

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)
	) Chapter 11
NVN Liquidation, Inc., <i>et al.</i> ,)
f/k/a NOVAN, INC., ¹	) Case No. 23-10937 (LSS)
)
Debtors.	) (Jointly Administered)
)
	) Re: D.I. 438

ORDER (I) APPROVING THE COMBINED DISCLOSURE STATEMENT AND CHAPTER 11 PLAN OF LIQUIDATION ON AN INTERIM BASIS; (II) ESTABLISHING SOLICITATION AND TABULATION PROCEDURES; (III) APPROVING THE FORM OF BALLOT AND SOLICITATION MATERIALS; (IV) ESTABLISHING THE VOTING RECORD DATE; (V) FIXING THE DATE, TIME, AND PLACE FOR THE CONFIRMATION HEARING AND THE DEADLINE FOR FILING OBJECTIONS THERETO; AND (VI) GRANTING RELATED RELIEF

Upon consideration of the motion (the "Motion")² of the Debtors for entry of an order: (i) approving the combined Disclosure Statement and Plan on an interim basis; (ii) establishing procedures for the solicitation and tabulation of votes to accept or reject the Disclosure Statement and Plan; (iii) approving the form of ballot and solicitation materials; (iv) establishing a voting record date; (v) fixing the date, time, and place for the Confirmation Hearing and the deadline for filing objections related thereto; and (vi) granting related relief; and sufficient cause appearing therefor,

THE COURT HEREBY FINDS AS FOLLOWS:

A. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference*, dated as of February 29, 2012.

¹ The Debtors in these chapter 11 cases, along with the last four digitals of the Debtors' federal tax identification number (if applicable), are: NVN Liquidation, Inc., (f/k/a Novan, Inc.) (7682) and EPI Health, LLC (9118). The corporate headquarters and the mailing address for the Debtors is P.O. Box 64, Pittsboro, NC 27312.

² Capitalized terms used but not otherwise defined shall have the meanings ascribed to such terms in the Motion or Disclosure Statement and Plan, as applicable.



B. Consideration of the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

C. This Court may, consistent with Article III of the United States Constitution, issue a final order in connection with the Motion.

D. Venue of the proceeding and the Motion in this District is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

E. The relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest.

F. The notice of the Motion and the Confirmation Hearing were served as set forth in the Motion, and such notice constitutes good and sufficient notice to all interested parties and complies with Bankruptcy Rules 2002 and 3017, and no other or further notice need be provided.

G. The form of Ballots attached hereto as **Exhibit 2** (the "Ballots"): (i) is consistent with Official Form No. 14; (ii) adequately addresses the particular needs of these Chapter 11 Cases; (iii) is appropriate for Holders of Claims in Class 3 and Class 4 of the Plan (the "Voting Classes"); and (iv) complies with Bankruptcy Rule 3017(d).

H. The Ballots need not be provided to Holders of Claims or Interests in Classes 1, 2, 5, and 6 (collectively, the "Non-Voting Classes"), as such Non-Voting Classes are either (i) unimpaired and are conclusively presumed to have accepted the Disclosure Statement and Plan in accordance with section 1126(f) of the Bankruptcy Code or (ii) impaired but will neither retain nor receive any property under the Disclosure Statement and Plan and, thus, are conclusively deemed to have rejected the Disclosure Statement and Plan under section 1126(g) of the Bankruptcy Code.

I. The period during which the Debtors may solicit votes to accept or reject the Disclosure Statement and Plan, as established by this Order, provides sufficient time for the Holders of Claims in the Voting Classes to make an informed decision to accept or reject the Disclosure Statement and Plan and submit a Ballot in a timely fashion, and the solicitation provided by this Order is consistent with section 1126 of the Bankruptcy Code.

J. The Tabulation Procedures (defined below) for the solicitation and tabulation of votes to accept or reject the Disclosure Statement and Plan, as approved herein, provide a fair and equitable voting process and are consistent with section 1126 of the Bankruptcy Code.

K. The contents of the Solicitation Packages and the procedures for providing notice of the Confirmation Hearing and the other matters set forth in the Confirmation Hearing Notice, under the circumstances, constitute sufficient notice to all interested parties in accordance with Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Disclosure Statement and Plan is approved on an interim basis as containing adequate information for solicitation purposes under sections 105 and 1125 of the Bankruptcy Code, Bankruptcy Rule 3017, and Local Rule 3017-2. Any objections to the adequacy of information contained in the Disclosure Statement on a final basis are expressly reserved for consideration at the Confirmation Hearing, unless overruled on the record at the hearing to approve the Disclosure Statement and Plan on an interim basis, if applicable and in accordance with applicable law.

3. The Bankruptcy Court shall conduct the Confirmation Hearing for (i) final approval of the Disclosure Statement and Plan, as well as the notices set forth herein, as containing adequate information and (ii) confirmation of the Disclosure Statement and Plan. The Confirmation Hearing is hereby scheduled for **January 25, 2024, at 10:00 a.m. (prevailing Eastern Time)**. The Confirmation Hearing may be continued from time to time without further notice other than by (a) announcing any adjourned date at the Confirmation Hearing (or any continued hearing) or (b) filing a notice on the docket of these Chapter 11 Cases.

4. The following dates and deadlines are hereby approved:

Timetable	
<u>Event</u>	<u>Date</u>
Voting Record Date	December 15, 2023 (or the date the Proposed Solicitation Procedures Order is entered)
Date by Which Solicitation Will be Mailed	December 20, 2023 (or within three business days of entry of the Proposed Solicitation Procedures Order)
Deadline to File Rule 3018 Motions	January 10, 2024, at 4:00 p.m. (ET)
Deadline for Debtors to Respond to any Rule 3018 Motion	January 22, 2024, at 4:00 p.m. (ET)
Deadline to File Plan Supplement	(on or before 7 days prior to the earlier of (a) voting deadline or (b) deadline to object to confirmation) January 11, 2024, at 4:00 p.m. (ET)
Voting Deadline	(not more than 10 days prior to hearing) January 18, 2024 at 4:00 p.m. (ET)
Deadline to Object to Confirmation and Final Approval of Adequacy of Disclosures	(at least 28 days from service) January 18, 2024, at 4:00 p.m. (ET)
Deadline to File a Proposed Confirmation Order	January 22, 2024 (or three business days prior to the Confirmation Hearing)
Deadline to File Confirmation Brief and any Replies in Support of Confirmation	January 23, 2024, at 4:00 p.m. (ET) (or two business days prior to the Confirmation Hearing)
Confirmation Hearing	January 25, 2024, at 10:00 a.m. (ET) (or as soon as possible thereafter)

5. The Confirmation Hearing Notice, in substantially the form attached hereto as **Exhibit 1**, is approved.

6. The Ballot, substantially in the form attached hereto as **Exhibit 2**, is approved.

7. The notice to be provided to Holders of Claims and Interests in the Non-Voting Classes, in substantially the form attached hereto as **Exhibit 3** (the “Notice of Non-Voting Status”), is approved on an interim basis as containing adequate information to such Non-Voting Classes under sections 105 and 1125 of the Bankruptcy Code, Bankruptcy Rule 3017, and Local Rule 3017-2.

8. Pursuant Bankruptcy Rule 3017(d), **December 15, 2023 at 4:00 p.m. (prevailing Eastern Time)** shall be the record date for purposes of determining which Holders of Claims are entitled to receive Solicitation Packages and vote on the Disclosure Statement and Plan (the “Record Date”).

9. With respect to any transferred Claim, the transferee shall only be entitled to receive and cast a Ballot on account of such transferred Claim if: (a) all actions necessary to effect the transfer of the Claim pursuant to Bankruptcy Rule 3001(e) have been completed by the Record Date (including, without limitation, the passage of any applicable objection period) or (b) the transferee files, no later than the Record Date, (i) the documentation required by Bankruptcy Rule 3001(e) to evidence the transfer, and (ii) a sworn statement of the transferor supporting the validity of the transfer.

10. On or prior to the date that is three (3) business days following entry of this Order (the “Service Date”), the Voting Agent shall serve, by first class mail, the Solicitation Packages to Holders of Claims in the Voting Class. The Solicitation Packages shall contain copies

of: (a) the Confirmation Hearing Notice; (b) the Disclosure Statement and Plan, with all exhibits thereto; (c) this Order, without exhibits; (c) the Ballot; and (d) a pre-paid, pre-addressed return envelope.³ Additionally, on or prior to the Service Date, the Voting Agent shall serve, by first class mail, the Notice of Non-Voting Status and the Disclosure Statement and Plan, to Holders of Class 5 Claims. Further, on or prior to the Service Date, the Voting Agent shall serve, by first class mail or other authorized means of service, the Notice of Non-Voting Status to Holders of Interests in Class 6 and Class 1 and Class 2 Claims in the Non-Voting Classes. The Debtors shall not be required to distribute complete Solicitation Packages to the Holders of Interests in Class 6 and Class 1 and Class 2 Claims in the Non-Voting Classes.

