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Attorneys for the Debtor

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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IN RE:

HHH CHOICES HEALTH PLAN, LLC, et al.,

Debtors.

Chapter 11

Case No. 15-11158-MEW

Case No. 15-13264

Case No. 16-10028

(Jointly Administered)

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**NOTICE OF MOTION FOR ENTRY OF AN ORDER APPROVING HEBREW
HOSPITAL HOME OF WESTCHESTER, INC.'S (I) DISCLOSURE
STATEMENT, (II) FORM AND MANNER OF NOTICES, (III) FORM
OF BALLOTS AND (IV) SOLICITATION MATERIALS AND PROCEDURES**

PLEASE TAKE NOTICE that on the date hereof, in accordance with Rule 3017(a) of the Bankruptcy Rules, Hebrew Hospital Home of Westchester, Inc., one of the above-captioned debtors and a debtor-in-possession (the “**Debtor**”) and the Debtor’s Official Committee of Unsecured Creditors (the “**Creditors Committee**”), (together with the Debtor, the “**Plan Proponents**”) hereby provide notice (the “**Disclosure Statement Notice**”) of their Motion to seek

entry of an order approving (i) the disclosure statement (the “**Disclosure Statement**”), and related Joint Chapter 11 Plan of Liquidation Under Chapter 11 of the Bankruptcy Code dated August 10, 2017 (the “**Plan**”), for distribution to creditors; (ii) the form and manner of notices relating to the Disclosure Statement and confirmation of the Plan; (iii) the form of ballots and voting procedures to be used in connection with voting on the Plan; and (iv) the solicitation materials to be distributed to creditors along with the Disclosure Statement and Plan and procedures to be implemented in connection with confirmation of the Plan.¹

PLEASE TAKE FURTHER NOTICE that the Plan Proponents have requested that responses or objections, if any, to the relief requested in the Motion, including any objection to the adequacy of the Disclosure Statement, be required to be filed electronically with the Court on the above captioned docket and be required to be served upon (a) counsel to the Debtor, Lippes Mathias Wexler Friedman LLP, 50 Fountain Plaza, Suite 1700, Buffalo, NY 14202, Attn: Raymond L. Fink, Esq. and John A. Mueller, Esq.; (b) the Office of the United States Trustee for the Southern District of New York, 201 Varick Street, Room 1006, New York, NY, 10006 Attn: Greg M. Zipes, Esq.; (c) counsel to the Creditors Committee appointed in this Chapter 11 case, Alston & Bird LLP, 90 Park Avenue, New York, NY 10016, Attn: James J. Vincequerra, Esq.; and (d) all persons and entities that have formally requested notice by filing a written request for notice, pursuant to Bankruptcy Rule 2002 and the Local Bankruptcy Rules by **September 5, 2017 4:00 p.m.**

PLEASE TAKE FURTHER NOTICE that if you do not timely file and serve a written objection to the relief requested in this Motion, the Bankruptcy Court may deem any opposition

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Plan.

waived, treat the Motion as conceded (as applicable), and enter an order granting the relief requested in the Motions (as applicable) without further notice or hearing.

PLEASE TAKE FURTHER NOTICE that the hearing to consider the Disclosure Statement will commence on **September 12, 2017 at 10:00 a.m.** (Eastern time) or as soon thereafter as counsel can be heard, before the Honorable Michael E. Wiles, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York. The approval hearing may be continued from time to time by announcing such continuance in open court or otherwise, all without further notice to parties with claims.

Dated: August 10, 2017

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**MOTION FOR ENTRY OF AN ORDER APPROVING HEBREW
HOSPITAL HOME OF WESTCHESTER, INC.’S (I) DISCLOSURE
STATEMENT, (II) FORM AND MANNER OF NOTICES, (III) FORM
OF BALLOTS AND (IV) SOLICITATION MATERIALS AND PROCEDURES**

Hebrew Hospital Home of Westchester, Inc., one of the above-captioned debtors and a debtor-in-possession (the “**Debtor**”) and the Debtor’s Official Committee of Unsecured Creditors (the “**Creditors Committee**”) (together with the Debtor, the “**Plan Proponents**”) hereby seek entry of an order approving (i) their disclosure statement (the “**Disclosure Statement**”), and

related Joint Plan of Liquidation Under Chapter 11 of the Bankruptcy Code dated August 10, 2017 (the “**Plan**”), for distribution to creditors; (ii) the form and manner of notices relating to the Disclosure Statement and confirmation of the Plan; (iii) the form of ballots and voting procedures to be used in connection with voting on the Plan; and (iv) the solicitation materials to be distributed to creditors along with the Disclosure Statement and Plan and procedures to be implemented in connection with confirmation of the Plan.² In support of this motion (the “**Motion**”), the Debtor and Creditors Committee respectfully represents as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over the Debtor’s Chapter 11 case and this Motion pursuant to 28 U.S.C. § 1334.
2. This is a core proceeding pursuant to 28 U.S.C. § 157(b).
3. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
4. The statutory predicates for the relief requested herein are sections 1125 and 1126 of Chapter 11 of title 11, United States Code (the “**Bankruptcy Code**”).

BACKGROUND

5. On May 4, 2015 an involuntary petition for relief against the Debtor’s related entity Hebrew Hospital Home Choices (“**HHH Choices**”) was filed with the Court under Chapter 11 of the Bankruptcy Code. On June 1, 2015 HHH Choices consented to the relief and on June 16, 2015 the Bankruptcy Court entered an order authorizing the relief. On December 9, 2015, Hebrew Hospital Senior Housing, Inc. (“**HHSH**”) filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtor commenced its Chapter 11 Bankruptcy case (the “**Chapter 11 Case**”) on January 8, 2016 (the “**Petition Date**”). The Debtor continues in possession of its

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Plan.

property and business as a debtor in possession pursuant to Bankruptcy Code §§ 1107 and 1108. The Debtor's Chapter 11 Case is being jointly administered with the bankruptcy cases of HHH Choices and HSHS solely for procedural purposes.

6. The Creditors Committee was appointed on March 3, 2016, by the Office of the United States Trustee. The Creditors Committee initially retained Duane Morris LLP as its counsel. The counsel of record for the Creditors Committee is now Alston & Bird LLP due to the lead attorney's change in law firms.

7. On August 10, 2017 the Motion, along with the proposed Disclosure Statement and related Plan (annexed hereto as **Exhibit "A"**) was filed with the Court.

RELIEF REQUESTED

8. By this Motion, the Plan Proponents respectfully seek entry of an order approving: (i) the Disclosure Statement for distribution to creditors; (ii) the form and manner of notices relating to the Disclosure Statement and confirmation of the Plan; (iii) the form of ballots and voting procedures to be used in connection with voting on the Plan; and (iv) the solicitation materials to be distributed to creditors and procedures to be implemented in connection with confirmation of the Plan.

APPROVAL OF THE DISCLOSURE STATEMENT FOR DISTRIBUTION TO CREDITORS

9. The Plan Proponents respectfully submit that the Disclosure Statement should be approved by the Court for distribution to creditors as it sets forth information sufficient to meet the requirements of section 1125 of the Bankruptcy Code.

10. Section 1125(b) of the Bankruptcy Code requires that, at or before the time at which a debtor solicits votes on a plan, the debtor must provide to holders of claims a copy of the debtor's plan and a written disclosure statement. *See* 11 U.S.C. § 1125(b). However, before it can be

distributed to creditors, the disclosure statement must have been approved by the court as containing “adequate information.” *See id.*³

11. The phrase “adequate information” is a term of art. Adequate information is defined by the Bankruptcy Code as being:

information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records, including a discussion of the potential material federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan, but adequate information need not include such information about any other possible or proposed plan, and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information

11 U.S.C. § 1125(a).

12. Thus, a debtor’s disclosure statement must, as a whole, provide information that can reasonably be expected to assist creditors in making an informed judgment regarding whether to vote in favor of, or in opposition to, the chapter 11 plan to which it relates. *See Kirk v. Texaco, Inc.*, 82 B.R. 678, 681 (S.D.N.Y. 1988); *In re Copy Crafters Quickprint, Inc.*, 92 B.R. 973, 979 (Bankr. N.D.N.Y. 1988) (adequacy of disclosure statement “is to be determined on a case-specific basis under a flexible standard that can promote the policy of chapter 11 towards fair settlement through a negotiation process between informed interested parties”).

13. Bankruptcy courts have broad discretion in assessing the adequacy of information contained in a disclosure statement. *See In re Ionosphere Clubs, Inc.*, 179 B.R. 24, 29 (S.D.N.Y. 1995). The determination of whether a disclosure statement contains adequate information is made

³ Section 1125(b) also provides that [t]he court may approve a disclosure statement without a valuation of the debtor or an appraisal of the debtor’s assets.” *Id.*

on a case-by-case basis, focusing on the unique facts and circumstances of each case. *See In re Copy Crafters Quickprint*, 92 B.R. at 979.

14. Section 1125(a) of the Bankruptcy Code specifies factors that courts should consider when determining the adequacy of the disclosure and whether additional information should be provided, namely: (i) the complexity of the case; (ii) the benefit of additional information to creditors and other parties with claims; and (iii) the cost of providing additional information. *See* 11 U.S.C. §1125(a).

15. The Plan Proponents believe that the Disclosure Statement annexed hereto contains “adequate information.” The Disclosure Statement provides a detailed discussion of background facts and information, including: (i) the Debtor’s prepetition corporate structure *see* **Exhibit “A”** at p. 4; (ii) the Debtor’s prepetition business operations *see id.* at pp. 5-6; (iii) a description of the events leading up to this Chapter 11 Case *see* p. 9; and (iv) the Debtor’s Post-Petition Date activities *see* at pp. 9-10.

16. The Disclosure Statement also provides a detailed discussion of the Chapter 11 Case, including: (i) motions and relief obtained by order of the Court, including authority to retain counsel, pay wages, sell *de minimis* assets, formation of the Creditors’ Committee and other administrative matters *see* pp. 9-10 (generally); (ii) the Joint Venture Transaction *see* at pp. 6-7; (iii) the HSHH DIP Financing sought by HSHH in connection with the HSHH Chapter 11 Case *see id.* at p. 10; and (iv) the Global Settlement, *see* p. 9.

17. In addition, the Disclosure Statement provides detailed information about: (i) proposed distributions on account of secured claims and unsecured claims *see id.* at pp. 15-16; (ii) the payment of administrative expense claims and priority claims *see id.* at pp. 17-18; (iii) the classification and treatment of claims *see id.* at p. 13; (iv) the conditions precedent to the

confirmation and effectiveness of the Plan *see id.* at pp. 11-13; (v) the treatment of executory contracts and unexpired leases *see id.* at pp. 18-19; (vi) the preservation of the Rights of Action *see id.* at p. 19; (vii) the exculpation and release of certain parties with claims *see id.* at pp. 19-20; (viii) the means for implementing the plan, including the creation of the Liquidation Trust and Appointment of the Liquidation Trustee *see id.* at pp. 21-25; (ix) voting and confirmation procedures *see id.* at pp. 13-14; (x) a chapter 7 liquidation analysis *see id.* at p. 25; (xi) an alternative Chapter 11 Plan *see id.* at p. 26; and (xii) the federal income tax consequences to the Debtor and a hypothetical investor typical of the holders of claims in the Chapter 11 Case *see id.* at pp. 26-27.

18. The Plan Proponents respectfully submit that the Disclosure Statement provides the information that is necessary for the Debtor's creditors to make an informed judgment about whether to vote in favor of the Plan. The Plan Proponents further submit that the Disclosure Statement contains adequate information as defined by the Bankruptcy Code. Accordingly, the Plan Proponents respectfully request that the Court approve the Disclosure Statement for distribution to creditors.

FORM AND MANNER OF NOTICES

19. In addition to the Disclosure Statement, the Plan Proponents would like to provide notices to creditors in order to proceed in an orderly, efficient and clear manner towards confirmation of the Plan.

A. Notice of the Confirmation Hearing and Procedures for Objections to the Plan

20. Once a disclosure statement is approved for distribution to creditors, the date of the confirmation hearing, and deadline for objections to confirmation, must be set.

21. Rules 2002(b) and (d) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") require not less than twenty-eight (28) days' notice to all creditors and

equity security holders of the deadline for filing objections to the Plan and of the date of the hearing to consider confirmation of a Chapter 11 plan. Pursuant to Bankruptcy Rule 3020(b)(1), objections to confirmation of a plan must be filed and served “within a time fixed by the court,” Fed. R. Bank. P. 3020(b)(1) and Local Bankruptcy Rule for the Southern District of New York 3020-1(a) states that such objections shall be filed not later than seven (7) days prior to the confirmation hearing.

22. In accordance with the proposed solicitation schedule outlined below, the Plan Proponents request that a hearing on confirmation of the Plan (the “**Confirmation Hearing**”) be scheduled on or after **October 31, 2017** which is at least 35 days after the anticipated date for the entry of an order approving the Disclosure Statement (as required by a combination of Rules 2002 and Local Bankruptcy Rule 3020-1(a)). The proposed schedule is in compliance with the Bankruptcy Rules and will enable the Plan Proponents to pursue confirmation of the Plan in accordance with the statutory timetable. Consistent with the proposed schedule, the Plan Proponents propose to provide all creditors and equity holders with a copy of the notice of confirmation hearing substantially in the form attached hereto as **Exhibit “B”** (the “**Confirmation Hearing Notice**”). The Confirmation Hearing Notice contains a description of the date, time and location of the Confirmation Hearing, as well as the deadline and manner for filing objections to the Plan.

23. The Confirmation Hearing Notice provides, and the Plan Proponents request that the Court require, that objections to the Plan: (i) be in writing; (ii) state the name and address of the objecting party and the amount and nature of the claim of such party; (iii) state with particularity the basis and nature of any objection or proposed modification; and (iv) be filed with the Clerk of the Court, with a copy delivered to chambers, and served so as to be received by (a) counsel to the Debtor, (b) counsel to the Creditors Committee, (c) the Office of the United States

Trustee, and (d) parties filing a notice of appearance and request for service, **no later than 4:00 p.m. (prevailing Eastern time) on the date that is seven (7) days prior to the date of the Confirmation Hearing** (the “**Plan Objection Deadline**”). Proceeding in this manner will afford the Plan Proponents and other parties with claims sufficient time to consider and perhaps resolve any objections and proposed modifications before the Confirmation Hearing.

24. The Plan Proponents submit that the approval and implementation of the foregoing proposed procedures for providing notice of the Confirmation Hearing and objections to the Plan shall afford adequate notice of same.

B. Notice of Non-Voting Status and Form of Ballots

(i) Non-Voting Status

25. The Plan provides that the Plan Proponents will not solicit the votes of the holders of Claims in Classes 1 and 2 because such classes are presumed to accept the Plan pursuant to Section 1126(f) of the Bankruptcy Code.

26. Although votes will not be solicited from the holders of Claims in Classes 1 and 2 the Plan Proponents will provide a notice to such holders that informs them: (i) of the treatment of their claims under the Plan, (ii) of the relevant confirmation deadlines and (iii) of the fact that they are not entitled to vote on the Plan. To that end, the Plan Proponents seek authorization to send a notice to holders of Claims in Classes 1 and 2 (which Claims are unimpaired under the Plan and which Classes are deemed to have accepted the Plan), substantially in the form attached hereto as **Exhibit “C”**. Along with these notices to Classes 1 and 2 the Plan Proponents will provide a copy of the Disclosure Statement, Plan and Confirmation Hearing Notice.

(ii) Form of Ballots

27. Bankruptcy Rule 3017(d) requires the Plan Proponents to mail a form of ballot, which substantially conforms to Official Form No. 14, only to “creditors and equity security

holders entitled to vote on the plan.” Fed. R. Bank. P. 3017(d). The Plan Proponents have prepared and customized ballots, substantially in the form attached hereto as **Exhibit “D”** (the “**Ballots**”). The Plan Proponents propose to use the Ballots to solicit votes from holders of Claims in Class 3a, 3b, and 4, the only classes of Claims under the Plan that are entitled to vote to accept or reject the Plan. By this Motion, the Plan Proponents seek authority to distribute Ballots to holders of Claims in Class 3a, 3b, and 4.

SOLICITATION AND VOTING PROCEDURES

28. To conduct an effective solicitation of acceptances or rejections of the Plan that is consistent with the requirements of the Bankruptcy Code, the Bankruptcy Rules and due process, the Plan Proponents also seek approval of the following solicitation procedures (the “**Solicitation Procedures**”).

A. Solicitation Package

29. Bankruptcy Rule 3017(d) identifies materials that must be provided to holders of claims for purposes of soliciting votes and providing adequate notice of the hearing on confirmation of a plan. In accordance with Rule 3017(d), the Plan Proponents propose that, as soon as reasonably possible after entry of an order approving the Disclosure Statement for distribution to creditors, that the Prime Clerk, the Claims Agent retained in the Bankruptcy Case, distribute the following materials to (i) all known holders of Claims in Class 3a, 3b, and 4, and (ii) all known holders of Administrative Expense Claims and Priority Tax Claims (the “**Solicitation Package**”):

- (a) Disclosure Statement;
- (b) Plan;
- (c) Ballots (as applicable to holders of Claims in Class 3a, 3b, and 4 only);
- (d) Confirmation Hearing Notice,

- (e) order of the Court approving the Disclosure Statement; and
- (f) such other materials as the Court may direct.

B. Record Date for Voting and Voting Deadline

30. Bankruptcy Rule 3017(d) provides that, for purposes of voting on a plan under chapter 11 of the Bankruptcy Code, “creditors and equity security holders shall include holders of stock, bonds, debentures, notes and other securities of record on the date the order approving the disclosure statement is entered or another date fixed by the court, for cause, after notice and a hearing.” Fed. R. Bank. P. 3017(d). Accordingly, the Debtor proposes that the Court set the date that the Court approves the Disclosure Statement as the record date (the “**Voting Record Date**”) for purposes of determining which creditors are entitled to vote on the Plan. In addition, the Debtor proposes that holders of Claims in Class 3a, 3b, and 4 be required to return the Ballots to Alston & Bird LLP, 90 Park Avenue, New York, New York 10016; Attn: Leslie Salcedo (the “**Voting Agent**”) by October 20, 2017 (the “**Voting Deadline**”).

C. Voting Procedures

31. Pursuant to the Plan, only holders of Claims in Class 3a, 3b, and 4 (the “**Voting Claims**”) are impaired and entitled to vote on the Plan. For purposes of voting, alone, and not for the purpose of determining allowed claims or who is entitled to receive a distribution under the Plan, the Plan Proponents would like authority to proceed as follows: each holder of a Voting Claim shall have an allowed claim, for purposes of voting on the Plan, in an amount equal to: (i) the amount of such claims that is set forth as a claim in the Debtor’s Schedules (only to the extent such claim is not listed as being contingent, unliquidated, or disputed (excluding scheduled Claims that have been superseded by filed Claims); or (ii) the amount set forth on a filed proof of claim which has not been disallowed, disqualified, suspended, reduced or estimated and temporarily allowed for voting purposes prior to computation of the vote on the Plan.

32. The Bankruptcy Code enables creditors to have the amount of their claims estimated and temporarily allowed, pursuant to an order of the Court, for purposes of voting. Bankruptcy Rule 3018(a) provides that the “court after notice and hearing may temporarily allow the claim in an amount which the court deems proper for the purpose of accepting or rejecting a plan.” The Plan Proponents respectfully request that the Court enter an order requiring that any motion for temporary allowance pursuant to Bankruptcy Rule 3018(a) be filed no later than the Voting Record Date. To the extent any claims are temporarily allowed for purposes of voting, the amount fixed by the court shall be used for purposes of calculating acceptances and rejections of the Plan.

D. Tabulation Procedures

33. The Plan Proponents request authority to utilize the following procedures in tabulating ballots:

- (a) only original ballots bearing original signatures shall be counted;
- (b) any Ballot which is properly completed, executed and timely returned to the Voting Agent that does not indicate an acceptance or rejection of the Plan or that indicates both an acceptance and rejection of the Plan shall be deemed to be a vote to accept the Plan;
- (c) any Ballot which is returned to the Voting Agent indicating acceptance or rejection of the Plan, but which is unsigned or does not bear an original signature shall not be counted;
- (d) whenever a holder of a Claim casts more than one Ballot voting the same claim prior to the Voting Deadline, only the last timely Ballot received by the Voting Agent shall be counted;
- (e) if a holder of a claim casts simultaneous duplicative ballots voted inconsistently, then such ballots shall count as one vote accepting the Plan;
- (f) if a holder of a claim casts simultaneous duplicative ballots that are not voted inconsistently, only one such ballot shall be counted;
- (g) each holder of a Claim shall be deemed to have voted the full amount of its Claim;

- (h) each holder of any Claim shall be entitled to vote all of the Claims it holds, but may only cast a single ballot as to all Claims within a particular class;
- (i) any Ballots that partially reject and partially accept the Plan shall not be counted;
- (j) any Ballot received by the Voting Agent by telecopier, facsimile, e-mail, or other electronic communication shall not be counted;
- (k) if a Ballot is signed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation, or other person acting in a fiduciary or representative capacity, such person shall be required to indicate such capacity when signing and, upon request of the Voting Agent, must submit proper evidence satisfactory to the Voting Agent to so act on behalf of a holder of a claim; and
- (l) the Plan Proponents shall maintain and tabulate all Ballots received in accordance with the aforementioned procedures. Within three (3) Business Days following the Voting Deadline, the Voting Agent shall produce copies of all Ballots received to the Debtor and the United States Trustee together with a written summary of the votes accepting and rejecting the Plan. Ballots and any written summary thereof shall not be filed with the Court.

NOTICE

34. In accordance with Rule 3017(a) of the Bankruptcy Rules, the Plan Proponents shall provide notice (the “**Disclosure Statement Notice**”) of this Motion and the hearing to consider approval of the relief sought herein (the “**Disclosure Statement Hearing**”), not less than twenty-eight (28) days prior to the Disclosure Statement Hearing. The Disclosure Statement Notice and a copy of this Motion, as well as all exhibits thereto (including the Plan and Disclosure Statement), shall be provided by first class mail to: (i) the Office of the United States Trustee; (ii) all parties having requested notices in this Chapter 11 Case and/or all known creditors of the Debtor. The Plan Proponents respectfully submit that, under the circumstances, no other or further notice is required.

NO PRIOR REQUEST

35. No prior motion for the relief requested herein has been made to this or any other Court.

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WHEREFORE, the Plan Proponents request that the Court enter an Order, substantially in the form attached hereto, approving: (i) the Disclosure Statement, relating to the Debtor's Plan for distribution to creditors; (ii) the form and manner of notices relating to the Disclosure Statement and confirmation of the Plan; (iii) the form of ballots to be used in connection with voting on the Plan; and (iv) the solicitation materials to be distributed to creditors along with the Disclosure Statement and Plan and procedures to be implemented in connection with confirmation of the Plan and granting such other and further relief as the Court deems necessary or appropriate.

Dated: August 10, 2017

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Raymond L. Fink

Counsel for the Debtor

EXHIBIT A TO MOTION

Disclosure Statement

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THIS IS NOT A SOLICITATION OF ACCEPTANCE OR REJECTION OF THE PLAN. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL BUT HAS NOT YET BEEN APPROVED BY THE COURT.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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IN RE:

HHH CHOICES HEALTH PLAN, LLC, *et al.*,

Debtors.

Chapter 11

Case No. 15-11158-MEW

Case No. 15-13264

Case No. 16-10028

(Jointly Administered)

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**DISCLOSURE STATEMENT FOR THE JOINT CHAPTER 11 PLAN OF
LIQUIDATION
FOR HEBREW HOSPITAL HOME OF WESTCHESTER, INC. PROPOSED BY THE
DEBTOR AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

IMPORTANT DATES

Date for submitting Objections to Confirmation	October 24, 2017
Date by which Ballots Must be Received	October 20, 2017
Hearing on Confirmation of the Plan	October 31, 2017 at 10:00 a.m.

Dated: August 10, 2017

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Counsel for the Debtor

I. INTRODUCTION

This is the disclosure statement (the “**Disclosure Statement**”) for the Joint Plan of Liquidation (the “**Plan**”) for Hebrew Hospital Home of Westchester, Inc. (the “**Debtor**” or “**HHHW**”), as proposed by the Debtor and the Official Committee of Unsecured Creditors of the Debtor (the “**Committee**”), (together with the Debtor, the “**Plan Proponents**”) in the above-captioned Chapter 11 case pending before the United States Bankruptcy Court for the Southern District of New York.

A copy of the Plan is annexed to this Disclosure Statement as **Exhibit “A.”** Unless otherwise set forth herein, all capitalized terms used in the Disclosure Statement shall have the meaning ascribed to them in the Plan.

A. Purpose of Disclosure Statement

Section 1125 of the Bankruptcy Code requires the Bankruptcy Court’s approval of a Disclosure Statement as a prerequisite to soliciting votes on the Plan.

The purpose of the Disclosure Statement is to provide information to creditors. The Disclosure Statement: (i) summarizes the Plan and alternatives to the Plan; (ii) advises Holders of Claims of their rights, and the treatment of their Claims, under the Plan; (iii) assists creditors entitled to vote on the Plan in making informed decisions as to whether they should vote to accept or reject the Plan; and (iv) assists the Bankruptcy Court in determining whether the Plan complies with the provisions of chapter 11 of the Bankruptcy Code and should be confirmed.

By order dated [____], the Bankruptcy Court approved this Disclosure Statement for distribution to creditors, finding that it contains “adequate information” under Section 1125(a)(1) of the Bankruptcy Code, sufficient to inform Holders of Claims of the treatment of those Claims under the Plan and the basis for that treatment.

The material contained herein may not be relied upon for any purpose other than the determination of how to vote on, or whether to object to, the Plan. Creditors should carefully read the Disclosure Statement, in its entirety, before voting on, or objecting to confirmation of, the Plan. If there is any inconsistency between the Plan and the Disclosure Statement, the terms of the Plan will control.

B. Scope of the Plan

The Plan provides for the payment in full (**without interest**) of all General Unsecured claims against the Debtor through the liquidation of the Debtor’s remaining assets, the pursuit of claims and causes of action the Debtor may have against third parties, as well as objections to claims filed against the estate, and the distribution of the Debtor’s assets to creditors, pursuant to the priority of distribution provisions of the Bankruptcy Code, to be administered by a Liquidation Trustee appointed under the Plan. Under the Plan, Administrative Claims, Priority Tax Claims, Priority Non-Tax Claims, Secured Claims, and General Unsecured Claims will be paid in full, without interest, to the extent that such Claims exist. All Estate assets that remain after satisfaction

of Administrative Claims, Priority Tax Claims, Priority Non-Tax Claims, Secured Claims, and General Unsecured Claims will be distributed to the Contractually Subordinated 1199 Union or 1199 Fund Claims (as defined *infra*) through a Liquidation Trust to the extent they are not otherwise resolved.

Because the Debtor is a not-for-profit entity, it does not have any holders of interests.

THE PLAN PROPONENTS BELIEVE THAT CONFIRMATION AND IMPLEMENTATION OF THE PLAN IS IN THE BEST INTEREST OF THE DEBTOR'S ESTATE AND CREDITORS. THE PLAN PROPONENTS RECOMMEND THAT CREDITORS VOTE TO APPROVE AND SUPPORT THE PLAN.

C. Disclosure Statement Enclosures

In addition to the Plan, the following documents are included with this Disclosure Statement:

1. A copy of the order of the Bankruptcy Court, dated ____, 2017 approving this Disclosure Statement.
2. A copy of the notice to creditors of the date for submitting ballots and filing objections to confirmation of the Plan, and the date of the Confirmation Hearing.
3. A ballot (and return envelope) for voting to accept or reject the Plan. Please note that as explained below not all creditors are entitled to vote; thus, not all creditors will receive a ballot.

D. Inquiries

If you have any questions about this Disclosure Statement or the packet of materials that you have received with this Disclosure Statement, please contact James J. Vincequerra, Esq., Alston & Bird LLP, 90 Park Ave, New York New York 10016-1387, telephone (212) 210-9503 or via email to james.vincequerra@alston.com.

E. Sources of Information

There has been no independent audit of the information contained in this Disclosure Statement except as may be expressly indicated herein. This Disclosure Statement contains information obtained and compiled by the Plan Proponents.

F. Summary of Estimated Distributions Under the Plan

• DESCRIPTION/CLASS	• <u>ESTIMATED</u> ALLOWED AMOUNT OF CLAIMS	• <u>ESTIMATED</u> DISTRIBUTION ON EFFECTIVE DATE
• Administrative Claims	• \$500,000– 1,000,000 (approx.)	• 100% (cash distribution)
• Priority Tax Claims	• \$0–10,000	• 100% (cash distribution)
• Class 1 –Secured Claims	• \$0	• N/A
• Class 2 –Priority Non-Tax Claims	• \$0–100,000 (approx.)	• 100% (cash distribution)
• Class 3.a –General Unsecured Claims	• \$5,000,000– 7,000,000(approx.)	• 100% (cash distribution)
• Class 3.b – All Contractually-Subordinated 1199 Union or 1199 Fund Claims	• \$12,059,751	• Unknown (cash distribution)
• Class 4 – Statutorily Subordinated Pension Claims	• \$5,759,751	• Unknown (cash distribution)

II. BACKGROUND INFORMATION AND THE CHAPTER 11 CASE

A. Debtor’s Background

The Debtor is a New York not-for-profit corporation pursuant to Section 402 of the New York Not-For Profit Corporation Law. The Debtor does not have any shareholders. The Debtor is a board directed corporation within the larger Hebrew Hospital Home health system (the “**HHH System**”), along with Hebrew Hospital Senior Housing, Inc. (“**HHS**”) and HHH Choices Health Plan, LLC (“**HHH Choices**”), both of which are also debtors in their own respective, jointly administered bankruptcy cases.

The Debtor was founded in 1993 as part of the HHH System and began by operating a nursing home in the Bronx. Beginning in 1998, the Debtor owned and operated a 160 bed skilled nursing facility situated at 61 Grasslands Road, Valhalla, New York (“**Westchester SNF**”). In addition, the Debtor operated a long-term home health care program which, at its peak, serviced in excess of 400 clients. In 2014, the Debtor obtained approval from the New York State Department of Health to convert its home health care program to a Certified Home Health Agency which provided in home intermittent health care support services to its clients.

Beginning in 2009 and forward, the Debtor experienced adverse financial results, primarily due to the following factors cited by the Debtor: (i) lower patient census attributable to shorter stays, (ii) reduced reimbursement rates and (iii) the confluence of managed care, and fewer private paying clients with a corresponding increase in the client mix for whom payment was derived through Medicare and Medicaid.

Given the Debtor's continued losses as a result of these factors, the Debtor began pursuing a sale of substantially all of its assets and operations in 2012.

