

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

In re:	)	
	)	
Vanguard Healthcare, LLC, <i>et al.</i> , <sup>1</sup>	)	Case No. 16-03296
	)	Chapter 11
Six Cadillac Dr., Suite 310	)	Judge Mashburn
Brentwood, TN 37027	)	
	)	Jointly Administered
Debtor.	)	

**DISCLOSURE STATEMENT ACCOMPANYING  
PLAN OF LIQUIDATION OF VANGUARD OF MEMPHIS**

**I. INTRODUCTION**

This Disclosure Statement is submitted by Vanguard of Memphis, LLC, Case No. 16-03318 (the “Debtor”) for the benefit of all creditors and parties in interest (hereinafter referred to as “Claimants”) in this Chapter 11 case. This Disclosure Statement notifies Claimants of the terms of the Debtor’s First Amended Plan of Liquidation dated October 31, 2017 (the “Plan”), and enables Claimants to make an informed decision in exercising their rights under the Bankruptcy Code in voting on the Plan.

**RECOMMENDATION OF THE DEBTOR AND THE COMMITTEE**

**THE DEBTOR AND THE COMMITTEE RECOMMEND THAT CREDITORS VOTE TO ACCEPT THE PLAN BECAUSE LIQUIDATION IS THE ONLY OPTION AVAILABLE TO THIS DEBTOR, AS ITS TANGIBLE ASSETS HAVE BEEN SOLD AND IT NO LONGER HAS ANY BUSIENSS OPERATIONS. DISTRIBUTIONS UNDER THE PLAN SHOULD RETURN MORE TO UNSECURED CREDITORS THAN WOULD BE OBTAINED IF THIS BANKRUPTCY CASE WERE DISMISSED OR CONVERTED TO A CHAPTER 7 BANKRUPTCY.**

The Bankruptcy Court has conducted a hearing as required by § 1125 of the Bankruptcy Code on the question of whether the Disclosure Statement contains adequate

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<sup>1</sup> The Debtors in these jointly administered cases, along with the last four digits of each Debtor’s federal tax identification number, are: Vanguard Healthcare, LLC (9650); Vanguard Healthcare Services, LLC (7563); Vanguard Financial Services, LLC (3403); Aurora Australis, LLC (7099); Boulevard Terrace, LLC (8709); Elderscript Services, LLC (4179); Eldercare of Jackson County, LLC (7855); Glen Oaks, LLC (8238); Palace RBS, LLC (9601); Shady Lawn, LLC (7397); Vanguard of Ashland, LLC (8367); Vanguard of Church Hill, LLC (1049); Vanguard of Memphis, LLC (1046); Vanguard of Manchester, LLC (6203); Vanguard of Memphis, LLC (4623); Vanguard of Ripley, LLC (1050); Vicksburg Convalescent, LLC (7298); and Whitehall OpCo, LLC (6186).

information to enable Claimants to make an informed judgment about the Plan. The Court has entered an Order approving the Disclosure Statement and authorizing distribution of a copy of this Disclosure Statement and Plan to all creditors and equity security holders. The Court's approval of the Disclosure Statement does not constitute an endorsement or recommendation by the Court of the substantive provisions of the Plan but is merely an approval of the adequacy of the information contained within this Disclosure Statement.

NO REPRESENTATIONS CONCERNING THE DEBTOR OR THE PLAN, OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT, ARE AUTHORIZED. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR VOTE WHICH ARE OTHER THAN AS CONTAINED IN THIS DISCLOSURE STATEMENT SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR DECISION TO ACCEPT THE PLAN. ANY SUCH ADDITIONAL REPRESENTATIONS OR INDUCEMENTS SHOULD BE REPORTED TO THE DEBTOR OR THEIR COUNSEL IMMEDIATELY.

The information contained in this Disclosure Statement has been derived from information known to the Debtor. This information is believed to be reliable, but has not been independently verified and has not been subjected to a certified audit. Every reasonable effort has been made to present accurate information, however, the accuracy of the information contained herein cannot be guaranteed.

The Plan contains definitions of certain terms. Where those terms are used in this Disclosure Statement with initial capital letters, they have the meanings set forth in the Plan.

