

THIS IS NOT A SOLICITATION OF ACCEPTANCE OR REJECTION OF THE PLAN  
ACCEPTANCES OR REJECTIONS CAN NOT BE SOLICITED UNTIL A DISCLOSURE  
STATEMENT HAS BEEN APPROVED BY THE U.S. BANKRUPTCY COURT

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

IN RE: SKYLINE EMS, INC.,

\* CASE NO. 16-70551-M-11

Debtor

\* CHAPTER 11 PROCEEDING

DEBTOR'S DISCLOSURE STATEMENT  
FOR PLAN OF REORGANIZATION

Respectfully submitted,

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**TABLE OF EXHIBITS**

- Exhibit 1 – Partial Liquidating Plan
- Exhibit 2 - Financial Transactions with Debtor’s principal (None)
- Exhibit 3 – First Lienholders for Non-exempt Property (None)
- Exhibit 4 - Expected Recoveries and Liquidation Analysis
- Exhibit 5 – Causes of Action (If any)
- Exhibit 6 – Executory Contracts
- Exhibit 7 – Monthly Operating Reports
- Exhibit 8 – Other Financial Reports
- Exhibit 9 – 5 Year Plan Budget

## DISCLOSURE STATEMENT FOR PLAN OF REORGANIZATION

Skyline EMS, Inc., as debtor and debtor in possession, and the proponent of this Chapter 11 Plan of Reorganization hereby files this Disclosure Statement ("Disclosure Statement") to accompany the debtor's Plan of Reorganization ("Plan") debtor pursuant to the requirement of the U.S. Bankruptcy Code 11 §101, et seq. and pursuant to 11 U.S.C. §1125 for consideration by Creditors and other Parties in Interest as follows:

### I. OVERVIEW OF CHAPTER 11 AND THE PLAN

#### A. Introduction

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code. Pursuant to chapter 11, the debtor-in-possession attempts to reorganize its business for the benefit of the debtor, its creditors, and other parties in interest. The present Chapter 11 case commenced with the Debtor filing his Chapter 11 voluntary petition on December 24, 2016.

The commencement of a chapter 11 case creates an estate comprising all the legal and equitable interests of the 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 present case, the Debtor has remained in possession of its properties and has continued to operate its business as a debtor-in-possession.

The filing of a chapter 11 petition also triggers the automatic stay provisions of the Bankruptcy Code. Section 362 of the Bankruptcy Code provides, *inter alia*, for an automatic stay of all attempts to collect pre-petition claims from the debtor or otherwise interfere with its property or business. Except as otherwise ordered by the bankruptcy court, the automatic stay remains in full force and effect until the effective date of a confirmed plan of reorganization.

The formulation of a plan of reorganization is the principal purpose of a chapter 11 case. The plan sets forth the means for satisfying the claims against and interests in the debtor. Generally in a **non-small business debtor** case, unless a trustee is appointed, only the debtor may file a plan during the first 120 days of a chapter 11 case (the "Exclusive Period"). However, section 1121(d) of the Bankruptcy Code permits the court to extend or reduce the Exclusive Period upon a showing of cause. After the Exclusive Period has expired, a creditor or any other party in interest may file a plan, unless the debtor has filed a plan within the Exclusive Period, in which case, the debtor is generally given sixty additional days (the "Solicitation Period") during which it may solicit acceptances of its plan. The Solicitation Period may also be extended or reduced by the court upon a showing of cause.

Although referred to as a plan of reorganization, a plan may provide anything from a complex restructuring of a debtor's business and its related obligations to a simple liquidation of the debtor's assets. In this case, the Plan, as proposed by the Debtor, provides for full one-hundred percent payment of all allowed Claims that are entitled to priority under the Bankruptcy Code, and that an estimated 100 percent payment of allowed unsecured, non-priority Claims.

Exhibits to This Disclosure Statement

The following Exhibits shall be attached hereto and shall be fully incorporated into this Disclosure Statement. In addition, upon entry of the Order Confirming the Plan, all the following Exhibits shall be incorporated into the Order Confirming the Plan and the Debtor's Plan as if fully set forth therein verbatim.

- Exhibit 1 – Partial Liquidating Plan
- Exhibit 2 - Financial Transactions with Debtor's principal (None)
- Exhibit 3 – First Lienholders Note(s) for Non-exempt property (None)
- Exhibit 4 - Expected Recoveries and Liquidation Analysis
- Exhibit 5 – Causes of Action
- Exhibit 6 – Executory Contracts
- Exhibit 7 – Monthly Operating Reports
- Exhibit 8 – Other Financial Reports
- Exhibit 9 – Plan Budget

These Exhibits, when attached, should be consulted and reviewed in order to understand the Plan and the Disclosures made herein.

Disclaimer

*In re Metrocraft Pub. Servs., Inc. (No. 5)*

THE DEBTOR URGES ALL HOLDERS OF CLAIMS AND INTERESTS IN IMPAIRED CLASSES RECEIVING BALLOTS TO ACCEPT ITS DISCLOSURE STATEMENT.

THIS DISCLOSURE STATEMENT IS DESIGNED TO PROVIDE ADEQUATE INFORMATION TO ENABLE HOLDERS OF CLAIMS AGAINST AN INTEREST IN THE DEBTOR TO MAKE AN INFORMED JUDGMENT ON WHETHER TO ACCEPT OR REJECT THE PLAN. ALL HOLDERS OF CLAIMS AND INTERESTS ARE HEREBY ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. THE PLAN SUMMARY AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN, WHICH IS ANNEXED HERETO AS EXHIBIT I, OTHER EXHIBITS ANNEXED HERETO AND OTHER DOCUMENTS REFERENCED AS FILED WITH THIS COURT BEFORE OR CONCURRENTLY WITH THE FILING OF THIS DISCLOSURE STATEMENT. FURTHERMORE, THE PROJECTED FINANCIAL INFORMATION CONTAINED HEREIN HAS NOT BEEN THE SUBJECT OF AN AUDIT. SUBSEQUENT TO THE DATE HEREOF, THERE CAN BE NO ASSURANCE THAT: (A) THE INFORMATION AND REPRESENTATIONS CONTAINED HEREIN WILL CONTINUE TO BE MATERIALLY ACCURATE; OR (B) THIS DISCLOSURE STATEMENT CONTAINS ALL MATERIAL INFORMATION.

ALL HOLDERS OF IMPAIRED CLAIMS AND IMPAIRED INTERESTS SHOULD READ AND CONSIDER CAREFULLY THE MATTERS DESCRIBED IN THIS DISCLOSURE STATEMENT AS A WHOLE, INCLUDING THE SECTION ENTITLED “RISK FACTORS” PRIOR TO VOTING ON THE PLAN. IN MAKING A DECISION TO ACCEPT OR REJECT THE PLAN, EACH HOLDER OF A CLAIM OR INTEREST MUST RELY ON ITS OWN EXAMINATION OF THE DEBTOR AS DESCRIBED IN THIS DISCLOSURE STATEMENT AND THE TERMS OF THE PLAN, INCLUDING THE MERITS AND RISKS INVOLVED. IN ADDITION, CONFIRMATION AND CONSUMMATION OF THE PLAN IS SUBJECT TO CONDITIONS PRECEDENT THAT COULD LEAD TO DELAYS IN CONSUMMATION OF THE PLAN. THERE CAN BE NO ASSURANCE THAT EACH OF THESE CONDITIONS WILL BE SATISFIED OR WAIVED OR THAT THE PLAN WILL BE CONSUMMATED. EVEN AFTER THE EFFECTIVE DATE, DISTRIBUTIONS UNDER THE PLAN MAY BE SUBJECT TO SUBSTANTIAL DELAYS FOR HOLDERS OF CLAIMS AND INTERESTS THAT ARE DISPUTED.

THIS DISCLOSURE STATEMENT HAS NOT YET BEEN APPROVED BY ORDER OF THE BANKRUPTCY COURT AS CONTAINING ADEQUATE INFORMATION OF A KIND AND IN SUFFICIENT DETAIL TO ENABLE HOLDERS OF CLAIMS AND INTERESTS TO MAKE AN INFORMED JUDGMENT WITH RESPECT TO VOTING TO ACCEPT OR REJECT THE PLAN. EVEN IF THE BANKRUPTCY COURT APPROVES THIS DISCLOSURE STATEMENT, SUCH APPROVAL DOES NOT CONSTITUTE A RECOMMENDATION OR DETERMINATION BY THE BANKRUPTCY COURT WITH RESPECT TO THE MERITS OF THE PLAN.

WITH THE EXCEPTION OF THE HISTORICAL INFORMATION, SOME MATTERS DISCUSSED HEREIN, INCLUDING PROJECTIONS AND VALUATION ANALYSIS DESCRIBED HEREIN ARE “FORWARD LOOKING STATEMENTS” WITHIN THE MEANING OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995. SUCH FORWARD LOOKING STATEMENTS ARE SUBJECT TO RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH COULD CAUSE ACTUAL RESULTS TO DIFFER MATERIALLY FROM FUTURE RESULTS EXPRESSED OR IMPLIED BY SUCH FORWARD LOOKING STATEMENTS.

NO PARTY IS AUTHORIZED BY THE DEBTOR TO GIVE ANY INFORMATION OR MAKE ANY REPRESENTATION WITH RESPECT TO THE PLAN OR LIQUIDATION SECURITIES OTHER THAN THAT WHICH IS CONTAINED IN THIS DISCLOSURE STATEMENT. NO REPRESENTATIONS OR INFORMATION CONCERNING THE DEBTOR, ITS FUTURE BUSINESS OPERATIONS OR THE VALUE OF ITS PROPERTIES HAVE BEEN AUTHORIZED BY THE DEBTOR, OTHER THAN AS SET FORTH HEREIN. ANY INFORMATION OR REPRESENTATIONS GIVEN TO OBTAIN YOUR ACCEPTANCE OR REJECTION OF THE PLAN WHICH ARE DIFFERENT FROM OR INCONSISTENT WITH THE INFORMATION OR REPRESENTATIONS CONTAINED HEREIN AND IN THE PLAN SHOULD NOT BE RELIED UPON BY ANY HOLDERS OF CLAIMS AND INTERESTS IN VOTING ON THE PLAN.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND NOT IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER APPLICABLE NONBANKRUPTCY LAW. ENTITIES HOLDING OR TRADING IN OR OTHERWISE PURCHASING, SELLING OR TRANSFERRING CLAIMS AGAINST, INTERESTS IN OR SECURITIES OF, THE DEBTOR SHOULD EVALUATE THIS DISCLOSURE STATEMENT ONLY IN LIGHT OF THE PURPOSE FOR WHICH IT WAS PREPARED.

THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION OR SIMILAR PUBLIC, GOVERNMENTAL OR REGULATORY AUTHORITY AND NEITHER SUCH COMMISSION NOR ANY SUCH AUTHORITY HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.

UNTIL THE EFFECTIVE DATE, WITH RESPECT TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER PENDING OR THREATENED ACTIONS (WHETHER OR NOT PENDING), THIS DISCLOSURE STATEMENT AND THE INFORMATION CONTAINED HEREIN SHALL NOT BE CONSTRUED AS AN ADMISSION OR STIPULATION BY ANY ENTITY, BUT RATHER AS STATEMENTS MADE IN SETTLEMENT NEGOTIATIONS GOVERNED BY RULE 408 OF THE FEDERAL RULES OF EVIDENCE AND ANY OTHER RULE OR STATUTE OF SIMILAR IMPORT.

THE DISCLOSURE STATEMENT SHALL NEITHER BE ADMISSIBLE IN ANY PROCEEDING INVOLVING A DEBTOR OR ANY OTHER PARTY NOR BE CONSTRUED TO BE PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. EACH HOLDER OF A CLAIM OR INTEREST SHOULD, THEREFORE, CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS CONCERNING THE SOLICITATION, THE PLAN OR THE TRANSACTIONS CONTEMPLATED THEREBY.

THE TERMS OF THE PLAN GOVERN IN THE EVENT OF ANY INCONSISTENCY WITH THE SUMMARY THEREOF IN THIS DISCLOSURE STATEMENT.

B. Summary of Treatment Under the Plan

1. Unclassified Claims

Certain types of claims are automatically entitled to specific treatment under the Code. They are not considered impaired, and holders of such claims do not vote on the Plan. They may, however, object if, in their view, their treatment under the Plan does not comply with that required by the Code. As such, the Plan Proponent has *not* placed the following claims in any class:



Administrative Expenses

Administrative expenses are costs or expenses of administering the Debtor's chapter 11 case which are allowed under § 507(a)(2) of the Code. Administrative expenses also include the value of any goods sold to the Debtor in the ordinary course of business and received within 20 days before the date of the bankruptcy petition. The Code requires that all administrative expenses be paid on the effective date of the Plan, unless a particular claimant agrees to a different treatment.

The following chart lists the Debtor's estimated administrative expenses, and their proposed treatment under the Plan:

<u>Type</u>	<u>Estimated Amount Owed</u>	<u>Proposed Treatment</u>
Expenses Arising in the Ordinary Course of Business After the Petition Date (941 Taxes)	\$94,000.00	Paid in full on the effective date of the Plan, or according to terms of obligation if later
Salaries and Wages Arising in the Ordinary Course of Business After the Petition Date	\$0.00	Paid in full on the effective date of the Plan, or according to separate written agreement, or according to court order if such amounts have not been approved by the Court on the effective date of the Plan
The Value of Goods Received in the Ordinary Course of Business Within 20 Days Before the Petition Date	N/A	Paid in full on the effective date of the Plan, or according to terms of obligation if later
Professional Fees, if approved by the Court.	\$30,000	Paid in full on the effective date of the Plan, or according to separate written agreement, or according to court order if such fees have not been approved by the Court on the effective date of the Plan
Clerk's Office Fees	\$100.00	Paid in full on the effective date of the Plan
Other administrative expenses that may be filed	Subject to review by Debtor.	Paid in full on the effective date of the Plan or according to separate written agreement

Office of the U.S. Trustee Fees (estimated)	\$3,000.00	Paid in full on the effective date of the Plan
<b>TOTAL</b>		

*In re Metrocraft Pub. Servs., Inc. (No. 12)*

Priority Tax Claims

Priority tax claims are unsecured income, employment, and other taxes described by §507(a)(8) of the Code. Unless the holder of such a § 507(a)(8) priority tax claim agrees otherwise, it must receive the present value of such claim, in regular installments paid over a period not exceeding 5 years from the order of relief.

2. Classes of Claims and Equity Interests

The following is an estimate of the numbers and amounts of classified Claims and Interests to receive treatment under the Plan, and a summary of the proposed treatment of such Claims and Interests under the Plan. Reference should be made to the entire Disclosure Statement and to the Plan for a complete description of the classification and treatment of Claims and Interests.

The table below is drawn from the Debtor's Schedules and filed Proofs of Claim. The final universe of claims, as actually Allowed, may differ from this table.

The classification of Claims and Equity Interests, the estimated aggregate amount of Claims in each Class and the amount and nature of distributions to holders of Claims or Equity Interests in each Class are summarized in the table below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims have not been classified. For a discussion of certain additional matters related to Administrative Claims and Priority Tax Claims, see Sections V.A. and B.

Each amount designated in the table below as "Estimated Percentage Recovery" for each Class is the quotient of the estimated Cash or other Assets to be distributed to holders of Allowed Claims in such Class, divided by the estimated aggregate amount of Allowed Claims in such Class. Each of the estimated Cash or other Assets and the estimated aggregate amount of Allowed Claims has been made in ranges with both low and high estimates. In determining such amount, the Debtor has assumed that the Plan is consummated as described herein.

These calculations do not include any value attributed to Causes of Action, including Avoidance Actions by any of the Estates. The Debtor has commenced a review of potential Causes of Action but is not in a position to provide an estimated value for such actions, if any. The value of such actions, if any, may not be material.

For a discussion of various factors that could materially affect the amount of Cash and other Assets to be distributed pursuant to the Plan, see Section IV. In addition, the Debtor's estimates for recoveries by holders of Allowed Claims are based on the Debtor's current view of the likely amount of Allowed Administrative Claims incurred by the Debtor through confirmation of the Plan. There can be no guarantee that the Debtor's estimates of Administrative Claims will prove to be accurate.

The following are the classes set forth in the Plan, and the proposed treatment that they will receive under the Plan:

*Classes of Secured Claims*

Allowed Secured Claims are claims secured by property of the Debtor's bankruptcy estate (or that are subject to setoff) to the extent allowed as secured claims under § 506 of the Code. If the value of the collateral or setoffs securing the creditor's claim is less than the amount of the creditor's allowed claim, the deficiency will be classified as a general unsecured claim.