B. Debtor's Sale of Westchester Skilled Nursing Facility

In 2013, the Debtor entered into a Real Estate Purchase Agreement with HHH Acquisition, LLC and Tarrytown II LLC (collectively, the "**Purchaser**") for the sale of the Westchester SNF. After a lengthy regulatory approval process, the sale was consummated in April 2015. The sale entailed the transfer to purchaser of the real property and all improvements thereon, including the Westchester SNF, as well as the facility's existing Medicaid and Medicare provider agreements and numbers. Because Debtor is an entity subject to various regulations by state agencies, the sale required, and received, approval from the Attorney General for the State of New York (the "**AG**"). The sale was approved pursuant to Not-For-Profit Corporation Law §§ 510 and 511 by the New York Supreme Court for Westchester County (the "**State Court**") in *In the Matter of Hebrew Hospital Home of Westchester*, No. 54686/15 by order dated April 1, 2015 (the "**SNF Sale Order**"). The sale closed on April 30, 2015. The Debtor realized net cash proceeds from the sale of \$10,251,965.96. Pursuant to the SNF Sale Order, the net proceeds were immediately deposited into an Escrow Account maintained by Debtor's deal counsel McCullough, Goldberger & Staudt, LLP at Sterling National Bank and required notice and court approval for release.

As additional consideration for the sale, the Debtor received a Purchaser Note in the original principal amount of \$471,570.82 from certain individuals related to the Purchaser. The rate of interest under the Purchaser Note is 4.5%, with a default rate of 10%, and the note matured on October 30, 2015. As of the date hereof, the Debtor has not received any proceeds from the Purchaser Note, despite the Purchaser Note having matured. Debtor is pursuing any and all available claims relating to the Purchaser Note and on March 21, 2017 (Benjamin Landa), and April 19, 2017 (Johanon Hirsch), the Purchaser Note was reduced to judgment against the issuers thereof. It is anticipated that the Liquidating Trustee will commence collection proceedings shortly after the Effective Date of the Plan.

C. Debtor's Certificate of Need and Joint Venture Transaction

In or about 2001 and 2002, the Debtor acquired certificates of need (the "**CON(s)**") for a total of seventy (70) skilled nursing beds in Westchester County from Bethel Methodist Home ("**Bethel**") for a purchase price of \$20,000 per bed. The Debtor initially purchased the CONs in order to expand its skilled nursing facilities. Those expansion plans were abandoned however as the Debtor experienced financial difficulties and as a result, the Debtor sought out potential purchasers for the CON. Ultimately, in or about 2010 the Debtor identified Westchester Health Care Properties I, LLC ("**WHCP**") as a potential acquirer of the CON. The Debtor has been working towards the transfer of the CONs to WHCP since 2011. As a result of those efforts, prior to the Petition Date the Debtor negotiated, but did not enter into a joint venture transaction (the "**Joint Venture Transaction**") with WHCP and Bethel, pursuant to which, among other things, ownership of the CONs would transfer to a joint venture entity owned by the Debtor, Bethel and WHCP, but substantially controlled by WHCP, for the purpose of building a health care facility in White Plains, NY. To that end, the New York State Department of Health has already issued a conditional certificate of need (inclusive of the Debtor's CON) in the name of the joint venture entity. In exchange for the Debtor having transferred the CON to the joint venture entity, the

Debtor is to receive \$2,500,000.00, net of a \$215,000 'facilitation fee' payable to Bethel, in two tranches: (i) an initial \$560,000 in cash as a priority return of capital upon the satisfaction of certain conditions set forth in the CON issued to the joint venture; and (ii) the balance as a 9.9% membership interest in the joint venture entity that can be sold to WHCP once the intended facility is operational for \$2,240,000, pursuant to a put right contained in the operating agreement of the joint venture entity.

As initially proposed by the Debtor, the Joint Venture Transaction contemplated the Debtor paying a \$300,000 'Facilitation Fee' to Bethel from its share of the proceeds. The Committee subsequently negotiated with Bethel to reduce the 'Facilitation Fee' to \$215,000. The Joint Venture Transaction was approved, along with the reduced facilitation fee, by order of the Bankruptcy Court dated November 23, 2016.

D. Debtor's Mortgage Loan to HSHH

In or about October 2015, HSHH owed approximately \$2.5 million in overdue resident refunds to former residents of the facility operated by HSHH pursuant to the terms of such residents' residency and care agreements with HSHH. The facility is located at 55 Grasslands Road, in Valhalla New York, and known as Westchester Meadows. HSHH was also a defendant in three actions for the collection of such refunds. HSHH and various regulators desired to pay the refunds as soon as possible so that a judgment adverse to HSHH in the actions would not force HSHH to file for bankruptcy before it had an opportunity to identify post-petition sources of financing and a stalking horse purchaser for its facility. Consequently, HSHH sought a loan from the Debtor in the amount of \$3,500,000 (the "**Bridge Loan**"). Given that the SNF Sale Order required State Court approval to release any funds from the Escrow Account, the Debtor sought the State Court's approval to make the Bridge Loan from the escrowed sale proceeds to HSHH.

On October 20, 2015, the State Court approved the Bridge Loan pursuant to the terms of that certain Restructuring Support and Loan Agreement (the "**RSA**") entered into by and among HHHW, HSHH, the AG, and the council of the residents of HSHH through their agent. The Bridge Loan was evidenced by the Bridge Note of even amount.

Pursuant to the terms of the RSA, the Bridge Loan was in the amount of \$3,500,000, with an interest rate of 5.5% and matured on the date that HSHH obtained debtor-in-possession financing. The Bridge Loan was immediately due and payable by HSHH to HHHW in full and in cash from the proceeds of debtor-in-possession financing of HSHH. Further, the Bridge Loan was secured by a second position junior mortgage on the Westchester Meadows real property, junior only to HSHH's senior secured debt in the approximate amount of \$5,500,000 for bonds HSHH issued through Westchester Industrial Development Agency, which bonds are secured by a letter of credit issued by M&T Bank.

After funding of the Bridge Loan, the balance in the Escrow Account was reduced to \$6,751,965.96.

Subsequent to the Petition Date HSHH obtained debtor in possession financing in the amount of \$1,000,000 secured by a mortgage senior to that securing the Bridge Loan such that the

sum of secured debt senior to the Bridge Loan on Westchester Meadows equaled approximately \$6,500,000.

On October 31, 2016, HSH closed the sale of Westchester Meadows to Bethel Methodist Home, Inc. in exchange for approximately \$16 million. The order approving the sale, and repayment of the Bridge Loan and all interest due thereon, was entered by the Bankruptcy Court on August 19, 2016. On October 31, 2016, the Bridge Loan and all interest accrued thereon was repaid in full in the amount of \$3,689,826.23.

E. Employee Benefits and Claims

The former employees of the Debtor and current and former employees of certain of the other entities in the HHH System are represented by the 1199SEIU United Healthcare Workers East (“**Union**”), which is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act, as amended, 29 U.S.C. § 153(5). The Union, Debtor and certain other entities in the HHH System (the “**HHH Entities**”) are parties to a series of collective bargaining agreements. Pursuant to the terms of the collective bargaining agreements, the Debtor and HHH Entities were required to make periodic contributions to various funds, including a Health and Human Service Fund, Pension Fund, Training and Upgrading Fund, Child Care Fund, Industry/Job Security Fund, Benefit Fund and Education Fund (collectively, the “**Funds**”) on behalf of their employees generally based on a percent of gross payroll paid.

The Union filed unliquidated claims against the Debtor for unpaid prepetition wages and benefits owed to bargaining employees of the Debtor and HHH Entities. The Funds also filed priority and general unsecured claims, including unliquidated claims, against the Debtor for unpaid pre-petition contributions of HHHW and the HHH Entities. The Union and Funds claims totaled approximately \$6.3 million, of which approximately \$81,000 was asserted as priority claims. The Union and Funds took the position, that because the Debtor constitutes a single employer with the HHH Entities under the National Labor Relations Board test adopted by the U.S. Supreme Court in Radio & Television Broadcast Technicians Local Union 1264 v. Broadcast Serv. Of Mobile, Inc., 380 U.S. 255 (1965), the Debtor is jointly and severally liable for the debts and obligations of the HHH Entities, including the financial obligations under collective bargaining agreements. The Debtor disagreed with this position.

In addition to the claims of the Union and Funds for contributions as discussed immediately above, the Pension Fund filed a claim against HHHW for the Pension Fund’s unfunded vested benefits. As a result of the wind down of various entities within the HHH System, the Debtor and HHH Entities have withdrawn from the Pension Fund. The Pension Fund’s withdrawal liability claim totals approximately \$32.8 million (the “**Withdrawal Liability Claim**”). The Pension Fund asserts that the Debtor is jointly and severally liable for the Withdrawal Liability Claim, along with the other entities in the HHH System, on the theory that the Debtor was a part of the same ‘Control Group’ as the other entities in the HHH System. As such, the Debtor is jointly and severally liable for the withdrawal liability that is otherwise directly attributable to the other entities within the HHH System. Again, the Debtor disputed this position.

Rather than litigate the nature and extent of the claims by the Union and Funds, the Debtor and Committee conducted lengthy settlement negotiations with the Union, Funds, and Committees

for both the HHH Choices and HSHH estates. Those negotiations ultimately resulted in the parties agreeing to a global resolution of the claims of the Union and Funds (the “**Global Settlement**”) which provides: (i) a substantial reduction in the total amount of claims asserted by the Union and Funds; (ii) for payment in full of the General Unsecured Claims against the Debtor and the effective subordination of the General Unsecured 1199 Union and Fund Claims (together, the “**Contractually Subordinated 1199 Union or 1199 Fund Claims**”); and (iii) the waiver of any claims by the HSHH and HHH Choices estates for indemnification or contribution relating to same. The Global Settlement was approved by order of the Bankruptcy Court dated August 9, 2017.

F. The Universal Settlement

Prior to the Petition Date, an agreement was reached between the nursing home facilities located in New York State and the State of New York resolving and settling certain Medicaid rate appeals and reimbursement litigation. The Universal Settlement provides that, in exchange for surrendering most of their rate appeals and lawsuits against the State of New York, the nursing home facilities will receive \$850 million in the aggregate in five annual equal installments. The New York State Department of Health has confirmed that the Debtor’s portion of the Universal Settlement is equal to \$806,955, which the Debtor believes is a recoverable asset.

G. Chapter 11 Cases of Other Entities – HHH Choices and HSHH

On May 4, 2015, an involuntary petition for relief against the Debtor’s related entity, HHH Choices, was filed under chapter 11 of the Bankruptcy Code. On June 1, 2015, HHH Choices consented to the relief and on June 16, 2015, the Bankruptcy Court entered an order authorizing the relief. On December 9, 2015, HSHH filed a voluntary petition for relief under chapter 11.

H. The Debtor’s Chapter 11 Case

1. Commencement of the Chapter 11 Case

The Debtor commenced its Chapter 11 bankruptcy case on January 8, 2016. The Debtor has managed and continues to manage its business as a debtor-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

2. Joint Administration

The Debtor’s Chapter 11 Case is being jointly administered with the bankruptcy cases of HHH Choices and HSHH solely for procedural purposes, as authorized by the Bankruptcy Court’s order entered on January 14, 2016.

3. Debtor’s Schedules and Statements of Financial Affairs

The Debtor filed its Schedules and Statements of Financial Affairs on February 9, 2016, and intends to file certain limited amendments thereto before the Confirmation Hearing.

4. Appointment of the Committee

On March 3, 2016, the Office of the United States Trustee appointed the Committee consisting of the following five members: (i) 1199 SEIU Benefit and Pension Funds; (ii) HHH Acquisition, LLC; (iii) Unlimited Care Inc.; (iv) LTC Consulting Services, LLC; and (v) Carenext PostAcute LLC to serve in the Chapter 11 Case pursuant to Section 1107(a) and 1108 of the Bankruptcy Code. The Committee subsequently retained Duane Morris LLP as its counsel, who was later substituted by Alston & Bird LLP, per relocation of the lead attorney.

5. First Meeting of Creditors

The first meeting of creditors required under Section 341 of the Bankruptcy Code was held and concluded on March 24, 2016.

6. HSH DIP Financing

On May 5, 2016, HSH filed a motion seeking approval of debtor in possession financing in the amount of \$5,000,000 from LCP W.M. DIP, LLP (the "**LCP Financing**"). The LCP Financing offer set forth in the motion required priming the Debtor's lien under the Bridge Loan. Concerned about the result of the proposed financings on the Debtor's recovery on the Bridge Note, especially in light of the status of the sale of the underlying collateral, several parties filed objections to the LCP Financing. Ultimately, the LCP Financing was abandoned by HSH. Thereafter, the HSH estate sought an additional loan from HHHW as a DIP Loan, and on May 11, 2016 convened a meeting among the professionals and/or representatives of the Debtor, Committee, HSH, HSH's committee of unsecured creditors, and various regulatory agencies with responsibilities covering Westchester Meadows. As a result of that meeting and the Committee's research into potential alternative financing sources for, and needs of, HSH and Westchester Meadows, the parties agreed that HHHW would not provide additional financing to HSH and that a small debtor-in-possession loan for HSH would be obtained from Gordon Brothers in the amount of \$1,000,000 senior to the security interest of the Debtor under the Bridge Loan. This alternative financing enabled Westchester Meadows to: (i) continue operating through the end of September 2016; and (ii) to establish an orderly sale process for Westchester Meadows on an agreed upon timeline. Additionally, the financing ultimately provided for the operating expenses of Westchester Meadows accrued through October 2016 to be shifted to the purchaser, providing further assurance of full repayment of the Bridge Loan. The Bankruptcy Court approved the HSH secured financing on May 24, 2016, on an interim basis, and on June 8, 2016, on a final basis. At substantially the same time, the Court approved a schedule setting forth the critical dates for the auction and sale of Westchester Meadows. Westchester Meadows was sold in October 2016, and the Debtor's Bridge loan to HSH was repaid on October 31, 2016, in the amount of \$3,689,826.23.

7. Bar Date and Claims Reconciliation Process

By order dated June 16, 2016 (the "**Bar Date Order**"), the Bankruptcy Court established the Bar Date of July 29, 2016, as the last date for filing proofs of claims. The Bar Date Order also established the last date for filing proofs of claim for damages alleged to arise as the result of the Debtor's rejection of executory contracts and unexpired leases. The Plan Proponents have

conducted a review of the claims filed in this case and, together with the Debtor's financial advisor, believe the claim estimate set forth on Exhibit "C" hereto is a reasonable approximation of what the Allowed General Unsecured Claims pool will be after the completion of the Claims objection process. Two of the larger unsecured claims bear specific mention. First, Bay Plaza Community Center LLC filed a general unsecured Proof of Claim in the amount of \$2,238,964.69 for unpaid rent and rejection damages. The Plan Proponents believe that the Debtor has strong defenses to the Bay Plaza claim, including, but not limited to, the fact that the Debtor is not a party to the lease that forms the basis for the claim. As such, the Plan Proponents believe that the Bay Plaza claim will be disallowed after objection by the Debtor or Liquidation Trustee. Additionally, HHH Acquisition, LLC filed a proof of claim in the amount of \$2,351,695.02. The Debtor has been examining the support for the HHH Acquisition Claim for some time and has been actively negotiating with HHH Acquisition to fix the claim in an amount less than the face amount of the claim. The Debtor expects negotiations with HHH Acquisition to conclude in the coming weeks with a stipulation that, among other things, allows the HHH Acquisition claim in an amount less than the amount asserted.

8. Exclusivity

Under the Bankruptcy Code, a debtor has the exclusive right to file and solicit acceptances of a chapter 11 plan for an initial period of 120 days and 180 days respectively from the date on which the debtor filed for voluntary relief under Chapter 11. During these exclusive periods, no other party in interest may file a competing plan. On May 10, 2016, the Bankruptcy Court approved a stipulation between the Committee and Debtor granting the Committee co-exclusivity with the Debtor to file a plan. By order dated June 1, 2016, the Bankruptcy Court extended the co-exclusivity period for filing a plan to August 5, 2016, and for soliciting acceptances to October 4, 2016. No further extensions were requested or granted and as such, exclusivity expired at that time.

III. CONFIRMATION PROCEDURE AND REQUIREMENTS OF THE PLAN

A. Confirmation Hearing

Section 1128(g) of the Bankruptcy Code requires that the Bankruptcy Court, after notice to creditors and parties in interest, hold a hearing on confirmation of the Plan (the "**Confirmation Hearing**").

By order of the Bankruptcy Court dated ____, the Confirmation Hearing has been scheduled for October 31, 2017 at 10:00 a.m. (EST) before the Honorable Michael E. Wiles, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004.

Section 1128(b) of the Bankruptcy Code provides that creditors and any parties in interest may object to confirmation of a plan. Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014. Unless an objection to confirmation is properly and timely served and filed, it will not be considered by the Bankruptcy Court.

At the Confirmation Hearing, the Bankruptcy Court must determine whether the requirements of Section 1129 of the Bankruptcy Code and any of the legal requirements have been satisfied. Upon demonstration of such compliance, the Bankruptcy Court may enter the Confirmation Order.

B. Requirements for Confirmation

In general, a chapter 11 plan of liquidation: (i) divides claims and equity interests into separate classes; (ii) specifies the property that each class is to receive under the plan; and (iii) contains other provisions necessary to implement the Plan.

Under Section 1124 of the Bankruptcy Code, a class of claims is “impaired” unless the plan: (i) leaves unaltered the legal, equitable and contractual rights of each holder of a claim in such class; or (ii) provides, among other things, for the cure of existing defaults and reinstatement of the maturity of Claims in such class. In this Chapter 11 Case, Classes 3.a, 3.b and 4 are impaired under the Plan and Holders of Claims in such classes are entitled to vote to accept or reject the Plan. Ballots are being furnished with this Disclosure Statement to all Holders of Classes 3.a, 3.b and 4 Claims to facilitate voting to accept or reject the Plan.

Under Section 1124 of the Bankruptcy Code, a class of claims is “unimpaired” under a plan if the class of claims or equity interests will have their claims or equity interests remain unaltered by the plan. Such classes are conclusively deemed to accept the plan; thus, they are not solicited to vote on the plan. In this Chapter 11 Case, Classes 1 and 2 are unimpaired under the Plan and therefore, presumed to accept the Plan and are not entitled to vote to accept or reject the Plan. No ballots are enclosed for Holders of Class 1 and 2 Claims.

Further, the Bankruptcy Court will confirm the Plan only if all of the requirements of Section 1129 of the Bankruptcy Code are met. Among the requirements for confirmation are that the Plan is: (i) accepted by all impaired classes of Claims entitled to vote or, if rejected by an impaired Class, that the Plan “does not discriminate unfairly” and is “fair and equitable” as to such Class and as to the impaired Classes of Claims that are deemed to reject the Plan; (ii) feasible; and (iii) in the “best interests” of the Holders of Claims impaired under the Plan.

1. Acceptance of the Plan

In order to achieve confirmation, at least one “impaired” class of creditors must vote in favor of confirmation. The Bankruptcy Code defines acceptance of a chapter 11 plan by a class of creditors as acceptance by creditors holding two-thirds (2/3) in dollar amount and a majority in number of the claims in such class (other than any creditor whose vote has been “designated” under Section 1126(e) of the Bankruptcy Code). Holders of Claims who fail to vote are not counted as either accepting or rejecting a plan.

2. Best Interests Test

The Bankruptcy Code provides that the Plan will not be confirmed, regardless of whether creditors or parties in interest objected to confirmation, unless the Bankruptcy Court finds that the

Plan is in the “best interests” of all Classes of Claims that are impaired. The “best interests” test will be satisfied by a finding of the Bankruptcy Court that either: (i) all Holders of impaired Claims have accepted the Plan; or (ii) the Plan will provide such a holder that has not accepted the Plan with a recovery at least equal in value to the recovery such holder would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code.

The starting point in determining whether the Plan meets the “best interests” test is a determination of the amount of proceeds that would be generated from a liquidation of the Debtor’s assets in the context of a chapter 7 liquidation, reduced by the costs of such liquidation, fees of the trustee and its professionals, and costs imposed by the delay caused by conversion to chapter 7. If the plan yields a greater recovery than would otherwise be obtained in the liquidation context, the best interests of creditors test is generally met.

A conversion of the case to a chapter 7 case would entail a chapter 7 trustee liquidating the estate. This liquidation would diminish recoveries to the creditors and increase costs and delay. Moreover, given the procedural status of the case at this point, the transfer of the case to a chapter 7 trustee would be counterproductive. The Plan Proponents submit that each impaired Class will receive under the Plan a recovery greater in value to the recovery such Class would receive pursuant to a liquidation of the Debtor under chapter 7 of the Bankruptcy Code.

3. Feasibility of the Plan

Section 1129(a)(11) of the Bankruptcy Code provides that a chapter 11 plan may be confirmed only if the court finds that such plan is feasible. Since the Plan provides for the liquidation of the Debtor, the Bankruptcy Court will find that the Plan is feasible if it determines that the Debtor will: (i) be able to satisfy the conditions precedent to the Effective Date; and (ii) have sufficient funds to pay all post-Confirmation Date obligations for administering and fully consummating the Plan and closing the Chapter 11 Case. The Plan Proponents believe that the Plan satisfies the financial feasibility requirement imposed by the Bankruptcy Code given that this is a liquidating plan.

4. Classification of Claims Under the Plan

The Plan Proponents believe that the Plan meets the classification requirements of the Bankruptcy Code, which requires that a Chapter 11 plan place each Claim into a class with other Claims that are “substantially similar.” The Plan establishes classes of Claims as required by the Bankruptcy Code, as summarized above. Because the Debtor has no shareholders, there is no class of interests. Further, Administrative Expense Claims and Priority Tax Claims are not classified.

5. Confirmation of the Plan if Not All Classes Vote to Accept the Plan

The Bankruptcy Code contains provisions set forth in Section 1129(b) for confirmation of a plan even if it is not accepted by all impaired classes, as long as it is accepted by at least one impaired class of Claims, and in addition to satisfying the other requirements for confirmation, the Plan is determined to be “fair and equitable” and “does not discriminate unfairly” with respect to each class of Claims that has not accepted the Plan.

Under the Bankruptcy Code, the “fair and equitable” test applies to classes of different priority and status (e.g., secured versus unsecured) and includes the general requirement that no class of claims receive more than 100% of the amount of the allowed claims in such class. As to the non-accepting class, the test sets different standards depending on the type of claims, equity or membership interests in such class.

With respect to the unfair discrimination claim, this test applies to classes of claims that are of equal “priority,” but are receiving different treatment under a plan. The test does not require that the treatment be the same or equivalent, but that such treatment be “fair.”

Under the Plan, Classes 3.a, 3.b and 4 are deemed impaired. To the extent that Classes 3.a, 3.b and 4 vote to reject the Plan, the Plan Proponents reserve the right to: (i) seek confirmation of the Plan under Section 1129(b) of the Bankruptcy Code; and/or (ii) modify the Plan.

IF ALL OTHER CONFIRMATION REQUIREMENTS ARE SATISFIED AT THE CONFIRMATION HEARING, THE PLAN PROPONENTS WILL ASK THE BANKRUPTCY COURT TO RULE THAT THE PLAN MAY BE CONFIRMED ON THE GROUND THAT THE REQUIREMENTS OF SECTION 1129(b) HAVE BEEN SATISFIED.

IV. VOTING PROCEDURES AND REQUIREMENTS

A. Ballots and Voting Deadline

IT IS IMPORTANT THAT YOU TIMELY EXERCISE YOUR RIGHT TO VOTE TO ACCEPT OR REJECT THE PLAN. All known Holders of Claims who are entitled to vote on the Plan have been sent a Ballot together with this Disclosure Statement. Such Holders should read the Ballot carefully and follow the instructions contained therein. If you receive a Ballot and are entitled to vote, please use only the Ballot that accompanies this Disclosure Statement.

FOR YOUR VOTE TO BE COUNTED, YOUR BALLOT MUST BE DULY COMPLETED, EXECUTED AND RECEIVED BY THE DEBTOR’S VOTING AGENT BEFORE THE VOTING DEADLINE OF 5:00 P.M., PREVAILING EASTERN STANDARD TIME, ON OCTOBER 20, 2017 AT:

**ALSTON & BIRD LLP
C/O LESLIE SALCEDO
90 PARK AVENUE
NEW YORK, NEW YORK 10016**

IF A BALLOT IS DAMAGED OR LOST, YOU MAY CONTACT THE DEBTOR’S VOTING AGENT. ANY BALLOT THAT IS EXECUTED AND SUBMITTED BUT WHICH DOES NOT INDICATE AN ACCEPTANCE OR REJECTION OF THE PLAN WILL NOT BE COUNTED.

IF YOU HAVE ANY QUESTIONS CONCERNING VOTING PROCEDURES, YOU MAY CONTACT COMMITTEE’S COUNSEL AT:

ALSTON & BIRD LLP
ATTN: JAMES J. VINCEQUERRA, ESQ.
90 PARK AVE
NEW YORK, NEW YORK 10016-1387
Telephone (212) 210-9400

Additional copies of this Disclosure Statement are available upon request made to Committee's counsel at the address set forth immediately above or the Voting Agent's website at <https://cases.primeclerk.com/HebrewHospital>.

B. Holders of Claims Entitled to Vote

Any holder whose Claim is impaired under the Plan (Classes 3.a, 3.b and 4) is entitled to vote if either (i) the Claim has been listed in the Schedules (and the Claim is not scheduled as disputed, contingent, or unliquidated); or (ii) the holder has filed a Proof of Claim on or before the Bar Date.

V. OVERVIEW OF THE PLAN

A. General

This section of the Disclosure Statement summarizes the Plan. The Plan Proponents believe that the terms of the Plan are fair to all Holders of Claims. If the Plan is not confirmed, the Plan Proponents believe that this Chapter 11 Case will be converted to a case under chapter 7 of the Bankruptcy Code.

B. Plan Provisions

1. Designation of Claims

The following is a designation of the classes of Claims under the Plan and the treatment of such class.

a. Class 1 – Secured Claims - Class 1 shall consist of all Secured Claims against the Debtor.

Unless otherwise provided for pursuant to a Final Order, each Holder of a Secured Claim shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such Secured Claim as soon as practicable after the later of: (i) the Effective Date; (ii) the Allowance Date; and (iii) such date as is mutually agreed upon by the Liquidation Trustee and the Holder of a Secured Claim, either cash equal to the unpaid portion of such Secured Claim, to the extent Allowed, or such other treatment as may be agreed to by the Liquidation Trustee, as applicable, and the Holder of such Secured Claim. The Holder of a Secured Claim shall retain its Liens on applicable collateral to the same extent and priority previously held, notwithstanding the transfer of such collateral into the Liquidation Trust, until the earlier of either: (i) its Secured Claim has been Allowed and paid in accordance with this provision of the Plan; or (ii) its Secured Claim has

been Disallowed. The Holder of a Secured Claim shall not be entitled to foreclose such Lien absent a Final Order of the Bankruptcy Court.

The Plan Proponents believe there are no Secured Claims.

b. Class 2 – Priority Non-Tax Claims - Class 2 consists of all Priority Non-Tax Claims against the Debtor.

Unless otherwise provided for pursuant to a Final Order, each Holder of a Priority Non-Tax Claim shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such Priority Non-Tax Claim as soon as practicable after the later of: (i) the Effective Date; (ii) the Allowed Date; and (iii) such date as is mutually agreed upon by the Liquidation Trustee and the Holder of such Priority Non-Tax Claim, either cash equal to the unpaid amount of such Priority Non-Tax Claim, to the extent Allowed, or such other less favorable treatment as to which the Liquidation Trustee and the Holder of such Priority Non-Tax Claims shall have agreed upon in writing.

The Plan Proponents estimate that the total amount of Priority Non-Tax Claims should not exceed \$100,000.

c. Class 3.a – General Unsecured Claims - Class 3.a consists of General Unsecured Claims against the Debtor.

Unless otherwise provided for pursuant to a Final Order, each Holder of a General Unsecured Claim shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such General Unsecured Claim, a beneficial interest in the Liquidation Trust as set forth in Article IV of the Plan entitling such Holder to receive on account of such Claims *pro rata* Distributions from the Distribution Fund as funds become available in the sole discretion of the Liquidation Trustee after payment of all Administrative Claims, Priority Tax Claims, Secured Claims and Priority Non-Tax Claims and net of the Wind-Down Reserve until they receive 100% of the Allowed amounts of their Allowed Claims without interest. Each Holder of General Unsecured Claims shall receive such Distributions in accordance with the provisions set forth in Article IV of the Plan. Notwithstanding the foregoing, the Holder of a General Unsecured Claim may receive such other less favorable treatment as may be agreed to by such Holder and the

Liquidation Trustee. The Plan Proponents estimate that the total amount of General Unsecured Claims should not exceed approximately \$7,000,000.¹

Class 3.a is impaired and entitled to vote on the Plan.

d. Class 3.b – Contractually Subordinated 1199 Union or 1199 Fund Claims - Class 3.b consists of all Contractually Subordinated Pension Claims against the Debtor, which shall be transferred to a liquidation trust and paid thereafter.

As provided for in, and consistent with the terms of, the Global Settlement, unless otherwise provided for pursuant to a Final Order, each Holder of a Contractually Subordinated 1199 Union or 1199 Fund Claim shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such Contractually Subordinated 1199 Union or 1199 Fund Claim, a beneficial interest in the Liquidation Trust as set forth in Article IV of the Plan, entitling such Holder to receive on account of such Claims, pro rata Distributions from the Distribution Fund as funds become available in the sole discretion of the Liquidation Trustee after payment in full of all General Unsecured Claims in accordance with Article IV of the Plan and net of the Wind-Down Reserve until they receive 100% of the Allowed amounts of their Allowed Claims without interest. Each Holder of a Contractually Subordinated 1199 Union and 1199 Fund Claim shall receive such Distributions in accordance with the provisions set forth in Article IV of the Plan. Notwithstanding the foregoing, the Holder of a Contractually Subordinated 1199 Union or 1199 Fund Claim may receive such other less favorable treatment as may be agreed to by such Holder and the Liquidation Trustee.

Class 3.b is impaired and entitled to vote on the Plan.

e. Class 4 – Statutorily Subordinated Pension Claims - Class 4 consists of all Statutorily Subordinated Pension Claims against the Debtor.

Unless otherwise provided for pursuant to a Final Order, each Holder of a Statutorily Subordinated Pension Claim shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such Statutorily Subordinated Pension Claim, a beneficial interest in the Liquidation Trust as set forth in Article IV of the Plan. Each Holder of a Statutorily Subordinated Pension Claim shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such Statutorily Subordinated Pension Claims, *pro rata* distributions of the remaining Liquidation Trust Assets in the Distribution Fund after payment in full of all Contractually Subordinated 1199 Union and 1199 Fund claims, net of the Wind-Down Reserve until they receive 100% of the Allowed amounts of their Allowed Claims without interest.

¹ As a settlement in accordance with Bankruptcy Rule 9019, the Plan Proponents have agreed that the claim of Special Counsel, McCullough, Goldberger & Staudt, LLP, filed on July 12, 2017, and assigned Claim Number 317, is allowable as a Class 3.a claim in the amount of \$98,275.38.

The Plan Proponents estimate that no assets will be available for distribution to holders of allowed Statutorily Subordinated Pension Claims. Class 4 is impaired and entitled to vote on the Plan.