**All creditors are urged to review the Debtor's Plan in addition to this Disclosure Statement. To the extent the Plan and this Disclosure Statement are inconsistent, the terms of the Plan shall control.**

## **II. BACKGROUND**

### **A. Debtor's Organizational History and Operations**

The Debtor is a wholly owned subsidiary of Vanguard Healthcare LLC. As of the commencement of Case No. 16-03318 on May 6, 2016, the Debtor owned and operated a long term care facility known as Poplar Point Health and Rehabilitation located at 131 North Tucker Street, Memphis, TN 37355 (the "Facility"). The Facility had approximately 169 beds for patients and approximately 172 employees and was managed by West Tennessee Management Associates, LLC, a wholly owned subsidiary of Vanguard Healthcare.

### **B. Events Leading to Commencement of the Chapter 11 Cases**

The Debtor filed a Chapter 11 petition on May 6, 2016, along with seventeen other affiliates. The moving force for the filing of these cases was the pending due date of the Debtor's secured loan obligations to Healthcare Financial Solutions, LLC ("HFS"), a subsidiary of Capital One N.A. These obligations are evidenced by credit agreements for a revolver loan

with a principal balance of approximately \$6 million and a term loan with a principal balance of approximately \$74 million. All of the Debtor's affiliates and certain non-debtor property companies are liable on this indebtedness.

### **C. Bankruptcy Filing and Procedural History**

#### ***i. Commencement and First Day Motions***

On May 6, 2016, the Debtor commenced this Chapter 11 case (the "Chapter 11 Case") and continued to operate the Facility as a Debtor in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code until the Facility was sold on June 15, 2017.

Immediately upon the filing, the Debtor and its affiliated debtors sought approval of certain first day orders authorizing the Debtor to, among other things, use cash collateral approved by order entered June 16, 2016 (Docket No. 168), pay certain pre-petition wages of employees approved by order entered May 11, 2016 (Docket No. 42), retain existing bank accounts approved by order entered May 11, 2016 (Docket No. 44), establishing procedures for the adequate assurance of payment of utility claims approved by order entered May 11, 2016 (Docket No. 43), the appointment of BMC Group as the noticing agent for the Debtor approved by order entered May 11, 2016 (Docket No. 41), and authorizing certain notice procedures and the joint administration of the Debtor's Chapter 11 Cases under Case No. 16-03296 approved by order entered May 11, 2016 (Docket No. 38).

#### ***ii. Schedules and Statements of Financial Affairs***

The Debtor filed its schedules of assets and liabilities and statements of financial affairs on May 25, 2016 (as amended, the "Schedules"). A copy of the Debtor's Schedules can be found on the website created by the noticing agent for the Debtor, BMC Group at [www.bmcgroup.com/vanguardhealthcare](http://www.bmcgroup.com/vanguardhealthcare).

#### ***iii. Debtor's Professionals***

On May 13, 2016, the Debtor filed an application to employ Bradley Arant Boult Cummings, LLP ("Bradley") as its bankruptcy counsel. The Bankruptcy Court approved the Debtor's retention of Bradley by order entered June 14, 2016 (Docket No. 161).

The Debtor also filed applications to approve Baker Donelson as special litigation counsel, approved by order entered June 22, 2016 (Docket No. 189); and the payment of ordinary course professionals, including certain accountants that prepare Medicare and Medicaid cost reports, perform audits, and prepare the Debtor's taxes approved by order entered July 12, 2016 (Docket No. 283).

#### ***iv. Unsecured Creditors Committee***

On May 24, 2016, the United States Trustee appointed an official committee of unsecured creditors (the "Committee") in the Chapter 11 Cases. The initial members of the Committee were Kindred Nursing Centers East, L.L.C., Medline Industries, Inc., Healthcare

Services Group, Inc., Kirk F. Hebert, Signature Healthcare, LLC, Express Courier, and Rezult Group, Inc. The Bankruptcy Court approved the Committee's retention of Bass, Berry & Sims PLC as counsel to the Committee on July 5, 2016 (Docket No. 254) and financial adviser, Cohn Reznick, LLP, by motion filed June 15, 2016 (Docket No. 167).

**v. *Patient Care Ombudsmen***

Pursuant to 11 U.S.C. § 333, the United States Trustee appointed Laura E. Brown as the patient care ombudsmen in the Chapter 11 Cases (Docket No. 112). Ms. Brown is the State Long-Term Care Ombudsman for the Tennessee Commission on Aging and Disability. Her first report was filed with the court on August 1, 2016 (Docket No. 367).

**vi. *Claims Bar Date Order***

By order dated June 9, 2016 (Docket No. 137), the Bankruptcy Court set September 6, 2016 as the general deadline for filing all claims against the Debtor, including administrative claims under 11 U.S.C. § 503(b)(9). By subsequent Amended Order entered June 21, 2016 (Docket No. 185), the deadline for filing governmental claims (with the exception of claims asserted under the False Claim Act) was extended to November 2, 2016.

**vii. *Assumption of Insurance Policies***

In 2001, BHC-LTC Insurance Ltd. (the "Insurer") was formed under the Companies Laws of the Cayman Islands and was capitalized consistent with existing regulatory requirements. The Insurer is not a subsidiary of the Debtor or Vanguard Healthcare, and is wholly-owned by Brentwood Holding Company, LLC. William D. Orand, directly or indirectly controls 50%, and Ervin General Partnership holds the remaining interest.

Since its formation, the Insurer has insured the Debtor pursuant to the terms of Healthcare Professional Liability - Claims Made and Healthcare General Liability - Claims Made policies for Long Term Care Facilities. Copies of such policies for 2013 through 2016 (each an "Insurance Policy," collectively, the "Insurance Policies") are attached to the Debtor's Motion to Assume Insurance Policies as Exhibit A (Docket No. 244).

The Insurer's claims as they relate to the Debtor will not be cured and assumed because the insurance will not be needed after the sale of the Poplar facility. The amount of the Insurer's claim that existed prepetition is \$294,794.

As of the closing of the Sale (discussed below), tail insurance was purchased to continue coverage of personal injury claims asserted against the Debtor on a claims made basis. Any such claims will be payable under policy limits by this insurance.

**viii. *Order Authorizing the Payment of Patient Refunds***

The Debtor obtained an order entered June 29, 2016 (Docket No. 231) authorizing the payment of patient refunds in the ordinary course of the Debtor's business. During the course of the Debtor's operations of the Facility, patients may overpay for services. All of these refunds had been paid as of August 31, 2016.

***ix. Sale of Debtor's Assets***

By Order entered February 27, 2017, the Debtor obtained court permission to sell substantially all of its assets pursuant to an Asset Purchase Agreement dated February 10, 2017 with MED Healthcare Partners, LLC (the "Sale Order") for a gross purchase price of \$9,550,000. A copy of the Sale Order is attached hereto as Exhibit A. This sale was closed as of June 15, 2017. Upon the closing of the sale, the Debtor ceased to operate as a going concern.

**III. SUMMARY OF ASSETS**

Pursuant to the Sale Order, Healthcare Financial Solutions was paid \$7,500,000 to satisfy its lien in the assets of the Debtor and the remaining proceeds were used to pay required obligations under the asset purchase agreement. Attached hereto as Exhibit B is the closing statement showing the expenses paid at the closing of the Sale. The remaining proceeds in the amount of \$1,105,869.58 are being held by the Debtor.

The Debtor has collected \$547,092.02 in accounts and currently has \$297,597.97 in a bank account in the Debtor's name at Pinnacle Bank in addition to the proceeds from the sale. Pre-closing expenses such as payroll, accrued bed taxes, workers compensation premiums, and account payables in the aggregate amount of \$249,494.05 have been paid.

The Debtor does not believe that the estate has any Causes of Action as defined in the Plan, other than to collect outstanding receivables. No avoidance actions under Chapter 5 of the Bankruptcy Code will be pursued on behalf of the Debtor's estate.

**IV. SUMMARY OF LIABILITIES**

**A. Secured Debt.**

***i. Healthcare Financial Solutions***

The secured debt owed to Healthcare Financial Solutions ("HFS") was secured by a lien on all of the assets of the Debtor and the real property on which the Facility operated. The documents evidencing this secured debt are summarized as follows:

Revolving Loan. The Debtor and its affiliated debtors are each obligated to HFS under a revolving credit facility pursuant to that certain Credit Agreement dated as of July 31, 2012. As of the Date of Filing, the aggregate principal amount of the Revolving Loan was approximately \$5,990,766.92 plus accrued and accruing interest, fees, expenses, attorneys' fees and costs.