11. On or prior to the Service Date, the Voting Agent shall serve, by first class mail, the Confirmation Hearing Notice to the following parties, to the extent such parties are not otherwise entitled to receive a Solicitation Package: (a) all persons or entities that have filed, or are deemed to have filed a Proof of Claim or request for allowance of Claim as of the Record Date; (b) all persons or entities listed on the Schedules as holding a Claim; (c) the Securities and Exchange Commission and any regulatory agencies with oversight authority of the Debtors; (d) the Internal Revenue Service; (e) the United States Attorney's Office for the District of Delaware; (f) other known Holders of Claims and Interests; (g) all entities known to the Debtors to hold or assert a lien or other interest in the Debtors' property; and (h) any other parties that have requested notice pursuant to Bankruptcy Rule 2002.

12. The Debtors shall publish a notice, substantially in the form of the Confirmation Hearing Notice, but shortened for publication by removing the summary of key dates

³ The Disclosure Statement and Plan and this Order will be provided in pdf format on a flash drive or in paper format, and all other documents will be provided in paper format.

and the entirety of the release, exculpation and injunction provisions, in the national edition of *USA Today*, promptly after entry of this Order.

13. To be counted as a vote to accept or reject the Disclosure Statement and Plan, a Ballot must be properly executed, completed, and delivered to the Voting Agent in accordance with the instructions on the Ballot so that it is actually received no later than **4:00 p.m. (prevailing Eastern Time) on January 18, 2024** (the “Voting Deadline”).

14. The following procedures shall be used in tabulating the votes to accept or reject the Disclosure Statement and Plan (the “Tabulation Procedures”). Each Holder of a Claim in the Voting Classes shall be entitled to vote the amount of its Claim as of the Record Date. Solely for purposes of voting on the Disclosure Statement and Plan, and not for the purpose of making Distributions on account of a Claim, and without prejudice to the rights of the Debtors or any other proper party in interest in any other context, including claims objections and adversary proceedings, with respect to all Holders of Claims in the Voting Classes against the Debtors, the temporarily allowed amount of a Claim used to tabulate acceptance or rejection of the Plan should be as follows:

- a. The amount of the Claim listed in the Debtors’ Schedules; provided that such Claim is not scheduled as contingent, unliquidated, undetermined, undisputed, or in the amount of \$0.00, and such Claim has not been superseded by a timely filed Proof of Claim.
- b. The non-contingent and liquidated amount specified in a Proof of Claim against the Debtors, timely filed with the Court or the Voting Agent by the applicable Bar Date (or otherwise deemed timely filed by the Court under applicable law) to the extent such Proof of Claim has not been amended or superseded by another Proof of Claim (or, if such Claim has been resolved pursuant to a stipulation or order entered by the Court, the amount set forth in such stipulation or order).
- c. If a Proof of Claim has been amended by a later Proof of Claim that is filed on or prior to the Voting Record Date, the later filed amending claim shall be entitled to vote in a manner consistent with these tabulation rules, and the earlier filed claim shall be disallowed for voting purposes, regardless of

whether the Debtors have objected to such amended claim. Except as otherwise ordered by the Court, any amendments to Proofs of Claim after the Voting Record Date shall not be considered for purposes of these tabulation rules.

- d. If applicable, the amount temporarily allowed by the Court for voting purposes pursuant to Bankruptcy Rule 3018. Any motion pursuant to Bankruptcy Rule 3018 seeking to temporarily allow a Claim for voting purposes must be filed and served in accordance with the Proposed Solicitation Procedures Order.
- e. Except as otherwise provided in subsection (d) hereof, a Ballot cast by an alleged Creditor who has timely filed a Proof of Claim in an unknown, blank, or undetermined amount, or is wholly unliquidated, or contingent (as determined on the face of the claim or after a reasonable review of the supporting documentation by the Voting Agent) and such claim has not been allowed, such Claim shall be temporarily allowed for voting purposes only, and not for purposes of allowance or distribution, at \$1.00.
- f. Proofs of Claim filed for \$0.00 or arising from an Interest in NVN are not entitled to vote.
- g. Except as otherwise provided in subsection (d) hereof, with respect to a Ballot cast by an alleged Creditor who has timely filed a Proof of Claim, but the Claim is the subject of a claim objection filed by **December 15, 2023**, the Debtors request, that such Claim is temporarily disallowed for voting purposes only, and not for purposes of allowance or distribution.
- h. Notwithstanding anything to the contrary contained herein, to the extent that a Holder holds duplicate Claims in the Voting Class against the Debtors (by virtue of one or more timely-filed proofs of claim, the Schedules, or a combination of both), such Holder shall be deemed to hold a single Claim in the Voting Class, and shall be provided with one Solicitation Package and one ballot for voting a single Claim in such Class, regardless of whether the Debtors have objected to such duplicative Claims.
- i. For purposes of the numerosity requirement of section 1126(c) of the Bankruptcy Code, separate Claims held by a single creditor in a particular Class shall be aggregated as if such creditor held one Claim against the Debtor in such Class, and the votes related to such Claims shall be treated as a single vote to accept or reject the Plan.
- j. Except as otherwise ordered by the Court, any Ballot received after the Voting Deadline will not be counted absent the consent of the Debtors (in their sole discretion).
- k. Any Ballot that is illegible or contains insufficient information to permit the identification of the claimant will not be counted.

- l. Any Ballot cast by a person or entity that does not hold a Claim in the Voting Class will not be counted.
- m. Any unsigned Ballot will not be counted, provided that any Ballot validly submitted through the E-Balloting Portal will be deemed signed.
- n. Any Ballot transmitted to the Voting Agent by facsimile or other electronic means (other than through the E-Balloting Portal) will not be counted.
- o. Any Ballot that does not indicate an acceptance or rejection of the Disclosure Statement and Plan, or that indicates both an acceptance and rejection of the Disclosure Statement and Plan, will not be counted.
- p. Whenever a claimant casts more than one Ballot voting the same Claim prior to the Voting Deadline, only the latest-dated valid Ballot timely received will be deemed to reflect the voter's intent and, thus, will supersede any prior Ballots.
- q. If a claimant casts simultaneous duplicative Ballots that are voted inconsistently, such Ballots will not be counted.
- r. Any claimant who had delivered a valid Ballot voting on the Plan may withdraw or change such vote solely in accordance with Bankruptcy Rule 3018(a).
- s. Each claimant will be deemed to have voted the full amount of its Claim as set forth on the Ballot.
- t. Claimants may not split their vote within a Class; thus, each claimant will be required to vote all of its Claims within the Class either to accept or reject the Disclosure Statement and Plan.
- u. The Debtors further propose that, subject to any contrary order of the Court and except as otherwise set forth herein, they may waive any defects or irregularities as to any particular Ballot at any time, either before or after the Voting Deadline, and any such waivers shall be documented in the vote tabulation certification prepared by the Voting Agent.

15. Upon completion of the balloting, the Voting Agent shall certify the amount and number of allowed claims of the Voting Classes accepting or rejecting the Disclosure Statement and Plan, including all votes not counted and the reason for not counting such votes. The Debtors shall cause such certification to be filed with the Court prior to the Confirmation Hearing, but no later than **January 23, 2024, at 12:00 p.m. (prevailing Eastern Time)**.

16. If any Holder of a Claim seeks to challenge the allowance of its Claim for voting purposes in accordance with the Tabulation Procedures, such Holder must file a motion, pursuant to Bankruptcy Rule 3018(a), for an order temporarily allowing its claim in a different amount or classification for purposes of voting to accept or reject the combined Disclosure Statement and Plan (a “Rule 3018 Motion”) no later than **January 10, 2024, at 4:00 (prevailing Eastern Time)** and serve the Rule 3018 Motion on the Debtors. The Debtors (and, with respect to filing a response, any other party in interest) shall then (i) have until **January 22, 2024 at 4:00 (prevailing Eastern Time)** to file and serve any responses to such Rule 3018 Motions, and (ii) coordinate with the Court to adjudicate and resolve all pending Rule 3018 Motions prior to or at the Confirmation Hearing. Any Ballot submitted by a Holder of a Claim that files a Rule 3018 Motion shall be counted solely in accordance with the Tabulation Procedures and the other applicable provisions of this Order unless and until the underlying claim or equity interest is temporarily allowed by the Court for voting purposes in a different amount, after notice and a hearing.

17. Objections to approval and confirmation of the Disclosure Statement and Plan on any grounds, including adequacy of the disclosures therein, if any, shall (a) be in writing, (b) state the name and address of the objecting party and the nature of the Claim or Interest of such party; (c) comply with the Bankruptcy Rules and the Local Rules, and (d) be filed with the Clerk of the Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801, with a copy served upon the following (collectively, the “Notice Parties”): (a) counsel to the Debtors, Morris, Nichols, Arsht & Tunnell LLP, 1201 Market Street, 16th Floor, Wilmington, Delaware 19801 (Attn: Derek C. Abbott, Esq. (dabbott@morrisnichols.com)); (b) the Office of the United States Trustee, J. Caleb Boggs Federal Building, 844 King St., Lockbox 35, Wilmington, DE 19801 (Attn: Linda J.