2. Treatment of Unclassified Administrative 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 set forth in the Plan.

a. Allowed Administrative Claims

i. *Treatment.* Subject to the Administrative Claim Bar Date provisions herein and unless otherwise provided for in the Plan or an order of the Bankruptcy Court, each Holder of an Allowed Administrative Claim shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Administrative Claim after the later of: (i) the Effective Date; (ii) the Allowance Date; and (iii) such date as is mutually agreed upon by the Liquidation Trustee, and the Holder of such Allowed Administrative Claim, either cash equal to the unpaid amount of such Allowed Administrative Claim, or such other less favorable treatment as to which the Liquidation Trustee, and the Holder of such Allowed Administrative Claim shall have agreed upon in writing.

ii. *Payment of Statutory Fees.* All fees payable pursuant to 28 U.S.C. § 1930 shall be paid in cash equal to the amount of such Administrative Claim when due.

iii. *Administrative Claim Bar Date.* Except as otherwise provided in the Plan, requests for payment of Administrative Claims for which no bar date has otherwise been previously established must be included in a motion or application filed and served no later than the Administrative Claims Bar Date, or be forever barred from asserting any such Administrative Claims against the Debtor, the Estate, the Liquidation Trustee, the Liquidation Trust or their property.

The Plan Proponents estimate that the total amount of Allowed Administrative Claims should not exceed approximately \$1,000,000.

b. Allowed Priority Tax Claims

Unless otherwise provided for pursuant to an order of the Bankruptcy Court, each Holder of an Allowed Priority Tax Claim due and payable on or prior to the Effective Date shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Priority Tax Claim after the later of: (i) the Effective Date; (ii) the Allowance Date; or (iii) such date as is mutually agreed upon by the Liquidation Trustee and the Holder of such Allowed Priority Tax Claim, either cash equal to the unpaid amount of such Allowed Priority Tax Claim,

or such other less favorable treatment as to which the Liquidation Trustee and the Holder of such Allowed Priority Tax Claim shall have agreed upon in writing.

The Plan Proponents do not anticipate that there will be material Allowed Priority Tax Claims.

3. Treatment of Executory Contracts and Unexpired Leases

a. Rejection of Executory Contracts and Unexpired Leases

Unless rejected or assumed by prior order of the Bankruptcy Court, each Executory Contract, other than the Executory Contracts related to the Joint Venture Transaction, shall be rejected as of the Confirmation Date (which rejection shall be effective on the Effective Date), and such rejected Executory Contracts shall no longer represent binding obligations of the Debtor or the Liquidation Trust after the Effective Date. Entry of the Confirmation Order shall constitute approval of such rejections under Sections 365 and 1123 of the Bankruptcy Code. For the avoidance of doubt, all agreements and documents related to the Joint Venture Transaction shall remain in full force and effect and shall not be deemed rejected.

b. Claims Based on Rejection of Executory Contracts and Unexpired Leases

Any Claim arising out of the rejection of an Executory Contract pursuant to the Confirmation Order or prior order of the Bankruptcy Court must be filed with the Bankruptcy Court on or before the Rejection Claim Bar Date. Any such Claims not filed by the Rejection Claim Bar Date is discharged and forever barred. Each Allowed Claim arising from the rejection of an Executory Contract shall be treated as an Allowed General Unsecured Claim.

c. Reservation of Rights

Neither the exclusion nor inclusion of any contract or lease on the Schedules, nor anything contained in this Plan, will constitute an admission that any such contract or lease is or is not in fact an Executory Contract or that the Debtor or the Liquidation Trustee has any liability under any such contract or lease. Nothing in this Plan will waive, excuse, limit, diminish, or otherwise alter any of the defenses, Claims, Rights of Action, or other rights of the Debtor or the Liquidation Trust under any Executory Contract or non-Executory Contract or any Unexpired Lease. Nothing in the Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor or the Liquidation Trustee under any Executory Contract or non-Executory Contract. For the avoidance of doubt, the agreements and documents related to the Joint Venture Transaction shall remain in full force and effect and shall not be deemed rejected.

4. Preservations of Rights of Action

2. Article IX of the Plan provides that, except as otherwise provided in the Plan or in any contract, instrument, release, or other agreement entered into in connection with the Plan, in accordance with Section 1123(b)(3) of the Bankruptcy Code, the Liquidation Trustee shall retain and have the exclusive right, authority, and discretion (without further notice to, or order of the

Bankruptcy Court) to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw, litigate to judgment, or exercise attorney/client privilege in relation to any and all Rights of Action that the Debtor or the Estate may hold against any Entity, whether arising before or after the Petition Date, including but not limited to Breach of Duty Claims against the Debtor's former and current directors, officers and professionals related to the Bridge Loan and any other improper transfers of assets of the Debtor prior to the Petition Date, and the powers and duties of a trustee under the Bankruptcy Code with respect to such Rights of Action. The Liquidation Trustee intends to conduct its own investigation of all Rights of Action after the Effective Date.

5. Exculpation and Release of Certain Parties

Article VIII of the Plan provides as follows:

Exculpation of the Debtor and Committee: To the extent permissible under the Bankruptcy Code: (i) the Debtor and its officers, directors, employees, agents, advisors, and/or professionals; and (ii) the Committee and its members and professionals, shall not have or incur any liability to any Holder of a Claim for any act, event, or omission from the Petition Date to the Effective Date relating to, connected with, or arising out of the Chapter 11 Case, Confirmation of this Plan, consummation of this Plan, administration of this Plan, or the assets and property to be distributed pursuant to this Plan and the Plan Documents, unless such Entity's action constitutes bad faith, gross negligence, willful misconduct, or actual fraud.

Article IV of the Plan provides as follows:

Exculpation of the Liquidation Trustee: To the extent permissible under the Bankruptcy Code, from and after the Effective Date, the Liquidation Trustee and its professionals shall be exculpated by the Estate and all Holders of Claims from any and all claims or causes of action and assertions of liability arising out of their performance of the duties conferred upon them by the Plan, the Liquidation Trust Agreement, or any orders of the Bankruptcy Court, except to the extent an act is deemed by Final Order to be bad faith, gross negligence, willful misconduct, or actual fraud. The Liquidation Trustee and his designees, partners, affiliates, employees, attorneys or professionals, or any of their duly designated agents or representatives shall not be personally liable for any claim asserted against any of them or the Liquidation Trust or for any actions taken or omitted in their capacity as, or on behalf of the Liquidation Trustee and/or the Liquidation Trust in furtherance of their responsibilities hereunder, except to the extent that their conduct is determined by a Final Order to be due to their own willful misconduct, gross negligence, fraud or self-dealing acts. Nothing in this provision shall be deemed to alter the provisions of the Liquidation Trust Agreement.

If the Plan is confirmed with this provision, parties in interest will lose whatever rights they may currently have to sue the identified parties for negligent acts occurring between the Petition Date and the Effective Date of the Plan. For purposes of clarity, the Plan does not exculpate the identified parties for actions or conduct occurring prior to the Petition Date.

Article IV of the Plan provides as follows:

Injunction Against the Liquidation Trustee, Liquidation Trust and Property of the Estate: EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN AND EXCEPT IN CONNECTION WITH THE ENFORCEMENT OF THE TERMS OF THIS PLAN OR ANY DOCUMENTS PROVIDED FOR UNDER THIS PLAN, ALL ENTITIES THAT HAVE, HOLD, OR MAY HOLD CLAIMS AGAINST THE DEBTOR OR THE ESTATE THAT AROSE PRIOR TO THE EFFECTIVE DATE ARE PERMANENTLY ENJOINED FROM COMMENCING OR CONTINUING IN ANY MANNER, DIRECTLY OR INDIRECTLY, ANY ACTION OR OTHER PROCEEDING OF ANY KIND AGAINST THE COVERED PERSONS WITH RESPECT TO ANY SUCH CLAIM, INCLUDING BUT NOT LIMITED TO THE ENFORCEMENT, ATTACHMENT, COLLECTION OR RECOVERY BY ANY MANNER OR MEANS, DIRECTLY OR INDIRECTLY, OF ANY JUDGMENT, AWARD, DECREE, OR ORDER, CREATING, PERFECTING OR ENFORCING, DIRECTLY OR INDIRECTLY, ANY LIEN OR ENCUMBRANCE OR ANY KIND AGAINST THE COVERED PERSONS OR ANY OF THEIR PROPERTY WITH RESPECT TO ANY SUCH CLAIM; AND ANY ACT, IN ANY MANNER, IN ANY PLACE WHATSOEVER, THAT DOES NOT CONFORM TO OR COMPLY WITH THE PROVISIONS OF THE PLAN WITH RESPECT TO SUCH CLAIM.

C. Means for Implementation of the Plan

1. Sources of Cash for Plan Distributions and Funding of Liquidation Trust

3. All cash necessary for the Liquidation Trustee to make Distributions under the Plan shall be from the cash proceeds of the Liquidation Trust Assets. On the Effective Date, the Debtor and the Estate shall be deemed to have transferred and/or assigned any and all assets of the Debtor and the Estate as of the Effective Date, including, without limitation and except as otherwise provided in the Plan: (i) cash and accounts, including, without limitation, any and all cash held in any general, escrow or segregated separate accounts during the pendency of the Chapter 11 Case, including but not limited to the Escrow Account; (ii) any and all accounts receivable; (iii) the Purchaser Note, (iv) the Debtor's membership interest in the Joint Venture Transaction; (v) proceeds from the Universal Settlement; (vi) all Rights of Action, including but not limited to the Breach of Duty Claims; and (vii) all other property interests, rights, claims, defenses and causes of action of the Debtor or Estate, to the beneficiaries of the Liquidation Trust followed by a deemed transfer by such beneficiaries to the Liquidation Trust, and such transferred assets shall be held by the Liquidation Trust free and clear of all Claims, Liens and contractually imposed restrictions, except for the rights to Distribution and the retention of Liens afforded to certain Holders of Allowed Secured Claims, solely to the extent and priority of any such Allowed Secured Claim under the Plan. In addition, the Plan Proponents have estimated and accounted for herein expenses

associated with the Liquidation Trust in the amount of \$150,000, which amount shall be available from cash on the Effective Date.

2. Corporate Action

4. The entry of the Confirmation Order shall constitute authorization for the Liquidation Trustee to take or cause to be taken all corporate actions necessary or appropriate to implement all provisions of, and to consummate, the Plan prior to, on and after the Effective Date and all such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Bankruptcy Court without further approval, act or action under any applicable law, order, rule or regulation, including, among other things: (i) all transfers of assets that are to occur pursuant to the Plan; (ii) the incurrence of all obligations contemplated by the Plan and the making of Distributions; (iii) the implementation of all settlements and compromises as set forth in or contemplated by the Plan; and (iv) the execution of any documents required for dissolving the Debtor, to the extent necessary. As of the Effective Date, the Liquidation Trustee is authorized and directed to do all things and to execute and deliver all agreements, documents, instruments, notices and certificates as are contemplated by the Plan and to take all necessary actions required in connection therewith, in the name of and on behalf of the Debtor and the Liquidation Trustee, as applicable.

3. Liquidation Trust

a. Creation of the Liquidation Trust and Appointment of the Liquidation Trustee

On the Effective Date, the Liquidation Trust shall be created pursuant to the Liquidation Trust Agreement, into which all assets of the Debtor and Estate existing as of the Effective Date shall be transferred and become vested pursuant to and in accordance with the terms of the Plan. Cash from the Debtor's debtor-in-possession bank accounts and the Escrow Account shall be transferred to a Liquidation Trust account established at a financial institution designated by the U.S. Trustee as an approved depository for bankruptcy funds. The Liquidation Trust shall operate under the provisions of the Liquidation Trust Agreement. The Liquidation Trust shall be administered by the Liquidation Trustee. Alan D. Halperin shall be and is appointed as the initial Liquidation Trustee on the Effective Date and shall be compensated and otherwise bound by the terms of the Liquidation Trust Agreement, without further order of the Bankruptcy Court. The Plan will be administered and actions will be taken in the name of the Debtor or Liquidation Trust, as appropriate, through the Liquidation Trustee, irrespective of whether the Debtor has been dissolved. The Liquidation Trust Agreement shall be deemed approved and effective on the Effective Date, subject to execution by the Liquidation Trustee and the Debtor. The Liquidation Trust Agreement is attached to the Disclosure Statement as **Exhibit "B."**

b. Property of the Liquidation Trust

All cash necessary for the Liquidation Trustee to make Distributions under the Plan shall be from the cash proceeds of the Liquidation Trust Assets. On the Effective Date, the Debtor and the Estate shall be deemed to have transferred and/or assigned any and all assets of the Debtor and the Estate as of the Effective Date, including, without limitation and except as otherwise

provided in the Plan: (i) cash and accounts, including, without limitation, any and all cash held in any general, escrow or segregated separate accounts during the pendency of the Chapter 11 Case, including but not limited to the Escrow Account; (ii) any and all accounts receivable; (iii) the Purchaser Note, (iv) the Debtor's membership interest in the Joint Venture Transaction; (v) proceeds from the Universal Settlement; (vi) all Rights of Action, including but not limited to the Breach of Duty Claims; and (vii) all other property, rights, claims, defenses and causes of action of the Debtor or Estate, to the beneficiaries of the Liquidation Trust followed by a deemed transfer by such beneficiaries to the Liquidation Trust, and such transferred assets shall be held by the Liquidation Trust free and clear of all Claims, Liens and contractually imposed restrictions, except for the rights to Distribution and the retention of Liens afforded to certain Holders of Allowed Secured Claims, solely to the extent and priority of any such Allowed Secured Claim under the Plan.

c. Liquidation Trustee

The salient terms of the Liquidation Trustee's employment, including the Liquidation Trustee's duties and compensation, to the extent not set forth in the Plan, shall be set forth in the Liquidation Trust Agreement. In general, the Liquidation Trustee shall be the exclusive trustee of the Liquidation Trust for the purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to Section 1123(b)(3)(B) of the Bankruptcy Code. The Liquidation Trust Agreement shall specify the terms and conditions of the Liquidation Trustee's compensation, responsibilities and powers. **The Liquidation Trustee is a lawyer licensed to practice law in the State of New York and will not be bonded.**

More details regarding the terms of service of the Liquidation Trustee, including the duties and powers of the Liquidation Trustee, exculpation of the Liquidation Trustee, and other information are set forth in Article IV of the Plan and in the Liquidation Trust Agreement. The duties and powers of the Liquidation Trustee, shall generally include, without limitation, the following:²

- (i) hold legal title to any and all rights of the Debtor and the Beneficiaries in or arising from the Liquidation Trust Assets, including, but not limited to, collecting any and all money and other property belonging to the Liquidation Trust and the right to vote any claim or interest in a case under the Bankruptcy Code and receive any distribution thereon;
- (ii) perform the duties, exercise the powers, and assert the rights of a trustee under Sections 704(a)(1), (2), (5) and (9) and 1106(a)(6) and (7) of the Bankruptcy Code with respect to the Liquidation Trust Assets and assert all rights of the Debtor's estate under Section 558 of the Bankruptcy Code;
- (iii) protect and enforce the rights to the Liquidation Trust Assets by any method deemed appropriate including, without limitation, by judicial proceedings or pursuant to

² In the case of a conflict between the Liquidation Trust Agreement and the Plan, the Liquidation Trust Agreement shall control.

any applicable bankruptcy, insolvency, moratorium, or similar law and general principles of equity in accordance with Section 1123(b)(3)(B) of the Bankruptcy Code;

(iv) engage in, intervene in, join, compromise, object to, adjust, release, arbitrate, sue on or defend, counterclaim, setoff, recoup, pursue, prosecute, abandon, or otherwise deal with and settle any actions, suits, proceedings, disputes, claims, controversies, demands, causes of action, or other litigation in favor of or against the Liquidation Trust, to enter into agreements relating to the foregoing, whether or not any suit is commenced or claim accrued or asserted and, in advance of any controversy, to enter into agreements regarding arbitration, adjudication or settlement thereof, all in the name of the Liquidation Trust if necessary or appropriate, and institute or continue actions which were or otherwise could have been brought by any or all of the Debtors that constitute Liquidation Trust Assets, and prosecute or defend all litigation or appeals that are Liquidation Trust Assets on behalf of the Debtors and, when appropriate, settle such actions and claims, in each case as the Trustee shall deem advisable;

(v) determine and satisfy any and all liabilities created, incurred or assumed by the Liquidation Trust, subject to the terms of the Trust Agreement;

(vi) make all distributions to Beneficiaries provided for in, or contemplated by, the Plan and Trust Agreement;

(vii) file, if necessary, any and all tax and information returns with respect to the Liquidation Trust and pay taxes properly payable by the Liquidation Trust, if any;

(viii) assert or waive any privilege or defense on behalf of the Liquidation Trust;

(ix) pay all expenses and make all other payments relating to the Liquidation Trust Assets, including the liquidation and distribution thereof;

(x) obtain insurance coverage with respect to the liabilities and obligations of the Trustee under this Trust Agreement (in the form of, among other things, an errors and omissions policy or otherwise) and indemnification for the Trustee and others as provided for in the Plan and the Trust Agreement;

(xi) retain and pay such law firms as counsel to the Liquidation Trust and the Trustee, as the Trustee may select, to perform such functions as may be appropriate in the Trustee's discretion. The Trustee may commit the Liquidation Trust to and shall pay such law firms reasonable compensation for services rendered and expenses incurred. The Trustee may retain counsel on a *nunc pro tunc* basis to a date prior to the Effective Date;

(xii) retain and pay an independent public accounting firm to perform such reviews and/or audits of the financial books and records of the Liquidation Trust as may be appropriate in the Trustee's discretion, and to prepare and file any tax returns or informational returns for the Liquidation Trust as may be required in accordance with the Trust Agreement. The Trustee may retain an independent accounting firm on a *nunc pro*

tunc basis to the Effective Date. The Trustee may commit the Liquidation Trust to and shall pay such independent public accounting firm reasonable compensation for services rendered and expenses incurred;

(xiii) retain and pay such third parties as the Trustee, in its discretion, may deem necessary or appropriate to assist the Trustee in carrying out its powers and duties under the Trust Agreement. The Trustee may commit the Liquidation Trust to and shall pay all such persons or entities reasonable compensation for services rendered and expenses incurred, as well as commit the Liquidation Trust to indemnify any such parties in connection with the performance of services, on a *nunc pro tunc* basis to the Effective Date;

(xiv) invest any moneys held as part of the Liquidation Trust (including any earnings thereon or proceeds therefrom) subject Treasury Regulations, IRS rulings, guidelines or other pronouncements relating to “liquidating trusts”;

(xv) request any appropriate tax determination with respect to the Liquidation Trust, including, without limitation, a determination pursuant to Section 505 of the Bankruptcy Code;

(xvi) to open and maintain bank accounts and deposit funds, draw checks and make disbursements in accordance with the Plan and Trust Agreement;

(xvii) to enforce, waive, assign or release rights, privileges or immunities of any kind;

(xviii) to seek any relief from, or resolution of, any disputes by the Bankruptcy Court;

(xix) to appear and participate in any proceeding before the Bankruptcy Court with respect to any matter regarding or relating to the Plan (insofar as it affects the Liquidation Trust or the Liquidation Trust Assets) or the Liquidation Trust;

(xx) without limitation, to do any and all things necessary to accomplish the purposes of the Plan and Trust Agreement; and

(xxi) file any and all documents and take or refrain from taking any and all actions the Trustee reasonably deems necessary for the continuation, protection, distribution, liquidation, and maximization of the Liquidation Trust Assets consistent with the purposes of the Liquidation Trust.

VI. RECOVERY ANALYSIS AND ALTERNATIVES TO THE PLAN

The Plan Proponents have determined that the Plan is the most practical means of providing maximum recoveries to creditors. An alternative to the Plan which has been considered and evaluated by the Plan Proponents during the course of the Chapter 11 Case is a liquidation of the Debtor's assets under chapter 7 of the Bankruptcy Code. After thorough consideration of this alternative, the Plan Proponents have concluded that the Plan, in comparison, provides a greater recovery to creditors on a more expeditious timetable, and in a manner that minimizes inherent risks in any other course of action available to the Debtor.

A. Recovery Analysis

Under the Plan, Allowed Administrative Claims, Allowed Priority Tax Claims, Priority Non-Tax Claims, Secured Claims (to the extent any of the foregoing exist), and General Unsecured Claims will be paid in cash in full (without interest). Important variables affecting the distributions to holders of Contractually Subordinated 1199 Union or 1199 Fund Claims include the success of the Liquidation Trustee's efforts to collect the Purchaser Notes and sell interests in the Joint Venture.

Under the Plan, Holders of Contractually Subordinated 1199 Union or 1199 Fund Claims will each receive a beneficial interest in the Liquidation Trust. The Liquidation Trust will receive the Liquidation Trust Assets, which include any cash, the Escrow Amount and any other account balances and deposits, the Purchaser Note, the CON and/or any and all rights and interests in the Joint Venture Transactions, all Rights of Action and the liquidation of property of the Estate by the Liquidation Trustee.

As set forth on the Plan Proponents' estimated distribution analysis attached hereto as **Exhibit "C,"** the Plan Proponents anticipate that General Unsecured Claims will be paid in full, without interest, and there will be approximately \$5,000,000–7,000,000 of cash available for distribution to Holders of Contractually Subordinated 1199 Union or 1199 Fund Claims through the Liquidation Trust assuming collection of the Purchaser Note and liquidation of the Debtor's interest in the Joint Venture Transaction consistent with the current terms.

B. Certain Risk Factors

Both confirmation and consummation of the Plan are subject to a number of risks. Specifically, if certain standards set forth in the Bankruptcy Code are not met, the Bankruptcy Court will not confirm the Plan even if Holders of Claims accept the Plan. Although the Plan Proponents believe that the Plan meets these standards, there can be no assurance that the Bankruptcy Court will reach the same conclusion. In addition, if the Plan Proponents are not able to resolve objections to the Plan, if any, the Plan Proponents may not be able to confirm the Plan. In the event that the Plan is not confirmed or the Chapter 11 Case is converted to a case under chapter 7 of the Bankruptcy Code, the Plan Proponents believe that such action will cause the Debtor to incur substantial expenses and will otherwise serve only to negatively affect creditors' recoveries on their Claims.

C. Alternative Chapter 11 Plan

If the Plan is not confirmed, the Debtor or any other party with claims may attempt to formulate an alternative chapter 11 plan that might provide for the liquidation of the Debtor's assets other than as provided in the Plan. Any attempt to formulate an alternative chapter 11 plan would necessarily delay creditors' receipt of distributions and due to the incurrence of additional administrative expenses during such period of delay, may ultimately provide for smaller distributions to Holders of Allowed Claims than are currently provided for in the Plan. Accordingly, the Plan Proponents believe that confirmation of the Plan will enable all creditors entitled to distributions to realize the greatest possible recovery on its respective Claims with the least possible delay.

D. Liquidation Under Chapter 7 of the Bankruptcy Code

If the Plan or any other chapter 11 plan for the Debtor cannot be confirmed under Section 1129(a) of the Bankruptcy Code, the Chapter 11 Case may be converted to a case under chapter 7 of the Bankruptcy Code. In that case, a trustee would be elected or appointed to liquidate any remaining assets of the Debtor for distribution to creditors pursuant to chapter 7 of the Bankruptcy Code. If a trustee is appointed and the remaining assets of the Debtor are liquidated under chapter 7 of the Bankruptcy Code, the Plan Proponents believe that all creditors holding Allowed Administrative Claims, Allowed Priority Tax Claims, Priority Non-Tax Claims and General Unsecured Claims may receive distributions of a lesser value on account of their Allowed Claims and likely would have to wait a longer period of time to receive such distributions than they would under the Plan. Additionally, the Debtor's chances for realizing the value from the Joint Venture Transaction would be jeopardized. The Plan Proponents' estimated distribution analysis is attached hereto as **Exhibit "C."** In addition, a chapter 7 trustee, who would lack the Debtor's knowledge of its affairs, would be required to invest substantial time and resources to investigate the facts underlying the multitude of Claims filed against the Estate.

VII. CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

All holders of claims are urged to consult their own tax advisors for the federal, state, local, estate, gift, foreign and other tax consequences applicable under the Plan, including concerning the allocation of consideration received in satisfaction of their claims and the Federal income tax treatment of accrued but unpaid interest.

IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by IRS Circular 230, holders of claims are hereby notified that: (i) any discussion of federal tax issues contained or referred to in this Disclosure Statement (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code; (ii) such discussion is written in connection with the promotion or marketing of the transactions or matters addressed herein; and (iii) holders of claims and interests should seek advice based on their particular circumstances from an independent tax advisor.

The Debtor and/or the Liquidation Trustee will withhold all amounts required by law to be withheld from payments of interest and dividends. The Debtor and/or the Liquidation Trustee will

comply with all applicable reporting requirements of the Internal Revenue Code. In general, information reporting requirements may apply to distributions or payments under the Plan. Additionally, under the backup withholding rules, a holder of a claim may be subject to backup withholding with respect to distributions or payments made pursuant to the Plan, unless that holder complies with the applicable requirements of the backup withholding rules and: (i) comes within certain exempt categories (which generally include corporations) and, when required, demonstrates that fact; or (ii) provides a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the holder is not subject to backup withholding because of a failure to report all dividend and interest income. Backup withholding is not an additional tax but is, instead, an advance payment that may be refunded to the extent it results in an overpayment of tax; *provided however* that the required information is provided to the IRS.

In addition, from an information reporting perspective, the Treasury Regulations generally require disclosure by a taxpayer on its United States federal income tax return of certain types of transactions in which the taxpayer participated, including, among other types of transactions, certain transactions that result in the taxpayer's claiming a loss in excess of specified thresholds. Holders are urged to consult their tax advisors regarding these regulations and the transactions contemplated by the Plan.

VIII. CONCLUSION

This Disclosure Statement has provided information regarding Debtor's bankruptcy estate and potential benefits that might accrue to Holders of Claims against the Debtor under the Plan as proposed. The Plan provides for the orderly liquidation of the Debtor's remaining assets and the distribution of the proceeds in accordance with the priority scheme established by the Bankruptcy Code. The Plan Proponents submit that the Plan complies in all respects with chapter 11 of the Bankruptcy Code and recommends to Holders of Claims who are entitled to vote on the Plan that they vote to accept the Plan.

The Plan Proponents remind such Holders that, to be counted, each Ballot, signed and marked to indicate the Holder's vote must be received by the Debtor's Voting Agent no later than 5:00 p.m. (EST) on October 20, 2017.

Dated: August 10, 2017

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EXHIBIT A

Plan

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

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

IN RE:

HHH CHOICES HEALTH PLAN, LLC, *et al.*,

Debtors.

Chapter 11

Case No. 15-11158-MEW

Case No. 15-13264

Case No. 16-10028

(Jointly Administered)

-----X

**JOINT CHAPTER 11 PLAN OF LIQUIDATION FOR
HEBREW HOSPITAL HOME OF WESTCHESTER, INC. PROPOSED BY THE
DEBTOR AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

Dated: August 10, 2017

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INTRODUCTION

- Hebrew Hospital Home of Westchester, Inc. (the “**Debtor**” or “**HHHW**”) and the Official Committee of Unsecured Creditors for the Debtor (the “**Committee**”), respectfully submit this Joint Plan of Liquidation (the “**Plan**”) under Chapter 11 of the United States Bankruptcy Code (the “**Bankruptcy Code**”) pursuant to 11 U.S.C. § 1121(a) of the Bankruptcy Code for the resolution of the Debtor’s outstanding creditor claims. Reference is made to the accompanying Disclosure Statement for the Joint Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc. (the “**Disclosure Statement**”) for a summary and description of the Plan and certain related matters.

- The Plan contemplates the creation of a Liquidation Trust to liquidate the remaining assets of the Debtor’s Estate and to coordinate distribution of the cash in the Estate and any other proceeds of liquidation to holders of Allowed Claims.

- ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. No materials, other than the Disclosure Statement and any exhibits and schedules attached thereto or referenced therein, have been approved for use in soliciting acceptances or rejections of the Plan.

All capitalized terms not defined elsewhere in the Plan shall have the meaning assigned to them in the Glossary of Defined Terms attached hereto as Exhibit “A,” Bankruptcy Code, and Bankruptcy Rules.

ARTICLE I. TREATMENT OF UNCLASSIFIED ADMINISTRATIVE 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 set forth in the Plan.

A. Allowed Administrative Claims:

1. General: Subject to the Administrative Claim Bar Date provisions herein and unless otherwise provided for in the Plan or an order of the Bankruptcy Court, each Holder of an Allowed Administrative Claim shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Administrative Claim after the later of: (i) the Effective Date; (ii) the Allowance Date; and (iii) such date as is mutually agreed upon by the Liquidation Trustee, and the Holder of such Allowed Administrative Claim, either cash equal to the unpaid amount of such Allowed Administrative Claim, or such other less favorable treatment as to which the Liquidation Trustee, and the Holder of such Allowed Administrative Claim shall have agreed upon in writing.

2. Payment of Statutory Fees: All fees payable pursuant to 28 U.S.C. § 1930 shall be paid in cash equal to the amount of such Administrative Claim when due.

3. Administrative Claims Bar Date: Except as otherwise provided in this section of the Plan, requests for payment of Administrative Claims for which no bar date has otherwise been previously established must be included in a motion or application filed and served no later than the Administrative Claims Bar Date, or be forever barred from asserting any such Administrative Claims against the Debtor, the Estate, the Liquidation Trustee, the Liquidation Trust or their property.

B. Allowed Priority Tax Claims: Unless otherwise provided for pursuant to an order of the Bankruptcy Court, each Holder of an Allowed Priority Tax Claim due and payable on or prior to the Effective Date shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Priority Tax Claim after the later of: (i) the Effective Date; (ii) the Allowance Date; or (iii) such date as is mutually agreed upon by the Liquidation Trustee and the Holder of such Allowed Priority Tax Claim, either cash equal to the unpaid amount of such Allowed Priority Tax Claim, or such other less favorable treatment as to which the Liquidation Trustee and the Holder of such Allowed Priority Tax Claim shall have agreed upon in writing.

ARTICLE II. CLASSIFICATION OF CLAIMS

A. Classification of Claims: Pursuant to Section 1122 of the Bankruptcy Code, a Claim is placed in a particular Class for purposes of voting on the Plan and receiving Distributions under the Plan only to the extent: (i) the Claim qualifies within the description of that Class; (ii) the Claim is an Allowed Claim in that Class; and (iii) the Claim has not been paid, released, or otherwise compromised before the Effective Date. In accordance with Section 1123(a)(1) of the Bankruptcy Code, all Claims except Administrative Claims and Priority Tax Claims are classified in the Classes set forth below. Because the Debtor is a not-for-profit entity it does not have shareholders, and therefore, there is no class of interests.

1. Class 1 – Secured Claims: Class 1 shall consist of all Allowed Secured Claims against the Debtor.

2. Class 2 – Priority Non-Tax Claims: Class 2 consists of all Allowed Priority Non-Tax Claims against the Debtor.

3. Class 3.a – General Unsecured Claims: Class 3.a consists of Allowed General Unsecured Claims against the Debtor.

4. Class 3.b – Contractually Subordinated Pension Claims: Class 3.b consists of all Contractually Subordinated 1199 Union and 1199 Fund Claims against the Debtor.

5. Class 4 – Statutorily Subordinated Pension Claims: Class 4 consists of all Statutorily Subordinated Pension Claims against the Debtor.