Term Loan. The Debtor and certain other entities that own the real property where the Facilities are located are obligated to HFS under a term loan credit facility provided pursuant to that certain Credit Agreement dated as of July 29, 2011. As of the Date of Filing, the aggregate principal amount of the Term Loan was approximately \$73,912,238.33, plus accrued and accruing interest, fees, expenses, attorneys' fees and costs.

Under the Sale Order, HFS agreed to accept \$7,500,000 in satisfaction of its secured claim against the Debtor and executed a release of its lien at the closing of the Sale. HFS will receive no further distribution under the Plan.

## **B. Priority Debt.**

Priority claims that may exist are as follows: (i) employee wages and benefits that were unpaid as of the Petition Date, (ii) unpaid tax obligations entitled to priority under 11 U.S.C. § 507(b), (iii) unpaid U.S. Trustee fees accrued during the Chapter 11 Cases, (iv) unpaid administrative priority expenses allowed pursuant to § 503(b)(9) for goods delivered to the Debtor within twenty days of the Date of Filing, (v) unpaid administrative expenses incurred by the Debtor in the ordinary course of business prior to the closing of the sale, and (vi) unpaid operating expenses and professional fees incurred after the Date of Filing. By order entered May 11, 2016 (Docket No. 42), permission was given by the Bankruptcy Court to pay all of the employee wages and benefits that were unpaid as of the Date of Filing. Accordingly the priority claim for these wages and benefits have been satisfied. The Debtor was generally current in the payment of tax claims and thus does not anticipate any significant priority tax claims to be paid under the Plan.

The only significant priority claim that is likely to exist will be administrative priority claims under § 503(b)(9). The amount of these expenses and claims is estimated to be approximately \$32,609.67. A listing of such claims is attached hereto as Exhibit C.

## **C. Unsecured Debt.**

### ***i. General Unsecured Claims***

The Debtor's undisputed unsecured debt, as reflected on the Debtor's Schedules and filed proofs of claims, is estimated to be \$869,405.26. A listing of such claims is attached hereto as Exhibit C.

### ***ii. Claims Under the False Claims Act***

The United States on behalf of the U.S. Department of Health and Human Services ("HHS"), has served a subpoena on the Debtor for information to investigate claims that may be asserted under the False Claims Act. HHS has filed a proof of claim in the amount of \$16,023,954 plus civil penalties against the Debtor.

The Debtor disputes this claim and has filed an objection to the claim. The U.S. District Court has withdrawn the objection so the matter can be determined by that Court and a target trial date has been set for January 14, 2020.

### ***iii. Personal Injury Claims***

As of the Date of Filing, there were three pending personal injury claims against the Debtor totaling \$945,000. Prior to the Date of Filing, these claims had been settled pursuant to negotiated settlement agreements. These claims have been paid by the insurance policy covering those claims.

The Debtor is aware of one claim that arose after the filing of this Chapter 11 case, however, no claim has been filed against the Debtor at this time.

***iv. Intercompany Debt***

The management of the Debtor allocates obligations paid from the consolidated bank accounts held at Vanguard Financial Services based on allocations that were originally provided in the secured loan documents in existence before HFS became the lender. These allocations are reflected on internal financial statements for the Debtor, but are zeroed out on the consolidated tax returns. Furthermore, the payment of operating expenses of a particular debtor when the revenues of that debtor do not exceed its debt requirement, are advanced by Vanguard Healthcare from surplus funds on deposit in the consolidated bank account. These advances are deemed to be equity advances by the parent entity, Vanguard Healthcare, and are not evidenced by debt instruments that accrue interest. The Plan does not provide for any payment of these intercompany allocations.

***i. Penalty Claims***

There is currently pending case number C-16-255 before the Civil Appeals Board Civil Remedies Division of the U.S. Department of Health and Human Services. In this proceeding, Debtor seeks to overturn certain sanctions imposed against it. No claim was filed by any governmental agency for the amount of these sanctions, and Debtor believes the failure to file a claim bars any recovery in connection with this matter. To the extent any such claim is ultimately allowed with respect to this matter, it will be included in Class 5 of the Plan.

**V. LIQUIDATION ANALYSIS**

For the Bankruptcy Court to approve the Plan, a determination may be necessary that the Plan will provide to each creditor or equity security holder an amount, as of the Effective Date of the Plan, that is not less than the value of the property that each such creditor would receive or retain if all of the assets of the Debtor were sold and the proceeds thereof were distributed under Chapter 7 of the Bankruptcy Code. Since this is a liquidation plan, the value of the assets would be similar to the value received in a Chapter 7 case. The Debtor asserts, however, that the Chapter 11 process will enable the management of Vanguard to collect accounts in the ordinary course of business and thus maximize the amount to be collected and minimize the expenses to the estate. In a Chapter 7 case, a trustee would be appointed and additional counsel employed to represent the trustee, thus increasing the costs to the estate. Accordingly, the Debtor asserts that this Plan is in the best interest of creditors and the equity holders.

The amount of the distribution to unsecured creditors will depend on the allowance of the FCA claim discussed in Section IV.C.ii above. If that claim is not allowed, there should be enough proceeds to pay all remaining unsecured claims in full. If that claim is allowed in some amount, it is likely that the amount of Allowed Claims will exceed the amount available for distribution and the unsecured creditors will get a Pro Rata distribution in an amount depending on the size of the allowed FCA claim.

The Debtor has approximately \$1,055,369.58 in its accounts and the unsecured claims (excluding the FCA claim and any penalty claim) are estimated to total \$869,406.26.

## **VI. SUMMARY OF PLAN**

**THE FOLLOWING IS A SUMMARY OF SOME OF THE SIGNIFICANT ELEMENTS OF THE PLAN. THE SUMMARY OF THE PLAN CONTAINED HEREIN IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE MORE DETAILED INFORMATION SET FORTH IN THE PLAN.**

The Plan is summarized as follows:

### *i. Classification of Claims.*

There are three Classes of Claims and one Class of equity interest as follows:

Class 1. The Secured Claim of Healthcare Financial Solutions, LLC.

Class 2 The Claims asserted for damages from personal injuries or wrongful death that are covered by the Debtor' insurance policy with BHC-LTC Insurance Ltd.

Class 3 The Claims asserted by the United States on behalf of the Department of Health and Human Services and the State of Tennessee on behalf of TennCare, a Division of Health Care Finance & Administration ("Government Entities").

Class 4. The Unsecured Claims not otherwise in a Class herein.

Class 5. All Claims that would be included under § 726(a)(4) of the Bankruptcy Code if this Case were a case under Chapter 7 of the Bankruptcy Code.

Class 6: The Interests in the Debtor held by Vanguard Healthcare LLC.

### *ii. Treatment of Classes*

The Claims in each Class will be paid as follows:



<b>Class</b>	<b>Impairment</b>	<b>Treatment</b>
<u>Class 1</u> <u>Healthcare</u> <u>Financial Services</u>	Impaired	The Secured Claim of Healthcare Financial Services (“ <u>HFS Allowed Secured Claim</u> ”) shall be deemed paid in full as HFS was paid \$7,500,000 at Closing, which took place on or about June 15, 2017. HFS will receive no further Distribution under the Plan.
<u>Class 2</u> <u>Personal Injury</u> <u>Claims</u>	Impaired	<p>Allowed Claims in Class 2 that are within the policy limits of that certain insurance provided by BHC-LTC Insurance Ltd with the Debtor in existence as of the Date of Filing shall be paid in full by BHC-LTC Insurance Ltd. To the extent that an Allowed Claim exceeds the policy limits, the amount of the Allowed Claim that exceeds the policy limits will be paid Pro Rata with the Class 3 and Class 4 Allowed Claims from the net proceeds available for Distribution to Classes 3 and 4 following the payment of Administrative Expenses, Liquidating Expenses and Priority Claims further described in Article IV of the Plan.</p> <p>No Distributions under the Plan shall be made on account of an Allowed Claim that is payable by BHC-LTC Insurance Ltd until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that a Claim has been paid, the applicable portion of such Claim may be expunged without a Claims objection having to be filed and without any further notice to or action, order or approval of the Bankruptcy Court.</p>
<u>Class 3</u> <u>Department of</u> <u>Health and Human</u> <u>Services and</u> <u>TennCare</u>	Impaired	<p>The Allowed Claims in Class 3 shall be paid Pro Rata from the net proceeds available to Distribution to Classes 2, 3 and 4 following the payment of Administrative Expenses, Liquidating Expenses and Priority Claims further described in Article IV herein. Allowed Claims will also be paid interest at the fixed rate of six percent (6.0%) per annum accruing from the Effective Date of the Plan if sufficient funds are available.</p> <p>After (a) the Plan has been fully administered, (b) all Claims that are disputed have been resolved or a sufficient reserve set aside for this Claim, (c) any Causes of Action determined to have any value have been resolved, and (d) all Property of the Debtor has been reduced to cash or abandoned, the Debtor shall effect a final Distribution of all cash remaining (after reserving sufficient cash to pay all unpaid expenses of administration of the Plan, and all expenses reasonably expected to be incurred in connection with the final Distribution) to holders of Allowed Claims in accordance herein.</p>

