any insurer. Pursuant to section 524(e) of the Bankruptcy Code, nothing in the Plan shall release or discharge any insurer from any obligations to any Person under applicable law or any policy of insurance under which any Debtor is an insured or beneficiary or for purposes of any insurance recovery.

#### **14.5 Third Party Agreements; Subordination.**

The Plan Distributions to the various classes of Claims hereunder shall not affect the right of any Person to levy, garnish, attach or employ any other legal process with respect to such Plan Distributions by reason of any claimed subordination rights or otherwise. All such rights and any agreements relating thereto shall remain in full force and effect, except as otherwise compromised and settled pursuant to the Plan.

Plan Distributions shall be subject to and modified by any Final Order directing distributions other than as provided in the Plan. The right of the Debtors or the Liquidation Trustee to seek subordination of any Claim or Equity Interest pursuant to section 510 of the Bankruptcy Code is fully reserved, and the treatment afforded any Claim or Equity Interest that becomes a subordinated Claim or subordinated Equity Interest at any time shall be modified to reflect such subordination. Unless the Confirmation Order provides otherwise, no Plan Distributions shall be made on account of a subordinated Claim or subordinated Equity Interest.

#### **14.6 Service of Documents.**

Any notices, requests and demands required or permitted to be provided under the Plan, in order to be effective, shall be in writing (including, without express or implied limitation, by facsimile transmission), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

if to the Debtors:

Cole Schotz P.C.  
Court Plaza North  
25 Main Street  
Hackensack, NJ 07601  
Attn: Michael D. Sirota

if to the Committee:

Sills Cummis & Gross P.C.  
One Riverfront Plaza  
Newark, NJ 07102  
Attn: Andrew H. Sherman

**14.7 Headings.**

The headings used in the Plan are inserted for convenience only, and neither constitute a portion of the Plan nor in any manner affect the construction of the provisions of the Plan.

**14.8 Governing Law.**

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and the Bankruptcy Rules), the laws of the State of New Jersey, without giving effect to the conflicts of laws principles thereof, shall govern the construction of the Plan and any agreements, documents and instruments executed in connection with the Plan, except as otherwise expressly provided in such instruments, agreements or documents.

**14.9 Exemption from Transfer Taxes.**

Pursuant to section 1146 of the Bankruptcy Code, the issuance, transfer or exchange of notes or equity securities under or in connection with the Plan, including the creation of any mortgage, deed of trust, lien, pledge or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, shall not be subject to any stamp, real estate transfer, mortgage recording, sales, use or other similar tax. Transfers made under the Plan include, without limitation, any transfer, sale or exchange of the Assets that is the subject of a motion or notice pursuant to section 363 of the Bankruptcy Code filed by the Debtors before or after the Effective Date regardless of the date the transaction is approved by the Court or the date such transfer, sale or exchange closes. To effectuate the terms of this Section, the Bankruptcy Court may enter any order necessary or appropriate to implement this provision of the Plan.

**14.10 Notice of Entry of Confirmation Order and Relevant Dates.**

Promptly upon entry of the Confirmation Order, the Debtors shall publish as directed by the Bankruptcy Court and serve on all known parties in interest and holders of Claims and Equity Interests, notice of the entry of the Confirmation Order and all relevant deadlines and dates under the Plan, including, but not limited to, the deadline for filing rejection damage Claims.

**14.11 Interest and Attorneys' Fees.**

Interest accrued after the Petition Date will accrue and be paid on Claims only to the extent specifically provided for in this Plan, the Confirmation Order, or as otherwise required by the Bankruptcy Court or by applicable law. No award or reimbursement of attorneys' fees or related expenses or disbursements shall be allowed on, or in connection with, any Claim, except as set forth in the Plan or as ordered by the Bankruptcy Court.

**14.12 Modification of the Plan.**

As provided in section 1127 of the Bankruptcy Code, modification of the Plan may be proposed in writing by the Debtors, with the prior written consent of the Committee, at any time before confirmation, provided that the Plan, as modified, meets the requirements of sections 1122 and 1123 of the Bankruptcy Code, and the Debtors shall have complied with section 1125 of the Bankruptcy Code. The Debtors, with the prior written consent of the Committee, may modify the Plan at any time after confirmation and before substantial consummation, provided that the Plan, as modified, meets the requirements of sections 1122 and 1123 of the Bankruptcy Code and the Bankruptcy Court, after notice and a hearing, confirms the Plan as modified, under section 1129 of the Bankruptcy Code, and the circumstances warrant such modifications. A holder of a Claim that has accepted the Plan shall be deemed to have accepted such Plan as modified if the proposed alteration, amendment or modification does not materially and adversely change the treatment of the Claim of such holder.

**14.13 Revocation of Plan.**

The Debtors reserve the right to revoke and withdraw the Plan and/or to adjourn the Confirmation Hearing prior to the occurrence of the Effective Date. If the Debtors revoke or withdraw the Plan, or if the Effective Date does not occur, then the Plan and all settlements and compromises set forth in the Plan and not otherwise approved by a separate Final Order shall be deemed null and void and nothing contained herein and no acts taken in preparation for consummation of the Plan shall be deemed to constitute a waiver or release of any Claims against or Equity Interests in the Debtors or to prejudice in any manner the rights of the Debtors or any other Person in any other further proceedings involving the Debtors.

**14.14 Compliance with Tax Requirements.**

In connection with the Plan, the Debtors and the Liquidation Trustee, as applicable, shall comply with all withholding and reporting requirements imposed by federal, state, local and foreign taxing authorities and all Plan Distributions hereunder shall be subject to such withholding and reporting requirements. Notwithstanding the above, each holder of an Allowed Claim that is to receive a Plan Distribution shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any government unit, including income, withholding and other tax obligations, on account of such Plan Distribution. The Liquidation Trustee has the right to withhold a Plan Distribution until such holder has made arrangements satisfactory to the Liquidation Trustee for payment of any such tax obligations. The Liquidation Trustee has the right to withhold a Plan distribution until the holder of the Claim upon which distribution is to be made provides the Liquidation Trustee with IRS Form W-9 and any other information determined by the Liquidation Trustee to be necessary or appropriate to effect information reporting and the withholding of taxes. If the Liquidation Trustee has not

received IRS Form W-9 or other requested tax reporting information from the holder of a Claim before the relevant Plan Distribution Date, any property or Cash to be distributed pursuant to this Plan shall, pending receipt of IRS Form W-9 or such other requested information, be treated as an unclaimed distribution under this Plan, as set forth in Section 9.3.2.

**14.15 Binding Effect.**

The Plan shall be binding upon the Debtors, the Buyer, the holders of all Claims and Equity Interests, parties in interest, Persons and their respective successors and assigns. Except as specifically provided in the Plan, to the extent any provision of the Disclosure Statement or any other solicitation document may be inconsistent with the terms of the Plan, the terms of the Plan shall be binding and conclusive.

**14.16 Rates.**

The Plan does not provide for the change of any rate that is within the jurisdiction of any **governmental** regulatory commission after the occurrence of the Effective Date. Where a Claim has been denominated in foreign currency on a proof of Claim, the Allowed amount of such Claim shall be calculated in legal tender of the United States based upon the conversion rate in place as of the Petition Date and in accordance with section 502(b) of the Bankruptcy Code.

**14.17 Nondischarge of the Debtors.**

In accordance with section 1141(d)(3) of the Bankruptcy Code, the Confirmation Order will not discharge Claims. However, no holder of a Claim may receive any payment from, or seek recourse against, any Assets that are to be distributed under the Plan other than Assets required to be distributed to that holder pursuant to the Plan. **As of the Confirmation Date, all Persons are enjoined from asserting against any property that is to be distributed under the Plan any Claims, rights, causes of action, liabilities, or Equity Interests based upon any act, omission, transaction, or other activity that occurred before the Effective Date except as expressly provided in the Plan or the Confirmation Order.**

**14.18 Extensions of Time.**

For cause shown, any deadlines herein which are applicable to the Debtors, their Estates, or the Liquidation Trust and which are not otherwise specifically extendable as provided in the Plan may be extended by the Bankruptcy Court.

**14.19 No Admissions.**

**AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER PROCEEDINGS CONCERNING CAUSES OF ACTION OR THREATENED CAUSES OF ACTION, THIS PLAN SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS PLAN SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES AND OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF**

**CLAIMS AGAINST, AND EQUITY INTERESTS IN, THE DEBTORS IN THE CHAPTER 11 CASES.**



Dated: November 1, 2016

Respectfully submitted,

SAINT MICHAEL'S MEDICAL CENTER,  
INC., on behalf of itself and each of the  
other Debtors

By:  \_\_\_\_\_

Name: David A. Ricci

Title: Chief Executive Officer

-and-

OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS OF SAINT  
MICHAEL'S MEDICAL CENTER INC.,  
ET AL.

By: \_\_\_\_\_

Name: Douglas A. Placa, Chairperson

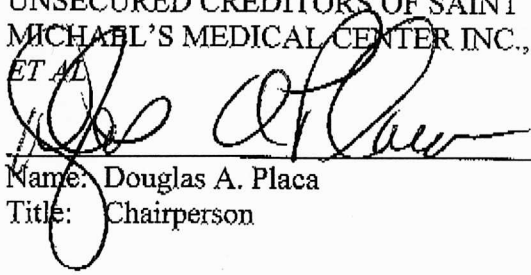
Respectfully submitted,

SAINT MICHAEL'S MEDICAL CENTER,  
INC., on behalf of itself and each of the other  
Debtors

By: \_\_\_\_\_  
Name: David Ricci  
Title: Chief Executive Officer

-and-

OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS OF SAINT  
MICHAEL'S MEDICAL CENTER INC.,  
ET AL

By:   
Name: Douglas A. Placa  
Title: Chairperson

**EXHIBIT B**

**DISCLOSURE STATEMENT ORDER**

**DISCLOSURE STATEMENT  
ORDER  
TO BE PROVIDED IN ADVANCE  
OF HEARING**

**SCHEDULE 1**

**LIQUIDATION ANALYSIS**

Liquidation Analysis as of December 31, 2016 (Chapter 11 Post Confirmation Trust Scenario)					
Saint Michael's Medical Center, Inc, et al (\$)	Saint Michael's Medical Center	University Heights Property Co.	Columbus Acquisition Corp.	Saint James Care Corp.	Chapter 11 Post Confirmation Trust
<b>Cash</b>	12,862,395				12,862,395
Sales proceeds (Prime Healthcare)	57,198,608	5,000,000	74,806	64,602	62,338,017 (a)
BONY Settlement	(55,610,592)		(74,806)	(64,602)	(55,750,000)
Purchase Price Adjustment	(1,935,560)				(1,935,560)
<b>Net sales proceeds (Prime Healthcare)</b>	(347,543)	5,000,000	-	-	4,652,457
Estimate of fair market value of Other Assets	2,270,000				2,270,000
<b>Estimate of Debtor Assets</b>	14,784,851	5,000,000	-	-	19,784,851
Estimate of incurred/unpaid professional fees through Effective Date (net of retainers)	(1,190,000)				(1,190,000)
<b>Proceeds Available for Administrative Claims</b>	13,594,851	5,000,000	-	-	18,594,851
Trinity shared services administrative claim (includes activity 4/27-4/30)	(3,000,000)				(3,000,000)
Estimate of contract rejection administrative liabilities (includes Cardinal & physician fees)	(2,632,351)				(2,632,351)
Administrative and operational contingency reserve	(1,000,000)				(1,000,000)
Estimate of Priority Claims	(122,991)				(122,991)
<b>Proceeds Available upon Confirmation</b>	6,839,509	5,000,000	-	-	11,839,509
Estimate of professional fee expenses of Post Confirmation Liquidating Trust	(1,000,000)				(1,000,000)
Estimate of operating expenses of Post Confirmation Liquidating Trust	(360,000)				(360,000)
<b>Proceeds Available for General Unsecured Claims</b>	5,479,509	5,000,000	-	-	10,479,509

(a) Value reflected for University Heights Property Co. reflects estimate of value of parking lot, value reflected for Columbus Acquisition Corp/Saint James Care Corp. represents cash as of the sale closing date.

Liquidation Analysis as of December 31, 2016 (Chapter 7 Conversion Scenario)					
Saint Michael's Medical Center, Inc, et al (\$)	Saint Michael's Medical Center	University Heights Property Co.	Columbus Acquisition Corp.	Saint James Care Corp.	Chapter 7 Conversion
<b>Cash</b>	12,862,395				12,862,395
Sales proceeds (Prime Healthcare)	57,198,608	5,000,000	74,806	64,602	62,338,017 (a)
BONY Settlement	(55,610,592)		(74,806)	(64,602)	(55,750,000)
Purchase Price Adjustment	(1,935,560)				(1,935,560)
<b>Net sales proceeds (Prime Healthcare)</b>	(347,543)	5,000,000	-	-	4,652,457
Estimate of fair market value of Other Assets	1,710,000				1,710,000
<b>Estimate of Debtor Assets</b>	14,224,851	5,000,000	-	-	19,224,851
Estimate of incurred/unpaid professional fees through Effective Date (net of retainers)	(1,190,000)				(1,190,000)
<b>Proceeds Available for Administrative Claims</b>	13,034,851	5,000,000	-	-	18,034,851
Trinity shared services administrative claim (includes activity 4/27-4/30)	(3,000,000)				(3,000,000)
Estimate of contract rejection administrative liabilities (includes Cardinal & physician fees)	(2,632,351)				(2,632,351)
Administrative and operational contingency reserve	(1,000,000)				(1,000,000)
Estimate of Priority Claims	(122,991)				(122,991)
<b>Proceeds Available upon Confirmation</b>	6,279,509	5,000,000	-	-	11,279,509
Estimate of professional fee expenses under a Chapter 7 conversion	(1,500,000)				(1,500,000)
Estimate of operating expenses under a Chapter 7 Conversion	(450,000)				(450,000)
Estimated Chapter 7 Trustee fees & commission	(229,435)	(173,310)			(402,745)
<b>Proceeds Available for General Unsecured Claims</b>	4,100,074	4,826,690	-	-	8,926,764

(a) Value reflected for University Heights Property Co. reflects estimate of value of parking lot. Value reflected for Columbus Acquisition Corp/Saint James Care Corp. represents cash as of the sale closing date.