B. Unimpaired Classes: Classes 1 and 2 are Unimpaired under the Plan. Under Section 1126(f) of the Bankruptcy Code, holders of Claims in Classes 1 and 2 are conclusively presumed to have accepted the Plan and are therefore not entitled to vote to accept or reject the Plan.

C. Impaired, Voting Classes: Classes 3.a, 3.b and 4 are Impaired under the Plan. Under Section 1126(f) of the Bankruptcy Code, holders of Claims in Classes 3.a, 3.b and 4 are entitled to vote to accept or reject the Plan.

D. Acceptance or Rejection of the Plan.

1. Voting and Acceptance by Impaired Classes of Claims: Each Impaired, Voting Class is entitled to vote separately to accept or reject the Plan. An Impaired, Voting Class of Claims has accepted the Plan if the Holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims in such Class actually voting have voted to accept the Plan.

2. Voting of Disputed Claims: A Holder of a Disputed Claim that has not been temporarily allowed for purposes of voting on the Plan may vote only such Disputed Claim in an amount equal to the portion, if any, of such Claim shown as fixed, liquidated, and undisputed in the Schedules.

3. Cramdown: If the Bankruptcy Court determines that all applicable requirements of Section 1129(a) of the Bankruptcy Code are met, with the exception of Section 1129(a)(8) of the Bankruptcy Code, the Plan shall be treated as a request by the Committee for Confirmation of the Plan in accordance with Section 1129(b) of the Bankruptcy Code, notwithstanding the failure to satisfy the requirements of Section 1129(a)(8) of the Bankruptcy Code, on the basis that the Plan is fair and equitable and does not discriminate unfairly with respect to each Class of Claims that is impaired under, and has not accepted, the Plan.

ARTICLE III. TREATMENT OF CLASSIFIED CLAIMS

A. Treatment of Class 1 – Secured Claims: Unless otherwise provided for pursuant to a Final Order, each Holder of a Secured Claim shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such Secured Claim as soon as practicable after the later of: (i) the Effective Date; (ii) the Allowance Date; and (iii) such date as is mutually agreed upon by the Liquidation Trustee and the Holder of a Secured Claim, either cash equal to the unpaid portion of such Secured Claim to the extent Allowed, or such other treatment as may be agreed to by the Liquidation Trustee, as applicable, and the Holder of such Secured Claim. The Holder of a Secured Claim shall retain its Liens on applicable collateral to the same extent and priority previously held, notwithstanding the transfer of such collateral into the Liquidation Trust, until the earlier of either: (i) its Secured Claim has been Allowed and paid in accordance with this provision of the Plan; or (ii) its Secured Claim has been Disallowed. The Holder of a Secured Claim shall not be entitled to foreclose such Lien absent a Final Order of the Bankruptcy Court.

B. Treatment of Class 2 – Priority Non-Tax Claims: Unless otherwise provided for pursuant to a Final Order, each Holder of a Priority Non-Tax Claim shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such Priority Non-Tax Claim as soon as practicable after the later of: (i) the Effective Date; (ii) the Allowed Date; and (iii) such date as is mutually agreed upon by the Liquidation Trustee and the Holder of such Priority Non-Tax

Claim, either cash equal to the unpaid amount of such Priority Non-Tax Claim to the extent Allowed, or such other less favorable treatment as to which the Liquidation Trustee and the Holder of such Priority Non-Tax Claims shall have agreed upon in writing.

C. Treatment of Class 3.a – General Unsecured Claims: Unless otherwise provided for pursuant to a Final Order, each Holder of a General Unsecured Claim shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such General Unsecured Claim, a beneficial interest in the Liquidation Trust as set forth in Article IV hereof entitling such Holder to receive on account of such Claims *pro rata* Distributions from the Distribution Fund as funds become available in the sole discretion of the Liquidation Trustee after payment of all Administrative Claims, Priority Tax Claims, Secured Claims and Priority Non-Tax Claims and net of the Wind-Down Reserve until they receive 100% of the Allowed amounts of their Allowed Claims without interest. Each Holder of General Unsecured Claims shall receive such Distributions in accordance with the provisions set forth in Article IV hereof. Notwithstanding the foregoing, the Holder of a General Unsecured Claim may receive such other less favorable treatment as may be agreed to by such Holder and the Liquidation Trustee.

D. Treatment of Class 3.b – Contractually Subordinated 1199 Union or 1199 Fund Claims: As provided for in, and consistent with the terms of, the Global Settlement, unless otherwise provided for pursuant to a Final Order, each Holder of a Contractually Subordinated 1199 Union or 1199 Fund Claim shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such Contractually Subordinated 1199 Union or 1199 Fund Claim, a beneficial interest in the Liquidation Trust as set forth in Article IV hereof, entitling such Holder to receive on account of such Claims, *pro rata* Distributions from the Distribution Fund as funds become available in the sole discretion of the Liquidation Trustee after payment in full of all General Unsecured Claims in accordance with Article IV of this Plan and net of the Wind-Down Reserve until they receive 100% of the Allowed amounts of their Allowed Claims without interest. Each Holder of a Contractually Subordinated 1199 Union and 1199 Fund Claim shall receive such Distributions in accordance with the provisions set forth in Article IV hereof. Notwithstanding the foregoing, the Holder of a Contractually Subordinated 1199 Union or 1199 Fund Claim may receive such other less favorable treatment as may be agreed to by such Holder and the Liquidation Trustee.

E. Treatment of Class 4 – Statutorily Subordinated Pension Claims: Unless otherwise provided for pursuant to a Final Order, each Holder of a Statutorily Subordinated Pension Claim shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such Statutorily Subordinated Pension Claim, a beneficial interest in the Liquidation Trust as set forth in Article IV hereof. Each Holder of a Statutorily Subordinated Pension Claim shall receive in full satisfaction, settlement, release, and discharge of, and in exchange for, such Statutorily Subordinated Pension Claims, *pro rata* distributions of the remaining Liquidation Trust Assets in the Distribution Fund after payment in full of all Contractually Subordinated 1199 Union and 1199 Fund claims, net of the Wind-Down Reserve until they receive 100% of the Allowed amounts of their Allowed Claims without interest.

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

A. Creation of the Liquidation Trust and Appointment of the Liquidation Trustee: On the Effective Date, the Liquidation Trust shall be created pursuant to the Liquidation Trust Agreement, into which all assets of the Debtor and Estate existing as of the Effective Date shall be transferred and become vested pursuant to and in accordance with the terms of this Plan. Cash from the Debtor's debtor-in-possession bank accounts and the Escrow Account shall be transferred to a Liquidation Trust account established at a financial institution designated by the U.S. Trustee as an approved depository for bankruptcy funds. The Liquidation Trust shall operate under the provisions of the Liquidation Trust Agreement. The Liquidation Trust shall be administered by the Liquidation Trustee. Alan D. Halperin shall be and is appointed as the initial Liquidation Trustee on the Effective Date and shall be compensated and otherwise bound by the terms of the Liquidation Trust Agreement, without further order of the Bankruptcy Court. The Plan will be administered and actions will be taken in the name of the Debtor or Liquidation Trust, as appropriate, through the Liquidation Trustee, irrespective of whether the Debtor has been dissolved. The Liquidation Trust Agreement shall be deemed approved and effective on the Effective Date, subject to execution by the Liquidation Trustee and the Debtor. The Liquidation Trust Agreement is attached to the Disclosure Statement as Exhibit "B."

B. Property of the Liquidation Trust and Plan Distributions: All cash necessary for the Liquidation Trustee to make Distributions under the Plan shall be from the cash proceeds of the Liquidation Trust Assets. On the Effective Date, the Debtor and the Estate shall be deemed to have transferred and/or assigned any and all assets of the Debtor and the Estate as of the Effective Date, including, without limitation and except as otherwise provided in the Plan: (i) cash and accounts, including, without limitation, any and all cash held in any general, escrow or segregated separate accounts during the pendency of the Chapter 11 Case, including but not limited to the Escrow Account; (ii) any and all accounts receivable; (iii) the Purchaser Note, (iv) the Debtor's membership interest in the Joint Venture Transaction; (v) proceeds from the Universal Settlement; (vi) all Rights of Action, including but not limited to the Breach of Duty Claims; and (vii) all other property interests, rights, claims, defenses and causes of action of the Debtor or Estate, to the beneficiaries of the Liquidation Trust followed by a deemed transfer by such beneficiaries to the Liquidation Trust, and such transferred assets shall be held by the Liquidation Trust free and clear of all Claims, Liens and contractually imposed restrictions, except for the rights to Distribution and the retention of Liens afforded to certain Holders of Allowed Secured Claims, solely to the extent and priority of any such Allowed Secured Claim under the Plan.

C. Corporate Action: The entry of the Confirmation Order shall constitute authorization for the Liquidation Trustee to take or cause to be taken all corporate actions necessary or appropriate to implement all provisions of, and to consummate, the Plan prior to, on and after the Effective Date and all such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Bankruptcy Court without further approval, act or action under any applicable law, order, rule or regulation, including, among other things: (i) all transfers of assets that are to occur pursuant to the Plan; (ii) the incurrence of all obligations contemplated by the Plan and the making of Distributions; (iii) the implementation of all settlements and compromises as set forth in or contemplated by the Plan; and (iv) the execution of any documents required for dissolving the Debtor, to the extent necessary. As of the Effective Date, the Liquidation Trustee is authorized

and directed to do all things and to execute and deliver all agreements, documents, instruments, notices and certificates as are contemplated by the Plan and to take all necessary actions required in connection therewith, in the name of and on behalf of the Debtor and the Liquidation Trustee, as applicable.

D. Dissolution of the Debtor: On the Effective Date, the Debtor shall be deemed dissolved and all board members shall be deemed discharged of all further obligations and duties thereunder. No other actions or filings or payments shall be required in furtherance of such dissolution. The Liquidation Trust shall succeed to all privileges and rights of the Debtor, including with respect to Rights of Action, and shall own and be entitled to pursue any and all Rights of Action belonging to the Debtor and seek any and all legal or equitable remedies available to the Debtor. On the Effective Date, the Liquidation Trust shall be deemed to be a representative of the Debtor's Estate within the meaning of section 1123(b)(3) of the Bankruptcy Code and a successor to the Debtor solely with respect to the Rights of Action and shall have those powers and duties set forth in §§ 323, 704(1), 704(2), 704(5), 704(9), 1106(a)(6) and 1106(a)(7) of the Bankruptcy Code.

E. Liquidation Trustee: The salient terms of the Liquidation Trustee's employment, including the Liquidation Trustee's duties and compensation, to the extent not set forth in the Plan, shall be set forth in the Liquidation Trust Agreement. In general, the Liquidation Trustee shall be the exclusive trustee of the Liquidation Trust for the purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to Section 1123(b)(3)(B) of the Bankruptcy Code. The Liquidation Trust Agreement shall specify the terms and conditions of the Liquidation Trustee's compensation, responsibilities and powers. The Liquidation Trustee is a lawyer licensed to practice law in the State of New York and will not be bonded. The duties and powers of the Liquidation Trustee, shall generally include, without limitation, the following:¹

(i) hold legal title to any and all rights of the Debtor and the Beneficiaries in or arising from the Liquidation Trust Assets, including, but not limited to, collecting any and all money and other property belonging to the Liquidation Trust and the right to vote any claim or interest in a case under the Bankruptcy Code and receive any distribution thereon;

(ii) perform the duties, exercise the powers, and assert the rights of a trustee under Sections 704(a)(1), (2), (5) and (9) and 1106(a)(6) and (7) of the Bankruptcy Code with respect to the Liquidation Trust Assets and assert all rights of the Debtor's estate under section 558 of the Bankruptcy Code;

(iii) protect and enforce the rights to the Liquidation Trust Assets by any method deemed appropriate including, without limitation, by judicial proceedings or pursuant to any applicable bankruptcy, insolvency, moratorium, or similar law and general principles of equity in accordance with Section 1123(b)(3)(B) of the Bankruptcy Code;

¹ In the case of a conflict between the Liquidation Trust Agreement and the Plan, the Liquidation Trust Agreement shall control.

(iv) engage in, intervene in, join, compromise, object to, adjust, release, arbitrate, sue on or defend, counterclaim, setoff, recoup, pursue, prosecute, abandon, or otherwise deal with and settle any actions, suits, proceedings, disputes, claims, controversies, demands, causes of action, or other litigation in favor of or against the Liquidation Trust, to enter into agreements relating to the foregoing, whether or not any suit is commenced or claim accrued or asserted and, in advance of any controversy, to enter into agreements regarding arbitration, adjudication or settlement thereof, all in the name of the Liquidation Trust if necessary or appropriate, and institute or continue actions which were or otherwise could have been brought by any or all of the Debtors that constitute Liquidation Trust Assets, and prosecute or defend all litigation or appeals that are Liquidation Trust Assets on behalf of the Debtors and, when appropriate, settle such actions and claims, in each case as the Trustee shall deem advisable;

(v) determine and satisfy any and all liabilities created, incurred or assumed by the Liquidation Trust, subject to the terms of the Trust Agreement;

(vi) make all distributions to Beneficiaries provided for in, or contemplated by, the Plan and Trust Agreement;

(vii) file, if necessary, any and all tax and information returns with respect to the Liquidation Trust and pay taxes properly payable by the Liquidation Trust, if any;

(viii) assert or waive any privilege or defense on behalf of the Liquidation Trust;

(ix) pay all expenses and make all other payments relating to the Liquidation Trust Assets, including the liquidation and distribution thereof;

(x) obtain insurance coverage with respect to the liabilities and obligations of the Trustee under this Trust Agreement (in the form of, among other things, an errors and omissions policy or otherwise) and indemnification for the Trustee and others as provided for in this Plan and the Trust Agreement;

(xi) retain and pay such law firms as counsel to the Liquidation Trust and the Trustee, as the Trustee may select, to perform such functions as may be appropriate in the Trustee's discretion. The Trustee may commit the Liquidation Trust to and shall pay such law firms reasonable compensation for services rendered and expenses incurred. The Trustee may retain counsel on a *nunc pro tunc* basis to a date prior to the Effective Date;

(xii) retain and pay an independent public accounting firm to perform such reviews and/or audits of the financial books and records of the Liquidation Trust as may be appropriate in the Trustee's discretion, and to prepare and file any tax returns or informational returns for the Liquidation Trust as may be required in accordance with the Trust Agreement. The Trustee may retain an independent accounting firm on a *nunc pro tunc* basis to the Effective Date. The Trustee may commit the Liquidation Trust to and shall pay such independent public accounting firm reasonable compensation for services rendered and expenses incurred;

(xiii) retain and pay such third parties as the Trustee, in its discretion, may deem necessary or appropriate to assist the Trustee in carrying out its powers and duties under the Trust Agreement. The Trustee may commit the Liquidation Trust to and shall pay all such persons or entities reasonable compensation for services rendered and expenses incurred, as well as commit the Liquidation Trust to indemnify any such parties in connection with the performance of services, on a *nunc pro tunc* basis to the Effective Date;

(xiv) invest any moneys held as part of the Liquidation Trust (including any earnings thereon or proceeds therefrom) subject Treasury Regulations, IRS rulings, guidelines or other pronouncements relating to “liquidating trusts”;

(xv) request any appropriate tax determination with respect to the Liquidation Trust, including, without limitation, a determination pursuant to Section 505 of the Bankruptcy Code;

(xvi) to open and maintain bank accounts and deposit funds, draw checks and make disbursements in accordance with the Plan and Trust Agreement;

(xvii) to enforce, waive, assign or release rights, privileges or immunities of any kind;

(xviii) to seek any relief from, or resolution of, any disputes by the Bankruptcy Court;

(xix) to appear and participate in any proceeding before the Bankruptcy Court with respect to any matter regarding or relating to the Plan (insofar as it affects the Liquidation Trust or the Liquidation Trust Assets) or the Liquidation Trust;

(xx) without limitation, to do any and all things necessary to accomplish the purposes of the Plan and Trust Agreement; and

(xxi) file any and all documents and take or refrain from taking any and all actions the Trustee reasonably deems necessary for the continuation, protection, distribution, liquidation, and maximization of the Liquidation Trust Assets consistent with the purposes of the Liquidation Trust.

F. Exculpation of the Liquidation Trustee: To the extent permissible under the Bankruptcy Code, from and after the Effective Date, the Liquidation Trustee and its professionals shall be exculpated by the Estate and all Holders of Claims from any and all claims or causes of action and assertions of liability arising out of their performance of the duties conferred upon them by the Plan, the Liquidation Trust Agreement, or any orders of the Bankruptcy Court, except to the extent an act is deemed by Final Order to be bad faith, gross negligence, willful misconduct, or actual fraud. The Liquidation Trustee and his designees, partners, affiliates, employees, attorneys or professionals, or any of their duly designated agents or representatives shall not be personally liable for any claim asserted

against any of them or the Liquidation Trust or for any actions taken or omitted in their capacity as, or on behalf of the Liquidation Trustee and/or the Liquidation Trust in furtherance of their responsibilities hereunder, except to the extent that their conduct is determined by a Final Order to be due to their own willful misconduct, gross negligence, fraud or self-dealing acts. Nothing in this provision shall be deemed to alter the provisions of the Liquidation Trust Agreement.

G. **INJUNCTION**: EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN AND EXCEPT IN CONNECTION WITH THE ENFORCEMENT OF THE TERMS OF THIS PLAN OR ANY DOCUMENTS PROVIDED FOR UNDER THIS PLAN, ALL ENTITIES THAT HAVE, HOLD, OR MAY HOLD CLAIMS AGAINST THE DEBTOR OR THE ESTATE THAT AROSE PRIOR TO THE EFFECTIVE DATE ARE PERMANENTLY ENJOINED FROM COMMENCING OR CONTINUING IN ANY MANNER, DIRECTLY OR INDIRECTLY, ANY ACTION OR OTHER PROCEEDING OF ANY KIND AGAINST THE COVERED PERSONS WITH RESPECT TO ANY SUCH CLAIM, INCLUDING BUT NOT LIMITED TO THE ENFORCEMENT, ATTACHMENT, COLLECTION OR RECOVERY BY ANY MANNER OR MEANS, DIRECTLY OR INDIRECTLY, OF ANY JUDGMENT, AWARD, DECREE, OR ORDER, CREATING, PERFECTING OR ENFORCING, DIRECTLY OR INDIRECTLY, ANY LIEN OR ENCUMBRANCE OR ANY KIND AGAINST THE COVERED PERSONS OR ANY OF THEIR PROPERTY WITH RESPECT TO ANY SUCH CLAIM; AND ANY ACT, IN ANY MANNER, IN ANY PLACE WHATSOEVER, THAT DOES NOT CONFORM TO OR COMPLY WITH THE PROVISIONS OF THE PLAN WITH RESPECT TO SUCH CLAIM.

H. Reliance by the Liquidation Trustee: The Liquidation Trustee may absolutely and unconditionally rely, and shall be protected in acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper, document, spreadsheet, or database reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties, and may consult with legal counsel, financial or accounting advisors, and other professionals to be selected by the Liquidation Trustee and may rely, in good-faith, on the advice thereof, and shall not be liable for any action taken or omitted to be taken in accordance with the advice thereof. Persons dealing with the Liquidation Trustee or the Liquidation Trust shall look only to the Liquidation Trust Assets (or to any insurance that may cover such claim) to satisfy any liability incurred by the Covered Persons to such person in carrying out the terms of this Liquidation Trust Agreement, and neither the Liquidation Trustee, nor any of the other Covered Persons shall have any personal obligation or recourse of any nature or kind whatsoever to satisfy any such liability. Nothing contained in this Plan or the Confirmation Order shall be deemed to be an assumption by the Liquidation Trustee or Liquidation Trust of any of the liabilities, obligations or duties of the Debtor or the Beneficiaries and shall not be deemed to be or contain a covenant or agreement by the Liquidation Trustee or Liquidation Trust to assume or accept any such liability, obligation or duty.

I. Non-Liability for Acts of Others. The Liquidation Trustee may, in connection with the performance of his functions, and in his sole and absolute discretion, consult with his 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 good faith reliance upon the advice or opinions rendered by such

persons, regardless of whether such advice or opinions are provided in writing. Notwithstanding such authority, the Liquidation Trustee shall not be under any obligation to consult with attorneys, accountants, financial advisors or agents, and his determination not to do so shall not result in the imposition of liability on the Liquidation Trustee or his agents, unless such determination is based on willful misconduct, gross negligence, fraud, self-dealing, or *ultra vires* acts as determined by a Final Order. Nothing contained in the Plan or the Confirmation Order shall be deemed to be an assumption by the Liquidation Trustee of any of the liabilities, obligations, or duties of the Debtor or Beneficiaries or a covenant or agreement by the Liquidation Trustee to assume or accept any such liability, obligation or duty. Any successor Liquidation Trustee may accept and rely upon any accounting made by or on behalf of any predecessor Liquidation Trustee, and any statement or representation made by a predecessor Liquidation Trustee or its agents as to the Liquidation Trust Assets or as to any other fact bearing upon the prior administration of the Liquidation Trust, so long as it has a good faith basis to do so. A successor Liquidation Trustee shall not be liable for having accepted and relied in good faith upon any such accounting, statement, or representation if it is later proved to be incomplete, inaccurate, or untrue. A successor Liquidation Trustee shall not be liable for any act or omission of any predecessor Liquidation Trustee, nor have a duty to enforce any claims against any predecessor Liquidation Trustee on account of any such act or omission.

J. Tax Treatment of Liquidation Trust: The Plan Proponents intend that the Liquidation Trust will be treated as a “liquidation trust” within the meaning of Section 301.7701-4(d) of the Treasury Regulations. Accordingly, the Liquidation Trustee shall, in an expeditious but orderly manner, liquidate and convert to cash any non-cash assets, make timely Distributions to the beneficiaries of the Liquidation Trust, and not unduly prolong its duration. The transfer of the Debtor’s and the Estate’s remaining assets to the Liquidation Trust shall be treated as a transfer to the beneficiaries of the Liquidation Trust for all purposes of the Internal Revenue Code (e.g., sections 61(a)(12), 483, 1001, 1012 and 1274) followed by a deemed transfer by such beneficiaries to the Liquidation Trust. The Liquidation Trust shall be considered a “grantor” trust, and the beneficiaries of the Liquidation Trust shall be treated as the grantors and deemed owners of the Liquidation Trust. To the extent valuation of the transferred property to the Liquidation Trust is required under applicable law, the Liquidation Trustee shall value the transferred property and notify in writing the beneficiaries of the Liquidation Trust of such valuations. The assets transferred to the Liquidation Trust shall be valued consistently by the Liquidation Trustee and the Trust beneficiaries, and these valuations will be used for all federal income tax purposes.

K. Distribution Fund: After the payment of all Administrative Claims, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims, and Allowed Secured Claims, and the funding of a reserve for the anticipated expense of the Wind-Down and Disputed Claims, the remaining cash not otherwise allocated to the Wind-Down Reserve will be placed in a Distribution Fund to be distributed to the holders of Allowed General Unsecured Claims, Contractually Subordinated 1199 Union or 1199 Fund Claims and Allowed Statutorily Subordinated Pension Claims in accordance with the terms hereof. Distributions to Holders of Allowed General Unsecured Claims shall be made at the discretion of the Liquidation Trustee through the exercise of its business judgment.

L. Reserves: To the extent not otherwise provided for herein or ordered by the Bankruptcy Court, the Liquidation Trustee shall estimate appropriate reserves of cash to be set aside in order to pay or reserve for accrued expenses and for the payment of prospective expenses and liabilities

of the estate and the Liquidation Trust after the Effective Date. Without limitation, these reserves shall include funds for the Wind-Down Reserve, Administrative Claims, Priority Tax Claims, Priority Non-Tax Claims, Secured Claims, and Disputed Claims. Notwithstanding any contrary provision contained herein, the Liquidation Trustee shall not be obligated to physically segregate and maintain separate accounts for reserves or for the Distribution Fund. Separate reserves and funds may be merely bookkeeping entries or accounting methodologies, which may be revised from time to time, to enable the Liquidation Trustee to determine cash available for Distributions, reserves and amounts to be paid to parties-in-interest.

M. Fees and Expenses of Liquidation Trust. Except as otherwise ordered by the Bankruptcy Court or specifically provided for in the Plan, the amount of any fees and expenses incurred by the Liquidation Trust on or after the Effective Date (including, without limitation, taxes) and any compensation and expense reimbursement claims (including, without limitation, reasonable fees and expenses of counsel) of the Liquidation Trust arising out of the liquidation of the Liquidation Trust Assets, the making of Distributions under the Plan, and the performance of any other duties given to it shall be paid in accordance with the Liquidation Trust Agreement.

N. Rights of Action. The Liquidation Trustee shall have the authority to assert, prosecute, and settle all Claims and Rights of Action that belong to the Estate, and, in connection therewith, shall have the right to assert and enforce all defenses belonging to the Debtor and its Estate, including, without limitation, setoff, recoupment and any rights under Bankruptcy Code Section 502(d).

O. Employment of Professionals by Liquidation Trustee. The Liquidation Trustee may employ, without further order of the Bankruptcy Court, professionals to assist him in carrying out his duties hereunder and may compensate and reimburse the expenses of those professionals without further order of the Bankruptcy Court and any such compensation and reimbursement shall be made out of the Liquidation Trust Assets.

ARTICLE V. TREATMENT OF EXECUTORY CONTRACTS

A. Rejection of Executory Contracts: Unless rejected or assumed by prior order of the Bankruptcy Court, each Executory Contract, other than the Executory Contracts related to the Joint Venture Transaction, shall be rejected as of the Confirmation Date (which rejection shall be effective on the Effective Date), and such rejected Executory Contracts shall no longer represent binding obligations of the Debtor or the Liquidation Trust after the Effective Date. Entry of the Confirmation Order shall constitute approval of such rejections under Sections 365 and 1123 of the Bankruptcy Code. For the avoidance of doubt, all agreements and documents related to the Joint Venture Transaction shall remain in full force and effect and shall not be deemed rejected.

B. Rejection Claim Bar Date: Any Claim arising out of the rejection of an Executory Contract pursuant to the Confirmation Order or prior order of the Bankruptcy Court must be filed with the Bankruptcy Court on or before the Rejection Claim Bar Date. Any such Claims not filed by the Rejection Claim Bar Date is discharged and forever barred. Each Allowed Claim arising from the rejection of an Executory Contract shall be treated as an Allowed General Unsecured Claim.

C. Reservation of Rights: Neither the exclusion nor inclusion of any contract or lease on the Schedules, nor anything contained in this Plan, will constitute an admission that any such contract or lease is or is not in fact an Executory Contract or that the Debtor or the Liquidation Trustee has any liability under any such contract or lease. Nothing in this Plan will waive, excuse, limit, diminish, or otherwise alter any of the defenses, Claims, Rights of Action, or other rights of the Debtor or the Liquidation Trust under any Executory Contract or non-Executory Contract or any Unexpired Lease. Nothing in this Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor or the Liquidation Trustee under any Executory Contract or non-Executory Contract. For the avoidance of doubt, the agreements and documents related to the Joint Venture Transaction shall remain in full force and effect and shall not be deemed rejected.

ARTICLE VI. OBJECTIONS TO AND PROCEDURES FOR RESOLVING DISPUTES REGARDING CLAIMS

A. Objections to Claims: Only the Liquidation Trustee may dispute, object to, compromise or otherwise resolve all Claims.² Except as otherwise specifically provided in the Plan, after the Effective Date, the Liquidation Trustee shall have the exclusive authority: (1) to file, withdraw, or litigate to judgment any objections to Claims; (2) to settle or compromise any Disputed Claim without any further notice to or action, order, or approval by the Bankruptcy Court; and (3) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court. Unless otherwise provided herein or as otherwise ordered by the Bankruptcy Court after notice and a hearing, objections to Claims shall be filed with the Bankruptcy Court and served upon the Holders of each of the Claims to which objections are made as soon as practicable, but in no event by the later of 120 days after the Effective Date, provided that the Liquidation Trustee may request (and the Bankruptcy Court may grant) an extension of time by filing a motion with the Bankruptcy Court.

B. Claims Listed as Contingent, Unliquidated, or Disputed in Schedules: **ANY CLAIM THAT HAS BEEN OR IS HEREAFTER LISTED IN THE SCHEDULES AS CONTINGENT, UNLIQUIDATED OR DISPUTED, AND FOR WHICH NO PROOF OF CLAIM HAS BEEN TIMELY FILED IS CONSIDERED DISALLOWED ON THE EFFECTIVE DATE WITHOUT FURTHER ACTION BY THE DEBTOR OR THE LIQUIDATION TRUST AND WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT.**

C. Retention of Claims and Defenses: After the Effective Date, except as released in the Plan or by Bankruptcy Court order, the Liquidation Trustee shall have and retain any and all rights and defenses the Debtor had with respect to any Claims and Rights of Action, including but not limited to the Breach of Duty Claims, immediately prior to the Effective Date.

² As a settlement in accordance with Bankruptcy Rule 9019, the Plan Proponents have agreed that the claim of Special Counsel, McCullough, Goldberger & Staudt, LLP, filed on July 12, 2017, and assigned Claim Number 317, is allowable as a Class 3.a claim in the amount of \$98,275.38. As such, the Liquidation Trustee acknowledges and shall have no authority to dispute this particular claim.

D. Adjustment to Claims Without Objection: Any Claim that has been paid or satisfied or any Claim that has been amended or superseded may be adjusted for Distribution purposes by the Liquidation Trustee without any further notice to or action, order, or approval of the Bankruptcy Court.

E. Disallowance of Claims: Any Claims held by Entities from which property is recoverable under Sections 542, 543, 550, or 553 of the Bankruptcy Code, or that is a transferee of a transfer avoidable under Sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed Disallowed pursuant to Section 502(d) of the Bankruptcy Code, and Holders of such Claims may not receive any distributions on account of such Claims until such time as such Rights of Action against that Entity have been settled, or a Bankruptcy Court order with respect thereto has been entered and all sums due, if any, to the Estate by that Entity have been turned over or paid to the Liquidation Trustee.

F. Offer of Judgment: The Liquidation Trustee is authorized to serve upon a Holder of a Claim an offer to allow judgment to be taken on account of such Holder's Claim and pursuant to Bankruptcy Rules 7068 and 9014, Federal Rule of Civil Procedure 68 shall apply to such offer of judgment. To the extent the Holder of a Claim must pay the costs incurred by the Liquidation Trustee after the Liquidation Trustee makes such offer, the Liquidation Trustee, as applicable, is entitled to set off such amounts against the amount of any distribution to be paid to such Holder without any further notice to or action, order, or approval of the Bankruptcy Court.

ARTICLE VII.
PROVISIONS GOVERNING DISTRIBUTIONS OF
PROPERTY UNDER THE PLAN

A. General: Except as otherwise specified herein, the Liquidation Trustee shall make all Distributions required under the Plan.