<b>Class</b>	<b>Impairment</b>	<b>Treatment</b>
<u>Class 4</u> <u>Unsecured Claims</u>	Impaired	<p>Class 4 shall consist of all Unsecured Claims that are not otherwise included in another Class of the Plan. Allowed Claims within this Class shall be paid Pro Rata from the net proceeds available to distribution to Class 3 following the payment of Administrative Expenses, Liquidating Expenses and Priority Claims further described in Article IV of the Plan. Allowed Claims in this Class will also be paid interest at the fixed rate of six percent (6.0%) per annum accruing from the Effective Date of the Plan if sufficient funds are available.</p> <p>After (a) the Plan has been fully administered, (b) all Claims that are disputed have been resolved, (c) any Causes of Action determined to have any value have been resolved, and (d) all Property of the Debtor has been reduced to cash or abandoned, the Debtor shall effect a final Distribution of all cash remaining (after reserving sufficient cash to pay all unpaid expenses of administration of the Plan, and all expenses reasonably expected to be incurred in connection with the final Distribution) to holders of Allowed Claims in accordance with the Plan.</p>
<u>Class 5</u> <u>Penalty Claims</u>	Impaired	<p>The Claims in this Class will not be entitled to any Distribution under the Plan unless and until Allowed Claims in Classes 2, 3 and 4 have been paid in full, including interest. Thereafter, Allowed claims in this Class 5 will be paid on a Pro Rata basis from the amounts available for Distribution until paid in full. Allowed Claims in this Class will also be paid interest at the fixed rate of six percent (6.0%) per annum accruing from the Effective Date of the Plan if sufficient funds are available.</p>
<u>Class 6</u> <u>Interests in the Debtor</u>	Impaired	<p>This Class will be paid any surplus Distribution after the payment in full of Allowed Claims to Classes 2, 3, 4 and 5 any Liquidation Expenses incurred in the implementation of the Plan. Any such payment will be applied by Vanguard Healthcare, LLC to the payment of Allowed Claims in the Fourth Amended Joint Plan dated October 23, 2017. If no surplus exists after the payment in full of Classes 2, 3, 4 and 5 upon the entry of a Final Decree that closes the Case, the Interests in the Debtor will be terminated without any Distribution.</p>

#### **A. Tax Consequences**

There are no known negative tax consequences created by the Plan. Distributions to creditors will be taxed in the same way that any payment by the Debtor to those creditors

would have been taxed. In most instances, the payments will be taxable income to the creditor for which the creditor may pay income taxes if its business expenses and deductions do not offset the amount of income received by that creditor.

#### **B. Executory Contracts.**

By Court order entered June 9, 2017, the Debtor was authorized to assume and assign certain Desired Contracts to the Buyer and reject the remaining executory contracts and unexpired leases. The Plan provides that if there were any contracts or leases that were not assigned or rejected, such contract or lease will be deemed rejected as of June 16, 2017.

#### **C. Implementation of the Plan.**

The provisions relating to the implementation of the Plan are found in Article VIII of the Plan. The major provisions are as follows:

Unless the Debtor designates an earlier date, the Effective Date of the Plan will be the first day of the second full month after the entry of the Court order confirming the Plan.

Upon Confirmation, the Debtor will retain all Property of the Debtor, excluding Causes of Action as defined in the Plan, and will continue to be managed by Vanguard Healthcare with financial services provided by Vanguard Financial Services. All cash held by the Debtor shall be deposited in an interest bearing account or such other investment as may be approved by the Debtor and the Liquidating Committee for the benefit of creditors of the Debtor. William D. Orand will continue to be the Chief Executive Officer of Vanguard Healthcare and John T. Fick will continue to be the Chief Financial Officer.

Liquidating Expenses of the Liquidating Committee must be approved prior to payment by the Debtor, and Liquidating Expenses of the Debtor must be approved prior to payment by the Liquidating Committee. Any dispute regarding the Liquidating Expenses of either party shall be resolved by the Court, after notice and opportunity to object is provided to the other party.

After the Effective Date of the Plan, the Debtor will have the power and authority to sell any remaining assets and settle and compromise any disputed Claim if such settlement is approved by the Liquidating Committee or by the Court after compliance with Rule 9019 of the Federal Rules of Bankruptcy Procedure and notice to the Master Service List.

The Debtor will file with the court an accounting and will seek the entry of a Final Decree as required under Bankruptcy Rule 3022 following the Effective Date of the Plan and the administration of the estate. During this period the Debtor shall submit reports and pay quarterly fees to the U.S. Trustee as required by law.

Upon the Confirmation, the Committee will terminate, provided the U.S. Trustee will appoint a new committee pursuant to Code § 1102 consisting of Creditors of the Debtor (the "Liquidating Committee").

**Exculpation and Injunction provisions are provided in Article IX of the Plan. Subject to some exceptions, the Plan will enjoin all parties holding a Claim to be paid**

under the Plan from asserting against the Debtor, each of their respective officers, directors, successors and assigns and each of their assets and properties, any claims or interests based upon any document, instrument, guaranty, or any act or omission, transaction or other activity of any kind or nature that relates to an Allowed Claim under the Plan until there is a final decree entered in the Case and the Case is closed.

## VII. CONFIRMATION REQUIREMENTS

To confirm the Plan, the Court must, after notice provided by separate order, hold a hearing on the question of confirmation of the Plan. Any Creditor of the Debtor may object to confirmation of the Plan that applies to the Debtor and may appear at the confirmation hearing to prosecute such objection(s).

The requirements for confirmation of a Chapter 11 plan are set forth in detail in 11 U.S.C. § 1129. The following is a summary of the more notable requirements:

**a. Acceptance by Impaired Classes.** One of the requirements for a plan to be approved by the Court is for at least one class of impaired claimants must vote to accept the plan. 11 U.S.C. § 1129(a)(10). For a class to accept the plan, the plan must receive favorable votes from claimants within that class who hold at least two-thirds in dollar amount of the claims that vote and more than one-half (½) in number of the claims that vote. Only the amount and number of claims who actually submit a timely ballot are counted in determining the requisite number. All ballots will be due at a date established by the Court in the order approving this Disclosure Statement.

**b. Feasibility.** Additionally, the Court is required to find that confirmation of a plan is not likely to be followed by liquidation or the need for further financial reorganization of the Debtor. 11 U.S.C. § 1129(a)(11). In a liquidation plan where a complete liquidation is contemplated, the feasibility test is limited to a showing that the Debtor has sufficient revenues to pay the administrative and priority claims required to be paid on the Effective Date of the Plan. The Debtor asserts that there will be sufficient revenues from the Sale to pay the required Administrative and Priority expenses.

**c. Liquidation Test.** As discussed in Article V above, the Plan must pay to each class that has not accepted the Plan an amount determined as of the Effective Date of the Plan that is not less than the amount a claimant within would receive or retain if the Debtor were liquidated under Chapter 7 of the Bankruptcy Code. 11 U.S.C. § 1129(a)(7). As pointed out in Article V, a liquidation would involve greater expenses in distributing the remaining assets and perhaps less success in collecting the remaining accounts.

**d. “Cramdown” Provisions.** If an impaired class does not vote to accept a plan, as discussed in paragraph a above, the Court may still confirm the plan if the Court determines that the plan treatment of the class of claims rejecting the plan is fair and equitable and does not discriminate unfairly. 11 U.S.C. § 1129(b). The Debtor intends to invoke these “cramdown” provisions should any class of impaired claims fail to accept the Plan. The

Debtor believes that with respect to each class, the Plan as to each Debtor is fair and equitable and does not discriminate unfairly.

October 31, 2017.

VANGUARD OF MEMPHIS, LLC

By: */s/ William D. Orand*

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William D. Orand  
Chief Executive Officer

*/s/ William L. Norton, III*

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