

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

In re:

NEIGHBORS LEGACY HOLDINGS, INC.,
et al.,¹

Debtors.

Chapter 11

Case No. 18-33836 (MI)

Jointly Administered

**EMERGENCY MOTION OF UNSECURED CREDITOR TRUSTEE TO CORRECT
SCRIVENER'S ERROR IN THE TERMS OF THE CONFIRMED FIRST AMENDED
JOINT PLAN OF LIQUIDATION OF NEIGHBORS LEGACY HOLDINGS, INC. AND
ITS DEBTOR AFFILIATES UNDER CHAPTER 11 OF THE BANKRUPTCY CODE OR,
ALTERNATIVELY, TO EXTEND THE DEADLINE TO FILE CLAIM OBJECTIONS**

**AN EMERGENCY/EXPEDITED HEARING WILL BE
CONDUCTED ON THIS MATTER ON OCTOBER 21, 2019
AT 2:00 P.M. AT THE UNITED STATES BANKRUPTCY
COURT FOR THE SOUTHERN DISTRICT OF TEXAS,
COURTROOM 404, 515 RUSK AVENUE, HOUSTON,
TEXAS 77002. IF YOU OBJECT TO THE RELIEF
REQUESTED, YOU MUST RESPOND IN WRITING,
SPECIFICALLY ANSWERING EACH PARAGRAPH OF
THIS PLEADING. UNLESS OTHERWISE DIRECTED BY
THE COURT, YOU MUST FILE YOUR RESPONSE WITH
THE CLERK OF THE BANKRUPTCY COURT PRIOR TO
THE SCHEDULED HEARING. YOU MUST SERVE A
COPY OF YOUR RESPONSE ON THE PERSON WHO
SENT YOU THIS PLEADING; OTHERWISE, THE COURT
MAY TREAT THE PLEADING AS UNOPPOSED AND
GRANT THE RELIEF REQUESTED**

TO THE HONORABLE MARVIN ISGUR,
UNITED STATES BANKRUPTCY JUDGE:

¹ Due to the large number of Debtors in these chapter 11 cases, a complete list of the Debtors and the last four digits of their tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at www.kccllc.net/neighbors. The location of Debtors' principal place of business and the Debtors' service address is: 10800 Richmond Avenue, Houston, Texas 77042.



Mark Shapiro, Unsecured Creditor Trustee (the “**Unsecured Creditor Trustee**”) of the Unsecured Creditor Trust, hereby files this *Motion to Correct Scrivener’s Error in the Terms of the Confirmed First Amended Joint Plan of Liquidation of Neighbors Legacy Holdings, Inc. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code, or Alternatively, to Extend the Deadline to File Claim Objections* (the “**Motion**”). In support of the Motion, the Unsecured Creditor Trustee respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Motion under 28 U.S.C. § 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. § 1408.

BACKGROUND

A. General Case Background

2. On July 12, 2018 and July 23, 2018, Neighbors Legacy Holdings Inc. and certain of its affiliates and subsidiaries (the “Debtors”) each commenced a case by filing a petition for relief under Chapter 11 of the Bankruptcy Code.

3. On February 20, 2019, the Debtors filed their *First Amended Joint Plan of Liquidation of Neighbors Legacy Holdings, Inc. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code* [Docket No. 772] (the “**Plan**”) and accompanying *Second Amended Disclosure Statement* [Docket No. 773].

4. On March 22, 2019, the Court entered its *Order Approving Debtors’ Second Amended Disclosure Statement and Confirming Debtors’ First Amended Joint Plan of Liquidation of Neighbors Holdings, Inc. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code* [Docket No. 847] (the “**Confirmation Order**”).

5. Pursuant to Article XIV.A. of the Plan, the Plan may be remedied for any defect or omission to carry out the purpose and intent of the Plan. *See* Plan Article XIV.A. Moreover, Rule 60 of the Federal Rules of Civil Procedure, made applicable to these cases by Rule 9024 of the Federal Rules of Bankruptcy Procedure, also permits the correction of errors or mistakes in judgments.

B. The Deadline to Object to General Unsecured Claims

6. The Plan and Confirmation Order established the Unsecured Creditor Trust and approved the Unsecured Creditor Trust Agreement, which appointed the Unsecured Creditor Trustee to, among other things, resolve “all Disputed General Unsecured Claims, including objecting, prosecuting, settling and compromising such Disputed General Unsecured Claims.” *See* Unsecured Creditor Trust Agreement attached hereto as **Exhibit A** at § 1.3(a).

7. Pursuant to Section VIII.C. of the Plan, the deadline to file objections to claims was 180 days after the Effective Date, i.e. October 5, 2019. It was always the intention of the Official Committee of Unsecured Creditors (the “**Committee**”)² that the Unsecured Creditor Trust and its Trustee would only object to Disputed General Unsecured Claims *in the event that there are sufficient funds to distribute to holders of General Unsecured Claims*.³ In that regard, in connection with the *back and forth* negotiation efforts of drafting the Plan, among, *inter alia*, the Debtors and the Committee on December 7, 2018, the Committee suggested that the following provision be added to the section of the draft Plan addressing the deadline for objection to claims (the “**Committee’s Addition**”):

² The Committee’s lead financial advisor was Mark Shapiro of Glass Ratner, who became the Trustee of the Trust.

³ The Creditor Trust is also responsible for administering subordinate classes of claims to the General Unsecured Claims.

Notwithstanding the foregoing, the Claims in Classes 5, 6, 7 and 8 shall be deemed disallowed. In the event the Unsecured Creditor Trustee determines there are sufficient funds to make Distributions to Holders of Claims in Classes 5, 6, 7 and 8, the Unsecured Creditor Trustee shall file a Notice of Distribution with the Bankruptcy Court and shall have 180 days after the filing of such notice to object to such claims.

A copy of the December 7, 2018, transmittal E-Mail from the Committee to the Debtors with the Committee's Addition is attached hereto as **Exhibit B**. The Debtors accepted the Committee's Addition, in this regard, on a wholesale basis, as *inter alia*, the reason for the Committee's Addition was reasonable – *to wit*: there would be no reason to expend time and effort objecting to claims, until and unless funds became available for distribution to unsecured creditors.

8. As set forth in the accompanying *Declaration of Michael D. Warner, Esq.*, in anticipation of the limited amount of funds in the Unsecured Creditor Trust at the time of Confirmation, the purpose of the Committee Addition was to avoid the Unsecured Creditor Trust from having to expend funds to object to claims in advance of knowing whether a distribution would be made to the beneficiaries of the Trust. Instead, the Unsecured Creditor Trust intended to use the initial limited funds (\$275,000) it had to maximize value for the benefit of the Trust's beneficiaries and pursue causes of actions that could result in a recovery to such parties.⁴ This was the Committee's intent.

9. Notwithstanding the intent of the Committee's Addition to Section VIII.C. of the Plan, there was a scrivener's error in the Committee's Addition provided to the Debtors on

⁴ The Unsecured Creditor Trust has been investigating and analyzing causes of action against, among others, the Debtors' officers and directors. In that regard, the Unsecured Creditor Trust will be involved in the pending adversary proceeding caption *Infinity Emergency Management Group, LLC v. Neighbors Health Systems, Inc.*, Adv. Pro. No. 18-03276.

December 7, 2018.⁵ The added language to Section VIII.C. unintentionally and mistakenly failed to also reference **Class 4** (general unsecured claims) which was the primary rationale of that provision in the first instance. Instead, the language incorrectly referred only to Classes 5, 6, 7 and 8. The language should have only referred to Classes 4 and 5 (as the claims in Classes 6, 7, 8 were extinguished by the Plan).⁶

RELIEF REQUESTED

10. The Unsecured Creditor Trustee respectfully requests that the Court remedy the scrivener's error in Section VIII.C. of the Plan. Toward that end, the Unsecured Creditor Trustee requests that section of the Plan be modified to provide as follows:

Unless otherwise ordered by the Bankruptcy Court, the Plan Trustees shall file all objections to Claims by no later than 180 days after the Effective Date, except to the extent that such Claims are filed on or after the Effective Date, in which case, the Plan Trustees shall have until the later of 180 days after the Effective Date or 90 days after such claim is filed to file an objection to same. Notwithstanding the foregoing, if either Plan Trustee determines that an extension of time is warranted, the Plan Trustee may seek the Bankruptcy Court's approval to extend such time by a period of an additional 90 days, without prejudice to the Plan Trustee's request to seek additional time upon a showing of good cause. Notwithstanding the foregoing, the Claims in Classes 4 and 5 shall be deemed disallowed. In the event the Unsecured Creditor Trustee determines that there are sufficient funds to make a Distribution to Holders of Claims in Classes 4 and 5, the Unsecured Creditor Trustee shall file a Notice of Distribution (which Notice shall constitute allowance of Claims in Classes 4 and 5 subject to objection) with the Bankruptcy Court and shall

⁵ After the claims objection deadline expired, one of the former members of the Committee and now member of the Oversight Committee for the Unsecured Creditor Trust brought the language in Section VIII.C. to the attention of the Unsecured Creditor Trustee. The Unsecured Creditor Trustee, together with counsel for the Unsecured Creditor Trust recognized the unintentional scrivener's error in Section VIII.C. and that the language in the Plan did not capture the intention of the Committee or the provision, prompting the filing of this Motion on an expedited basis.

⁶ Notwithstanding that the claims in Classes 6, 7 and 8 were extinguished by the Plan, the Committee intended to be overinclusive and have the general unsecured class as well as any lower class be deemed disallowed. The error was starting the list at Class 5 instead of Class 4.

have 180 days after the filing of such notice to object to such claims, with such 180 days subject to extension for cause.

11. At this juncture, the Unsecured Creditor Trust is investigating and analyzing certain causes of action against, *inter alia*, the Debtors' officers and directors. In connection therewith, the Unsecured Creditor Trustee has expended a portion of the funds in the Unsecured Creditor Trust. The Unsecured Creditor Trustee, as did the Committee prior to confirmation of the Plan, believes that the minimal funds in the Trust will be used to investigate and pursue potential litigation, and will not be the source of distribution to Unsecured Creditors. Rather, the only potential source for an Unsecured Creditor distribution will be any prospective recoveries on future litigation. The Unsecured Creditor Trust simply does not have sufficient funds to object to general unsecured claims and it does not even make practical sense to object to claims until such time it is clear that a distribution will be made. That was the purpose behind the added language to Section VIII.C. of the Plan.

12. General unsecured creditors will not be prejudiced by the relief requested herein. The proposed non-material modification to the Plan does not change or alter the treatment of claimants in Class 4. To the contrary, the modification enables the Unsecured Creditor Trust to preserve its limited resources to pursue a recovery for the benefit of general unsecured creditors rather than diverting such resources to prematurely object to claims.

13. While the intended language disallows unsecured claims (Classes 4 and 5), it only does so temporarily – until funds are available for distribution – at which time a notice would be provided, and would trigger the period to object to claims.

14. Based on the foregoing, the Unsecured Creditor Trust respectfully requests that the Court remedy the scrivener's error in Section VIII.C as set forth above.

15. Alternatively, the Unsecured Creditor Trust respectfully requests that the Court retroactively extend the deadline to object to general unsecured claims by 90 days as permitted by the Plan. Paragraph 12 of the Confirmation Order provides that the “Claims Objection Deadline may be extended by the Court upon motion by the applicable Plan Trustee, without notice or hearing.” The Confirmation Order, however, does not provide that such motion must be filed by the Claims Objection Deadline. The deadline was October 5, 2019, and this Motion is being filed October 15, 2019, and thus no prejudice should be asserted. Given the lack of sufficient funds to distribute to general unsecured creditors, any analysis of general unsecured claims at this juncture would be futile. Therefore, at a minimum, sufficient cause exists to extend the deadline.

EMERGENCY CONSIDERATION

16. Pursuant to Bankruptcy Local Rule 9013-1(i), the Unsecured Creditor Trustee respectfully requests emergency consideration of this Motion. Given that the Claims Objection Deadline has passed, emergency consideration is necessary so that it is made clear to the general unsecured creditors as soon as possible that the Unsecured Creditor Trust still has the right to object to claims in Classes 4 and 5. No party will be prejudiced by the request for emergency relief since the Plan provides that the Claims Objection Deadline can be extended without notice or hearing.

WHEREFORE, the Unsecured Creditor Trustee respectfully requests that the Court grant the relief requested herein and such other and further relief as the Court deems just and proper.

Dated: October 15, 2019

Respectfully submitted,

By: /s/ Michael D. Warner
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*Counsel for Mark Shapiro, Unsecured Creditor
Trustee*

EXHIBIT A

UNSECURED CREDITOR TRUST AGREEMENT

dated as of April 8, 2019

among

Neighbors Legacy Holdings, Inc., *et al.*

as Settlers

and

Mark Shapiro

as Unsecured Creditor Trustee

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THIS UNSECURED CREDITOR TRUST AGREEMENT (this “Agreement”), dated as of April 8, 2019, is entered into by and between:

1. Neighbors Legacy Holdings, Inc. and its affiliate debtors (collectively, the “Debtors”)¹ and
2. Mark Shapiro, as trustee (the “Trustee”).

RECITALS

WHEREAS, on July 12, 2018 and July 23, 2018 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) with the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”). The Debtors’ cases are being jointly administered in the Bankruptcy Court under Case No. 18-33836 (MI) the “Chapter 11 Cases”) and the Debtors are deemed consolidated pursuant to the Confirmation Order (defined below) for the purposes of, among others, distribution under the Plan (defined below);

WHEREAS, on March 22, 2019, the Bankruptcy Court entered an order [Docket No. 847] (the “Confirmation Order”) confirming the First Amended Joint Plan of Liquidation of Neighbors Legacy Holdings, Inc. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code dated February 20, 2019 filed in the Chapter 11 Cases [Docket No. 757] (including any supplement to such Plan and the exhibits and schedules thereto, as the same may be amended, modified or supplemented from time to time in accordance with the terms and provisions thereof, the “Plan”);

WHEREAS, this Agreement is executed in order to establish an unsecured creditor trust (the “Unsecured Creditor Trust”) pursuant to, and to effectuate certain provisions of, the Plan and the Confirmation Order;

WHEREAS, the Trustee will hold and administer the Unsecured Creditor Trust Assets (defined below) for the benefit of the Unsecured Creditor Trust Beneficiaries (defined below) as contemplated by this Agreement, the Plan and Confirmation Order (collectively, the “Operative Documents”);

WHEREAS, the Unsecured Creditor Trust is established for the sole purpose of liquidating and distributing the Unsecured Creditor Trust Assets pursuant to the Operative Documents, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Unsecured Creditor Trust;

WHEREAS, the Unsecured Creditor Trust is intended to qualify as a liquidating trust within the meaning of Treasury Regulation section 301.7701-4(d) and the advance ruling guidelines contained in Rev. Proc. 94-95, 1994-2 C.B. 684;

¹ A schedule identifying the Debtors is attached hereto as Schedule A.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained in the Operative Documents, the Debtors and the Trustee, intending to be legally bound, agree as follows:

ARTICLE 1

Establishment of the Unsecured Creditor Trust

1.1 Establishment of the Unsecured Creditor Trust and Appointment of Trustee.

(a) Pursuant to the Plan and the Confirmation Order, the Debtors and the Trustee hereby establish a trust which shall be known as the “Unsecured Creditor Trust” on behalf of and for the benefit of the Unsecured Creditor Trust Beneficiaries (defined below).

(b) The Trustee is hereby appointed as trustee of the Unsecured Creditor Trust effective as of the effective date of the Plan as defined in Article I of the Plan and as noticed on the docket of the Bankruptcy Court by the Debtors (the “Effective Date”) and agrees to accept and hold the Retained Causes of Action (as defined in the Plan), the GUC Settlement Cash (as defined in the Plan), and any other assets acquired by the Unsecured Creditor Trust on or after the Effective Date pursuant to this Agreement or the Plan (collectively, the “Unsecured Creditor Trust Assets”), in trust for the benefit of holders of Class 4 General Unsecured Claims (collectively, the “Unsecured Creditor Trust Beneficiaries”) subject to the terms of the Operative Documents. The Trustee and each successor trustee serving from time to time hereunder shall have all the rights, powers and duties set forth herein and pursuant to applicable law for accomplishing the purposes of the Unsecured Creditor Trust.

1.2 Transfer of Assets and Rights to the Unsecured Creditor Trust.

(a) Title to Unsecured Creditor Trust Assets. As of the Effective Date, pursuant to and in accordance with section 1141 of the Bankruptcy Code and the Operative Documents, the Debtors hereby irrevocably transfer, assign and deliver to the Unsecured Creditor Trust all of their respective right, title and interest in and to the Unsecured Creditor Trust Assets, free and clear of any and all Liens, Claims (other than Claims in the nature of setoff or recoupment), encumbrances or interests of any kind in such property of any other Person. The Trustee agrees to accept and hold the Unsecured Creditor Trust Assets in trust for the Unsecured Creditor Trust Beneficiaries, subject to the terms of the Operative Documents. Upon the transfer of the Unsecured Creditor Trust Assets to the Unsecured Creditor Trust, the Debtors or the Liquidating Trust (as defined in the Plan), as the case may be, shall have no interest in or claim to the Unsecured Creditor Trust Assets or the Unsecured Creditor Trust, and the Unsecured Creditor Trust shall succeed to all of the Debtors’ right, title and interest in and to the Unsecured Creditor Trust Assets.

(b) Privileges. The Debtors have various legal, statutory and common law privileges and rights, including, but not limited to, the attorney-client privilege, the work product privilege, the joint interest privilege, the right of immunity, and the rights of defenses, each and all asseretable by the Debtors, and, as applicable, attaching to any and all documents or communications (whether written or oral) (collectively, the “Debtors’ Privileges”). The Debtors’

Privileges shall, upon the Effective Date, concurrently vest in both the Unsecured Creditor Trust and the Liquidation Trust (individually, for purposes of this provision, a “Trust”, and collectively, for purposes of this provision, the “Trusts”). The joint and concurrent holding of the Debtors’ Privileges and the rights provided by this Section shall not operate as a waiver or release of any of the Debtors’ Privileges, and shall constitute a joint interest privilege between the Trusts. Upon the Effective Date, the Trusts are authorized to: (i) take all necessary actions to effectuate the transfer of the Debtors’ Privileges to the Trusts; and (ii) avail themselves, preserve, assert, control, and exercise the Debtors’ Privileges. Notwithstanding the foregoing sentence, the Trusts shall not, without compliance with the following sentences, waive, release, diminish, alter or otherwise effect the Debtors’ Privileges (an “Effect on the Debtors’ Privileges”). In order for the Trusts to cause an Effect on the Debtors’ Privileges, the applicable Trust, absent a written agreement between the Trusts, must seek an Order from the Bankruptcy Court, which may be sought on an expedited basis, with notice to and an opportunity to be heard by the other Trust. In addition, should a Trust be put on notice by a third party, in litigation or otherwise, that a Trust has allegedly caused an Effect on the Debtors’ Privileges, then the Trust receiving such notice shall immediately advise the other Trust, which shall have an absolute right, in its sole discretion, to intervene in such matter, respond to such notice and allegation, and/or seek appropriate relief from the Bankruptcy Court, to, inter alia, challenge the alleged Effect on the Debtors’ Privileges.

(c) Further Assurances. As promptly as practicable after the Effective Date, the Debtors agree to (i) at the reasonable request of the Trustee, execute and/or deliver any instruments, documents, books, and records (including those maintained in electronic format and original documents as may be needed), (ii) take, or cause to be taken, all such further actions as the Trustee may reasonably request in order to evidence or effectuate the transfer of the Unsecured Creditor Trust Assets and the Privileges to the Trustee and the consummation of the transactions contemplated hereby and by the Plan and to otherwise carry out the intent of the parties hereunder and under the Operative Documents, and (iii) cooperate with the Trustee in administration of the Unsecured Creditor Trust Assets including the analysis and prosecution of the Retained Causes of Action to the extent reasonable. Notwithstanding anything contained herein, without the express written consent of the Trustee, no Person or creditor of the Debtors shall be permitted to assert, bring, institute, or commence any Claim or Cause of Action that is transferred to the Unsecured Creditor Trust pursuant to the Plan.

1.3 Nature and Purpose of the Unsecured Creditor Trust.

(a) Purpose. The Unsecured Creditor Trust is organized for the primary purposes of (a) investigating, pursuing, litigating and, as applicable, settling, the Retained Causes of Action and any other Avoidance Actions and other Causes of Action or litigation, (b) collecting, receiving, holding, maintaining, administering and liquidating the Unsecured Creditor Trust Assets, (c) resolving all Disputed General Unsecured Claims, including objecting, prosecuting, settling and compromising such Disputed General Unsecured Claims (a “Claim Objection”) (i) in any manner approved by the Bankruptcy Court or (ii) in the Trustee’s discretion, subject to any relevant provisions of this Agreement, without Bankruptcy Court approval, (d) paying all expenses of the Unsecured Creditor Trust, (e) making all Distributions to the holders of Allowed General Unsecured Claims from the Unsecured Creditor Trust as provided for in the Operative Documents, and (f) otherwise implementing the Operative Documents and finally administering the Unsecured Creditor Trust, all pursuant to and in

accordance with the Operative Documents (herein, the “Trust Purposes”). The Unsecured Creditor Trust is organized and established as a trust pursuant to which the Trustee, subject to the terms and conditions contained herein and in the Plan, shall (i) hold the Unsecured Creditor Trust Assets and administer the same in accordance with this Agreement and the Plan in accordance with Treasury Regulation section 301.7701-4(d); and (ii) oversee and direct the expeditious and orderly liquidation of the Unsecured Creditor Trust Assets. Accordingly, the sole purpose of the Unsecured Creditor Trust is to liquidate the Unsecured Creditor Trust Assets with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to preserve or enhance the liquidation value of the Unsecured Creditor Trust Assets, and consistent with, the liquidating purpose of the Unsecured Creditor Trust.

(b) Actions of the Trustee. Subject to the terms of this Agreement, the Trustee shall, in an expeditious and orderly manner, liquidate and convert to Cash the Unsecured Creditor Trust Assets, which includes, without limitation, pursuing recovery on the Retained Causes of Action and making timely distributions to Unsecured Creditor Beneficiaries. The liquidation of the Unsecured Creditor Trust Assets may be accomplished either through the prosecution, compromise and settlement, abandonment or dismissal of any Retained Cause of Action or Claim Objection. Except as set forth herein, the Trustee shall have the absolute right to pursue, settle and compromise or not pursue any and all Retained Cause of Action and Claim Objection as it determines is in the best interests of the Unsecured Creditor Trust Beneficiaries, and consistent with the purposes of the Unsecured Creditor Trust. The Trustee shall have no liability for the outcome of any such decision except for any damages caused by gross negligence, bad faith, willful misconduct or knowing violation of law.

(c) Relationship. This Agreement is intended to create a trust and a trust relationship and the Unsecured Creditor Trust is to be governed and construed in all respects as a trust. The Unsecured Creditor Trust is not intended to be, and shall not be deemed to be or treated as, a general partnership, limited partnership, joint venture, corporation, joint stock company or association, nor shall the Trustee, or the Unsecured Creditor Trust Beneficiaries, or any of them, for any purpose be, or be deemed to be or treated in any way whatsoever to be, liable or responsible hereunder as partners or joint venturers. The relationship of the Unsecured Creditor Trust Beneficiaries, on the one hand, to the Unsecured Creditor Trust and the Trustee, on the other, shall not be deemed a principal or agency relationship, and their rights shall be limited to those conferred upon them by the Operative Documents.

(d) No Waiver of Claims. In accordance with section 1123(b)(3) of the Bankruptcy Code, the Trustee may enforce all rights to commence and pursue, as appropriate, any and all Retained Cause of Action and Claim Objections after the Effective Date. No Person may rely on the absence of a specific reference in the Plan and Disclosure Statement to any cause of action against such Person as any indication that the Trustee will not pursue any and all available causes of action against such Person consistent with the terms of this Agreement. Unless any such causes of action against a Person are expressly waived, relinquished, exculpated, released, compromised, or settled in the Operative Documents or other Bankruptcy Court order, the Trustee expressly reserves all such causes of action, for later adjudication, and, therefore, no preclusion doctrine, including 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, after, or as a consequence of the Confirmation Order. The Trustee’s

objection to the allowance of any General Unsecured Claims filed with the Bankruptcy Court with respect to which liability, priority, and/or amount (or any objections, affirmative defenses and/or counterclaims, whether or not litigated to Final Order) are disputed shall not in any way limit the ability or the right of the Trustee to assert, commence or prosecute any cause of action that is a Retained Cause of Action against the holder of such Claim. Nothing contained in the Operative Documents shall be deemed to be a waiver, release, or relinquishment of any cause of action, right of setoff, or other legal or equitable defense which the Debtors had immediately prior to the applicable Petition Date, against or with respect to any Claim. The Trustee shall have, retain, reserve, and be entitled to assert all such Claims, Claim Objections, Retained Causes of Action, other Causes of Action, rights of setoff, Privileges and other legal or equitable defenses which the Debtors had immediately prior to the applicable Petition Date fully as if the Chapter 11 Cases had not been commenced or such Claims, Claim Objections, Retained Causes of Action, other Causes of Action, rights of setoff, Privileges and other legal or equitable defenses had not been transferred to the Unsecured Creditor Trust in accordance with the Operative Documents, and all of the Debtors' legal and equitable rights respecting any Claim, Claim Objection or Retained Cause of Action under the Plan may be asserted after the Effective Date to the same extent as if the Chapter 11 Cases had not been commenced. The Trustee shall have the right to assert a Claim Objection against a subsequent transferee of a claim that is subject to disallowance in the hands of the original claimant as a voidable transfer. Nothing in this Agreement shall be construed in a manner that is inconsistent with the Plan or the Confirmation Order.

1.4 Incorporation of Plan. The Plan and the Confirmation Order are each hereby incorporated into this Agreement and made a part hereof by this reference; provided, however, unless otherwise specified herein, to the extent that there is conflict between the provisions of this Agreement, the provisions of the Plan, and/or the Confirmation Order, each such document shall have controlling effect in the following rank order: (1) the Confirmation Order; (2) the Plan; and (3) this Agreement.