B. Delivery of Distributions: Subject to Bankruptcy Rule 9010, Distributions to Holders of Allowed Claims will be made by mail: (i) at the address of each such Holder as set forth on the Proof of Claim filed by such Holder; (ii) at the address set forth in any written notice of address change delivered after the date of any related Proof of Claim to the Liquidation Trustee; or (iii) at the address reflected in the Schedules filed by the Debtor, if no Proof of Claim is filed and the Liquidation Trustee has not received a written notice of address change. If any Distribution to the Holder of an Allowed Claim is returned as undeliverable, the Liquidation Trustee shall have no obligation to determine such Holder's then-current address and no Distribution to such Holder shall be made unless and until the Liquidation Trustee is notified by the Holder of the current address of such Holder within ninety (90) days of such Distribution, at which time a Distribution shall be made to such holder without interest except as set forth in Section C hereof.

C. Unclaimed Distributions: Any Distribution that remains unclaimed after ninety (90) days following any Distribution Date, including, without limitation checks (and the funds represented thereby) that (a) have been returned as undeliverable without a proper forwarding address, (b) have not been cashed or otherwise negotiated or (c) were mailed a returned as undeliverable or not mailed or delivered because of the absence of a valid address, shall be canceled (by a stop payment

order or otherwise), the Claim(s) relating to such Distribution(s) shall be deemed forfeited and expunged without any further action or order of the Bankruptcy Court, and the Holder of such Claim(s) shall be removed from the Distribution schedules and expunged from the Claims register and shall receive no further Distributions under the Plan. Any such unclaimed Distributions shall revert to the Distribution Fund to be redistributed pursuant to the provisions of this Plan. With respect to an undeliverable Distribution, in the event the Liquidation Trustee is notified in writing of a Beneficiary's then current address within ninety (90) days after a Distribution Date such Distribution shall be made to such Beneficiary without interest as soon as practicable following the Liquidation Trustee's receipt of the notice.

D. Tax Forms: Each Beneficiary shall furnish, in writing, its name, address, tax identification number, and completed IRS Form W-9 or, if applicable, IRS Form W-8, to the Liquidation Trustee within thirty (30) days of a written request from the Liquidation Trustee, and the Liquidation Trustee shall make two (2) such requests. Failure to comply with the preceding sentence shall within 30 days of the second request shall result in the Beneficiary forfeiting their interest in the Liquidation Trust and rights to any Distribution, and any such forfeited amounts shall be distributed to the remaining Beneficiaries in accordance with this Plan.

E. Record Date: Distributions shall be payable to the Beneficiaries of record as of the Record Date.

F. Conflicting Claims: If any conflicting claims or demands are made or asserted with respect to an Allowed Claim of a Beneficiary, the Liquidation Trustee shall be entitled, in his sole election, to refuse to comply with any such conflicting claims or demands. In so refusing, the Liquidation Trustee shall (i) make no payment or Distribution with respect to the Allowed Claim represented by the conflicting claims or demands involved, or any part thereof, and (ii) refer such conflicting claims and demands to the Bankruptcy Court, which shall have exclusive jurisdiction over the resolution of such conflicting claims or demands. In so doing, the Liquidation Trustee shall not be liable to any party for his refusal to comply with any such conflicting claims or demand. The Liquidation Trustee shall be entitled to refuse to comply with conflicting claims and demands until either (a) the rights of the adverse claimants have become adjudicated by a Final Order of the Bankruptcy Court or (b) the conflict has been resolved by a written agreement among such parties and the Liquidation Trustee, which agreement shall include a complete release of the Liquidation Trust and the Liquidation Trustee with respect to the subject matter of the dispute.

G. Identification of Beneficiaries: The Beneficiaries shall be recorded and set forth in a register maintained by the Liquidation Trustee expressly for such purpose. No later than the Effective Date, the Debtor shall deliver to the Liquidation Trustee a true and correct list of Claim Holders setting forth the names, addresses, any tax identification numbers and Claim amounts (including the amounts set forth in the proofs of claim and the amount of such Holder in the Schedules). Neither the Liquidation Trust nor the Liquidation Trustee shall incur any liability in connection with the determination of the interests of the Beneficiaries in the Liquidation Trust. The Liquidation Trust and the Liquidation Trustee shall have the absolute and unconditional right to rely on the information provided by the Debtor and neither shall incur any liability by relying on the information it receives.

H. Payment in U.S. Dollars: All cash Distributions under the Plan shall be made in U.S. dollars by checks drawn on a domestic bank selected by the Liquidation Trustee in accordance with the Plan or by wire transfer from a domestic bank, at the option of the Liquidation Trustee. The Liquidation Trustee may use the services of a third party to aid in the Distributions required to be made under this Plan.

I. Distributions Only on Business Days: Notwithstanding the foregoing provisions, if any Distribution called for under this Plan is due on a day other than a Business Day, such Distribution shall instead be made the next Business Day.

J. No Payment or Distribution on Disputed Claims: Any contrary provision hereof notwithstanding, no payments or other Distributions shall be made on account of any Disputed Claim, or any portion thereof, unless and until such Claim is Allowed by Final Order of the Bankruptcy Court. For the avoidance of doubt, no portion of any Disputed Claim is entitled to a Distribution. Holders of Disputed Claims shall be bound, obligated and governed in all respects by this Plan.

K. De Minimis Distributions: The Liquidation Trustee shall (i) not be required to make Distributions of fractions of dollars, and whenever any Distribution of a fraction of a dollar would otherwise be required, the actual Distribution made may reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down and (ii) have no duty to make a Distribution on account of any Allowed Claim if the amount to be distributed on account of the Allowed Claims on the particular Distribution Date is less than \$25, in which case such distributions shall be deferred to the next distribution date unless such distribution constitutes the final distribution to be made to the Beneficiary, in which case such distribution shall revert to the Liquidation Trust to be reallocated and distributed to Beneficiaries. If the cash available for the final Distribution is less than \$25,000, the Liquidation Trustee may donate such funds to the charity of his choice that provides health care services to the elderly.

ARTICLE VIII. EFFECT OF CONFIRMATION OF THE PLAN

A. Legally Binding Effect: Provisions of this Plan shall bind all Claim Holders, whether or not they accept this Plan. On and after the Effective Date, all Claim Holders shall be precluded and enjoined from asserting any Claim against the Liquidation Trustee, the Liquidation Trust or its assets or properties based on any transaction or other activity of any kind that occurred prior to the Effective Date, except as permitted under the Plan.

B. Vesting of Property in the Liquidation Trust: On the Effective Date, except as otherwise expressly provided in this Plan, title to all Liquidation Trust Assets shall vest in the Liquidation Trust free and clear of all Liens and Claims of any kind.

C. Derivative Litigation Claims: Claims or causes of action derivative of or from the Debtor are Estate property under Section 541 of the Bankruptcy Code. On and after the Effective Date, all such Derivative Litigation Claims, regardless of whether pending on the Petition Date, will be deemed Liquidation Trust Assets and retained by, vest in, and/or become property of the Liquidation Trust. All named plaintiffs (including certified and uncertified classes of plaintiffs)

in any actions pending on the Effective Date relating to any Derivative Litigation Claims and their respective servants, agents, attorneys, and representatives shall, on and after the Effective Date, be permanently enjoined, stayed, and restrained from pursuing or prosecuting any Derivative Litigation Claim.

D. Exculpation of the Debtor and Committee: **To the extent permissible under the Bankruptcy Code: (i) the Debtor and its officers, directors, employees, agents, advisors, and/or professionals; and (ii) the Committee and its members and professionals, shall not have or incur any liability to any Holder of a Claim for any act, event, or omission from the Petition Date to the Effective Date relating to, connected with, or arising out of the Chapter 11 Case, Confirmation of this Plan, consummation of this Plan, administration of this Plan, or the assets and property to be distributed pursuant to this Plan and the Plan Documents, unless such Entity's action constitutes bad faith, gross negligence, willful misconduct, or actual fraud.** Nothing in the Plan shall: (i) be construed to release or exculpate any entity from fraud, gross negligence, willful misconduct, malpractice, criminal conduct, unauthorized use of confidential information that causes damages, or ultra vires acts; or (ii) limit the liability of the professionals of the Debtor or the Reorganized Debtor to their respective clients pursuant to DR 6-102 of the Code of Professional Responsibility.

E. Injunctions Against Interference with Consummation or Implementation of Plan: **All holders of Claims shall be enjoined from commencing or continuing any judicial or administrative proceeding or employing any process against the Debtor, the Estate, the Liquidation Trust or the Liquidation Trustee with the intent or effect of interfering with the consummation or implementation of this Plan or the transfers, payments or Distributions to be made hereunder.**

F. Dissolution of the Committee: On the Effective Date, the Committee shall be deemed to be dissolved and the members of the Committee shall be released and discharged from all duties and obligations arising from or related to the Chapter 11 Case, provided, however, that the Committee shall continue to exist, and the retention and employment of its Professionals shall continue to be in effect after the Effective Date for the purposes of filing fee applications of its Professionals, or reviewing and approving or filing objections to fee applications of Professionals for any periods prior to the Effective Date.

G. All Distributions Received in Full and Final Satisfaction: Except as otherwise set forth herein, all payments and all Distributions to be made in accordance with the Plan on account of Claims (including Administrative Expense Claims) shall be received in full and final satisfaction, settlement and release of the Estate's obligations for such Claims as against the Debtor, its property and the Estate.

ARTICLE IX. RETENTION OF RIGHTS OF ACTION

A. Liquidation Trustee's Preservation, Retention and Maintenance of Rights of Action: Except as otherwise provided in this Plan or in any contract, instrument, release, or other agreement entered into in connection with the Plan, in accordance with Section 1123(b)(3) of the Bankruptcy Code, the Liquidation Trustee shall retain and have the exclusive right, authority, and discretion

(without further order of the Bankruptcy Court) to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw, litigate to judgment, or exercise attorney/client privilege in relation to any and all Rights of Action that the Debtor or the Estate may hold against any Entity, whether arising before or after the Petition Date, including but not limited to the Breach of Duty Claims, and the powers and duties of a trustee under the Bankruptcy Code with respect to such Rights of Action. The Debtor reserves and shall retain the foregoing Rights of Action for the Liquidation Trust notwithstanding the rejection of any Executory Contract or Unexpired Lease during the Chapter 11 Case.

B. Preservation of All Rights of Action Not Expressly Settled or Released: Unless a Right of Action is expressly waived, relinquished, released, compromised or settled in this Plan or any Final Order, all such Rights of Action are expressly preserved, including but not limited to the Breach of Duty Claims, (including any counterclaims) for later adjudication by the Liquidation Trustee. Therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches shall apply to such Rights of Action (including counterclaims) on or after the Confirmation of this Plan.

C. Preservation and Abandonment of Records: The Debtor shall preserve for the benefit of the Liquidation Trust all documents and files, including electronic data hosted on remote servers that are necessary to the prosecution of the Rights of Action and Claims resolution process. After the Effective Date, the Liquidation Trustee shall preserve the information until the date that is one (1) year following the termination of the Trust, after which the Liquidation Trustee may dispose of such records after Notice is given to creditors holding Allowed Claims that have not yet received their full Distributions in accordance with this Plan.

ARTICLE X. MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN

A. Modification or Amendment of the Plan: This Plan may be amended or modified by the Plan Proponents any time prior to the Confirmation Date and by the Liquidation Trustee as provided in Section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019. Revocation or Withdrawal of the Plan: The Committee reserves the right to revoke or withdraw this Plan at any time prior to the Confirmation Date and to file subsequent plans. If the Committee revokes or withdraws this Plan prior to the Confirmation Date, or if the Confirmation Date or the Effective Date does not occur, then: (i) this Plan shall be deemed null and void in all respects; (ii) any settlement or compromise embodied in this Plan (including the fixing or limiting to an amount certain of any Claim or Class of Claims), rejection of Executory Contracts effected by this Plan, and any document or agreement executed pursuant to this Plan, shall be deemed null and void in all respects; and (iii) nothing contained in this Plan shall be deemed to constitute an admission, waiver or release of any claims by or against the Debtor or any other Entity, or to prejudice in any manner the rights of the Debtor, the estate or any Entity in any further proceedings involving the Debtor.

ARTICLE XI
RETENTION OF JURISDICTION

A. Bankruptcy Court Jurisdiction: Notwithstanding the entry of the Confirmation Order or the occurrence of the Effective Date, the Bankruptcy Court, even after the Chapter 11 Case has been closed, shall have jurisdiction over all matters arising under, arising in, or relating to the Chapter 11 Case, including proceedings to:

1. Ensure that this Plan is fully consummated and implemented;
2. Enter such orders that may be necessary or appropriate to implement, consummate, or enforce the provisions of this Plan and all contracts, instruments, releases, indentures, and other agreements or documents created in connection with this Plan or the Disclosure Statement;
3. Consider any modification of this Plan under Section 1127 of the Bankruptcy Code;
4. Hear and determine all Claims, controversies, suits, and disputes against the Debtor or the Liquidation Trustee to the full extent permitted under 28 U.S.C. §§ 157 and 1334;
5. Allow, disallow, determine, liquidate, classify, estimate, or establish the priority or secured or unsecured status of any Claim, including the resolution of any and all objections to the allowance or priority of Claims;
6. Hear, determine, and adjudicate any litigation involving the Rights of Action, including the Breach of Duty Claims, or other claims or causes of action constituting Estate property or property of the Liquidation Trust (including, without limitation, any disputes related to the Bridge Loan, the Purchaser Note, the CON, or the Debtor's interest in Joint Venture Transaction);
7. Decide or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any motions or applications involving the Debtor or the Liquidation Trustee that are pending on or commenced after the Effective Date;
8. Resolve any case, controversies, suits, or disputes that may arise in connection with the consummation, interpretation, or enforcement of this Plan, or any entity's obligations incurred in connection with this Plan, or any other agreements governing, instruments evidencing, or documents relating to any of the foregoing, including the interpretation or enforcement of any rights, remedies, or obligations under any of the foregoing;
9. Hear and determine all controversies, suits, and disputes that may arise out of or in connection with the enforcement of any subordination and similar agreements among creditors under Section 510 of the Bankruptcy Code;
10. Hear and determine all requests for compensation and/or reimbursement of expenses that may be made for fees and expenses incurred before the Effective Date;

11. Enforce any Final Order, the Confirmation Order, the Final Decree, and all injunctions contained in those orders;
12. Enter an order concluding and terminating the Chapter 11 Case;
13. Correct any defect, cure any omission, or reconcile any inconsistency in this Plan, or the Confirmation Order, or any other document or instruments created or entered into in connection with this Plan;
14. Determine all questions and disputes regarding title to the Estate property;
15. Classify the Claims of any Creditor and the treatment of those Claims under this Plan, re-examine Claims that may have been allowed for purposes of voting, and determine objections that may be filed to any Claims;
16. Take any action described in this Plan involving the Debtor or the Liquidation Trustee;
17. Enter and implement such orders that are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;
18. Hear, determine and adjudicate any motions, contested or litigated motions brought pursuant to Section 1112 of the Bankruptcy Code;
19. Hear, determine, and adjudicate all matters the Bankruptcy Court has authority to determine under Section 505 of the Bankruptcy Code, including determining the amount of any unpaid liability of the Debtor or the Estate for any tax incurred or accrued during the calendar year in which this Plan is confirmed;
20. Enter a Final Decree as contemplated by Bankruptcy Rule 3022; and
21. Hear, determine, and adjudicate any and all Claims brought under this Plan.

ARTICLE XI.

A. Limitation on Jurisdiction: In no event shall the provisions of this Plan be deemed to confer in the Bankruptcy Court jurisdiction greater than that established by the provisions of 28 U.S.C. §§ 157 and 1334.

ARTICLE XII MISCELLANEOUS PROVISIONS

A. Conditions to Effectiveness: This Plan will not be effective unless:

1. The Confirmation Order becomes a Final Order; and
2. All documents necessary or appropriate to the implementation of this Plan have been executed, delivered, and where applicable, filed with the appropriate governmental

authorities, including, but not limited to, the execution of the Liquidation Trust Agreement in the form attached to the Disclosure Statement as **Exhibit "B."**

B. Further Authorizations: The Liquidation Trustee may seek such orders, judgments, injunctions, and rulings as he or she may deem necessary to further carry out the intentions and purposes of, and give full effect to the provisions of, this Plan.Successors and Assigns: The rights, benefits and obligations of any Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such Entity.Exemption from Transfer Tax: Under Section 1146(c) of the Bankruptcy Code, the issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under this Plan, may not be taxed under any law imposing a stamp tax or similar tax.U.S. Trustee Fees: Pre-confirmation fees owed to the U.S. Trustee will be paid by the Effective Date of this Plan or such other date as agreed upon by the Liquidation Trustee and the U.S. Trustee. After confirmation, the Liquidation Trustee will file with the Bankruptcy Court and serve on the U.S. Trustee quarterly financial reports in a format prescribed by the U.S. Trustee, and the Liquidation Trustee will pay post-confirmation quarterly fees to the U.S. Trustee until a Final Decree is entered or the case is converted or dismissed as provided in 28 U.S.C. § 1930(a)(6).Implementation: The Liquidation Trustee shall be authorized to perform all reasonable, necessary and authorized acts to consummate the terms and conditions of this Plan.No Admissions: Notwithstanding anything herein to the contrary, nothing contained in this Plan shall be deemed an admission by the Debtor, the Liquidation Trust or any other Entity with respect to any matter set forth herein, including, without limitation, liability on any Claim or the propriety of the classification of any Claim.Good Faith: Confirmation of this Plan shall constitute a finding that: (i) this Plan has been proposed in good faith and in compliance with the provisions of the Bankruptcy Code; and (ii) the solicitation of acceptances or rejections of this Plan by all Entities.

Dated: August 10, 2017

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EXHIBIT A

GLOSSARY OF DEFINED TERMS

As used in this Plan, the following terms shall have the respective meanings specified below, unless the context requires otherwise:

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: (i) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the businesses of the Debtor (such as wages, salaries, or commissions for services, and payments for goods and other services and leased premises); (ii) 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 and ending on the Effective Date; and (c) all fees and charges assessed against the Estate pursuant to 28 U.S.C. Chapter 123.

2. Administrative Claims Bar Date means the deadline for filing Administrative Claims contained in the Confirmation Order.

3. Allowed means any Claim: (i) proof of which was timely and properly filed, or if no proof of claim was timely and properly filed, which is listed by the Debtor on its Schedules as liquidated in amount and not disputed or contingent, and in either case, (a) as to which no objection to the allowance thereof or request for estimation has been interposed or (b) to the extent any objection to the allowance thereof or request for estimation interposed in accordance with clause has been determined by a Final Order in favor of the holder of such Claim; (ii) to the extent allowed by a Final Order or the provisions of the Plan; or (iii) that is an Administrative Claim the amount to which the Debtor and the claimant have agreed should be allowed pursuant to a written agreement. Unless otherwise specified in the Plan or by order of the Bankruptcy Court, "Allowed Administrative Claim" and "Allowed Claim" shall not, for purposes of computing distributions under the Plan, include interest on such Claim from and after the Petition Date, except as provided in Section 506(b) of the Bankruptcy Code. A Claim which is Allowed as of the Record Date and which may thereby entitle the holder of such Claim to vote on the Plan, shall not be deemed Allowed for purposes of distributions in accordance with the Plan unless the Claim is not a Disputed Claim and the time for objections to Claims as established by the Plan or Bankruptcy Court order has expired.

4. Allowed Date means the date a Claim is Allowed.

5. Bankruptcy Code means Title 11 of the United States Code, as amended from time to time, as applicable to the Chapter 11 Case.

6. Bankruptcy Court means the United States Bankruptcy Court for the Southern District of New York.

7. Bankruptcy Rules means the Federal Rules of Bankruptcy Procedure, as amended from time to time, as applicable to the Chapter 11 Case, including the local rules of the Bankruptcy Court.

8. Bar Date means (a) July 29, 2016 with respect to Claims arising prior to the Petition Date, (b) the Administrative Claims Bar Date with respect to Administrative Claims and (c) with respect to proofs of claim related to rejection damages claims that arise from the rejection of an executory contract or unexpired lease, the later of July 29, 2016 or the date established in the order authorizing such rejection as the deadline to file a rejection damage proof of claim.

9. Breach of Duty Claims means any and all claims of the Debtor against the Debtor's former and current directors, officers and professionals related to, among other things, mismanagement, negligence, breach of fiduciary duty and loyalty to the Debtor and its creditors, the Bridge Loan and/or any other improper transfers of assets of the Debtor prior to the Petition Date.

10. Bridge Loan means the loans and other financial accommodations in the original principal amount of \$3,500,000 advanced to the Debtor pursuant to the terms of that certain *Restructuring Support and Loan Agreement* dated October 20, 2015, by and among HHHW, HHSH, the New York State Attorney General and the council of the residents of HHSH through their agent, and the related agreements and documents.

11. Chapter 11 Case means the case under chapter 11 of the Bankruptcy Code, commenced by the Debtor, styled "In re Hebrew Hospital Home of Westchester, Inc." under case number 16-10028, and being jointly administered in the Bankruptcy Court under case number 15-11158 before Honorable Michael E. Wiles.

12. Claim shall have the meaning assigned to such term in Section 101(5) of the Bankruptcy Code.

13. Claimant means the holder of a Claim as defined by Section 101(5) of the Bankruptcy Code.

14. Class means a class of Holders of Claims as set forth in the Plan.

15. Committee means the statutory committee of unsecured creditors appointed by the Office of the United States Trustee in the Chapter 11 Case pursuant to Section 1102 of the Bankruptcy Code.

16. Confirmation means the entry of the Confirmation Order.

17. Confirmation Date means the date upon which the Bankruptcy Court enters an order confirming the Plan pursuant to Section 1129 of the Bankruptcy Code.

18. Confirmation Hearing means the hearing(s) held by the Bankruptcy Court to consider Confirmation of the Plan pursuant to Section 1129 of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time.

19. Confirmation Order means the order of the Bankruptcy Court confirming the Plan pursuant to Section 1129 of the Bankruptcy Code.

20. Contractually Subordinated 1199 Union or 1199 Fund Claim means the Allowed General Unsecured 1199 Union and Fund Claims as contemplated by the Global Settlement.

21. Convenience Claims means General Unsecured Claims in the amount of \$5,000 or less.

22. Covered Persons means the Debtor, the Estate, the Liquidation Trustee, the Liquidation Trust and each of their respective affiliates, employees, attorneys or professionals, or any of their duly designated agents or representatives in such capacity.

23. Debtor means Hebrew Hospital Home of Westchester, Inc., after the Petition Date as a debtor-in-possession pursuant to Section 1107 of the Bankruptcy Code.

24. Derivative Litigation Claim means any claim, cause of action, demand, or any other right to payment derivative of or from the Debtor that is property of the Estate under Section 541 of the Bankruptcy Code.

25. Disallowed means, with reference to any Claim: (i) a Claim, or any portion thereof, that has been disallowed by a Final Order; (ii) a Claim, or any portion thereof, that is expressly disallowed under the Plan; or (iii) unless scheduled by a Debtor as a fixed, liquidated, non-contingent and undisputed Claim, a Claim as to which a Bar Date has been established by the Bankruptcy Code, Bankruptcy Rules, or Final Order but no Proof of Claim has been timely filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order, notwithstanding anything in Section 506(d) of the Bankruptcy Code to the contrary.

26. Disclosure Statement means the disclosure statement relating to the Joint Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc., including without limitation, all exhibits and schedules thereto, as approved by the Bankruptcy Court pursuant to Section 1125 of the Bankruptcy Code.

27. Disputed means any Claim listed on: (i) the claims register that is not yet Allowed; or (ii) the Schedules as disputed. In the event that any part of a Claim is a Disputed Claim, such Claim in its entirety may be deemed to constitute a Disputed Claim for purposes of Distributions unless the Liquidation Trustee and the Holder of such Claim agree otherwise; provided however that nothing in this definition is intended to or does impair the rights of any Holder of a Disputed Claim to pursue its rights under Section 502 of the Bankruptcy Code.

28. Distribution means distributions made in accordance with the Plan by the Liquidation Trustee to holders of Allowed Claims.

29. Distribution Date means a date selected by the Plan Administrator that is not earlier than the Effective Date.

30. Distribution Fund means the fund which shall be established on the Effective Date by the Liquidation Trustee to pay (in the event any payments are to be made to Holders of such Claims) Allowed General Unsecured Claims, Contractually Subordinated 1199 Union or 1199 Fund Claims and Statutorily Subordinated Pension Claims pursuant to provisions of the Plan.

31. Effective Date means the date on which the Plan shall become effective, which date shall be as soon as reasonably practicable after the date on which the conditions specified in Article IV of the Plan have been satisfied or waived.

32. Entity means the meaning assigned to such term by Section 101(15) of the Bankruptcy Code.

33. Escrow Account means that certain escrow account maintained by McCullough, Goldberger & Staudt, LLP at Sterling National Bank into which the proceeds of the Westchester SNF Sale were deposited.

34. Escrow Amount means the amount of the Escrow Account.

35. Estate means the bankruptcy estate of the Debtor created by virtue of Section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

36. Executory Contract means a contract or unexpired lease to which the Debtor is a party that is subject to assumption or rejection under Section 365 of the Bankruptcy Code.

37. Final Order means 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 or may be filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought.

38. General Unsecured Claim means any Claim that is not an Administrative Claim, Secured Claim, Priority Tax Claim, or Priority Non-Tax Claim, including, without limitation: (i) any claim arising from the rejection of an executory contract or unexpired lease; and (ii) any portion of a Claim to the extent the value of the holder's interest in property securing such Claim is less than the amount of the Claim, as determined pursuant to Section 506(a) of the Bankruptcy Code.

39. Global Settlement means the settlement set forth in the Stipulation Resolving the Claims of 1199 SEIU United Healthcare Workers East and the 1199 SEIU Funds.

40. HHH Choices means HHH Choices Health Plan, LLC.

41. HHHW means Hebrew Hospital Home of Westchester, Inc.

42. HHSH means Hebrew Hospital Senior Housing, Inc.

43. Holder means the Holder of a Claim.

44. Joint Venture Transaction means the transaction in which the Debtor is contributing the CON in exchange for cash and a 9.9% membership interest in a limited liability company that would construct and operate a health care facility in White Plains, NY.

45. Lien means any mortgage, lien, interest pledge, charge, security interest, encumbrance, mechanics' lien, statutory lien or right, and other consensual or non-consensual lien, whenever granted and including, without limitation, those charges or interests in property within the meaning of "lien" under Section 101(37) of the Bankruptcy Code.

46. Liquidation Trust means the Trust created pursuant to the Plan.

47. Liquidation Trust Agreement means an agreement for the establishment and operation of the Liquidation Trust substantially in the form attached as *Exhibit B* to the Disclosure Statement.

48. Liquidation Trust Assets means all assets of the Debtor's Estate.

49. Liquidation Trustee means Alan D. Halperin or his designee appointed pursuant to the Plan for the purpose of acting as initial trustee of the Liquidation Trust.

50. Petition Date means January 8, 2016, the date on which the Debtor filed a petition for relief under chapter 11 of the Bankruptcy Code.

51. Plan means this Chapter 11 plan, including all exhibits and schedules annexed hereto, either in its present form or as it may be altered, amended or modified from time to time.

52. Plan Proponents mean the Debtor and the Committee.

53. Post-Petition Tax Claim means an Administrative Claim or other Claim by a Governmental Unit for taxes (and for interest and/or penalties related to such taxes) for any tax year or period.

54. Priority Non-Tax Claim means any Claim accorded priority in right of payment pursuant to Section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

55. Priority Tax Claim means any Claim of the kind specified in Section 507(a)(8) of the Bankruptcy Code.

56. Purchaser Note means the promissory note issued by Ben Landa and Johanon Hirsch to the Debtor in the amount of \$490,826.19 as part of Westchester SNF Sale.

57. Record Date means the date that the Bankruptcy Court enters an Order approving the Disclosure Statement.

58. Rights of Action means any and all claims, debts, demands, rights, defenses, actions, causes of action, suits, contracts, agreements, obligations, accounts, defenses, offsets, powers, privileges (including attorney/client privilege), licenses, and franchises of any kind or character whatsoever, known or unknown, suspected or unsuspected, whether arising before, on, or after the Petition Date, in contract or in tort, at law or in equity, or under any other theory of law, including: (i) rights of setoff, counterclaim, or recoupment, and claims on contracts or for breaches of duties imposed by law, including but not limited to the Breach of Duty Claims; (ii) claims pursuant to Section 362 of the Bankruptcy Code; (iii) such claims and defenses as fraud, mistake, duress, and usury; and (iv) any causes of action arising under Sections 506, 510, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, and 553 of the Bankruptcy Code.

59. Schedules means the Schedules of Assets and Liabilities and the Statement of Financial Affairs filed by the Debtor as required by Section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, including any supplements or amendments thereto through the Confirmation Date.

60. Secured Claim means a Claim that is: (i) secured in whole or part, as of the Petition Date, by a Lien against property of a Debtor that is valid, perfected, and enforceable under applicable law and is not subject to avoidance under the Bankruptcy Code or applicable non-bankruptcy law; or (ii) subject to setoff under Section 553 of the Bankruptcy Code; provided however, with respect to both (i) and (ii), a Claim is a Secured Claim only to the extent of the value, net of any Lien senior to the applicable Lien, of the Estate's interest in the assets or property securing any such Claim or the amount subject to setoff, as the case may be.

61. Statutorily Subordinated Pension Claim means the subordinated claims of the 1199 SEIU Health Care Employees Pension Fund set forth in paragraph 15 of the Global Settlement.

62. Universal Settlement means that agreement between the State of New York and certain nursing home facilities located in New York State resolving Medicaid rate appeals and reimbursement litigation.

63. Westchester Meadows means the continuing care retirement facility formerly owned and operated by HSHH located at 55 Grasslands Road, in Valhalla New York.

64. Westchester SNF Sale means the sale of the 160 bed skilled nursing facility situated at 61 Grasslands Road, Valhalla, New York to HHH Acquisition, LLC and Tarrytown II LLC in April 2015.

65. Wind-Down Reserve means the reserves to be established on the Effective Date by the Liquidation Trustee for Disputed Claims and to fund the winding up of the affairs of the Debtor, payment of the Liquidation Trustee and his/ her professionals, payment of expenses of the Liquidation Trust and payment of the costs of administering the Plan and Liquidation Trust.

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EXHIBIT B

Liquidation Trust Agreement

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LIQUIDATION TRUST AGREEMENT AND DECLARATION OF TRUST

This Liquidation Trust Agreement and Declaration of Trust (the “*Trust Agreement*”), dated as of August __, 2017, by and between HEBREW HOSPITAL HOME OF WESTCHESTER, INC., as debtor and debtor-in-possession (collectively, the “*Debtor*”), the Official Committee of Unsecured Creditors for the Debtor (the “*Committee*” and together with the Debtor, the “*Plan Proponents*”), and Alan D. Halperin, as Trustee (the “*Trustee*”), is executed in connection with the Plan Proponents’ Joint Plan of Liquidation Under Chapter 11 of the Bankruptcy Code filed on [_____] (Docket No. xxx) (as may be amended from time to time, the “*Plan*”)¹ and confirmed by the United States Bankruptcy Court for the Southern District of New York (the “*Bankruptcy Court*”) by order dated [_____] the “*Confirmation Order*”). The Plan provides for the establishment of a Liquidation Trust evidenced hereby (the “*Liquidation Trust*”). Except with respect to the terms defined herein, all capitalized terms contained herein shall have the meanings ascribed to such terms in the Plan.