The following chart lists all classes containing Debtor's secured prepetition claims and their proposed treatment under the Plan:

Class	Treatment
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<p><b>Class 1 - Secured Tax Claims</b></p> <p>Estimated Holders: ____:</p> <p><b><i>Texas Workforce Commission</i></b>                  Regulatory Integrity Division – SAU                  c/o                  Office of the Attorney General,                  Bankruptcy – Collection Division                  P.O. Box 12548 - MC 008                  Austin TX 78711-2548.</p> <p>(Claim No. 1)</p> <p>Claim Amount: \$10,194.78</p> <p>For 2015 Unemployment Taxes</p> <p>Collateral: All of Debtor’s Property</p> <p><i>Department of the Treasury-Internal Revenue Service</i>                  c/o  <i>Internal Revenue Service</i>                  P.O. Box 7346                  Philadelphia, Pennsylvania 19101-7346</p> <p>Claim No. 3 (WT-FICA)</p> <p><u>2014</u> - 6/30, 9/30, 12/31</p> <p><u>2015</u> - 3/21, 6/30, 9/30, 12/31</p> <p><u>2016</u> – 3/31, 6/30, 9/30</p> <p>Claim Amount: \$ <b>340,811.59</b></p> <p>Collateral: All of Debtor’s Property</p>	<p><b>Unimpaired</b></p> <p><b>DEEMED TO ACCEPT THE PLAN                  NOT ENTITLED TO VOTE</b></p> <p>Except as expressly stated below, each Allowed Secured Tax Claim shall be placed within a separate subclass of this Class 1. Accordingly, each such Class 1 Claim shall, for purposes of accepting or rejecting the Plan and for receiving distributions under the Plan, be treated as though in a separate Class.</p> <p>Allowed Secured Tax Claims shall be treated as follows:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Each holder of an Allowed Secured Tax Claim shall retain all Liens securing the payment of such Allowed Secured Tax Claim until such Allowed Secured Tax Claim is paid in full.</li> <li><input type="checkbox"/> The holder of each Allowed Secured Tax Claim shall receive in full satisfaction of an Allowed Secured Tax Claim, on the later of the Effective Date and the date on which the Secured Claim is allowed, at the sole and exclusive option of the Debtor: (a) Cash equal to the amount of such Claim; or (b) in substantially equal monthly Cash payments, beginning on the first day of the first month after the Initial Distribution Date and continuing monthly thereafter until full payment is made which shall be amortized over a period not to exceed five (5) years from the filing of the case; or (c) satisfaction of such Claim pursuant to such other terms and conditions as may be agreed upon by the Debtor and the holder of such Claim. Any Allowed Deficiency Claim of a holder of a Secured Tax Claim shall be entitled to treatment as an Allowed Class 3 Claim.</li> </ul>
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IRS Secured Tax Claim Treatment: Pursuant to an agreement reach by the Debtor and the Internal Revenue Service, the Secured Claim of \$427,275.09 which includes, tax, interest and penalty. The claim will be reduced to \$340,811.59 tax and interest only. The debtor will pay the claim in monthly installment payments of \$7,700.00 with 4% APR. The monthly payments will begin thirty days from the confirmation date. Nevertheless, should the debtor be unsuccessful in repaying the IRS Secured Claim in full, pursuant to this Agreement, the penalty will be added back to the IRS's secured claim and the Internal Revenue Service may accelerate its allowed claim(s), past and future, and declare the outstanding amount of such claim(s) to be immediately due and owing and pursue any and all available state and federal rights and remedies.

□ Interest on each (non-IRS) Allowed Secured Tax Claim shall accrue as follows:

- for the period beginning on the date any portion of the tax underlying the Allowed Secured Tax Claim became or becomes delinquent under State Law, and to the extent of such delinquency, and continuing through the Effective Date, interest shall accrue at the state statutory rate of one percent (1%) per month in accordance with sections 506(b) and 511 of the Bankruptcy Code; and
- for the period beginning on the day after the Effective Date and continuing through the day on which such Allowed Secured Tax Claim is paid in full, interest shall accrue on the unpaid tax at the state statutory rate of twelve percent (12%) per annum in accordance with sections 511 and 1129 of the Bankruptcy Code.

<p><b>Class 2 - Priority Tax Claims</b></p> <p>Texas Workforce Commission Regulatory Integrity Division – SAU</p> <p>c/o Office of the Attorney General, Bankruptcy – Collection Division MC 008 P.O. Box 12548 Austin TX 78711- 2548. (512) 463-2173</p> <p>For 2017 Unemployment Taxes</p> <p>Claim amount: \$ 2,791.95</p> <p><i>Department of the Treasury-Internal Revenue Service</i></p> <p>c/o <i>Internal Revenue Service</i> P.O. Box 7346 Philadelphia, Pennsylvania 19101-7346</p> <p>Claim No. 3 (WT-FICA)</p> <p>Claim amount \$41,147.52</p> <p><i>Department of the Treasury-Internal Revenue Service</i></p> <p>c/o <i>Internal Revenue Service</i> P.O. Box 7346 Philadelphia, Pennsylvania 19101-7346</p> <p>Claim No. 6 (WT-FICA) 2017 – 6/30</p> <p>Claim amount: 13,733.44</p>	<p><b>Unimpaired</b></p> <p><b>DEEMED TO ACCEPT THE PLAN NOT ENTITLED TO VOTE</b></p> <p>Each holder of an Allowed Priority Tax Claim shall be paid, on account of such Allowed Priority Tax Claim, the amount of such holder’s Allowed Claim in full satisfaction of such Priority Tax Claim. Each holder of an Allowed Priority Tax Claim shall receive, at the sole and exclusive option of the Debtor:</p> <p>(a) On the Effective Date, cash in an amount equal to such Allowed Priority Tax Claim; (b) in substantially equal monthly Cash payments, beginning on the first day of the first month after the Effective Date and continuing monthly thereafter until full payment is made which shall be amortized over a period not to exceed five (5) years from the filing of the case; or (c) satisfaction of such Claim pursuant to such other terms and conditions as may be agreed upon by the Debtor and the holder of such Claim.</p> <p>With respect to the Reorganized Debtor electing to pay the Allowed Priority Tax Claim via monthly payments, the priority tax claims shall be fully paid on or prior to the 60<sup>th</sup> month following the Petition Date in monthly installment payments at 3% APR effective on the first day of the first month after the Initial Distribution.</p> <p><b>ADDITIONAL TERMS:</b> Tax Units shall retain all liens, if any, including those for post-petition taxes, until all allowed taxes, penalties, and interest secured by those liens have been paid. Should the taxes not be paid, the Tax Units shall be free to pursue all remedies at state law, in order to enforce any tax liens filed properly and collect payment of the delinquent taxes. Provided, however, that the tax liens shall attach to any sale proceeds for any properties that will be sold pursuant to this Plan.</p>
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	<p>IRS Priority Claim Treatment: Pursuant to an agreement reached by the debtor and the Internal Revenue Service, the priority claim will be paid in monthly installment payments of \$929.06 with 4% APR. The monthly payments will begin thirty days from the confirmation date. Nevertheless, should the debtor be unsuccessful in repaying the IRS priority claim in full, pursuant to this agreement the Internal Revenue Service may accelerate its allowed claim(s), past and future, and declare the outstanding amount of such claims(s) to be immediately due and owing and pursue any and all available state and federal rights and remedies.</p> <p>If the debtor has an unfiled Form 1120 for tax year 2016, the return must be filed prior to the confirmation of the plan. The priority claim will be adjusted once the return is filed.</p>
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Class	Treatment
<p><b>Class 3 – General Unsecured Claims</b></p> <p>Holder: - 3 –</p> <p><i>UnitedHealthcare Insurance Company</i>  <i>185 Asylum Street - 03B</i>  <i>Hartford, Connecticut 06103</i></p> <p>Claim No. 2                      Claim Amount: \$2179.75</p> <p><i>Department of the Treasury-Internal Revenue Service</i>                      c/o  <i>Internal Revenue Service</i>                      P.O. Box 7346                      Philadelphia, Pennsylvania 19101-7346</p> <p>Claim No. 3 (WT-FICA)</p> <p>Claim Amount: \$204.63</p> <p><i>Moore Medical LLC</i>                      1690 New Britain Ave.                      Farmington, CT 06032</p> <p>credit@mooremedical.com</p> <p>Claim No. 4                      Claim amount: 6,506.81</p>	<p><b>Impaired. DEEMED TO REJECT</b></p> <p>Except as specifically provided for below, each holder of an Allowed Claim in Class 3 shall receive 100% distribution via monthly payments during the life of the Debtor Plan.</p> <p>Estimated Recovery: [0-100] % of filed proof of claim</p>

The total universe of Claims, as ultimately Allowed, may be greater or smaller than as reflected in the above analysis.

The estimated aggregate amounts of Claims shown in the table above are based upon the Debtor’s review of its books and records and may be revised following the Debtor’s analysis of the Claims Filed. Further, the amount of any Disputed Claim that ultimately is allowed by the Bankruptcy Court may be significantly more or less than the estimated amount of such Claim.



### C. Voting on and Confirmation of the Plan

After a plan of reorganization has been filed, the holders of impaired claims against or 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 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 Claims against and Interests in the Debtor to satisfy the requirements of section 1125 of the Bankruptcy Code.

#### 1. Voting Procedures and Requirements

The Bankruptcy Code (Title 11 U.S.C. §101, et. seq.) requires that “adequate information” be furnished all Creditors or parties in interest, consisting of a full and adequate disclosure by the Debtor in Possession of their historical, current and anticipated future financial and business affairs, so that Creditors and other parties in interest can make an informed decision concerning any vote they may cast either in favor of, or in opposition to, any proposed Plan.

Chapter 11 does not require that each holder of a claim against or interest in a debtor vote in favor of a plan of reorganization in order for the bankruptcy court to confirm the plan. At a minimum, however, the plan must be accepted by

- (1) a majority in number and
- (2) two-thirds in amount of those claims actually voting
- (3) in at least one class of impaired claims under the plan.

The Bankruptcy Code also defines acceptance of the plan by a class of Interests (equity securities) as acceptance by holders of two-thirds of the number of shares actually voting.

As such, in the present case, only the holders of Claims or Interests who actually vote will be counted as either accepting or rejecting the Plan.

**THE OBJECTION PROCESS IS A PRE-CONDITION TO YOUR RELIANCE ON THIS DISCLOSURE STATEMENT.**

**THIS DISCLOSURE STATEMENT HAS BEEN PRESENTED TO THE BANKRUPTCY COURT FOR APPROVAL AS CONTAINING “ADEQUATE INFORMATION” AS REQUIRED UNDER THE BANKRUPTCY CODE. SUCH APPROVAL IS REQUIRED BY STATUTE AND DOES NOT CONSTITUTE A JUDGMENT BY THE COURT AS TO THE DESIRABILITY OF THE PLAN OR AS TO THE VALUE OR SUITABILITY OF ANY CONSIDERATION OFFERED THEREBY. THE FINAL APPROVAL OF THIS DISCLOSURE STATEMENT WILL BE GRANTED BY THE BANKRUPTCY COURT ONLY AFTER (I) YOU HAVE RECEIVED NOTICE OF ITS FILING AND HAVE BEEN GIVEN AN OPPORTUNITY TO BE HEARD, AND (II) YOU DO NOT OBJECT ON THE**

BASIS OF ABSENCE OF “ADEQUATE INFORMATION” AND SUSTAIN YOUR OBJECTION AT THE DISCLOSURE STATEMENT HEARING.

IF YOU FAIL TO OBJECT AFTER NOTICE, YOU MAY BE FOREVER BARRED OR ESTOPPED FROM COMPLAINING OF THE CONTENTS OR LACK OF CONTENTS OF THIS DISCLOSURE STATEMENT.

YOU ARE SPECIFICALLY REFERRED TO THE TERMS AND CONDITIONS OF THE PLAN AS FILED AND YOU ARE CAUTIONED THAT THIS DISCLOSURE STATEMENT MAY NOT BE RELIED UP ON AS A SUBSTITUTE FOR A CAREFUL REVIEW AND ANALYSIS OF THE PLAN AND OF ALL SUPPLEMENTS AND AMENDMENTS WHICH MAY BE ALLOWED AND APPROVED. THE PLAN MAY BE AMENDED AND SUPPLEMENTED AFTER THIS DISCLOSURE STATEMENT IS FURNISHED TO YOU, UNDER CERTAIN CRITERIA SET FORTH IN THE BANKRUPTCY CODE AND PLAN.

#### Creditors Entitled to Vote

Pursuant to the Bankruptcy Code, only classes of claims against or equity interests in a debtor that are "impaired" under the terms of a plan of liquidation or reorganization are entitled to vote to accept or reject a plan. In general, a class is "impaired" if the legal, equitable or contractual rights attaching to the claims or interests of that class are modified, other than by curing defaults and reinstating maturity. Classes of Claims and Equity Interests that are not impaired are not entitled to vote on the Plan and are conclusively presumed to have accepted the Plan.

Any creditor whose claim is impaired under the Plan is entitled to vote, if either (1) its Claim has been scheduled by the Debtor (and such Claim is not scheduled as disputed, contingent, or unliquidated), or (2) it has filed a proof of claim on or before the first date set by the Bankruptcy Court for such filings.

Any claim to which an objection has been filed (and such objection is still pending) is not entitled to vote, unless the Bankruptcy Court temporarily allowed the Claim in an amount which it deems proper for the purpose of accepting or rejecting the Plan upon application by the creditor. Such application must be heard and determined by the Bankruptcy Court.

A creditor's vote may be disregarded if the Bankruptcy Court determines that the Creditor's acceptance or rejection was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

#### Definition of Impairment

Under Section 1124 of the Bankruptcy Code, a class of claims or Equity Security Holders interest is impaired under a Chapter 11 plan unless, with respect to each claim or interest of such class, the Plan;

- (i) Leaves unaltered the legal, equitable and contractual rights of the holder

of such claim or Equity Security Interest; or

(ii) Notwithstanding any contractual provision or applicable law that entitles the holder of a claim or equity security holder to receive accelerated payment of his claim or equity security interests after the occurrence of a default:

(a) Cures any such default that occurred before or after the commencement of the case under the Bankruptcy Code, other than a default that consists of a breach of any provision relating to the insolvency or financial condition of the Debtor(s) at any time before the closing of the case, the commencement of a case under the Bankruptcy Code, or the appointment of or taking possession by a trustee in a case under the Bankruptcy Code.

(b) Reinstates the maturity of such claim or equity security interest as it existed before the default;

(c) Compensates the holder of such claim or equity security interest for damages incurred as a result of reasonable reliance upon such contractual provision or applicable law; and

(d) Does not otherwise alter the legal, equitable, or contractual rights to which such Claim or Equity Security Holder entitles the holder of such claim or equity security interest; and

(iii) Provides that, on the Plan Effective Date, the holder of such claim or equity security interest, receives, on account of such claim or equity security interest, cash equal to:

(a) With respect to a claim, the allowed amount of such claim; or

(b) With respect to an equity security interest, if applicable, the greater of: Any applicable fixed liquidation preference; or Any fixed price at which the Debtor, under the terms of the security, may redeem the security.

#### Classes Impaired Under the Debtor's Plan

The following classes of claims are impaired under the Plan, and Creditors holding Claims in such classes are entitled to vote to accept or reject the Plan:

(i) Classes are impaired classes under the Plan: Classes 4 in the Liquidating Plan are impaired.

In addition, Classes of Claims and Equity Interests that do not receive Distributions under the Plan are not entitled to vote on the Plan and are deemed to have rejected the Plan. Finally, to minimize the cost of soliciting votes on the Plan from holders of Claims in Class 4 (General Unsecured Claims), all solicitation for votes and notices to such holders of such Claims shall be made by electronic mail, whenever possible.

The classification of Claims and Equity Interests is summarized, together with an indication of whether each Class of Claims or Equity Interests is impaired or unimpaired, in Section I.B.

Pursuant to section 502 of the Bankruptcy Code and Bankruptcy Rule 3018, the Bankruptcy Court may temporarily allow a Claim for voting or other purpose.

#### Filing a Proof of Claim

A Creditor or Interest Holder, in order to vote on the Plan, must have filed a Proof of Claim or interest at or prior to the deadline set by the Court for filing objections to the Plan, unless such creditor's claim is scheduled and is not designated as disputed, unliquidated and/or contingent. Any Creditor scheduled as NOT DISPUTED, LIQUIDATED AND NOT CONTINGENT is to the extent scheduled only, deemed to have filed a Proof of Claim, and, absent objection, such claim is deemed Allowed. If a Proof of Claim is filed or deemed filed and no objection is pending, a Creditor or Interest Holder may vote to accept or reject the Plan by filling out and mailing to the Bankruptcy Court Clerk and the Debtor(s) Attorneys the Ballot which has been provided such Creditor.

#### Ballots and Voting Deadline.

In addition to this Disclosure Statement and a copy of the Plan, each creditor entitled to vote will hereafter be provided with a ballot to be used for voting to accept or reject the Plan, together with a postage paid return envelope.

In order to be counted for voting purposes, ballots for the acceptance or rejection of the Plan must be completed and returned to the Bankruptcy Court prior to the hearing before such Bankruptcy Court requiring its approval of the Plan or at such other time as the Bankruptcy Court may set the time and date of the hearing will be set forth in a notice to the Creditors.

Whether or not the Creditor entitled to vote expects to be present at the hearing, each creditor is urged to complete, date, sign, and properly mail the ballot to the following address:

United States Bankruptcy Court  
1133 North Shoreline Blvd.  
Corpus Christi, Texas 78401

with a copy to Debtor's counsel mailed to:

Law Office of Antonio Martinez, Jr., P.C.  
317 West Nolana St., Suite C  
McAllen, TX 78504

Vote Required for Class Acceptance

The Bankruptcy Code defines acceptance of a Plan by a class of Creditors or Equity Security Interest holders as acceptance by holders of two-thirds ( $2/3$ ) in dollar amount and a majority in number of the Claims or Equity Security Interests of that class which actually cast ballots for acceptance or rejection of the Plan that is, acceptance takes place only if sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) in amount of Claims and Equity Security Interests in each class and more than fifty percent (50%) of claims or equity security voting in each class cast their ballots in favor of acceptance.

Voting on the Plan by each holder of a Claim in Classes 1,2, 3, 4 is important. Please carefully follow all of the instructions contained on the ballot or ballots provided to you. All ballots must be completed and returned in accordance with the instructions provided.

To be counted, your ballot or ballots must be received on or before 5:00 P.M. C.S.T, on [ DATE TO BE NOTICED] at -

UNITED STATES BANKRUPTCY COURT  
1133 NORTH SHORELINE BOULEVARD  
CORPUS CHRISTI, TEXAS 78401

It is of the utmost importance to the Debtor that you vote promptly to accept the Plan.

If you are entitled to vote and you did not receive a ballot, received a damaged ballot or lost your ballot, please call the Debtor's counsel at (956) 683-1090. Also, this Disclosure Statement, the Plan and all of the related exhibits and schedules, including ballots, are available, without charge, to any party in interest and can be obtained by contacting

Law Office of Antonio Martinez, Jr., P.C.  
317 West Nolana St., Suite C  
McAllen, TX 78504  
Debtor's counsel

You are urged to return your signed and completed ballot, by hand delivery, overnight service or regular U.S. mail, promptly, so that it is received by the Debtor before the Voting Deadline

THE DEBTOR RECOMMENDS THAT ANY REPRESENTATION OR

INDUCEMENT MADE TO SECURE YOUR ACCEPTANCE OF THE PLAN WHICH IS NOT CONTAINED IN THIS STATEMENT NOT BE RELIED UPON BY YOU IN REACHING YOUR DECISION ON HOW TO VOTE ON THE PLAN. ANY REPRESENTATION OR INDUCEMENT MADE TO YOU NOT CONTAINED HEREIN SHOULD BE REPORTED TO THE ATTORNEY FOR THE DEBTOR WHO SHALL DELIVER SUCH INFORMATION TO THE BANKRUPTCY COURT FOR SUCH ACTION AS MAY BE APPROPRIATE.

DEBTOR DOES NOT WARRANT NOR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS CORRECT, ALTHOUGH EFFORT HAS BEEN MADE TO BE ACCURATE, THIS STATEMENT CONTAINS ONLY A SUMMARY OF THE PLAN. THE DEBTOR HAS HIGH CONFIDENCE IN THE INFORMATION CONTAINED IN THE ATTACHED PLAN OF REORGANIZATION PERTAINING TO CLAIMS, CREDITORS, PLAN FOR REORGANIZATION AND ITS ABILITY TO EXIT THE BANKRUPTCY PROCESS AFTER PLAN CONFIRMATION. DEBTOR ALSO HAS HIGH CONFIDENCE IN THE INFORMATION REGARDING ITS HISTORY, THE REASONS IT FILED FOR BANKRUPTCY AND ITS FUTURE. THE DEBTOR HAS HIGH CONFIDENCE IN THE INFORMATION REGARDING THE PLAN CONFIRMATION PROCESS DESCRIBED IN THIS DISCLOSURE STATEMENT BUT CANNOT EXPRESS HIGH CONFIDENCE IN THE MATTERS PERTAINING TO THE TAX ISSUES.

THE PLAN WHICH ACCOMPANIES THIS DISCLOSURE STATEMENT IS AN INTEGRAL PART OF THIS DISCLOSURE STATEMENT, AND EACH CREDITOR IS URGED TO REVIEW THE PLAN PRIOR TO VOTING ON IT.

2. Combined Disclosure Statement Approval and Confirmation Hearing

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on confirmation of the Plan. Section 1128(b) of the Bankruptcy Code provides that any party-in-interest may object to confirmation of the Plan. Pursuant to section 105(d)(2)(B)(vi) of the Bankruptcy Code, the hearing on Confirmation of the Plan may be combined with the hearing on approval of the Disclosure Statement under section 1125 of the Bankruptcy Code.

Confirmation Hearing

The date and time of the hearing on confirmation of the Plan will be set forth in a notice to each creditor. The hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement made at the hearing or any adjournment thereof. Any objection to confirmation of the Plan must be made in writing and filed with the Bankruptcy Court and served upon Debtor's Counsel at the address listed below, together with proof of service, on or before the date set by the Court:

Law Office of Antonio Martinez, Jr., P.C.  
317 West Nolana St., Suite C  
McAllen, TX 78504

Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014. UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

The Bankruptcy Court may enter a Solicitation Procedures Order that, among other things, combine the hearings on approval of the Disclosure Statement and Confirmation of the Plan as permitted by section 105(d)(2)(B)(vi) of the Bankruptcy Code (the "Combined Hearing").

A Combined Hearing would be noticed for hearing before the Honorable Eduardo V. Rodriguez, United States Bankruptcy Judge of the United States Bankruptcy Court for the Southern District of Texas, in the United States Bankruptcy Court for the Southern District of Texas, 1701 W. Business Highway 83, 10th Floor, McAllen, Texas 78501. The Combined Hearing may be adjourned from time to time by the Bankruptcy Court without further notice, except for an announcement of the adjourned date made at the Combined Hearing.

The deadline to File objections to approval of the Disclosure Statement or the Confirmation of the Plan is [DATE TO BE NOTICED] , (the "Objection Deadline"). All objections to the approval of this Disclosure Statement or Confirmation of the Plan must be made in writing and must specify in detail the name and address of the objector, all grounds for the objection and the amount of the Claim or Interest held by the objector. Any such objections must be filed and served in accordance with such notice or a Solicitation Procedures Order, if any, on or before the Objection Deadline.

### 3. Confirmation

At the hearing on confirmation of the Plan, the Bankruptcy Court shall make a series of findings concerning the Plan and the Debtor and determine whether the requirements of Section 1129 of the Bankruptcy Code have been satisfied, in which event, the Bankruptcy Court shall enter an order confirming the Plan. These requirements are as follows:

- the Plan has classified Claims and Equity Interests in a permissible manner;
- the Plan complies with the applicable provisions of the Bankruptcy Code;
- the Debtor has complied with the applicable provisions of the Bankruptcy Code;
- the Debtor, as proponent of the Plan, have proposed the Plan in good faith and not by any means forbidden by law;
- the disclosure required by section 1125 of the Bankruptcy Code has been made;
- the Plan has been accepted by the requisite votes, except to the extent that



cramdown is available under Section 1129(b) of the Bankruptcy Code, of creditors and equity interest holders;

- the Plan is feasible;
- all fees and expenses 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 such fees on the Effective Date; and
- the Plan is in the "best interests" of all holders of Claims or Equity Interests in an impaired Class by providing to creditors or interest holders on account of such Claims or Equity Interests property of a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain in a chapter 7 liquidation, unless each holder of a Claim or Interest in such Class has accepted the Plan.

#### 4. Acceptance

A plan is accepted by an impaired class of claims if holders of at least two-thirds in dollar amount and a majority in number of claims of that class vote to accept the plan. Only those holders of claims who actually vote (and are entitled to vote) to accept or to reject a plan count in this tabulation.

#### 5. Feasibility

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of a plan not be likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor (unless such liquidation or reorganization is proposed in the Plan). Because the Plan proposes plan payments under a reorganization plan, for purposes of this test the Debtor has analyzed the ability of the Debtor to meet its obligations under the Plan. Based on the Debtor's analysis, the Debtor will have sufficient assets to accomplish its tasks under the Plan. Therefore, the Debtor believes that its reorganization pursuant to the Plan will meet the feasibility requirements of the Bankruptcy Code.

#### 6. Best Interests Test; Liquidation Analysis

Notwithstanding acceptance of the Plan by each impaired Class, to confirm the Plan, the Bankruptcy Court must determine that the Plan is in the best interests of each holder of a Claim or Interest in any such impaired Class who has not voted to accept the Plan. Accordingly, if an impaired Class does not unanimously accept the Plan, the "best interests" test requires that the Bankruptcy Court find that the Plan provides to each member of such impaired Class a recovery on account of the member's Claim or Interest that has a value, as of the Effective Date, at least equal to the value of the distribution that each such member would receive if the applicable Debtor was liquidated under chapter 7 of the Bankruptcy Code on such date.



Because the Plan proposes plan payments under an approximate 48 month plan, the Debtor has analyzed factors that will impact recoveries (the "Recoveries") available to creditors in each scenario. These factors include professionals fees and expenses, asset disposition expenses, applicable Taxes, potential Claims arising during the pendency of the Plan or chapter 7 case and trustee fees and expenses.

The information contained in Exhibit IV hereto provides a summary of the Recoveries under the Plan and in a chapter 7 liquidation.

*In re Metrocraft Pub. Servs., Inc. (No. 8)*

In summary, the Debtor believes that a chapter 7 liquidation would result in diminution in the Recoveries be realized by holders of Claims, as compared to the proposed Distributions under the Plan. Consequently, the Debtor believes that the Plan will provide a greater ultimate return to holders of Claims than would a chapter 7 liquidation the Debtor.

7. Compliance with Applicable Provisions of the Bankruptcy Code

Section 1129(a)(1) of the Bankruptcy Code requires that the Plan comply with the applicable provisions of the Bankruptcy Code. The Debtor has considered each of these issues in the development of the Plan and believes that the Plan complies with all provisions of the Bankruptcy Code –

- a. Any payments made or promised by the Debtor by a person issuing securities or acquiring property under the Plan, for services or for costs and expenses in, or in connection with the case or in connection with the Plan and incident to the Chapter 11 case, have been disclosed to the Bankruptcy Court, and any such payment made before the confirmation of the Plan is reasonable, or if such payment is to be fixed after confirmation of the Plan, such payment is subject to the approval of the Bankruptcy Court as reasonable;
- b. The Debtor has 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 Debtor, an affiliate of the Debtor participating in a joint plan with the Debtor, or a successor to the Trustee under the Plan, and the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and Equity Security Holders and with public policy, and the Debtor has disclosed the identity of any insider that was employed or retained by the Debtor, and the nature of any compensation for each insider;
- c. Any governmental regulator commission with jurisdiction, after confirmation of the Plan, over the rates of the Debtor has approved any rate change provided for in the Plan, or such rate change is expressly conditioned upon such approval;

- d. With respect to each impaired class of claims or Equity Security Holders, either each holder of a claim or Equity Security Interest of such class has accepted the Plan, or will receive or retain under the Plan on account of such Claim or Equity Security Interest, property of a value, as of the Plan Effective Date, that is not less than the amount that such holder would so receive or retain if the Debtor were liquidated on such date under Chapter 7 of the Bankruptcy Code.
- e. Each class of claims or Equity Security Holder has either accepted the plan or is not impaired under the Plan;
- f. 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 on the Plan Effective Date and that Priority Tax Claims will receive on account of such claims deferred cash payments, over a period not to exceed five (5) years, as of the Plan Effective Date, equal to the allowed amount of such claim;
- g. At least one class of claims that is impaired under the Plan has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a claim of such class.
- h. Confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial liquidation, of the Debtor or any other successor to the Debtor under the Plan, unless such liquidation or liquidation is proposed in the Plan;
- i. The Debtor believes that the Plan satisfied all of the statutory requirements of Chapter 11 of Title 11, United States Code, that the Debtor has complied or will have complied with all of the requirements of Chapter 11 and that the proposal of the Plan is made in good faith;
- j. The Debtor believes that the holders of all claims impaired under the Plan will receive payments under the Plan having a present value as of the Plan Effective Date in amounts not less than the amounts likely to be received if the Debtor was liquidated under Chapter 7 of the Bankruptcy Code;

#### Cramdown

In the event that any impaired class of claims does not accept the Plan, the Bankruptcy Court may still confirm the Plan at the request of the Debtor if, as to each impaired class which has not accepted the Plan, the Plan, “does not discriminate unfairly” and “is fair and equitable.” A Plan of Reorganization does not discriminate unfairly within the meaning of the Bankruptcy Code if no class received more than it is legally entitled to receive for its claims or Equity Security Interest. “Fair and equitable” has different meanings for secured claims and unsecured claims.

As set forth in section 1129(b)(2) of the Bankruptcy Code, those meanings are as

follows:

With respect to a secured claim, “fair and equitable” means either (1) the impaired secured creditor retains its liens, whether the property subject to such liens is retained by the debtor or transferred to another entity, to the extent of its allowed claims and receives deferred cash payments at least equal to the allowed amount of its claim with a present value of the Plan Effective Date of the plan at least equal to the value of such Secured Creditors’ interest in the property securing its liens (in the estate’s interest in such property), or (2) property subject to the lien of the impaired secured creditor is sold free and clear of that lien, subject to section 363(k) of the bankruptcy code, with that lien attaching to the proceeds of the sale, and such lien proceeds must be treated in accordance with clause (1) and (3 ) hereof; or (3) the impaired secured creditor realizes the “indubitable equivalent” of its claim under the Plan.

With respect to a class of unsecured claims, the “fair and equitable” requirement mandates that:

- (a) that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or
- (b) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property, except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115 of the Bankruptcy Code, subject to the requirements of section 1129(a)(14) of the Bankruptcy Code.

Furthermore, under section 1129(b) of the Bankruptcy Code, a plan is “fair and equitable” as to a class of rejecting claims 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 interests, that the holder of any claim or interest that is junior to the claims or Interests of such class will not receive or retain on account of such junior claim or Interest any property at all unless the senior class is paid in full.

With respect to a class of interests, the plan provides:

- (a) that each holder of an interest of such class receive or retain on account of such interest property of a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled or the value of such interest; or
- (b) that the holder of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property.

A plan does not “discriminate unfairly” against a rejecting class of Claims 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, and (b) no senior class of Claims is to receive more than 100% of the amount of the Claims in such class.

(i) Undersecured claims. An undersecured claim is one in which the value of the collateral is less than the amount of the allowed secured claim.

In the event one or more classes of impaired claims rejects the Plan, the Bankruptcy Court will determine at the hearing for confirmation of the Plan whether the Plan is fair and equitable and does not discriminate unfairly against any rejecting impaired class of claims or Interests. If the Bankruptcy Court determines that the Plan is fair and equitable and does not discriminate unfairly against any rejecting impaired class of claims, the Bankruptcy Court can confirm the Plan over the objections of any impaired class.

For the reasons set forth above, the Debtor believes the Plan does not discriminate unfairly against, and is fair and equitable with respect to, each impaired Class of Claims or Interests.

#### Bankruptcy Code §1125 Disclosure

After a plan of reorganization has been filed, the holders of impaired claims against or 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 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 Claims against and Interests in the Debtor to satisfy the requirements of section 1125 of the Bankruptcy Code.

#### 8. Alternatives to Confirmation and Consummation of the Plan

The Debtor has evaluated alternatives to the Plan, including alternative structures and terms of the Plan. While the Debtor has concluded that the Plan is the best alternative and will maximize recoveries by holders of Claims, if the Plan is not confirmed, the Debtor, or (subject to the Debtor's exclusive periods under the Bankruptcy Code to File and solicit acceptances of a plan or plans of reorganization) any other party in interest in the Bankruptcy Case could attempt to formulate and propose a different plan. Further, if no plan of reorganization under chapter 11 of the Bankruptcy Code can be confirmed, the Bankruptcy Case may be converted to chapter 7 cases. In a liquidation case under chapter 7 of the Bankruptcy Code, a trustee would be appointed to liquidate the remaining assets of each Debtor and distribute proceeds to creditors. The proceeds of the liquidation would be distributed to the respective creditors of the Debtor in accordance with the priorities established by the Bankruptcy Code. For further discussion of the potential impact on the Debtor of the conversion of the Bankruptcy Cases to chapter 7 liquidations, see Section I.C.6. The Debtor believes that Confirmation and consummation of the Plan is preferable to the available alternatives.

#### D. Conditions Precedent to Confirmation and Consummation of the Plan

##### 1. Conditions to Confirmation

The following shall be conditions to Confirmation unless such conditions shall have been duly waived pursuant to Section VIII.C of the Plan:

- a. The Confirmation Order shall have been entered by the Bankruptcy Court and shall be reasonably acceptable in form and substance to the Debtor.
- b. The Plan will not have been materially amended, altered or modified from the Plan as Filed on (Not Yet Filed) except as permitted by Section X of the Plan.
- c. All Plan Exhibits are in form and substance reasonably satisfactory to the Debtor.

2. Conditions to the Effective Date

The Effective Date shall not occur and the Plan shall not be consummated unless and until each of the following conditions has been satisfied or duly waived pursuant to Section VIII.C. of the Plan:

- a. The Bankruptcy Court shall have entered an order (contemplated to be part of the Confirmation Order) in form and substance reasonably acceptable to the Debtor approving and authorizing the Debtor to take all actions necessary or appropriate to effectuate, implement and consummate the Plan, including the execution, delivery and performance of contracts, instruments, releases and other agreements or documents created in connection with the Plan.
- b. The Confirmation Order has become a Final Order.

3. Waiver of Conditions to Confirmation or the Effective Date

The conditions to Confirmation set forth in Section VIII.A. of the Plan and the conditions to the Effective Date set forth in Section VIII.B. of the Plan may be waived in whole or part in writing by the Debtor at any time without an order of the Bankruptcy Court. Confirmation and the Effective Date will occur irrespective of whether any claims allowance process or related litigation has been completed.

4. Effect of Nonoccurrence of Conditions to the Effective Date

If each of the conditions to the Effective Date is not satisfied in accordance with VIII.B. of the Plan or duly waived in accordance with Section VIII.C. of the Plan then upon motion by the Debtor made before the time that each of such conditions has been satisfied or duly waived and upon notice to such parties in interest as the Bankruptcy Court may direct, the Confirmation Order shall be vacated by the Bankruptcy Court; provided, however, that, notwithstanding the Filing of such motion, the Confirmation Order may not be vacated if each of the conditions to the Effective Date is either satisfied or duly waived before the Bankruptcy Court enters an order granting such motion. If the

Confirmation Order is vacated pursuant to Section VIII.D. of the Plan, (1) the Plan shall be null and void in all respects, including with respect to the discharge of Claims; and (2) nothing contained in the Plan shall

(a) constitute a waiver or release of any Claims by or against, or any Interest in, the Debtor or (b) prejudice in any manner the rights, including any claims or defenses, of the Parties or any other party in interest.

#### Source of Information for Disclosure Statement

THE DEBTOR HAS SUPPLIED THE INFORMATION IN THIS DISCLOSURE STATEMENT AND HAS MADE THE ESTIMATION OF VALUES CONTAINED IN THIS DISCLOSURE STATEMENT BASED ON INFORMATION OBTAINED FROM SEVERAL SOURCES.

THE FINANCIAL INFORMATION IS BELIEVED TO BE MATERIALLY ACCURATE AND PROPERLY PRESENTED FOR THE INTENDED USE: HOWEVER, THE ACCOUNTING INFORMATION IS NOT NOW THE SUBJECT OF, AND HAS NEVER BEEN THE SUBJECT OF, AN AUDIT BY ANY CERTIFIED PUBLIC ACCOUNTANT OR ANY GOVERNMENTAL AGENCY. ALTHOUGH THE DEBTOR BELIEVES THAT THE INFORMATION CONTAINED IN ALL FINANCIAL RECORDS IS REASONABLY AND MATERIALLY ACCURATE, THE DEBTOR DOES NOT WARRANT ITS ACCURACY.

*In re Metrocraft Pub. Servs., Inc. (No. 4).*

## **II. HISTORY AND INFORMATION OF THE DEBTOR**

### **A. Debtor's Historical Overview**

In 2011, Debtor's representative cashed in her 401K provided by her prior employer (\$22,000) and she purchased 1 ambulance, all the medical equipment needed to function, insurance, and state licenses. Mr. Cordero, who manages the office was a certified EMT at the time and remains a certified EMT.

The company did not begin operating until January 2013 because they had to wait for Medicare to provide them medicare numbers.

In October 2013, when the Debtor entered into a contract for services with Mission Regional Medical Center, they purchased 5 used ambulances for cash (about \$10,000 each). Debtor still has these 6 ambulances (1998(2), 2000, 2003, 2006, and 2007).

#### Sources of Income

The Debtor receives monthly payments of \$250,000 per month for EMS transport services. This is substantially higher than in any prior years of operation. See table

below.

Debtor's largest asset is its accounts receivable which is currently in the amount of \$1,755,087.29

Of the total Accounts Receivable, Medicare's debt share is \$1,281,171.50 or 73% and the private entities' debt share is \$473,915.79 or 27%.

#### The Debtor's Management

Since the inception of the Debtor's business until the present, Ms. Maria I. Rodriguez has managed the daily business operations, with some assistance from Francisco Cordero.

#### **B. Description of the Debtor's Business as of the Petition Date**

As of the petition date, the Debtor operates an ambulance transportation company servicing the McAllen, Mission and Edinburg metropolitan area.

#### Real Property Assets

The Debtor owned the following non-exempt property assets as of the petition date:

Property	Estimated Debt	Net Equity
Deposits at financial institutions (est.)	0.00	14,062.40
Accounts Receivable		1,755,087.29
Office Equipment:		6,475.00
1 Television \$300 1 Sofa set \$150 20 Chairs \$1000 1 Vacuum \$50 1 Safe \$100 1 Phone System \$800 1 Word Processor \$80 1 Time Clock \$75 1 DVD Player \$25 2 Coffee Tables \$50 1 End Table \$25 5 Desktop Computer systems \$500 5 Laptop Computer Systems \$500 2 Monitors \$200 2 Printers \$200 8 Filing Cabinets \$600 Gen. Office Inventory \$300 1 Dinner Table \$50 1 Microwave \$50		

1 Refrigerator \$75 10 Desks (1000) 4 Beds \$400				
Automobiles:				29,500
1FDWE35F6YHB32294 (\$6,500) 1FDSS34F5WHB68760 (\$5,000) 1FTNE24L11HB66389 (\$3,500) 1FDWE35F12HA85506 (\$7,500) 1FDWE35F61HB76866 (\$7,000)				
Automobiles				15,000
1994 Ford E-350 1995 Ford E-350 1999 Ford E-350 with all equipment in them (stretchers, AED's and miscellaeneous equipment)				
Other Machinery				56,900
1 Eagle Ventilator 6500 4 Lifepak 12 11,500 4 AED's 2,500 5 Stretchers 5,000 9 Radios 900 5 BLS Equipment in trucks 12,500 5 AIS equipment in trucks 10,000 Supply room inventory 8,000				
Total Non-exempt Property	\$0.00	\$0.00		\$ 1,862,024.69
<b>Note: The Debtor lost the 1994, 1995, and 1999 Ford E-350 trucks when the seller repossessed them (post-petition). The Debtor may pursue a claim against the seller if doing so is cost beneficial to the Debtor.</b>				

*In re Metrocraft Pub. Servs., Inc. (No. 2).*

The Debtor has not found any preferential or voidable transfers that should be pursued under the plan.

*In re Metrocraft Pub. Servs., Inc. (No. 16).*

### C. Debtor's Capital Structure as of the Petition Date

#### Prepetition Financing Structure

##### 1. Capital Funding

In 2011, Debtor's representative cashed in her 401K provided by her prior



employer (\$22,000) and she purchased 1 ambulance, all the medical equipment needed to function, insurance, and state licenses. Mr. Cordero, who manages the office was a certified EMT at the time and remains a certified EMT.

The company did not begin operating until January 2013 because they had to wait for Medicare to provide them medicare numbers.

In October 2013, when the Debtor entered into a contract for services with Mission Regional Medical Center, they purchased 5 used ambulances for cash (about \$10,000 each). Debtor still has these 6 ambulances (1998(2), 2000, 2003, 2006, and 2007).

## 2. Financing of Properties

In November 2013, after acquiring a contract with McAllen Heart Hospital, the Debtor entered into an agreement with a third-party to purchase 3 other ambulances for \$30,000. However, the third-party had a financing contract with a bank, which accelerated the third-party's note upon discovering that Debtor had filed for Chapter 11 bankruptcy protection. The third party paid off the accelerated note and repossessed the Debtor's vehicles.

## 3. Lease Operations

Debtor leases office space for \$2,000 in Mission, Texas and garage space for \$500.00 at 4226 West Ferguson St., Edinburg, Texas.

## 4. Sales Operations

The Debtor receives monthly payments of \$250,000 per month for EMS transport services. This is substantially higher than in any prior years of operation. See table below.

### D. Pre-Filing Financial Performance and Events Leading up to the Debtor's Chapter 11 filing

#### 1. The Company's Pre-Filing Performance

YEAR	GROSS INCOME	EXPENSES	NET INCOME
2013	490,215	488,941	1,274
2014	1,406,080	1,590,628	-184,548
2015	1,361,927	1,497,067	-135,140
2016	2,072,074	2,865,622	-855,417
YTD	2,256,537.89	2,370,500.40	-113,962.51

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Debtor filed a prior Chapter 11 Bankruptcy petition on October 19, 2015 under case number 15-70534. During its pre-15-70534 petition operations, Debtor's billing operations underperformed causing large income losses to Debtor. Consequently, Debtor began to lose its ability to meet its financial obligations, including payment of its trust funds toward the Internal Revenue Service. The Internal Revenue Service, ("IRS"), in an attempt to protect the employees trust funds, began to seize a large part of the Debtor's revenue streams. Not surprisingly, the Debtor began to lose its ability to fund ongoing operations, further lost its ability to fund trust fund payments to the IRS and as a result filed for Chapter 11 bankruptcy protection.

During the pendency of 15-70534, Debtor began to reorganize its operations and instituted carefully calculated employee layoffs as part of its cost cutting measures. At least one employee filed a fraud complaint with Debtor's main source of revenue – CMS, ("Medicare"). As part of its investigation, Medicare withheld funds from Debtor, causing Debtor to not submit part of 2<sup>nd</sup> quarter and a large part of the 3<sup>rd</sup> quarter employee trust funds to the IRS.

Although, the Debtor was cleared following the Medicare investigation, Debtor fell behind in its post-petition payments to the IRS. Once payments resumed, Debtor paid off 4<sup>th</sup> quarter and began paying off 3<sup>rd</sup> quarter post-petition IRS trust fund debt.

This case was dismissed on December 22, 2016 and almost immediately, the IRS began levying on the Debtor's revenue from Medicare. This petition under the above caption was filed in order to protect Debtor's operations and services.

## 2. The Company's Pre-Filing Turnaround and Restructuring Efforts

Debtor pared down his staff from 43 to 29 in an effort to control costs and stopped running 24 hours a day, 365 days a year. Now debtor only operates from 7 A.M. to 7 PM, Monday through Saturday.

3. Events Leading to the Filing of the Bankruptcy Cases  
*In re Metrocraft Pub. Servs., Inc. (No. 1)*

Debtor filed a prior Chapter 11 Bankruptcy petition on October 19, 2015 under case number 15-70534. During its pre-15-70534 petition operations, Debtor's billing operations underperformed causing large income losses to Debtor. Consequently, Debtor began to lose its ability to meet its financial obligations, including payment of its trust funds toward the Internal Revenue Service. The Internal Revenue Service, ("IRS"), in an attempt to protect the employees trust funds, began to seize a large part of the Debtor's revenue streams. Not surprisingly, the Debtor began to lose its ability to fund ongoing operations, further lost its ability to fund trust fund payments to the IRS and as a result filed for Chapter 11 bankruptcy protection.

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Although, the Debtor was cleared following the Medicare investigation, Debtor fell behind in its post-petition payments to the IRS. Once payments resumed, Debtor paid off 4<sup>th</sup> quarter and began paying off 3<sup>rd</sup> quarter post-petition IRS trust fund debt.

This case was dismissed on December 22, 2016 and almost immediately, the IRS began levying on the Debtor's revenue from Medicare. This petition under the above caption was filed in order to protect Debtor's operations and services.

E. **Description of the Debtor's Business Presently**

Debtor has been preparing Monthly Operating Reports during the bankruptcy case. Exhibit 8. The following is a summary table of the Debtor's general operating performance.

MONTH	GROSS BILLING	GROSS INCOME	EXPENSES	NET INCOME
JAN 2017		214,102.61	214,976.75	-874.14
FEB 2017		281,456.18	237,283.75	44,172.43
MAR 2017		336,770.55	305,013	31,757.55
APR 2017		284,111.67	288,279.05	-4,167.38
MAY 2017		277,334.75	323,982.22	-46,647.47
JUN 2017		256,476.53	276,173.48	-19,696.95
JUL 2017		240,206.29	236,578.26	3,628.03
AUG 2017		157,759.95	181,525.88	-23,765.93
SEP 2017		208,319.36	201,954.57	6,364.79
Total		2,256,537.89	2,265,766.96	-9,229.07

Average		\$250,726.43	\$251,751.88	<b>-\$1,025.45</b>
Total including Deficient payments to IRS		2,256,537.89	2,370,500.40	-113,962.51
Average		\$250,726.43	\$263,388.93	<b>-\$12,662.50</b>

#### MEDICARE PAYMENT DEFICIENCIES

	Monthly Medicare Payment	Cumulative Medicare Debt to Debtor	Post-petition Tax Arrearage to U.S. Treasury (est)
January 2017	146,129.51	87,9615	0
February 2017	168,647.64	91,7374	0
March 2017	181,821.67	1,194,365	0
April 2017	149,313.51	970,593.00	0
May 2017	131,941.94	916,992.00	0
June 2017	113,770.98	876,870.33	13,733.44
July 2017	89,477.89	832,598.00	27,075.65
August 2017	47,144.67	1,281,171.50	27,937.83
September 2017	55,000		

#### Affiliations

Debtor is not an owner, shareholder, or affiliated with any active corporation, partnership of other type of business association.

*In re Metrocraft Pub. Servs., Inc. (No. 19).*

Significant events in Debtor's Business Performance

The Debtor has experienced several occasions when the Centers for Medicare and Medicaid have withheld payments on billings due to investigations. Although, Debtor has been cleared of wrongdoing, payment delays have caused Debtor to make untimely payments to the Department of the Treasury on employee trust funds. Debtor owes approximately \$468,627.24 in trust fund taxes and federal unemployment taxes to the Department of the Treasury.

**III. EVENTS DURING BANKRUPTCY CASES**

A. Commencement of the Bankruptcy Cases

On December 24, 2016, the Debtor commenced a Chapter 11 reorganization case by filing a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court. The Bankruptcy Case was assigned to U.S. Bankruptcy Judge Eduardo V. Rodriguez. The case has been converted to Chapter 11.

B. Initial Relief Sought

After the filing of the bankruptcy case, the Debtor filed a motion seeking permission to use cash collateral and to inter alia, make \$5,000 monthly payments to the Internal Revenue Service from company revenue.

C. Debtor in Possession Financing Facility

The Debtor has not required, sought, or received any debtor-in-possession financing.

D. Post-Petition Funding

Since the Petition Date, Debtor has earned income from its ongoing ambulance transportation business to support his proposed budget.

E. Other events during the Bankruptcy Process.

1. On December 24, 2016 filed its Chapter 11 petition for relief. Dkt. No. 1.
2. On December 27, 2016 the Court set a hearing on Debtors Status Conference. Dkt 2.
3. On January 9, 2017 Debtor filed its schedules, SOFA, and other required filings. Dkt. No. 8.
4. On January 11, 2017, Debtor filed its Status Conference Report and Motion to use cash collateral. Dkts. No. 10 and 9.
5. On January 31, 2017, the Debtor attended her Creditors meeting.

6. On January 18, 2017 the Court entered its Status Conference Order. Dkt. No. 14.
7. On January 19, 2017, the Court entered its Interim Order (I) Authorizing Debtor to Utilize Cash Collateral Pursuant to 11 U.S.C. §363, (II) Granting Adequate Protection to Pre-Petition Secured Parties Pursuant to 11 U.S.C. §§361, 362, 363 and (III) Scheduling Final Hearing Pursuant to Bankruptcy Rule 4001(b) Nunc Pro Tunc 12/24/2016 Setting Hearing. Dkt. No. 15
8. On January 14, 2017 the Debtor filed its Motion *for Order Authorizing Payment of Prepetition Taxes*. Dkt No.'s 19.
9. On February 22, 2017, the Court approved Motion to Use Cash Collateral (Final), Dkt. No. 24, and Debtors Motion for Order Authorizing Payment of Prepetition Taxes, Dkt. No. 20.
10. On September 11, 2017, the Internal Revenue Service filed its Motion to Dismiss Case for Other Cause (*Failure to Make Post-Petition Federal Employer Tax Payments and Deposits*). Dkt. No. 31.

#### **IV. RISK FACTORS**

*In re Metrocraft Pub. Servs., Inc.* (No. 15).

Prior to voting on the Plan, holders of Claims in Classes 3, as well as entities in non-voting Classes, should consider carefully the risk factors described below, as well as all of the information contained in this Disclosure Statement, including the Exhibits hereto. These risk factors should not, however, be regarded as constituting the only risks involved in connection with the Plan and its implementation. *See* Section XII for a discussion of tax law considerations.

##### **A. Plan Confirmation**

There is no guarantee that that the Plan will be confirmed. If the Plan, or a substantially similar plan, is not confirmed, the terms and timing of any plan of reorganization ultimately confirmed in the Bankruptcy Cases and the treatment of Claims and Interest will be unknown. In addition, if the Plan is not confirmed, a significant risk exists that the Bankruptcy Case may be converted to a case under chapter 7. In such event, the Debtor believes that creditor recoveries would be substantially diminished. *See* Exhibit IV.

##### **B. The Effective Date May Not Occur**

The Plan provides that there are conditions precedent to the occurrence of the Effective Date. There is no guarantee as to the timing of the Effective Date. Additionally, if the conditions precedent to the Effective Date are not satisfied or waived, the Bankruptcy Court may vacate the Confirmation Order. In that event, the Plan would be deemed null and void and the Debtor or any other party may propose or solicit votes on an alternative plan of reorganization that may not

be as favorable to parties in interest as the Plan

### **C. Allowance of Claims**

This Disclosure Statement has been prepared based on preliminary information concerning filed Claims and the Debtor's books and records. The actual amount of Allowed Claims may differ from the Debtor's current estimates. The Debtor's estimate of recoveries for holders of Claims in Classes 3, under the Plan are based on their estimates of (a) the Claims in Classes 1 - Allowed Secured Tax Claims, and 2 - Allowed Priority Tax Claims and (b) Allowed Administrative Claims. There can be no assurance, however, that the Debtor's estimates of the likely aggregate allowed amount of such Claims will prove to be accurate. If Administrative Claims, Priority Tax Claims and Secured Tax Claims are allowed in amounts in excess of the Debtor's current expectations, the amount of Cash available for distribution to holders of Allowed Claims in Classes 3, would be less than estimated, and the difference could be material.

### **D. Execution by Debtor as a Factor.**

The ultimate amount of Cash available to satisfy the Allowed amount of Claims in Classes 3, depends, in part, on the manner in which the Debtor operates its business and the expenses the Debtor incurs. The expenses of the Debtor will be given priority over Distributions to holders of Claims in Classes 3. As a result, if the Debtor incurs professional or other expenses in excess of current expectations, the amount of Cash remaining to satisfy Allowed Claim in Classes 3, will decrease.

The ultimate amount of Cash available for distribution to holders of Allowed Claims in Classes 3, also will be affected by the performance and relative success of the Debtor in pursuing preference, fraudulent conveyance, setoff and other claims, if any, against potential parties under the Bankruptcy Code. The less successful the Debtor is in pursuing such matters, the less Cash there will be available for distribution to satisfy Allowed Claims. However, the Debtor has not assumed any recovery on account of such potential Causes of Action in estimating the recoveries to Allowed Claims under the Plan.

### **E. Risk Factors Relating to Securities Laws**

Section 1145(a)(1) of the Bankruptcy Code exempts the offer and sale of securities under a plan from registration under the Securities Act and state securities laws if three principal requirements are satisfied: (a) the securities must be offered and sold under a plan and must be securities of the debtor, an affiliate participating in a joint plan with the debtor or a successor to the debtor under the plan; (b) the recipients of the securities must hold a prepetition or administrative expense claim against the debtor or an interest in the debtor; and (c) the securities must be issued entirely in exchange for the recipient's claim against or interest in the debtor, or principally in such exchange and partly for cash or property. To the extent that the rights to

Distributions are deemed to constitute securities issued in accordance with the Plan, the Debtor believes that such interests satisfy the requirements of section 1145(a)(1) of the Bankruptcy Code and, therefore, such interests are exempt from registration under the Securities Act and applicable state securities laws.

### **1. Non-Transferability**

Holders of Claims in Classes 3 also should be aware that their rights to Distribution are not transferable. Therefore, there will not be any trading market for such rights, nor will those the rights be listed on any public exchange or other market. The lack of liquidity of the rights to Distributions may have a negative impact on their value.

### **2. Uncertainty of Value**

In addition to the prohibition on the transfer of rights to distributions as discussed above, the value of such rights will depend on various significant risks and uncertainties, including, without limitation, (a) the success of the Debtor in securing judgments and settlements on a favorable basis with respect to claims the Debtor is pursuing; (b) the effect of substantial delays in liquidating claims and other contingent assets and liabilities; and (c) the effects of any changes in tax and other government rules and regulations applicable to the Debtor. All of these risks are beyond the control of the Debtor. The amount of any recovery realized by the Debtor and its beneficiaries will vary depending upon the extent to which these risks materialize. In addition, the resolution of the claims held by the Debtor may require a substantial amount of time to be resolved and liquidated. The associated delays could reduce the value of any recovery.

#### **F. Litigation in Non-Bankruptcy Context** *In re Metrocraft Pub. Servs., Inc.* (No. 17)

There are no litigation cases, either as adversary or in a non bankruptcy forum.

## **V. PLAN TREATMENT OF CLAIMS AND INTERESTS**

### *In re Metrocraft Pub. Servs., Inc.* (No. 7 and 11)

THE FOLLOWING IS A SUMMARY OF THE MATTERS CONTEMPLATED TO OCCUR EITHER PURSUANT TO OR IN CONNECTION WITH THE CONSUMMATION OF THE PLAN. THIS SUMMARY HIGHLIGHTS THE SUBSTANTIVE PROVISIONS OF THE PLAN AND IS NOT, NOR IS IT INTENDED TO BE, A COMPLETE DESCRIPTION OR A SUBSTITUTE FOR A FULL AND COMPLETE REVIEW OF THE PLAN. THE FOLLOWING SUMMARY IS COMPLETELY QUALIFIED BY THE TERMS OF THE PLAN. IN THE EVENT OF ANY CONFLICT BETWEEN THE FOLLOWING SUMMARY AND THE PLAN, THE PLAN WILL CONTROL.

The Plan classifies the various Claims against and Interests in the Debtor. These



Classes take into account the different nature and priority of Claims against and Interests in the Debtor. In addition, in accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expenses and certain Priority Claims (other than Priority Tax Claims) are not classified for purposes of voting or receiving distributions under the Plan. Rather, all such Claims are treated separately as unclassified Claims.

A. Unclassified Claims

Unclassified Claims against the Debtor consist of Administrative Expenses and certain fees payable to the United States Trustee. This includes both ordinary post-petition business expenses and Claims attributable to the Debtor's Professionals.

Trade debt will be paid in the ordinary course of business. Fees and expenses owed to the Debtor's Professionals are payable upon the allowance of an appropriate fee application.

An Administrative Expense is any cost or expense of administration of the Chapter 11 Case allowed under subsections 503(b) and 507(a)(1) of the Bankruptcy Code, including, without limitation, any actual and necessary expenses of preserving the estate of the Debtor, any actual and necessary expenses of operating the business of the Debtor, all compensation or reimbursement of expenses to the extent allowed by the Bankruptcy Court under section 330 or 503 of the Bankruptcy Code, and any fees or charges assessed against the estate of the Debtor under section 1930, chapter 123 of title 28 of the United States Code.

1. Payment of Administrative Claims

a. Administrative Claims in General

Except as specified in Section III.A.1. of the Plan, and subject to the Bar Date provisions herein, unless otherwise agreed by the holder of an Administrative Claim and the applicable Debtor, each holder of an Allowed Administrative Claim shall receive, in full satisfaction of its Administrative Claim, cash equal to the allowed amount of such Administrative Claim either (i) as soon as practicable after the Effective Date or (ii) if the Administrative Claim is not allowed as of the Effective Date, 30 days after the date on which an order allowing such Administrative Claim becomes a Final Order or a Stipulation of Amount and Nature of Claim is executed by the Debtor and the holder of the Administrative Claim.

The procedures set forth above for Administrative Expenses shall not apply to Professionals, who shall each file and submit a final fee application to the Bankruptcy Court no later than sixty (60) days after the Effective Date. A Claim for Administrative Expense by a Professional in respect of which a final fee application has been properly filed and served shall become an Allowed Administrative Expense Claim only to the extent allowed by Final Order and, if so Allowed, shall be paid in accordance with the Plan. Professional fees and expenses to any Professional incurred on or after the Effective Date may be paid without necessity of application to or order by the Court.

b. Statutory Fees

On the Effective Date, Administrative Claims for fees payable pursuant to 28 U.S.C. § 1930, as determined at the Confirmation Hearing by the Bankruptcy Court shall be paid by the Debtor in cash equal to the amount of such Administrative Claims. All fees payable pursuant to 28 U.S.C. § 1930 shall be paid by the Debtor in accordance therewith until the closing of the applicable Bankruptcy Case pursuant to section 350(a) of the Bankruptcy Code.

c. Bar Dates for Administrative Claims

**i. General Administrative Bar Date Provisions**

Except as otherwise provided in Section III.A.1.c.ii. of the Plan or in the Bar Date Order or other order of the Bankruptcy Court, unless previously Filed or Allowed, each holder of an Administrative Claim that arose (or, only in the case of unexpired leases or real and personal property, accrued) on or after September 27, 2016 through the Effective Date must File a request for payment of such Administrative Claim pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order, no later than 60 days after the Effective Date (the "Final Administrative Bar Date"). Holders of Administrative Claims that are required to File and serve a request for payment of such Administrative Claims and that do not File and serve such a request by the applicable Bar Date shall be forever barred from asserting such Administrative Claims against the Debtor, the Estates or their respective property, and such Administrative Claims shall be deemed waived and released as of the Effective Date. Objections to such requests must be Filed and served on the requesting party by 120 days after the Effective Date, subject to further order of the Bankruptcy Court. For the avoidance of doubt, nothing herein modifies any requirement to File any Administrative Claim as set forth in the Bar Date Order, and any holder of such Administrative Claim that failed to comply with the requirements of the Bar Date Order shall be forever barred from asserting such Administrative Claims against the Debtor, the Estates or their respective property, and such Administrative Claims shall be deemed waived and released.

**ii. Bar Dates for Professional Fee Claims**

Professionals or other Entities asserting a Fee Claim for services rendered before the Effective Date must file and submit a final fee application to the Bankruptcy Court and serve on the Debtor and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order, the Fee Order or other order of the Bankruptcy Court a Final Fee Application no later than 90 days after the Effective Date. A Professional may include any outstanding, non-Filed monthly or interim request for payment of a Fee Claim pursuant to the Fee Order in its Final Fee Application. Objections to any Final Fee Application must be Filed and served on the Debtor and the requesting party by the later of (1) 80 days after the Effective Date or (2) 30 days after the Filing of the applicable Final Fee Application. To the extent necessary, the Confirmation Order shall amend and supersede any previously entered order of the Bankruptcy Court, including the Fee Order, regarding the payment of Fee Claims. Any pending, Filed interim requests for a Fee Claim pursuant to the Fee Order shall be resolved in the ordinary course in accordance with the Fee Order or, if sooner, in connection with the particular Professional's Final Fee Application.

2. Payment of Priority Tax Claims
  - a. Priority Tax Claims in General

Pursuant to section 1129(a)(9)(C) of the Bankruptcy Code, on the Effective Date or as soon as practicable after the date when such Claim becomes an Allowed Claim, unless otherwise agreed by the holder of an Allowed Claim in Class 2 and the Debtor, each holder of an Allowed Claim in Class 2 shall be satisfied as described in section B. below, in full satisfaction of its Priority Tax Claim.

- b. Other Provisions Concerning Treatment of Priority Tax Claims

Notwithstanding the provisions of Section III.A.2.a. of the Plan, any Claim on account of any penalty arising with respect to or in connection with an Allowed Priority Tax Claim that does not compensate the holder for actual pecuniary loss shall be treated as a Class 3 Claim, and the holder may not assess or attempt to collect such penalty from the Debtor, the Estates or their respective property.

## B. Classified Claims

Class 1 – Secured Tax Claims. Except as expressly stated below, Allowed Secured Tax Claims shall be treated as follows:

- Each holder of an Allowed Secured Tax Claim shall retain all Liens securing the payment of such Allowed Secured Tax Claim until such Allowed Secured Tax Claim is paid in full.
- The holder of each Allowed Secured Tax Claim shall receive in full satisfaction of an Allowed Secured Tax Claim, on the later of the Effective Date and the date on which the Secured Claim is allowed, at the sole and exclusive option of the Debtor: (a) Cash equal to the amount of such Claim; or (b) in substantially equal monthly Cash payments, beginning on the first day of the first month after the Initial Distribution Date and continuing monthly thereafter until full payment is made which shall be amortized over a period not to exceed five (5) years from the filing of the case; or (c) satisfaction of such Claim pursuant to such other terms and conditions as may be agreed upon by the Debtor and the holder of such Claim. Any Allowed Deficiency Claim of a holder of a Secured Tax Claim shall be entitled to treatment as an Allowed Class 3 Claim.

IRS Secured Tax Claim Treatment: Pursuant to an agreement reach by the Debtor and the Internal Revenue Service, the Secured Claim of \$427,275.09 which includes, tax, interest and penalty. The claim will be reduced to \$340,811.59 tax and interest only. The debtor will pay the claim in monthly installment payments of \$7,700.00 with 4% APR. The monthly payments will begin thirty days from the confirmation date. Nevertheless, should the debtor be unsuccessful in repaying the IRS Secured Claim in full, pursuant to this Agreement, the penalty will be added back to the IRS's secured claim and the Internal Revenue Service may accelerate its allowed claim(s), past and future, and declare the outstanding amount of such claim(s) to be immediately due and owing and pursue any and all available state and federal rights and remedies.

- Interest on each (non-IRS) Allowed Secured Tax Claim shall accrue as follows:
  - for the period beginning on the date any portion of the tax underlying the Allowed Secured Tax Claim became or becomes delinquent under State Law, and to the extent of such delinquency, and continuing through the Effective Date, interest shall accrue at the state statutory rate of one percent (1%) per month in accordance with sections 506(b) and 511 of the Bankruptcy Code; and
  - for the period beginning on the day after the Effective Date and continuing through the day on which such Allowed Secured Tax Claim is paid in full, interest shall accrue on the unpaid tax at the state statutory rate of twelve percent (12%) per annum in accordance with sections 511 and 1129 of the Bankruptcy Code.
- Interest on each IRS Allowed Secured Tax Claim shall accrue as follows:
  - for the period beginning on the day of the filing of the bankruptcy petition and continuing through the day on which such Allowed Secured Tax Claim is paid in full, interest shall accrue on the unpaid tax at the of four percent (4%) per

annum in accordance with IRC 6621.

Class 2 – Priority Tax Claims. Except as expressly stated below, each holder of an Allowed Priority Tax Claim shall be paid, on account of such Allowed Priority Tax Claim, the amount of such holder's Allowed Claim in full satisfaction of such Priority Tax Claim. Each holder of an Allowed Priority Tax Claim shall receive, at the sole and exclusive option of the Debtor:

- (a) On the Effective Date, cash in an amount equal to such Allowed Priority Tax Claim; (b) in substantially equal monthly Cash payments, beginning on the first day of the first month after the Effective Date and continuing monthly thereafter until full payment is made which shall be amortized over a period not to exceed five (5) years from the filing of the case; or (c) satisfaction of such Claim pursuant to such other terms and conditions as may be agreed upon by the Debtor and the holder of such Claim.

With respect to the Reorganized Debtor electing to pay the Allowed Priority Tax Claim via monthly payments, the priority tax claims shall be fully paid on or prior to the 60<sup>th</sup> month following the Petition Date in monthly installment payments at 4% APR effective on the first day of the first month after the Initial Distribution.

IRS Priority Claim Treatment: Pursuant to an agreement reached by the debtor and the Internal Revenue Service, the priority claim will be paid in monthly installment payments of \$929.06 with 4% APR. The monthly payments will begin thirty days from the confirmation date. Nevertheless, should the debtor be unsuccessful in repaying the IRS priority claim in full, pursuant to this agreement the Internal Revenue Service may accelerate its allowed claim(s), past and future, and declare the outstanding amount of such claims(s) to be immediately due and owing and pursue any and all available state and federal rights and remedies.

If the debtor has an unfiled Form 1120 for tax year 2016, the return must be filed prior to the confirmation of the plan. The priority claim will be adjusted once the return is filed.

**ADDITIONAL TERMS:** Tax Units shall retain all liens, if any, including those for post-petition taxes, until all allowed taxes, penalties, and interest secured by those liens have been paid. Should the taxes not be paid, the Tax Units shall be free to pursue all remedies at state law, in order to enforce any tax liens filed properly and collect payment of the delinquent taxes. Provided, however, that the tax liens shall attach to any sale proceeds for any properties that will be sold pursuant to this Plan.

Class 3 – General Unsecured Claims. Except as specifically provided for below, each holder of an Allowed Claim in Class 3 shall receive 100% distribution via monthly payments during the life of the Debtor Plan.

Estimated Recovery: [100] % of Allowed Claim

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

### **1. Assumption of Allowed Claims**

As of the Effective Date, Reorganized Debtor assumes the liability for and obligation to perform and make all Distributions or payments on account of all Allowed Claims in the manner provided in the Plan.

### **2. Vesting of Assets**

As of the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all Assets shall be transferred to, and vested in, the Reorganized Debtor, free and clear of all rights, title, interests, claims, liens, encumbrances and charges, except as expressly set forth in the Plan. Without limiting the generality of the foregoing, all Assets shall vest in the Reorganized Debtor free and clear of any Lien except as expressly provided in the Plan. On and after the Effective Date, the Reorganized Debtor may operate its business and may use, acquire or dispose of property and compromise or settle any claim without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than those restrictions expressly imposed by the Plan or the Confirmation Order. Without limiting the foregoing, the Reorganized Debtor may pay the charges that it incurs on or after the Effective Date for all fees, disbursements, expenses or related support services of Professionals (including fees relating to the preparation of professional fee applications) without application to, or approval of, the Bankruptcy Court.

### **3. Management of the Reorganized Debtor**

*In re Metrocraft Pub. Servs., Inc. (No. 10).*

From and after the Effective Date, without the need for any order of the Court, the Reorganized Debtor's business shall continue to be managed by Maria I. Rodriguez who shall remain responsible to execute the terms of the Confirmed Plan.

Any changes in the Reorganized Debtor's management shall be governed by applicable governing documents and laws.

### **4. Actions by Debtor and Reorganized Debtor to Implement Plan**

The entry of the Confirmation Order shall constitute authorization for the Debtor and the Reorganized Debtor (as the case may be) to take or cause to be taken all actions necessary or appropriate to implement all provisions of, and to consummate, the Plan 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, any action required by the holders of Interests in the Debtor and the Reorganized Debtor (as the case may be), including, among other things, (i) the adoption or amendment of any organizational documents; (ii) all transfers of Assets that are to occur pursuant to the Plan;

(iii) the incurrence of all obligations contemplated by the Plan and the making of all Distributions required under the Plan; (iv) the reinstatement and assumption of any indemnity obligations to the officers, members, managers and/or employees of the Debtor; (v) taking of all actions to preserve and provide for the prosecution of retained causes of action, including but not limited to the Estate Claims; and (vi) entering into any and all transactions, contracts, or arrangements permitted by applicable law, order, rule or regulation.

The management of the Debtor and the Reorganized Debtor (as the case may be) are authorized and directed to do all things and to execute and deliver all agreements, documents, instruments, notices and certificates as are contemplated by the Plan and to take all necessary action required in connection therewith, in the name of and on behalf of the Debtor and the Reorganized Debtor. Any obligations of the Debtor to indemnify and hold harmless its current and former officers, members, managers and/or employees, whether arising under the Debtor's constituent documents, contract, law or equity, shall be fully reinstated and assumed by the Debtor upon the occurrence of the Effective Date with the same effect as though such obligations constituted executory contracts that are assumed under section 365 of the Bankruptcy Code, and all such obligations shall be fully enforceable on their terms from and after the Effective Date.

#### Authority of Debtor

##### **A. Functions**

1. On the Effective Date, the Debtor will determine its procedures (Administrative Procedures) for the purpose of liquidating the Causes of Action, resolving all Disputed Claims, pursuing any and all Claims of the Debtor or its Creditors against any party, if any, and making distributions to holders of Allowed Claims in accordance with the terms of the Plan and otherwise implementing the Plan.
2. On the Effective Date, the Estate Representative shall be authorized to execute the Administrative Procedures and take all necessary steps.
3. Subject to, and to the extent set forth in, the Plan, the Confirmation Order or other agreement (or any other order of the Bankruptcy Court entered pursuant to, or in furtherance of, the Plan), the Debtor will be empowered to take the following actions, and any other actions, as the Debtor determines to be necessary or appropriate to implement the Plan, all without further order of the Bankruptcy Court:
  - i. adopt, execute, deliver or file all plans, agreements, certificates and other documents and instruments necessary or appropriate to implement the Plan;
  - ii. accept, preserve, receive, collect, manage, invest, supervise, prosecute, settle and protect the Causes of Action and the assets and



properties of the Debtor;

iii. sell, liquidate or otherwise dispose of the Causes of Action and other Debtor Assets and the assets and properties of the Debtor;

iv. calculate and make distributions to holders of Allowed Claims;

v. exercise rights and fulfill obligations under the Plan;

vi. implement the Sale Orders, if any;

vii. review, reconcile, settle or object to Claims and resolve such objections;

viii. retain Third Party Disbursing Agents and professionals and other Entities;

ix. file appropriate Tax returns and other reports on behalf of the Debtor and pay Taxes or other obligations owed by the Debtor;

x. close or dismiss any or all of the Bankruptcy Cases; and

xi. the investment of Cash within certain limitations;

4. The Debtor will conduct its activities consistent with the Plan.

5. Maria I. Rodriguez will be the "representative" of the Estates under section 1123(b)(3)(B) of the Bankruptcy Code, and, as such, the Debtor maintains all of the rights, powers and obligations of a trustee in bankruptcy with respect to collecting, maintaining, administering and liquidating any assets.

## **5. Continued Existence of the Debtor**

The Debtor shall continue to exist, as Reorganized Debtor, after the Effective Date as a separate entity, with all the powers available to such legal entities, in accordance with applicable law and pursuant to its constituent documents. On or after the Effective Date, the Reorganized Debtor may, within its sole and exclusive discretion, take such action as permitted by applicable law and its constituent documents as it determines is reasonable and appropriate.

## **6. Source of Funding for Operations and Plan Obligations**

*In re Metrocraft Pub. Servs., Inc. (No. 14).*

The operation of the Reorganized Debtor's business and the Distributions to be made by the Reorganized Debtor under the Plan shall be funded from the operation of the patient transportation services.



A. Continued Operation on Debtor's Business.

At the current time, the Debtor anticipates generating average monthly revenue of approximately \$225,000.00.

1. Average Medicare Revenue
  - a. \$60,000
2. Average Non-Medicare Income - New Basic Life Support (BLS) Business with Non-Governmental Clients.
  - a. \$165,000

Please refer to Exhibit 9 for proposed income and expenses.

3. Average expenses in Debtor's reorganized business, after taking into account staff reduction and new business contracts, are estimated to be \$ 194,447.

Note: In September 2017, the Debtor obtained new work with non-government clients, who pay in a more timely manner, permitting Debtor to make its timely obligations on behalf of its employees to the Department of the Treasury. This line of client(s) is new, but the work is the same as that the debtor performs for its government clients. Sales to new non-government entities in September 2017 was \$60,000 for which Debtor anticipates revenue to be received in October 2017.

Note 2: Prior to obtaining new contracts with private entities, the Debtor was accumulating large expenditures on government contracts with Medicare, yet was not being paid for its services, causing Debtor to miss making required payments to the USA and Texas government entities, which are creditors. Debtor is now shifting work to private entities whose contracts require them to pay within 30 days.

Note 3: Debtor's largest creditor is the United States Treasury/Internal Revenue Service, which has agreed to waive over \$80,000 in penalties.

Note 4: As a result of acquiring new business, focusing on private entity business, moving away from Medicare business, and reducing staff, the Debtor estimates that its monthly net income shall average \$30,000.00 during the 48 month plan.

Financial Obligations and Projections.

Exhibit 9 reflects the cash flow over a 5 year period for Debtor's operations.

## 7. Retention and Assertion of Causes of Action and Defenses

Except as expressly set forth in this Plan, all causes of action, claims, counterclaims, defenses and rights of offset or recoupment (including but not limited to all Estate Claims, Estate Defenses and Avoidance Actions) belonging to the Debtor shall, upon the occurrence of the Effective Date, be retained by, received by and vested in the respective Reorganized Debtor for the benefit of the Debtor and the Debtor's estate. Except as expressly set forth in this Plan, the rights of the Reorganized Debtor to commence, prosecute or settle such causes of action shall be preserved notwithstanding the occurrence of the Effective Date. **No Person may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any cause of action against them as any indication that the Debtor or the Reorganized Debtor will not pursue any and all available causes of action (including all Estate Claims, Estate Defenses and Avoidance Actions) against them. The Debtor and its estate expressly reserve all rights to prosecute any and all causes of action (including all Estate Claims, Estate Defenses and Avoidance Actions) against any Person, except as otherwise provided in this Plan.** Unless any causes of action against a Person are expressly waived, relinquished, exculpated, released, compromised or settled in this Plan or a Final Order, the Debtor expressly reserve all causes of action (including all Estate Claims, Estate Defenses and Avoidance Actions) 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. The Debtor and the Reorganized Debtor may also assert Estate Defenses as a defense to the allowance of any Claim not otherwise Allowed.

On the Effective Date, all Causes of Action will be retained by the Debtor. A nonexclusive schedule of currently pending actions and claims brought by Debtor is attached as Exhibit V. In accordance with and subject to any applicable law, the Debtor's inclusion or failure to include any Cause of Action on Exhibit V shall not be deemed an admission, denial or waiver of any Cause of Action that any Debtor or Estate may hold against any Entity.

On the Effective Date, all rights to pursue and litigate potential Avoidable Transfers will be retained by the Debtor. All potential Avoidable Transfers shall be considered included in the Causes of Action transferred. See Exhibit V.

## 8. Post-Confirmation Reporting

After the Effective Date, the Debtor will file unaudited reports of its activities and the financial affairs of the Debtor with the Bankruptcy Court on a quarterly basis, within 30 days after the conclusion of each such quarterly period until the earlier of the entry of a final decree closing the Bankruptcy Case or a Bankruptcy Court order converting or dismissing the Bankruptcy Case. Such filed unaudited quarterly reports will contain information regarding the liquidation of the Causes of Action and the assets and properties of the Debtor, the distributions made and other matters required to be included in such reports in accordance with the Plan and any applicable Bankruptcy Court and United States Trustee guidelines for such matters.

**9. Expenses of the Debtor.**

The Debtor may, without further order of the Bankruptcy Court, retain Third Party Disbursing Agents, professionals or other Entities to assist in carrying out its duties hereunder and may compensate and reimburse the expenses of these professionals or other Entities without further order of the Bankruptcy Court from the assets and properties of the Debtor in accordance with the Plan.

**10. Tax Treatment.**

The federal income tax effects on holders of claims will vary depending on how the holder has treated its claim for tax purposes. For example, if the holder has a basis in its debt claim and is paid an amount less than its basis, the holder may be entitled to a federal income tax deduction for its loss. This will depend on the holder's own tax characteristics and cannot be assured. Conversely, if the holder has no basis in its debt claim, the holder may recognize income for federal income tax purposes based on payments under the plan.

Because each holder's federal income tax situation may vary, you are urged to consult your own tax advisors to determine the federal income tax effect of the plan on you.

The debtor may also have a federal income tax effect from the plan. To the extent that indebtedness is discharged, the debtor may have a basis adjustment in his assets. Moreover, any sale of assets may produce taxable income. The forecasts set forth above incorporate the debtor's best estimate of the federal income tax effect of the plan.

**11. Revesting of Assets of the Estate.**

On the Effective Date, the assets of the estate shall revest in the Reorganized Debtor, with all prepetition liens remaining attached for supporting debts, under and subject to the terms of the Plan.

**12. Term of Injunctions or Stays**

Unless otherwise provided, all injunctions or stays provided for in the Bankruptcy Cases pursuant to 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 Bankruptcy Cases are closed.

**13. Preservation of Causes of Action; Settlement of Claims and Releases**

**A. Preservation of All Causes of Action Not Expressly Settled or Released**

Unless a Cause of Action against any Entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order (including the Confirmation Order), the Debtor expressly reserve such Causes of Action, which Causes

of Action include the Avoidance Actions, for possible adjudication, and therefore, no preclusion doctrine, including the doctrines of *res judicata*, collateral estoppels, issue preclusion, claim preclusion, waiver, estoppels (judicial, equitable or otherwise) or laches shall apply to such Causes of Action upon or after the entry of the Confirmation Order or Effective Date based on the Plan or the Confirmation Order, except where such Causes of Action have been released in the Plan or any Final Order (including the Confirmation Order).

In addition, the Debtor reserves the right to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a defendant or an interested party, against any Entity, including the plaintiffs or co-defendants in such lawsuits. For the avoidance of doubt, Causes of Action include all avoidable transfers.

The decision of whether or not to pursue any claim or litigation at all or to compromise Claims once they have been asserted shall be made by the Estate Representative in accordance with the provisions of the Plan.

#### Avoidance Actions

The Debtor is empowered to pursue the estate's avoidance or fraudulent transfer claims. The Debtor is entitled to retain professionals as necessary for this purpose. Expenses and fees for pursuing such claims by the Debtor will be paid by the Debtor, subject to all rules and restrictions therein, upon submission of bills from professionals in the same manner as payments to Trust professionals.

The Debtor has until twelve months after the Effective Date, to file any such avoidance or fraudulent transfer claims or they are forever barred. This provision does not extend any of the applicable statutes of limitations for such claim s, i.e., if the Debtor does not timely pursue any claim prior to the running of a limitations statute the deadline is not extended.

### **B. Comprehensive Settlement of Claims and Controversies**

Pursuant to Bankruptcy Rule 9019 and in consideration for the Distributions and other benefits provided under the Plan, the provisions of the Plan will constitute a good faith compromise and settlement of all claims or controversies relating to the rights that a holder of a Claim or Interest may have with respect to any Allowed Claim or Allowed Interest or any distribution to be made pursuant to the Plan on account of any Allowed Claim or Allowed Interest. The entry of the Confirmation Order will constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise or settlement of all such claims or controversies and the Bankruptcy Court's finding that such compromise or settlement is in the best interests of the Debtor, its Estates and Claim and Interest holders and is fair, equitable and reasonable.

### **14. Limitations on Liability**

The Debtor and her respective agents and professionals, in each case acting in such capacity, will neither have nor incur any liability to any Entity for any act taken or omitted to be taken on or after the commencement of the Bankruptcy Cases, including the formulation, preparation, dissemination, implementation, confirmation or consummation of the Plan or any contract, instrument, release or other agreement or document created or entered into, or any other act taken or omitted to be taken, in connection with the Bankruptcy Cases or any of the foregoing; provided, however, that the foregoing provisions will have no effect on: (a) the liability of any Entity that would otherwise result from the failure to perform or pay any obligation or liability under the Plan or any contract, instrument, release or other agreement or document to be entered into or delivered in connection with the Plan; or (b) the liability of any Entity that would otherwise result from any such act or omission to the extent that such act or omission is determined in a Final Order to have constituted gross negligence or willful misconduct.

#### **15. Release of Liens**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, on the Effective Date and concurrently with the applicable Distributions made pursuant to Article VI of the Plan, all Liens against the property of any Estate will be fully released and discharged, and all of the right, title and interest of any holder of such Liens, including any rights to any collateral thereunder, shall revert to the applicable Estate.

#### **16. Effectuating Documents; Further Transactions; Exemption From Certain Transfer Taxes**

The Debtor or its designee will be authorized to (a) execute, deliver, file or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of the Plan and (b) certify or attest to any of the foregoing actions. Pursuant to section 1146(a) of the Bankruptcy Code, the following will not be subject to any stamp tax, real estate transfer tax, sales and use tax or similar tax: (a) the execution and implementation of the Plan, including any transfer of assets or properties to or by the Debtor; or (b) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including any plan or agreement adopted or executed in connection with any transaction pursuant to the Plan.

#### **17. Determination of Reserve Amount**

The Debtor requests that the Bankruptcy Court determine the Reserve Amount at the Confirmation Hearing, if necessary.

#### **18. Cramdown**

The Debtor requests Confirmation under section 1129(b) of the Bankruptcy Code with respect to any impaired Class that does not accept the Plan pursuant to section 1126 of the

Bankruptcy Code. The Debtor reserves the right to modify the Plan to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

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

### **A. Executory Contracts and Unexpired Leases to Be Rejected**

On the Effective Date, except for (a) the Executory Contracts and Unexpired Leases listed on Exhibit VI or (b) to the extent that a Debtor either previously has assumed and assigned or rejected an Executory Contract or Unexpired Lease by an order of the Bankruptcy Court or has filed a motion to assume or assume and assign an Executory Contract or Unexpired Lease prior to the Effective Date, each Executory Contract and Unexpired Lease entered into by a Debtor prior to the Petition Date that has not previously expired or terminated pursuant to its own terms will be rejected pursuant to section 365 of the Bankruptcy Code. Each contract and lease will be rejected only to the extent that any such contract or lease constitutes an Executory Contract or Unexpired Lease. Notwithstanding the foregoing, nothing in Section V of the Plan shall cause the rejection (if such contract is an Executory Contract or Unexpired Lease for purposes of section 365), breach or termination of any contract of insurance benefiting the Debtor, the Estate. The Confirmation Order will constitute an order of the Bankruptcy Court approving such rejections, pursuant to section 365 of the Bankruptcy Code, as of the Effective Date.

### **B. Bar Date for Rejection Claims**

Notwithstanding anything in the Bar Date Order to the contrary, if the rejection of an Executory Contract or Unexpired Lease pursuant to the Plan gives rise to a Claim by the other party or parties to such contract or lease, such rejection claim will be forever barred and will not be enforceable against the Debtor, the Reorganized Debtor or the estate of the Debtor unless a proof of Claim is Filed and served on the Debtor, pursuant to the procedures specified in the Confirmation Order and the notice of the entry of the Confirmation Order or another order of the Bankruptcy Court, by (a) for Executory Contracts and Unexpired Leases rejected on the Effective Date, 30 days after the Effective Date pursuant to Section V.C of the Plan.

### **C. Executory Contracts to Be Assumed and Assigned or Rejected**

#### **1. Assumption Generally**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into in connection with the Plan, on the Effective Date, pursuant to section 365 of the Bankruptcy Code, the applicable Liquidating Debtor shall assume each of the respective Executory Contracts and Unexpired Leases listed on Exhibit VI; provided, however, that the Debtor reserves the right, at any time prior to the Effective Date, to amend Exhibit VI to: (a) delete any Executory Contract or Unexpired Lease listed therein, thus providing for its rejection pursuant hereto on the Effective Date; or (b) add any Executory Contract or Unexpired Lease to Exhibit VI, thus

providing for its assumption pursuant to Section V.C.1. of the Plan on the Effective Date. The Debtor shall provide notice of any amendments to Exhibit VI to the parties to the Executory Contracts or Unexpired Leases affected thereby and to the parties on the then-applicable service list in the Bankruptcy Cases. Nothing herein shall constitute an admission by a Debtor that any contract or lease is an Executory Contract or Unexpired Lease or that a Debtor has any liability thereunder.

## 2. Assumption and Assignment of Executory Contracts and Unexpired Leases

Each Executory Contract and Unexpired Lease assumed under Sections V.C.1 of the Plan shall include any modifications, amendments, supplements or restatements to such contract or lease.

## 3. Approval of Procedures

The Confirmation Order shall constitute an order of the Bankruptcy Court approving the assumptions or assumption and assignments or rejections described in Sections V.C.1 of the Plan, pursuant to section 365 of the Bankruptcy Code. The procedures for such assumption or assumption and assignment of an Executory Contract or Unexpired Lease are as follows:

a. After the entry of the Confirmation Order, the Debtor shall serve upon each party to an Executory Contractor or Unexpired Lease being assumed or assumed and assigned or rejected notice of: (i) the contract or lease being assumed or assumed and assigned or rejected; (ii) the Cure Amount Claim, if any, that the Debtor believes would be necessary to pay in connection with such assumption; and (iii) the procedures for such party to object to the assumption or assumption and assignment or rejection of the applicable contract or the amount of the proposed Cure Amount Claim.

b. Any Entity wishing to object to (i) the proposed assumption or assumption and assignment or rejection described in Sections V.C.1 of the Plan or (ii) the proposed amount of the related Cure Amount Claim must File and serve on the Debtor a written objection setting forth the basis for the objection within 20 days of service of the notice described in Section V.C.3.a. of the Plan.

c. If no objection to the proposed assumption or assumption and assignment or rejection or Cure Amount Claim is properly Filed and served prior to the objection deadline: (i) the proposed assumption and assignment or rejection of the applicable Executory Contracts or Unexpired Lease shall be approved in accordance with the Plan and the Confirmation Order, effective as of the date of notice described in Section V.C.3.a. of the Plan, without further action of the Bankruptcy Court; and (ii) the Cure Amount Claim identified by the Debtor in the notice shall be fixed and shall be promptly paid thereafter, without further action of the Bankruptcy Court, to the appropriate contract or lease party identified on the notice.



d. If an objection to the proposed assumption and assignment or rejection or Cure Amount Claim is properly Filed and served prior to the objection deadline, the Debtor and the objecting party may resolve such objection by stipulation, without further action of the Bankruptcy Court.

e. If an objection to the proposed assumption and assignment or rejection or Cure Amount Claim is properly Filed and served prior to the objection deadline and the parties are unable to resolve such objection, the Debtor may File a reply to such objection no later than 30 days after the Filing and service of such objection and ask the Bankruptcy Court to schedule a hearing on the particular objection and the related reply at an appropriate time.

**D. Payments Related to the Assumption of Executory Contracts and Unexpired Leases**

To the extent that such Claims constitute monetary defaults, the Cure Amount Claims associated with each Executory Contract and Unexpired Lease to be assumed or assumed and assigned pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code: (1) by payment of the Cure Amount Claim in Cash; or (2) on such other terms as are agreed to by the parties to such Executory Contract and Unexpired Lease. Pursuant to section 365(b)(2)(D) of the Bankruptcy Code, no Cure Amount Claim shall be allowed for a penalty rate or other form of default rate of interest. If there is a dispute regarding: (1) the amount of any Cure Amount Claim; (2) the ability of any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed; or (3) any other matter pertaining to assumption of such contract or lease, the payment of any Cure Amount Claim required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order resolving the dispute and approving the assumption.

**VIII. PROVISIONS GOVERNING DISTRIBUTIONS**

**A. Distributions for Claims Allowed as of the Effective Date**

Except as otherwise provided in the Plan, Distributions to be made on the Effective Date to holders of Claims that are Allowed Claims as of the Effective Date shall be deemed made on the Effective Date if made on the Effective Date or as promptly thereafter as practicable, but in any event no later than: (1) 60 days after the Effective Date; or (2) such later date when the applicable conditions of Section V.C. of the Plan (regarding cure payments for Executory Contracts and Unexpired Leases being assumed), Section VI.D.2. of the Plan (regarding undeliverable Distributions) or Section VI.G.3. of the Plan (regarding compliance with Tax requirements) are satisfied. Distributions on account of Claims that become Allowed Claims after the Effective Date shall be made pursuant to Section VI.G.1. of the Plan. Any Claim that is disallowed by order of the Bankruptcy Court prior to the Effective Date shall be deemed expunged (to the extent not



already expunged) as of the Effective Date without the necessity for further Bankruptcy Court approval and the holder of any such Claim shall not be entitled to any Distribution under the Plan.

**B. Method of Distributions to Holders of Claims**

The Debtor will make all distributions of Cash required under the Plan to holders of Allowed Claims. The Debtor may retain or contract with other entities to assist in or make the distributions required by the Plan.

**C. Compensation and Reimbursement for Services Related to Distributions**

**1. Compensation and Reimbursement**

The Debtor will receive, without further Bankruptcy Court approval, reasonable compensation for such services and reimbursement of reasonable out-of-pocket expenses incurred in connection with such services. These payments will not be deducted from Distributions (including any distributions of Cash Investment Yield) to be made pursuant to the Plan to holders of Allowed Claims receiving Distributions from the Debtor.

**2. Investment of Cash Related to Distributions**

The Debtor will invest the Cash in accordance with the Debtor's investment and deposit guidelines; provided, however, that should the Debtor determine, in his or her sole discretion, that the administrative costs associated with such investment will exceed the return on such investment, he may determine not to invest such Cash. Distributions of Cash from accounts held by Debtor will include a Pro Rata share of the Cash Investment Yield, if any, from such investment of Cash.

**D. Delivery of Distributions and Undeliverable or Unclaimed Distributions**

**1. Delivery of Distributions to Holders of Allowed Claims**

Distributions to holders of Allowed Claims will be made by the Debtor (a) at the addresses set forth on the respective proofs of Claim, requests for payment of Administrative Claim or similar document Filed by holders of such Claims; (b) at the addresses set forth in any written certification of address change delivered to the Debtor (including pursuant to a letter of transmittal delivered to a Debtor) after the date of Filing of any related proof of Claim, requests for payment of Administrative Claim or similar document; or (c) at the addresses reflected in the applicable Debtor's Schedules if no proof of Claim has been Filed and the Debtor has not received a written notice of a change of address.

**2. Undeliverable Distributions Held by Disbursing Agents**

**a. Holding and Investment of Undeliverable Distributions**

Subject to Section VI.D.2.c. of the Plan, if any Distribution to a holder of an Allowed Claim is returned to the Debtor as undeliverable, no further Distributions shall be made to such holder unless and until the Debtor is notified by written certification of such holder's current address and such Undeliverable Distributions shall remain in the possession of the Debtor pursuant to Section VI.D.2.a. of the Plan for the benefit of such claimants until such time as a Distribution becomes deliverable.

#### **b. After Distributions Become Deliverable**

On each Quarterly Distribution Date, the Debtor will make all Distributions that become deliverable to holders of Allowed Claims during the preceding calendar quarter; provided, however, that if the Debtor that the amount of any quarterly Distribution is too small to justify the administrative costs associated with such Distribution, the Debtor may postpone such quarterly Distribution until the next Quarterly Distribution Date. Each such Distribution will include to the extent applicable a Pro Rata share of the Cash Investment Yield from the investment of any undeliverable Cash from the date that such Distribution would have first been due had it then been deliverable to the date that such Distribution becomes deliverable.

#### **c. Failure to Claim Undeliverable Distributions**

Any holder of an Allowed Claim that does not assert a claim pursuant to the Plan for an undeliverable Distribution to be made by the Debtor within 180 days after the later of (i) the Effective Date and (ii) the last date on which a Distribution was deliverable to such holder will have its claim for such undeliverable Distribution deemed satisfied, waived and released and will be forever barred from asserting any such claim against the Debtor and their respective property. In such cases, unclaimed Distributions will be maintained for redistribution to other claimants entitled to Distributions under the Plan. Nothing contained in the Plan shall require the Debtor to attempt to locate any holder of an Allowed Claim.

### **E. Distribution Record Date**

#### **1. No Recognition of Transfers after the Distribution Record Date**

The Debtor shall have no obligation to recognize the transfer of, or the sale of any participation in, any Claim that occurs after the close of business on the Distribution Record Date and shall be entitled for all purposes herein to recognize and make Distributions only to those holders of Allowed Claims that are holders of such Claims, or participants therein, as of the close of business on the Distribution Record Date.

#### **2. Treatment of Certain Transfers**

Except as otherwise provided in a Final Order of the Bankruptcy Court, the transferees of Claims that are transferred pursuant to Bankruptcy Rule 3001 on or prior to the Distribution Record Date shall be treated as the holders of such Claims for all purposes, notwithstanding that any period provided by Bankruptcy Rule 3001 for objecting to such transfer has not expired by the Distribution Record Date.

**F. Means of Cash Payments**

Except as otherwise specified herein, cash payments made pursuant to the Plan to holders of Claims shall be in U.S. currency by checks drawn on a domestic bank selected by the Debtor, or, at the option of the Debtor, by wire transfer from a domestic bank; provided, however, that cash payments to foreign holders of Allowed Claims may be made, at the option of the Debtor, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction.

**G. Timing and Calculation of Amounts to Be Distributed**

**1. Allowed Claims**

Each holder of an Allowed Claim shall receive the full amount of the Distributions that the Plan provides for Allowed Claims in the applicable Class pursuant to the terms and conditions of the Plan. On each Quarterly Distribution Date, Distributions also shall be made pursuant to Section VII.C. of the Plan to holders of Disputed Claims in any such Class that were allowed during the preceding calendar quarter, to the extent not distributed earlier at the discretion of the Debtor. Such quarterly Distributions also shall be in the full amount that the Plan provides for Allowed Claims in the applicable Class.

**2. De Minimis Distributions**

The Debtor shall not distribute cash to the holder of an Allowed Claim in an impaired Class if the amount of Cash to be distributed on account of such Claim is less than \$50 in the aggregate. Any Cash not distributed pursuant to Section V.G.2. of the Plan will be the property of the Debtor.

**3. Compliance with Tax Requirements**

**a. Withholding and Reporting**

In connection with the Plan, to the extent applicable, the Debtor shall comply with all Tax withholding and reporting requirements imposed on it by any governmental unit, and all Distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision of the Plan to the contrary, the Debtor shall be authorized to take any actions that may be necessary or appropriate to comply with such withholding and reporting requirements, including applying a portion

of any Cash Distribution to be made under the Plan to pay applicable Tax withholding, requiring Claim holders to submit appropriate certifications or establishing other mechanisms the Debtor believes are reasonable and appropriate. To the extent that any Claim holder fails to submit appropriate certifications required by the Debtor or to comply with any other mechanism established by the Debtor to comply with Tax withholding requirements, such Claim holder's Distribution may, in the Debtor's reasonable discretion, be deemed undeliverable and subject to Section V.D.2. of the Plan.

#### **b. Backup Withholding**

Without limiting the generality of the foregoing, in accordance with the Internal Revenue Code's backup withholding rules, a holder of a Claim may be subject to backup withholding with respect to Distributions made pursuant to the Plan, unless the holder (i) comes within certain exempt categories (which generally include corporations) and, when required, demonstrates this fact or (ii) provides at the Debtor's request a completed IRS Form W-9 (or substitute therefor) on which the holder includes a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the taxpayer is not subject to backup withholding because of a failure to report all dividend and interest income. Among other things, to receive any post-petition interest, if requested by the Debtor, a holder of an Allowed Claim shall be required to establish an exemption from backup withholding or to make arrangements with respect to the payment of backup withholding. Non-U.S. Allowed Claim holders may be required by the Debtor to provide a completed IRS Form W-8BEN or W-8BEN-E, as applicable (or other applicable Form W-8 or successor form), to establish an exemption from or a treaty-reduced rate of withholding on interest distributed pursuant to the Plan. Unless the Debtor, in her discretion, determines otherwise, no Distributions on account of post-petition interest shall be made to a holder of an Allowed Claim until such time as the holder of such Claim establishes exemption from withholding or provides the applicable IRS Form.

#### **c. Obligations of Distribution Recipients**

Notwithstanding any other provision of the Plan, each Entity receiving a Distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any Tax obligations imposed on it by any governmental unit on account of such Distribution, including income, withholding and other Tax obligations.

#### **4. Compliance with Domestic Relations Orders**

In connection with the Plan, the Debtor may allocate and make Distributions in compliance with applicable wage garnishment, alimony, child support and similar domestic relations orders.

#### **H. Setoffs**

Except with respect to claims of a Debtor released pursuant to the Plan or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, the Debtor, pursuant to section 553 of the Bankruptcy Code or other applicable bankruptcy or nonbankruptcy law, may setoff against any Allowed Claim and the distributions to be made pursuant to the Plan on account of such Claim (before any distribution is made on account of such Claim) the Causes of Action of any nature against the holder of such Allowed Claim; *provided, however*, that neither the failure to effect a setoff nor the allowance of any Claim hereunder will constitute a waiver or release by the applicable Debtor of any Causes of Action that the Debtor may possess against such a Claim holder.

**I. Allocation of Payments**

Amounts paid to holders of Claims in satisfaction thereof shall be allocated first to the principal amounts of such Claims, with any excess being allocated to accrued but unpaid interest on such Claims.

**IX. PROCEDURES FOR RESOLVING DISPUTED CLAIMS**

**A. Prosecution of Objections to Claims**

**1. Objections to Claims**

All objections to Claims must be Filed and served on the holders of such Claims by the Claims Objection Bar Date, and, if Filed prior to the Effective Date, such objections will be served on the parties on the then-applicable service list in the Bankruptcy Cases. If an objection has not been Filed to a proof of Claim or request for payment of Administrative Claim by the applicable Claims Objection Bar Date, the Claim to which the proof of Claim or request for payment of Administrative Claim relates will be treated as an Allowed Claim if such Claim has not been allowed earlier.

**2. Authority to Prosecute Objections**

After the Confirmation Date, only the Debtor will have the authority to File, settle, compromise, withdraw or litigate to judgment objections to Claims, including pursuant to any alternative dispute resolution or similar procedures approved by the Bankruptcy Court. After the Effective Date, the Debtor may settle or compromise any Disputed Claim without approval of the Bankruptcy Court.

**B. Treatment of Disputed Claims**

**1. No Payments on Account of Disputed Claims and Disputed Claims Reserves**

Notwithstanding any other provisions of the Plan, no payments or Distributions will be made on account of a Disputed Claim until such Claim becomes an Allowed

Claim. Distributions on account of any Disputed Claim that has become an Allowed Claim will be governed by the Plan. In addition, the Plan shall include reasonable and customary provisions establishing reserves to account for Disputed Claims that may become Allowed Claims.

**2. Recourse**

Each holder of a Disputed Claim that ultimately becomes an Allowed Claim will have recourse only to the undistributed Cash held by the Debtor for the satisfaction of such Allowed Claim and not any assets previously distributed on account of any Allowed Claim.

**C. Distributions on Account of Disputed Claims Once Allowed**

On each Quarterly Distribution Date, the Debtor shall make all Distributions on account of any Disputed Claim that has become an Allowed Claim during the preceding calendar quarter, to the extent not distributed earlier at the discretion of the applicable Disbursing Agent. Such Distributions shall be made pursuant to the provisions of the Plan governing the applicable Class.

**X. INJUNCTION AND SUBORDINATION RIGHTS**

**A. Injunction**

Except as provided in the Plan or the Confirmation Order and other than with respect to a right of recoupment or a setoff, as of the Effective Date, all entities that have held, currently hold or may hold a Claim or other debt or liability subject to the Plan or an Interest or other right of an equity security holder that is terminated pursuant to the terms of the Plan will be permanently enjoined from taking any of the following actions in respect of any such Claims, debts, liabilities, Interests or rights: (a) commencing or continuing in any manner any action or other proceeding against the Debtor, other than to enforce any right pursuant to the Plan to a Distribution; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Debtor, other than as permitted pursuant to (a) above; (c) creating, perfecting or enforcing any Lien or encumbrance against the Debtor or their respective property; (d) asserting a right of subrogation of any kind against any debt, liability or obligation due to the Debtor; and (e) commencing or continuing any action, in any manner, in any place that does not comply with or is inconsistent with the provisions of the Plan.

**B. Subordination Rights**

The classification and manner of satisfying Claims and Interests under the Plan does not take into consideration subordination rights, and nothing in the Plan or Confirmation Order shall affect any subordination rights that a holder of a Claim may have with respect to any Distribution to be made pursuant to the Plan, whether arising under general principles of equitable subordination, contract, section 510(c) of the Bankruptcy Code or otherwise.

## **XI. RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, Pursuant to sections 1334 and 157 of Title 28 of the United States Code, the Bankruptcy Court shall retain exclusive jurisdiction of all matters arising in, arising under, and related to the Chapter 11 Case and the Plan, for the purposes of sections 105(a) and 1142 of the Bankruptcy Code, and for, among other things, the following purposes:

1. Allow, disallow, determine, liquidate, classify, reclassify, estimate or establish the priority, secured or unsecured status (or proper Plan classification) of any Claim or Interest, including the resolution of any request for payment of any Administrative Expense or Claim and the resolution of any objections to the allowance, priority or classification of Claims or Interests;
2. To hear and determine any and all applications for payments of fees and expenses from the Reorganized Debtor's estate made by attorneys or any other Professional pursuant to sections 330 or 503 of the Bankruptcy Code, or for payment of any other fees or expenses authorized to be paid or reimbursed from the Reorganized Debtor's estate under the Bankruptcy Code, and any and all objections thereto;
3. Resolve any matters related to the assumption, assumption and assignment or rejection of any Executory Contract or Unexpired Lease to which any Debtor is a party or with respect to which any Debtor may be liable and to hear, determine and, if necessary, liquidate any Claims arising therefrom;
4. Ensure that Distributions to holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;
5. Decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters, including the Causes of Action, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or brought thereafter;
6. Enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases and other agreements or documents entered into or delivered in connection with the Plan or the Confirmation Order;
7. Resolve any cases, controversies, suits or disputes that may arise in connection with the Causes of Action or the consummation, interpretation or enforcement of the Plan or any contract, instrument, release or other agreement or document that is entered into or delivered pursuant to the Plan, or any Entity's rights arising from or obligations incurred in connection with the Plan or such documents;
8. Modify the Plan before or after the Effective Date pursuant to section 1127 of the Bankruptcy Code;



9. Issue injunctions, enforce the injunctions contained in the Plan and the Confirmation Order, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with consummation, implementation or enforcement of the Plan or the Confirmation Order;
10. Enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason or in any respect modified, stayed, reversed, revoked or vacated or distributions pursuant to the Plan are enjoined or stayed;
11. Determine any other matters that may arise in connection with or relate to the Plan, the Confirmation Order or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan or the Confirmation Order;
12. Determine matters concerning state, local and federal Taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code, including any Disputed Claims for Taxes;
13. Enter a final decree closing the Debtor's Bankruptcy Case;
14. Hear and determine all controversies, disputes, and suits which may arise in connection with the execution, interpretation, implementation, consummation, or enforcement of the Plan or in connection with the enforcement of any remedies made available under the Plan, including without limitation, (i) adjudication of all rights, interests or disputes relating to any of the Assets, (ii) the valuation of all Collateral, including hearing all Valuation Motions, (iii) the determination of the validity of any Lien or claimed right of offset; and (iv) determinations of Objections to Contested Claims;
15. To liquidate and administer any disputed, contingent, or unliquidated Claims, including the allowance of all Contested Claims;
16. To administer Distributions to holders of Allowed Claims as provided herein;
17. To enable the Reorganized Debtor to prosecute any and all proceedings which may be brought to set aside Liens or encumbrances and to recover any transfers, assets, properties or damages to which the Reorganized Debtor may be entitled under applicable provisions of the Bankruptcy Code or any other federal, state or local laws, including causes of action, controversies, disputes and conflicts between the Reorganized Debtor and any other party, including but not limited to, any causes of action or Objections to Claims, preferences or fraudulent transfers and obligations or equitable subordination;
18. To consider any modification of the Plan pursuant to section 1127 of the Bankruptcy Code, to cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including without limitation, the Confirmation Order;
19. To enforce the discharge and injunction described in the Plan and the



Confirmation Order;

20. To the extent necessary, to approve the sale after the Effective Date of any of the Assets free and clear of all Liens, claims and interests by the Reorganized Debtor;
21. To enter and implement all such orders as may be necessary or appropriate to execute, interpret, implement, consummate, or enforce the terms and conditions of the Plan and the transactions required or contemplated pursuant hereto;
22. To hear and determine any other matter not inconsistent with the Bankruptcy Code and Title 28 of the United States Code that may arise in connection with or related to the Plan;

Abstention and Other Courts. If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of or relating to the Chapter 11 Case, the Plan shall have no effect upon and shall not control, prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

Non-Material Modifications. The Reorganized Debtor may, with the approval of the Bankruptcy Court and without notice to all holders of Claims and Interests, correct any defect, omission, or inconsistency in the Plan in such manner and to such extent as may be necessary or desirable. The Reorganized Debtor may undertake such nonmaterial modification pursuant to this section insofar as it does not adversely change the treatment of the Claim of any Creditor or the Interest of any Interest holder who has not accepted in writing the modification.

Material Modifications. Modifications of this Plan may be proposed in writing by the Debtor at any time before confirmation, provided that this Plan, as modified, meets the requirements of sections 1122 and 1123 of the Bankruptcy Code, and the Debtor shall have complied with section 1125 of the Bankruptcy Code. This Plan may be modified at any time after confirmation and before its 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 modification. A holder of a Claim or Interest that has accepted or rejected this Plan shall be deemed to have accepted or rejected, as the case may be, such Plan as modified, unless, within the time fixed by the Bankruptcy Court, such holder changes its previous acceptance or rejection.

Revocation. The Debtor reserves the right to revoke or withdraw the Plan prior to the Confirmation Date in accordance with the provisions of the Bankruptcy Code. If the Plan is revoked or withdrawn, or for any other reason not confirmed, nothing contained in the Plan shall be deemed to constitute a waiver or release of any Claim by or against the Debtor or any other Person or to prejudice in any manner the right of the Debtor or any other Person in any further proceedings involving the Debtor.

Effect of Withdrawal or Revocation. If the Debtor revokes or withdraws this Plan, or if

the conditions to the Effective Date do not occur within sixty (60) days after the Confirmation Date, then the Plan shall be deemed null and void and shall not be binding on the Debtor or any other Person.

## **XII. CERTAIN FEDERAL INCOME TAX CONSEQUENCES**

### **A. General**

A description of the United States federal income tax consequences of the Plan is provided below. This description is based on the Internal Revenue Code, Treasury Regulations issued thereunder, judicial decisions and Internal Revenue Service and administrative determinations, all as in effect on the date of this disclosure statement and all subject to change, possibly with retroactive effect. Changes in any of these authorities or in their interpretation could cause the United States federal income tax consequences of the Plan to differ materially from the consequences described below. The United States federal income tax consequences of the Plan are complex and in important respects uncertain. No ruling has been requested from the Internal Revenue Service; no opinion has been requested from Debtors' counsel concerning any tax consequence of the Plan; and no tax opinion is given by this disclosure statement.

The description that follows does not cover all aspects of United States federal income taxation that may be relevant to the Debtor or holders of Claims. For example, the description does not address issues of special concern to certain types of taxpayers, such as dealers in securities, life insurance companies, financial institutions, tax exempt organizations and non-U.S. taxpayers nor does it address tax consequences to holders of Equity Interests in the Debtors. In addition, the description does not discuss state, local or non-U.S. tax consequences. For these reasons, the description that follows is not a substitute for careful tax planning and professional tax advice based upon the individual circumstances of each holder of a Claim or Interest. Holders of Claims or Equity Interests are urged to consult with their own tax advisors regarding the federal, state, local and non-U.S. tax consequences of the Plan.

### **B. United States Federal Income Tax Consequences of Payment of Allowed Claims Pursuant to Plan**

The United States federal income tax consequences of Plan implementation to the holders of Allowed Claims will depend on, among other things, the consideration to be received by the holder, whether the holder reports income on the accrual or cash method, whether the holder receives distributions under the Plan in more than one taxable year, whether the holder's claim is allowed or disputed at the Effective Date, and whether the holder has taken a bad debt deduction or worthless security deduction with respect to its Claim.

#### **1. Recognition of Gain or Loss**

##### **a. In General**

In general, a holder of a Claim should recognize gain or loss equal to the amount realized under the Plan in respect of its Claim less the holder's basis in the Claim. Any gain or loss recognized in the exchange may be long-term or short-

term capital gain or loss or ordinary income or loss, depending upon the nature of the Claim and the holder, the length of time the holder held the Claim and whether the Claim was acquired at a market discount. If the holder realizes a capital loss, its deduction of the loss may be subject to limitation. The holder's aggregate tax basis for any property received under the Plan generally will equal the amount realized. The holder's amount realized generally will equal the sum of the Cash and the fair market value of any other property received (or deemed received) by the holder under the Plan on the Effective Date or subsequent distribution date, less the amount (if any) allocable to Claims for interest, as discussed below.

#### **b. Post-Effective Date Cash Distributions**

Because certain holders of Allowed Claims, including Disputed Claims that ultimately become Allowed Claims, may receive Cash distributions subsequent to the Effective Date of the Plan, the imputed interest provisions of the Internal Revenue Code may apply to treat a portion of the subsequent distributions as imputed interest. Additionally, because holders may receive distributions with respect to an Allowed Claim in a taxable year or years following the year of the initial distribution, any loss and a portion of any gain realized by the holder may be deferred. All holders of Allowed Claims are urged to consult their tax advisors regarding the possible application of (or ability to elect out of) the "installment method" of reporting with respect to their claims.

#### **c. Bad Debt and/or Worthless Securities Deduction**

A holder who, under the Plan, receives in respect of a Claim an amount less than the holder's tax basis in the claim may be entitled in the year of receipt (or in an earlier or later year) to a bad debt deduction in some amount under § 166(a) of the Internal Revenue Code or a worthless securities deduction under § 165(g) of the Internal Revenue Code. The rules governing the character, timing and amount of bad debt or worthless securities deductions place considerable emphasis on the facts and circumstances of the holder, the obligor and the instrument with respect to which a deduction is claimed. Holders of Claims, therefore, are urged to consult their tax advisors with respect to their ability to take such a deduction.

### **2. Pending Payments**

Cash payment after the Effective Date should be deemed to have been paid to the holder of the Claim entitled to receive such payment on the date that the creditor received it. Thus, the holder should recognize gain or loss based upon the amount deemed received.

### **3. Payments Other than Pending Payments**

If any payment other than a Pending Payment is to be made, such payment will not be deemed to have been made to any recipient until, and to the extent that, the amount to which the payee is entitled has been determined and distributed. Any income realized by the Debtor prior to such time will be reported by the Debtor as income of and taxable to the Debtor.

## **C. Certain Other Tax Consequences for Holders of Claims**

### **1. Receipt of Pre-Effective Date Interest**

In general, a Claim holder that was not previously required to include in its taxable income any accrued but unpaid pre-Effective Date interest on the Claim may be required to take such amount into income as taxable interest. A Claim holder that was previously required to include in its taxable income any accrued but unpaid pre-Effective Date interest on the Claim may be entitled to recognize a deductible loss to the extent that such interest is not satisfied under the Plan. The Plan provides that all Distributions to a holder of an Allowed Class 2 Claim will be deemed to apply first to the principal amount of such Claim until such principal amount is paid in full, and then the remaining portion of such distributions, if any, will be deemed to apply to any prepetition accrued interest included in such Claim. There is no assurance, however, that the Internal Revenue Service will respect this treatment and will not determine that all or a portion of amounts distributed to holders of Allowed Class 2 Claims is properly allocable to prepetition interest. Each such holder is urged to consult its tax advisor regarding the tax treatment of its distributions under the Plan and the deductibility of any accrued but unpaid interest for federal income tax purposes.

### **2. Installment Method**

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

### **3. Information Reporting and Withholding**

Under the Internal Revenue Code's backup withholding rules, the holder of an Allowed Claim may be subject to backup withholding with respect to distributions or payments made pursuant to the Plan unless the holder comes within certain exempt categories (which generally include corporations) and, when required, demonstrates that fact, or provides a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the holder is not subject to backup withholding because of a failure to report all dividend and interest income. Backup withholding is not an additional tax, but merely an advance payment that may be refunded to the extent it results in an overpayment of tax. Holders of Allowed Claims may be required to establish exemption from backup withholding or to make arrangements with respect to the payment of backup withholding.

### **4. Importance of Obtaining Professional Tax Assistance**

**The foregoing discussion is intended only as a summary of certain U.S. Federal income tax consequences of the Plan, and is not a substitute for careful tax planning with a tax professional. The above discussion is for information purposes only and is not tax advice. The tax consequences are in many cases uncertain and may vary depending on a holder's individual circumstances. Accordingly, holders are urged to consult with their tax advisors about federal, state, local and non-U.S. tax consequences to the Plan.**

### XIII. RECOMMENDATION AND CONCLUSION

For all of the reasons set forth in this Disclosure Statement, the Debtors believes that the Confirmation and consummation of the Plan is preferable to all other alternatives. Consequently, the Debtor urges all holders of Claims in Classes 3, the only Classes entitled to vote on the Plan, to vote to accept the Plan and to evidence their acceptance by duly completing and returning their ballots so that they will be received on or before the Voting Deadline.

The Debtor submits this Disclosure Statement and the information contained therein, in good faith, in accordance with the provisions of Title 11, U.S.C. §101, et seq. and §1125 for approval of the Court at the Disclosure Statement Hearing, and for consideration by Creditors and other Parties-In-Interest with respect to voting on the proposed Plan, and as the sole source of information furnished by the Debtor, or to be furnished by the Debtor, in solicitation of acceptance of the Debtor's Plan of Reorganization.

Dated: October 9, 2017

Skyline EMS, Inc.



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