1.5 Funding Expenses of the Unsecured Creditor Trust. On the Effective Date, the Debtors shall transfer the GUC Settlement Cash to the Unsecured Creditor Trust. The GUC Settlement Cash shall be retained by the Trustee as a reserve to finance the operations of the Unsecured Creditor Trust.

1.6 Appointment as Representative. Pursuant to sections 1123(a)(5)(B) and 1123(b)(3) of the Bankruptcy Code, the Plan provides for the appointment of the Trustee as the duly appointed representative of the Debtors with respect to the Unsecured Creditor Trust Assets and, as such, subject to Sections 1.3 and 3.8 of this Agreement, the Trustee succeeds to all of the rights and powers of a trustee in bankruptcy with respect to prosecution of the Unsecured Creditor Trust Assets for the benefit of the Unsecured Creditor Trust Beneficiaries in accordance with the terms of the Operative Documents.

ARTICLE 2

Unsecured creditor Trust Beneficiaries

2.1 Allocation of Unsecured Creditor Trust Assets. The allocation and distribution of the Unsecured Creditor Trust Assets to the Unsecured Creditor Trust Beneficiaries shall be accomplished as set forth in the Operative Documents.

2.2 Interests Beneficial Only. The ownership of a beneficial interest in the Unsecured Creditor Trust shall not entitle any beneficiary to any title in the Unsecured Creditor Trust Assets as such (which title shall be vested in the Trustee) or to any right to call for a partition or division of the Unsecured Creditor Trust Assets or to require an accounting.

2.3 Evidence of Beneficial Interests. Ownership of a beneficial interest in the Unsecured Creditor Trust will not be represented by certificates, securities, receipts or in any other form or manner whatsoever, except as maintained on the books and records of the Unsecured Creditor Trust by the Trustee or the Registrar (defined below). The death, incapacity or bankruptcy of any Unsecured Creditor Beneficiary during the term of the Unsecured Creditor Trust shall not (i) operate to terminate the Unsecured Creditor Trust, (ii) entitle the representatives or creditors of the deceased party to an accounting, (iii) entitle the representatives or creditors of the deceased party to take any action in the Bankruptcy Court or elsewhere for the distribution of the Unsecured Creditor Trust Assets or for a partition thereof, or (iv) otherwise affect the rights and obligations of any of the Unsecured Creditor Trust Beneficiaries hereunder.

2.4 Securities Law Registration. It is intended that the ownership of a beneficial interest of the Unsecured Creditor Trust and the entitlements hereunder, if any, of Unsecured Creditor Trust Beneficiaries, shall not constitute “securities.” To the extent ownership of a beneficial interest in the Unsecured Creditor Trust or the entitlements of Unsecured Creditor Trust Beneficiaries are deemed to be “securities,” the issuance of beneficial interests to Unsecured Creditor Trust Beneficiaries or the issuance to Unsecured Creditor Trust Beneficiaries of any entitlements under the Operative Documents (and any redistribution of any of the foregoing pursuant to the Plan or otherwise) shall be exempt, pursuant to section 1145 of the Bankruptcy Code, from registration under the Securities Act of 1933, as amended (the “Securities Act”), and any applicable state and local laws requiring registration of securities. If the Trustee determines, with the advice of counsel, that the Unsecured Creditor Trust is required to comply with registration and/or reporting requirements of the Securities Act, the Securities Exchange Act of 1934, as amended (the “Exchange Act”), the Trust Indenture Act of 1939, as amended (the “Trust Indenture Act”), or the Investment Company Act of 1940, as amended (the “Investment Company Act”), then the Trustee shall take any and all actions to comply with such registration and reporting requirements, if any, and file reports with the Securities and Exchange Commission (the “SEC”) to the extent required by applicable law. Notwithstanding the foregoing procedure, nothing herein shall be deemed to preclude the Trustee from amending this Agreement to make such changes as are deemed necessary or appropriate by the Trustee, with the advice of counsel, to ensure that the Unsecured Creditor Trust is not subject to registration and/or reporting requirements of the Securities Act, the Exchange Act, the Trust Indenture Act or the Investment Company Act, except that no amendment to this Agreement may be made which would not be permitted by Article 11 of this Agreement.

2.5 Transfers.

(a) Except as otherwise expressly provided in the Operative Documents, it is understood and agreed that the beneficial interests in the Unsecured Creditor Trust will be non-transferable during the term of this Agreement except with respect to a transfer by will or under the laws of descent and distribution. Such transfers will not be effective until appropriate written notification and proof thereof is submitted to the Trustee, and the Trustee may continue to pay all amounts to or for the benefit of the Unsecured Creditor Trust Beneficiaries until receipt of proper written notification and proof of any such transfer. The Trustee may rely upon such written proof without the requirement of any further investigation. Payments under this Agreement may not be assigned, alienated, pledged, encumbered or subjected to attachment, garnishment, levy, execution or other legal or equitable process.

(b) The Trustee shall act as a registrar (the “Registrar”), for the purpose of recording ownership of the beneficial interests of the Unsecured Creditor Trust as provided for in this Agreement. The Trustee may appoint an institution to act as Registrar and pay reasonable compensation in respect of such services.

(c) The Trustee shall cause to be kept, a registry of the Unsecured Creditor Trust Beneficiaries (the “Trust Register”) which shall be maintained pursuant to such reasonable regulations as the Trustee and the Registrar may prescribe.

2.6 Access to the Trust Register by the Unsecured Creditor Trust Beneficiaries. Unsecured Creditor Trust Beneficiaries and their duly authorized representatives shall have the right, upon reasonable prior written notice to the Registrar and the Trustee and in accordance with the reasonable regulations prescribed by the Registrar and the Trustee, to inspect and, at the sole expense of the Unsecured Creditor Trust Beneficiaries seeking the same, make copies of the Trust Register, in each case for a purpose reasonably related to such holder’s interest in the Unsecured Creditor Trust.

2.7 Absolute Owners. The Trustee may deem and treat an Unsecured Creditor Trust Beneficiary of record in the Trust Register as the absolute owner of such beneficial interest for the purpose of receiving distributions and payment thereon or on account thereof and for all other purposes whatsoever and the Trustee shall not be charged with having received notice of any claim or demand to such beneficial interest or the interest therein of any other Person.

ARTICLE 3

The Trustee

3.1 Unsecured Creditor Trust Proceeds. Any and all proceeds, income and/or recoveries obtained on account of or from the Unsecured Creditor Trust Assets, after payment of any and all expenses of the Unsecured Creditor Trust, shall be added to the Unsecured Creditor Trust Assets, held as a part thereof (and title therein shall be vested in the Trustee) and administered in accordance with the terms of this Agreement.

3.2 Collection of Income. The Trustee shall collect all income earned with respect to the Unsecured Creditor Trust Assets, which shall thereupon be added to the Unsecured Creditor

Trust Assets, held as a part thereof (and title therein shall be vested in the Trustee) and administered in accordance with the terms of this Agreement.

3.3 Payment of Unsecured Creditor Trust Expenses. The Trustee shall maintain the Unsecured Creditor Trust Assets (i) as is reasonably necessary to meet contingent liabilities and to maintain the value of the Unsecured Creditor Trust Assets during liquidation, (ii) to pay reasonable and necessary expenses (including but not limited to, the reasonable costs and expenses of the Trustee (including reasonable fees, costs, and expenses of professionals retained thereby), any taxes imposed on the Unsecured Creditor Trust or in respect of the Unsecured Creditor Trust Assets or reasonable fees and expenses in connection with, arising out of, or related to, the Unsecured Creditor Trust Assets and litigation associated therewith), (iii) to pay the costs and expenses of the valuations of the Unsecured Creditor Trust Assets incurred by the Trustee in accordance with Section 5.1(c) of this Agreement, (iv) to pay or reimburse amounts in accordance with Article 7 hereof and (v) to satisfy other liabilities incurred or assumed by the Unsecured Creditor Trust (or to which the Unsecured Creditor Trust Assets are otherwise subject) in accordance with the Operative Documents.

3.4 Distributions. The Trustee shall make distributions of proceeds of the Unsecured Creditor Trust Assets in accordance with the provisions of Article 6 of this Agreement and the Plan.

3.5 Tenure, Removal, and Replacement of the Trustee.

(a) The Trustee will serve until the earliest of (i) the completion of all the Trustee's duties, responsibilities and obligations under the Operative Documents, (ii) the Trustee's resignation and the appointment of a successor pursuant to Section 3.5(b) of this Agreement, (iii) the Trustee's removal pursuant to Section 3.5(c) of this Agreement, (iv) the Trustee's death (if applicable) and (v) the termination of the Unsecured Creditor Trust in accordance with the Operative Documents.

(b) The Trustee may resign by filing a notice with the Bankruptcy Court (a "Resignation Notice"). Such resignation will become effective on the later to occur of: (i) the day specified in such Resignation Notice and (ii) the appointment of a successor trustee as provided in Section 3.5(d) and the acceptance by such successor trustee of such appointment in accordance with Section 3.6 of this Agreement. If a successor trustee is not appointed or does not accept its appointment within ninety (90) calendar days following the filing of the Resignation Notice, the Trustee shall, or any Unsecured Creditor Trust Beneficiary may, file a motion with the Bankruptcy Court, upon notice and a hearing, seeking the appointment of a successor trustee.

(c) The Trustee may be removed (a) immediately by majority vote of the Oversight Committee (as defined below) for Cause and (b) sixty (60) calendar days following a unanimous vote by the Oversight Committee for any reason. For the purposes of this Section 3.5(c), "Cause" shall mean an act of fraud, willful misconduct or gross negligence or a breach of fiduciary duty under this Agreement.

(d) In the event of a vacancy in the position of the Trustee (whether by removal, resignation, or death, if applicable), the members of the Oversight Committee shall, by majority vote, designate a successor trustee.

(e) Immediately upon the appointment of any successor trustee, all rights, powers, duties, authority, and privileges of the predecessor Trustee hereunder will be vested in and undertaken by the successor trustee without any further act, and the successor trustee will not be liable personally for any act or omission of the predecessor Trustee. A successor trustee shall have all the rights, privileges, powers, and duties of the predecessor Trustee under the Operative Documents. The predecessor Trustee shall thereupon cease to have any further rights, powers, privileges or duties hereunder, except the right to receive unpaid compensation due as of the date of the appointment of the successor trustee pursuant to any agreement then in effect.

(f) Upon the appointment of a successor trustee, the predecessor Trustee (or the duly appointed legal representative of a deceased Trustee) shall, if applicable, when requested in writing by the successor trustee or the Bankruptcy Court, execute and deliver an instrument or instruments conveying and transferring to such successor trustee upon the trust herein expressed all the estates, properties, rights, powers and trusts of such predecessor Trustee, and shall duly assign, transfer, and deliver to such successor trustee all property and money held hereunder, and all other assets, documents, instruments, records and other writings relating to the Unsecured Creditor Trust and the Unsecured Creditor Trust Assets and the entitlements of the Unsecured Creditor Trust Beneficiaries hereunder, then in its possession and held hereunder, and shall execute and deliver such documents, instruments and other writings as may be requested by the Bankruptcy Court or a successor trustee to effect the termination of such predecessor Trustee's capacity under the Unsecured Creditor Trust, the Operative Documents and otherwise assist and cooperate, without cost or expense to the predecessor Trustee, in effectuating the assumption of its obligations and functions by the successor trustee.

(g) The death, resignation or removal of the Trustee shall not terminate the Unsecured Creditor Trust or revoke any existing agency created pursuant to this Agreement or invalidate any action theretofore taken by the Trustee.

3.6 Acceptance of Appointment by Successor Trustee. Any successor trustee appointed hereunder shall execute an instrument accepting such appointment and assuming all of the obligations and duties of the predecessor Trustee on the same terms and conditions hereunder and accepting the terms of this Agreement and agreeing that the provisions of this Agreement shall be binding upon and inure to the benefit of the successor trustee and all of its heirs, and legal and personal representatives, successors and assigns, and thereupon the successor trustee shall, without any further act, become vested with all the estates, properties, rights, powers, trusts, and duties of the predecessor Trustee hereunder with like effect as if originally named herein.

3.7 Role of the Trustee. In furtherance of and consistent with the Unsecured Creditor Trust Purposes and the Operative Documents, the Trustee, subject to the terms and conditions contained in the Operative Documents, shall have the power to (i) prosecute, compromise and settle, abandon or dismiss for the benefit of the Unsecured Creditor Trust all Claim Objections, Retained Causes of Action, rights, Avoidance Actions and Causes of Action transferred to the

Unsecured Creditor Trust (whether such suits are brought in the name of the Unsecured Creditor Trust, the Trustee or otherwise), and (ii) otherwise perform the functions and take the actions provided for or permitted in the Operative Documents. In all circumstances, the Trustee shall act in the best interests of the Unsecured Creditor Trust Beneficiaries and in furtherance of the Unsecured Creditor Trust Purposes.

3.8 Authority of Trustee. Subject only to any limitations contained herein, the Trustee is authorized to perform any and all acts necessary or desirable to accomplish the purposes of the Unsecured Creditor Trust, and is expressly authorized to:

(a) hold legal title to any and all rights of the Unsecured Creditor Trust Beneficiaries in or arising from the Unsecured Creditor Trust Assets, including collecting, receiving any and all money and other property belonging to the Unsecured Creditor Trust (including any Unsecured Creditor Trust Proceeds) and the right to vote any claim or interest relating to an Unsecured Creditor Trust Claim in a case under the Bankruptcy Code and receive any distribution thereon;

(b) exercise and perform the rights, powers and duties held by each Debtor's estate with respect to the Unsecured Creditor Trust Assets, including, without limitation, the authority under section 1123(b)(3) of the Bankruptcy Code, and shall be deemed to be acting in the capacity of a trustee under sections 704 and 1106 of the Bankruptcy Code, including commencing, prosecuting or settling causes of action, enforcing contracts or asserting claims, defenses, offsets and privileges;

(c) take possession and control, administer, maintain and dispose of documents, books and records related to the Unsecured Creditor Trust Assets;

(d) protect and enforce the rights to the Unsecured Creditor Trust Assets by any method deemed appropriate including by judicial proceedings or pursuant to any applicable bankruptcy, insolvency, moratorium or similar law and general principles of equity;

(e) obtain reasonable insurance coverage with respect to the liabilities and obligations of the Trustee under this Agreement (in the form of an errors and omissions policy or otherwise);

(f) retain and pay such counsel and other professionals, including any professionals previously retained by the Official Committee of Unsecured Creditors (the "Creditors' Committee"), as the Trustee shall select to assist the Trustee in its duties, on such terms as the Trustee deems reasonable and appropriate, without Bankruptcy Court approval. The Trustee may commit the Unsecured Creditor Trust to and shall pay such counsel, experts, litigation consultants, and other professionals reasonable compensation for services rendered (including on an hourly, contingency, or modified contingency basis) and reasonable and documented out-of-pocket expenses incurred;

(g) retain and pay an accounting firm to perform such reviews and/or audits of the financial books and records of the Unsecured Creditor Trust as may be required by applicable laws (including, if applicable, securities laws) and/or this Agreement, and to prepare and file any tax returns, informational returns or periodic and current reports for the Unsecured Creditor Trust

as required by applicable laws (including, if applicable, securities laws) and/or by this Agreement. The Trustee may commit the Unsecured Creditor Trust to and shall pay such accounting firm reasonable compensation for services rendered and reasonable and documented out-of-pocket expenses incurred;

(h) retain, enter into fee arrangements with and pay such third parties to assist the Trustee in carrying out its powers, authorities and duties under this Agreement. The Trustee may commit the Unsecured Creditor Trust to and shall pay all such Persons reasonable compensation for services rendered and reasonable and documented out-of-pocket expenses incurred, as well as commit the Unsecured Creditor Trust to indemnify any such Persons in connection with the performance of services (provided that such indemnity shall not cover any losses, costs, damages, expenses or liabilities that result from the gross negligence, bad faith, willful misconduct or knowing violation of law by such Persons);

(i) in the exercise of its reasonable discretion, waive any privilege (including the Privileges) or any defense on behalf of the Unsecured Creditor Trust or, with respect to the Unsecured Creditor Trust Claims;

(j) investigate, analyze, initiate, compromise, settle, adjust, arbitrate, mediate, sue on or defend, pursue, prosecute, release, withdraw, abandon, dismiss, exercise rights, powers and privileges with respect to, litigate to judgment or otherwise administer, in accordance with the terms set forth herein, all causes of action, objections, Claim Objections and Retained Causes of Action in favor of or against the Unsecured Creditor Trust without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court, except as set forth in Section 3.9, below;

(k) avoid and recover transfers of the Debtors' property as provided for in the Operative Documents, and as may be permitted by the Bankruptcy Code or applicable state law;

(l) invest any moneys held as part of the Unsecured Creditor Trust in accordance with the terms of Section 3.15 of this Agreement, limited, however, to such investments that are consistent with the Unsecured Creditor Trust's status as a liquidating trust within the meaning of Treasury Regulation section 301.7701-4(d) and in accordance with Rev. Proc 94-45, 1994-2 C.B. 684;

(m) request any appropriate tax determination with respect to the Unsecured Creditor Trust, including a determination pursuant to section 505 of the Bankruptcy Code;

(n) seek the examination of any Person, subject to the provisions of Bankruptcy Rule 2004 or any other applicable law or rule;

(o) intervene, remove or otherwise seek authority to participate in any pending litigation by or against the Debtors as of the Effective Date;

(p) make distributions in accordance with Article 6 of this Agreement; and

(q) take or refrain from taking any and all other actions that the Trustee reasonably deems necessary or convenient for the continuation, protection and maximization of the Unsecured Creditor Trust Assets, or to otherwise carry out the purposes hereof.

3.9 Limitation of Trustee's Authority.

(a) Notwithstanding anything herein to the contrary, the Unsecured Creditor Trust shall not (i) be authorized to engage in any trade or business on behalf of the Unsecured Creditor Trust, (ii) take such actions inconsistent with the orderly liquidation of Unsecured Creditor Trust Assets as are required or contemplated by applicable law, the Plan, the Confirmation Order, or this Agreement, or (iii) be authorized to engage in any investments or activities inconsistent with the treatment of the Unsecured Creditor Trust as a liquidating trust within the meaning of Treasury Regulation section 301.7701- 4(d) and in accordance with Rev. Proc. 94-45, 1994-2 C.B. 684.

(b) Notwithstanding anything herein to the contrary, the Trustee shall not be permitted to take any of the actions described below (the "Prior Notice Actions") without prior notice to the Oversight Committee. If the Trustee intends to take any one or more of the Prior Notice Actions, the Trustee shall provide at least ten (10) Business Days prior notice thereof to the Oversight Committee, which notice shall reasonably describe the intended Prior Notice Action(s) and advise the Oversight Committee of its right to object by an objection deadline that is at least ten (10) Business Days after the date such notice is mailed. If no objections to the proposed Prior Notice Action(s) are actually received by the majority of the members of the Oversight Committee, the Trustee shall be authorized to carry out the specified Prior Notice action(s). If, on the other hand, the majority of the members of the Oversight Committee object to the proposed Prior Notice Action(s) by objection actually received by the Trustee on or before the objection deadline, then the Trustee shall not be authorized to carry out any Prior Notice Action(s) not approved. For the purpose hereof, each of the following shall constitute Prior Notice Actions:

(i) the retention of any professional (including, without limitation, attorneys, accountants and appraisers) by the Trustee after the Effective Date of the Plan, including the terms of such retention;

(ii) any settlement or withdrawal of a Retained Cause of Action where the amount in controversy exceeds \$500,000;

(iii) any settlement or withdrawal of a Claim Objection where the Allowed General Unsecured Claim will exceed \$250,000;

(iv) any determination to seek audited financial statements for the Unsecured Creditor Trust;

(v) any determination to make the Unsecured Creditor Trust a reporting entity;

(vi) any action to enter into any one or more of the following to the extent the same results in aggregate expenditures greater than \$50,000 during any fiscal year:

A obtaining insurance coverage of the type described in Sections 3.8(e) hereof or otherwise;

B any agreement to provide services by a third-party vendor (other than professional services) to the Unsecured Creditor Trust; or

C any non-ordinary course transaction for a trust of the nature of intent of the Unsecured Creditor Trust.

(vii) any material amendment or modification to the agreement governing the Trustee's compensation, as described in Section 3.13 hereof;

(viii) any material amendment or modification to this Agreement; provided however an amendment or modification for purposes of implementing the intent of the Operative Documents shall not constitute a material amendment or modification.

(c) The Unsecured Creditor Trust shall not hold 50% or more of the stock (in either vote or value) of any Person that is treated as a corporation for federal income tax purposes, nor be the sole member of a limited liability company, nor have any interest in a Person that is treated as a partnership for federal income tax purposes, unless such stock, membership interest, or partnership interest was obtained involuntarily or as a matter of practical economic necessity in order to preserve the value of the Unsecured Creditor Trust Assets.

3.10 Books and Records.

(a) The Trustee shall maintain books and records relating to the Unsecured Creditor Trust Assets, the status of Claims against the Unsecured Creditor Trust Assets and income of the Unsecured Creditor Trust and the payment of expenses and liabilities of, claims against or assumed by, the Unsecured Creditor Trust in such detail and for such period of time as may be necessary to enable it to make full and proper accounting in respect thereof. Such books and records shall be maintained on a modified cash or other comprehensive basis of accounting necessary to facilitate compliance with the tax reporting and securities law requirements, if any, of the Unsecured Creditor Trust as well as the reporting requirements set forth in Article 9 of and elsewhere in this Agreement.

(b) Unsecured Creditor Trust Beneficiaries and their duly authorized representatives shall have the right, upon reasonable prior written notice to the Trustee, and in accordance with the reasonable regulations prescribed by the Trustee, to inspect and, at the sole expense of such holder seeking the same, make copies of the books and records relating to the Unsecured Creditor Trust on any Business Day and as often as may be reasonably be desired, in each case for a purpose reasonably related to such holder's interest in the Unsecured Creditor Trust.

3.11 Inquiries into Trustee's Authority. Except as otherwise set forth in the Operative Documents, no Person dealing with the Unsecured Creditor Trust shall be obligated to inquire into the authority of the Trustee in connection with the protection, conservation or disposition of the Unsecured Creditor Trust Assets.

3.12 Compliance with Laws. Any and all distributions of Unsecured Creditor Trust Assets shall be in compliance with applicable laws, including applicable federal and state securities laws.

3.13 Compensation and Reimbursement of the Trustee. Notwithstanding anything to the contrary contained herein, the Trustee shall be compensated for its services, and reimbursed for its reasonable out-of-pocket expenses incurred in connection with the performance of its duties hereunder solely from the Unsecured Creditor Trust Assets, in accordance with and pursuant to the terms of a separate agreement to be negotiated with, and approved by, the Creditors' Committee prior to the Effective Date of the Plan.

3.14 Reliance by Trustee. Except as otherwise provided herein:

(a) the Trustee may rely, and shall be protected in acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order or other paper or document reasonably believed by the Trustee to be genuine and to have been signed or presented by the proper party or parties including, but not limited to, documents, analyses and information provided or to be provided by the Debtors and their professionals, whether such professionals were retained in the Chapter 11 Cases or otherwise; and

(b) Persons dealing with the Trustee shall look only to the Unsecured Creditor Trust Assets to satisfy any liability incurred by the Trustee to such Person in carrying out the terms of this Agreement, and the Trustee shall not have any personal obligation to satisfy any such liability.

3.15 Investment and Safekeeping of Unsecured Creditor Trust Assets. The Trustee shall invest all Unsecured Creditor Trust Assets (pending distribution in accordance with Article 6 of this Agreement) only in Cash and Government securities as defined in section 2(a)(16) of the Investment Company Act; provided, however, that (a) the scope of any such permissible investments shall be further limited to include only those investments that a liquidating trust, within the meaning of Treasury Regulation section 301.7701- 4(d), may be permitted to hold, pursuant to the Treasury Regulations, or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements, or otherwise, and (b) the Trustee may retain any Unsecured Creditor Trust Proceeds received that are not Cash only for so long as may be required for the prompt and orderly liquidation of such assets in Cash.

3.16 Standard of Care; Exculpation. Neither the Trustee nor any of its duly designated agents or representatives or professionals shall be liable for any act or omission taken or omitted to be taken by the Trustee in good faith, other than (i) acts or omissions resulting from the Trustee's or any such agent's, representative's or professional's gross negligence, bad faith, willful misconduct or knowing violation of law or (ii) acts or omissions from which the Trustee or any such agent, representative or professional derived an improper personal benefit. The Trustee may, in connection with the performance of its functions, and in its sole and absolute discretion, consult with its attorneys, accountants, financial advisors and agents, and shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such attorneys, accountants, financial advisors and agents. Notwithstanding such authority, the Trustee shall be under no obligation to consult with its

attorneys, accountants, financial advisors or agents, and its good faith determination not to do so shall not result in the imposition of liability on the Trustee, unless such determination is based on gross negligence, bad faith, willful misconduct or knowing violation of law. No amendment, modification or repeal of this Section 3.16 shall adversely affect any right or protection of the Trustee or any of its agents, representatives or professionals that exists at the time of such amendment, modification or repeal.

ARTICLE 4

The Oversight Committee

4.1 **Establishment of the Oversight Committee.** On the Effective Date, the Oversight Committee shall be established as set forth herein. The members of the Oversight Committee shall serve without compensation. The members of the Oversight Committee shall be entitled to their reasonable and necessary out-of-pocket expenses incurred in fulfilling the obligations of the Oversight Committee without mark-up; provided however the members of the Oversight Committee shall not be entitled to reimbursement of legal, accounting or other advisory fees.

4.2 **Composition; Replacement.** The Oversight Committee shall be comprised of three (3) members, each of which must have been a member of the Creditors' Committee. In the case of an inability or unwillingness of any member of the Oversight Committee to serve subsequent to his or her original appointment and acceptance, such member shall be replaced by designation of the remaining members of the Oversight Committee and the Trustee. If any position on the Oversight Committee remains vacant for more than thirty (30) calendar days, such vacancy may be filled within fifteen (15) calendar days thereafter by the designation of the Trustee without the requirement of a vote by the other members of the Oversight Committee. Each replacement member of the Oversight Committee must be an Unsecured Creditor Trust Beneficiary. The Oversight Committee will continue to fully function even while a position on the applicable Oversight Committee remains vacant.

4.3 **Governance of the Oversight Committee.** All authorizations, directions and advice rendered by the Oversight Committee to the Trustee on the Prior Notice Actions shall be by majority vote of the Oversight Committee.

4.4 **Advice and Direction to Trustee.** The Oversight Committee shall provide advice, instruction and direction on matters arising in the administration of the Unsecured Creditor Trust and in the disposition and distribution of the Unsecured Creditor Trust Assets, and in the pursuit of applicable Retained Causes of Actions and Claim Objections, as requested by the Trustee, or as otherwise specifically provided herein. Privileged communications may be shared among the Trustee and the Oversight Committee (and their respective professionals) without compromising the privileged nature of the communications in accordance with the "joint interest" doctrine. For the avoidance of doubt, this Agreement shall constitute an acknowledgment that the Trustee and the Oversight Committee (and each of its members individually) share a "joint interest" with respect to, among other things, the Unsecured Creditor Trust and the Unsecured Creditor Trust Assets.

4.5 Removal of Oversight Committee Member. Any member of the Oversight Committee may be removed by the Bankruptcy Court for cause shown on a motion by any member of the Oversight Committee or by the Trustee.

4.6 Standard of Care; Exculpation. Neither the Oversight Committee nor any of its members, designees, counsel, financial advisors or any duly designated agent or representatives of any such party shall be liable for the act, default or misconduct of any other member of the Oversight Committee, nor shall any member be liable for anything other than such member's own gross negligence or willful misconduct as determined by Final Order of a court with competent jurisdiction. The Oversight Committee or any member may, in connection with the performance of its duties, and in its sole and absolute discretion, consult with the Trustee's counsel and any other of the Trustee's professionals and/or with counsel and other professional advisors directly retained by the Oversight Committee or counsel to a member of the Oversight Committee, and the Oversight Committee or member thereof shall not be liable for anything done or omitted or suffered to be done in accordance with the advice or opinions of such professionals. If the Oversight Committee or any member determines not to consult with counsel, accountants or other professionals, it shall not be deemed to impose any liability on the Oversight Committee, or its members and/or designees.

4.7 Reliance by Oversight Committee. The Oversight Committee may rely, and shall be fully protected personally in acting upon any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order or other instrument or document that the Oversight Committee has no reasonable belief to be other than genuine and to have been signed or presented other than by the proper party or parties or, in the case of facsimile transmissions, to have been sent other than by the proper party or parties, in each case without obligation to satisfy itself that the same was given in good faith and without responsibility for errors in delivery, transmission or receipt.

4.8 Termination of the Oversight Committee. Upon the certification by the Trustee that all Disputed Claims have been disposed of and all Unsecured Creditor Trust Assets have been distributed, abandoned or otherwise disposed of, the members of the Oversight Committee shall resign their positions, whereupon they shall be discharged from further duties and responsibilities.

ARTICLE 5

Tax Matters

5.1 Federal Income Tax Treatment of the Unsecured Creditor Trust.

(a) For all federal income tax purposes, all parties (including the Debtors, the Unsecured Creditor Trust, the Trustee and the Unsecured Creditor Trust Beneficiaries) shall treat the transfer of the Unsecured Creditor Trust Assets to the Unsecured Creditor Trust for the benefit of the Unsecured Creditor Trust Beneficiaries, whether their Claims are Allowed on or after the Effective Date, as (a) a transfer of the Unsecured Creditor Trust Assets directly to those holders of Allowed Claims receiving a beneficial interest in the Unsecured Creditor Trust (other than to the extent allocable to Disputed Claims), followed by (b) the transfer by such Persons to

the Unsecured Creditor Trust of the Unsecured Creditor Trust Assets in exchange for beneficial interests in the Unsecured Creditor Trust (and in respect of the Unsecured Creditor Trust Assets allocable to the Disputed Claims Reserve (defined below), as a transfer to the Disputed Claims Reserve by the Debtors. Accordingly, those holders of beneficial interests in the Unsecured Creditor Trust shall be treated for federal income tax purposes as the grantors and owners of their respective shares of the Unsecured Creditor Trust Assets. The foregoing treatment also shall apply, to the extent permitted by applicable law, for state and local income tax purposes.

(b) Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including receipt by the Trustee of a private letter ruling if the Trustee so requests one, or the receipt of an adverse determination by the IRS, upon audit, or otherwise if not contested by the Trustee), the Trustee shall (i) file returns for the Unsecured Creditor Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a) and in accordance with the Operative Documents and (ii) annually send to each Unsecured Creditor Trust Beneficiary a separate statement setting forth such holder's share of items of income, gain, loss, deduction, or credit and will instruct all such holders and parties to report such items on their federal income tax returns. The Trustee also shall file (or cause to be filed) any other statements, returns or disclosures relating to the Unsecured Creditor Trust that are required by any governmental unit.

(c) As soon as possible after the Effective Date, but in no event later than ninety (90) calendar days thereafter (i) the Trustee may, but does not have to in its sole discretion, determine the fair market value as of the Effective Date of all assets transferred to the Unsecured Creditor Trust and (ii) the Trustee shall apprise, in writing, the Unsecured Creditor Trust Beneficiaries of such valuation. In connection with the preparation of the valuation contemplated hereby, the Trustee shall be entitled to retain such professionals and advisors as the Trustee shall determine to be appropriate or necessary, and the Trustee shall take such other actions in connection therewith as it determines to be appropriate or necessary in connection therewith. The Unsecured Creditor Trust shall bear all of the reasonable costs and expenses incurred in connection with determining such value, including the fees and expenses of any Persons retained by the Trustee in connection therewith.

(d) The Trustee may request an expedited determination of taxes of the Unsecured Creditor Trust under section 505(b) of the Bankruptcy Code for all returns filed for, or on behalf of, the Unsecured Creditor Trust for all taxable periods through the dissolution of the Unsecured Creditor Trust.

(e) The Trustee shall be responsible for payments, out of the Unsecured Creditor Trust Assets, of any taxes imposed on the Unsecured Creditor Trust or the Unsecured Creditor Trust Assets. The Trustee may require any of the Unsecured Creditor Trust Beneficiaries to furnish to the Trustee its Employer or Taxpayer Identification Number as assigned by the IRS and the Trustee may condition any distribution or payment to any of them upon receipt of such identification number.

5.2 Allocations of Unsecured Creditor Trust Taxable Income. Allocations of Unsecured Creditor Trust taxable income among the Unsecured Creditor Trust Beneficiaries shall be determined by reference to the manner in which an amount of Cash equal to such taxable

income would be distributed (without regard to any restrictions on distributions described in the Plan or herein) if, immediately prior to such deemed distribution, the Unsecured Creditor Trust had distributed all of its other assets (valued at their tax book value) to the Unsecured Creditor Trust Beneficiaries, in each case up to the tax book value of the assets treated as contributed by such holders, adjusted for prior taxable income and loss and taking into account all prior and concurrent distributions from the Unsecured Creditor Trust (including all distributions held in escrow pending the resolution of Disputed Claims). Similarly, taxable loss of the Unsecured Creditor Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a liquidating distribution of the remaining Unsecured Creditor Trust Assets. The tax book value of the Unsecured Creditor Trust Assets for this purpose shall equal their fair market value on the Effective Date as determined under Section 5.1(c) above, adjusted in either case in accordance with tax accounting principles prescribed by the Tax Code, and applicable tax regulations, and other applicable administrative and judicial authorities and pronouncements.

5.3 Tax Withholdings by Trustee. The Trustee shall be authorized to collect such tax information from Unsecured Creditor Trust Beneficiaries (including, without limitation, social security numbers or other tax identification numbers) as the Trustee, in its sole discretion, deems necessary to effectuate the Operative Documents. The Trustee shall take reasonable steps and give reasonable notices to Unsecured Creditor Trust Beneficiaries to alert them to this requirement. In order to receive distributions pursuant to the Plan and this Agreement, all Unsecured Creditor Trust Beneficiaries shall be required to identify themselves to the Trustee and provide tax information and the specifics of their holdings, to the extent the Trustee deems appropriate in the manner and in accordance with the procedures from time to time established by the Trustee for these purposes. This identification requirement applies to all Unsecured Creditor Trust Beneficiaries, including those Beneficiaries who hold their Claims in “street name.” The Trustee may refuse to make a distribution to any Unsecured Creditor Trust Beneficiary that fails to furnish such information in a timely fashion and, until such information is delivered, may treat such Beneficiary’s Claim as a Disputed Claim. If any requested tax information is not furnished by an Unsecured Creditor Trust Beneficiary to the Trustee within six (6) months of the original request for such information (the “Withholding Deadline”), no further distributions shall be made to such Unsecured Creditor Trust Beneficiary. If the Trustee fails to withhold in respect of amounts received or distributable to any Unsecured Creditor Trust Beneficiary and the Trustee or the Unsecured Creditor Trust is later determined to be liable for the amount of such withholding, such Unsecured Creditor Trust Beneficiary shall reimburse the Trustee or the Unsecured Creditor Trust, as appropriate, for such liability (to the extent such amounts were actually distributed to such holder).

ARTICLE 6

Distributions

6.1 Distributions; Withholding. The Trustee shall distribute to the Unsecured Creditor Trust Beneficiaries, in accordance with this Article 6, all available monies from the liquidation of Unsecured Creditor Trust Assets; provided, however, that the Unsecured Creditor Trust may retain and not distribute to the Unsecured Creditor Trust Beneficiaries, and maintain as a reserve, such amounts as determined by the Trustee (i) as are reasonably necessary to meet

contingent liabilities of the Unsecured Creditor Trust, (ii) to pay reasonable and necessary expenses incurred in connection with administration of the Unsecured Creditor Trust and any taxes imposed on the Unsecured Creditor Trust or in respect of the Unsecured Creditor Trust Assets, and (iii) as are reasonably necessary to establish and maintain the Disputed Claims Reserve (defined below). All distributions and/or payments to be made to Unsecured Creditor Trust Beneficiaries pursuant to this Agreement shall be made to each Unsecured Creditor Trust Beneficiary pro rata based on the amount of such beneficial interest held by such holder compared with the aggregate amount of beneficial interests outstanding, subject, in each case, to the terms of the Operative Documents. The Trustee may withhold from amounts distributable to any Person any and all amounts, determined in the Trustee's reasonable sole discretion, to be required by any law, regulation, rule, ruling, directive or other governmental requirement.

6.2 Unsecured Creditor Trust Claims Pending. Notwithstanding anything to the contrary contained in the Operative Documents, the Oversight Committee may not authorize or direct the Trustee to pay, and the Trustee shall not make, any Distribution to any holder of a Claim who has or may have any liability to the Unsecured Creditor Trust with respect to a claim or Retained Cause of Action, which Distribution may be paid, if at all, only after the holder of such Claim has discharged its liability to the Unsecured Creditor Trust on account of such claim or Retained Cause of Action, by settlement or otherwise. Distributions that would otherwise be paid to any holder of a Claim that has or may have any liability to the Unsecured Creditor Trust with respect to a claim or Retained Cause of Action that has not yet been resolved shall be held in reserve.

6.3 Manner of Payment or Distribution.

(a) All distributions to be made by the Trustee to the Unsecured Creditor Trust Beneficiaries shall be payable to Unsecured Creditor Beneficiaries of record as of the 20th calendar day prior to the date scheduled for the distribution, unless such day is not a Business Day, then such day shall be the following Business Day. If the distribution shall be in Cash, the Trustee shall distribute such Cash by wire, check, or such other method as the Trustee deems appropriate under the circumstances.

(b) To the extent that a Person becomes entitled to a Claim pursuant to section 502(h) of the Bankruptcy Code on account of recoveries obtained with respect to the Unsecured Creditor Trust Claims, the Trustee will be responsible for making distributions on account of such Claims pursuant to Section 8.2 of this Agreement.

6.4 Cash Distributions. No Cash distributions shall be required to be made to any Unsecured Creditor Trust Beneficiary in an amount less than \$50.00. Any funds so withheld and not distributed shall be held in reserve and distributed in subsequent distributions. The foregoing shall not apply to the final distribution made to the Unsecured Creditor Trust Beneficiaries.

6.5 Delivery of Unsecured Creditor Trust Distributions.

(a) All distributions under this Agreement to an Unsecured Creditor Trust Beneficiary shall be made at the address of such Beneficiary as set forth in the Trust Register or at such other address or in such manner as such Beneficiary shall have specified for payment

purposes in a written notice to the Trustee and the Registrar at least twenty (20) calendar days prior to such distribution date.

(b) If any distribution to any Unsecured Creditor Trust Beneficiary is returned as undeliverable, and after reasonable efforts the Trustee has been unable to determine the current address of such Beneficiary, such undeliverable or unclaimed distribution shall be deemed unclaimed property six months after the date of such distribution, and shall be reallocated to the remaining Unsecured Creditor Trust Beneficiaries and distributed to such remaining Unsecured Creditor Trust Beneficiaries in accordance with the terms of this Agreement and there shall be no further distribution to such Unsecured Creditor Trust Beneficiary. Any such undeliverable or unclaimed distributions shall not be subject to (i) any claims by such Unsecured Creditor Trust Beneficiary or (ii) the unclaimed property or escheat laws of any state or governmental unit.

6.6 Disputed Claims Reserve. The Trustee may, but shall not be required, to establish a disputed claims reserve (the “Disputed Claims Reserve”), which shall include assets held separately from other assets of the Unsecured Creditor Trust, subject to an allocable share of all expenses and obligations for the Unsecured Creditor Trust, on account of Disputed Claims. The amount of the Disputed Claims Reserve shall be equal to the amount necessary to satisfy the distributions to which the holders of the relevant Disputed Claims would be entitled to receive if all such Disputed Claims were to be subsequently Allowed. The Trustee may, for U.S. federal income tax purposes (and, to the extent permitted by law, for state and local income tax purposes), (i) make an election pursuant to Treasury Regulation section 1.468B-9 to treat the Disputed Claims Reserve as a “disputed ownership fund” within the meaning of that section (ii) allocate taxable income or loss to the Disputed Claims Reserve, with respect to any given taxable year (but only for the portion of the taxable year with respect to which such Claims are Disputed Claims), and (iii) distribute assets from the Disputed Claims Reserve and distribute the same as provided in this Article 6 as, when, and to the extent, such Disputed Claims either become Allowed or are otherwise resolved. The Unsecured Creditor Trust Beneficiaries shall be bound by such election, if made by the Trustee, and as such shall, for U.S. federal income tax purposes (and, to the extent permitted by law, for state and local income tax purposes), report consistently therewith.

ARTICLE 7

Indemnification

7.1 Indemnification of Trustee.

(a) To the fullest extent permitted by law, the Unsecured Creditor Trust, to the extent of its assets legally available for that purpose, shall indemnify and hold harmless the Trustee, and each of its respective directors, members, shareholders, partners, officers, agents, employees, attorneys and other professionals (collectively, the “Indemnified Persons”) from and against any and all losses, costs, damages, reasonable and documented out-of-pocket expenses (including reasonable fees and expenses of attorneys and other advisors and any court costs incurred by any Indemnified Person) or liability by reason of anything any Indemnified Person did, does, or refrains from doing for the business or affairs of the Unsecured Creditor Trust,

except to the extent that the loss, cost, damage, expense or liability resulted (x) from the Indemnified Person's gross negligence, bad faith, willful misconduct or knowing violation of law or (y) from an act or omission from which the Indemnified Person derived an improper personal benefit. To the extent reasonable, the Unsecured Creditor Trust shall pay in advance or reimburse reasonable and documented out-of-pocket expenses (including advancing reasonable costs of defense) incurred by the Indemnified Person who is or is threatened to be named or made a defendant or a respondent in a proceeding concerning the business and affairs of the Unsecured Creditor Trust. The indemnification provided under this Section 7.1 shall survive the death, dissolution, resignation or removal, as may be applicable, of the Trustee and/or any other Indemnified Person, and shall inure to the benefit of the Trustee's and each other Indemnified Person's heirs, successors and assigns.

(b) Any Indemnified Person may waive the benefits of indemnification under this Section 7.1, but only by an instrument in writing executed by such Indemnified Person.

(c) The rights to indemnification under this Section 7.1 are not exclusive of other rights which any Indemnified Person may otherwise have at law or in equity, including without limitation common law rights to indemnification or contribution. Nothing in this Section 7.1 will affect the rights or obligations of any Person (or the limitations on those rights or obligations) under this Agreement, or any other agreement or instrument to which that Person is a party.

ARTICLE 8

Net Recovery

8.1 No Effect on Mutuality. Notwithstanding anything contained in this Agreement to the contrary, nothing herein shall affect the mutuality of obligations, if any, of any holder of any Claim under section 553 of the Bankruptcy Code. Notwithstanding anything in this Agreement to the contrary, the transfer of the Unsecured Creditor Trust Claims to the Unsecured Creditor Trust does not diminish, and fully preserves, any defenses a defendant would have if such Unsecured Creditor Trust Claims had been retained by the Debtors.

8.2 Section 502(h). Notwithstanding anything contained this Agreement to the contrary, in the event that a compromise and settlement of a Retained Cause of Action or a Final Order with respect to a Retained Cause of Action provides for a Claim to be Allowed pursuant to section 502(h) of the Bankruptcy Code against one or more of the Debtors, the distributions to be made hereunder on account of such Claim pursuant to the Plan shall be funded by the Unsecured Creditor Trust, in the amount(s), from time to time, that all similarly situated holders of Claims are entitled to receive hereunder.

8.3 Net Recovery. Notwithstanding anything contained in this Agreement to the contrary, in the event that a defendant in a litigation brought by the Trustee for and on behalf of the Unsecured Creditor Trust (i) is required by a Final Order to make payment to the Unsecured Creditor Trust (the "Judgment Amount") and (ii) is permitted by a Final Order to assert a right of setoff under sections 553, 555, 556, 559, 560 and 561 of the Bankruptcy Code or applicable non-bankruptcy law against the Judgment Amount (a "Valid Setoff"), (y) such defendant shall be

obligated to pay only the excess, if any, of the Judgment Amount over the Valid Setoff and (z) none of the Unsecured Creditor Trust or the Unsecured Creditor Trust Beneficiaries shall be entitled to assert a claim against the Debtors with respect to the Valid Setoff.

ARTICLE 9

Reporting Obligations Of Trustee

9.1 Reports.

(a) The Trustee shall file quarterly reports with the Bankruptcy Court (and serve the same upon counsel for the Liquidating Trust), and provide annual reports to the Unsecured Creditor Trust Beneficiaries, with respect to (i) the prosecution and resolution of the Unsecured Creditor Trust Assets, (ii) the status of Claims against the Unsecured Creditor Trust Assets, and (iii) expenditures, receipts, and distributions of the Unsecured Creditor Trust. The Trustee shall cause to be prepared, as applicable, either at such times as may be required by the Exchange Act, if applicable, or, not less than annually, financial statements of the Unsecured Creditor Trust, to be delivered to Unsecured Creditor Trust Beneficiaries together with annual income tax reporting of the Unsecured Creditor Trust.

(b) Within ten (10) Business Days after the end of the relevant report preparation period the Trustee shall cause notice of any information reported pursuant to Section 9.1(a) to be filed with the Bankruptcy Court.

(c) The Trustee may post any report required to be provided under this Section 9.1 on a web site maintained by the Trustee in lieu of actual notice to the Unsecured Creditor Trust Beneficiaries (unless otherwise required by law).

(d) All of the foregoing reports, and the information and documents upon which such reports are based, shall be made available to Unsecured Creditor Trust Beneficiaries in accordance with Section 3.10 hereof.

ARTICLE 10

Term; Termination of the Unsecured Creditor Trust

10.1 Term; Termination of the Unsecured Creditor Trust.

(a) The Unsecured Creditor Trust shall commence on the Effective Date and terminate no later than the fifth anniversary of the Effective Date; provided, however, that, on or prior to the date that is ninety (90) calendar days prior to such termination, the Bankruptcy Court, upon motion by a party in interest, may extend the term of the Unsecured Creditor Trust if it is necessary to the liquidation of the Unsecured Creditor Trust Assets. Notwithstanding the foregoing, multiple extensions may be obtained so long as Bankruptcy Court approval is obtained not less than ninety (90) calendar days prior to the expiration of each extended term; provided, however, that in no event shall the term of the Unsecured Creditor Trust extend past the tenth (10th) anniversary of the Effective Date; provided further that neither this Agreement nor the continued existence of the Unsecured Creditor Trust shall prevent the Debtors or

Liquidating Trust from closing the Chapter 11 Cases pursuant to section 350 of the Bankruptcy Code and obtaining a final decree pursuant to Bankruptcy Rule 3022.

(b) The Unsecured Creditor Trust may be terminated earlier than its scheduled termination if (i) the Bankruptcy Court has entered a Final Order closing all of or the last of the Chapter 11 Cases pursuant to section 350(a) of the Bankruptcy Code and (ii) the Trustee has administered all Unsecured Creditor Trust Assets and performed all other duties required by the Plan, the Confirmation Order, this Agreement and the Unsecured Creditor Trust.

(c) If at any time the Trustee determines that the expense of administering the Unsecured Creditor Trust is likely to exceed the value of the remaining Unsecured Creditor Trust Assets, the Trustee may (i) donate any balance to a non-religious charitable organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, that is unrelated to the Debtors and any insider of the Debtors and (ii) dissolve the Unsecured Creditor Trust. If the aims or purposes of any charities satisfying the conditions of clause (i) above relate to benefitting cancer research, then the Trustee shall choose any recipients of any donations from among such charities.

10.2 Continuance of Trust for Winding Up. After the termination of the Unsecured Creditor Trust and for the purpose of liquidating and winding up the affairs of the Unsecured Creditor Trust, the Trustee shall continue to act as such until its duties have been fully performed. Prior to the final distribution of all of the remaining Unsecured Creditor Trust Assets, the Trustee shall be entitled to reserve from such assets any and all amounts required to provide for its own reasonable costs and expenses, in accordance with the terms of this Agreement, until such time as the winding up of the Unsecured Creditor Trust is completed. Upon termination of the Unsecured Creditor Trust, the Trustee shall retain for a period of three years the books, records, lists of the Unsecured Creditor Trust Beneficiaries, the Trust Register, and other documents and files that have been delivered to or created by the Trustee. Except as otherwise specifically provided herein, upon the termination of the Unsecured Creditor Trust, the Trustee shall have no further duties or obligations hereunder.

ARTICLE 11

Amendment and Waiver

11.1 Amendment and Waiver.

(a) The Trustee may amend, supplement or waive any provision of, this Agreement, without notice to or the consent of the Unsecured Creditor Trust Beneficiaries or the approval of the Bankruptcy Court: (i) to cure any ambiguity, omission, defect or inconsistency in this Agreement; (ii) to comply with any requirements in connection with the U.S. Federal income tax status of the Unsecured Creditor Trust as a “liquidating trust”; (iii) to comply with any requirements in connection with maintaining that the Unsecured Creditor Trust is not subject to registration or reporting requirements of the Exchange Act, the Trust Indenture Act or the Investment Company Act; (iv) to make the Unsecured Creditor Trust a reporting entity and, in such event, to comply with any requirements in connection with satisfying the registration or reporting requirements of the Exchange Act, the Trust Indenture Act or the Investment Company

Act; and (v) to evidence and provide for the acceptance of appointment hereunder by a successor trustee in accordance with the terms of this Agreement and the Plan; provided, however, that notice shall be given to the Unsecured Creditor Trust Beneficiaries and the Liquidating Trust promptly after such amendment, supplement or waiver is effective.

(b) Any provision of this Agreement that the Trustee cannot amend pursuant to Section 11.1(a) of this Agreement may be amended or waived by the Trustee, subject to approval of the Oversight Committee as set forth in Section 3.9 of this Agreement, with the approval of the Bankruptcy Court upon notice and an opportunity for a hearing.

(c) Notwithstanding anything contained in this Section 11.1, no amendment, supplement, or waiver may be made to this Agreement that (i) would adversely affect the payments and/or distributions to be made under this Agreement to (or on behalf or for the account of) any Unsecured Creditor Trust Beneficiary, or (ii) is inconsistent with the purpose and intention of the Unsecured Creditor Trust to liquidate in an expeditious but orderly manner the Unsecured Creditor Trust Assets in accordance with Treasury Regulation section 301.7701-4(d).

ARTICLE 12

Miscellaneous Provisions

12.1 Intention of Parties to Establish the Unsecured Creditor Trust. This Agreement is intended to create a liquidating trust for federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as such a trust and any ambiguity herein shall be construed consistent herewith and, if necessary, this Agreement may be amended in accordance with Section 11.1 to comply with such federal income tax laws, which amendments may apply retroactively.

12.2 Litigation Costs. If, during the term of this Agreement, any dispute arises among the parties to this Agreement regarding the provisions of this Agreement or the enforcement thereof, each party shall bear its own costs and expenses, including attorneys' fees.

12.3 Laws as to Construction. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to whether any conflicts of law would require the application of the law of another jurisdiction.

12.4 Jurisdiction. Without limiting any Person's right to appeal any order of the Bankruptcy Court or to seek withdrawal of the reference with regard to any matter, (i) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated hereby, and (ii) any and all actions related to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the parties, including the Unsecured Creditor Trust Beneficiaries, hereby consent to and submit to the jurisdiction and venue of the Bankruptcy Court.

12.5 Severability. If any provision of this Agreement or the application thereof to any Person or circumstance shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of

such provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

12.6 Notices. All notices, requests or other communications to the parties hereto shall be in writing and shall be sufficiently given only if (i) delivered in person; (ii) sent by electronic mail or facsimile communication (as evidenced by a confirmed fax transmission report); (iii) sent by first class U.S. mail; or (iv) sent by commercial delivery service or courier.

Until a change of address is communicated, as provided below, all notices, requests and other communications shall be sent to the parties at the following addresses or facsimile numbers:

If to the Trustee:	Mark Shapiro c/o GlassRatner 3500 Maple Avenue Suite 350 Dallas, Texas 75219
(with a copy to)	Cole Schotz P.C. 301 Commerce Street Suite 1700 Forth Worth, Texas 76102 Telephone: (817) 810-5250 Facsimile: (817) 977-1611 Attn: Michael D. Warner, Esq. Warren A. Usatine, Esq. Felice R. Yudkin, Esq.
If to the Debtors:	Chad J. Shandler c/o FTI Consulting Three Times Square 9 th Floor New York, NY 10036
(with a copy to)	Porter Hedges LLP 1000 Main Street, 36 th Floor Houston, TX 77002 Telephone: (713) 226-6000 Facsimile: (713) 228-1331 Attn: John F. Higgins, Esq. Eric M. English, Esq. Genevieve M. Graham, Esq.

If to the Unsecured Creditor Trust Beneficiaries:	To the name and address set forth on the registry maintained by the Trustee.
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All notices shall be effective and shall be deemed delivered (i) if by personal delivery, delivery service or courier, on the date of delivery; (ii) if by electronic mail or facsimile communication, on the date of receipt or confirmed transmission of the communication; and (iii) if by mail, on the date of receipt. Any Person from time to time may change his, her or its address, facsimile number, or other information for the purpose of notices to that Person by giving notice specifying such change to the Trustee. The Unsecured Creditor Trust shall only be required to provide notices to (i) an adverse party on a particular matter, (ii) the Oversight Committee, (iii) the Prepetition Secured Parties and (iv) any Party that refiles a request for notice pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure after the Effective Date.

12.7 Fiscal Year. The fiscal year of the Unsecured Creditor Trust will begin on the first day of the month following the Effective Date and end on the last day of the month on which the Effective Date occurred of each calendar year.

12.8 Construction; Usage.

(a) Interpretation. In this Agreement, unless a clear contrary intention appears:

- (i) the singular number includes the plural number and vice versa;
- (ii) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;
- (iii) reference to any gender includes each other gender;
- (iv) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof;
- (v) reference to any Applicable Law means such Applicable Law as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any section or other provision of any Applicable Law means that provision of such Applicable Law from time to time in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of such section or other provision;
- (vi) "hereunder," "hereof," "hereto," and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article, Section or other provision hereof;

(vii) reference to Articles, Sections, Schedules or Exhibits herein shall be deemed to be references to the Articles, Sections, Schedules and Exhibits to this Agreement unless otherwise specified;

(viii) “including” means including without limiting the generality of any description preceding such term; and

(ix) references to documents, instruments or agreements shall be deemed to refer as well to all addenda, exhibits, schedules or amendments thereto.

(b) Legal Representation of the Parties. This Agreement was negotiated by the parties hereto with the benefit of legal representation and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any party hereto shall not apply to any construction or interpretation hereof.

(c) Headings. The headings contained in this Agreement are for the convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction or interpretation of this Agreement.

12.9 Counterparts; Facsimile; PDF. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. Any facsimile or portable document format copies hereof or signature hereon shall, for all purposes, be deemed originals.

12.10 Entire Agreement. This Agreement (including the Recitals), the Plan, and the Confirmation Order constitute the entire agreement by and among the parties hereto and there are no representations, warranties, covenants or obligations except as set forth herein or therein. This Agreement, the Plan and the Confirmation Order supersede all prior and contemporaneous agreements, understandings, negotiations, discussions, written or oral, of the parties hereto, relating to any transaction contemplated hereunder. Except as otherwise specifically provided herein, in the Plan or in the Confirmation Order, nothing in this Agreement is intended or shall be construed to confer upon or to give any Entity or Person other than the parties hereto and their respective heirs, administrators, executors, permitted successors, or permitted assigns any right to remedies under or by reason of this Agreement, except that the Persons identified in Article 7 hereof are intended third party beneficiaries of Article 7 hereof and shall be entitled to enforce the provisions thereof as if they were parties hereto.

12.11 No Bond. The Trustee shall serve without bond, and notwithstanding any state or federal law to the contrary, the Trustee (including any successor trustee) shall be exempt from giving any bond or other security in any jurisdiction.

12.12 Effectiveness. This Agreement shall become effective on the Effective Date.

12.13 Investment Company Act. This Unsecured Creditor Trust is organized as a liquidating entity in the process of liquidation, and therefore should not be considered, and the Unsecured Creditor Trust does not and will not hold itself out as, an “investment company” or an entity “controlled” by an “investment company” as such terms are defined in the Investment Company Act.

12.14 Successor and Assigns. This Agreement shall inure to the benefit of the parties hereto and the intended third party beneficiaries identified in Section 12.10 hereof (to the extent specified therein), and shall be binding upon the parties hereto, and each of their respective successors and assigns to the extent permitted by this Agreement and applicable law.

12.15 Particular Words. Reference in this Agreement to any Section or Article is, unless otherwise specified, to that such Section or Article under this Agreement. The words “hereof,” “herein,” “herein,” and similar terms shall refer to this Agreement and not to any particular Section or Article of this Agreement.

12.16 No Execution. All funds in the Unsecured Creditor Trust shall be deemed in *custodia legis* until such times as the funds have actually been paid to or for the benefit of an Unsecured Creditor Trust Beneficiary, and no Unsecured Creditor Trust Beneficiary or any other Person can execute upon, garnish or attach the Unsecured Creditor Trust Assets in any manner or compel payment from the Unsecured Creditor Trust except by an order of the Bankruptcy Court. Distributions from the Unsecured Creditor Trust will be governed solely by the Plan and this Agreement.

12.17 Irrevocability. The Unsecured Creditor Trust is irrevocable but is subject to amendment and waiver as provided for in this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have either executed and acknowledged this Agreement, or caused it to be executed and acknowledged on their behalf by their duly authorized officers all as of the date first above written.

THE DEBTORS:

NEIGHBORS LEGACY HOLDINGS, INC.,
(on behalf of itself and the other Debtors.)

By: 

Name: Chad J. Shandler

Title: Chief Restructuring Officer

TRUSTEE:

By: 

Name: Mark Shapiro

Title: Trustee

EXHIBIT B

From: Yudkin, Felice <FYudkin@coleschotz.com>
Sent: Friday, December 7, 2018 3:48 PM
To: 'English, Eric M.'; Graham, Genevieve M.; Warner, Michael; Usatine, Warren; 'Tashman, Matthew E'
Cc: Higgins, John F.
Subject: RE: Neighbors Draft Plan and Disclosure Statement [COLESCHOTZ-CSDOCS.FID2229975]
Attachments: Neighbors - DRAFT Plan With CS Comments.DOCX

Eric – As discussed, attached is a slightly updated plan to address comments we received from GlassRatner.

Cole Schotz

Felice R. Yudkin

Member

25 Main Street | Hackensack, NJ | 07601

Direct 201.525.6261 | Firm 201.489.3000 | Fax 201.678.6261 | Cell 201.315.8951 | fyudkin@coleschotz.com

[New Jersey](#) | [New York](#) | [Delaware](#) | [Maryland](#) | [Texas](#) | [Florida](#)

[vCard](#) | [bio](#) | [website](#)

Legal Practice Assistant: Karen Jeffreys | 201.489.3000 x 5089 | KJeffreys@coleschotz.com

From: English, Eric M. [mailto:EEnglish@porterhedges.com]
Sent: Friday, December 07, 2018 3:03 PM
To: Yudkin, Felice; Graham, Genevieve M.; Warner, Michael; Usatine, Warren; 'Tashman, Matthew E'
Cc: Higgins, John F.
Subject: RE: Neighbors Draft Plan and Disclosure Statement [COLESCHOTZ-CSDOCS.FID2229975]

Any updates?

From: Yudkin, Felice [mailto:FYudkin@coleschotz.com]
Sent: Thursday, December 06, 2018 9:48 PM
To: English, Eric M.; Graham, Genevieve M.; Warner, Michael; Usatine, Warren; 'Tashman, Matthew E'
Cc: Higgins, John F.
Subject: RE: Neighbors Draft Plan and Disclosure Statement [COLESCHOTZ-CSDOCS.FID2229975]

Eric – We had a call with GlassRatner today and I expect to be able to provide you with comments tomorrow. We do have a number of comments to the plan. After sending the comments, we would like to schedule a call to discuss (i) the payment of admin and priority claims and (ii) the issue of consolidation.

I will be participating telephonically in the hearing tomorrow.

Cole Schotz

Felice R. Yudkin

Member

25 Main Street | Hackensack, NJ | 07601

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Legal Practice Assistant: Karen Jeffreys | 201.489.3000 x 5089 | KJeffreys@coleschotz.com

From: English, Eric M. [<mailto:EEnglish@porterhedges.com>]
Sent: Thursday, December 06, 2018 10:41 PM
To: Yudkin, Felice; Graham, Genevieve M.; Warner, Michael; Usatine, Warren; 'Tashman, Matthew E'
Cc: Higgins, John F.
Subject: RE: Neighbors Draft Plan and Disclosure Statement [COLESCHOTZ-CSDOCS.FID2229975]

Felice, when we will receive comments to the Plan? I'd like to tell the Judge the current status at our exclusivity hearing tomorrow.

Eric

From: Yudkin, Felice [<mailto:FYudkin@coleschotz.com>]
Sent: Tuesday, December 04, 2018 8:57 AM
To: English, Eric M.; Graham, Genevieve M.; Warner, Michael; Usatine, Warren; 'Tashman, Matthew E'
Cc: Higgins, John F.
Subject: RE: Neighbors Draft Plan and Disclosure Statement [COLESCHOTZ-CSDOCS.FID2229975]

We have a call scheduled with GlassRatner on Thursday afternoon to discuss some comments/issues after which we will be able to provide you our comments.

Cole Schotz

Felice R. Yudkin

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From: English, Eric M. [<mailto:EEnglish@porterhedges.com>]
Sent: Tuesday, December 04, 2018 9:55 AM
To: Yudkin, Felice; Graham, Genevieve M.; Warner, Michael; Usatine, Warren; 'Tashman, Matthew E'
Cc: Higgins, John F.
Subject: RE: Neighbors Draft Plan and Disclosure Statement [COLESCHOTZ-CSDOCS.FID2229975]

Felice, any update on the timing of comments to the Plan?

Eric



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From: Yudkin, Felice [<mailto:FYudkin@coleschotz.com>]
Sent: Thursday, November 29, 2018 9:39 AM
To: Graham, Genevieve M.; Warner, Michael; Usatine, Warren; 'Tashman, Matthew E'
Cc: Higgins, John F.; English, Eric M.
Subject: RE: Neighbors Draft Plan and Disclosure Statement [COLESCHOTZ-CSDOCS.FID2229975]

Genevieve – We are working on comments to the plan which we will need to discuss with the Committee. We will get back to you as soon as possible.

Cole Schotz

Felice R. Yudkin

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Legal Practice Assistant: Karen Jeffreys | 201.489.3000 x 5089 | KJeffreys@coleschotz.com

From: Graham, Genevieve M. [<mailto:GGraham@porterhedges.com>]
Sent: Wednesday, November 28, 2018 4:19 PM
To: Warner, Michael; Usatine, Warren; Yudkin, Felice; 'Tashman, Matthew E'
Cc: Higgins, John F.; English, Eric M.
Subject: RE: Neighbors Draft Plan and Disclosure Statement

All, subject to FRE 408 and continuing client approval, I'm attaching a revised draft Plan of Liquidation along with a redline from the last version circulated. The biggest change is the addition of the Unsecured Creditor Trust.

From: English, Eric M.
Sent: Monday, November 19, 2018 8:45 PM
To: Warner, Michael <MWarner@coleschotz.com>; Usatine, Warren <WUsatine@coleschotz.com>; Francine Elliot

<felliott@neighborshealth.com>; 'Tashman, Matthew E' <MTashman@ReedSmith.com>

Cc: Higgins, John F. <JHiggins@porterhedges.com>; Graham, Genevieve M. <GGraham@porterhedges.com>

Subject: Neighbors Draft Plan and Disclosure Statement

Subject to FRE 408

All: Attached are a revised draft of the Plan of Liquidation, a redline showing changes from the original circulated version, and a draft Disclosure Statement. These remain subject to ongoing client review and approval. After you have had a chance to review, we'd like to set up a call with the our team, the Committee counsel and KeyBank counsel this week to discuss the open issues.

Eric



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* * * * *

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PH DRAFT 11/28/2018

CS COMMENTS 12/7/2018

PRIVILEGED AND CONFIDENTIAL

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

<hr/>	§	
In re:	§	Chapter 11
	§	
NEIGHBORS LEGACY HOLDINGS, INC., et al.,	§	Case No. 18-33836 (MI)
	§	
Debtors.¹	§	(Jointly Administered)
<hr/>	§	

**JOINT PLAN OF LIQUIDATION OF NEIGHBORS LEGACY HOLDINGS, INC.
AND ITS DEBTOR AFFILIATES UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

PORTER HEDGES LLP

John F. Higgins
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Counsel to the Debtors and Debtors in Possession

Dated: November ____, 2018

¹ Due to the large number of Debtors in these chapter 11 cases, a complete list of the Debtors and the last four digits of their tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at www.kccllc.net/neighbors. The location of Debtors' principal place of business and the Debtors' service address is: 10800 Richmond Avenue, Houston, Texas 77042.

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INTRODUCTION

Neighbors Legacy Holdings, Inc. and its affiliates and subsidiaries in the above-captioned Chapter 11 Cases respectfully propose the following joint plan of liquidation under chapter 11 of the Bankruptcy Code. Capitalized terms used in the Plan shall have the meanings ascribed to such terms in Article I hereof.

ALL HOLDERS OF CLAIMS OR INTERESTS ENTITLED TO VOTE ON THIS PLAN ARE ENCOURAGED TO READ THIS PLAN AND THE DISCLOSURE STATEMENT CAREFULLY AND IN THEIR ENTIRETY BEFORE VOTING ON THIS PLAN.

ARTICLE I. DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME AND GOVERNING LAW

A. *Defined Terms*

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. “*Administrative Claim*” means a Claim for costs and expenses of administration pursuant to sections 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estates and operating the businesses of the Debtors; (b) compensation for legal, financial advisory, accounting, and other services and reimbursement of expenses Allowed pursuant to sections 328, 330(a), or 331 of the Bankruptcy Code or otherwise for the period commencing on the Petition Date through the Effective Date; (c) all fees and charges assessed against the Estates under section 1930, chapter 123, of the Judicial Code; and (d) all requests for compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Cases pursuant to sections 503(b)(3), (4), and (5) of the Bankruptcy Code to the extent such request is granted by the Bankruptcy Court. With respect to Administrative Claims which are allowed pursuant to sections 503(b)(1), 503(b)(2), 503(b)(3), 503(b)(4), 503(b)(5), 503(b)(6), 503(b)(7), 503(b)(8) or 503(b)(9), there shall be an Administrative Claim against the Debtors only to the extent of and only after the entry of a Final Order approving such Administrative Claim following the filing of a motion or application prior to the Administrative Claim Bar Date.

2. “*Administrative Claim Bar Date*” means (other than for (i) quarterly U.S. Trustee fees and (ii) Professional Fee Claims) the deadline for Filing requests for payment of Administrative Claims, which: (a) with respect to Administrative Claims other than Professional Fee Claims, shall be 30 days after the Effective Date; and (b) with respect to Professional Fee Claims, shall be 45 days after the Effective Date.

3. “*Administrative Claim Reserve*” reserve established to pay Administrative Claims that are not Professional Fee Claims.

4. “*Administrative Claim Reserve Amount*” means the total amount of estimated Administrative Claims estimated in accordance with Article II.A.2 hereof.

5. “*Affiliate*” has the meaning set forth in section 101(2) of the Bankruptcy Code.
6. “*Allowed*” means, as to a Claim, or applicable portion thereof, (a) that has been listed in the Schedules (and thereafter continues to be listed in any subsequently filed amended versions of such Schedules) as liquidated in amount and not Disputed or contingent and for which no Proof of Claim has been filed, (b) where a Proof of Claim was timely and properly filed by the applicable deadline under the Claims Bar Date Order as to which (i) such Claim is not Disputed, or (ii) an objection has been interposed and such Claim has been allowed, in whole or in part, by a Final Order or by the agreement of the holder of such Claim, on the one hand, and the Debtors or the Liquidating Trustee, as applicable, on the other, or (c) that has been allowed under any Final Order, whether or not such Claim was scheduled or is the subject of a filed Proof of Claim, including, without limitation, the Claims of the Agent and DIP Agent as set forth in the Final DIP Order (as hereinafter defined).
7. “*Available Cash*” means all of the Debtors’ or the Liquidating Trust’s cash remaining after the payment of Administrative Claims, Priority Tax Claims, DIP Claims, quarterly U.S. Trustee fees, Other Secured Claims, Other Priority Claims, and reservation of the GUC Settlement Cash by the Unsecured Creditor Trustee.
8. “*Avoidance Actions*” means any and all claims and Causes of Action which any of the Debtors, the Debtors in Possession, the Estates, the Unsecured Creditor Trustee or other appropriate party in interest has asserted or may assert under sections 502, 510, 542, 544, 545, or 547 through 553 of the Bankruptcy Code or under similar or related state or federal statutes and common law, including fraudulent transfer laws and the proceeds thereof.
9. “*Balloting Agent*” means Kurtzman Carson Consultants LLC, in its capacity as notice and balloting agent for the Debtors.
10. “*Ballots*” means the ballots accompanying the Disclosure Statement upon which certain Holders of Impaired Claims entitled to vote shall, among other things, indicate their acceptance or rejection of the Plan in accordance with the Plan and the procedures governing the solicitation process, and which must be actually received by the Balloting Agent on or before the Voting Deadline.
11. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as applicable to the Chapter 11 Cases.
12. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Southern District of Texas, Houston Division, having jurisdiction over the Chapter 11 Cases and, to the extent of the withdrawal of any reference under section 157 of title 28 of the United States Code, the United States District Court for the Southern District of Texas.
13. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure, as applicable to the Chapter 11 Cases, promulgated by the United States Supreme Court under 28 U.S.C. § 2075 and the general, local, and chambers rules of the Bankruptcy Court, as each may be amended from time to time.

14. “*Business Day*” means any day, other than a Saturday, Sunday, or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

15. “*Cash*” means the legal tender of the United States of America or the equivalent thereof, including bank deposits and checks.

16. “*Causes of Action*” means all actions, causes of action (including Avoidance Actions), Claims, claims for relief, rights, suits, debts, dues, damages, reckonings, accounts, rights to legal remedies, rights to equitable remedies, rights to payment, controversies, agreements, covenants, promises, judgments of every type, responsibilities, disputes, assertions, allegations, proceedings, remedies, demands, setoffs, defenses, recoupments, cross claims, counterclaims, third-party claims, indemnity claims, contribution claims, or any other claims, disputed or undisputed, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date and also includes, without limitation: (a) any right of setoff, counterclaim, or recoupment and any claim on contracts or for breaches of duties imposed by law or in equity; (b) the right to object to Claims or Interests; (c) any claim pursuant to section 362 of the Bankruptcy Code; (d) any claim or defense, including fraud, mistake, duress, and usury and any other defenses set forth in section 558 of the Bankruptcy Code; = (e) any claim to avoid transfers and/or transactions under any state or common law or other similar claim; and (f) D&O Claims.

17. “*Chapter 11 Cases*” means the jointly administered chapter 11 cases pending for the Debtors in the Bankruptcy Court.

18. “*Chief Restructuring Officer*” means Chad J. Shandler, in his capacity as Chief Restructuring Officer for the Debtors.

19. “*Claim*” means any claim against a Debtor as defined in section 101(5) of the Bankruptcy Code.

20. “*Claims Bar Date*” means the November 14, 2018 deadline by which proofs of claim must be filed under the Claims Bar Date Order by all Entities other than Governmental Units.

21. “*Claims Bar Date Order*” means the order entered by the Bankruptcy Court setting, among other things, the Claims Bar Date [Docket No. 14].

22. “*Class*” means a category of Holders of Claims or Interests as set forth in Article III hereof pursuant to sections 1122(a) and 1123(a)(1) of the Bankruptcy Code.

23. “*Closed Centers*” means the centers that the Debtors closed prior to the Petition Date (NEC Lakeline Emergency Center, LP, NEC Zaragoza Emergency Center, LP, NEC Tyler Emergency Center, LP, NEC Texas City Emergency Center, LP, NEC Wichita Falls Emergency Center, LP, NEC Longview Emergency Center, LP, NEC San Angelo Emergency Center, LP, NEC College Station Emergency Center, LP, NEC Lufkin Emergency Center, LP, NEC West

Warwick Emergency Center, LP, NEC Greeley Emergency Center, LP, NEC Kerrville Emergency Center, LP, and NEC Amarillo South Emergency Center, LP).

24. “*Committee*” means the official committee of unsecured creditors (and all subcommittees thereof) appointed in the Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code, as such committee may be reconstituted from time to time [Docket No. 87].

25. “*Confirmation*” means the entry of the Confirmation Order on the docket of the Chapter 11 Cases, subject to all conditions specified in Article IX.A hereof having been: (a) satisfied; or (b) waived pursuant to Article IX.C hereof.

26. “*Confirmation Date*” means the date upon which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases, within the meaning of Bankruptcy Rules 5003 and 9021.

27. “*Confirmation Hearing*” means the hearing or hearings held by the Bankruptcy Court to consider Confirmation, as such hearing may be adjourned or continued from time to time in the Debtors’ sole discretion.

28. “*Confirmation Order*” means the order or orders of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

29. “*Consummation*” means the occurrence of the Effective Date.

30. “*D&O Claims*” means any and all rights and claims against the Debtors’ current and former directors and officers including, without limitation, claims for breach of fiduciary duty, breach of the duty of care, misrepresentation of company assets, misuse of company funds, fraud, failure comply with workplace laws, theft of intellectual property and general errors and omissions committed in the management of the Debtors, and the proceeds of any such claims, including any recovery under D&O Policies associated therewith.

31. “*D&O Policies*” means collectively, what is commonly understood as any “Directors and Officers Liability” coverage and any other executive or fiduciary liability and/or employment practices liability insurance policies belonging to the Debtors or under which any of the Debtors and their current and former directors and officers are insureds, insured persons or are named as an insured or additional insured (including any and all amendments, endorsements, renewals and extensions thereof).

32. “*Debtor*” or “*Debtor in Possession*” means one of the Persons in the above-captioned cases, in its individual capacity as a debtor and debtor in possession in the Chapter 11 Cases under sections 1107 and 1108 of the Bankruptcy Code.

33. “*Debtor Releases*” shall have the meaning set forth in Article X.B of the Plan.

34. “*DIP Agent*” means KeyBank, National Association in its capacity as the administrative agent under the DIP Credit Agreement.

35. “*DIP Claims*” means any claim arising under the DIP Credit Agreement.

36. “*DIP Credit Agreement*” means that certain Debtor-in-Possession Credit Agreement (as amended, restated, or supplemented) dated August 30, 2018 between Neighbors Global Holdings, LLC and the DIP Secured Parties.

37. “*DIP Lenders*” means those lenders who advanced the DIP Loans pursuant to the DIP Credit Agreement.

38. “*DIP Loans*” means the loans advanced pursuant to the DIP Credit Agreement.

39. “*DIP Secured Parties*” means the DIP Lenders and the DIP Agent.

40. “*Disallowed*” means, with reference to any Claim, a finding of the Bankruptcy Court in a Final Order or a provision of the Plan, providing that a Claim shall not be Allowed.

41. “*Disclosure Statement*” means the *Disclosure Statement for Joint Plan of Liquidation of Neighbors Legacy Holdings, Inc. and Its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code*, dated November [___], 2018, as the same may be amended, supplemented, or modified from time to time, including all exhibits and schedules thereto and references therein that relate to the Plan, that is prepared and distributed in accordance with the Bankruptcy Code, Bankruptcy Rules, and any other applicable law.

42. “*Disputed*” means, with respect to any Claim or Interest, any Claim or Interest that is not yet Allowed.

43. “*Disputed Claims Reserve*” means a reserve of Cash that may be funded on or after the Effective Date pursuant to Article VII.D hereof.

44. “*Distribution*” means the payment of Cash or other property, as the case may be, in accordance with the Plan, the Confirmation Order, and the Liquidating Trust Agreement.

45. “*Distribution Record Date*” means the date on which the Confirmation Order is entered or such other date that is designated by the Debtors.

46. “*Effective Date*” means the date declared by the Debtors after the Confirmation Order becomes a Final Order and all of the conditions specified in Article IX.B hereof have been satisfied or waived pursuant to Article IX.C hereof.

47. “*Entity*” means an entity as defined in section 101(15) of the Bankruptcy Code.

48. “*Equity Security*” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

49. “*Estate*” means, as to each Debtor, the estate created for such Debtor in its Chapter 11 Case pursuant to section 541 of the Bankruptcy Code.

50. “*Exculpated Claim*” means any Claim related to any act or omission that occurred after the Petition Date in connection with the Debtors’ in- Bankruptcy Court restructuring efforts, the Debtors’ Chapter 11 Cases, formulation, preparation, dissemination, negotiation or filing of

the Disclosure Statement or the Plan or any contract, instrument, release or other agreement or document created or entered into in connection with the Disclosure Statement or the Plan, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the Distribution of property under the Plan or any other agreement; *provided, however*, that Exculpated Claims shall not include any act or omission that is determined in a Final Order to have constituted willful misconduct, gross negligence, or fraud.

51. “*Exculpated Party*” means each of the Debtors, the Prepetition Secured Parties, the DIP Secured Parties, the Committee and each of its members, but solely in their capacities as such, and not individually, the Chief Restructuring Officer, the Patient Care Ombudsman, and, with respect to each of the foregoing, its and their officers, directors, managers, managing members, principals, partners, members, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other Professionals, in their capacity as such, only to the extent such officers, directors, managers, managing members, principals, partners, members, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other Professionals worked for or otherwise represented the Debtors after the Petition Date. For the avoidance of doubt, the term Exculpated Party shall include the Debtors’ officers, if any, that are terminated after the closing of all of the Purchase Agreements.

52. “*Executory Contract*” means a contract to which one or more of the Debtors is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

53. “*File*,” “*Filed*,” or “*Filing*” means file, filed, or filing with the Bankruptcy Court or other court of competent jurisdiction in the Chapter 11 Cases.

54. “*Final DIP Order*” means the Final Order (a) Authorizing Use of Cash Collateral pursuant to Section 363(c) of the Bankruptcy Code and Granting Adequate Protection, and (b) Authorizing Debtor to Obtain Postpetition Financing and Granting Liens and Superpriority Claims [Docket No. 193].

55. “*Final Order*” means, as applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter, which has not been reversed, stayed, modified or amended, and as to which the time to appeal or seek certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been Filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought or the new trial, reargument or rehearing shall have been denied, has resulted in no modification of such order or has otherwise been dismissed with prejudice; *provided however*, that a motion under Section 502(j) of the Bankruptcy Code, Rule 59 or 60 of the Federal Rules of Civil Procedure, or any analogous rule may be made with respect to such order shall not cause such order not to be a Final Order.

56. “*General Unsecured Claim*” means any unsecured Claim, specifically including any Prepetition Deficiency Claim, against any of the Debtors that is not an Administrative Claim,

Priority Tax Claim, Other Priority Claim, Professional Fee Claim, Section 510(b) Claim, or an Intercompany Claim.

57. “*Governmental Claims Bar Date*” means the January 8, 2019 deadline by which Governmental Units must file proofs of claim under the Claims Bar Date Order.

58. “*Governmental Unit*” means a governmental unit as defined in section 101(27) of the Bankruptcy Code.

59. “*GUC Settlement Cash*” means \$275,000 of the proceeds from the sale of the Collateral and/or DIP Collateral (each as defined in the Final DIP Order) pursuant to paragraph 45 of the Final DIP Order.

60. “*HHS*” shall mean the United States Department of Health and Human Services.

61. “*HHS Records Request*” shall mean the written request to be sent by certified mail to HHS pursuant to section 351(2) of the Bankruptcy Code requesting permission from HHS to deposit the Patient Records with HHS.

62. “*Holder*” means any Person or Entity holding a Claim or an Interest.

63. “*Impaired*” means any Claim or Interest in an Impaired Class.

64. “*Impaired Class*” means an impaired Class within the meaning of section 1124 of the Bankruptcy Code.

65. “*Intercompany Claim*” means any Claim held by a Debtor against another Debtor.

66. “*Intercompany Interest*” means an Equity Security in a Debtor held by another Debtor.

67. “*Interests*” means, collectively, the Neighbors Equity Interests, Intercompany Interests, and Series LLC Interests.

68. “*IRC*” means the U.S. Internal Revenue Code of 1986, as amended. “*Judicial Code*” means title 28 of the United States Code, 28 U.S.C. §§ 1-4001.

69. “*Lien*” means a lien as defined in section 101(37) of the Bankruptcy Code.

70. “*Liquidating Debtors*” means the Debtors after the Effective Date.

71. “*Liquidating Trust*” means the Liquidating Trust established under Article V.C of the Plan and pursuant to the Liquidating Trust Agreement.

72. “*Liquidating Trust Agreement*” means the agreement creating the Liquidating Trust to be implemented pursuant to Article V of the Plan, and substantially in the form included in the Plan Supplement.

73. “*Liquidating Trust Assets*” means all assets of the Debtors, and proceeds from such assets, including the Remaining Prepetition Collateral and the Liquidating Trust Cash other than (i) the Unsecured Creditor Trust Assets and (ii) all permits, licenses, regulatory authorizations, approvals, and any other asset or attribute necessary to comply with the Debtors’ duties under the Transition Services Agreements.

74. “*Liquidating Trust Cash*” means all Cash held by the Debtors on the Effective Date (including the Professional Fee Escrow) available after the satisfaction of the costs and expenses of the Liquidating Trust, including the fees of the Liquidating Trustee and counsel to the Liquidating Trust other than the GUC Settlement Cash and any amounts recovered by the Unsecured Creditor Trust on account of the Retained Causes of Action. By way of further clarification, the cash proceeds of the Remaining Prepetition Collateral shall not constitute Liquidating Trust Cash.

75. “*Liquidating Trustee*” means that person selected by the Debtors in consultation with the Committee, the Prepetition Agent, and the DIP Agent, to be identified in the Plan Supplement.

76. “*Neighbors Equity Interest*” means any Equity Security, including warrants to acquire such interests, in Neighbors Legacy Holdings, Inc. or Neighbors Physician Group, PLLC, or any Series LLC Interest.

77. “*Other Priority Claim*” means any Claim accorded priority in right of payment under section 507(a) of the Bankruptcy Code, other than: (a) an Administrative Claim or (b) a Priority Tax Claim.

78. “*Other Secured Claim*” means any Secured Claim other than Prepetition Secured Loan Claims.

79. “*Patient*” means a patient as defined in section 101(40A) of the Bankruptcy Code.

80. “*Patient Care Ombudsman*” means Susan N. Goodman, in her capacity as the Patient Care Ombudsman pursuant to the Notice of Appointment Patient Care Ombudsman [Docket No. 204].

81. “*Patient Publication Notice*” shall mean the notice by publication given to former Patients of the Debtors’ Closed Centers.

82. “*Patient Records*” means patient records as defined in section 101(40B) of the Bankruptcy Code.

83. “*Patient Records Costs*” shall mean any costs reasonably incurred by the Liquidating Trustee in connection with the preservation, maintenance, storage, transfer or destruction of Patient Records, including without limitation all such costs incurred by the Liquidating Trustee in complying with Article IX of this Plan.

84. “*Patient Records Mailing List*” shall mean the list of the Debtors’ Patients between the Petition Date and the Effective Date as derived from the Debtors’ electronic billing

records to the extent that such electronic records are reasonably available to the Debtors or the Liquidating Trustee.

85. “*Patient Records Mail Notice*” shall mean notice consistent with Bankruptcy Rule 6011(b), in such form as may be approved by the Bankruptcy Court in the Confirmation Order, to be deposited in the United States Mail, first class, postage prepaid, addressed to all Persons reflected on the Patient Records Mailing List.

86. “*Patient Records Maintenance Period*” is the 365-day period identified in section 351(1)(A) of the Bankruptcy Code immediately following the publication of the Patient Publication Notice.

87. “*Patient Records Service Agreement*” means the document approved in form by the Bankruptcy Court pursuant to which the Patient Records Service Provider will maintain and store Patient Records and respond to requests for Patient Records during the Patient Records Maintenance Period consistent with section 351 of the Bankruptcy Code.

88. “*Patient Records Service Provider*” means the third party service provider engaged pursuant to the Patient Records Service Agreement.

89. “*Person*” means a person as defined in section 101(41) of the Bankruptcy Code.

90. “*Petition Date*” means July 12, 2018, and July 23, 2018 solely with respect to NEC Beaumont Asset Holdings, LLC and NEC Beaumont Emergency Center, LP.

91. “*Plan*” means this *Joint Plan of Liquidation of Neighbors Legacy Holdings, Inc. and Its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code*, dated November [__], 2018, as the same may be amended, supplemented, or modified from time to time, including, without limitation, any exhibits hereto, which are incorporated herein by reference.

92. “*Plan Supplement*” means the supplemental appendix to this Plan, filed with the Court no later than five (5) calendar days prior to the Voting Deadline, which contains, among other things, draft forms or signed copies, as the case may be, of the Liquidating Trust Agreement, the schedule of Retained Causes of Action, and any schedules, lists, or documents that supplement or clarify aspects of this Plan and are identified as part of the Plan Supplement.

93. “*Plan Trustees*” means the Liquidating Trustee and the Unsecured Creditor Trustee, respectively.

94. “*Plan Trusts*” means the Liquidating Trust and the Unsecured Creditor Trust, respectively.

95. “*Plan Trusts’ Agreements*” means the Liquidating Trust Agreement and the Unsecured Creditor Trust Agreement, respectively.

96. “*Prepetition Agent*” means KeyBank, National Association as administrative agent under the Prepetition Credit Agreement in its capacity as agent under the Prepetition Credit Agreement.

97. “*Prepetition Collateral*” means the property subject to the Prepetition Liens.
98. “*Prepetition Credit Agreement*” means that certain Credit Agreement (as amended, restated, or supplemented) dated November 19, 2015 between Neighbors Global Holdings, LLC and the Prepetition Secured Parties.
99. “*Prepetition Deficiency Claim*” means the portion of any Prepetition Loan Claim that remains after payment of the Secured portion of such Claim.
100. “*Prepetition Financing Agreements*” means the Prepetition Credit Agreement together with all security, pledge and guaranty agreements and all other documentation executed in connection with any of the foregoing, each agreement, as so amended or otherwise modified (without giving effect to any other amendments restatements, supplements or modifications thereto after the date hereof).
101. “*Prepetition Lenders*” means those lenders who advanced the Prepetition Loans pursuant to the Prepetition Credit Agreement.
102. “*Prepetition Liens*” means the security interests and liens granted by the Debtors to the Prepetition Agent to secure the Prepetition Secured Debt.
103. “*Prepetition Loans*” means the loans advanced pursuant to the Prepetition Credit Agreement.
104. “*Prepetition Loan Claim*” means any Claim arising under the Prepetition Credit Agreement.
105. “*Prepetition Secured Debt*” means collectively, at least \$110,195,053.48 plus interest accrued and accruing, costs, expenses, fees (including attorney’s fees and legal expenses) other charges and other obligations owed to the Prepetition Lenders as of the Petition Date by the Debtors party to or otherwise obligated under the Prepetition Financing Agreements.
106. “*Prepetition Secured Loan Claim*” means the portion of any Prepetition Loan Claim that is Secured.
107. “*Prepetition Secured Parties*” means the Prepetition Lenders together with the Prepetition Agent who made certain advances under the Prepetition Credit Agreement, KeyBanc Capital Markets Inc., as joint lead arranger and joint bookrunner, Compass Bank Association, as joint lead arranger, a joint bookrunner, and sole syndication agent, and LegacyTexas Bank, as the documentation agent.
108. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.
109. “*Pro Rata*” means the proportion that an Allowed Claim or Allowed Interest in a particular Class bears to the aggregate amount of Allowed Claims or Allowed Interests in that Class, or the proportion that Allowed Claims or Allowed Interests in a particular Class bear to the aggregate amount of Allowed Claims or Allowed Interests in a particular Class and other

Classes entitled to share in the same recovery as such Allowed Claim or Allowed Interest under the Plan.

110. “*Professional*” means a Person or Entity: (a) employed in the Chapter 11 Cases pursuant to a Bankruptcy Court order in accordance with sections 327, 363, or 1103 of the Bankruptcy Code and to be compensated for services rendered before or on the Effective Date, pursuant to sections 327, 328, 329, 330, 363, and 331 of the Bankruptcy Code; or (b) awarded compensation and reimbursement by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

111. “*Professional Fee Claims*” means Administrative Claims for Professional Fees from the Petition Date through the Effective Date, as well as fees, expenses and other reimbursable costs incurred after the Effective Date in connection with the preparation and filing of fee applications with the Bankruptcy Court in respect of Professional Fee Claims.

112. “*Professional Fee Escrow*” means an interest-bearing account in an amount equal to the Professional Fee Reserve Amount and funded by the Debtors on the Effective Date, pursuant to Article II.A.2 hereof.

113. “*Professional Fee Reserve Amount*” means the total amount of Professional Fee Claims estimated in accordance with Article II.A.4 hereof.

114. “*Professional Fees*” means all fees, costs and expenses incurred in these Chapter 11 Cases by any Professional and awarded by Final Order of the Bankruptcy Court pursuant to §§ 330 or 503(b) or any other provision of the Bankruptcy Code and any professional fees, costs and expenses which have been allowed pursuant to this Plan or by Final Order of the Bankruptcy Court.

115. “*Proof of Claim*” means a proof of Claim or Interest filed against any Debtor in these Chapter 11 Cases.

116. “*Purchase Agreements*” means, collectively, certain purchase agreements titled:

- (A) Asset Purchase Agreement by and among NEC Baytown Emergency Center, LP, NEC Crosby Emergency Center, LP, NEC Kingwood Emergency Center, LP, NEC Pasadena Emergency Center, LP, NEC Pearland Emergency Center, LP, and NEC Porter Emergency Center, LP, as Operating Sellers, NEC Baytown Asset Holdings, LLC, NEC Kingwood Asset Holdings, LLC, and NEC Pearland Asset Holdings, LLC as Owned Real Property Sellers, Neighbors Legacy Holdings, Inc., Neighbors Global Holdings, LLC, Neighbors Health, LLC, EDMG, LLC, and Neighbors Practice Management, LLC as Corporate and Shared Services Sellers, Neighbors Emergency Center, LLC as IP Seller, and Altus Health Systems OPCO, LLC, as Opco Buyer, Altus Health System Realty, LLC, as Realty Buyer dated July 10, 2018;
- (B) Asset Purchase Agreement by and among NEC Mueller Emergency Center, LP, as Operating Seller and Neighbors Legacy Holdings, Inc.,

Neighbors Global Holdings, LLC, Neighbors Health, LLC, EDMG, LLC, and Neighbors Practice Management, LLC, as Corporate and Shared Services Sellers, and AEC ER 4, LLC, as Buyer dated September 12, 2018;

- (C) Asset Purchase Agreement by and among NEC Amarillo Emergency Center, LP, NEC Beaumont Emergency Center, LP, NEC Lubbock Emergency Center, LP, NEC McAllen Emergency Center, LP, NEC Orange Emergency Center, LP, NEC Port Arthur Emergency Center, LP, as Operating Sellers, NEC Beaumont Asset Holdings, LLC, as Owned Real Property Seller, and Neighbors Legacy Holdings, Inc., Neighbors Global Holdings, LLC, Neighbors Health, LLC, EDMG, LLC, and Neighbors Practice Management, LLC, as Corporate and Shared Services Sellers, and Exceptional H.C., Inc., as Buyer, dated September 12, 2018;
- (D) Asset Purchase Agreement by and among NEC Eastside Emergency Center, LP, NEC Brownsville Emergency Center, LP, and NEC Harlingen Emergency Center, LP, as Operating Sellers, and Neighbors Legacy Holdings, Inc., Neighbors Global Holdings, LLC, Neighbors Health, LLC, EDMG, LLC, and Neighbors Practice Management, LLC, as Corporate and Shared Services Sellers, and Tenet Business Services Corporation, as Buyer, dated September 12, 2018; and
- (E) Asset Purchase Agreement by and among NEC Bellaire Emergency Center, LP, NEC Yorktown Emergency Center, LP, NEC Midland Emergency Center, LP, NEC Odessa Emergency Center, LP, NEC Texarkana Emergency Center, LP, NEC Paris Emergency Center, LP, as Operating Sellers, Neighbors Legacy Holdings, Inc., Neighbors Global Holdings, LLC, Neighbors Health, LLC, EDMG, LLC, and Neighbors Practice Management, LLC, as Corporate and Shared Services Sellers, and Greater Texas Emergency Centers, LLC, as nominee for various LLCs to be designated as the acquiring entities as Buyer, dated September 13, 2018.

117. “*Purchaser*” means the applicable purchaser under the Purchase Agreements.

118. “*Release Opt-Out*” means the election, to be made solely through validly-submitted Ballots, to opt-out of the release provisions.

119. “*Released Party*” means, collectively, and in each case in its capacity as such, (a) the Prepetition Secured Parties, (b) the DIP Secured Parties, (c) the Chief Restructuring Officer, and, with respect to each of the foregoing Entities in clauses (a) through (e), such Entity’s current or former subsidiaries and Affiliates, and their managed accounts or funds, officers, managers, managing members, principals, partners, members, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other Professionals; *provided, however*, that if a Holder of Prepetition Loan Claim does not vote to approve the Plan or objects to confirmation of the Plan, such Holder shall not be a Released Party. For the sake of

clarity, the Debtors' current and former subsidiaries, Affiliates, directors, members, managers, officers, principals, partners, agents, employees, shareholders, holders of Series LLC Interests, holders of Neighbors Equity Interests shall not be considered a Released Party. .

120. "*Releasing Parties*" means, collectively, and in each case in its capacity as such: (a) the Debtors, (b) the Prepetition Secured Parties, (c) the DIP Secured Parties, (d) the Committee, (e) each Holder of a Claim or Interest that accepts or is deemed to accept the Plan, (f) each other Holder of a Claim that is entitled to vote on the Plan and does not both (x) vote to reject the Plan or abstain from voting to accept or reject the Plan and (y) elect the Release Opt-Out on its Ballot, and (g) with respect to each of the foregoing Entities in clauses (b) through (e), such Entity's current or former subsidiaries and Affiliates, and its and their managed accounts or funds, officers, directors, managers, managing members, principals, partners, members, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other Professionals.

121. "*Remaining Prepetition Collateral*" means the Prepetition Collateral not sold pursuant to the Purchase Agreements or otherwise conveyed or liquidated by the Debtors prior to the Effective Date including but not limited to accounts receivable not purchased by Purchasers.

122. "*Retained Causes of Action*" means, collectively, all claims, rights or other Causes of Action which may be asserted by or on behalf of the Debtors, the Estates, the Committee, the Unsecured Creditor Trust or the Unsecured Creditor Trustee, a nonexclusive list of which is set forth in the Plan Supplement, including but not limited to all Avoidance Actions, D&O Claims, and all Causes of Action, rights, privileges, claims and demands against any the Debtors' current and former subsidiaries, Affiliates, directors, members, managers, officers, principals, partners, agents, employees, shareholders, holders of Series LLC Interests, holders of Neighbors Equity Interests, third parties, investors, individuals, insurers or insiders that have not been released in accordance with the terms and provisions of this Plan or assigned pursuant to the Purchase Agreements that the Debtors or the Estates own or have an interest in or can assert in any fashion, whether pre-petition or post-petition, including, without limitation, all litigation claims, whether such causes of action arise from contract, tort theories of liability, insurance claims, statutory claims or other claims, whether or not specifically identified in the Plan Supplement, all objections to Claims, all adversary proceedings, and all Avoidance Actions against any Person or Entity identified on the Statement of Financial Affairs of any Debtor as a recipient of a payment made or property transferred by or on behalf of such Debtor prior to the Petition Date.

123. "*Sale*" means the sale of substantially all of the Debtors' assets pursuant to the Purchase Agreements.

124. "*Sale Order*" means the order approving the Sale [Docket No. 482], as supplemented by the order [Docket No. 484] approving the Greater Texas Emergency Center, LLC Purchase Agreement, and the order [Docket No. 524] resolving cure objections for the assumption and assignment of certain 365 contracts pursuant to the Sale Order.

125. “*Schedule of Retained Causes of Action*” means the schedule of Causes of Action to be retained by the Estates and contributed to the Unsecured Creditor Trust, which shall be included in the Plan Supplement.

126. “*Schedules*” mean the Summary of Assets and Liabilities Schedules for Non-Individual, Schedule A/B: Property Non-Individual, Schedule D Non-Individual- Creditors Having Claims Secured by Property, Schedule E/F: Creditors Who Have General Unsecured Claims Non-Individual, Schedule G Non-Individual- Executory Contracts and Unexpired Leases, Schedule H Non-Individual-Codebtors filed by each of the Debtors on September 8, 2018 [Docket Nos. 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 394, 396, 398, 400, 402, 404, 406, 408, 410, 412, 414, 416, 418, 420, 422, 424, 426, 428, 430, 432, 434, 436, 438, 440, 442, 444, 446, 448, 450, 452, 454, 456, 458, 460, 462, 464, 466, and 468].

127. “*Section 510(b) Claim*” means any Claim against a Debtor arising from (a) rescission of a purchase or sale of a security of any Debtor or an Affiliate of any Debtor, (b) purchase or sale of such a security, or (c) reimbursement or contribution allowed under section 502 of the Bankruptcy Code on account of such a Claim.

128. “*Secured*” means: when referring to a Claim: (a) secured by a Lien on property in which the Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the Estate’s interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or, in the case of setoff, pursuant to section 553 of the Bankruptcy Code; or (b) otherwise Allowed pursuant to this Plan as a Secured Claim.

129. “*Series LLC*” means each of series 100 through series 153 existing as part of NHS Emergency Centers, LLC.

130. “*Series LLC Claim*” means any Claim asserted by an alleged owner of a Series LLC Interest, including the Class A physicians and the Class B physicians, if the Claim is asserted in their capacity as an owner of a Series LLC Interest.

131. “*Series LLC Interest*” means any profits interest, or equity interest in any Series LLC.

132. “*Statement of Financial Affairs*” means the Statement of Financial Affairs filed by each of the Debtors on September 8, 2018 [Docket Nos. 369, 371, 373, 375, 377, 379, 381, 383, 385, 387, 389, 391, 393, 395, 397, 399, 401, 403, 405, 407, 409, 411, 413, 415, 417, 419, 421, 423, 425, 427, 429, 431, 433, 435, 437, 439, 441, 443, 445, 447, 449, 451, 453, 455, 457, 459, 461, 463, 465, 467, and 469].

133. “*Transition Services Agreements*” means the agreements between certain of the Debtors and any applicable Purchaser requiring any of the Debtors or the Liquidating Debtors, as applicable, to provide services to such Purchaser following closing of the Sale, including but not limited to transition services agreements, powers of attorney, access agreements and agreements related to the collection of accounts receivable.

134. “*Unsecured Creditor Trust*” means the Unsecured Creditor Trust established under Article V.D of the Plan and pursuant to the Unsecured Creditor Trust Agreement.

135. “*Unsecured Creditor Trust Agreement*” means the agreement creating the Unsecured Creditor Trust to be implemented pursuant to Article V of the Plan, and substantially in the form included in the Plan Supplement.

136. “*Unsecured Creditor Trust Assets*” means (i) the GUC Settlement Cash, and (ii) the Retained Causes of Action and recoveries thereof including recoveries under D&O Policies.

137. “*Unsecured Creditor Trust Beneficiaries*” means all individuals and entities entitled to a distribution from the Unsecured Creditor Trust.

138. “*Unsecured Creditor Trust Cash*” means the GUC Settlement Cash and any amounts recovered by the Unsecured Creditor Trust on account of the Retained Causes of Action available after the satisfaction of the costs and expenses of the Unsecured Creditor Trust, including the fees of the Unsecured Creditor Trustee and counsel to the Unsecured Creditor Trust. By way of further clarification, the cash proceeds of the Remaining Prepetition Collateral shall not constitute Unsecured Creditor Trust Cash.

139. “*Unsecured Creditor Trust Interests*” means the uncertificated beneficial interests in the Unsecured Creditor Trust representing the right of each Holder of an Allowed General Unsecured Claim to receive Distributions from the Unsecured Creditor Trust in accordance with this Plan and the Unsecured Creditor Trust Agreement.

140. “*Unsecured Creditor Trustee*” means that person selected by the Committee after consultation with the Debtors, the Prepetition Agent, and the DIP Agent, to be identified in the Plan Supplement.

141. “*Unexpired Lease*” means a lease to which one or more of the Debtors is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

142. “*Unimpaired*” means, with respect to a Class of Claims or Interests, a Claim or an Interest that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.

143. “*Unimpaired Class*” means a Class that is Unimpaired.

144. “*U.S. Trustee*” means the United States Trustee for the Southern District of Texas.

145. “*Voting Class*” means Class 2 Other Secured Claims, Class 3 Prepetition Secured Loan Claims, and Class 4 Unsecured Claims.

146. “*Voting Deadline*” means 5:00 p.m. (prevailing Central Time) on [___], 2018.

147. “*Voting Record Date*” means November [___], 2018.

B. *Rules of Interpretation*

For purposes of this Plan, unless otherwise provided herein: (1) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and neuter gender; (2) unless otherwise specified, any reference in this Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (3) unless otherwise specified, any reference in this Plan to an existing document, schedule, or exhibit, whether or not Filed, shall mean such document, schedule or exhibit, as it may have been or may be amended, modified, or supplemented; (4) any reference to an Entity as a Holder of a Claim or Interest includes that Entity's successors and assigns; (5) unless otherwise specified, all references in this Plan to Articles are references to Articles of this Plan or to this Plan; (6) the words "herein," "hereof," and "hereto" refer to this Plan in its entirety rather than to a particular portion of this Plan; (7) subject to the provisions of any contract, certificate of incorporation, bylaw, instrument, release, or other agreement or document entered into in connection with this Plan, the rights and obligations arising pursuant to this Plan shall be governed by, and construed and enforced in accordance with applicable federal law, including the Bankruptcy Code and Bankruptcy Rules; (8) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of this Plan; (9) unless otherwise set forth in this Plan, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (10) any term used in capitalized form in this Plan that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as applicable; (11) all references to docket numbers of documents Filed in the Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court's CM/ECF system; (12) all references to statutes, regulations, orders, rules of courts, and the like shall mean as amended from time to time, as applicable to the Chapter 11 Cases, unless otherwise stated; and (13) any immaterial effectuating provisions may be interpreted by the Debtors or either Plan Trustee in such a manner that is consistent with the overall purpose and intent of this Plan all without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

C. *Computation of Time*

In computing any period of time prescribed or allowed, the provisions of Bankruptcy Rule 9006(a) shall apply. If a payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act shall instead occur on the next succeeding Business Day, but shall be deemed to have occurred as of the required date.

D. *Governing Law*

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and the Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of Texas, without giving effect to the principles of conflict of laws, shall govern the rights, obligations, construction, and implementation of this Plan, any agreements, documents,

instruments, or contracts executed or entered into in connection with this Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control), and corporate governance matters; *provided, however*, that corporate governance matters relating to the Debtors not incorporated in Texas shall be governed by the laws of the jurisdiction of incorporation of the applicable Debtor.

E. *Reference to Monetary Figures*

All references in this Plan to monetary figures shall refer to currency of the United States of America, unless otherwise expressly provided.

**ARTICLE II.
ADMINISTRATIVE CLAIMS, DIP CLAIMS, AND PRIORITY CLAIMS**

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims have not been classified and thus are excluded from the Classes of Claims and Interests set forth in Article III. [NTD: The Plan needs a clear statement as to what happens if there are not sufficient funds to satisfy Admin, Priority Claims etc. The inability to fund those payments cannot affect the administration of the Unsecured Creditor Trust].

A. *Administrative Claims*

1. General Administrative Claims

Except with respect to Administrative Claims that are Professional Fee Claims and except to the extent that a Holder of an Allowed Administrative Claim and the Debtors or the Liquidating Trustee agree to less favorable treatment for such Holder's Allowed Administrative Claim, each Holder of an Allowed Administrative Claim shall be paid in full in Cash from the Administrative Claims Reserve or the Liquidating Trust Cash on the later of (i) the Effective Date or as soon as reasonably practical thereafter, (ii) the date on which such Administrative Claim becomes an Allowed Claim; or (iii) such other date as the Liquidating Trustee and the Holder of the Allowed Administrative Claim shall agree. Allowed Administrative Claims that are not secured by a valid, perfected, postpetition Lien are not entitled to postpetition interest or legal fees and expenses. For the avoidance of doubt, Holders of an Administrative Claim shall not be entitled to any claim or recovery against the Unsecured Creditor Trust, the Unsecured Creditor Trust Assets or the Unsecured Creditor Trust Cash.

2. Administrative Claim Reserve Amount

On or before the Effective Date, the Debtors shall provide the Liquidating Trustee with an estimated amount of Administrative Claims, other than Professional Fee Claims, that are accrued and unpaid as of the Effective Date. The Liquidating Trustee shall promptly establish the Administrative Claims Reserve in an amount not less than the Debtors' estimate. The DIP Secured Parties and the Prepetition Secured Parties shall have a security interest in all funds in the Administrative Claim Reserve and, to the extent any funds remain in the Administrative Claims Reserve after payment in full of all Allowed Administrative Claims, other than Professional Fee Claims, the Liquidating Trustee shall disburse any remaining funds to the DIP Agent, or to the extent that the DIP Claims have been satisfied in full, to the Prepetition Agent.

3. Professional Fee Escrow

Each holder of a Professional Fee Claim shall be paid in respect of such Professional Fee Claim in Cash from the Professional Fee Escrow, in full, promptly after Bankruptcy Court approval of the Professional Fee Claim by a Final Order. Final fee applications for any Professional Fee Claim shall be filed within forty-five (45) days of the Effective Date and such applications and objections thereto (if any) shall be filed in accordance with and comply in all respects with the Bankruptcy Code, the Bankruptcy Rules, and applicable local rules. Upon payment in full of all Allowed Professional Fee Claims, any balance of Cash remaining in the Professional Fee Escrow shall be Available Cash. For the avoidance of doubt, Holders of a Professional Fee Claim shall not be entitled to any claim or recovery against the Unsecured Creditor, Trust, the Unsecured Creditor Trust Assets or the Unsecured Creditor Trust Cash.

4. Professional Fee Reserve Amount

At least five (5) days prior to the Effective Date all Professionals shall provide the Debtors with an estimate of outstanding fees owed through the Effective Date and the Debtors shall estimate the amount to be reserved (the “Professional Fee Reserve Amount”).

B. *DIP Claims*

To the extent not already satisfied prior to the Effective Date, the DIP Claims shall be deemed Allowed Claims under the Plan. The DIP Claims shall be satisfied in full, on the Effective Date, by the termination of all commitments under the DIP Credit Agreement, and indefeasible payment in full in Cash to the DIP Agent, as agent for the DIP Secured Parties, of all outstanding obligations thereunder. Until satisfied in full, the DIP Secured Parties shall retain all rights, Claims, and Liens available pursuant to the DIP Credit Agreement and the Final DIP Order. For the avoidance of doubt, the DIP Claims shall not be entitled to any claim or recovery against the Unsecured Creditor Trust, the Unsecured Creditor Trust Assets or the Unsecured Creditor Trust Cash.

C. *Priority Tax Claims*

Except to the extent that a Holder of an Allowed Priority Tax Claim and the Debtors or the Liquidating Trustee agree to less favorable treatment for such Holder’s Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will be paid in full in Cash from the Disputed Claims Reserve established by the Liquidating Trustee in an amount equal to the amount of such Allowed Priority Tax Claim on the latest of: (i) the Effective Date or as soon as reasonably practical thereafter, (ii) the date on which such Priority Tax Claim becomes an Allowed Claim; or (iii) such other date as the Liquidating Trustee and the holder of the Allowed Priority Tax Claim shall agree. For the avoidance of doubt, Holders of Priority Tax Claims shall not be entitled to any claim or recovery against the Unsecured Creditor Trust, the Unsecured Creditor Trust Assets or the Unsecured Creditor Trust Cash.

D. *Statutory Fees*

On the Effective Date the Debtors shall pay all fees due and payable pursuant to section 1930 of the Judicial Code prior to the Effective Date. After the Effective Date, the Liquidating

Trustee shall pay any and all such fees when due and payable. The Debtors shall file all monthly operating reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Liquidating Trustee shall file with the Bankruptcy Court quarterly reports when they become due, in a form reasonably acceptable to the U.S. Trustee, which reports shall include a schedule of disbursements made by the Liquidating Trustee during the applicable period, attested to by an authorized representative of the Liquidating Trustee.

ARTICLE III. CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

A. Introduction

Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of Classes of Claims against and Interests in the Debtors. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or Interest is also classified in a particular Class for the purpose of receiving Distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and has not been paid, released, or otherwise satisfied prior to the Effective Date.

B. Summary of Classification

The classification of Claims and Interests against the Debtors pursuant to the Plan is as follows:

SUMMARY OF STATUS AND VOTING RIGHTS

Class	Claim/Interest	Status	Voting Rights
1	Other Priority Claims	Unimpaired	Not Entitled to Vote (Deemed to Accept)
2	Other Secured Claims	Impaired	Entitled to Vote
3	Prepetition Secured Loan Claims	Impaired	Entitled to Vote
4	General Unsecured Claims	Impaired	Entitled to Vote
5	Section 510(b) Claims	Impaired	Not Entitled to Vote (Deemed to Reject)
6	Intercompany Claims	Impaired	Not Entitled to Vote (Deemed to Reject)
7	Intercompany Interests	Impaired	Not Entitled to Vote (Deemed to Reject)
8	Neighbors Equity Interests	Impaired	Not Entitled to Vote

SUMMARY OF STATUS AND VOTING RIGHTS

Class	Claim/Interest	Status	Voting Rights
			(Deemed to Reject)

C. Treatment of Claims and Interests

1. Class 1: Other Priority Claims

- (a) *Treatment:* Except to the extent that a Holder of an Allowed Other Priority Claim and the Debtors or the Liquidating Trustee agree to a less favorable treatment, in full and final satisfaction, compromise, settlement, and release of and in exchange for each Allowed Other Priority Claim, each such Holder shall receive Cash from the Liquidating Trust Cash equal to the amount of the Allowed Other Priority Claim. For the avoidance of doubt, Holders of Class 1 Allowed Other Priority Claims shall not be entitled to any claim or recovery against the Unsecured Creditor Trust, the Unsecured Creditor Trust Assets or the Unsecured Creditor Trust Cash.
- (b) *Voting:* Class 1 is Unimpaired. Holders of Class 1 Other Priority Claims are deemed to accept the Plan pursuant to section 1126(f) and are not entitled to vote to accept or reject the Plan.

2. Class 2: Other Secured Claims

- (a) *Treatment:* Except to the extent that a Holder of an Allowed Other Secured Claim and the Debtors or the Liquidating Trustee agree to a less favorable treatment, in full and final satisfaction, compromise, settlement, and release of and in exchange for each Allowed Other Secured Claim, each such Holder shall receive either (i) Cash from the Liquidating Trust Cash in an amount equal to the proceeds of the collateral securing such Holder's Allowed Other Secured Claim after satisfaction in full of all superior liens up to the Allowed Amount of the Allowed Other Secured Claim; or (ii) to the extent the amount of an Allowed Other Secured Claim is greater than the value of the collateral securing such Allowed Other Secured Claim and there are no Liens on such collateral senior to the Lien held by or for the benefit of the Holder of such Allowed Other Secured Claim, solely the collateral securing such Allowed Other Secured Claim in full and final satisfaction of such Claim. For the avoidance of doubt, Holders of Class 2 Allowed Other Secured Claims shall not be entitled to any claim or recovery against the Unsecured Creditor Trust, the Unsecured Creditor Trust Assets or the Unsecured Creditor Trust Cash.
- (b) *Voting:* Class 2 is Impaired under the Plan. Holders of Class 2 Allowed Other Secured Claim will be entitled to vote to accept or reject the Plan.

3. Class 3: Prepetition Secured Loan Claims
 - (a) *Treatment:* Each Holder of a Prepetition Secured Loan Claim shall receive all Available Cash, plus the proceeds of the Remaining Prepetition Collateral up to the amount of the Prepetition Loan Claim outstanding after all payments made pursuant to the Final DIP Order. For the avoidance of doubt, Holders of Class 3 Prepetition Secured Loan Claims shall not be entitled to any claim or recovery against the Unsecured Creditor Trust, the Unsecured Creditor Trust Assets or the Unsecured Creditor Trust Cash.
 - (b) *Voting:* Class 3 is Impaired. The Holders of Class 3 Prepetition Secured Loan Claims are entitled to vote to accept or reject the Plan.
4. Class 4: General Unsecured Claims
 - (a) *Treatment:* Each Holder of a Class 4 General Unsecured Claim shall receive its Pro Rata share of the Unsecured Creditor Trust Interests. For the sake of clarify, the Holder of the Prepetition Deficiency Claim shall receive its Pro Rata share of the Unsecured Creditor Trust Interests; *provided, however*, the Distributions on account of such interest shall be limited as follows: (i) Prepetition Deficiency Claim will not receive any recovery from the first \$1,000,000 of Distributions from the Unsecured Creditor Trust Cash; (ii) Prepetition Deficiency Claim will receive the entire amount of the first \$125,000 of Distributions after the first \$1,000,000 of Distributions from the Unsecured Creditor Trust Cash; and (iii) Prepetition Deficiency Claim will share Pro Rata with other General Unsecured Claims on any Distributions from the Unsecured Creditor Trust Cash over \$1,125,000.
 - (b) *Voting:* Class 4 is Impaired. Holders of Class 4 General Unsecured Claims are entitled to vote to accept or reject the Plan.
5. Class 5: Section 510(b) Claims
 - (a) *Treatment:* Class 5 Section 510(b) Claims, including all Series LLC Claims, shall be subordinated to General Unsecured Claims pursuant to section 510(b) of the Bankruptcy Code. Each holder of a Class 5 Section 510(b) Claim shall receive its Pro Rata share of the Unsecured Creditor Trust Cash, if any, after all Claims in Class 4 have been satisfied in full.
 - (b) *Voting:* Class 5 is Impaired under the Plan. Each holder of a Section 510(b) Claim will be conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, each holder of a Section 510(b) Claim will not be entitled to vote to accept or reject the Plan.

6. Class 6: Intercompany Claims
 - (a) *Treatment:* Class 6 Intercompany Claims shall be cancelled and discharged, with the Holders of such Class 6 Intercompany Claims receiving no Distribution on account of such Intercompany Claims.
 - (b) *Voting:* Class 6 is Impaired. Holders of Class 6 Intercompany Claims are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and, therefore, Holders of Intercompany Claims are not entitled to vote to accept or reject the Plan.
7. Class 7: Intercompany Interests
 - (a) *Treatment:* Class 7 Intercompany Interests shall be cancelled and discharged, with the Holders of such Class 7 Intercompany Interests receiving no Distribution on account of such Intercompany Interests.
 - (b) *Voting:* Class 7 is Impaired. Holders of Class 7 Intercompany Interests are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and, therefore, Holders of Intercompany Interests are not entitled to vote to accept or reject the Plan.
8. Class 8: Neighbors Equity Interests
 - (a) *Treatment:* Class 8 Neighbors Equity Interests shall be cancelled and discharged, with the Holders of such Class 8 Neighbors Equity Interests receiving no Distribution on account of such Neighbors Equity Interests.
 - (b) *Voting:* Class 8 is Impaired. Holders of Class 8 Neighbors Equity Interests are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and, therefore, Holders of Neighbors Equity Interests are not entitled to vote to accept or reject the Plan.

ARTICLE IV. ACCEPTANCE REQUIREMENTS

Pursuant to sections 1126(c) and 1126(d) of the Bankruptcy Code and except as otherwise provided in section 1126(e) of the Bankruptcy Code, (a) an impaired class of claims has accepted a chapter 11 plan if the holders of at least two-thirds in dollar amount and more than one-half in number of allowed claims in such class actually voting have voted to accept the plan and (b) an impaired class of interests has accepted the plan if the holders of at least two-thirds in amount of the allowed interests in such class actually voting have voted to accept the plan.

A. Acceptance or Rejection of this Plan

1. Voting Classes

Classes 2, 3, and 4 are Impaired under the Plan and are entitled to vote to accept or reject the Plan.

2. Deemed Acceptance of the Plan

Class 1 is Unimpaired under the Plan and therefore is deemed to accept the Plan pursuant to section 1126(f) of the Bankruptcy Code.

3. Deemed Rejection of the Plan

Classes 5, 6, 7, and 8 are Impaired under the Plan and are not entitled to receive or retain any property on account of the Claims and Interests in Classes 5, 6, 7, and 8. Therefore, Classes 5, 6, 7, and 8 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code.

B. *Confirmation of this Plan Pursuant to Section 1129(b) of the Bankruptcy Code*

The Debtors may seek Confirmation pursuant to section 1129(b) of the Bankruptcy Code.

C. *Controversy Concerning Impairment*

If a controversy arises as to whether any Claims or Interests (or any Class of Claims or Interests) are Impaired under this Plan, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or prior to the Confirmation Date.

**ARTICLE V.
MEANS FOR IMPLEMENTATION OF THE PLAN**

In addition to applicable provisions set forth elsewhere in the Plan, the following shall constitute the means of execution and implementation of this Plan.

A. *Deemed Consolidation*

The Plan is being proposed as a joint plan of liquidation for all of the Debtors. The Plan constitutes a motion for deemed consolidation of the Debtors and their respective Estates solely for purposes of voting on the Plan, confirming the Plan, and making Distributions pursuant to the Plan. Deemed consolidation is a condition precedent to Confirmation. Consolidation of the Debtors' Estates is for the limited purpose of making Distributions to holders of Allowed Claims to ease an administrative burden on the Debtors, their Estates, and the Plan Trustees. Accordingly, voting on the Plan shall be conducted and counted on a consolidated basis. On the Effective Date, (a) the assets of the Debtors will be merged and/or treated as if they are merged for the purpose of paying Allowed Claims against the Debtors; (b) any Claim filed or asserted against any of the Debtors will be deemed a Claim against all of the Debtors (and any duplication of claims arising from both primary operative documents and guaranty and/or other secondary obligations shall be eliminated and all such claims against the Debtors shall be treated as a single claim that eliminates such duplications); (c) all Intercompany Claims and Interests will be eliminated; and (d) any obligation of any of the Debtors will be deemed to be an obligation of each of the Debtors. Except as set forth in this paragraph, such consolidation shall

not affect the legal and corporate structure of the Debtors nor affect Causes of Action, including Avoidance Actions. For avoidance of doubt, and notwithstanding anything to the contrary herein, all Retained Causes of Action are preserved as they existed immediately before the Effective Date for the Unsecured Creditor Trustee to prosecute on behalf of the Unsecured Creditor Trust. The deemed consolidation under this Plan shall not affect or impair any valid, perfected and unavoidable Lien to which the assets of any Debtors are subject in the absence of deemed consolidation under this Plan; *provided, however*, the deemed consolidation shall not cause any such Lien to secure any Claim which such Lien would not otherwise secure absent such deemed consolidation. Holders of Allowed Claims or Allowed Equity Interests who assert identical Claims against or Equity Interests in multiple Debtors shall be entitled to only a single satisfaction of such Claims or Equity Interests. [NTD: NEED TO DISCUSS CONSOLIDATION AND ANALYSIS]

The Debtors believe that deemed consolidation will minimize costly disputes over allocation of assets to be distributed and it will also facilitate the compromise reached among the Debtors, the Committee, the Prepetition Agent, the DIP Agent, the Secured Creditors (as defined in the Final DIP Order), and the DIP Lenders as embodied in paragraph 45 of the Final DIP Order.

B. *Transactions Effective as of the Effective Date*

The transactions contemplated by the Plan shall be approved and effective as of the Effective Date, without the need for any further state or local regulatory approvals or approvals by any non-Debtor parties, and without any requirement for further action by the Debtors, their board of directors, their stockholders, or any other person or entity.

C. *The Liquidating Trust*

On or before the Effective Date, the Liquidating Trustee shall execute the Liquidating Trust Agreement and cause the Liquidating Trust to accept, on behalf of the beneficiaries thereof, (a) all Liquidating Trust Cash and (b) all other Liquidating Trust Assets. For the avoidance of doubt, the permits, licenses, regulatory authorizations, approvals, and any other asset or attribute necessary to comply with the Debtors' duties under the Transition Services Agreements will be retained by the Liquidating Debtors and not transferred to the Liquidating Trust; *provided however*, that the Liquidating Trustee will be the representative of the Liquidating Debtors for all purposes. As of the Effective Date, all assets vested in the Liquidating Trust shall be transferred and conveyed free and clear of all Liens, Claims, and Interests except as otherwise specifically provided in the Plan or in the Confirmation Order.

On the Effective Date, the Liquidating Trust will be deemed created and effective without any further action by the Bankruptcy Court or any party. The Liquidating Trust shall be established for the primary purpose of liquidating its assets (as applicable) and for making Distributions in accordance with the Plan and the Liquidating Trust Agreement, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust.

D. *The Unsecured Creditor Trust*

On or before the Effective Date, the Unsecured Creditor Trustee shall execute the Unsecured Creditor Trust Agreement and cause the Unsecured Creditor Trust to accept, on behalf of the beneficiaries thereof, (i) the GUC Settlement Cash, (ii) Retained Causes of Action and (iii) claims under and proceeds of D&O Policies. As of the Effective Date, all assets vested in the Unsecured Creditor Trust and all assets dealt with in the Plan shall be transferred and conveyed free and clear of all Liens, Claims, and Interests except as otherwise specifically provided in the Plan or in the Confirmation Order.

On the Effective Date, the Unsecured Creditor Trust will be deemed created and effective without any further action by the Bankruptcy Court or any party. The Unsecured Creditor Trust shall be established for the primary purpose of administering the Unsecured Creditor Trust Assets and making all distributions to the Unsecured Creditor Trust Beneficiaries, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the purpose of the Unsecured Creditor Trust.

E. *Settlement Regarding Unsecured Creditor Recoveries.*

The Prepetition Agent, the DIP Agent, the Prepetition Lenders and the DIP Lenders have agreed with the Committee and the Debtors to the following: (a) the payment of the GUC Settlement Cash to the Unsecured Creditor Trust; and (b) any Prepetition Deficiency Claim will (i) not receive any recovery from the first \$1,000,000 of Distributions from the Unsecured Creditor Trust Cash; (ii) receive the entire amount of the next \$125,000 of Distributions from the Unsecured Creditor Trust Cash after the first \$1,000,000 of Distributions from the Unsecured Creditor Trust Cash; and (iii) share Pro Rata with other General Unsecured Claims on any Distributions from the Unsecured Creditor Trust Cash over \$1,125,000. Notwithstanding the foregoing, the Unsecured Creditor Trust shall have the right to object to the calculation of the Prepetition Deficiency Claim.

F. *Certain Powers and Duties of the Liquidating Trust and Liquidating Trustee*

The Liquidating Trustee shall be the exclusive trustee of the assets of the Liquidating Trust for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3). The powers, rights, and responsibilities of the Liquidating Trustee shall be specified in the Liquidating Trust Agreement and shall include the authority and responsibility to: (a) receive, manage, invest, supervise, and protect the Liquidating Trust Assets; (b) supervise the receipt, deposit, and reconciliation of accounts receivable collected by the Purchasers, including any payment to Purchasers, pursuant to any applicable Purchase Agreement or Transition Services Agreement; (c) reasonably cooperate to provide the Purchasers with information relevant to the Purchasers' collection of accounts receivable; (d) administer all of the Debtors' employee claims under the Consolidated Omnibus Budget Reconciliation Act of 1986 ("COBRA") (e) pay taxes and other obligations incurred by the Liquidating Trust; (f) retain and compensate, without further order of the Bankruptcy Court, the services of employees, professionals, and consultants to advise and assist the Liquidating Trustee; (g) calculate and implement Distributions to be made under the Plan to Holders of Claims, including Administrative Claims and Priority Claims, other than Class 4 Claims; (h) reconcile, object to and resolve issues involving all Claims, other than Class 4

Claims; and (i) undertake all administrative functions of the Chapter 11 Cases that are not granted to the Unsecured Creditor Trustee, including the ultimate closing of the Chapter 11 Cases.

On the Effective Date, the Liquidating Trust shall also have the power, right, and responsibility to take possession of all books, records, and files of the Debtors and the Estates, including all Patient Records not sold pursuant to the Sale and provide for the retention and storage of such books, records, and files pursuant to this Plan and Bankruptcy Code section 351 (as applicable) until such time as the Liquidating Trustee determines, in accordance with the Liquidating Trust Agreement, that retention of same is no longer necessary or required. After the Effective Date, the Liquidating Trust shall (i) give the Unsecured Creditor Trust reasonable access to all books, records and files of the Debtors and the Estates including, without limitation, direct logon authority to access emails, accounting records, shared drives and other documents necessary to accomplish the duties of the Unsecured Creditor Trust and (ii) not destroy or abandon any such books, records and files without obtaining the consent of the Unsecured Creditor Trust. In the event the Liquidating Trust is dissolved before the Unsecured Creditor Trust, the Unsecured Creditor Trust shall have the right to take possession of the books, records and files of the Debtors and Estates and maintain such books, records and files at the expense of the Unsecured Creditor Trust.

All expenses incurred by the Liquidating Trust and the Liquidating Trustee shall be the responsibility of and paid by the Liquidating Trust, in accordance with the Plan and the Liquidating Trust Agreement.

In no event later than three (3) months following the Effective Date and on a quarterly basis thereafter until all Liquidating Trust Cash has been released or paid out in accordance with the Plan, the Liquidating Trustee shall file with the Bankruptcy Court a report setting forth the amounts, recipients, and dates of all Distributions made by the Liquidating Trustee under the Plan through each applicable reporting period.

G. *Certain Powers and Duties of the Unsecured Creditor Trust and Unsecured Creditor Trustee*

The Unsecured Creditor Trustee shall be the exclusive trustee of the assets of the Unsecured Creditor Trust for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3). The powers, rights, and responsibilities of the Unsecured Creditor Trustee shall be specified in the Unsecured Creditor Trust Agreement and shall include the authority and responsibility to: (a) prosecute, compromise, and settle, in accordance with the specific terms of the Unsecured Creditor Trust Agreement, Retained Causes of Action; (b) reconcile, object to and resolve issues involving Class 4 Claims; (c) pay taxes and other obligations incurred by the Unsecured Creditor Trust; (d) calculate and implement Distributions to be made under the Plan to Holders of Class 4 Claims; and (e) retain and compensate, without further order of the Bankruptcy Court, the services of employees, professionals, and consultants to advise and assist the Unsecured Creditor Trustee.

All expenses incurred by the Unsecured Creditor Trust and the Unsecured Creditor Trustee shall be the responsibility of and paid by the Unsecured Creditor Trust, in accordance with the Plan and the Unsecured Creditor Trust Agreement.

In no event later than three (3) months following the Effective Date and on a quarterly basis thereafter until all Unsecured Creditor Trust Cash has been released or paid out in accordance with the Plan, the Unsecured Creditor Trustee shall file with the Bankruptcy Court a report setting forth the amounts, recipients, and dates of all Distributions made by the Unsecured Creditor Trustee under the Plan through each applicable reporting period.

H. *Federal Income Tax Treatment of the Plan Trusts for the Liquidating and Unsecured Creditor Trust Assets; Tax Reporting and Tax Payment Obligations* [COMMITTEE CONFIRMING NO TAX ISSUES]

For U.S. federal income tax purposes, it is intended that the Plan Trusts be classified as liquidating trusts under Treasury Regulation Section 301.7701-4. Accordingly, for U.S. federal income tax purposes, it is intended that the beneficiaries of the Plan Trusts be treated as if they had received a Distribution from the Estates of an undivided interest in the assets of the Plan Trusts (to the extent of the value of their respective shares therein) and then contributed such interests to the Plan Trusts.

1. Plan Trusts' Assets Treated as Owned by Beneficiaries of Plan Trusts

For all U.S. federal income tax purposes, all parties shall treat the transfer of assets (net of any applicable liabilities) to the Plan Trusts for the benefit of the beneficiaries thereof as (a) a transfer by the Debtors of the assets of the Plan Trusts (net of any applicable liabilities) directly to the beneficiaries of the Plan Trusts (to the extent of the value of their respective shares in the assets of the Liquidating Trust), followed by (b) the transfer of the assets of the Plan Trusts (net of any applicable liabilities) by the beneficiaries of the Plan Trusts (to the extent of the value of their respective share in the assets of the Plan Trusts) to the Plan Trusts in exchange for the beneficial interests in the Plan Trusts. Accordingly, for U.S. federal income tax purposes, the Plan Trusts shall be treated as grantor trusts, and the beneficiaries of the Plan Trusts shall be treated as the grantors of the Plan Trusts and the owners of the assets thereof.

2. Tax Reporting

The Plan Trusts shall be responsible for filing all federal, state, local and foreign tax returns, including, but not limited to, any documentation related thereto for current or former employees, vendors or contractors of the Debtors, for the Debtors and the Plan Trusts. The Plan Trustees shall file all tax returns for the Plan Trusts as grantor trusts pursuant to Treasury Regulation Section 1.671-4(a) and in accordance with this Article V.F. Within a reasonable time following the end of the taxable year, the Plan Trustees shall send to each holder of a beneficial interest appearing on its record during such year, a separate statement setting forth such holder's share of items of income, gain, loss, deduction or credit and each such holder shall report such items on their federal income tax returns. The Plan Trustees may provide each such holder of a beneficial interest with a copy of the Form 1041 for the Plan Trusts (without attaching any other holder's Schedule K-1 or other applicable information form) along with such holder's Schedule

K-1 or other applicable information form in order to satisfy the foregoing requirement. The Plan Trustees shall allocate the taxable income, gain, loss, deduction or credit of their respective Plan Trust with respect to each holder of a beneficial interest to the extent required by the IRC and applicable law.

As soon as possible after the Effective Date, each Plan Trust shall make a good faith valuation of the assets of their respective Plan Trust, and such valuation shall be used consistently by all parties for all federal income tax purposes. Each Plan Trust shall also file (or cause to be filed) any other statements, returns, or disclosures relating to the Plan Trust that are required by any taxing authority.

The Plan Trusts may request an expedited determination of the tax obligations of the Plan Trusts under Bankruptcy Code Section 505(b) for all returns filed for, or on behalf of, the Plan Trusts for all taxable periods through the dissolution of the Plan Trusts.

The Plan Trusts shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all Distributions made by the Plan Trusts shall be subject to any such withholding and reporting requirements.

3. Payment of Taxes

The Liquidating Trust shall be responsible for payments of all Allowed tax obligations of the Debtors including Priority Tax Claims, Other Secured Claims and Administrative Claims, in addition to any taxes imposed on the Liquidating Trust or its assets; *provided that* the Unsecured Creditor Trust shall be responsible for payments of any taxes imposed on the Unsecured Creditor Trust. In the event, and to the extent, any Cash retained on account of Disputed Claims in the Disputed Claims Reserve associated with the Unsecured Creditor Trust is insufficient to pay the portion of any such taxes attributable to the taxable income arising from the assets of the Unsecured Creditor Trust allocable to, or retained on account of, Disputed Claims, such taxes shall be (a) reimbursed from any subsequent Cash amounts retained on account of Disputed Claims, or (b) to the extent such Disputed Claims have subsequently been resolved, deducted from any amounts distributable by the Unsecured Creditor Trust as a result of the resolutions of such Disputed Claims.

I. *Authority to Pursue, Settle, or Abandon Retained Causes of Action*

From and after the Effective Date, prosecution and settlement of all Retained Causes of Action shall be the sole responsibility of the Unsecured Creditor Trustee pursuant to the Plan, the Confirmation Order, and the Unsecured Creditor Trust Agreement. From and after the Effective Date, the Unsecured Creditor Trustee shall have exclusive rights, powers, and interests of the Estates to pursue, settle, or abandon such Retained Causes of Action as the sole representative of the estates pursuant to section 1123(b)(3) of the Bankruptcy Code, subject to any approval or consultation rights set forth in the Unsecured Creditor Trust Agreement. Confirmation of this Plan effects no settlement, compromise, waiver or release of any Claim, Cause of Action, Right of Action or claim for relief unless this Plan or the Confirmation Order specifically and unambiguously so provides. The non-disclosure or non-discussion of any particular Claim, Cause of Action, Right of Action or claim for relief is not and shall not be construed as a

settlement, compromise, waiver, or release of any such Claim, Cause of Action, Right of Action or claim for relief.

The Unsecured Creditor Trust reserves and retains any and all claims and rights against any and all third parties, whether such claims and rights arose before, on or after the Petition Date, the Confirmation Date, the Effective Date, and/or the Distribution Record Date, including, without limitation, any and all Causes of Action and/or claims for relief that the Unsecured Creditor Trust may have against (i) any insurer and/or insurance policies including the D&O Policies in which either the Debtors and/or their current or former personnel have an insurable or other interest in or right to make a claim against, any other of the Debtors' insurers; (ii) current and former directors, members, managers, officers, shareholders, holders of a Series LLC Interest, holders of a Neighbors Equity Interest, and employees, or (iii) any recipient of a transfer based on Causes of Action under chapter 5 of the Bankruptcy Code. The entry of the Confirmation Order shall not constitute *res judicata* or otherwise bar, estop or inhibit any actions by the Unsecured Creditor Trustee relating to any claims, Causes of Action referred to in this Section or otherwise. On the Effective Date, the Unsecured Creditor Trustee shall be substituted as a party of record in all pending litigation brought by or against the Debtors without need for further order of the Bankruptcy Court.

J. *Filing of Monthly and Quarterly Reports*

The filing of the final monthly report (for the month in which the Effective Date occurs) and all subsequent quarterly reports for each Plan Trust shall be the responsibility of the applicable Plan Trustee until such time as each respective Plan Trust Terminates.

K. *Corporate Existence; Compliance with Transition Services Agreements*

On and after the Effective Date, the Debtors will be referred to as the Liquidating Debtors. The Liquidating Debtors shall remain in existence and will not be dissolved until each Liquidating Debtor satisfies its duties under the applicable Transition Services Agreements. After each Liquidating Debtor satisfies its duties under any applicable Transition Services Agreements, such Liquidating Debtor shall be deemed dissolved without any further action by any party. Notwithstanding anything herein to the contrary, the Liquidating Debtors will retain, and the Debtors and the Liquidating Debtors will not transfer to the Liquidating Trust, all permits, licenses, regulatory authorizations, approvals, and any other asset or attribute necessary to comply with their duties under the Transition Services Agreements. The Liquidating Trustee shall be the representative of the Liquidating Debtors.

L. *Directors and Officers of the Debtors*

On and after the Effective Date, the board of managers or directors of each Debtor shall be terminated and all of the officers and directors of the Debtors, to the extent they have not already done so, shall be deemed to have resigned from their respective positions with the Debtors, as applicable.

M. *Corporate Authorization*

On the Effective Date, all matters provided for under the Plan that would otherwise require approval of the stockholders, directors, members, or managers of one or more of the Debtors shall be deemed to have occurred and shall be in effect from and after the Effective Date without any requirement of further action by the stockholders, directors, members, or managers of the Debtors. After the Effective Date, to the extent necessary, the Plan Trustees shall have all authority to address any and all matters that would have required the approval of, and to act on behalf of, the stockholders, directors, members, or managers of one or more of the Debtors, including performing the Debtors' obligations under the Transition Services Agreements.

N. *Effectuating Documents and Further Transactions*

Prior to the Effective Date, the Debtors shall be authorized to execute, deliver, file, or record such documents, contracts, instruments, and other agreements and take such other actions as may be reasonably necessary to effectuate and further evidence the terms and conditions of the Plan. After the Effective Date, the Plan Trusts shall be authorized to execute, deliver, file, or record such documents, contracts, instruments, and other agreements and take such other actions as may be reasonably necessary to effectuate and further evidence the terms and conditions of the Plan.

O. *Employee Agreements*

All employment, severance, retirement, indemnification, and other similar employee-related agreements or arrangements in place with the Debtors' employees that has not been previously terminated shall be deemed terminated as of the Effective Date.

P. *Exemption from Certain Taxes and Fees*

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant to the Plan shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate or personal property transfer tax, sale or use tax, mortgage recording tax, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate governmental officials or agents shall forgo the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents pursuant to such transfers of property without the payment of any such tax, recordation fee, or governmental assessment.

Q. *Duration of the Plan Trusts*

The Plan Trusts shall have an initial term of five (5) years from the Effective Date, *provided however*, that, if warranted by the facts and circumstances, and subject to the approval of the Court, upon a finding that an extension of the term of either Plan Trust is necessary to accomplish the purpose of the respective Plan Trust, the applicable Plan Trustee shall be authorized to extend the Plan Trust for six (6) months or longer provided that such extension is approved by the Bankruptcy Court within six (6) months of the beginning of such extended term. Either Plan Trust may be terminated earlier than its scheduled termination if (a) the Bankruptcy Court has entered a Final Order closing the Case pursuant to section 350(a) of the Bankruptcy

Code or (b) the applicable Plan Trustee has administered all of the Plan Trust's Assets and performed all other duties required by this Plan and the applicable Plan Trust Agreement.

R. *Wind Down of Plan Trusts*

After the termination of each of the Plan Trusts and for the purpose of liquidating and winding down the affairs of the Plan Trusts, the Plan Trustees shall continue to act as such over their respective Plan Trust until their duties have been fully performed. Prior to the final Distribution of the remaining Plan Trusts' Assets, the Plan Trustees shall be entitled to reserve from the Plan Trusts' Assets any and all amounts required to provide for their own reasonable costs and expenses, in accordance with the terms of the Plan Trusts' Agreements, until such time as the winding down of the Plan Trusts is completed. Upon termination of each of the Plan Trusts, the respective Plan Trustee shall retain for a period of three years the books, records, lists of the Beneficiaries, the registry of claims and Beneficiaries, and other documents and files that have been delivered to or created by the Plan Trustees. Except as otherwise specifically provided herein, upon the termination of each of the Plan Trusts, the Plan Trustees and the respective Plan Trusts' professionals and agents shall have no further duties or obligations hereunder.

ARTICLE VI.
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. *Treatment of Executory Contracts and Unexpired Leases*

As of the Effective Date, the Debtors shall be deemed to have rejected all Executory Contracts and Unexpired Leases that (1) have not been previously rejected, assumed, or assumed and assigned, including in connection with the Sale, and (2) have not expired under their own terms prior to the Effective Date.

The Confirmation Order shall constitute an order of the Bankruptcy Court approving the foregoing rejections pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date.

B. *Preexisting Obligations to the Debtors Under Executory Contracts and Unexpired Leases*

Rejection or repudiation of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall not constitute a termination of preexisting obligations owed to the Debtors under such contracts or leases.

C. *Rejection Damages Claim*

All Claims arising from the rejection of Executory Contracts or Unexpired Leases must be Filed with the clerk of the Bankruptcy Court and served upon the Liquidating Trustee within thirty (30) days of the occurrence of the Effective Date. Any Claim arising from the rejection of Executory Contracts or Unexpired Leases that becomes an Allowed Claim is classified and shall be treated as a Class 4 General Unsecured Claim. Any Claims arising from the rejection of an Executory Contract or Unexpired Lease not Filed within the time required by this section will be forever barred from assertion against the Debtors, the Estates, the property of the Debtors, or the Liquidating Trust.

D. *Reservation of Rights*

Nothing contained in this Plan shall constitute an admission by the Debtors that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that any Debtor has any liability thereunder.

**ARTICLE VII.
PROVISIONS GOVERNING DISTRIBUTIONS**

A. *Timing and Calculation of Amounts to Be Distributed; Entitlement to Distributions*

1. Timing and Calculation of Amounts to Be Distributed

Unless otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim on the Effective Date, on the date that such Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim against the Debtors shall receive the full amount of the Distributions that this Plan provides for Allowed Claims in the applicable Class. If and to the extent that there are Disputed Claims, Distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in this Article VII. Except as otherwise provided herein, Holders of Claims shall not be entitled to postpetition interest, dividends, or accruals on the Distributions provided for herein, regardless of whether such Distributions are delivered on or at any time after the Effective Date.

2. Entitlement to Distributions

On and after the Effective Date, the Plan Trustees shall be authorized (but not directed) to recognize and deal only with those Holders of Claims listed on the Debtors' books and records as of the Distribution Record Date. Accordingly, the Plan Trustees will have no obligation to recognize the transfer of, or the sale of any participation in, any Allowed Claim that occurs after the close of business on the Distribution Record Date, and will be entitled for all purposes herein to recognize and distribute property, notices, and other documents only to those Holders of Allowed Claims who are Holders of such Claims (or participants therein) as of the close of business on the Distribution Record Date.

B. *Plan Trustees*

The Unsecured Creditor Trustee shall make all Distributions under the Plan on account of Class 4 Allowed General Unsecured Claims. The Liquidating Trustee shall make all other Distributions under the Plan. The Plan Trustees shall not be required to give any bond or surety or other security for the performance of their duties unless otherwise ordered by the Bankruptcy Court. For purposes of Distribution on account of the Prepetition Secured Loan Claims and the DIP Claims, the Prepetition Agent and the DIP Agent, respectively (a) shall be deemed to be the Holder of all Prepetition Secured Loan Claims and DIP Claims and (b) are hereby directed to make Distributions to the Holders of Prepetition Secured Loan Claims and DIP Claims. In accordance with the foregoing, the delivery of any applicable property to be distributed to Holders of Prepetition Secured Loan Claims and Holders of DIP Claims to the Prepetition Agent and DIP Agent, respectively, shall satisfy all applicable Distribution obligations under the Plan.

C. *No De Minimis Distributions Required*

No Distribution shall be required to be made hereunder to any Holder of a Claim unless such Holder is to receive in such Distribution at least \$50.00, or unless such Distribution is the final Distribution to such Holder pursuant to this Plan. The Plan Trustees shall retain any such Distribution not made in accordance with the provisions of this section. Any Distribution not made in accordance with this section shall be held in trust for the relevant Holder until the earlier of (i) the date the next Distribution is scheduled to be made to such Holder, or (ii) the final Distribution to such Holder.

D. *Disputed Claims Reserve*

On or prior to the Effective Date, the Plan Trustees shall be authorized to establish a Disputed Claims Reserve, which shall be administered by each Plan Trustee, respectively. The Unsecured Creditor Trustee may, but shall not be required to, hold Cash in the Disputed Claims Reserve from the GUC Settlement Cash in trust for the benefit of the Holders of General Unsecured Claims ultimately determined to be Allowed after the Effective Date. The Unsecured Creditor Trustee shall distribute such amounts (net of any expenses, including any taxes relating thereto), as provided herein, as such Disputed Claims are resolved by a Final Order or agreed to by settlement, and such amounts will be distributable on account of such Disputed Claims as such amounts would have been distributable had such Disputed Claims been Allowed Claims as of the Effective Date.

E. *Distributions on Account of Claims Allowed After the Effective Date*

1. Payments and Distributions on Disputed Claims

Distributions made after the Effective Date to Holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall be deemed to have been made on the Effective Date.

2. Special Rules for Distributions to Holders of Disputed Claims

Notwithstanding any provision otherwise in this Plan and except as otherwise agreed to by either Plan Trustee, (a) no partial payments and no partial Distributions shall be made with respect to a Disputed Claim until all disputes in connection with such Disputed Claim have been resolved by settlement or Final Order and such Disputed Claim becomes an Allowed Claim; and (b) any Entity that holds both an Allowed Claim and a Disputed Claim shall not receive any Distribution on the Allowed Claim unless and until all objections to the Disputed Claim have been resolved by settlement or Final Order.

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

1. Delivery of Distributions in General

Except as otherwise provided herein, the Plan Trustees shall make Distributions to Holders of Allowed Claims at the address for each such Holder as indicated on the Proof of Claim filed by such Holder or the Debtors' Schedules.

2. Undeliverable Distributions and Unclaimed Property

(a) Failure to Claim Undeliverable Distributions

In the event that any Distribution to any Holder is returned as undeliverable, no Distribution to such Holder shall be made unless and until the respective Plan Trustee has determined the then-current address of such Holder, at which time such Distribution shall be made to such Holder without interest; provided, however, such Distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six (6) months from the Effective Date. After such date, all unclaimed property or interests in property shall revert to the respective Plan Trust (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary), and the Claim of any Holder to such property or interest in property shall be discharged and forever barred.

(b) Failure to Present Checks

Checks issued by either Plan Trustee on account of Allowed Claims shall be null and void if not negotiated within one hundred and eighty (180) days after the issuance of such check. Requests for reissuance of any check shall be made directly to the applicable Plan Trustee by the Holder of the relevant Allowed Claim with respect to which such check originally was issued. Any Holder of an Allowed Claim holding an un-negotiated check that does not request reissuance of such un-negotiated check within one hundred and eighty (180) days after the issuance of such check shall have its Claim for such un-negotiated check discharged and shall be discharged and forever barred, estopped, and enjoined from asserting any such Claim against the applicable Plan Trust. In such cases, any Cash held for payment on account of such Claims shall be property of the applicable Plan Trust, free of any Claims of such Holder with respect thereto. Nothing contained herein shall require either Plan Trustee to attempt to locate any Holder of an Allowed Claim.

(c) Failure to Provide Tax Information for Distributions

If a Holder fails to provide to the applicable Plan Trustee any requisite tax information for Distributions, the Plan Trustees may, after a diligent effort to obtain such information, withhold Distributions to any such Holder and the Claim of any such Holder shall be discharged and forever barred.

G. *Compliance with Tax Requirements/Allocations*

In connection with this Plan, to the extent applicable, the Plan Trustees shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all Distributions pursuant hereto shall be subject to such withholding and reporting requirements. Notwithstanding any provision in this Plan to the contrary, the Plan Trustees shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the Distribution to be made under this Plan to generate sufficient funds to pay applicable withholding taxes, withholding Distributions pending receipt of information necessary to facilitate such Distributions or establishing any other mechanisms they believe are reasonable and appropriate. Each Plan Trustee reserves the right to

allocate all Distributions made under this Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, Liens, and encumbrances.

H. *Claims Paid or Payable by Third Parties*

1. Claims Paid by Third Parties

The Debtors or either Plan Trustee, as applicable, shall reduce a Claim, and such Claim shall be Disallowed without a Claims objection having to be Filed and without any further notice to or action, order or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment on account of such Claim from a party that is not a Debtor. To the extent a Holder of a Claim receives a Distribution on account of such Claim and receives payment from a party that is not a Debtor, such Holder shall, within fourteen (14) days of receipt thereof, repay or return the Distribution to the applicable Plan Trustee, to the extent the Holder's total recovery on account of such Claim from the third party and under this Plan exceeds the amount of such Claim as of the Effective Date.

2. Claims Payable by Third Parties

No Distributions under this Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' insurance policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtors' insurers agrees to satisfy in full a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, such Claim may be expunged without a Claims objection having to be Filed and without any further notice to or action, order or approval of the Bankruptcy Court.

3. Applicability of Insurance Policies

Except as otherwise provided in this Plan, Distributions to Holders of Allowed Claims shall be in accordance with the provisions of any applicable insurance policy. Nothing contained in this Plan shall constitute or be deemed a waiver of any Retained Cause of Action that the Debtors or any Entity may hold against any other Entity, including insurers under any policies of insurance, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

I. *Allocation of Plan Distributions between Principal and Interest*

To the extent that any Allowed Claim entitled to a Distribution under the Plan is comprised of indebtedness and accrued but unpaid interest (or original issue discount) thereon, such Distribution shall be allocated to the principal amount of the Claim first and then, to the extent the consideration exceeds the principal amount of the Claim, to the portion of such Claim representing accrued but unpaid interest (or original issue discount).

ARTICLE VIII.
PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED,
AND DISPUTED CLAIMS

A. Allowance and Disallowance of Claims

Except as expressly provided herein or any order entered in the Chapter 11 Cases on or prior to the Effective Date (including the Confirmation Order), no Claim shall be deemed Allowed unless and until such Claim is deemed Allowed under the Bankruptcy Code, under the Plan, or the Bankruptcy Court enters a Final Order in the Chapter 11 Cases allowing such Claim under section 502 of the Bankruptcy Code. Except as expressly provided in any order entered in the Chapter 11 Cases on or prior to the Effective Date (including the Confirmation Order), the Plan Trusts after Consummation will have and retain any and all rights and defenses the Debtors had with respect to any Claim as of the Petition Date.

Except as provided herein or otherwise agreed, any and all proofs of Claim Filed after the Claims Bar Date shall be deemed Disallowed and expunged as of the Effective Date without any further notice to or action, order, or approval of the Court, and Holders of such Claims may not receive any Distributions on account of such Claims, unless on or before the Confirmation Hearing such late Filed Claim has been deemed timely Filed by a Final Order.

B. Prosecution of Objections to Claims

The Liquidating Trustee shall have the exclusive authority to File, settle, compromise, withdraw, or litigate to judgment any objections to Administrative or Priority Claims as permitted under this Plan. From and after the Effective Date, the Liquidating Trustee may settle or compromise any Disputed Administrative or Priority Claim without approval of the Bankruptcy Court. The Liquidating Trustee may also resolve any Disputed Administrative or Priority Claim outside the Bankruptcy Court under applicable governing law.

With regard to all Claims other than Administrative and Priority Claims, the Unsecured Creditor Trustee shall have the exclusive authority to File, settle, compromise, withdraw, or litigate to judgment any objections to Claims as permitted under this Plan. From and after the Effective Date, the Unsecured Creditor Trustee may settle or compromise any Disputed Claim, which is not an Administrative or Priority Claim, without approval of the Bankruptcy Court. The Liquidating Trustee may also resolve any Disputed Claim, which is not an Administrative or Priority Claim, outside the Bankruptcy Court under applicable governing law.

C. Deadline to Object to Claims

Unless otherwise ordered by the Bankruptcy Court, the Plan Trustees shall file all objections to Claims by no later than 180 days after the Effective Date, except to the extent that such Claims are filed on or after the Effective Date, in which case, the Plan Trustees shall have until the later of 180 days after the Effective Date or 90 days after such claim is filed to file an objection to same. Notwithstanding the foregoing, if either Plan Trustee determines that an extension of time is warranted, the Plan Trustee may seek the Bankruptcy Court's approval to extend such time by a period of an additional 90 days, without prejudice to the Plan Trustee's request to seek additional time upon a showing of good cause. Notwithstanding the foregoing,

the Claims in Classes 5, 6, 7 and 8 shall be deemed disallowed. In the event the Unsecured Creditor Trustee determines that there are sufficient funds to make Distributions to Holders of Claims in Classes 5, 6, 7 and 8, the Unsecured Creditor Trustee shall file a Notice of Distribution with the Bankruptcy Court and shall have 180 days after the filing of such notice to object to such claims.

D. *Estimation of Claims*

The Unsecured Creditor Trustee may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the Bankruptcy Code, regardless of whether the Unsecured Creditor Trustee has previously objected to such Claim or whether the Bankruptcy Court has ruled on any objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal related to any such objection. In the event the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Unsecured Creditor Trustee may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned objection, estimation, and resolution procedures are cumulative and are not necessarily exclusive of one another. Claims may be estimated and thereafter resolved by any permitted mechanism.

E. *Amendments to Claims*

On or after the Effective Date, except as provided in the Plan or the Confirmation Order, a Claim may not be Filed or amended without the prior authorization of the Court or the consent of the applicable Plan Trustee, and any such new or amended Claim Filed shall be deemed Disallowed in full and expunged without any further action, order, or approval of the Court.

F. *Distributions After Allowance*

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, Distributions (if any) shall be made to the Holder of such Allowed Claim in accordance with the provisions of this Plan. As soon as reasonably practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, the applicable Plan Trustee shall provide to the Holder of such Claim the Distribution (if any) to which such Holder is entitled under this Plan as of the Effective Date, without any postpetition interest to be paid on account of such Claim.

ARTICLE IX. PATIENT RECORDS

A. *Patient Records*

Patient Records will be administered by the Liquidating Trustee in accordance with the provisions of this Article. The Liquidating Trustee shall have no other or further obligations with respect to the Patient Records except as expressly set forth in this Article. The Liquidating

Trustee shall administer the Patient Records in accordance with section 351 of the Bankruptcy Code in accordance with the provisions set forth in the remainder of this Article.

B. *Patient Publication Notice*

As soon as practicable following the Effective Date, the Liquidating Trustee shall publish the Patient Publication Notice for all Closed Centers in such newspaper or newspapers as the Bankruptcy Court may prescribe in the Confirmation Order. The form of the Patient Publication Notice and the manner of its publication shall also be prescribed and approved in the Confirmation Order.

C. *Service of Notice on Patients*

During the first one hundred eighty (180) days after the publication of the Patient Publication Notice, the Liquidating Trustee shall serve the Patient Records Mail Notice to all Persons on the Patient Records Mailing List. Service of the Patient Records Mail Notice shall be complete upon depositing the same into the United States Mail, postage prepaid, addressed to each recipient at the address reflected on the Patient Records Mailing List.

D. *Patient Records Service Provider*

The Liquidating Trustee is authorized to engage the Patient Records Service Provider to maintain and store Patient Records and respond to requests for records during the Patient Records Maintenance Period, which services by the Patient Records Service Provider shall comply with the requirements of section 351 of the Bankruptcy Code. The terms and conditions of the retention of the Patient Records Service Provider shall be included in an agreement which shall be filed as part of the Plan Supplement.

E. *Notice to HHS*

After the Patient Publication Notice has been published and the Patient Records Mail Notice provided herein, the Liquidating Trustee shall, at the end of the Patient Records Maintenance Period, mail, by certified mail, the HHS Records Request requesting permission to deposit with HHS any remaining Patient Records that have not been claimed by an authorized party during the Patient Records Maintenance Period. Thereafter, HHS shall have thirty (30) days to grant or deny the HHS Records Request. If no written response is received by the Liquidating Trustee either granting or denying the HHS Records Request, then the HHS Records Request shall be denied on the thirty-third (33rd) day following the date the Liquidating Trustee mails the HHS Records Request.

F. *Destruction of Patient Records*

After the Patient Records Maintenance Period has ended, if the HHS Records Request has been denied, any remaining Patient Records that have not been claimed by an authorized party shall be caused to be destroyed by the Liquidating Trustee in accordance with section 351(3) of the Bankruptcy Code. Promptly after the remaining Patient Records have been

destroyed, the Liquidating Trustee shall file a notice with the Bankruptcy Court consistent with Bankruptcy Rule 6011 certifying that the remaining Patient Records have been destroyed.

G. *Further Orders*

The Liquidating Trustee may seek all such other and further orders from the Bankruptcy Court as may be, in the Liquidating Trustee's good faith business opinion, necessary or appropriate to facilitate the administration of the Patient Records.

H. *Patient Records Costs*

Any Patient Records Costs incurred by the Liquidating Trustee shall be treated and paid as from the Liquidating Trust.

**ARTICLE X.
CONDITIONS PRECEDENT TO CONFIRMATION OF THE
PLAN AND THE EFFECTIVE DATE**

A. *Conditions Precedent to Confirmation*

It shall be a condition to Confirmation that the following provisions, terms, and conditions are satisfied (or waived pursuant to the provisions of Article IX.C hereof, except that entry of the Confirmation Order may not be waived), and Confirmation shall occur on the date upon which the last of such conditions are so satisfied and/or waived.

1. All provisions, terms and conditions hereof are approved in the Confirmation Order.

2. A Confirmation Order shall have been entered by the Bankruptcy Court, in form and substance acceptable to the Debtors, that approves the deemed consolidation of the Debtors for distribution and Plan voting purposes.

3. The Confirmation Order shall provide that, among other things, the Debtors and the Plan Trustees, as applicable, are authorized and directed to take all actions necessary or appropriate to consummate this Plan, including, without limitation, entering into, implementing, and consummating the other contracts, instruments, and other agreements or documents created in connection with or described in this Plan.

4. All other actions, documents and agreements necessary to implement the Plan shall have been effected or executed.

5. All required consents, approvals, and authorizations, if any, have been obtained.

B. *Conditions Precedent to the Effective Date*

It shall be a condition to the Effective Date that the following provisions, terms, and conditions are satisfied (or waived pursuant to the provisions of Article IX.C hereof), and the

Effective Date shall occur on the date upon which the last of such conditions are so satisfied and/or waived.

1. The Debtors shall have transferred the GUC Settlement Cash to the Unsecured Creditor Trust.

2. The Debtors shall have transferred all remaining Cash to the Liquidating Trust, including the Professional Fee Escrow.

3. The Confirmation Order shall be a Final Order in form and substance acceptable to the Debtors and the Plan Trustees, each in their respective sole discretion. The Confirmation Order shall provide that, among other things, the Debtors and the Plan Trustees, as applicable, are authorized and directed to take all actions necessary or appropriate to consummate this Plan, including, without limitation, entering into, implementing and consummating the contracts, instruments, and other agreements or documents created in connection with or described in this Plan.

4. The Plan Trusts' Agreements shall have been executed and delivered by all of the Entities that are parties thereto and all conditions precedent to the consummation thereof shall have been waived or satisfied in accordance with the terms thereof.

5. All actions, documents, certificates, and agreements necessary to implement this Plan shall have been effected or executed and delivered to the required parties and, to the extent required, Filed with the applicable Governmental Units in accordance with applicable laws.

C. *Waiver of Conditions*

Each of the conditions to Confirmation and to Consummation set forth in this Article IX may be waived with the consent of the Debtors without notice, leave, or order of the Bankruptcy Court or any formal action other than proceeding to confirm or consummate the Plan.

D. *Effect of Nonoccurrence of Conditions*

If the Consummation of the Plan does not occur, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any claims by or Claims against or Interests in the Debtors; (2) prejudice in any manner the rights of the Debtors, any Holders, or any other Entity; or (3) constitute an admission, acknowledgment, offer, or undertaking by the Debtors, any Holders or any other Entity in any respect.

**ARTICLE XI.
SETTLEMENT, RELEASE, INJUNCTION AND RELATED PROVISIONS**

A. *Compromise and Settlement of Claims, Interests, and Controversies*

Pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the Distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Interests and

controversies relating to the contractual, legal and subordination 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 on account of such Allowed Claim or Allowed Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates and Holders of Claims and Interests and is fair, equitable and reasonable. In accordance with the provisions of the Plan, pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019(a), without any further notice to or action, order or approval of the Bankruptcy Court, after the Effective Date, the Plan Trustees may compromise and settle Claims against them and Causes of Action against other Entities, except for Claims and Causes of Action relating to the Retained Causes of Action, which may be compromised and settled by the Unsecured Creditor Trustee.

B. *RELEASES BY THE DEBTORS*

To the fullest extent permitted by applicable law and approved by the Bankruptcy Court, pursuant to section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, for good and valuable consideration, on and after the Effective Date, the Released Parties shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever been released and discharged by the Debtors and the Estates from any and all past or present Claims, Interests, indebtedness and obligations, rights, suits, losses, damages, injuries, costs, expenses, Causes of Action, remedies, and liabilities whatsoever, including any derivative Claims, asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, asserted or unasserted, suspected or unsuspected, accrued or unaccrued, fixed, contingent, pending or threatened, existing or hereinafter arising, in law, equity, or otherwise, whether for tort, fraud, contract violations of federal or state laws or otherwise, those causes of action based on veil piercing or alter-ego theories of liability, contribution, indemnification, joint liability or otherwise that the Debtors, the Estates, or their Affiliates would have been legally entitled to assert (whether individually or collectively) or on behalf of the Holder of any Claim or Interest or other Entity, based on or relating to any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date; *provided, however*, that the foregoing “Debtor Releases” shall not operate to waive or release any Causes of Action of any Debtor: arising from claims for fraud, gross negligence, or willful misconduct; *provided, further*, the foregoing “Debtor Releases” shall not release the Debtors’ current and former subsidiaries, Affiliates, directors, members, managers, officers, principals, partners, agents, employees, shareholders, holders of Series LLC Interests, holders of Neighbors Equity Interests. Notwithstanding anything to the contrary in the foregoing, the “Debtor Releases” set forth in this paragraph do not release any post-Effective Date obligations of any party under the Plan or any document, instrument, or agreement executed in connection with the Plan.

C. *RELEASES BY HOLDERS OF CLAIMS AND INTERESTS*

To the fullest extent permitted by applicable law and approved by the Bankruptcy Court, pursuant to section 1123(b) of the Bankruptcy Code, and except as otherwise

specifically provided in the Plan, for good and valuable consideration, on and after the Effective Date, each Releasing Party shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged the Debtors and the other Released Parties from any and all past or present Claims, Interests, indebtedness and obligations, rights, suits, losses, damages, injuries, costs, expenses, Causes of Action, remedies, and liabilities whatsoever, including any derivative Claims, asserted on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, asserted or unasserted, suspected or unsuspected, accrued or unaccrued, fixed, contingent, pending or threatened, existing or hereafter arising, in law, equity, or otherwise, whether for tort, fraud, contract violations of federal or state laws or otherwise, those causes of action based on veil piercing or alter-ego theories of liability, contribution, indemnification, joint liability or otherwise that such Releasing Party would have been legally entitled to assert (whether individually or collectively), based on or relating to any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date; *provided, however*, that the foregoing release shall not operate to waive or release any Causes of Action of any Releasing Party: arising from claims for fraud, gross negligence, or willful misconduct *provided, further*, , the foregoing release shall not release the Debtors' current and former subsidiaries, Affiliates, directors, members, managers, officers, principals, partners, agents, employees, shareholders, holders of Series LLC Interests, holders of Neighbors Equity Interests. Notwithstanding anything to the contrary in the foregoing, the "Third Party Releases" set forth in this paragraph do not release any post-Effective Date obligations of any party under the Plan or any document, instrument, or agreement executed in connection with the Plan.

D. *EXCULPATION*

To the fullest extent permitted by applicable law no Exculpated Party shall have or incur, and each Exculpated Party is hereby released and exculpated from any Exculpated Claim, obligation, Cause of Action or liability for any Exculpated Claim, except for those that are determined in a final order to have constituted actual fraud, gross negligence, willful misconduct, or criminal conduct, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan.

E. *INJUNCTION*

Except for obligations issued pursuant to the Plan, from and after the Effective Date, all Entities who hold or may hold Claims or Interests and the Releasing Parties are permanently enjoined from taking any of the following actions against the Debtors or any Released Parties: (1) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests; (2) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such Claims or Interests; (3) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or Estates of such Entities on account of or in connection with or with respect to any such Claims or Interests; (4) asserting any right of setoff, subrogation, or recoupment of any kind against

any obligation due from such Entities or against the property or Estates of such Entities on account of or in connection with or with respect to any such Claims or Interests unless such Holder has Filed a motion requesting the right to perform such setoff on or before the Confirmation Date; and (5) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests released or settled pursuant to the Plan. Nothing in the Plan or the Confirmation Order shall preclude any Entity from pursuing an action against one or more of the Debtors in a nominal capacity to recover insurance proceeds so long as the Debtors, as applicable, and any such Entity agree in writing that such Entity will: (a) waive all Claims against the Debtors and the Estates related to such action and (b) enforce any judgment on account of such Claim solely against applicable insurance proceeds, if any.

F. *Setoffs*

Except as otherwise expressly provided for in the Plan, each Debtor and the Plan Trustees (as applicable), pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable non-bankruptcy law or as may be agreed to by the Holder of a Claim or an Interest, may set off against any Allowed Claim or Allowed Interest and the Distributions to be made pursuant to the Plan on account of such Allowed Claim or Allowed Interest (before any Distribution is made on account of such Allowed Claim or Allowed Interest), any Retained Causes of Action of any nature that such Debtor, as applicable, may hold against the Holder of such Allowed Claim or Allowed Interest, to the extent such Retained Causes of Action against such Holder have not been otherwise compromised or settled on or prior to the Effective Date (whether pursuant to the Plan or otherwise); *provided, however*, that neither the failure to effect such a setoff nor the allowance of any Claim or Interest pursuant to the Plan shall constitute a waiver or release by such Debtor or Unsecured Creditor Trustee of any such Retained Causes of Action that such Debtor or Unsecured Creditor Trustee may possess against such Holder. In no event shall any Holder of Claims or Interests be entitled to setoff any Claim or Interest against any Retained Cause of Action of the Debtor unless such Holder has Filed a motion with the Bankruptcy Court requesting the authority to perform such setoff on or before the Confirmation Date.

G. *Recoupment*

In no event shall any Holder of Claims or Interests be entitled to recoup any Claim or Interest against any Retained Cause of Action of the Debtors, unless such Holder actually has performed such recoupment and provided notice thereof in writing to the Debtors on or before the Effective Date.

ARTICLE XII. BINDING NATURE OF PLAN

THIS PLAN SHALL BIND ALL HOLDERS OF CLAIMS AGAINST AND INTERESTS IN THE DEBTORS TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NOTWITHSTANDING WHETHER OR NOT SUCH HOLDER (I) WILL RECEIVE OR RETAIN ANY PROPERTY OR INTEREST IN PROPERTY UNDER THE PLAN, (II) HAS FILED A PROOF OF CLAIM OR INTEREST IN THE CHAPTER 11

CASES, OR (III) FAILED TO VOTE TO ACCEPT OR REJECT THE PLAN OR VOTED TO REJECT THE PLAN.

ARTICLE XIII. RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain jurisdiction over the Chapter 11 Cases and all Entities with respect to all matters related to the Chapter 11 Cases, the Debtors, and this Plan to the fullest extent permitted by law, including, without limitation, jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate, or establish the priority, Secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the Secured or unsecured status, priority, amount, or allowance of Claims or Interests;

2. decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals authorized pursuant to the Bankruptcy Code or the Plan;

3. resolve any matters related to: (a) the assumption, assumption and assignment, or rejection of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor may be liable and to hear, determine and, if necessary, liquidate, any Claims arising therefrom; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed; and (c) any dispute regarding whether a contract or lease is or was executory or expired;

4. ensure that Distributions to Holders of Allowed Claims and Allowed Interests are accomplished pursuant to the provisions of the Plan;

5. adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving a Debtor that may be pending on the Effective Date;

6. adjudicate, decide, or resolve any and all matters related to Retained Causes of Action;

7. adjudicate, decide, or resolve any and all matters related to sections 1141 and 1145 of the Bankruptcy Code;

8. enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan or the Disclosure Statement;

9. resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with the Consummation, interpretation, or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;

10. issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with Consummation or enforcement of the Plan;

11. resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the releases, injunctions and other provisions contained in Article X and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;

12. resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of Distributions and the recovery of additional amounts owed by the Holder of a Claim or an Interest for amounts not timely repaid pursuant to Article VII;

13. enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

14. determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, indenture, or other agreement or document created in connection with the Plan or the Disclosure Statement;

15. enter an order or final decree concluding or closing the Chapter 11 Cases;

16. adjudicate any and all disputes arising from or relating to Distributions under the Plan;

17. consider any modifications of the Plan to cure any defect or omission or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;

18. determine requests for the payment of Claims and Interests entitled to priority pursuant to section 507 of the Bankruptcy Code;

19. hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan or the Confirmation Order, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;

20. hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

21. hear and determine all disputes involving the existence, nature, or scope of the Debtors' discharge;

22. enforce all orders previously entered by the Bankruptcy Court; and

23. adjudicate all other matters over which the Bankruptcy Court has jurisdiction.

ARTICLE XIV. MODIFICATION, REVOCATION OR WITHDRAWAL OF THE PLAN

A. *Modifications and Amendments*

Subject to the limitations and rights contained in this Plan: (a) the Debtors reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules to amend or modify this Plan prior to the entry of the Confirmation Order; and (b) after the entry of the Confirmation Order, the Debtors may, upon order of the Bankruptcy Court, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

B. *Effect of Confirmation on Modifications*

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan since the solicitation thereof are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or re-solicitation under Bankruptcy Rule 3019.

C. *Revocation or Withdrawal of the Plan*

The Debtors reserve the right to revoke or withdraw this Plan prior to the Effective Date and to File subsequent chapter 11 plans. If the Debtors revoke or withdraw this Plan subject to the terms hereof, or if Confirmation or Consummation does not occur, then: (1) this Plan shall be null and void in all respects; (2) any settlement or compromise embodied in this Plan, assumption or rejection of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (3) nothing contained in this Plan shall: (x) constitute a waiver or release of any Claims by or against, or any Interests in, such Debtor or any other Entity; (y) prejudice in any manner the rights of the Debtors or any other Entity; or (z) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtors or any other Entity.

D. *Substantial Consummation of the Plan*

Substantial consummation of the Plan under Bankruptcy Code section 1101(2) shall be deemed to occur on the Effective Date.

**ARTICLE XV.
MISCELLANEOUS PROVISIONS**

A. *Bar Date for Administrative Claims*

No Administrative Claim, other than Professional Fees and U.S. Trustee fees, will be paid unless the holder of such Administrative Claim has filed an application for payment of such Administrative Claim on or before the Administrative Claim Bar Date. Upon the filing of any application for payment, the Entity seeking payment of an Administrative Claim shall provide notice by United States Mail in accordance with the Bankruptcy Rules. Any Administrative Claim, other than Professional Fees and U.S. Trustee fees, not filed in accordance with this section shall be barred and the Debtors, the Plan Trusts and the Plan Trustees shall have no liability for payment of any such Administrative Claim.

B. *Successors and Assigns*

The rights, benefits, and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor or assign, affiliate, officer, director, manager, agent, representative, attorney, beneficiary, or guardian, if any, of each Entity.

C. *Reservation of Rights*

Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. Neither the Plan, any statement or provision contained in the Plan, nor any action taken or not taken by any Debtor with respect to the Plan or the Disclosure Statement shall be or shall be deemed to be an admission or waiver of any rights of any Debtor with respect to the Holders of Claims or Interests before the Effective Date.

D. *Service of Documents*

Any pleading, notice, or other document required by this Plan to be served on or delivered to the Debtors shall be sent by overnight mail to:

Neighbors Legacy Holdings, Inc.
10800 Richmond Avenue
Houston, Texas 77042
Attn: Chad J. Shandler
Telephone: [_____]
Email: [_____]

with copies to:

Porter Hedges LLP
1000 Main, 36th Floor
Houston, Texas 77002

Attn: John F. Higgins
Eric M. English
Genevieve M. Graham
Telephone: (713) 226-6648
Facsimile: (713) 226-6628
Email: jhiggins@porterhedges.com
eenglish@porterhedges.com
ggraham@porterhedges.com

Cole Schotz P.C.
301 Commerce Street
Suite 1700
Fort Worth, Texas 76102
Attn: Michael D. Warner

Telephone: (817) 810-5250
Facsimile: (817) 977-1611
Email: mwarner@coleschotz.com

E. *Dissolution of Committee*

On the Effective Date, the Committee shall dissolve automatically, whereupon its members, Professionals, and agents shall be released from any further duties and responsibilities in the Chapter 11 Cases and under the Bankruptcy Code, except for purposes of filing applications for Professional compensation in accordance with Article II.A.2 of this Plan.

F. *Discharge of the Patient Care Ombudsman*

On the Effective Date, the duties and responsibilities of the Patient Care Ombudsman shall be terminated, and the Patient Care Ombudsman shall be discharged from her duties under section 333 of the Bankruptcy Code and she shall not be required to file any further reports or perform any additional duties.

G. *Nonseverability of Plan Provisions*

If, before Confirmation of the Plan, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted; *provided* that any such alteration or interpretation must be in form and substance acceptable to the Debtors, the Committee, and the Prepetition Lenders; *provided, further*, that the Debtors may seek an expedited hearing before the Bankruptcy Court to address any objection to any such alteration or interpretation of the foregoing. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the Debtors' consent; and (3) nonseverable and mutually dependent.

H. *Return of Security Deposits*

Unless the Debtors have agreed otherwise in a written agreement or stipulation approved by the Bankruptcy Court, all security deposits provided by the Debtors to any Person or Entity at any time after the Petition Date shall be returned to the Debtors within twenty (20) days after the Effective Date, without deduction or offset of any kind.

I. *Term of Injunctions or Stays*

Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to sections 105 or 362 of the Bankruptcy Code or

any order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order) shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

J. *Entire Agreement*

Except as otherwise indicated herein, the Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

K. *Exhibits*

All exhibits hereto are incorporated into and are a part of the Plan as if set forth in full in the Plan. To the extent any exhibit or document is inconsistent with the terms of the Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit or non-document portion of the Plan shall control.

L. *Votes Solicited in Good Faith*

Upon entry of the Confirmation Order, the Debtors will be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code and any applicable non-bankruptcy law, and pursuant to section 1125(e) of the Bankruptcy Code, the Debtors and each of their respective Affiliates, agents, representatives, members, principals, shareholders, officers, directors, employees, advisors, and attorneys will be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale, and purchase of securities offered and sold under the Plan, and, therefore, will have no liability for the violation of any applicable law, rule, or regulation governing the solicitation of votes on the Plan or the offer, issuance, sale, or purchase of the securities offered and sold under the Plan.

M. *Conflicts*

Except as set forth in the Plan, to the extent that any provision of the Disclosure Statement or any order (other than the Confirmation Order) referenced in the Plan (or any exhibits, schedules, appendices, supplements, or amendments to any of the foregoing), conflicts with or is in any way inconsistent with any provision of the Plan, the Plan shall govern and control. In the event of a conflict between any provision of the Plan and the Confirmation Order, the Confirmation Order shall govern and control.

N. *Filing of Additional Documents*

On or before the Effective Date, the Debtors may File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

Dated: November [____], 2018

Respectfully submitted,

NEIGHBORS LEGACY HOLDINGS, INC.
on behalf of itself and the other Debtors

By: _____

Chad J. Shandler
Chief Restructuring Officer

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

In re:

NEIGHBORS LEGACY HOLDINGS, INC.,
et al.,¹

Debtors.

Chapter 11

Case No. 18-33836 (MI)

Jointly Administered

**DECLARATION OF MICHAEL D. WARNER, ESQ. IN SUPPORT OF MOTION OF
UNSECURED CREDITOR TRUSTEE TO CORRECT SCRIVENER'S ERROR IN THE
TERMS OF THE CONFIRMED FIRST AMENDED JOINT PLAN OF LIQUIDATION
OF NEIGHBORS LEGACY HOLDINGS, INC. AND ITS DEBTOR AFFILIATES
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE OR, ALTERNATIVELY, TO
EXTEND THE DEADLINE TO FILE CLAIM OBJECTIONS**

I, MICHAEL D. WARNER, ESQ., pursuant to section 1746 of title 28 of the United States Code, hereby declare that the following is true to the best of my knowledge, information and belief:

1. I am counsel for the Unsecured Creditor Trust established under the *First Amended Joint Plan of Liquidation of Neighbors Legacy Holdings, Inc. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code* (the "**Plan**"). Before confirmation of the Plan, I served as counsel for Official Committee of Unsecured Creditors (the "**Committee**").

2. I submit this Declaration in support of the Unsecured Creditor Trust's *Motion to Correct Scrivener's Error in the Terms of the Confirmed First Amended Joint Plan of Liquidation of Neighbors Legacy Holdings, Inc. and its Debtor Affiliates Under Chapter 11 of*

¹ Due to the large number of Debtors in these chapter 11 cases, a complete list of the Debtors and the last four digits of their tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at www.kccllc.net/neighbors. The location of Debtors' principal place of business and the Debtors' service address is: 10800 Richmond Avenue, Houston, Texas 77042.

*the Bankruptcy Code, or Alternatively, to Extend Deadline to File Claim Objections (the “Motion”).*²

3. The Plan and Confirmation Order established the Unsecured Creditor Trust and approved the Unsecured Creditor Trust Agreement, which appointed the Unsecured Creditor Trustee to, among other things, resolve “all Disputed General Unsecured Claims, including objecting, prosecuting, settling and compromising such Disputed General Unsecured Claims.” See Unsecured Creditor Trust Agreement at § 1.3(a).

4. Pursuant to Section VIII.C. of the Plan, the deadline to file objections to claims was 180 days after the Effective Date, i.e. October 5, 2019. It was always the intention of the Committee, and thus the Unsecured Creditor Trust, however, that the Trustee of the Trust would only object to Disputed General Unsecured Claims *in the event that there are sufficient funds to distribute to holders of General Unsecured Claims*

5. I currently serve as the Liquidating Trustee in the confirmed Chapter 11 case captioned *In re University General Health System, Inc., et al.* (“UGHS”) Case No. 15-31086 pending in the United States Bankruptcy Court for the Southern District of Texas, Houston Division. In UGHS, I was not involved in the pre-Confirmation case, and thus did not have the opportunity to provide detailed comments on the Plan’s structure or the obligations that I would have as Liquidating Trustee. In my capacity as the Liquidating Trust I was required to seek multiple extensions of the deadline to object to unsecured claims despite the lack of sufficient funds to distribute to unsecured claimants in that case. Given my experience in that case and the unnecessary expenditure of resources required to seek extensions of the claims objection deadline, I determined, in this Case, and suggested the same to the Committee, that it was

² Terms used herein but not otherwise defined shall have the meanings ascribed to them in the Motion.

prudent to negotiate language in the Plan in these cases that avoided the need to object to general unsecured claims unless and until sufficient funds were available for distribution.

6. Based on my experience in the UGHS case, in connection with the *back and forth* negotiation efforts of drafting the Plan, among, *inter alia*, the Debtors and the Committee, on December 7, 2018, the Committee suggested that the following provision be added to the section of the draft Plan addressing the deadline for objection to claims (the “**Committee’s Addition**”):

Notwithstanding the foregoing, the Claims in Classes 5, 6, 7 and 8 shall be deemed disallowed. In the event the Unsecured Creditor Trustee determines there are sufficient funds to make Distributions to Holders of Claims in Classes 5, 6, 7 and 8, the Unsecured Creditor Trustee shall file a Notice of Distribution with the Bankruptcy Court and shall have 180 days after the filing of such notice to object to such claims.

The Debtors accepted the Committee’s Addition, on a wholesale basis, as *inter alia*, the reason for the Committee’s Addition was reasonable.

7. In anticipation of the limited amount of funds in the Unsecured Creditor Trust at the time of Confirmation, the purpose of the Committee Addition was to avoid the Unsecured Creditor Trust from having to expend funds to object to claims in advance of knowing whether a distribution would be made to the beneficiaries of the Trust. Instead, the Unsecured Creditor Trust intended to use the initial limited funds (\$275,000) it had to maximize value for the benefit of the Trust’s beneficiaries and pursue causes of actions that could result in a recovery to such parties. This was the Committee’s intent.

8. Notwithstanding the intent of the Committee’s Addition to Section VIII.C. of the Plan, there was a scrivener’s error in the Committee’s Addition provided to the Debtors on December 7, 2018. The added language to Section VIII.C. unintentionally and mistakenly failed to also reference ***Class 4*** (general unsecured claims) which was the rationale of that provision in

the first instance. Instead, the language incorrectly referred only to Classes 5, 6, 7 and 8. The language should have only referred to Classes 4 and 5 (as the claims in Classes 6, 7, 8 were extinguished by the Plan).

9. The Unsecured Creditor Trust simply does not have sufficient funds to object to general unsecured claims and it does not even make practical sense to object to claims until such time it is clear that a distribution will be made. That was the purpose behind the added language to Section VIII.C. of the Plan.

10. Based on the foregoing and the reasons set forth in the Motion, I respectfully request that the Motion be granted.

Pursuant to section 1746 of title 28 of the United States Code, I hereby declare that the following is true to the best of my knowledge, information and belief

Dated: October 15, 2019

By: /s/ Michael D. Warner
Michael D. Warner

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

In re:

NEIGHBORS LEGACY HOLDINGS, INC.,
et al.,¹

Debtors.

Chapter 11

Case No. 18-33836 (MI)

Jointly Administered

**ORDER CORRECTING SCRIVENER’S ERROR IN THE TERMS OF THE
CONFIRMED FIRST AMENDED JOINT PLAN OF LIQUIDATION OF NEIGHBORS
LEGACY HOLDINGS, INC. AND ITS DEBTOR AFFILIATES UNDER CHAPTER 11
OF THE BANKRUPTCY CODE**

Upon the motion (the “Motion”) of the Unsecured Creditor Trust in the above-captioned Chapter 11 cases for entry of an order correcting scrivener’s error in the terms of the *Confirmed First Amended Joint Plan of Liquidation of Neighbors Legacy Holdings, Inc. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code* (the “Plan”); and upon the Declaration of Michael D. Warner, Esq. in support of the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein being a core proceeding in accordance with 28 U.S.C. §§ 157(b)(2) on which the Court may enter a final order consistent with Article III of the United States Constitution; and venue being properly in this district under 28 U.S.C. §§ 1408 and 1409; and good and adequate notice of the Motion having been given under the circumstances and it appearing that no other or further notice need be provided; and it appearing that the legal and

¹ Due to the large number of Debtors in these chapter 11 cases, a complete list of the Debtors and the last four digits of their tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ proposed claims and noticing agent at www.kccllc.net/neighbors. The location of Debtors’ principal place of business and the Debtors’ service address is: 10800 Richmond Avenue, Houston, Texas 77042.

factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefore, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. Section VIII.C. of the Plan is hereby amended to remedy a scrivener's error as

follows:

Unless otherwise ordered by the Bankruptcy Court, the Plan Trustees shall file all objections to Claims by no later than 180 days after the Effective Date, except to the extent that such Claims are filed on or after the Effective Date, in which case, the Plan Trustees shall have until the later of 180 days after the Effective Date or 90 days after such claim is filed to file an objection to same. Notwithstanding the foregoing, if either Plan Trustee determines that an extension of time is warranted, the Plan Trustee may seek the Bankruptcy Court's approval to extend such time by a period of an additional 90 days, without prejudice to the Plan Trustee's request to seek additional time upon a showing of good cause. Notwithstanding the foregoing, the Claims in Classes 4 and 5 shall be deemed disallowed. In the event the Unsecured Creditor Trustee determines that there are sufficient funds to make a Distribution to Holders of Claims in Classes 4 and 5, the Unsecured Creditor Trustee shall file a Notice of Distribution (which Notice shall constitute allowance of Claims in Classes 4 and 5 subject to objection) with the Bankruptcy Court and shall have 180 days after the filing of such notice to object to such claims.

3. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: _____, 2019

The Honorable Marvin Isgur
United States Bankruptcy Judge