RECITALS

WHEREAS, the Liquidation Trust is created pursuant to and to effectuate the Plan;

WHEREAS, the Liquidation Trust is created on behalf of, and for the sole benefit of, the holders of General Unsecured Claims, Contractually Subordinated Pension Claims and Statutorily Subordinated Pension Claims (the “*Beneficiaries*”);

WHEREAS, the Plan provides for the creation of a Liquidation Trust, which will (i) receive from the Debtors on the Effective Date all of the Liquidation Trust Assets, (ii) hold the Liquidation Trust Assets in trust for the benefit of the Beneficiaries, and (iii) oversee and direct the liquidation of the Liquidation Trust Assets held by it for the benefit of the Beneficiaries pursuant to the terms of the Plan and this Trust Agreement. This Trust Agreement is executed to establish the Liquidation Trust and to facilitate implementation of the Plan;

WHEREAS, the Liquidation Trust is established hereunder for the sole purpose of liquidating and distributing its assets for the benefit of the holders of the Allowed Claims (whether Allowed prior to, on, or after the Effective Date), in accordance with Treasury Regulations Section 301.7701-4(d), with no objective or authority to continue or engage in the conduct of a trade or business; and

WHEREAS, the Liquidation Trust is intended to qualify as a Liquidation Trust within the meaning of Treasury Regulations Section 301.7701-4(d);

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained herein and in the Plan, the Plan Proponents and the Trustee agree as follows:

¹ Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Plan.

ARTICLE I

ESTABLISHMENT OF THE LIQUIDATION TRUST

1.1 Establishment and Declaration of Trust.

(a) Name. This Trust shall be known as the “*HHHW Liquidation Trust*,” in which name the Trustee may conduct the affairs of the Liquidation Trust.

(b) Office. The office of the Liquidation Trust shall be in care of the Trustee at his office or at any other address that the Trustee may designate by written notice to the Beneficiaries.

(c) Declaration of Trust. Pursuant to the Plan, the Plan Proponents and the Trustee hereby establish the Liquidation Trust on behalf of and for the benefit of the Beneficiaries, and the Plan Proponents hereby irrevocably and absolutely transfer, assign, convey, and deliver to the Trustee all of their right, title, and interest (whether legal, beneficial, or otherwise) in and to the Liquidation Trust Assets free and clear of any Liens of any other person or entity (except as provided herein) in trust to and for the benefit of the Beneficiaries for the uses and purposes stated herein and in the Plan. Effective as of the date hereof, the Trustee shall have all the rights, powers and duties set forth herein and pursuant to applicable law for accomplishing the purposes of the Liquidation Trust. The Trustee is hereby authorized to file with any governmental authority any documents necessary to establish the Liquidation Trust.

(d) Appointment of Trustee. The Trustee is hereby appointed as trustee of the Liquidation Trust, effective as of the date hereof, to have all the rights, powers and duties set forth herein.

(e) Acceptance of Trust. The Trustee agrees to accept and hold the Liquidation Trust Assets in trust for the Beneficiaries subject to the terms of this Trust Agreement and the Plan.

1.2 Title to Liquidation Trust Assets.

(a) Except as otherwise provided by the Plan or this Trust Agreement, upon the Effective Date, title to the Liquidation Trust Assets shall pass to the Liquidation Trust free and clear of all Liens in accordance with Section 1141 of the Bankruptcy Code, the Plan and the Confirmation Order.

(b) Upon the transfer to the Liquidation Trust of the Liquidation Trust Assets, the Liquidation Trust shall succeed to all of the Debtor’s right, title, and interest in and to the Liquidation Trust Assets, and the Debtor will have no further interest or rights in or with respect to the Liquidation Trust Assets.

(c) For all purposes, including, without limitation, federal income taxes, securities laws, and section 1145 of the Bankruptcy Code, all parties (including, without limitation, the Debtor, the Trustee, and the Beneficiaries) shall treat the transfer by the Debtor of the Liquidation Trust Assets to the Liquidation Trust as (i) a transfer of the Liquidation Trust Assets directly to the Beneficiaries in satisfaction of such Claims followed by (ii) the transfer by the Beneficiaries to the Liquidation Trust of the Liquidation Trust Assets in exchange for beneficial interests in the

Liquidation Trust. Accordingly, the Beneficiaries shall be treated for all purposes, including, without limitation, federal income taxes, securities laws, and section 1145 of the Bankruptcy Code, as the grantors and owners of their respective shares of the Liquidation Trust Assets.

(d) With respect to all Liquidation Trust Assets, the Trustee will directly and indirectly be the representative of the Debtor's estate, as that term is used in section 1123(b)(3)(B) of the Bankruptcy Code, and will have the rights and powers provided for in the Bankruptcy Code, including section 1107 thereof, in addition to any rights and powers granted in this Trust Agreement and in the Plan. The Trustee will be the successor-in-interest to the Debtor with respect to any action that was or could have been commenced by the Debtor prior to the Effective Date that is a Liquidation Trust Asset and shall be deemed substituted for the same as the party in such litigation. The Trustee may enforce, sue on, settle or compromise (or decline to do any of the foregoing) all claims, rights or causes of actions, suits and proceedings, whether in law or in equity, whether known or unknown, that the Debtor or its Estate may hold against any person or entity, that constitute Liquidation Trust Assets. All actions, claims, rights or interests constituting Liquidation Trust Assets are preserved and retained and may be enforced by the Trustee as the representative of the Debtor's estate pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The Trustee will be a party-in-interest as to all matters over which the Bankruptcy Court has jurisdiction or retains jurisdiction under the Plan.

(e) To the extent any law or regulation prohibits the transfer of ownership of any of the Liquidation Trust Assets from the Debtor to the Trustee and such law is not superseded by the Bankruptcy Code, the Trustee's interest shall be a lien upon and security interest in such Liquidation Trust Assets, in trust, nevertheless, for the sole use and purposes set forth herein, and this Trust Agreement shall be deemed a security agreement granting such interest thereon without need to file financing statements or mortgages. No such restriction on any transfer as described in this subparagraph above shall derogate from all of the powers and control over Liquidation Trust Assets granted to the Trustee hereunder.

1.3 Valuation of Liquidation Trust Assets Not Required.

In recognition of the fact that equity interests constitute a substantial portion of the Liquidation Trust Assets for which a value has already been established under the terms of the operating agreement signed in connection with the Joint Venture Transaction, plus cash, no further valuation of Liquidation Trust Assets shall be required.

ARTICLE II

BENEFICIARIES

2.1 Rights of Beneficiaries.

Each Beneficiary will be entitled to participate in the rights due to a Beneficiary hereunder and under the Plan. Each Beneficiary shall take and hold its uncertificated beneficial interest subject to all of the terms and provisions of this Trust Agreement, the Confirmation Order and the Plan. The interest of a Beneficiary is in all respects personal property, and upon the death, insolvency or incapacity of an individual Beneficiary, such holder's interest shall pass to the legal

representative of such Beneficiary and such death, insolvency or incapacity shall not terminate or affect the validity of this Trust Agreement. A Beneficiary shall have no title to, right to, possession of, management of, or control of the Liquidation Trust Assets except as herein expressly provided. No surviving spouse, heir or devisee of any deceased Beneficiary shall have any right of dower, homestead, or inheritance, or of partition, or any other right, statutory or otherwise, in the Liquidation Trust Assets, but the whole title to all the Liquidation Trust Assets shall be vested in the Trustee and the sole interest of the Beneficiaries shall be the rights and benefits given to such persons under this Trust Agreement.

2.2 No Legal Title in Beneficiaries.

No Beneficiary shall have legal title to any part of the Liquidation Trust Assets. No transfer by operation of law or otherwise, of the right, title and interest of any Beneficiary in and to the Liquidation Trust Assets or hereunder shall operate to terminate this Liquidation Trust or entitle any successor or transferee of such Beneficiary to an accounting or to the transfer to it of legal title to any part of the Liquidation Trust Assets.

2.3 Identification of Beneficiaries.

The record holders of interests in the Liquidation Trust as of the Record Date (the “*Liquidation Trust Interests*”) shall be recorded and set forth in a register maintained by the Trustee expressly for such purpose. No later than the Effective Date, the Debtor shall deliver to the Trustee a true and correct list of Claim Holders as of the Record Date setting forth the names, addresses, any tax identification numbers and Claim amounts (including the amounts set forth in the proofs of claim and the amount of such Holder in the Schedules). Neither the Liquidation Trust nor the Trustee shall incur any liability in connection with the determination of the Liquidation Trust Interests. The Liquidation Trust and the Trustee shall have the absolute and unconditional right to rely on the information provided by the Debtor and neither shall incur any liability by relying on the information it receives. Except as otherwise required by law, references in this Trust Agreement to the identification of Beneficiaries and the providing of information to Beneficiaries shall be read to mean holders of record of Liquidation Trust Interests as set forth in the official register maintained by the Trustee and shall not mean any beneficial owner not recorded on such official registry. The distribution of Liquidation Trust Interests to Beneficiaries shall be accomplished as set forth in the Plan and herein.

2.4 Transfers of Liquidation Trust Interests.

The Liquidation Trust Interests shall not be certificated and shall be reflected only on the books and records of the Liquidation Trust maintained by the Trustee. The Liquidation Trust Interests are not negotiable and may not be transferred, assigned, made subject to any Lien, in whole or in part, except (a) pursuant to applicable laws of descent and distribution (in the case of a deceased individual Beneficiary) or (b) by operation of law. The Trustee shall not be required to record any transfer which, in the Trustee’s sole discretion, may be construed to create any uncertainty or ambiguity as to the identity of the holder of the Liquidation Trust Interest. Until a transfer is, in fact, recorded on the books and records maintained by the Trustee for the purpose of identifying Beneficiaries, the Trustee, whether or not in receipt of documents of transfer or other documents relating to the transfer, may nevertheless make distributions and send communications

as though the Trustee has no notice of any such transfer, and in so doing the Trustee shall be fully protected and incur no liability to any purported transferee or any other Person.

2.5 Exemption from Registration.

It is intended that the Liquidation Trust Interests and the entitlements hereunder, if any, of such Beneficiaries, shall not constitute “securities”. To the extent the rights of the Beneficiaries arising under this Trust Agreement may be deemed “securities” under applicable law, the issuance of the Liquidation Trust Interests or the entitlements of the Beneficiaries hereunder or under the Plan shall be exempt from registration under Section 1145 of the Bankruptcy Code, Section 4(a)(2) of the Securities Act of 1933 as amended and the rules and regulations promulgated thereunder, and any state and local laws applicable to such securities. No party to this Trust Agreement shall make a contrary or different contention.

ARTICLE III

PURPOSE, AUTHORITY, LIMITATIONS, DISTRIBUTIONS, AND DUTIES

3.1 Purpose of the Liquidation Trust.

The Liquidation Trust is established for the sole purpose of liquidating and distributing the Liquidation Trust Assets in accordance with Treasury Regulations Section 301.7701-4(d) with no objective to continue or engage in the conduct of a trade or business. Accordingly, the Trustee shall, in an expeditious but orderly and reasonable manner, liquidate and convert to cash, in U.S. dollars, the Liquidation Trust Assets, make timely Distributions, and not unduly prolong the duration of the Liquidation Trust. The liquidation of the Liquidation Trust Assets may be accomplished either through the sale of Liquidation Trust Assets (in whole or in combination) or otherwise.

3.2 Authority of Trustee.

In connection with the administration of the Liquidation Trust, except as set forth in this Trust Agreement, the Trustee is authorized to perform any and all acts necessary or desirable to accomplish the purposes of the Liquidation Trust. Without limiting, but subject to, the foregoing and to Section 3.3 hereof, the Trustee shall be expressly authorized, but shall not be required to:

(a) hold legal title to any and all rights of the Debtor and the Beneficiaries in or arising from the Liquidation Trust Assets, including, but not limited to, collecting any and all money and other property belonging to the Liquidation Trust and the right to vote any claim or interest in a case under the Bankruptcy Code and receive any distribution thereon;

(b) perform the duties, exercise the powers, and assert the rights of a trustee under Sections 704(a)(1), (2), (5) and (9) and 1106(a)(6) and (7) of the Bankruptcy Code with respect to the Liquidation Trust Assets and assert all rights of the Debtor’s estate under section 558 of the Bankruptcy Code;

(c) protect and enforce the rights to the Liquidation Trust Assets by any method deemed appropriate including, without limitation, by judicial proceedings or pursuant to any applicable bankruptcy, insolvency, moratorium, or similar law and general principles of equity in accordance with section 1123(b)(3)(B) of the Bankruptcy Code;

(d) engage in, intervene in, join, compromise, object to, adjust, release, arbitrate, sue on or defend, counterclaim, setoff, recoup, pursue, prosecute, abandon, or otherwise deal with and settle any actions, suits, proceedings, disputes, claims, controversies, demands, causes of action, or other litigation in favor of or against the Liquidation Trust, to enter into agreements relating to the foregoing, whether or not any suit is commenced or claim accrued or asserted and, in advance of any controversy, to enter into agreements regarding arbitration, adjudication or settlement thereof, all in the name of the Liquidation Trust if necessary or appropriate, and institute or continue actions which were or otherwise could have been brought by any or all of the Debtors that constitute Liquidation Trust Assets, and prosecute or defend all litigation or appeals that are Liquidation Trust Assets on behalf of the Debtors and, when appropriate, settle such actions and claims, in each case as the Trustee shall deem advisable;

(e) determine and satisfy any and all liabilities created, incurred or assumed by the Liquidation Trust, subject to the terms of the Trust Agreement;

(f) make all distributions to Beneficiaries provided for in, or contemplated by, the Plan and Trust Agreement;

(g) file, if necessary, any and all tax and information returns with respect to the Liquidation Trust and pay taxes properly payable by the Liquidation Trust, if any;

(h) assert or waive any privilege or defense on behalf of the Liquidation Trust;

(i) pay all expenses and make all other payments relating to the Liquidation Trust Assets, including the liquidation and distribution thereof;

(j) obtain insurance coverage with respect to the liabilities and obligations of the Trustee under this Trust Agreement (in the form of, among other things, an errors and omissions policy or otherwise) and indemnification for the Trustee and others as provided for in this Plan and the Trust Agreement;

(k) retain and pay such law firms as counsel to the Liquidation Trust and the Trustee, as the Trustee may select, to perform such functions as may be appropriate in the Trustee's discretion. The Trustee may commit the Liquidation Trust to and shall pay such law firms

reasonable compensation for services rendered and expenses incurred. The Trustee may retain counsel on a *nunc pro tunc* basis, to a date prior to the Effective Date;

(l) retain and pay an independent public accounting firm to perform such reviews and/or audits of the financial books and records of the Liquidation Trust as may be appropriate in the Trustee's discretion, and to prepare and file any tax returns or informational returns for the Liquidation Trust as may be required in accordance with the Trust Agreement. The Trustee may retain an independent accounting firm on a *nunc pro tunc* basis, to a date prior to the Effective Date. The Trustee may commit the Liquidation Trust to and shall pay such independent public accounting firm reasonable compensation for services rendered and expenses incurred;

(m) retain and pay such third parties as the Trustee, in its discretion, may deem necessary or appropriate to assist the Trustee in carrying out its powers and duties under the Trust Agreement. The Trustee may commit the Liquidation Trust to and shall pay all such persons or entities reasonable compensation for services rendered and expenses incurred, as well as commit the Liquidation Trust to indemnify any such parties in connection with the performance of services, on a *nunc pro tunc* basis, to a date prior to the Effective Date;

(n) invest any moneys held as part of the Liquidation Trust (including any earnings thereon or proceeds therefrom) subject Treasury Regulations, IRS rulings, guidelines or other pronouncements relating to "liquidating trusts";

(o) request any appropriate tax determination with respect to the Liquidation Trust, including, without limitation, a determination pursuant to Section 505 of the Bankruptcy Code;

(p) to open and maintain bank accounts and deposit funds, draw checks and make disbursements in accordance with the Plan and Trust Agreement;

(q) to enforce, waive, assign or release rights, privileges or immunities of any kind;

(r) to seek any relief from, or resolution of, any disputes by the Bankruptcy Court;

(s) to appear and participate in any proceeding before the Bankruptcy Court with respect to any matter regarding or relating to the Plan (insofar as it affects the Liquidation Trust or the Liquidation Trust Assets) or the Liquidation Trust;

(t) without limitation, to do any and all things necessary to accomplish the purposes of the Plan and Trust Agreement; and

(u) file any and all documents and take or refrain from taking any and all actions the Trustee reasonably deems necessary for the continuation, protection, distribution, liquidation, and maximization of the Liquidation Trust Assets consistent with the purposes of the Liquidation Trust

3.3 Limitations on Trustee's Authority.

(a) For any settlement of any Claim or Rights of Action representing Liquidation Trust Assets with a face amount of \$250,000.00 or more, the Trustee shall move before the Bankruptcy Court for approval of such settlement, and in any event, Section 11.1 of the Plan shall apply to the Trustee's settlement of any Claim or Rights of Action.

(b) Notwithstanding anything herein to the contrary, the Trustee shall not and shall not be authorized to engage in any trade or business and shall take (i) such actions consistent with the orderly liquidation of the Liquidation Trust Assets as are required by applicable law and (ii) such actions permitted hereunder; *provided, however*, that, the Trustee is not authorized to engage in any investments or activities inconsistent with the treatment of the Liquidation Trust as a "liquidating trust" within the meaning of Treasury Regulations Section 301.7701-4(d) or under applicable Internal Revenue Service guidelines, rulings, or other controlling authorities. Further, the Trustee shall not pursue any Rights of Action against any Entity covered by the exculpation and release provisions of Article VIII of the Plan.

3.4 Books and Records.

The Trustee shall maintain books and records relating to the Liquidation Trust Assets, income of the Liquidation Trust and the payment of expenses and liabilities of the Liquidation 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 as reasonably necessary to facilitate compliance with the tax reporting requirements of the Liquidation Trust. Except as expressly provided herein, nothing in this Trust Agreement requires the Trustee to file any accounting or seek approval of any court with respect to the administration of the Liquidation Trust or as a condition for managing any payment or Distribution out of the Liquidation Trust Assets. Beneficiaries shall have the right upon thirty (30) days' prior written notice delivered to the Trustee to inspect such books and records (including financial statements), subject to the Trustee's right to deny access in a reasonable effort to preserve privileged or confidential information or protect litigation or other strategies and provided that, if so requested, such holder shall have entered into a confidentiality agreement satisfactory in form and substance to the Trustee. Any books and records determined by the Trustee, in its sole discretion, not to be reasonably necessary for administering the Liquidation Trust or for the Trustee's compliance with the provisions of this Trust Agreement may, to the extent not prohibited by applicable law, be destroyed. The Trustee shall preserve the books and records relating to the Liquidation Trust Assets until the date that is one (1) year following the termination of the Trust, after which the Trustee may dispose of such records after Notice is given to creditors holding Allowed Claims that have not yet received their full Distributions.

3.5 Additional Powers.

Except as otherwise set forth in this Trust Agreement or in the Plan, and subject to the Treasury Regulations governing liquidating trusts and the retained jurisdiction of the Bankruptcy Court as provided for in the Plan, but without prior or further authorization, the Trustee may control and exercise authority over the Liquidation Trust Assets and over the protection, conservation, and disposition thereof. No person dealing with the Liquidation Trust shall be obligated to inquire into the authority of the Trustee in connection with the protection, conservation, liquidation, or disposition of the Liquidation Trust Assets.

3.6 Distributions.

(a) The Trustee shall make all Distributions required under the Plan in accordance with the terms and conditions of the Plan and Confirmation Order. Prior to making any Distribution to the Beneficiaries, the Trustee may retain such amounts (i) as are reasonably necessary to meet liabilities (whether fixed or contingent) and to maintain the value of the Liquidation Trust Assets during liquidation, (ii) necessary to pay reasonable expenses (including, but not limited to, any taxes imposed on the Liquidation Trust or in respect of the Liquidation Trust Assets), and (iii) necessary to satisfy other liabilities incurred or expected to be incurred by the Liquidation Trust in accordance with the Plan or this Trust Agreement, taking into account, for purposes of the foregoing, the availability, where applicable, of cash already on hand or schedule to be received to satisfy such liabilities or expenses. The Trustee may withhold from amounts distributable to any person any and all amounts, determined in the Trustee's reasonable sole discretion, required by any law, regulation, rule, ruling, directive, or other governmental requirement. The Trustee shall (i) not be required to make distributions to Beneficiaries of fractions of dollars, and whenever any distribution of a fraction of a dollar would otherwise be required, the actual distribution made may reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down and (ii) have no duty to make a distribution on account of any Allowed Claim of a Beneficiary if the amount to be distributed on account of the Allowed Claims on the particular distribution date is less than \$25, in which case such distributions shall be deferred to the next distribution date unless such distribution constitutes the final distribution to be made to the Beneficiary, in which case such distribution shall revert to the Liquidation Trust to be reallocated and distributed to Beneficiaries. Each Beneficiary shall furnish, in writing, its name, address, tax identification number, and completed IRS Form W-9 or, if applicable, IRS Form W-8, to the Trustee within thirty (30) days of a written request from the Trustee, and the Trustee shall make two (2) such requests. Failure to comply with the preceding sentence within 30 days of the second request shall result in the Beneficiary forfeiting their Liquidation Trust Interest and rights to any Distribution, and any such forfeited amounts shall be distributed to the remaining Beneficiaries in accordance with the Plan.

(b) All distributions made by the Trustee to holders of Liquidation Trust Interests shall be payable to the Beneficiaries of record as of the Record Date. If the Distribution shall be in cash, the Trustee shall distribute such cash by wire, check, or such other form as the Trustee deems appropriate under the circumstances.

(c) Conflicting Claims. If any conflicting claims or demands are made or asserted with respect to an Allowed Claim of a Beneficiary, the Trustee shall be entitled, in his sole election, to

refuse to comply with any such conflicting claims or demands. In so refusing, the Trustee shall (i) make no payment or Distribution with respect to the Allowed Claim represented by the conflicting claims or demands involved, or any part thereof, and (ii) refer such conflicting claims and demands to the Bankruptcy Court, which shall have exclusive jurisdiction over the resolution of such conflicting claims or demands. In so doing, the Trustee shall not be liable to any party for his refusal to comply with any such conflicting claims or demand. The Trustee shall be entitled to refuse to comply with conflicting claims and demands until either (a) the rights of the adverse claimants have become adjudicated by a Final Order of the Bankruptcy Court or (b) the conflict has been resolved by a written agreement among such parties and the Trustee, which agreement shall include a complete release of the Liquidation Trust and the Trustee with respect to the subject matter of the dispute.

3.7 Cancellation of Trust Interests upon Payment in Full.

The Trust Interests shall be cancelled upon payment in full of an Allowed claim (without Interest), or removal of such a claim from the roll of creditors on the Trust's books and records.

3.8 Undeliverable Distributions and Unclaimed Property.

Any Distribution that remains unclaimed after ninety (90) days following any Distribution Date, including, without limitation checks (and the funds represented thereby) that (a) have been returned as undeliverable without a proper forwarding address, (b) have not been cashed or otherwise negotiated or (c) were mailed a returned as undeliverable or not mailed or delivered because of the absence of a valid address, shall be canceled (by a stop payment order or otherwise), the Claim(s) relating to such Distribution(s) shall be deemed forfeited and expunged without any further action or order of the Bankruptcy Court, and the Holder of such Claim(s) shall be removed from the Distribution schedules and expunged from the Claims register and shall receive no further Distributions under the Plan. Any such unclaimed Distributions shall revert to the Distribution Fund to be redistributed pursuant to the provisions of this Plan. With respect to an undeliverable Distribution, in the event the Trustee is notified in writing of a Beneficiary's then current address within ninety (90) days after a Distribution Date such Distribution shall be made to such Beneficiary without interest as soon as practicable following the Trustee's receipt of the notice.

3.9 Reporting Duties of the Trustee.

(a) In addition to the reporting duties of the Trustee under Article VI hereof, the Trustee shall file returns for the Liquidation Trust as a grantor trust pursuant to Treasury Regulations Section 1.671-4(b) and in accordance with this Section 3.9. The Liquidation Trust's taxable income, gain, loss, deduction, or credit will be allocated proportionally to Beneficiaries in accordance with their relative beneficial interests in the Liquidation Trust.

(b) The Trustee shall pay, out of the Liquidation Trust Assets, any taxes imposed on the Liquidation Trust or the Liquidation Trust Assets.

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

(d) The Trustee shall file (or cause to be filed) any other statements, returns, or disclosures relating to the Liquidation Trust that are required by any governmental unit.

3.10 Compliance with Laws.

Any and all distributions of Liquidation Trust Assets and proceeds of borrowings, if any, shall be in compliance with applicable laws, including, but not limited to, applicable federal and state securities laws.

ARTICLE IV

THE TRUSTEE

4.1 Generally.

The Trustee will initially be Alan D. Halperin. The Trustee shall serve as trustee until its successor shall have been appointed in accordance with Article V or until resignation, death or removal. The Trustee's powers are exercisable solely in a fiduciary capacity consistent with, and in furtherance of, the purposes of this Liquidation Trust and not otherwise, except that the Trustee may deal with the Liquidation Trust Assets for its own account as permitted by Section 4.5 hereof.

4.2 Responsibilities of Trustee.

The Trustee shall, in an expeditious but orderly manner, liquidate and convert to cash in U.S. dollars the Liquidation Trust Assets, make timely Distributions, and not unduly prolong the duration of the Liquidation Trust. In so doing, the Trustee will exercise its reasonable business judgment in liquidating the Liquidation Trust Assets. The liquidation of the Liquidation Trust Assets may be accomplished, in the Trustee's sole discretion, through the sale of Liquidation Trust Assets (in whole or in part). In connection therewith, the Trustee will have the power to prosecute for the benefit of the Liquidation Trust all claims, rights, and causes of action transferred to the Liquidation Trust, whether such suits are brought in the name of the Liquidation Trust, the Debtor, or otherwise for the benefit of the Beneficiaries. Any and all proceeds generated from such Liquidation Trust Assets shall be held by the Liquidation Trust. Except as expressly set forth herein, the Trustee shall have absolute discretion to pursue or not to pursue any and all claims, rights, or causes of action, as it determines are in the best interests of the Beneficiaries and consistent with the purposes of the Liquidation Trust, and shall have no liability for the outcome of its decision. The Trustee may incur any reasonable and necessary expenses in liquidating, distributing, and protecting the Liquidation Trust Assets. The Trustee shall have authority to bind the Liquidation Trust and for all purposes of this Trust Agreement, shall be acting as Trustee, and not in its individual capacity.

4.3 Investment and Safekeeping of Liquidation Trust Assets.

The right and power of the Trustee to invest Liquidation Trust Assets, the proceeds thereof, or any income earned by the Liquidation Trust, shall be limited to the right and power that a "liquidation trust", within the meaning of Treasury Regulations Section 301.7701-4(d), is permitted to hold, pursuant to the Treasury Regulations and the guidelines set forth in Rev. Proc.

94-45, 1994-2 C.B. 684, or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements, or otherwise.

4.4 Authorization to Expend and Reserve Liquidation Trust Assets.

The Trustee may expend and reserve the Liquidation Trust Assets (a) as reasonably necessary to meet contingent liabilities and to maintain the value of the Liquidation Trust Assets during liquidation, (b) to pay all administrative expenses of the Liquidation Trust (including, but not limited to, any taxes imposed on the Liquidation Trust), and (c) to satisfy all other liabilities incurred or assumed by the Liquidation Trust (or to which the Liquidation Trust Assets are otherwise subject) in accordance with the Trust Agreement or the Plan.

4.5 Expense Reimbursement and Compensation.

(a) The Liquidation Trust Assets shall be subject to the claims of the Trustee and the costs and expenses of the Liquidation Trust, including, but not limited to, the fees and expenses of the Trustee and its retained professionals, representatives, agents, and employees. The Trustee shall be entitled to reimburse itself out of any available cash in the Liquidation Trust for his actual out-of-pocket expenses and for any and all losses, liabilities, expenses, or damages that the Trustee may, in good faith and without willful misconduct, gross negligence, or fraud, sustain in the exercise and performance of any of the powers and duties of the Trustee under this Trust Agreement. The Trustee shall be compensated for his duties hereunder pursuant to the standard hourly rates charged by the Trustee in transactions of this type, which is presently \$575 per hour, which are subject to adjustment from time to time. The Trustee, his retained professionals, agents, representatives, and employees may be compensated on a *nunc pro tunc* basis prior to the Effective Date from the Liquidation Trust Assets.

(b) If the cash in the Liquidation Trust shall be insufficient to compensate and reimburse the Trustee, including any professionals retained by the Trustee for any amounts to which they are entitled hereunder, then the Trustee is hereby authorized to reduce to cash that portion of the Liquidation Trust Assets necessary so as to effect such compensation and reimbursement.

4.6 No Bond.

The Trustee shall serve without bond.

4.7 Confidentiality.

The Trustee shall at all times hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to any entity to which any of the Liquidation Trust Assets relates or of which it has become aware in its capacity as Trustee, except as otherwise required by law.

ARTICLE V

SUCCESSOR TRUSTEE

5.1 Removal.

The Trustee may be removed only upon application to and by order of the Bankruptcy Court. Such removal shall become effective on the date the Bankruptcy Court order becomes a Final Order.

5.2 Resignation.

The Trustee may resign by giving not less than thirty (30) days' prior written notice thereof to the holders of Contractually Subordinated 1199 Union or 1199 Fund Claim (with a copy to the Debtor). Such resignation shall become effective on the later to occur of: (a) the day specified in such notice; and (b) the appointment of a successor Trustee by the holders of Allowed General Unsecured Claims and the acceptance by such successor of such appointment. If a successor Trustee is not appointed or does not accept its appointment within thirty (30) days following delivery of notice of resignation, the Trustee may petition any court of competent jurisdiction for appropriate relief.

5.3 Appointment of Successor Trustee.

In the event of the death (in the case of a Trustee that is a natural person), dissolution (in the case of a Trustee that is not a natural person), resignation pursuant to Section 5.2 hereof, incompetency, or removal of the Trustee pursuant to Section 5.1 hereof, the Beneficiaries may appoint a successor Trustee. Such notice shall specify the date on which such appointment shall be effective subject to Section 5.2 in the event of resignation. Every successor Trustee appointed hereunder shall execute, acknowledge, and deliver to the Bankruptcy Court and to the retiring Trustee an instrument accepting the appointment under this Trust Agreement and agreeing to be bound thereto, and thereupon the successor Trustee, without any further act, deed, or conveyance, shall become vested with all rights, powers, trusts, and duties of the retiring Trustee

5.4 Continuity.

Unless otherwise ordered by the Bankruptcy Court (or another court of competent jurisdiction), the death, resignation, incompetence or removal of the Trustee shall not operate to terminate or to remove any existing agency created pursuant to the terms of this Trust Agreement or invalidate any action theretofore taken by the Trustee. In the event of the resignation or removal of the Trustee, the Trustee shall promptly execute and deliver such documents, instruments, final reports, and other writings as may be reasonably requested from time to time by the Bankruptcy Court (or another court of competent jurisdiction). All fees and expenses incurred by the Trustee prior to the resignation, incompetency or removal of the Trustee shall be paid from the Liquidation Trust Assets.