Casey, Esq. (linda.casey@usdoj.gov)); and (c) counsel to the Official Committee of Unsecured Creditors (the “Committee”) Goodwin Procter, LLP, The New York Times Building, 620 Eighth Avenue, New York, New York 10018 (Attn: Howard Steel (hsteel@goodwinlaw.com), Barry Bazian (bbazian@goodwinlaw.com), Stacy Dasaro (sdasaro@goodwinlaw.com), and James Lathrop (jlathrop@goodwinlaw.com)) by no later than **4:00 p.m. (ET) on January 18, 2024** (the “Confirmation Objection Deadline”).

18. The Debtors shall, if they deem necessary in their discretion, file a reply to any objections or brief in support of approval of the Disclosure Statement and Plan by no later than **4:00 p.m. (prevailing Eastern Time) on January 23, 2023** (or two (2) business days prior to the date of any adjourned Confirmation Hearing). The Debtors shall file a proposed form of the Confirmation Order by no later than **January 22, 2023** (or three (3) business days prior to the date of any adjourned Confirmation Hearing).

19. The Debtors are authorized to make non-substantive and ministerial changes to the Disclosure Statement and Plan, Confirmation Hearing Notice, Ballot, and related documents without further approval of the Court prior to its dissemination, including, without limitation, changes to correct typographical and grammatical errors and to make conforming changes to the Disclosure Statement and Plan and any other materials included in the Solicitation Package prior to their distribution; provided that the Debtors shall provide notice to the Office of the United States Trustee of any such non-substantive, ministerial, or immaterial changes.

20. The Debtors are authorized to take or refrain from taking any action necessary or appropriate to implement the terms of, and the relief granted in, this Order.

21. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

22. The Court shall retain jurisdiction to hear and determined all matters arising from or related to the interpretation, implementation, and enforcement of this Order.

Dated: December 19th, 2023
Wilmington, Delaware


LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Confirmation Hearing Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
	)	Chapter 11
NVN Liquidation, Inc., <i>et al.</i> ,)	
f/k/a NOVAN, INC., ¹	)	Case No. 23-10937 (LSS)
)	
Debtors.	)	(Jointly Administered)
)	
	)	Re: D.I. ____

NOTICE OF (I) INTERIM APPROVAL OF COMBINED DISCLOSURE STATEMENT AND PLAN; AND (II) THE HEARING TO CONSIDER (A) FINAL APPROVAL OF THE COMBINED DISCLOSURE STATEMENT AND PLAN AS CONTAINING ADEQUATE INFORMATION AND (B) CONFIRMATION OF THE COMBINED DISCLOSURE STATEMENT AND PLAN

PLEASE TAKE NOTICE OF THE FOLLOWING:

On July 17, 2023 (the “Petition Date”), the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed voluntary petitions for relief under title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Court”).

I. APPROVAL OF DISCLOSURE STATEMENT AND PLAN ON AN INTERIM BASIS

1. On [●], 2023, the Court entered an order (the “Solicitation Procedures Order”), which, among other things, approved, on an interim basis, the *Combined Disclosure Statement and Chapter 11 Plan of Liquidation Proposed by the Debtors* (as may be amended, modified, or supplemented from time to time, the “Disclosure Statement and Plan”)² filed by the Debtors in these chapter 11 cases (the “Chapter 11 Cases”).
2. **Copies of the Disclosure Statement and Plan, the Solicitation Procedures Order, and all other documents filed in these Chapter 11 Cases may be obtained without charge at, or upon request to the Debtors’ claim and voting agent, Kurtzman Carson Consultants LLC, at (888) 251-2954 or (310) 751-2614 (for parties outside the U.S. and Canada) or at NovanInfo@kccllc.com.**

¹ The Debtors in these chapter 11 cases, along with the last four digitals of the Debtors’ federal tax identification number (if applicable), are: NVN Liquidation, Inc., (f/k/a Novan, Inc.) (7682) and EPI Health, LLC (9118). The corporate headquarters and the mailing address for the Debtors is P.O. Box 64, Pittsboro, NC 27312.

² Capitalized terms used but not otherwise defined shall have the meanings ascribed to such terms in the combined Disclosure Statement and Plan.

3. **Confirmation Hearing.** A hearing (the “Confirmation Hearing”) to consider (a) final approval of the Disclosure Statement and Plan as containing adequate information within the meaning of section 1125 of the Bankruptcy Code and (b) confirmation of the Disclosure Statement and Plan will be held before the Honorable Laurie Selber Silverstein, United States Bankruptcy Judge, at the United States Bankruptcy Court for the District of Delaware, 6th Floor, Courtroom #2, 824 North Market Street, Wilmington, Delaware 19801, on **January 25, 2024, at 10:00 a.m. (prevailing Eastern Time)**. The Confirmation Hearing may be continued from time to time without further notice other than the announcement by the Debtors in open court of the adjourned date at the Confirmation Hearing or any continued hearing or as indicated in any notice filed with the Court on the docket in the Chapter 11 Cases.
4. **Voting Deadline.** Only Holders of Claims in Class 3 (NVN Unsecured Claims) and Class 4 (EPI Unsecured Claims) are entitled to vote to accept or reject the Disclosure Statement and Plan. For more information concerning the nature of those classes of claims, please review the Disclosure Statement and Plan. The deadline for the submission of such votes is **January 18, 2024, at 4:00 p.m. (prevailing Eastern Time)**.
5. **Parties Not Entitled to Vote.** Holders of Unimpaired Claims in Class 1 (Other Priority Claims) and Class 2 (Other Secured Claims) are deemed to accept the Disclosure Statement and Plan. Holders of Impaired Claims or Interests in Class 5 (Subordinated Claims) or Class 6 (Equity) will receive no distribution under the Disclosure Statement and Plan on account of such Claims and Interests and are deemed to reject the Disclosure Statement and Plan. For more information concerning the nature of those classes of claims, please review the Disclosure Statement and Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Professional Fee Claims, and Priority Tax Claims, as described in the Disclosure Statement and Plan, have not been classified and, therefore, Holders of such Claims are not entitled to vote to accept or reject the Disclosure Statement and Plan. The respective treatment of such unclassified Claims is set forth in Article VI of the Disclosure Statement and Plan.
6. **Objections to Confirmation.** Objections to confirmation of the Disclosure Statement and Plan, including any objection to the adequacy of the disclosures in the Disclosure Statement and Plan, if any, must: (a) be in writing; (b) state the name and address of the objecting party and the nature of the Claim or Interest of such party; (c) state with particularity the basis and nature of such objection; and (d) be filed with the Court and served on the Notice Parties¹ so as to be received no later than **4:00 p.m. (prevailing**

¹ The Notice Parties are: (a) counsel to the Debtors, Morris, Nichols, Arsht & Tunnell LLP, 1201 Market Street, 16th Floor, Wilmington, Delaware 19801 (Attn: Derek C. Abbott, Esq. (dabbott@morrisnichols.com)); (b) the Office of the United States Trustee, J. Caleb Boggs Federal Building, 844 King St., Lockbox 35, Wilmington, DE 19801 (Attn: Linda J. Casey, Esq. (linda.casey@usdoj.gov)); and (c) counsel to the Official Committee of Unsecured Creditors (the “Committee”) Goodwin Procter, LLP, The New York Times Building, 620 Eighth Avenue, New York, New York 10018 (Attn: Howard Steel (hsteel@goodwinlaw.com), Barry Bazian (bbazian@goodwinlaw.com), Stacy Dasaro (sdasar@goodwinlaw.com), and James Lathrop (jlathrop@goodwinlaw.com)).

Eastern Time) on January 18, 2024. Unless an objection is timely served and filed as prescribed herein, it may not be considered by the Court.

7. **Summary of Key Dates.** A table summarizing the key dates described in this notice is included below for ease of reference:

Timetable	
<u>Event</u>	<u>Date</u>
Voting Record Date	December 15, 2023 (or the date the Proposed Solicitation Procedures Order is entered)
Date by Which Solicitation Will be Mailed	December 20, 2023 (or within three business days of entry of the Proposed Solicitation Procedures Order)
Deadline to File Rule 3018 Motions	January 10, 2024, at 4:00 p.m. (ET)
Deadline for Debtors to Respond to any Rule 3018 Motion	January 22, 2024, at 4:00 p.m. (ET)
Deadline to File Plan Supplement	(on or before 7 days prior to the earlier of (a) voting deadline or (b) deadline to object to confirmation) January 11, 2024, at 4:00 p.m. (ET)
Voting Deadline	(not more than 10 days prior to hearing) January 18, 2024 at 4:00 p.m. (ET)
Deadline to Object to Confirmation and Final Approval of Adequacy of Disclosures	(at least 28 days from service) January 18, 2024, at 4:00 p.m. (ET)
Deadline to File a Proposed Confirmation Order	January 22, 2024 (or three business days prior to the Confirmation Hearing)
Deadline to File Confirmation Brief and any Replies in Support of Confirmation	January 23, 2024, at 4:00 p.m. (ET) (or two business days prior to the Confirmation Hearing)
Confirmation Hearing	January 25, 2024, at 10:00 a.m. (ET) (or as soon as possible thereafter)

ARTICLE X OF THE COMBINED DISCLOSURE STATEMENT AND PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS. YOU ARE ADVISED TO REVIEW AND CONSIDER THE COMBINED DISCLOSURE STATEMENT AND PLAN CAREFULLY, PARTICULARLY ARTICLE X THEREOF, BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER. INCLUDING:

Section 10.4(a): From and after the Effective Date, all Persons and Entities who have held, hold, or may hold Claims or Equity Interests that have been released, dismissed, cancelled, settled or waived, or are subject to exculpation, under this Plan or the Confirmation Order, are permanently enjoined from taking any of the following actions

against the Estate, the Released Parties, the Liquidating Trust, the Liquidating Trustee, or any of their respective property or assets, on account of any such Claims or Equity Interests: (i) commencing or continuing, in any manner or in any place, any action or proceeding seeking to collect or to recover in any manner against, or assert control or dominion over, the assets; (ii) enforcing, attaching, collecting, or recovering in any manner against the assets, any judgment, award, decree or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance against the assets; (iv) asserting setoff unless such setoff was formally asserted in a timely Filed proof of Claim or in a pleading Filed with the Bankruptcy Court prior to entry of the Confirmation Order (notwithstanding any indication in any proof of Claim or otherwise that such Holder asserts, has, or intends to preserve any right of setoff) or right of subrogation of any kind against any debt, liability, or obligation due to the Debtors; and (v) commencing or continuing in any manner any action or other proceeding of any kind on account of, in connection with or with respect to any such Claims or Interests; *provided, however,* that such Persons and Entities shall not be precluded from exercising their rights under and consistent with the terms of this Plan or the Confirmation Order.

Section 10.4(b): Upon the Bankruptcy Court's entry of the Confirmation Order, all Holders of Claims and Interests, and other parties in interest, along with their Related Parties, shall be enjoined from taking any actions to interfere with the implementation or substantial consummation of this Plan by the Debtors, the Liquidating Trustee and/or their respective Related Parties, as applicable.

Section 10.4(c): By accepting distributions pursuant to this Plan, each holder of an Allowed Claim will be deemed to have specifically consented to the Injunctions set forth in this Section.

Section 10.5: Exculpation. Notwithstanding anything contained in this Plan to the contrary, the Exculpated Parties, and any property of any of the foregoing Persons, shall not have or incur any liability to any Entity for any act taken or omitted to be taken from the Petition Date through the Effective Date in connection with, related to or arising from the formulation, negotiation, preparation, dissemination, implementation, or administration of this Plan, the Solicitation Materials, the Disclosure Statement, or any contract, instrument, or other agreement or document created or entered into in connection with this Plan, or any other act taken or omitted to be taken from the Petition Date through the Effective Date in connection with or in contemplation of the restructuring of the Debtors, these chapter 11 cases, or the confirmation or consummation of this Plan, including but not limited to (i) formulating, preparing, disseminating, implementing, confirming, consummating or administrating this Plan (including soliciting acceptances or rejections thereof if necessary); (ii) the Disclosure Statement, or any contract, instrument, release or other agreement or document entered into or any action taken or not taken in connection with this Plan; (iii) the Settlement Term Sheet; or (iv) any Distributions made pursuant to this Plan, except for acts constituting willful misconduct, bad faith, or gross negligence, and in all respects such parties shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under this Plan. Notwithstanding the foregoing, for the avoidance of doubt, this Section of the Plan shall not (i) exculpate or release the Exculpated Parties from anything other than as expressly identified in the first sentence of this Section, (ii) prevent or limit the ability of the Debtors or the Liquidating Trustee to object to a Claim of an Exculpated Party

on any basis other than matters exculpated or released in this Section, (iii) prevent or limit the ability of the Debtors or the Liquidating Trustee to object to, or defend against, on any basis, any Administrative Claim of an Exculpated Party for substantial contribution, or (iv) exculpate or release the Liquidating Trustee or the Liquidating Trust Professionals with respect to any act taken or omitted to be taken after the Effective Date that would result in liability under the terms of the Liquidating Trust Agreement.

Section 10.6: Releases by the Debtors. Except as otherwise expressly provided in the Plan or the Confirmation Order, on the Effective Date, for good and valuable consideration, to the fullest extent permissible under applicable law, each of the Debtors and their Estates shall, and shall be deemed to, completely and forever release, waive, void, extinguish and discharge unconditionally, each and all of the Released Parties of and from any and all Claims, Causes of Action, obligations, suits, judgments, damages, debts, rights, remedies and liabilities of any nature whatsoever, whether liquidated or unliquidated, fixed or Contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, that are or may be based in whole or part on any act, omission, transaction, event or other circumstance taking place or existing on or prior to the Effective Date (including prior to the Petition Date) in connection with or related to any of the Debtors, including, without limitation, (i) the chapter 11 cases, (ii) the combined Plan and Disclosure Statement, (iii) the subject matter of, or the transaction or events giving rise to, any claim or equity interest that is treated in this Plan, (iv) the business or contractual arrangements between any Debtor and any Released Party, (v) the negotiation, formulation or preparation of this combined Plan and Disclosure Statement, the Plan Supplement, or related agreements, instruments or other documents, (vi) the Sale or its related transaction documents, and the negotiation, formulation or preparation of the Sale and the related transaction documents, (vii) the Settlement Term Sheet, and (viii) the confirmation or consummation of this Plan or the solicitation of votes on this Plan that may be asserted by or on behalf of any of the Debtors or their respective Estates, against any of the Released Parties. The foregoing releases shall not extend to acts constituting willful misconduct, bad faith, or gross negligence.

Binding Nature of the Combined Disclosure Statement and Plan:

If confirmed, the combined Disclosure Statement and Plan will bind all Holders of Claims and Interests to the maximum extent permitted by applicable law, whether or not such Holder will receive or retain any property or interest in property under the combined Disclosure Statement and Plan, has filed a Proof of Claim in these cases, or failed to vote to accept or reject the combined Disclosure Statement and Plan or voted to reject the combined Disclosure Statement and Plan.

Dated: December [•], 2023
Wilmington, Delaware

Respectfully submitted,

/s/ Draft

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

Derek C. Abbott (No. 3376)

Daniel B. Butz (No. 4227)

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Exhibit 2

Ballots

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)
	) Chapter 11
NVN Liquidation, Inc., <i>et al.</i> ,)
f/k/a NOVAN, INC., ¹	) Case No. 23-10937 (LSS)
)
Debtors.	) (Jointly Administered)
)
)

CLASS 3 (NVN UNSECURED CLAIMS) BALLOT FOR VOTING TO ACCEPT OR REJECT THE COMBINED DISCLOSURE STATEMENT AND CHAPTER 11 PLAN OF NOVAN, INC. AND ITS AFFILIATED DEBTOR

CLASS 3: NVN UNSECURED CLAIMS

PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS FOR COMPLETING BALLOTS CAREFULLY BEFORE COMPLETING THIS BALLOT.

FOR YOUR VOTE TO BE COUNTED, THIS BALLOT MUST BE COMPLETED, EXECUTED, AND RETURNED SO AS TO BE ACTUALLY RECEIVED BY THE VOTING AGENT BY JANUARY 18, 2024, AT 4:00 P.M., PREVAILING EASTERN TIME (THE “VOTING DEADLINE”) IN ACCORDANCE WITH THE FOLLOWING:

This ballot (the “Ballot”) is being submitted to you by the above-captioned debtors and debtors in possession (the “Debtors”) to solicit your vote to accept or reject the plan of liquidation (the “Plan”) as set forth in the *Combined Disclosure Statement and Chapter 11 Plan of Liquidation Proposed by the Debtors* [D.I. ●] (including all exhibits thereto and as amended, modified, or supplemented from time to time, the “Combined Disclosure Statement and Plan”) filed by the Debtors. The Combined Disclosure Statement and Plan contains disclosures explaining the Debtors’ plan of liquidation and has been approved on an interim basis by order of the United States Bankruptcy Court for the District of Delaware (the “Court”) [D.I. ●] (the “Interim Approval and Procedures Order”).² The Combined Disclosure Statement and Plan provides information to assist you in deciding how to vote your Ballot.

¹ The Debtors in these chapter 11 cases, along with the last four digitals of the Debtors’ federal tax identification number (if applicable), are: NVN Liquidation, Inc., (f/k/a Novan, Inc.) (7682) and EPI Health, LLC (9118). The corporate headquarters and the mailing address for the Debtors is P.O. Box 64, Pittsboro, NC 27312.

² Capitalized terms not defined herein are defined in the Combined Disclosure Statement and Plan or the Interim Approval and Procedures Order, as applicable.

The Disclosure Statement and Plan can be confirmed by the Bankruptcy Court and, thereby, made binding on you if it is accepted by the Holders of at least two-thirds in amount and more than one-half in number of the Claims in each Impaired Class who vote on the Disclosure Statement and Plan and if the Disclosure Statement and Plan otherwise satisfies the applicable requirements of section 1129(a) of the Bankruptcy Code. If the requisite acceptances are not obtained, the Bankruptcy Court nonetheless may confirm the Disclosure Statement and Plan if it finds that the Disclosure Statement and Plan (i) provides fair and equitable treatment to, and does not unfairly discriminate against, the Class or Classes rejecting the Disclosure Statement and Plan and (ii) otherwise satisfies the requirements of section 1129(b) Bankruptcy Code.

If you are, as of **December 15, 2023** (the “Voting Record Date”), a holder of a Class 3 NVN Unsecured Claim, please use this “Ballot” to cast your vote to accept or reject the Plan.

Additional copies of the Interim Approval and Procedures Order, and the Combined Disclosure Statement and Plan, are available free of charge from the website maintained by KCC (the “Voting Agent”) at <https://www.kccllc.net/novan/> or by email at NovanInfo@kccllc.com, or by phone at (888) 251-2954 or (310) 751-2614 (for parties outside the U.S. and Canada).

If you have any questions on how to properly complete this Ballot, please contact the Voting Agent. Please be advised the Voting Agent cannot provide legal advice.

IMPORTANT

You should carefully review the Combined Disclosure Statement and Plan before you submit this Ballot. You may wish to seek independent legal advice concerning the Combined Disclosure Statement and Plan and the classification and treatment of your Class 3 NVN Unsecured Claim under the Combined Disclosure Statement and Plan.

All Unsecured Claims against NVN have been placed in Class 3 under the Combined Disclosure Statement and Plan. If you hold Claims in more than one Class under the Combined Disclosure Statement and Plan, you may receive a Ballot for each such Class and must complete a separate Ballot for each such Class.

For your vote to be counted, you must either return a hard copy of your Ballot or submit your vote through the online E-Ballot portal maintained by the Voting Agent.

If you prefer to return a hard copy of your Ballot, you may return it in the enclosed preaddressed, postage prepaid envelope or submit it by first class mail, overnight mail or courier to:

NVN Liquidation, Inc., *et al.*, f/k/a Novan, Inc.

[INSERT ADDRESS HERE]

If you prefer to vote online, Ballots will be accepted if properly completed through the E-Ballot portal maintained by the Voting Agent. **To submit your Ballot via the Voting Agent's E-Ballot portal, visit [INSERT LINK HERE].**

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized electronic Ballot:

Unique E-Ballot ID#: _____

Unique Pin ID#: _____

The Voting Agent's E-Ballot portal is the sole manner in which Ballots will be accepted via electronic or online transmission. Creditors who cast a Ballot using the E-Ballot portal should NOT also submit a hard copy Ballot. Ballots submitted by facsimile, email or other means of electronic transmission will not be counted.

If your Ballot is not received by the Voting Agent on or before the Voting Deadline, and such Voting Deadline is not extended by the Plan Proponents, your vote will not be counted.

If you vote to accept the Plan, you shall be deemed to have consented to the releases contained in Article X of the Combined Disclosure Statement and Plan.

Your receipt of this Ballot does not signify that your Claims(s) has been or will be allowed or that you will receive a distribution under the Plan. The Plan Proponents reserve all rights to dispute such Claim(s).

HOW TO VOTE (AS MORE FULLY SET FORTH IN THE VOTING INSTRUCTIONS):

1. Complete Item 1.
2. Review the information, certifications and acknowledgements contained in Items 2 and 3.
3. **SIGN THE BALLOT.**
4. Return the original signed Ballot in the enclosed pre-addressed, postage-paid envelope, by first-class mail, hand delivery, courier, or through the online E-Ballot portal maintained by the Voting Agent so that it is **actually received** by the Voting Agent before the Voting Deadline.
5. You must vote the full amount of the Claim covered by this Ballot either to accept or to reject the Combined Disclosure Statement and Plan. You may not split your vote. Any executed Ballot that partially accepts and partially rejects the Combined Disclosure Statement and Plan will not be counted.
6. Any executed Ballot received that (a) does not indicate either an acceptance or rejection of the Combined Disclosure Statement and Plan or (b) indicates both an acceptance and a rejection of the Combined Disclosure Statement and Plan will not be counted.
7. Any Ballot received that is unsigned, illegible, or otherwise incomplete will not be counted.

VOTING INSTRUCTIONS FOR COMPLETING THE BALLOT

1. This Ballot is submitted to you to solicit your vote to accept or reject the Plan. **PLEASE READ THE COMBINED DISCLOSURE STATEMENT AND PLAN CAREFULLY BEFORE COMPLETING THIS BALLOT.**
2. The Plan can be confirmed by the Court and thereby made binding upon you if it is accepted by the holders of at least two-thirds in amount and more than one-half in number of Claims or Interests in at least one class of creditors that votes on the Plan and if the Plan otherwise satisfies the requirements for confirmation provided by section 1129(a) of the Bankruptcy Code. Please review the Combined Disclosure Statement and Plan for more information.
3. Complete, sign, and return this Ballot to the Voting Agent so that it is actually received by the Voting Agent before **January 18, 2024, at 4:00 p.m. (prevailing Eastern Time)**, the Voting Deadline, unless such time is extended in writing by the Debtors.
4. To properly complete this Ballot, you must follow the procedures described below:
 - a. if you hold an NVN Unsecured Claim in Class 3, cast one vote to accept or reject the Combined Disclosure Statement and Plan by checking the appropriate box in Item 1;

- b. if you are completing this Ballot on behalf of another person or entity, indicate your relationship with such person or entity and the capacity in which you are signing and submit satisfactory evidence of your authority to so act (*e.g.* a power of attorney or a certified copy of board resolutions authorizing you to so act);
- c. if you also hold other Claims, you may receive more than one Ballot, labeled for a different Class of Claims and you should separately complete and submit a Ballot for each Class of Claims in which you hold Claims. Your vote will be counted in determining acceptance or rejection of the Plan by each particular Class of Claims only if you complete, sign, and return the Ballot labeled for that Class of Claims in accordance with the instructions on such Ballot;
- d. if you believe that you have received the wrong Ballot, please contact the Voting Agent immediately;
- e. provide your name and mailing address on your Ballot;
- f. sign and date your Ballot, and provide the remaining information requested; and
- g. return your Ballot using the methods described above.

IF YOU RECEIVED A DAMAGED BALLOT, LOST YOUR BALLOT OR HAVE ANY QUESTIONS CONCERNING THE COMBINED DISCLOSURE STATEMENT AND PLAN OR PROCEDURES FOR VOTING ON THE PLAN, PLEASE CONTACT THE VOTING AGENT BY EMAIL AT NOVANINFO@KCCLLC.COM, OR BY PHONE AT (888) 251-2954 OR (310) 751-2614 (FOR PARTIES OUTSIDE THE U.S. AND CANADA).

PLEASE READ THE VOTING INFORMATION AND INSTRUCTIONS, ABOVE, BEFORE COMPLETING THIS BALLOT.

Item 1. Class Vote. The undersigned, the holder of a Class 3 NVN Unsecured Claim against the Debtors hereby votes, in the amount set forth below, as follows (**check one box**):

Accept the Plan

OR

Reject the Plan.

Voting Amount of Claim:³ \$ _____

³ For voting purposes only, subject to tabulation rules.

Item 2. Certification as to Prepetition Unsecured Claims held in Additional Accounts. The undersigned hereby certifies that either (i) it has not submitted any other Ballots for other Class 3 or Class 4 Prepetition Unsecured Claims held in other accounts or other record names, or (ii) if it has submitted Ballots for other such Claims held in other accounts or other record names, then such Ballots indicate the same vote to accept or reject the Plan.

Item 3. Acknowledgements and Certification. By signing this Ballot, the undersigned acknowledges that: (a) it has been provided with a copy of the Combined Disclosure Statement and Plan, including all exhibits thereto; (b) the Debtors' solicitation of votes is subject to all terms and conditions set forth in the Combined Disclosure Statement and Plan, the Interim Approval and Procedures Order, and the procedures for the solicitation and tabulation of votes to accept or reject the Plan attached to the Interim Approval and Procedures Order as **Exhibit 1** thereto; (c) it is the holder of the NVN Unsecured Claim identified in Item 1 above as of **December 15, 2023**; and/or (d) it has full power and authority to vote to accept or reject the Plan and exercise elections with respect thereto. The undersigned understands that, if this Ballot is validly executed but does not indicate either acceptance or rejection of the Plan, this Ballot will not be counted.

Name of Creditor

Signature

If by Authorized Agent, Name and Title

Address

Telephone Number

Email Address

Date Completed

PLEASE PROMPTLY RETURN YOUR COMPLETED BALLOT.

BALLOTS MAY BE SUBMITTED VIA THE E-BALLOT PORTAL, OR IN THE RETURN ENVELOPE PROVIDED, OR AS DIRECTED BY THIS BALLOT.

TO COUNT, A BALLOT WITH YOUR VOTE MUST BE RECEIVED BY THE VOTING DEADLINE: JANUARY 18, 2024, AT 4:00 P.M. (PREVAILING EASTERN TIME).

This Ballot shall not constitute or be deemed a proof of Claim or Interest, an assertion of a Claim or Interest, or the allowance of a Claim or Interest.

NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, OTHER THAN WHAT IS CONTAINED IN THE MATERIALS MAILED WITH THIS BALLOT OR OTHER MATERIALS AUTHORIZED BY THE COURT.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
	)	Chapter 11
NVN Liquidation, Inc., <i>et al.</i> ,)	
f/k/a NOVAN, INC., ¹	)	Case No. 23-10937 (LSS)
)	
Debtors.	)	(Jointly Administered)
)	
)	

**CLASS 4 (EPI UNSECURED CLAIMS) BALLOT FOR VOTING TO
ACCEPT OR REJECT THE COMBINED DISCLOSURE STATEMENT AND
CHAPTER 11 PLAN OF NOVAN, INC. AND ITS AFFILIATED DEBTOR**

CLASS 4: EPI UNSECURED CLAIMS

**PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS FOR
COMPLETING BALLOTS CAREFULLY BEFORE COMPLETING THIS BALLOT.**

**FOR YOUR VOTE TO BE COUNTED, THIS BALLOT MUST BE COMPLETED,
EXECUTED, AND RETURNED SO AS TO BE ACTUALLY RECEIVED BY THE
VOTING AGENT BY JANUARY 18, 2024, AT 4:00 P.M., PREVAILING EASTERN
TIME (THE “VOTING DEADLINE”) IN ACCORDANCE WITH THE FOLLOWING:**

This ballot (the “Ballot”) is being submitted to you by the above-captioned debtors and debtors in possession (the “Debtors”) to solicit your vote to accept or reject the plan of liquidation (the “Plan”) as set forth in the *Combined Disclosure Statement and Chapter 11 Plan of Liquidation Proposed by the Debtors* [D.I. ●] (including all exhibits thereto and as amended, modified, or supplemented from time to time, the “Combined Disclosure Statement and Plan”) filed by the Debtors. The Combined Disclosure Statement and Plan contains disclosures explaining the Debtors’ plan of liquidation and has been approved on an interim basis by order of the United States Bankruptcy Court for the District of Delaware (the “Court”) [D.I. ●] (the “Interim Approval and Procedures Order”).² The Combined Disclosure Statement and Plan provides information to assist you in deciding how to vote your Ballot.

¹ The Debtors in these chapter 11 cases, along with the last four digitals of the Debtors’ federal tax identification number (if applicable), are: NVN Liquidation, Inc., (f/k/a Novan, Inc.) (7682) and EPI Health, LLC (9118). The corporate headquarters and the mailing address for the Debtors is P.O. Box 64, Pittsboro, NC 27312.

² Capitalized terms not defined herein are defined in the Combined Disclosure Statement and Plan or the Interim Approval and Procedures Order, as applicable.

The Disclosure Statement and Plan can be confirmed by the Bankruptcy Court and, thereby, made binding on you if it is accepted by the Holders of at least two-thirds in amount and more than one-half in number of the Claims in each Impaired Class who vote on the Disclosure Statement and Plan and if the Disclosure Statement and Plan otherwise satisfies the applicable requirements of section 1129(a) of the Bankruptcy Code. If the requisite acceptances are not obtained, the Bankruptcy Court nonetheless may confirm the Disclosure Statement and Plan if it finds that the Disclosure Statement and Plan (i) provides fair and equitable treatment to, and does not unfairly discriminate against, the Class or Classes rejecting the Disclosure Statement and Plan and (ii) otherwise satisfies the requirements of section 1129(b) Bankruptcy Code.

If you are, as of **December 15, 2023** (the “Voting Record Date”), a holder of a Class 4 EPI Unsecured Claim, please use this “Ballot” to cast your vote to accept or reject the Plan.

Additional copies of the Interim Approval and Procedures Order, and the Combined Disclosure Statement and Plan, are available free of charge from the website maintained by KCC (the “Voting Agent”) at <https://www.kccllc.net/novan/> or by email at NovanInfo@kccllc.com, or by phone at (888) 251-2954 or (310) 751-2614 (for parties outside the U.S. and Canada).

If you have any questions on how to properly complete this Ballot, please contact the Voting Agent. Please be advised the Voting Agent cannot provide legal advice.

IMPORTANT

You should carefully review the Combined Disclosure Statement and Plan before you submit this Ballot. You may wish to seek independent legal advice concerning the Combined Disclosure Statement and Plan and the classification and treatment of your Class 4 EPI Unsecured Claim under the Combined Disclosure Statement and Plan.

All Unsecured Claims against EPI have been placed in Class 4 under the Combined Disclosure Statement and Plan. If you hold Claims in more than one Class under the Combined Disclosure Statement and Plan, you may receive a Ballot for each such Class and must complete a separate Ballot for each such Class.

For your vote to be counted, you must either return a hard copy of your Ballot or submit your vote through the online E-Ballot portal maintained by the Voting Agent.

If you prefer to return a hard copy of your Ballot, you may return it in the enclosed preaddressed, postage prepaid envelope or submit it by first class mail, overnight mail or courier to:

NVN Liquidation, Inc., et al., f/k/a Novan, Inc.

[INSERT ADDRESS HERE]

If you prefer to vote online, Ballots will be accepted if properly completed through the E-Ballot portal maintained by the Voting Agent. **To submit your Ballot via the Voting Agent's E-Ballot portal, visit [INSERT LINK HERE].**

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized electronic Ballot:

Unique E-Ballot ID#: _____

Unique Pin ID#: _____

The Voting Agent's E-Ballot portal is the sole manner in which Ballots will be accepted via electronic or online transmission. Creditors who cast a Ballot using the E-Ballot portal should NOT also submit a hard copy Ballot. Ballots submitted by facsimile, email or other means of electronic transmission will not be counted.

If your Ballot is not received by the Voting Agent on or before the Voting Deadline, and such Voting Deadline is not extended by the Plan Proponents, your vote will not be counted.

If you vote to accept the Plan, you shall be deemed to have consented to the releases contained in Article X of the Combined Disclosure Statement and Plan.

Your receipt of this Ballot does not signify that your Claims(s) has been or will be allowed or that you will receive a distribution under the Plan. The Plan Proponents reserve all rights to dispute such Claim(s).

HOW TO VOTE (AS MORE FULLY SET FORTH IN THE VOTING INSTRUCTIONS):

1. Complete Item 1.
2. Review the information, certifications and acknowledgements contained in Items 2 and 3.
3. **SIGN THE BALLOT.**
4. Return the original signed Ballot in the enclosed pre-addressed, postage-paid envelope, by first-class mail, hand delivery, courier, or through the online E-Ballot portal maintained by the Voting Agent so that it is **actually received** by the Voting Agent before the Voting Deadline.
5. You must vote the full amount of the Claim covered by this Ballot either to accept or to reject the Combined Disclosure Statement and Plan. You may not split your vote. Any executed Ballot that partially accepts and partially rejects the Combined Disclosure Statement and Plan will not be counted.
6. Any executed Ballot received that (a) does not indicate either an acceptance or rejection of the Combined Disclosure Statement and Plan or (b) indicates both an acceptance and a rejection of the Combined Disclosure Statement and Plan will not be counted.
7. Any Ballot received that is unsigned, illegible, or otherwise incomplete will not be counted.

VOTING INSTRUCTIONS FOR COMPLETING THE BALLOT

1. This Ballot is submitted to you to solicit your vote to accept or reject the Plan. **PLEASE READ THE COMBINED DISCLOSURE STATEMENT AND PLAN CAREFULLY BEFORE COMPLETING THIS BALLOT.**
2. The Plan can be confirmed by the Court and thereby made binding upon you if it is accepted by the holders of at least two-thirds in amount and more than one-half in number of Claims or Interests in at least one class of creditors that votes on the Plan and if the Plan otherwise satisfies the requirements for confirmation provided by section 1129(a) of the Bankruptcy Code. Please review the Combined Disclosure Statement and Plan for more information.
3. Complete, sign, and return this Ballot to the Voting Agent so that it is actually received by the Voting Agent before **January 18, 2024, at 4:00 p.m. (prevailing Eastern Time)**, the Voting Deadline, unless such time is extended in writing by the Debtors.
4. To properly complete this Ballot, you must follow the procedures described below:
 - a. if you hold an EPI Unsecured Claim in Class 4, cast one vote to accept or reject the Combined Disclosure Statement and Plan by checking the appropriate box in Item 1;

- b. if you are completing this Ballot on behalf of another person or entity, indicate your relationship with such person or entity and the capacity in which you are signing and submit satisfactory evidence of your authority to so act (*e.g.* a power of attorney or a certified copy of board resolutions authorizing you to so act);
- c. if you also hold other Claims, you may receive more than one Ballot, labeled for a different Class of Claims and you should separately complete and submit a Ballot for each Class of Claims in which you hold Claims. Your vote will be counted in determining acceptance or rejection of the Plan by each particular Class of Claims only if you complete, sign, and return the Ballot labeled for that Class of Claims in accordance with the instructions on such Ballot;
- d. if you believe that you have received the wrong Ballot, please contact the Voting Agent immediately;
- e. provide your name and mailing address on your Ballot;
- f. sign and date your Ballot, and provide the remaining information requested; and
- g. return your Ballot using the methods described above.

IF YOU RECEIVED A DAMAGED BALLOT, LOST YOUR BALLOT OR HAVE ANY QUESTIONS CONCERNING THE COMBINED DISCLOSURE STATEMENT AND PLAN OR PROCEDURES FOR VOTING ON THE PLAN, PLEASE CONTACT THE VOTING AGENT BY EMAIL AT NOVANINFO@KCCLLC.COM, OR BY PHONE AT (888) 251-2954 OR (310) 751-2614 (FOR PARTIES OUTSIDE THE U.S. AND CANADA).

PLEASE READ THE VOTING INFORMATION AND INSTRUCTIONS, ABOVE, BEFORE COMPLETING THIS BALLOT.

Item 1. Class Vote. The undersigned, the holder of a Class 4 EPI Unsecured Claim against the Debtors hereby votes, in the amount set forth below, as follows (**check one box**):

Accept the Plan

OR

Reject the Plan.

Voting Amount of Claim:³ \$ _____

³ For voting purposes only, subject to tabulation rules.

Item 2. Certification as to Prepetition Unsecured Claims held in Additional Accounts. The undersigned hereby certifies that either (i) it has not submitted any other for Ballots for other Class 3 or Class 4 Prepetition Unsecured Claims held in other accounts or other record names, or (ii) if it has submitted Ballots for other such Claims held in other accounts or other record names, then such Ballots indicate the same vote to accept or reject the Plan.

Item 3. Acknowledgements and Certification. By signing this Ballot, the undersigned acknowledges that: (a) it has been provided with a copy of the Combined Disclosure Statement and Plan, including all exhibits thereto; (b) the Debtors' solicitation of votes is subject to all terms and conditions set forth in the Combined Disclosure Statement and Plan, the Interim Approval and Procedures Order, and the procedures for the solicitation and tabulation of votes to accept or reject the Plan attached to the Interim Approval and Procedures Order as **Exhibit 1** thereto; (c) it is the holder of the EPI Unsecured Claim identified in Item 1 above as of **December 15, 2023**; and/or (d) it has full power and authority to vote to accept or reject the Plan and exercise elections with respect thereto. The undersigned understands that, if this Ballot is validly executed but does not indicate either acceptance or rejection of the Plan, this Ballot will not be counted.

Name of Creditor

Signature

If by Authorized Agent, Name and Title

Address

Telephone Number

Email Address

Date Completed

PLEASE PROMPTLY RETURN YOUR COMPLETED BALLOT.

BALLOTS MAY BE SUBMITTED VIA THE E-BALLOT PORTAL, OR IN THE RETURN ENVELOPE PROVIDED, OR AS DIRECTED BY THIS BALLOT.

TO COUNT, A BALLOT WITH YOUR VOTE MUST BE RECEIVED BY THE VOTING DEADLINE: JANUARY 18, 2024, AT 4:00 P.M. (PREVAILING EASTERN TIME).

This Ballot shall not constitute or be deemed a proof of Claim or Interest, an assertion of a Claim or Interest, or the allowance of a Claim or Interest.

NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, OTHER THAN WHAT IS CONTAINED IN THE MATERIALS MAILED WITH THIS BALLOT OR OTHER MATERIALS AUTHORIZED BY THE COURT.

Exhibit 3

Notice of Non-Voting Status

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
	)	Chapter 11
NVN Liquidation, Inc., <i>et al.</i> ,)	
f/k/a NOVAN, INC., ¹	)	Case No. 23-10937 (LSS)
)	
Debtors.	)	(Jointly Administered)
)	
)	

NOTICE OF NON-VOTING STATUS

On [●], 2023, the above-captioned debtors and debtors in possession (the “Debtors”) filed the *Combined Disclosure Statement and Chapter 11 Plan of Liquidation Proposed by the Debtors* [D.I. ●] (as may be amended, modified, or supplemented, the “Disclosure Statement and Plan”).² The Disclosure Statement and Plan explains the Debtors’ plan of liquidation and has been approved on an interim basis by order of the United States Bankruptcy Court for the District of Delaware (the “Court”) [D.I. ●] (the “Interim Approval and Procedures Order”) for use by the Debtors in soliciting acceptances or rejections to the Disclosure Statement and Plan from Holders of Impaired Claims entitled to receive Distributions under the Disclosure Statement and Plan.

UNDER THE TERMS OF THE COMBINED DISCLOSURE STATEMENT AND PLAN, YOUR CLAIM(S) AGAINST AND/OR INTEREST(S) IN THE DEBTORS IS (ARE) NOT ENTITLED TO VOTE ON THE PLAN. **CLAIMS IN CLASS 1 (OTHER PRIORITY CLAIMS) AND CLAIMS IN CLASS 2 (OTHER SECURED CLAIMS) ARE UNIMPAIRED AND DEEMED TO ACCEPT THE PLAN. CLAIMS IN CLASS 5 (SUBORDINATED CLAIMS) AND CLASS 6 (EQUITY INTERESTS) ARE IMPAIRED AND DEEMED TO REJECT THE PLAN.** IF YOU HAVE ANY QUESTIONS ABOUT THE STATUS OF YOUR CLAIM OR INTEREST YOU SHOULD CONTACT KCC (THE “VOTING AGENT”) BY EMAIL AT NOVANINFO@KCCLLC.com OR BY TELEPHONE AT (888) 251-2954 (DOMESTIC) OR (310) 751-2614 (FOR PARTIES OUTSIDE THE U.S. AND CANADA).

The categories of Claims and Interests set forth in the Disclosure Statement and Plan can be found in the following chart:

¹ The Debtors in these chapter 11 cases, along with the last four digitals of the Debtors’ federal tax identification number (if applicable), are: NVN Liquidation, Inc., (f/k/a Novan, Inc.) (7682) (“NVN”) and EPI Health, LLC (9118) (“EPI”). The corporate headquarters and the mailing address for the Debtors is P.O. Box 64, Pittsboro, NC 27312.

² Capitalized terms used but not otherwise defined shall have the meanings ascribed to them in the combined Disclosure Statement and Plan.

Class	<u>Plan Treatment</u>	<u>Status</u>	<u>Projected Recovery</u>	<u>Estimated Amount</u>
Class 1: Other Priority Claims	Each Holder of an Allowed Class 1 Claim shall receive Cash in an amount equal to the unpaid portion of such Allowed Other Priority Claim.	Unimpaired Not entitled to vote Deemed to accept Plan	100%	\$300,000- \$400,000
Class 2: Other Secured Claims	Each Holder of an Allowed Class 2 Claim shall receive, at the option of the Debtors, as applicable: (i) Cash in an amount equal to the Allowed amount of such Claim; (ii) reinstatement of such Holder's Allowed Other Secured Claim; (iii) such other treatment sufficient to render such Holder's Allowed Other Secured Claim Unimpaired; or (iv) return of the applicable collateral in satisfaction of the Allowed amount of such Other Secured Claim.	Unimpaired Not entitled to vote Deemed to accept Plan	100%	\$1,500,000- \$1,900,000 ³
Class 3: NVN Unsecured Claims	If Class 3 accepts this Plan (i.e., 66 2/3% in claim amount and majority in number), each Holder of an Allowed NVN Unsecured Claim shall receive, in full and final satisfaction, and release of and in exchange for its Allowed Class 3 Claim, either: (A) its Pro Rata share of the NVN Recovery; or (B) such other treatment which the Debtors (with the consent of the Committee) or the Liquidating Trustee, as applicable, and the Holder of such Allowed NVN Unsecured Claim have agreed upon in writing. If Class 3 does not vote to accept the Plan, Class 3 will receive no Distribution on account of their Class 3 Claims.	Impaired Entitled to vote	1%-2%	\$9,000,000- \$12,000,000 ⁴
Class 4: EPI Unsecured Claims	Each Holder of an Allowed EPI Unsecured Claim shall receive, in full and final satisfaction, and release of and in exchange for its Allowed Class 4 Claim, either: (A) its Pro Rata share of the EPI Recovery; or (B) such other treatment which the Debtors (with the consent of the Committee) or the Liquidating Trustee, as applicable, and the Holder of such Allowed EPI Unsecured Claim have agreed upon in writing.	Impaired Entitled to vote	15%-20%	\$24,000,000 - \$27,000,000
Class 5:	Each Holder of an Allowed Class 5 Claim shall	Impaired	0%	\$0

³ This number primarily includes alleged setoff and recoupment against EPI accounts receivables.

⁴ This number assumes the settlement of the Intercompany Claim of EPI against NVN as part of the Allocation Settlement described in section 9.2 herein.

Class	<u>Plan Treatment</u>	<u>Status</u>	<u>Projected Recovery</u>	<u>Estimated Amount</u>
Subordinated Claims	receive no Distribution on account of their Subordinated Claims.	Not entitled to vote Deemed to reject Plan		
Class 6: Equity Interests	On the Effective Date, all Equity Interests shall be deemed canceled, extinguished and discharged and of no further force or effect, and the Holders of Equity Interests shall not be entitled to receive or retain any property on account of such Interests.	Impaired Not entitled to vote Deemed to reject Plan	0%	N/A

These Plan distributions are funded from Sales consisting of (a) Ligand purchasing the entirety of the R&D Assets of NVN as well as the Commercial Assets of EPI related to Sitavig for a purchase price of \$12,150,000 (USD) plus the payment of any contractual cure amounts related to Sitavig and (b) Mayne purchasing the Commercial Assets of EPI related to Rhofade for a purchase price of \$8,000,000 plus the plus the payment of any contractual cure amounts related to Rhofade. For more information concerning these Sales, please refer to section 3.3 of the combined Disclosure Statement and Plan.

The Plan further implements a structure to allocate the above distributions pursuant to a settlement between the NVN and EPI Estates (defined as the “Allocation Settlement” in the Disclosure Statement and Plan) that takes into account the proceeds received from the Sales of the assets of NVN and EPI after apportioning and deducting the fees and expenses attributable to NVN, EPI or both. This allocation of the Retained Assets is the source of the NVN Recovery for the Holders of Allowed NVN Unsecured Claims, and the EPI Recovery for the Holders of Allowed EPI Unsecured Claims. The Debtors and the Committee believe the cost sharing proposed in the Allocation Settlement reflects a fair division and represents a fair distribution as to costs of these Chapter 11 Cases between the two entities. For additional detail concerning the Allocation Settlement, please refer to section 9.2 of the combined Disclosure Statement and Plan.

The Debtors believe that holders of Allowed Claims would receive less than anticipated under the Plan if the chapter 11 cases were converted to chapter 7 cases, and therefore, the classification and treatment of Claims and Interests in the Plan complies with section 1129(a)(7) of the Bankruptcy Code. Attached hereto is a hypothetical chapter 7 liquidation analysis.

PLEASE NOTE THAT YOU WILL NOT BE SERVED WITH A COPY OF THE INTERIM APPROVAL AND PROCEDURES ORDER OR THE COMBINED DISCLOSURE STATEMENT AND PLAN. If you wish to review copies of the Interim Approval and Procedures Order or the Combined Disclosure Statement and Plan, you may obtain copies *free of charge* at the website maintained by the Voting Agent at <https://www.kccllc.net/novan>; or by contacting the Voting Agent at the aforementioned email address and telephone numbers.

Any motion for an order temporarily allowing your Claim in a different classification or amount for purposes of voting to accept or reject the Plan must be filed and served on the Debtors so that it is received by **January 10, 2024 at 4:00 p.m. (Eastern Time)**. Objections to final approval of the Disclosure Statement and confirmation of the Plan must be filed with the Court and served on the Notice Parties⁵ so as to be received no later than **4:00 p.m. (prevailing Eastern Time) on January 18, 2024.**

A table summarizing other key dates described in this notice can be found in the Confirmation Hearing Notice that you should have received with this Notice of Non-Voting Status. If you are unable to locate the Confirmation Hearing Notice, you may obtain another copy *free of charge* at the website maintained by the Voting Agent as noted above or by contacting the Voting Agent at the aforementioned email address and telephone numbers.

Dated: December [•], 2023
Wilmington, Delaware

Respectfully submitted,

/s/ Draft

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⁵ The Notice Parties are: (a) counsel to the Debtors, Morris, Nichols, Arsht & Tunnell LLP, 1201 Market Street, 16th Floor, Wilmington, Delaware 19801 (Attn: Derek C. Abbott, Esq. (dabbott@morrisnichols.com)); (b) the Office of the United States Trustee, J. Caleb Boggs Federal Building, 844 King St., Lockbox 35, Wilmington, DE 19801 (Attn: Linda J. Casey, Esq. (linda.casey@usdoj.gov)); and (c) counsel to the Official Committee of Unsecured Creditors (the "Committee") Goodwin Procter, LLP, The New York Times Building, 620 Eighth Avenue, New York, New York 10018 (Attn: Howard Steel (hsteel@goodwinlaw.com), Barry Bazian (bbazian@goodwinlaw.com), Stacy Dasaro (sdasaro@goodwinlaw.com), and James Lathrop (jlathrop@goodwinlaw.com)).

Exhibit

Liquidation Analysis

NVN Liquidation Inc.

Liquidation Analysis

\$ in 000's

Assumed conversion date 1/31/2024

	Item #	Chapter 11 Plan Confirmation Scenario			Chapter 7 Liquidation Scenario		
		Recovery Scenario			Recovery Scenario		
		NVN Book Value	Estimated Value	% of Book Value	NVN Book Value	Estimated Value	% of Book Value
A Asset Proceeds							
Cash (Retained Assets)	1	12,373	12,373	100.0%	12,373	12,373	100.0%
EPIH Settlement Contribution	2	200	200	100.0%	-	-	0.0%
Total Asset Proceeds		12,573	12,573	100.0%	12,373	12,373	100.0%
B Liquidation Fees and Costs	3						
Operating Costs	4		118		118		
Professional, Legal, and Liquidator Fees	5		4,349		5,021		
Bridge & DIP Financing Fees and Interest	6		930		930		
Admin Expenses borne by EPIH	7		(1,372)		(1,372)		
Total Liquidation Fees and Costs			4,025		4,696		
Net Estimate Proceeds Available for Administrative and Priority Claims			8,548		7,676		

	Item #	Estimated Allowed Claim	Estimate Payable to Creditors	Recovery Estimate %	Estimate Payable to Creditors	Recovery Estimate %
		Claim	Creditors	Estimate %	Creditors	Estimate %
C Administrative and Priority Claims						
503(b)9 Claims	8	-	-	0.0%	-	0.0%
Accrued Payroll and PTO	9	2,459	2,459	100.0%	2,459	100.0%
Administrative Claims	10	5,809	5,809	100.0%	5,218	89.8%
Priority Unsecured Claims	11	141	141	100.0%	-	0.0%
Total Administrative and Priority Claims		8,408	8,408	100.0%	7,676	91.3%
Net Estimate Proceeds Available for Unsecured Claims		200	200		-	
D Unsecured Claims						
General Unsecured Claims	12	10,500	200	1.9%	-	0.0%
Total Unsecured Claims		10,500	200	1.9%	-	0.0%
Net Estimate Proceeds Available for Equity			-		-	

EPI Health LLC
Liquidation Analysis
\$ in 000's

Assumed conversion date 1/31/2024

	Item #	Chapter 11 Plan Confirmation Scenario			Chapter 7 Liquidation Scenario		
		Recovery Scenario			Recovery Scenario		
		EPIH Book Value	Estimated Value	% of Book Value	EPIH Book Value	Estimated Value	% of Book Value
A Asset Proceeds							
Cash (Retained Assets)	1	12,899	12,899	100.0%	12,899	12,899	100.0%
Total Asset Proceeds		12,899	12,899	100.0%	12,899	12,899	100.0%
B Liquidation Fees and Costs							
Operating Costs	2		254		254		
Professional, Legal, and Liquidator Fees	3		4,212		4,899		
Bridge & DIP Financing Fees and Interest	4		234		234		
Admin Expenses borne by EPIH	5		1,372		1,372		
EPIH Settlement Contribution	6		200		-		
Total Liquidation Fees and Costs			6,272		6,759		
Net Estimate Proceeds Available for Administrative and Priority Claims			6,627		6,140		

	Item #	Estimated	Estimate	Recovery	Estimate	Recovery
		Allowed Claim	Payable to Creditors		Estimate %	
C Administrative and Priority Claims						
503(b)9 Claims	7	-	-	0.0%	-	0.0%
Accrued Payroll and PTO	8	745	745	100.0%	745	100.0%
Administrative Claims	9	678	678	100.0%	678	100.0%
Priority Unsecured Claims	10	94	94	100.0%	94	100.0%
Total Administrative and Priority Claims		1,517	1,517	100.0%	1,517	100.0%
Net Estimate Proceeds Available for Unsecured Claims			5,110		4,623	
D Unsecured Claims						
General Unsecured Claims	11	25,500	5,110	20.0%	4,623	18.1%
Total Unsecured Claims		25,500	5,110	20.0%	4,623	18.1%
Net Estimate Proceeds Available for Equity			-		-	