ARTICLE VI

REPORTS TO HOLDERS OF LIQUIDATION TRUST INTERESTS

6.1 Other Reporting.

As soon as practicable after the end of each calendar year and as soon as practicable upon termination of the Liquidation Trust, the Trustee shall make available upon written request to each holder of Liquidation Trust Interests representing a Class 3 or Class 4 Claim a written report including: (a) financial statements prepared in accordance with U.S. generally accepted accounting principles of the Liquidation Trust for such period, and a report (which may be prepared by an independent certified public accountant employed by the Trustee) reflecting the result of such agreed upon procedures relating to the financial accounting administration of the Liquidation Trust as considered by the Trustee in its discretion, to be appropriate under the circumstances. The Trustee may post any such report on a web site maintained by the Trustee in lieu of providing a copy to Beneficiaries (unless otherwise required by law).

6.2 Tax Reporting.

In addition, within ninety (90) days following the end of each calendar year, the Trustee shall submit to each Beneficiary appearing on its records during such year a separate statement setting forth the information necessary for such holder to determine its share of items of income, gain, loss, deduction, or credit and will instruct each holder to report such items on its federal income tax returns (and state and local tax returns, as applicable) or to forward the appropriate information to the beneficial owners with instructions to report such items on their federal income tax returns (or state and local tax returns, as applicable).

ARTICLE VII

TERMINATION OF LIQUIDATION TRUST

7.1 Termination of Liquidation Trust.

The Trustee and the Liquidation Trust shall be discharged or dissolved, as the case may be, at such time as (i) the Trustee determines that the prosecution or liquidation of the Liquidation Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit and (ii) all Distributions required to be made by the Trustee under the Plan have been made, but in no event shall the Liquidation Trust be dissolved later than five (5) years from the Effective Date unless the Bankruptcy Court, upon motion within the six month period prior to the fifth anniversary of the Effective Date (or at least six (6) months prior to the end of an extension period), determines that a fixed period extension (not to exceed an additional three years, together with any prior extensions) is necessary to facilitate or complete the recovery and liquidation of the Liquidation Trust Assets. The Trustee shall not unduly prolong the duration of the Liquidation Trust and shall at all times endeavor to resolve, settle, or otherwise dispose of all claims that constitute Liquidation Trust Assets and to effect the Distribution of the Liquidation Trust Assets to the Beneficiaries in accordance with the Plan and terminate the Liquidation Trust as soon as practicable. Prior to and upon termination of the Liquidation Trust, the Liquidation Trust Assets will be distributed to the

Beneficiaries pursuant to the provisions set forth in Section 3.6 hereof. If any Liquidation Trust Assets are not duly claimed, such Liquidation Trust Assets will be redistributed *pro rata* to all other holders of Liquidation Trust Interests receiving Liquidation Trust Assets pursuant to Section 3.6 hereof and consistent with the terms of the Plan.

7.2 Donation of Liquidation Trust Assets.

If at any time the Trustee determines that the expense of administering the Liquidation Trust is likely to exceed the value of the remaining Liquidation Trust Assets or make a final distribution to its Beneficiaries of the remaining Liquidation Trust Assets impractical, the Trustee may in his sole discretion donate any balance to a charitable organization exempt from federal income tax under section 501(c)(3) of the Tax Code that is unrelated to the Debtor, the Liquidation Trust, and any insider of the Trustee.

7.3 Continuance of Trust for Winding Up.

After the termination of the Liquidation Trust and for the purpose of liquidating and winding up the affairs of the Liquidation Trust, the Trustee shall continue to act as such until his duties have been fully performed.

7.4 Maintenance of Records.

Upon termination of the Liquidation Trust, the Trustee shall retain for a period of one year the books, records, lists of holders of Liquidation Trust Interests and certificates and other documents and files which shall have been delivered to or created by the Trustee. At the Trustee's discretion, all of such records and documents may, but need not, be destroyed at any time after one year from the completion and winding up of the affairs of the Liquidation Trust after Notice is given to creditors holding Allowed Claims that have not yet received their full Distributions in accordance with the Plan. Except as otherwise specifically provided herein, upon the termination of the Liquidation Trust, the Trustee shall have no further duties or obligations hereunder.

ARTICLE VIII

LIMITATIONS ON LIABILITY; INDEMNIFICATION

8.1 Liability of Trustee; Indemnification.

The Trustee and his designees, partners, affiliates, employees, attorneys or professionals, or any of their duly designated agents or representatives (the "***Covered Persons***") shall not be personally liable for any claim asserted against any of them or the Liquidation Trust or for any actions taken or omitted in their capacity as, or on behalf of the Liquidation Trust and/or the Trustee in furtherance of their responsibilities hereunder, except to the extent that their conduct is determined by a Final Order to be due to their own willful misconduct, gross negligence, fraud, self-dealing, or *ultra vires* acts. The Liquidation Trust shall indemnify and hold harmless the Covered Persons from and against and in respect of all liabilities, losses, damages, claims, costs, and expenses, including, but not limited to, attorneys' fees and costs payable monthly in arrears arising out of or due to their actions or omissions, or consequences of such actions or omissions with respect to the Liquidation Trust or the implementation or administration of this Trust

Agreement and the Plan; *provided, however*, that no such indemnification will be made to such persons for such actions or omissions as a result of willful misconduct, gross negligence, fraud, self-dealing, or *ultra vires* acts as determined by a Final Order. Any indemnification claim of a Covered Person shall be satisfied solely from the Liquidation Trust Assets, any applicable insurance coverage, and the proceeds thereof.

8.2 Reliance by Trustee. The Trustee may absolutely and unconditionally rely, and shall be protected in acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper, document, spreadsheet, or database believed by him to be genuine and to have been signed or presented by the proper party or parties, and may consult with legal counsel, financial or accounting advisors, and other professionals to be selected by the Trustee and may rely, in good-faith, on the advice thereof, and shall not be liable for any action taken or omitted to be taken in accordance with the advice thereof.

8.3 Recourse Limited to Liquidation Trust Assets.

Persons dealing with the Trustee or the Liquidation Trust shall look only to the Liquidation Trust Assets (or to any insurance that may cover such claim) to satisfy any liability incurred by the Covered Persons to such person in carrying out the terms of this Trust Agreement, and neither the Trustee, nor any of the other Covered Persons shall have any personal obligation or recourse of any nature or kind whatsoever to satisfy any such liability. Nothing contained in this Agreement, the Plan or the Confirmation Order shall be deemed to be an assumption by the Trustee or Liquidation Trust of any of the liabilities, obligations or duties of the Debtor or the Beneficiaries and shall not be deemed to be or contain a covenant or agreement by the Trustee or Liquidation Trust to assume or accept any such liability, obligation or duty.

8.4 Non-Liability for Acts of Others.

The Trustee may, in connection with the performance of his functions, and in his sole and absolute discretion, consult with his 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 good faith reliance upon the advice or opinions rendered by such persons, regardless of whether such advice or opinions are provided in writing. Notwithstanding such authority, the Trustee shall not be under any obligation to consult with attorneys, accountants, financial advisors or agents, and his determination not to do so shall not result in the imposition of liability on the Trustee or his agents, unless such determination is based on willful misconduct, gross negligence, fraud, self-dealing, or *ultra vires* acts as determined by a Final Order. Nothing contained in this Trust Agreement, the Plan, or the Confirmation Order shall be deemed to be an assumption by the Trustee of any of the liabilities, obligations, or duties of the Debtor or Beneficiaries or a covenant or agreement by the Trustee to assume or accept any such liability, obligation or duty. Any successor Trustee may accept and rely upon any accounting made by or on behalf of any predecessor Trustee hereunder, and any statement or representation made by a predecessor Trustee or its agents as to the Liquidation Trust Assets or as to any other fact bearing upon the prior administration of the Liquidation Trust, so long as it has a good faith basis to do so. A successor Trustee shall not be liable for having accepted and relied in good faith upon any such accounting, statement, or representation if it is later proved to be incomplete, inaccurate, or untrue. A successor Trustee shall not be liable for any act or omission of any predecessor Trustee, nor have a duty to enforce

any claims against any predecessor Trustee on account of any such act or omission.

8.5 Confirmation of Survival of Provisions.

Without limitation in any way of any provision of this Trust Agreement, the provisions of this Article VIII shall survive the death, dissolution, liquidation, resignation, replacement, or removal, as may be applicable, of the Trustee, or the termination of the Liquidation Trust or this Trust Agreement, and shall inure to the benefit of the Trustee's respective heirs, successors, and assigns.

ARTICLE IX

AMENDMENT AND WAIVER

9.1 Amendment and Waiver.

Any substantive provision of this Trust Agreement may be amended or waived by the Trustee and either (a) the Beneficiaries that have not yet received their full distribution under the Plan)(notice of which shall be filed within twenty (20) days thereof on the Bankruptcy Court's electronic docket in the Debtor's case), or (b) an Order of the Bankruptcy Court. Technical amendments to this Trust Agreement may be made, as necessary, to clarify this Trust Agreement or enable the Trustee to effectuate the terms of this Trust Agreement by the Trustee without Bankruptcy Court approval but notice of which shall be filed within twenty (20) days thereof on the Bankruptcy Court's electronic docket in the Debtor's case. Notwithstanding this Section 9.1, any amendments to this Trust Agreement shall not be inconsistent with the purpose and intention of the Liquidation Trust to liquidate in an expeditious but orderly manner the Liquidation Trust Assets in accordance with Treasury Regulations Section 301.7701-4(d) and Section 3.1 hereof.

ARTICLE X

MISCELLANEOUS PROVISIONS

10.1 Intention of Parties to Establish Liquidation Trust.

This Trust Agreement is intended to create a Liquidation 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 Trust Agreement may be amended to comply with such federal income tax laws, which amendments may apply retroactively.

10.2 Preservation of Privilege and Defenses.

Any attorney-client privilege, work-product privilege, or other privilege or immunity attaching to any documents or communications (whether written or oral) transferred to the Liquidation Trust shall vest in the Trustee and its representatives, and the Debtors and the Trustee are authorized to take all necessary actions to effectuate the transfer of such privileges and available defenses. Any and all work-product created by on or behalf of the Trustee, its retained professionals (including, but not limited to, its counsel), agents, representatives, and employees

shall be deemed confidential to the extent that such work-product is not protected by any applicable attorney work-product privilege.

10.3 Laws as to Construction.

This Trust Agreement shall be governed by, construed and enforced in accordance with the laws of the State of New York, without giving effect to provisions, policies, or principles thereof governing conflict or choice of laws.

10.4 Severability.

If any provision of this Trust 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 Trust 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 Trust Agreement shall be valid and enforced to the fullest extent permitted by law.

10.5 Notices. Any notice or other communication hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if personally delivered or sent by mail, postage prepaid, or by telecopy addressed to the person for whom such notice is intended as follows (or such other address as may be designated by notice given in accordance with this Section 10.5):

If to the Trustee:

Alan D. Halperin
Halperin Battaglia Benzija, LLP
40 Wall Street, 37th Floor
New York, NY 10005
(212) 765-9100
Fax: (212) 765-0964
Email: ahalperin@halperinlaw.net

If to the Debtors:

Raymond L. Fink
John A. Mueller
Lippes Mathias Wexler Friedman LLP
50 Fountain Plaza, Suite 1700
Buffalo, NY 14202
(716) 853-5100
Fax: (716) 853-5199
Email: rfink@lippes.com
jmueller@lippes.com

If to the Committee:

James J. Vincequerra
Alston & Bird LLP
90 Park Avenue
New York, NY 10016
(212) 210-9503
Fax: (212) 210-9444
Email: James.Vincequerra@alston.com

If to a Beneficiary:

To the name and address set forth on the registry maintained by the Trustee.

10.6 Headings.

The section headings contained in this Trust Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Trust Agreement or of any term or provision hereof.

10.7 Relationship to the Plan.

The principal purpose of this Trust Agreement is to aid in the implementation of the Plan and, therefore, this Trust Agreement incorporates the provisions of the Plan. To that end, the Trustee shall have full power and authority to take any action consistent with the purpose and provisions of the Plan and to seek any orders from the Bankruptcy Court in furtherance of implementation of the Plan and this Trust Agreement. If any provisions of this Trust Agreement are found to be inconsistent with the provisions of the Plan, the provisions of this Trust Agreement shall control.

IN WITNESS WHEREOF, the parties hereto have either executed and acknowledged this Trust 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.

DEBTOR:

HEBREW HOSPITAL HOME OF
WESTCHESTER, INC.

By: _____
Name:
Title:

**OFFICIAL COMMITTEE OF
UNSECURED CREDITORS:**

By: _____
James Vincequerra, Esq.
Alston & Bird LLP
Counsel for the Committee of Unsecured
Creditors

TRUSTEE:

By: _____
Alan D. Halperin, as Trustee

EXHIBIT C

Estimated Distribution Analysis



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**Hebrew Hospital Home of Westchester (HHHW)
Best Interests Test (August 8, 2017)**

Exhibit C

Sources:

	<u>Chapter 11</u>	<u>Chapter 7</u>	
Net Sale Proceeds	\$ 6,489,187	\$ 6,489,187	MG&S escrow account balance: Sterling National Bank (7/31/17)
Bethel Beds JV - First Installment	560,000	560,000	MG&S escrow accounts: Sterling; M&T (7/31/17); excludes accrued interest
Wells Fargo DIP	3,473,151	3,473,151	Approximate Balance (8/7/17)
Landa & Hirsch Notes	575,698	575,698	As of 7/31/17 (+ \$129.20/day) - uncollected and past due
NY State Universal Settlement	805,000	805,000	Five installments (2 past due) - subject to dispute with Care Rite
Bethel Beds JV - Final Installment	1,940,000	1,940,000	Post-construction - Anticipated project completion and collection timeframe estimate ~ 24-36 months
Total Sources	<u>\$ 13,843,036</u>	<u>\$ 13,843,036</u>	

Uses:

Administrative Claims:

Chapter 7: Trustee and Professional Fees	\$ -	665,291	Approx 3% total distributions + \$250k professional/winddown fees
Chapter 11: Professional Fees	500,000	500,000	Estimated
Chapter 11: Case Wind-down and Plan	150,000	-	Claims reconciliation process and Plan distributions
Chapter 11: Interco. Admin Expense Recovery	100,000	100,000	Est. - Payable to HSH for allocation of Administrative expenses incurred by HSH
Chapter 11: Other Administrative Claims	100,000	100,000	Estimated - Various tbd
Total Administrative Claims	<u>\$ 850,000</u>	<u>\$ 1,365,291</u>	

Priority Claims:

	tbd.	tbd.	Unknown
Total Priority Claims	<u>\$ -</u>	<u>\$ -</u>	

Total Uses

<u>\$ 850,000</u>	<u>\$ 1,365,291</u>
--------------------------	----------------------------

**Estimated Amount Available for General
Unsecured Creditors:**

<u>\$ 12,993,036</u>	<u>\$ 12,477,745</u>
-----------------------------	-----------------------------

General Unsecured Creditors: non-1199:

<u>\$ 6,600,000</u>	<u>\$ 6,600,000</u>
----------------------------	----------------------------

Estimated claims for all non-union creditors - payable at 100%; estimate based on analysis of claims register and amounts ultimately believed allowable plus cushion

**Estimated Amount Available for Union Claims
Settlement:**

<u>\$ 6,393,036</u>	<u>\$ 5,877,745</u>
----------------------------	----------------------------

Total Union Claims (1199)

<u>\$ 12,059,751</u>	<u>\$ 12,059,751</u>
-----------------------------	-----------------------------

Stipulated Claim per Settlement

Recovery to Union:

<u>53.0%</u>	<u>48.7%</u>
---------------------	---------------------

Estimated Recovery for Union/Fund claimants

Estimated Shortfall for Union Claims

<u>\$ 5,666,715</u>	<u>\$ 6,182,006</u>
----------------------------	----------------------------

Claim balance to be split - 1/2 remainder to each Choices and HSH

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EXHIBIT B TO MOTION

Confirmation Hearing Notice

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James J. Vincequerra, Esq.
Alston & Bird LLP
90 Park Avenue
New York, NY 10016
(212) 210-9400

*Attorneys for the Official Committee
of Unsecured Creditors of HHHW*

Raymond L. Fink, Esq.
John A. Mueller, Esq.
Lippes Mathias Wexler Friedman LLP
50 Fountain Plaza, Suite 1700
Buffalo, NY 14202
(716) 853-5100

Counsel for the Debtor

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

IN RE:	Chapter 11
HHH CHOICES HEALTH PLAN, LLC, et al.,	Case No. 15-11158-MEW
	Case No. 15-13264
	Case No. 16-10028
Debtors.	(Jointly Administered)

-----X

**NOTICE OF (i) HEARING ON CONFIRMATION OF JOINT
LIQUIDATING CHAPTER 11 PLAN OF HEBREW HOSPITAL HOME OF
WESTCHESTER, INC. AND (ii) DATE BY WHICH
TO SUBMIT OBJECTIONS TO CONFIRMATION**

BY ORDER OF THE UNITED STATES BANKRUPTCY COURT:

PLEASE TAKE NOTICE that a hearing to consider confirmation of the Joint’s Plan of Liquidation, dated August 10, 2017 (the “**Plan**”), of Hebrew Hospital Home of Westchester, Inc. (the “**Debtor**”), under Chapter 11 of the Bankruptcy Code, has been scheduled by the Court, and the following deadlines and procedures have been established with respect thereto:

HEARING TO CONFIRM PLAN OF LIQUIDATION

1. A hearing at which the Court will consider whether to confirm the Plan (the “**Confirmation Hearing**”) will commence on **October 31, 2017, at 10:00 a.m.** (prevailing Eastern time) before the Honorable Michael E. Wiles, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York. The Confirmation Hearing may be continued from time to time by announcing such continuance in open court or otherwise, all without further notice to parties with claims.

OBJECTION DEADLINE AND PROCEDURES

2. **October 24, 2017, at 4:00 p.m.** (prevailing Eastern time) is the deadline for filing and serving objections to confirmation of the Plan (the “**Plan Objection Deadline**”). Objections not filed and served by the Plan Objection Deadline in the manner set forth in paragraph 3 below will not be considered by the Court.

3. In order to be considered by the Court, objections, if any, to the Plan, must: (i) be in writing; (ii) state the name and address of the objecting party and the amount and nature of the claim of such party; (iii) state with particularity the basis and nature of any objection; (iv) conform to the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and the Local Rules of the Bankruptcy Court (the “**Local Bankruptcy Rules**”); and (v) be filed with the Bankruptcy Court electronically by registered users of the Bankruptcy Court’s case filing system (the User’s Manual for the Electronic Case Filing System can be found at www.nysb.uscourts.gov, the official website for the Bankruptcy Court) and, by all other parties with claims, on a 3.5 inch disk, in text-searchable Portable Document Format (PDF), Wordperfect or any other Windows-based word processing format (in either case, with a hard-copy delivered directly to Chambers), and shall be served upon: (a) counsel to the Debtor, (b) counsel to the Creditors Committee, (c) the Office of the United States Trustee, and (d) all parties filing a notice of appearance and request for service,

pursuant to Bankruptcy Rule 2002 and Local Bankruptcy Rule 3020-1(a), so that they are received on or before the Plan Objection Deadline.

4. The Court will consider only written objections filed and served by the Plan Objection Deadline. Objections not timely filed and served in accordance with the provisions of this Notice will not be heard and will be overruled.

5. All documents filed with the Court, including the Plan, are available for inspection at the Office of the Clerk of the Bankruptcy Court or on the Court's website (www.nysb.uscourts.gov).

Dated: August __, 2017

ALSTON & BIRD LLP

90 Park Ave
New York, New York 10016-1387
Telephone: (212) 210-9400
Facsimile: (212) 210-9444
James J. Vincequerra, Esq.
james.vincequerra@alston.com

/s/ James J. Vincequerra

James J. Vincequerra

*Counsel to the Official Committee
Of Unsecured Creditors*

and

**LIPPES MATHIAS WEXLER
FRIEDMAN LLP**

50 Fountain Plaza, Suite 1700
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Telephone: (716) 853-5100
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rfink@lippes.com
jmueller@lippes.com

/s/ Raymond L. Fink

Raymond L. Fink

Counsel for the Debtor

EXHIBIT C TO MOTION

Form Notice for Unimpaired Holders

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New York, NY 10016
(212) 210-9400

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of Unsecured Creditors of HHHW*

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Buffalo, NY 14202
(716) 853-5100

Attorneys for the Debtor

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

IN RE:

HHH CHOICES HEALTH PLAN, LLC, et al.,

Debtors.

Chapter 11

**Case No. 15-11158-MEW
Case No. 15-13264
Case No. 16-10028**

(Jointly Administered)

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**NOTICE OF NON-VOTING STATUS WITH RESPECT TO CERTAIN
CLAIMS AND INTERESTS**

PLEASE TAKE NOTICE that Hebrew Hospital Home of Westchester, Inc., one of the above-captioned debtors, and a debtor-in-possession (the “**Debtor**”) and the Debtor’s Official Committee of Unsecured Creditors’ (the “**Creditors Committee**”) (together with the Debtor “**Plan Proponents**”) filed their Joint Plan of Liquidation Under Chapter 11 of the Bankruptcy Code dated August 10, 2017 (the “**Plan**”) and Disclosure Statement for the Joint Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc. Proposed by the Debtor and the

Official Committee of Unsecured Creditors (the “**Disclosure Statement**”) on August 10, 2017. The Bankruptcy Court entered an order on September __, 2017 (the “**Solicitation Procedures Order**”) (Docket No. __) approving certain procedures in connection with the solicitation of votes on the Joint Plan.

PLEASE TAKE FURTHER NOTICE that under the Solicitation Procedures Order, the provisions of Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et. seq., (the “**Bankruptcy Code**”), and the Plan, holders of certain claims or interests under the Plan are not entitled to vote. Specifically, the Plan provides that unimpaired creditors holding the Secured Claims (Class 1) and the Priority Non-Tax Claims (Class 2) are not entitled to vote on the Plan (collectively, “**Non-Voting Claims**”).

PLEASE TAKE FURTHER NOTICE that the Plan Proponents of the Plan have designated your claim as a Non-Voting Claim, and accordingly, you are not entitled to vote on the Plan.

PLEASE TAKE FURTHER NOTICE that copies of the Plan, the Disclosure Statement and exhibits are available at the website at: <https://cases.primeclerk.com/hebrewhospital/> or may be obtained, upon reasonable written request, from the Voting Agent at its address set forth above.

6. **PLEASE TAKE FURTHER NOTICE** that October 24, 2017, at 4:00 p.m. (prevailing Eastern time) is the deadline for filing and serving objections to confirmation of the Plan. To be considered, objections, if any, to confirmation of the Plan must: (i) be in writing; (ii) state the name and address of the objecting party and the amount and nature of the claim of such party; (iii) state with particularity the basis and nature of any objection; (iv) conform to the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and the Local Rules of the Bankruptcy Court (the “**Local Bankruptcy Rules**”); and (v) be filed with the Bankruptcy Court electronically

by registered users of the Bankruptcy Court's case filing system (the User's Manual for the Electronic Case Filing System can be found at www.nysb.uscourts.gov, the official website for the Bankruptcy Court) and, by all other parties with claims, on a 3.5 inch disk, in text-searchable Portable Document Format (PDF), Wordperfect or any other Windows-based word processing format (in either case, with a hard-copy delivered directly to Chambers), and shall be served upon: (a) counsel to the Debtor, (b) counsel to the Creditors Committee, (c) the Office of the United States Trustee, and (d) all parties filing a notice of appearance and request for service, pursuant to Bankruptcy Rule 2002 and Local Bankruptcy Rule 3020-1(a), so that they are received on or before the Plan Objection Deadline.

PLEASE TAKE FURTHER NOTICE that the hearing to consider confirmation of the Plan will commence on **October 31, 2017 at 10:00 a.m. (Eastern time)** or as soon thereafter as counsel can be heard, before the Honorable Michael E. Wiles, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York. The Confirmation Hearing may be continued from time to time by announcing such continuance in open court or otherwise, all without further notice to parties with claims.

Dated: August __, 2017

ALSTON & BIRD LLP

90 Park Ave
New York, New York 10016-1387
Telephone: (212) 210-9400
Facsimile: (212) 210-9444
James J. Vincequerra, Esq.
james.vincequerra@alston.com

/s/ James J. Vincequerra R

James J. Vincequerra

*Counsel to the Official Committee
Of Unsecured Creditors*

and

**LIPPES MATHIAS WEXLER
FRIEDMAN LLP**

50 Fountain Plaza, Suite 1700
Buffalo, NY 14202
Telephone: (716) 853-5100
Facsimile: (716) 853-5199
Raymond L. Fink, Esq.
John A. Mueller, Esq.
rfink@lippes.com
jmueller@lippes.com

/s/ Raymond L. Fink

Raymond L. Fink

Counsel for the Debtor

EXHIBIT D TO MOTION

Ballot Form

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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IN RE:

HHH CHOICES HEALTH PLAN, LLC, et al.,

Debtors.

Chapter 11

Case No. 15-11158-MEW

Case No. 15-13264

Case No. 16-10028

(Jointly Administered)

-----X

BALLOT

**FOR ACCEPTING OR REJECTING THE JOINT PLAN OF LIQUIDATION FOR
HEBREW HOSPITAL HOME OF WESTCHESTER, INC. PROPOSED BY THE
DEBTOR AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS AND
HEBREW HOSPITAL HOME OF WESTCHESTER, INC.**

CLASS 3a

ALLOWED GENERAL UNSECURED CLAIMS

**PLEASE READ AND FOLLOW THE ENCLOSED VOTING INSTRUCTIONS
CAREFULLY BEFORE COMPLETING THE BALLOT.**

This Ballot is being sent to you because records indicate that you are a Holder of a Class 3a Allowed General Unsecured Claim against Hebrew Hospital Home of Westchester, Inc., (the “**Debtor**”). The Debtor and the Official Committee of Unsecured Creditors (the “**Creditors Committee**”), (together with the Debtor, the “**Plan Proponents**”) have filed the “Joint Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc. proposed by the Debtor and the Official Committee of Unsecured Creditors” (the “**Plan**”) that accompanies this Ballot. You may vote to accept or reject the Plan. The Plan and your rights under the Plan are described in the “Disclosure Statement for the Joint Chapter 11 Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc. Proposed by the Debtor and the Official Committee of Unsecured Creditors” (the “**Disclosure Statement**”) that is enclosed with this Ballot. If a copy of the Disclosure Statement or the Plan is not enclosed with this Ballot, you may request a copy from Alston & Bird LLP (“**Alston & Bird**”), c/o Leslie Salcedo by calling 212 -210- 9543 or by going to the website at: <https://cases.primeclerk.com/hebrewhospital/>. Capitalized terms not defined in this Ballot are as defined in the Plan and the Disclosure Statement.

This Ballot may not be used for any purpose other than for casting votes to accept or reject the Plan and making certain certifications with respect thereto. If you believe you have received this Ballot in error, please call Alston & Bird LLP c/o Leslie Salcedo at 212 -210- 9543.

You should carefully and thoroughly review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and the classification and treatment of your Claim under the Plan. Your Claim has been placed in Class 3a under the Plan. If you hold Claims in more than one Class, you will receive a Ballot for each Class in which you are entitled to vote. You should timely return all Ballots for each Class in which you are entitled to vote. In addition, one or more of your affiliates may receive one or more Ballots with respect to their Class 3a Claims. All Persons receiving Ballots with respect to Class 3a Claims should return completed Ballots in accordance with the instructions set forth in their Ballot.

If your Ballot is not received by Alston & Bird on or before 5:00 p.m. prevailing Eastern Time on October 20, 2017, and such deadline is not extended, your vote will not be counted. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you whether or not you vote.

This Ballot is divided into two parts:

PART I WHO SHOULD USE THIS BALLOT; HOW TO USE THIS BALLOT

PART II ITEMS ON THE BALLOT

- Item 1. Certifications
- Item 2. Amount of your Class 3a Claim
- Item 3. Vote - Acceptance or Rejection of the Plan

APPENDIX A INSTRUCTIONS FOR COMPLETING THE CLASS 3a BALLOT

PART I WHO SHOULD USE THIS BALLOT; HOW TO USE THIS BALLOT

Holders of the Class 3a HHHW Claim should use this Ballot to cast a vote to accept or reject the Plan. This Ballot may not be used for any purpose other than for casting votes to accept or reject the Plan. This Ballot does not constitute, and shall not be deemed to be, a proof of Claim or an assertion or admission of a Claim. **A return envelope accompanies this Ballot. You must return this Ballot so that Alston & Bird c/o Leslie Salcedo receives this Ballot on or before 5:00 p.m. prevailing Eastern Time on October 20, 2017 (the "Voting Deadline").**

PART II ITEMS ON THE BALLOT

Item 1. Certifications.

By returning this Ballot, you certify to the Bankruptcy Court, and the Plan Proponents that:

- you hold a Class 3a HHHW Claim;
- neither you nor anyone else has cast a Ballot with respect to the Class 3a HHHW Claim identified in Item 2 or, if you or someone else has cast a Ballot with respect to the Class 3a HHHW Claim identified in Item 2, that Ballot is revoked; and
- all authority conferred or agreed to be conferred pursuant to this Ballot, and every obligation of the undersigned hereunder shall be binding upon the transferees, successors,

assigns, heirs, executors, administrators, trustees in bankruptcy and legal representatives of the undersigned and shall not be affected by, and shall survive, the death or incapacity of the undersigned.

Item 2. Amount of your Class 3a HHHW Claim

Name of Holder: [_____]

Amount of Class 3a HHHW Claim: [_____]

Item 3. Vote - Acceptance or Rejection of the Plan

THE PLAN PROPONENTS RECOMMEND THAT YOU ACCEPT THE PLAN BY CHECKING THE "TO ACCEPT THE PLAN" BOX

The Holder of the Claim set forth in Item 2 votes (please check one):	
<input type="checkbox"/> TO ACCEPT THE PLAN, CHECK HERE	<input type="checkbox"/> TO REJECT THE PLAN, CHECK HERE

If you do not vote on your Ballot to either accept or reject the Plan or if you vote on your Ballot to both accept and reject the Plan, then your Ballot will be counted as a vote to accept the Plan.

Dated: _____

Name: _____
(Print or Type)

Signature: _____

By: _____
(If Appropriate)

Title: _____
(If Appropriate)

Telephone Number: _____

Street Address: _____

City, State and Zip Code: _____

PLEASE COMPLETE, SIGN AND DATE THE BALLOT AND RETURN IT TO ALSTON & BIRD C/O LESLIE SALCEDO IN THE ENVELOPE PROVIDED

APPENDIX A

VOTING INSTRUCTIONS FOR COMPLETING THE BALLOT

Hebrew Hospital Home of Westchester, Inc., (the “**Debtor**”) and the Official Committee of Unsecured Creditors (the “**Creditors Committee**”) (together, the “**Plan Proponents**”) are soliciting your vote with respect to the “Joint Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc. Proposed by the Debtor and the Official Committee of Unsecured Creditors” (the “**Plan**”). Capitalized terms not defined herein shall have the meanings ascribed to them in the Plan and the “Disclosure Statement for the Joint Chapter 11 Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc. Proposed by the Debtor and the Official Committee of Unsecured Creditors” (the “**Disclosure Statement**”). Please review the Plan and the Disclosure Statement carefully and thoroughly before you vote. **The attached Ballot may not be used for any purpose other than to cast votes to accept or reject the Plan.**

To have your vote count, you must complete, sign and return the attached Ballot so that it is received by Alston & Bird LLP, at the applicable address below, no later than **5:00 p.m. prevailing Eastern Time, on October 20, 2017 (the “Voting Deadline”)**.

Alston & Bird LLP
c/o Leslie Salcedo
90 Park Avenue
New York, New York 10016

1. A Class will accept the Plan if (a) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (b) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan. The Plan Proponents also reserve the right, pursuant to the terms and conditions set forth in the Plan, to seek confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code. Please review the Disclosure Statement for more information.
2. To ensure that your vote is counted, you must (a) complete the Ballot, (b) indicate your decision either to accept or reject the Plan in the boxes provided in Part II Item 3 of the Ballot, and (c) sign and timely return the Ballot in the enclosed envelope.
3. If a Ballot is received after the Voting Deadline, it will not be counted. Except as otherwise provided herein, delivery of Ballots will be deemed made only when the original executed Ballot is **actually** timely **received** by Alston & Bird. In all cases, sufficient time should be allowed to assure timely delivery. **Delivery of a Ballot to Alston & Bird by facsimile, e-mail or any other electronic means will not be accepted. No Ballot should be sent to the Debtors, the Creditors Committee or their financial or legal advisors.**

4. If multiple Ballots are received from a Holder with respect to the same Claim, the last Ballot timely received or otherwise accepted will supersede and revoke any earlier received Ballot(s).
5. The Ballot is not a letter of transmittal and may not be used for any purpose other than to vote to accept or reject the Plan.
6. The Ballot does not constitute, and shall not be deemed to be, a proof of claim or an assertion or admission of a Claim.
7. Please be sure to sign and date your Ballot. If you are completing the Ballot on behalf of an entity, indicate your relationship with such entity and the capacity in which you are signing. In addition, please provide your name and mailing address if different from that set forth on the Ballot.
8. If you hold Claims in more than one Class under the Plan, you may receive more than one Ballot, each coded for a different Class. Each Ballot votes only your Claims indicated on that Ballot. Please complete and return each Ballot you receive.
9. The Ballot must be returned in sufficient time to allow it to be RECEIVED by Alston & Bird c/o Leslie Salcedo by no later than 5:00 p.m. prevailing Eastern Time on or before the Voting Deadline. If you believe you have received the wrong Ballot, please contact Alston & Bird c/o Leslie Salcedo immediately.

**PLEASE COMPLETE, SIGN AND DATE THE BALLOT AND RETURN IT TO
ALSTON & BIRD C/O LESLIE SALCEDO IN THE ENVELOPE PROVIDED.**

PLEASE RETURN YOUR BALLOT PROMPTLY!

**IF YOU HAVE ANY QUESTIONS REGARDING THIS BALLOT OR THE VOTING
PROCEDURES, PLEASE CALL ALSTON & BIRD C/O LESLIE SALCEDO AT
212 -210- 9543.**

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 11

HHH CHOICES HEALTH PLAN, LLC, *et al.*,

Case No. 15-11158-MEW

Case No. 15-13264

Case No. 16-10028

Debtors.

(Jointly Administered)

-----X

BALLOT

**FOR ACCEPTING OR REJECTING THE JOINT PLAN OF LIQUIDATION FOR
HEBREW HOSPITAL HOME OF WESTCHESTER, INC. PROPOSED BY THE
DEBTOR AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS AND
HEBREW HOSPITAL HOME OF WESTCHESTER, INC.**

CLASS 3b

CONTRACTUALLY SUBORDINATED 1199 UNION OR 1199 FUND CLAIMS

**PLEASE READ AND FOLLOW THE ENCLOSED VOTING INSTRUCTIONS
CAREFULLY BEFORE COMPLETING THE BALLOT.**

This Ballot is being sent to you because records indicate that you are a Holder of a Class 3b Contractually Subordinated 1199 Union or 1199 Fund Claim against Hebrew Hospital Home of Westchester, Inc., (the “**Debtor**”). The Debtor and the Official Committee of Unsecured Creditors (the “**Creditors Committee**”), (together with the Debtor, the “**Plan Proponents**”) have filed the “Joint Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc. proposed by the Debtor and the Official Committee of Unsecured Creditors” (the “**Plan**”) that accompanies this Ballot. You may vote to accept or reject the Plan. The Plan and your rights under the Plan are described in the “Disclosure Statement for the Joint Chapter 11 Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc. Proposed by the Debtor and the Official Committee of Unsecured Creditors” (the “**Disclosure Statement**”) that is enclosed with this Ballot. If a copy of the Disclosure Statement or the Plan is not enclosed with this Ballot, you may request a copy from Alston & Bird LLP (“**Alston & Bird**”), c/o Leslie Salcedo by calling 212- 210- 9543 or by going to the website at: <https://cases.primeclerk.com/hebrewhospital/>. Capitalized terms not defined in this Ballot are as defined in the Plan and the Disclosure Statement.

This Ballot may not be used for any purpose other than for casting votes to accept or reject the Plan and making certain certifications with respect thereto. If you believe you have received this Ballot in error, please call Alston & Bird LLP c/o Leslie Salcedo at 212 -210- 9543.

You should carefully and thoroughly review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and the classification and treatment of your Claim under the Plan. Your Claim has been placed in Class 3b under the Plan. If you hold Claims in more than one Class, you will receive a Ballot for each Class in which you are entitled to vote. You should timely return all Ballots for each Class in which you are entitled to vote. In addition, one or more of your affiliates may receive one or more Ballots with respect to their Class 3b Claims. All Persons receiving Ballots with respect to Class 3b Claims should return completed Ballots in accordance with the instructions set forth in their Ballot.

If your Ballot is not received by Alston & Bird on or before 5:00 p.m. prevailing Eastern Time on October 20, 2017, and such deadline is not extended, your vote will not be counted. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you whether or not you vote.

This Ballot is divided into two parts:

PART I WHO SHOULD USE THIS BALLOT; HOW TO USE THIS BALLOT

PART II ITEMS ON THE BALLOT

- Item 1. Certifications
- Item 2. Amount of your Class 3b Claim
- Item 3. Vote - Acceptance or Rejection of the Plan

APPENDIX A INSTRUCTIONS FOR COMPLETING THE CLASS 3b BALLOT

PART I WHO SHOULD USE THIS BALLOT; HOW TO USE THIS BALLOT

Holders of the Class 3b HHHW Claim should use this Ballot to cast a vote to accept or reject the Plan. This Ballot may not be used for any purpose other than for casting votes to accept or reject the Plan. This Ballot does not constitute, and shall not be deemed to be, a proof of Claim or an assertion or admission of a Claim. **A return envelope accompanies this Ballot. You must return this Ballot so that Alston & Bird c/o Leslie Salcedo receives this Ballot on or before 5:00 p.m. prevailing Eastern Time on October 20, 2017 (the “Voting Deadline”).**

PART II ITEMS ON THE BALLOT

Item 1. Certifications.

By returning this Ballot, you certify to the Bankruptcy Court, and the Plan Proponents that:

- you hold a Class 3b HHHW Claim;

- neither you nor anyone else has cast a Ballot with respect to the Class 3b HHHW Claim identified in Item 2 or, if you or someone else has cast a Ballot with respect to the Class 3b HHHW Claim identified in Item 2, that Ballot is revoked; and
- all authority conferred or agreed to be conferred pursuant to this Ballot, and every obligation of the undersigned hereunder shall be binding upon the transferees, successors, assigns, heirs, executors, administrators, trustees in bankruptcy and legal representatives of the undersigned and shall not be affected by, and shall survive, the death or incapacity of the undersigned.

Item 2. Amount of your Class 3b HHHW Claim

Name of Holder: [_____]

Amount of Class **3b HHHW** Claim: [_____]

Item 3. Vote - Acceptance or Rejection of the Plan

THE PLAN PROPONENTS RECOMMEND THAT YOU ACCEPT THE PLAN BY CHECKING THE “TO ACCEPT THE PLAN” BOX

The Holder of the Claim set forth in Item 2 votes (please check one):	
<input type="checkbox"/> TO ACCEPT THE PLAN, CHECK HERE	<input type="checkbox"/> TO REJECT THE PLAN, CHECK HERE

If you do not vote on your Ballot to either accept or reject the Plan or if you vote on your Ballot to both accept and reject the Plan, then your Ballot will be counted as a vote to accept the Plan.

Dated: _____

Name: _____
(Print or Type)

Signature: _____

By: _____
(If Appropriate)

Title: _____
(If Appropriate)

Telephone Number: _____

Street Address: _____

City, State and Zip Code: _____

**PLEASE COMPLETE, SIGN AND DATE THE BALLOT AND RETURN IT TO
ALSTON & BIRD C/O LESLIE SALCEDO IN THE ENVELOPE PROVIDED**

APPENDIX A

VOTING INSTRUCTIONS FOR COMPLETING THE BALLOT

Hebrew Hospital Home of Westchester, Inc., (the “**Debtor**”) and the Official Committee of Unsecured Creditors (the “**Creditors Committee**”) (together, the “**Plan Proponents**”) are soliciting your vote with respect to the “Joint Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc. Proposed by the Debtor and the Official Committee of Unsecured Creditors” (the “**Plan**”). Capitalized terms not defined herein shall have the meanings ascribed to them in the Plan and the “Disclosure Statement for the Joint Chapter 11 Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc. Proposed by the Debtor and the Official Committee of Unsecured Creditors” (the “**Disclosure Statement**”). Please review the Plan and the Disclosure Statement carefully and thoroughly before you vote. **The attached Ballot may not be used for any purpose other than to cast votes to accept or reject the Plan.**

To have your vote count, you must complete, sign and return the attached Ballot so that it is received by Alston & Bird LLP, at the applicable address below, no later than **5:00 p.m. prevailing Eastern Time, on October 20, 2017 (the “Voting Deadline”)**.

Alston & Bird LLP
c/o Leslie Salcedo
90 Park Avenue
New York, New York 10016

1. A Class will accept the Plan if (a) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (b) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan. The Plan Proponents also reserve the right, pursuant to the terms and conditions set forth in the Plan, to seek confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code. Please review the Disclosure Statement for more information.

2. To ensure that your vote is counted, you must (a) complete the Ballot, (b) indicate your decision either to accept or reject the Plan in the boxes provided in Part II Item 3 of the Ballot, and (c) sign and timely return the Ballot in the enclosed envelope.

3. If a Ballot is received after the Voting Deadline, it will not be counted. Except as otherwise provided herein, delivery of Ballots will be deemed made only when the original executed Ballot is **actually** timely **received** by Alston & Bird. In all cases, sufficient time

should be allowed to assure timely delivery. **Delivery of a Ballot to Alston & Bird by facsimile, e-mail or any other electronic means will not be accepted. No Ballot should be sent to the Debtors, the Creditors Committee or their financial or legal advisors.**

4. If multiple Ballots are received from a Holder with respect to the same Claim, the last Ballot timely received or otherwise accepted will supersede and revoke any earlier received Ballot(s).

5. The Ballot is not a letter of transmittal and may not be used for any purpose other than to vote to accept or reject the Plan.

6. The Ballot does not constitute, and shall not be deemed to be, a proof of claim or an assertion or admission of a Claim.

7. Please be sure to sign and date your Ballot. If you are completing the Ballot on behalf of an entity, indicate your relationship with such entity and the capacity in which you are signing. In addition, please provide your name and mailing address if different from that set forth on the Ballot.

8. If you hold Claims in more than one Class under the Plan, you may receive more than one Ballot, each coded for a different Class. Each Ballot votes only your Claims indicated on that Ballot. Please complete and return each Ballot you receive.

9. The Ballot must be returned in sufficient time to allow it to be RECEIVED by Alston & Bird c/o Leslie Salcedo by no later than 5:00 p.m. prevailing Eastern Time on or before the Voting Deadline. If you believe you have received the wrong Ballot, please contact Alston & Bird c/o Leslie Salcedo immediately.

**PLEASE COMPLETE, SIGN AND DATE THE BALLOT AND RETURN IT TO
ALSTON & BIRD C/O LESLIE SALCEDO IN THE ENVELOPE PROVIDED.**

PLEASE RETURN YOUR BALLOT PROMPTLY!

**IF YOU HAVE ANY QUESTIONS REGARDING THIS BALLOT OR THE VOTING
PROCEDURES, PLEASE CALL ALSTON & BIRD C/O LESLIE SALCEDO AT
212 -210- 9543.**

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

HHH CHOICES HEALTH PLAN, LLC, *et al.*,

Debtors.

Chapter 11

Case No. 15-11158-MEW

Case No. 15-13264

Case No. 16-10028

(Jointly Administered)

-----X

BALLOT

**FOR ACCEPTING OR REJECTING THE JOINT PLAN OF LIQUIDATION FOR
HEBREW HOSPITAL HOME OF WESTCHESTER, INC. PROPOSED BY THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS AND HEBREW HOSPITAL
HOME OF WESTCHESTER, INC.**

CLASS 4

STATUTORILY SUBORDINATED PENSION CLAIMS

**PLEASE READ AND FOLLOW THE ENCLOSED VOTING INSTRUCTIONS
CAREFULLY BEFORE COMPLETING THE BALLOT.**

This Ballot is being sent to you because records indicate that you are a Holder of a Class **4** Statutorily Subordinated Pension Claim against Hebrew Hospital Home of Westchester, Inc., (the “**Debtor**”). The Debtor and the Official Committee of Unsecured Creditors (the “**Creditors Committee**”), (together with the Debtor, the “**Plan Proponents**”) have filed the “Joint Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc. proposed by the Debtor and the Official Committee of Unsecured Creditors” (the “**Plan**”) that accompanies this Ballot. You may vote to accept or reject the Plan. The Plan and your rights under the Plan are described in the “Disclosure Statement for the Joint Chapter 11 Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc. Proposed by the Debtor and the Official Committee of Unsecured Creditors” (the “**Disclosure Statement**”) that is enclosed with this Ballot. If a copy of the Disclosure Statement or the Plan is not enclosed with this Ballot, you may request a copy from Alston & Bird LLP (“**Alston & Bird**”), c/o Leslie Salcedo by calling 212- 210- 9543 or by going to the website at: <https://cases.primeclerk.com/hebrewhospital/>. Capitalized terms not defined in this Ballot are as defined in the Plan and the Disclosure Statement.

This Ballot may not be used for any purpose other than for casting votes to accept or reject the Plan and making certain certifications with respect thereto. If you believe you have received this Ballot in error, please call Alston & Bird LLP c/o Leslie Salcedo at 212 -210- 9543.

You should carefully and thoroughly review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and the classification and treatment of your Claim under the Plan. Your Claim has been placed in Class 4 under the Plan. If you hold Claims in more than one Class, you will receive a Ballot for each Class in which you are entitled to vote. You should timely return all Ballots for each Class in which you are entitled to vote. In addition, one or more of your affiliates may receive one or more Ballots with respect to their Class 4 Claims. All Persons receiving Ballots with respect to Class 4 Claims should return completed Ballots in accordance with the instructions set forth in their Ballot.

If your Ballot is not received by Alston & Bird on or before 5:00 p.m. prevailing Eastern Time on October 20, 2017, and such deadline is not extended, your vote will not be counted. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you whether or not you vote.

This Ballot is divided into two parts:

PART I WHO SHOULD USE THIS BALLOT; HOW TO USE THIS BALLOT

PART II ITEMS ON THE BALLOT

- Item 1. Certifications
- Item 2. Amount of your Class 4 Claim
- Item 3. Vote - Acceptance or Rejection of the Plan

APPENDIX A INSTRUCTIONS FOR COMPLETING THE CLASS 4 BALLOT

PART I WHO SHOULD USE THIS BALLOT; HOW TO USE THIS BALLOT

Holders of the Class 4 HHHW Claim should use this Ballot to cast a vote to accept or reject the Plan. This Ballot may not be used for any purpose other than for casting votes to accept or reject the Plan. This Ballot does not constitute, and shall not be deemed to be, a proof of Claim or an assertion or admission of a Claim. **A return envelope accompanies this Ballot. You must return this Ballot so that Alston & Bird c/o Leslie Salcedo receives this Ballot on or before 5:00 p.m. prevailing Eastern Time on October 20, 2017 (the “Voting Deadline”).**

PART II ITEMS ON THE BALLOT

Item 1. Certifications.

By returning this Ballot, you certify to the Bankruptcy Court, and the Plan Proponents that:

- you hold a Class 4 HHHW Claim;

- neither you nor anyone else has cast a Ballot with respect to the Class 4 HHHW Claim identified in Item 2 or, if you or someone else has cast a Ballot with respect to the Class 4 HHHW Claim identified in Item 2, that Ballot is revoked; and
- all authority conferred or agreed to be conferred pursuant to this Ballot, and every obligation of the undersigned hereunder shall be binding upon the transferees, successors, assigns, heirs, executors, administrators, trustees in bankruptcy and legal representatives of the undersigned and shall not be affected by, and shall survive, the death or incapacity of the undersigned.

Item 2. Amount of your Class 4 HHHW Claim

Name of Holder: [_____]

Amount of Class 4 HHHW Claim: [_____]

Item 3. Vote - Acceptance or Rejection of the Plan

THE PLAN PROPONENTS RECOMMEND THAT YOU ACCEPT THE PLAN BY CHECKING THE "TO ACCEPT THE PLAN" BOX

The Holder of the Claim set forth in Item 2 votes (please check one):	
<input type="checkbox"/> TO ACCEPT THE PLAN, CHECK HERE	<input type="checkbox"/> TO REJECT THE PLAN, CHECK HERE

If you do not vote on your Ballot to either accept or reject the Plan or if you vote on your Ballot to both accept and reject the Plan, then your Ballot will be counted as a vote to accept the Plan.

Dated: _____

Name: _____
(Print or Type)

Signature: _____

By: _____
(If Appropriate)

Title: _____
(If Appropriate)

Telephone Number: _____

Street Address: _____

City, State and Zip Code: _____

**PLEASE COMPLETE, SIGN AND DATE THE BALLOT AND RETURN IT TO
ALSTON & BIRD C/O LESLIE SALCEDO IN THE ENVELOPE PROVIDED**

APPENDIX A

VOTING INSTRUCTIONS FOR COMPLETING THE BALLOT

Hebrew Hospital Home of Westchester, Inc., (the “**Debtor**”) and the Official Committee of Unsecured Creditors (the “**Creditors Committee**”) (together, the “**Plan Proponents**”) are soliciting your vote with respect to the “Joint Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc. Proposed by the Debtor and the Official Committee of Unsecured Creditors” (the “**Plan**”). Capitalized terms not defined herein shall have the meanings ascribed to them in the Plan and the “Disclosure Statement for the Joint Chapter 11 Plan of Liquidation for Hebrew Hospital Home of Westchester, Inc. Proposed by the Debtor and the Official Committee of Unsecured Creditors” (the “**Disclosure Statement**”). Please review the Plan and the Disclosure Statement carefully and thoroughly before you vote. **The attached Ballot may not be used for any purpose other than to cast votes to accept or reject the Plan.**

To have your vote count, you must complete, sign and return the attached Ballot so that it is received by Alston & Bird LLP, at the applicable address below, no later than **5:00 p.m. prevailing Eastern Time, on October 20, 2017 (the “Voting Deadline”)**.

Alston & Bird LLP
c/o Leslie Salcedo
90 Park Avenue
New York, New York 10016

1. A Class will accept the Plan if (a) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (b) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan. The Plan Proponents also reserve the right, pursuant to the terms and conditions set forth in the Plan, to seek confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code. Please review the Disclosure Statement for more information.

2. To ensure that your vote is counted, you must (a) complete the Ballot, (b) indicate your decision either to accept or reject the Plan in the boxes provided in Part II Item 3 of the Ballot, and (c) sign and timely return the Ballot in the enclosed envelope.

3. If a Ballot is received after the Voting Deadline, it will not be counted. Except as otherwise provided herein, delivery of Ballots will be deemed made only when the original executed Ballot is **actually** timely **received** by Alston & Bird. In all cases, sufficient time

should be allowed to assure timely delivery. **Delivery of a Ballot to Alston & Bird by facsimile, e-mail or any other electronic means will not be accepted. No Ballot should be sent to the Debtors, the Creditors Committee or their financial or legal advisors.**

4. If multiple Ballots are received from a Holder with respect to the same Claim, the last Ballot timely received or otherwise accepted will supersede and revoke any earlier received Ballot(s).

5. The Ballot is not a letter of transmittal and may not be used for any purpose other than to vote to accept or reject the Plan.

6. The Ballot does not constitute, and shall not be deemed to be, a proof of claim or an assertion or admission of a Claim.

7. Please be sure to sign and date your Ballot. If you are completing the Ballot on behalf of an entity, indicate your relationship with such entity and the capacity in which you are signing. In addition, please provide your name and mailing address if different from that set forth on the Ballot.

8. If you hold Claims in more than one Class under the Plan, you may receive more than one Ballot, each coded for a different Class. Each Ballot votes only your Claims indicated on that Ballot. Please complete and return each Ballot you receive.

9. The Ballot must be returned in sufficient time to allow it to be RECEIVED by Alston & Bird c/o Leslie Salcedo by no later than 5:00 p.m. prevailing Eastern Time on or before the Voting Deadline. If you believe you have received the wrong Ballot, please contact Alston & Bird c/o Leslie Salcedo immediately.

**PLEASE COMPLETE, SIGN AND DATE THE BALLOT AND RETURN IT TO
ALSTON & BIRD C/O LESLIE SALCEDO IN THE ENVELOPE PROVIDED.**

PLEASE RETURN YOUR BALLOT PROMPTLY!

**IF YOU HAVE ANY QUESTIONS REGARDING THIS BALLOT OR THE VOTING
PROCEDURES, PLEASE CALL ALSTON & BIRD C/O LESLIE SALCEDO AT
212 -210- 9543.**

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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IN RE:	Chapter 11
HHH CHOICES HEALTH PLAN, LLC, et al.,	Case No. 15-11158-MEW
	Case No. 15-13264
	Case No. 16-10028
Debtors.	(Jointly Administered)

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**ORDER APPROVING HEBREW
HOSPITAL HOME OF WESTCHESTER, INC.’S (I) DISCLOSURE
STATEMENT, (II) FORM AND MANNER OF NOTICES, (III) FORM
OF BALLOTS AND (IV) SOLICITATION MATERIALS AND PROCEDURES**

Upon the motion of Hebrew Hospital Home of Westchester, Inc., one of the above-captioned debtors and a debtor-in-possession (the “**Debtor**”) and the Debtor’s Official Unsecured Creditors’ Committee (the “**Creditors Committee**”) (together with the Debtor, the “**Plan Proponents**”) in the above-captioned Chapter 11 Case for the entry of an order approving: (i) the Joint disclosure statement (the “**Disclosure Statement**”), relating to the Joint Plan of Liquidation under Chapter 11 of the Bankruptcy Code dated August 10, 2017 (the “**Plan**”), for distribution to creditors; (ii) the form and manner of notices relating to the Disclosure Statement and confirmation of the Plan; (iii) the form of ballots and voting procedures to be used in connection with voting on the Plan; and (iv) the solicitation materials to be distributed to creditors along with the Disclosure Statement and Plan and procedures to be implemented in connection with confirmation of the Plan⁴ (the “**Motion**”); and it appearing that the relief requested is in the best interests of the Debtor’s estate, its creditors and all parties with claims; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core

⁴ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

proceeding pursuant to 28 U.S.C. § 157(b)(2); and a hearing on the approval of the Disclosure Statement having been held on September 12, 2017 (the “**Hearing**”);

NOW, THEREFORE, the Court hereby finds as follows:

- A. The Disclosure Statement complies with the requirements of the Bankruptcy Code and the Bankruptcy Rules and contains adequate information as such term is defined in section 1125 of the Bankruptcy Code.
- B. Proper and adequate notice of the time fixed for filing objections to the Disclosure Statement and the Hearing on approval of the Disclosure Statement has been given to all parties with claims.
- C. The solicitation procedures proposed in the Motion are fair and reasonable.
- D. Service of the Disclosure Statement and Plan by September 22, 2017, with objections to the Plan due on October 24, 2017, with a Summary of Ballots due by October 24, 2017, and with a Confirmation Hearing to occur on October 31, 2017, shall constitute sufficient notice for purposes of Bankruptcy Rule 2002 and Local Bankruptcy Rules 3018-1, 3020-1.

ACCORDINGLY, after due deliberation and sufficient cause appearing therefor; it is hereby

ORDERED that the Motion is granted; and it is further

ORDERED that the Disclosure Statement is hereby approved for distribution to creditors; and it is further

ORDERED that, in accordance with the record of the Hearing, the Plan Proponents are authorized to (a) make non-material changes to the Disclosure Statement and related documents (including, without limitation, the exhibits thereto) and (b) revise the Disclosure Statement and related documents (including, without limitation, the exhibits thereto) to add further disclosure concerning events occurring at or after the Hearing, prior to distributing it to each entity whose Claim against the Debtor is impaired and is entitled to vote on the Plan; and it is further

ORDERED that the Confirmation Hearing will be held before the Honorable Michael E. Wiles, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern

District of New York, One Bowling Green, New York, New York 10004, on October 31, 2017 at 10:00 a.m. (prevailing Eastern time); and it is further

ORDERED that objections or proposed modifications, if any, to the Plan must: (i) be in writing; (ii) state the name and address of the objecting party and the amount and nature of the claim of such party; (iii) state with particularity the basis and nature of any objection or proposed modification; and (iv) be filed with the Clerk of the Court, with a copy delivered to chambers, and served so as to be received by (a) counsel to the Debtor, Lippes Mathias Wexler Friedman LLP, 50 Fountain Plaza, Suite 1700, Buffalo, NY 14202, Attn: Raymond L. Fink, Esq. and John A. Mueller, Esq.; (b) the Office of the United States Trustee for the Southern District of New York, 201 Varick Street, Room 1006, New York, NY, 10006 Attn: Greg M. Zipes, Esq.; (c) counsel to the official committee of unsecured creditors appointed in this Chapter 11 case, Alston & Bird LLP, 90 Park Avenue, New York, NY 10016, Attn: James J. Vincequerra, Esq.; and (d) all persons and entities that have formally requested notice by filing a written request for notice, pursuant to Bankruptcy Rule 2002 and the Local Bankruptcy Rules no later than 4:00 p.m. (prevailing Eastern time) on October 24, 2017 (the “**Plan Objection Deadline**”); and it is further

ORDERED that the Solicitation Procedures are hereby approved; and it is further

ORDERED that the Plan Proponents shall mail, by **September 22, 2017**: (i) the Plan, the Disclosure Statement and the Confirmation Hearing Notice to all known holders of Administrative Expense Claims and Priority Tax Claims, and (ii) the Solicitation Package to all known holders of claims in Class 3a, 3b, and 4; and it is further

ORDERED that consistent with Section 1126 of the Bankruptcy Code and Bankruptcy Rule 3017(d), the Solicitation Package will not be distributed to holders of claims against or in the

Debtor that are placed in a class under the Plan that is deemed to accept or reject the Plan under section 1126 of the Bankruptcy Code; and it is further

ORDERED that the date hereof shall be the record date (the “**Voting Record Date**”) for purposes of determining which creditors are entitled to vote on the Plan; and it is further

ORDERED that Ballots completed by holders of claims in Class 3a, 3b, and 4 must be actually received by Alston & Bird LLP, 90 Park Avenue, New York, New York 10016; Attn: Leslie Salcedo (the “**Voting Agent**”), on or before 5:00 p.m. (prevailing Eastern time) on **October 20, 2017** (the “**Voting Deadline**”): and it is further

ORDERED that the Voting Agent shall file a Summary of Ballots, in accordance with Local Bankruptcy Rule 3018-1, by 5:00 p.m. on **October 24, 2017**; and it is further

ORDERED that for purposes of voting only, and not for the purpose of determining allowed claims or who is entitled to receive a distribution under the Plan: each holder of a Voting Claim shall have an allowed claim, for purposes of voting on the Plan, in an amount equal to (i) the amount of such claims that is set forth as a claim in the Debtor’s Schedules (only to the extent such claim is not listed as being contingent, unliquidated, or disputed (excluding scheduled Claims that have been superseded by filed Claims); or (ii) the amount set forth on a filed proof of claim which has not been disallowed, disqualified, suspended, reduced or estimated and temporarily allowed for voting purposes prior to computation of the vote on the Plan; and it is further

ORDERED that any motion for temporary allowance pursuant to Bankruptcy Rule 3018(a) be filed no later than the Voting Record Date. To the extent any claims are temporarily allowed for purposes of voting, the amount fixed by the court shall be used for purposes of calculating acceptances and rejections of the Plan; and it is further

ORDERED that to ensure that its vote is counted, each holder of a claim in Class 3a, 3b, and 4 must (a) complete a Ballot; (b) indicate the holder's decision whether to accept or reject the Plan in the boxes provided in the Ballot; and (c) sign and return the Ballot, by the Voting Deadline, to the address set forth herein; and it is further.

ORDERED that the following procedures in tabulating ballots:

- (a) only original ballots bearing original signatures shall be counted;
- (b) any Ballot which is properly completed, executed and timely returned to the Voting Agent that does not indicate an acceptance or rejection of the Plan or that indicates both an acceptance and rejection of the Plan shall be deemed to be a vote to accept the Plan;
- (c) any Ballot which is returned to the Voting Agent indicating acceptance or rejection of the Plan, but which is unsigned or does not bear an original signature shall not be counted;
- (d) whenever a holder of a Claim casts more than one Ballot voting the same claim prior to the Voting Deadline, only the last timely Ballot received by the Voting Agent shall be counted;
- (e) if a holder of a claim casts simultaneous duplicative ballots voted inconsistently, then such ballots shall count as one vote accepting the Plan;
- (f) if a holder of a claim casts simultaneous duplicative ballots that are not voted inconsistently, only one such ballot shall be counted;
- (g) each holder of a Claim shall be deemed to have voted the full amount of its Claim;
- (h) each holder of any Claim shall be entitled to vote all of the Claims it holds, but may only cast a single ballot as to all Claims within a particular class;
- (i) any Ballots that partially reject and partially accept the Plan shall not be counted;
- (j) any Ballot received by the Voting Agent by telecopier, facsimile, e-mail, or other electronic communication shall not be counted;
- (k) if a Ballot is signed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation, or other person acting in a fiduciary or representative capacity, such person shall be required to indicate such capacity when signing and, upon request of the Voting Agent, must submit

proper evidence satisfactory to the Voting Agent to so act on behalf of a holder of a claim; and

- (a) the Plan Proponents shall maintain and tabulate all Ballots received in accordance with the aforementioned procedures. Within three (3) Business Days following the Voting Deadline, the Voting Agent shall produce copies of all Ballots received to the Debtor and the United States Trustee together with a written summary of the votes accepting and rejecting the Plan. Ballots and any written summary thereof shall not be filed with the Court.

ORDERED that the Debtor is authorized and empowered to take all actions and execute such other documents as may be necessary to implement the relief granted herein; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this order.

Dated: New York, New York
September __, 2017

HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE