

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

	X	
In re	:	
	:	Chapter 11
HOSPITAL FOR SPECIAL SURGERY, LLC	:	
<i>Db</i> a ONECORE HEALTH,	:	Case No. 24-12862-JDL
	:	
Debtor.	:	
	X	

**DISCLOSURE STATEMENT FOR  
CHAPTER 11 PLAN OF REORGANIZATION OF  
HOSPITAL FOR SPECIAL SURGERY, LLC *dba* ONECORE HEALTH**

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A Professional Corporation

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Dated: March 27, 2025  
Oklahoma City, Oklahoma



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**A SOLICITATION OF VOTES IS BEING CONDUCTED TO OBTAIN SUFFICIENT ACCEPTANCES OF THE CHAPTER 11 PLAN FOR HOSPITAL FOR SPECIAL SURGERY, LLC *dba* ONECORE HEALTH.**

**THE DEADLINE TO VOTE TO ACCEPT OR REJECT THE PLAN IS 5:00 P.M., PREVAILING CENTRAL TIME, ON \_\_\_\_\_, 2025, UNLESS EXTENDED BY THE DEBTOR.**

**THE RECORD DATE FOR DETERMINING WHICH HOLDERS OF CLAIMS MAY VOTE ON THE PLAN IS \_\_\_\_\_, 2025 (THE “VOTING RECORD DATE”).**

**RECOMMENDATION BY THE DEBTOR**

**THE DEBTOR SUPPORTS CONFIRMATION OF THE PLAN AND URGES ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN TO VOTE TO ACCEPT THE PLAN. THE DEBTOR BELIEVES THE PLAN PROVIDES THE HIGHEST AND BEST RECOVERY FOR ALL CREDITORS.**

**THE DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 3016(b) AND NOT NECESSARILY IN ACCORDANCE WITH OTHER NON-BANKRUPTCY LAWS.**

**HOLDERS OF CLAIMS OR INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL, OR TAX ADVICE AND HOLDERS OF CLAIMS OR INTEREST SHOULD CONSULT WITH THEIR OWN ADVISORS BEFORE VOTING ON THE PLAN.**

**CERTAIN STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING STATEMENTS INCORPORATED BY REFERENCE, PROJECTED FINANCIAL INFORMATION, AND OTHER FORWARD-LOOKING STATEMENTS, ARE BASED ON ESTIMATES AND ASSUMPTIONS. CERTAIN OF THESE FORWARD-LOOKING STATEMENTS CAN BE IDENTIFIED BY THE USE OF WORDS SUCH AS “BELIEVES,” “SHALL,” “EXPECTS,” “PROJECTS,” “FORECASTS,” “INTENDS,” “PLANS,” “ESTIMATES,” “ASSUMES,” “MAY,” “SHOULD,” “WILL,” “SEEKS,” “ANTICIPATES,” “OPPORTUNITY,” “PRO FORMA,” “PROJECTIONS,” OR OTHER SIMILAR EXPRESSIONS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL BE REFLECTIVE OF ACTUAL OUTCOMES. FORWARD-LOOKING STATEMENTS SHOULD BE EVALUATED IN THE CONTEXT OF THE ESTIMATES, ASSUMPTIONS, UNCERTAINTIES, AND RISKS DESCRIBED HEREIN.**

**READERS ARE CAUTIONED THAT ANY FORWARD-LOOKING STATEMENTS HEREIN ARE BASED ON ASSUMPTIONS THAT ARE BELIEVED TO BE REASONABLE, BUT ARE SUBJECT TO A WIDE RANGE OF RISKS IDENTIFIED IN THIS DISCLOSURE STATEMENT. IMPORTANT ASSUMPTIONS AND OTHER IMPORTANT FACTORS THAT COULD CAUSE ACTUAL RESULTS TO DIFFER MATERIALLY FROM THOSE EXPECTED INCLUDE, BUT ARE NOT LIMITED TO, THOSE FACTORS, RISKS, AND UNCERTAINTIES DESCRIBED HEREIN. DUE TO THESE UNCERTAINTIES, READERS CANNOT BE ASSURED THAT ANY FORWARD-LOOKING STATEMENTS WILL PROVE TO BE CORRECT. THE DEBTOR IS UNDER NO OBLIGATION TO (AND EXPRESSLY DISCLAIMS ANY OBLIGATION TO) UPDATE OR ALTER ANY FORWARD-LOOKING STATEMENTS, WHETHER AS A RESULT OF NEW INFORMATION, FUTURE EVENTS, OR OTHERWISE, UNLESS INSTRUCTED TO DO SO BY THE BANKRUPTCY COURT.**

**NO INDEPENDENT AUDITOR, ACCOUNTANT OR FINANCIAL ADVISOR HAS REVIEWED OR APPROVED THE LIQUIDATION ANALYSIS OR OTHER TERMS OR PROVISIONS HEREIN.**

**THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF UNLESS OTHERWISE SPECIFIED. THE TERMS OF THE PLAN GOVERN IN THE EVENT OF ANY INCONSISTENCY WITH THE SUMMARIES IN THIS DISCLOSURE STATEMENT.**

**THE INFORMATION IN THIS DISCLOSURE STATEMENT IS BEING PROVIDED SOLELY FOR PURPOSES OF VOTING TO ACCEPT OR REJECT THE PLAN OR IN CONNECTION WITH CONFIRMATION OF THE PLAN. NOTHING IN THIS DISCLOSURE STATEMENT MAY BE USED BY ANY PARTY FOR ANY OTHER PURPOSE.**

**ALL EXHIBITS TO THE DISCLOSURE STATEMENT ARE INCORPORATED INTO AND ARE A PART OF THIS DISCLOSURE STATEMENT AS IF SET FORTH IN FULL HEREIN.**

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## I. INTRODUCTION

### A. Executive Summary

Hospital for Special Surgery, LLC *dba* OneCore Health (“OneCore” or the “Debtor”), as debtor and debtor in possession, submits this disclosure statement (as may be amended, supplemented, or modified from time to time, and, together with all exhibits and schedules thereto, the “Disclosure Statement”) in connection with the solicitation of votes on the *Chapter 11 Plan of Reorganization of Hospital for Special Surgery, LLC dba OneCore Health*, dated March 27, 2025 (as may be amended, supplemented, or modified from time to time and, together with all exhibits and schedules thereto, the “Plan”)<sup>1</sup> annexed hereto as **Exhibit 1**. The Debtor commenced its chapter 11 case (the “Chapter 11 Case”) under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the U.S. Bankruptcy Court for the Western District of Oklahoma (the “Bankruptcy Court”), beginning on October 7, 2024 (the “Petition Date”).

The purpose of this Disclosure Statement is to provide information of a kind, and in sufficient detail, to enable creditors of the Debtor that are entitled to vote on the Plan to make a reasonably informed decision on whether to vote to accept or reject the Plan. This Disclosure Statement contains summaries of the Plan, certain statutory provisions, events contemplated in the Chapter 11 Case, and certain documents related to the Plan.

The Debtor is seeking to confirm a plan under chapter 11 of the Bankruptcy Code. Specifically, as set forth below, the Debtor is seeking to move forward with a Plan to recapitalize its balance sheet (the “Reorganization Transaction”). The Plan is supported by Debtor’s largest unsecured creditor, Emma Base, and specifically includes consideration to be distributed to Base by and through Plan distributions, including, without limitation, such distributions as are made by and through the Litigation Trust established pursuant to the Plan and that certain Litigation Trust Agreement (collectively, the “Base Settlement”). The terms of the Base Settlement are incorporated into the Plan and described in Section I.B herein.

The Plan provides for, among other things, (i) a comprehensive restructuring of the Debtor’s prepetition obligations, (ii) the provision of the going-concern value of the Debtor’s business, (iii) maximization of creditor recoveries, (iv) an equitable distribution to the Debtor’s stakeholders, (v) continuation of high-quality medical care to the Debtor’s patients, and (vi) optimal protection of the jobs of the Debtor’s providers and other employees.

A summary of the key terms of the restructuring transactions as contemplated by the Plan and the Global Settlement, is as follows:

- the reorganization of the Debtor’s business pursuant to a Reorganization Transaction;

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<sup>1</sup> Capitalized terms used in this Disclosure Statement, but not defined herein, have the meanings ascribed to them in the Plan. To the extent any inconsistencies exist between this Disclosure Statement and the Plan, the Plan shall govern.

- the contribution of \$2.8 million in new value, consisting of \$2.5 million in Cash and \$300,000 in value arising out of Solara Surgical Partners, LLC's waiver of its GUC Claim (the "New Value Contribution") by Existing OneCore Interest Owners who choose to participate in the New Value Contribution;<sup>2</sup>
- a \$5 million exit facility (the "Exit Facility") at emergence;
- assumption of executory contracts of continuing trade contract counterparties and payment in full of Allowed Cure Amounts;
- the separate classification and treatment of Critical Vendor Claims, pursuant to which Critical Vendors shall receive a waiver of any preference claims existing as against them;
- the separate classification and treatment of the Base Claim, pursuant to which (a) a Litigation Trust shall be established and initially funded in the amount of \$551,662.65, consisting of the remaining proceeds of a general liability policy applicable to the Base Claim (the "Litigation Trust Funded Amount"), and supplemented with value in the form of the assignment of certain causes of action (the "Litigation Trust Causes of Action"), and (b) \$4 million in cash will be provided to the holder of the Base Claim, payable on the Effective Date;
- *pro rata* distributions to holders of Allowed GUC Claims; and
- prompt emergence from the Chapter 11 Case.

Accomplishing an efficient and expeditious resolution of the Restructuring and the Chapter 11 Case is essential to preserving and maximizing the going-concern value of the Debtor's estate and successfully restructuring the Debtor. Consequently, the Debtor is seeking confirmation of the Plan on the following schedule:

<b>Event</b>	<b>Deadline</b>
Disclosure Statement Objection Deadline	<b>April 9, 2025 at 5:00 p.m. (Prevailing Central Time)</b>
Disclosure Statement Hearing	<b>April 16, 2025 at 11:00 a.m. (Prevailing Central Time)</b>
Voting Record Date	<b>April 12, 2025</b>
Solicitation Mailing Deadline	<b>Within five (5) business days after the entry of the Solicitation Procedures Order</b>
Deadline to Serve Cure Notice	<b>At least twenty-one (21) days before the commencement of the Confirmation Hearing</b>

<sup>2</sup> For the avoidance of doubt, the New Value Contribution is not, and shall not be construed to be, a contribution made as a consequence of a capital call; no capital call having been made.

	<b>(expected to be April 22, 2025)</b>
Deadline to File Objections to (i) Proposed Assumption and Assignment of Executory Contracts and Unexpired Leases or (ii) the Proposed Cure Amounts	<b>Within ten (10) days of the service of the Cure Notice</b>
Deadline to File Initial Assumption Schedule	<b>April 29, 2025</b>
Plan Supplement Filing Deadline	<b>April 29, 2025</b>
Rule 3018 Motion Deadline	<b>May 1, 2025 at 5:00 p.m. (Prevailing Central Time)</b>
Confirmation Objection Deadline	<b>May 5, 2025 at 5:00 p.m. (Prevailing Central Time)</b>
Voting Deadline	<b>May 5, 2025 at 5:00 p.m. (Prevailing Central Time)</b>
Deadline to File Voting Report	<b>May 9, 2025</b>
Confirmation Objection Reply Deadline and Deadline to File (i) Brief in Support of Plan Confirmation, (ii) Declarations in Support of Confirmation, and (iii) Voting Certification	<b>May 9, 2025 at 5:00 p.m. (Prevailing Central Time)</b>
Deadline to file Claims Objections or Requests to Estimate Claims for Voting Purposes	<b>May 12, 2025</b>
Proposed Confirmation Hearing	<b>May 13, 2025 at 10:00 a.m. (Prevailing Central Time)</b>

## **B. Base Settlement**

The Debtor, together with Emma Base, have engaged in good faith and arm's length negotiations culminating in the parties' entry into the Base Settlement. The Base Settlement is incorporated into the Plan and provides for the resolution of all disputes, claims, and controversies between the parties, including those related to the Plan and treatment of the Base Claim, among other issues.

The Base Settlement includes the following terms and conditions (each as described more fully in the Plan):

1. The payment of \$4 million to Holders of the Allowed Base Claim on the Effective Date;
2. The establishment of a Litigation Trust, pursuant to that certain Litigation Trust Agreement;
3. The funding of the Litigation Trust in the Litigation Trust Funded Amount of \$527,000, consisting of the remaining proceeds of a general liability policy applicable to the Base Claim;
4. The assignment of the Litigation Trust Causes of Action to the Litigation Trust;
5. Emma Base agrees to (i) file a statement in support of confirmation of the Plan, (ii)

not directly or indirectly object to, delay, impede, or take any other action to interfere with, the Chapter 11 Case, including, but not limited to, acceptance, confirmation, and implementation of the Plan, (iii) use reasonable efforts to maintain the current May 13, 2025 Confirmation Hearing date (unless moved by the Debtor), and (iv) refrain from opting out of the Releases contained in the Plan, which Base stipulates are an integral part of such Plan; and

6. Base agrees not to object to allowance or payment of Debtor's professionals' fees incurred through the Effective Date of the Plan.

**THE DEBTOR AND EMMA BASE URGE ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN TO VOTE IN FAVOR OF THE PLAN.**

The Debtor and Emma Base believe that the Base Settlement avoids costly, time-consuming, wasteful litigation and any delays in distributions to creditors. The Base Settlement will reduce the duration of the Chapter 11 Case and the expenses attendant to protracted litigation and will also increase recoveries to certain holders of Allowed Claims. Accordingly, the Debtor and Emma Base believe the Base Settlement balances these risks and provides an equitable solution that is reasonable, fair and efficient. The Debtor also believes that the Base Settlement is in the best interests of general unsecured creditors, and that pursuant to the terms of the Plan, proposed distributions to creditors are adequate in exchange for the releases embodied in the Plan. For these and other reasons, the Debtor recommends that impaired creditors vote to ACCEPT the Plan.

**C. Inquiries**

If you have any questions regarding the packet of materials you have received, please reach out to Kurtzman Carson Consultants LLC, d/b/a Verita Global at the following:

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El Segundo, CA 90245  
<https://www.veritaglobal.net/OneCore/Inquiry>

If you have any questions regarding this Chapter 11 Case, please reach out to:

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Copies of this Disclosure Statement, which includes the Plan, are also available on the Voting Agent's website: <https://www.veritaglobal.net/onecore>.

**PLEASE DO NOT DIRECT INQUIRIES TO THE BANKRUPTCY COURT.**

**D. Summary of Plan Classification and Treatment of Claims and Interests**

Under the Bankruptcy Code, only holders of claims or interests in “impaired” Classes are entitled to vote on the Plan (unless, for reasons discussed in more detail below, such holders are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code). Under section 1124 of the Bankruptcy Code, a class of claims or interests is deemed to be “impaired” unless (i) the plan leaves unaltered the legal, equitable, and contractual rights to which such claim or interest entitles the holder thereof or (ii) notwithstanding any legal right to an accelerated payment of such claim or interest, the plan, among other things, cures all existing defaults (other than defaults resulting from the occurrence of events of bankruptcy) and reinstates the maturity of such claim or interest as it existed before the default.

The following table summarizes the treatment of Claims and Interests under the Plan. The table is qualified in its entirety by reference to the full text of the Plan. For a more detailed summary of the terms and provisions of the Plan, see Article VI—Summary of the Plan below. The summary of the Plan below incorporates the Global Settlement with the Creditors' Committee.

A discussion of the amount of claims in each Class is set forth in Section VI hereof.

<b>Class</b>	<b>Designation</b>	<b>Treatment</b>	<b>Entitled to Vote</b>
1	Other Secured Claims	Unimpaired	No (Presumed to Accept)
2	Critical Vendors Claims	Impaired	Yes
3	GUC Claims	Impaired	Yes
4	Emma Base Claim	Impaired	Yes
5	Existing OneCore Interests	Fully Impaired/ Unimpaired	No (Deemed to Reject or Presumed to Accept)

**II.**

**OVERVIEW OF THE COMPANY'S OPERATIONS**

**A. Overview of the Debtor's Business**

OneCore is a privately held, state licensed and Medicare certified hospital that has been specializing in orthopedic and specialty surgeries in the community of central Oklahoma for more approximately 20 years. In late 2021, OneCore completed the construction of its present leased facility in northeast Oklahoma City and has been operating at such location since January 2022. OneCore has focused on a culture of excellence in the delivery of surgical and other health care services such as radiology and orthopedic care with the goal of being one of the top performing surgical hospitals in Oklahoma. Additional services include 24/7 emergency room services, full diagnostic imaging service (CT, MRI, X-ray, Mammography, DEXA Scans), inpatient medical services, and sleep studies. In the past four (4) years, OneCore has received many accolades for its excellence and patient care, including the following:

- Healthgrades: Knee Replacement 5-star recipient, 2023 and 2024;
- Healthgrades: Spinal Fusion Surgery 5-star recipient 2021 – 2024;
- Healthgrades: Outstanding Patient Experience 2024; and
- Press Ganey: Guardian of Excellence Award for Outstanding Patient Experience.

## **B. The Debtor's Corporate and Capital Structure**

The Debtor's prepetition corporate and capital structure is described below.

### **i. Equity Ownership**

The Existing OneCore Interests are allocated as follows:

<b><u>Member</u></b>	<b><u>Member Interests</u></b>	<b><u>Percentage Ownership</u></b>
Goodell, Ronald J	16.1129	5.0000
Hockert, Steven C	6.4451	2.0000
Midtown Orthopedics & Sports Medicine	16.1129	5.0000
Olsen, Larry T	46.0000	14.2742
Olson, Forrest W	6.4900	2.0139
Randall, Steve	16.1129	5.0000
Solara Surgical Partners	174.7796	54.2356
Cheng-Lun Soo Family Trust	9.6677	3.0000
Orthopedic & Reconstructive Center	30.5389	9.4765
<b><i>Totals</i></b>	<b>322.2600</b>	<b>100.0000</b>

### **ii. Prepetition Capital Structure**

Debtor, as Borrower, was a party to that certain credit facility number 471621 (the "Credit Facility") evidenced by that certain Business Loan Agreement by and between Hospital For Special Surgery, L.L.C., as Borrower and BOKF, NA d/b/a Bank of Oklahoma ("BOKF"), as Lender, dated as of February 10, 2023, as amended from time to time, (the "Business Loan Agreement"), that certain Commercial Security Agreement by and between Debtor and BOKF



dated February 10, 2023, granting liens and security interests in the Prepetition Collateral (as defined below), that certain Promissory Note made by Debtor in favor of BOKF dated February 10, 2023 in the original principal amount of \$1,500,000.00, and the Related Documents, as defined in the Business Loan Agreement (collectively, the “Credit Facility Documents”).

Pursuant to the Credit Facility Documents, to secure all obligations under the Credit Facility, Debtor granted a first priority security interest in and to all of its tangible and intangible personal property, including all accounts, instruments, documents, chattel paper, goods (including inventory, equipment, and fixtures), general intangibles, letter-of-credit rights, fixtures, all other property and all proceeds and products of any and all of the foregoing, in each case whether now existing or thereafter acquired (collectively, the “Prepetition Collateral”). As of the Petition Date, the amount due and payable by Debtor to BOKF was approximately \$765,142.41; consisting of: \$750,000.00 in respect of outstanding principal; plus \$4,882.41 in respect of accrued and unpaid interest through the Petition Date; plus \$10,260.00 in respect of fees, reasonable documented out-of-pocket costs and expenses incurred or estimated to be incurred by BOKF (including reasonable attorney fees) (collectively, the “BOKF Prepetition Secured Claim”).

On February 10, 2025, the Debtor filed *Debtor’s Emergency Motion for Entry of Final Order, Pursuant to 11 U.S.C. 105, 361, 362, 363, 364, 503, 506, and 507, (i) Authorizing Debtor to Obtain Senior Secured Postpetition Financing, (ii) Granting Liens and Superpriority Administrative Expense Claims, (iii) Authorizing the Use of Cash Collateral, (iv) Determining Adequate Protection Need Not Be Provided, (v) Modifying the Automatic Stay, and (vi) Granting Related Relief* [Dkt. No. 186] (the “DIP Motion,” as further described in III(A), herein). The DIP Motion sought Bankruptcy Court approval to incur \$2,000,000.00 in indebtedness, in part, to pay the BOKF Prepetition Secured Claim. On February 17, 2025, the Bankruptcy Court entered its *Final Order Pursuant to 11 U.S.C. 105, 361, 362, 363, 364, 503, 506, and 507, (i) Authorizing Debtor to Obtain Senior Secured Postpetition Financing, (ii) Granting Liens and Superpriority Administrative Expense Claims, (iii) Authorizing the Use of Cash Collateral, (iv) Determining Adequate Protection Need Not Be Provided, (v) Modifying the Automatic Stay, and (vi) Granting Related Relief* [Dkt. No. 195] (the “DIP Order”) authorizing the Debtor to, among other things, incur \$2,000,000.00 in indebtedness, in part, to pay the BOKF Prepetition Secured Claim. Subsequently, the Debtor satisfied the BOKF Prepetition Secured Claim. Accordingly, the BOKF Prepetition Secured Claim shall not be classified under the Plan.

### III.

#### **KEY EVENTS LEADING TO COMMENCEMENT OF CHAPTER 11 CASE**

OneCore is a duly licensed hospital that has been specializing in orthopedic and specialty surgeries in the community of central Oklahoma for more than a decade. In late 2021, OneCore completed the construction of its present leased facility in northeast Oklahoma City and has been operating at such location since January 2022. Despite the new hospital and recognition as an esteemed hospital for patient care and focus, difficulties ensued in June of 2022, initially due to the Covid pandemic, with the implementation of a new billing system as the legacy system was sunset by the software provider. This difficult conversion caused disruptions to operations for almost two years as OneCore struggled with calibrating the software, creating appropriate interfaces and then billing/collecting claims. This created several million dollars in lost revenue and difficulty tracking patient claims and accounts receivable during the transition. Due to

implementation issues, the hospital could not effectively create patient statements to collect good patient accounts receivable, rendering many of these accounts uncollectible. OneCore continued to fight to resolve billing system issues, and with the help of its management company, began to regain control over the revenue cycle in early 2024. From January through August 2024, the hospital produced break-even results and was beginning to turn the corner toward a pathway to profitability with new physician recruitment.

In early September 2024, a former patient obtained a significant jury verdict against the hospital relating to care provided by a physician in 2021. OneCore maintains that the evidence shows that the patient's ongoing injuries were unrelated to the accident. Notwithstanding this evidence, the former patient obtained a judgment in the amount of 15 million dollars, which exceeds the estimated enterprise value of the hospital. OneCore timely has appealed the judgment but was required to initiate this Chapter 11 Case to continue to operate its business, continue to employ its approximately 100 employees, and to maintain the enterprise value of Debtor's assets until a plan of reorganization may be confirmed.

#### IV. **THE CHAPTER 11 CASE**

Following the commencement of the Chapter 11 Case, the Debtor filed various motions (the "First Day Motions" and the various interim and final orders approving the First Day Motions, the "First Day Orders") seeking relief from the Bankruptcy Court to enable Debtor to promote a seamless transition between the Debtor's prepetition and postpetition business operations, facilitate a smooth reorganization through this Chapter 11 Case and the Plan, and minimize any disruptions to the Debtor's operations. The Bankruptcy Court granted substantially all of the relief requested in the First Day Motions and entered various final orders authorizing Debtor to, among other things:

- Establish procedures to protect confidential patient information [Docket No. 49];
- Continue paying employee wages and benefits [Docket No. 94];
- Continue insurance programs [Docket No. 95];
- Establish procedures for utility companies to request adequate assurance of payment and to prohibit utility companies from altering or discontinuing service [Docket No. 96];
- Continue the use of the Debtors' cash management system, bank accounts, and business forms [Docket No. 97];
- Pay certain prepetition obligations for critical vendors [Docket No. 93] (the "Critical Vendors Order");
- Use cash collateral [Docket No. 101];

As of the date hereof, the Debtor estimates approximately \$3,164,149.38 in prepetition Claims has been paid pursuant to the various First Day Orders, including approximately \$2,157,348.09 in prepetition Claims pursuant to the Critical Vendors Order and \$784,996.00 paid in satisfaction of the BOKF Prepetition Secured Claim pursuant to the DIP Order.

#### **A. DIP Financing**

On February 10, 2025, the Debtor filed the *Debtor's Emergency Motion for Entry of Final Order, Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, and 507, (I) Authorizing Debtor to Obtain Senior Secured Superpriority Postpetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Authorizing the Use of Cash Collateral, (IV) Determining Adequate Protection Need Not Be Provided, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief* [Docket No. 186] (the "DIP Motion"). In connection with the DIP Motion, the Debtor filed the *Declaration of Carrie McEntire in Support of Debtor's Emergency Motion for Entry of Final Order, Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, and 507, (I) Authorizing Debtor to Obtain Senior Secured Superpriority Postpetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Authorizing the Use of Cash Collateral, (IV) Determining Adequate Protection Need Not Be Provided, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief* [Docket No. 190]. On February 13, 2025, the United States Trustee filed its *Limited Objection of the United States Trustee to Debtor's Emergency Motion for Entry of Final Order, Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, and 507, (I) Authorizing Debtor to Obtain Senior Secured Superpriority Postpetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Authorizing the Use of Cash Collateral, (IV) Determining Adequate Protection Need Not Be Provided, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief* [Docket No. 189] (the "UST Objection"). On February 15, 2025, the Debtor filed the *Debtor's Notice of Revised Proposed Order Granting Debtor's Emergency Motion for Entry of Final Order, Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, and 507, (I) Authorizing Debtor to Obtain Senior Secured Superpriority Postpetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Authorizing the Use of Cash Collateral, (IV) Determining Adequate Protection Need Not Be Provided, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief* [Docket No. 193] (the "Revised Proposed Order"). The Revised Proposed Order resolved the UST Objection. On the same date, the Debtor filed the *Debtor's Reply to Limited Objection of the United States Trustee to Debtor's Emergency Motion for Entry of Final Order, Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, and 507, (I) Authorizing Debtor to Obtain Senior Secured Superpriority Postpetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Authorizing the Use of Cash Collateral, (IV) Determining Adequate Protection Need Not Be Provided, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief* [Docket No. 194] (the "Debtor's Reply"). The Debtor's Reply clarified matters raised by the UST Objection for the benefit of creditors and other parties in interest.

On February 17, 2025, the Bankruptcy Court entered its *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, and 507, (I) Authorizing Debtor to Obtain Senior Secured Superpriority Postpetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Authorizing the Use of Cash Collateral, (IV) Determining Adequate Protection Need Not Be Provided, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief* [Docket No. 195] (the "DIP Order"). Pursuant to the authorities granted by the DIP Order,

the Debtor executed the DIP Documents, as such term was defined in the DIP Motion. Pursuant to the DIP Documents, Debtor obtained \$2,000,000.00 in debtor-in-possession financing, in exchange for the grant of superpriority liens to the DIP Lender, Solara Surgical Partners, LLC, among other terms and conditions established by the DIP Documents and the DIP Order, respectively. Debtor shall repay the DIP Loan on or before the Effective Date.

#### **B. Procedural Motions**

The Debtor filed various motions regarding procedural issues common to chapter 11 cases of similar size and complexity in this Chapter 11 Case. The Bankruptcy Court granted substantially all of the relief requested in such motions and entered various orders authorizing the Debtor to, among other things:

- Establish procedures for interim compensation and reimbursement of expenses of chapter 11 professionals [Docket No.129];
- Employ professionals utilized by the Debtor in the ordinary course of business [Docket No. 202]; and
- Set a Claims Bar Date, set procedures for filing Proofs of Claim, and approving the form and manner of Debtor's providing notice of the Claims Bar Date [Docket No. 140].

#### **C. Retention of Chapter 11 Professionals**

The Debtor filed several applications and obtained authority to retain various professionals to assist the Debtor in carrying out its duties under the Bankruptcy Code during this Chapter 11 Case. As of the date hereof, these professionals include (i) Crowe & Dunlevy, P.C. as counsel, (ii) McEntire Advisors, PLLC, as chief restructuring officer and financial advisor, (iii) the Law Offices of Liz George as conflicts counsel, and (iv) Verita Global as claims and noticing agent. The Debtor may seek to retain additional professionals or advisors during this Chapter 11 Case.

#### **D. Executory Contracts and Lease Rejections**

(a) As of and subject to the occurrence of the Effective Date, all executory contracts and unexpired leases, including, without limitation, real property leases, to which the Debtor is a party shall be deemed assumed or assumed and assigned, as applicable, except for any executory contract or unexpired lease that (i) was previously assumed or rejected by the Debtor pursuant to an order of the Bankruptcy Court, (ii) previously expired or was terminated pursuant to its own terms or by agreement of the parties thereto, (iii) is the subject of a separate motion to assume or reject filed by the Debtor on or before the Confirmation Date, (iv) is specifically designated as a contract or lease to be included on the Rejection Schedule, or (v) is the subject of a pending Cure Dispute.

(b) Subject to the occurrence of the Effective Date, entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of the assumptions, assignments, or rejections provided for in the Plan pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Each executory contract and unexpired lease assumed or

assumed and assigned pursuant to the Plan shall vest in and be fully enforceable by the Reorganized Debtor in accordance with its terms, except as modified by the provisions of the Plan, any order of the Bankruptcy Court authorizing and providing for its assumption or assumption and assignment, or applicable law.

**E. Appointment of Creditors' Committee**

No creditors' committee has been appointed in this Chapter 11 Case.

**F. Automatic Stay and Other Stipulations**

Since the commencement of the Chapter 11 Case, the Debtor has entered into, and the Court has approved, various stipulations and resolutions regarding requests for relief from the automatic stay and related matters, including, without limitation the following:

- An agreement between Debtor and Albert P. Poteat allowing Poteat to proceed in a state-court proceeding in a pursuit limited to only those specified insurance policies and in exchange for his waiver of any claims against Debtor. [Docket No. 152]; and
- An agreement between Debtor and Stephanie Rodriguez to the same effect. [Docket No. 153].
- The Debtor anticipates that similar stipulations may be made with similarly-situated tort claimants by motion with notice of opportunity for hearing.

**G. Exclusivity**

Section 1121(b) of the Bankruptcy Code provides for a period of 120 days after the commencement of a chapter 11 case during which time a debtor has the exclusive right to file a plan of reorganization (the "Exclusive Plan Filing Period"). In addition, section 1121(c)(3) of the Bankruptcy Code provides that if a debtor files a plan within the Exclusive Plan Period, it has a period of 180 days after commencement of the chapter 11 case to obtain acceptances of such plan (the "Exclusive Plan Solicitation Period," and together with the Exclusive Plan Period, the "Exclusive Periods"). The Debtor's initial Exclusive Plan Filing Period expired on February 4, 2025. Pursuant to section 1121(d) of the Bankruptcy Code, the Bankruptcy Court may, upon a showing of cause, extend the Exclusive Periods.

Consistent with the foregoing Debtor filed a Motion to Extend Exclusive Periods on January 30, 2025. [Docket No. 174]. Debtor also filed an Application for a Bridge Order on the same day, asking for an interim extension of its Exclusivity Periods until the Court made a final determination on its Motion regarding the same. [Docket No. 175]. The Court entered an order granting the Bridge Application on January 31, 2025, [Docket No. 177], and granting the Motion on February 14, 2025. [Docket No. 191].

As a result, the Exclusive Plan Filing Period presently extends until and through May 6, 2025. The Exclusive Plan Solicitation Period presently extends until and through July 8, 2025.



## V.

**PENDING LITIGATION****A. State Court Matter(s)**

The state court litigation relating to the Base Claim shall be settled in connection with the Plan. Certain litigation is ongoing in State Court; however, the Debtor and its estate are not placed at any financial risk for its outcome. *See, e.g.*, Docket Nos. 152 – 153.

In addition to the foregoing, the Debtor is a defendant in the case styled *Timothy W. Fox v. Hosp. for Special Surgery, LLC d/b/a OneCore Health*, CJ 2023-3620 (District Court for Okla. County, Okla.). The Debtor and its estate are not placed at any financial risk for its outcome because the Plaintiff filed his proof of claim after the expiration of the General Claims Bar Date established by the Claims Bar Date Order. Fox has sought stay relief in the Bankruptcy Court which the Debtor opposes for the reason that the Fox Claim is time-barred.

**B. Other**

The Debtor may, from time to time, be subject to various information requests, inquiries, or investigations from certain local, state, or federal regulatory or governmental agencies or authorities. Such information requests, inquiries, or investigations, may or may not ultimately result in claims asserted against the Debtor.

## VI.

**SUMMARY OF PLAN**

This Section of the Disclosure Statement summarizes the Plan. This summary is qualified in its entirety by reference to the Plan.

**A. Administrative Expense and Priority Claims****i. Administrative Expense Claims**

Except to the extent a holder of an Allowed Administrative Expense Claim agrees to less favorable treatment, each holder of an Allowed Administrative Expense Claim (other than a DIP Claim or a Professional Fee Claim) shall receive, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Claim, Cash in an amount equal to the unpaid portion of such Allowed Administrative Expense Claim on the latest of: (a) the Effective Date; (b) the first Business Day after the date that is 30 days after the date on which such Administrative Expense Claim becomes an Allowed Administrative Expense Claim; (c) the date on which such Administrative Expense Claim becomes payable under any agreement with the Debtor or the Reorganized Debtor relating thereto; (d) in respect of liabilities incurred by the Debtor in the ordinary course of business, the date upon which such liabilities are payable in the ordinary course of business by the Debtor or the Reorganized Debtor, as applicable, consistent with the Debtor's past practice; or (e) such other date as may be agreed upon between the holder of such Allowed Administrative Expense Claim and the Debtor or the Reorganized Debtor, as the case may be.

**ii. Professional Fee Claims.**

(a) All Entities seeking an award by the Bankruptcy Court of Professional Fee Claims shall file and serve on the Debtor and/or the Reorganized Debtor, and such other Persons who are designated by the applicable Bankruptcy Rules, the Confirmation Order, the Interim Compensation Order, or any other applicable order of the Bankruptcy Court, on or before the date that is forty-five (45) days after the Effective Date, their respective Final Applications for allowance of compensation for services rendered and reimbursement of expenses incurred from the Petition Date through the Effective Date. Objections to any Professional Fee Claims must be filed and served on the Reorganized Debtor, the U.S. Trustee, and the requesting party no later than twenty-one (21) calendar days after the filing of the final applications for compensation or reimbursement (unless otherwise agreed by the Debtor or the Reorganized Debtor, as applicable, and the party requesting compensation of a Professional Fee Claim).

(b) Allowed Professional Fee Claims shall be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court (i) within 5 calendar days of an order relating to any such Allowed Professional Fee Claim is entered or as soon as reasonably practicable thereafter, or (ii) upon such other terms and conditions as may be mutually agreed upon between the holder of such an Allowed Professional Fee Claim and the Debtor or the Reorganized Debtor, as applicable. Notwithstanding the foregoing, any Professional Fee Claims that are authorized to be paid pursuant to any administrative orders entered by the Bankruptcy Court, including the Interim Compensation Order, may be paid at the times and in the amounts authorized pursuant to such orders.

(c) No later than 10 calendar days prior to the Effective Date, holders of Professional Fee Claims shall provide to the Debtor a reasonable and good faith estimate of unpaid Professional Fee Claims incurred in rendering services before the Effective Date.

(d) The Reorganized Debtor is authorized to pay compensation for services rendered or reimbursement of expenses incurred by the Debtor Professionals after the Effective Date in the ordinary course and without the need for Bankruptcy Court approval.

**iii. Priority Tax Claims**

Except to the extent a holder of an Allowed Priority Tax Claim agrees to less favorable treatment, each holder of an Allowed Priority Tax Claim shall receive, in full and final satisfaction of such Allowed Priority Tax Claim, at the option of the Debtor or the Reorganized Debtor, as applicable, Cash in an amount equal to such Allowed Priority Tax Claim on, or as soon as practicable thereafter, the later of (i) the Effective Date, to the extent such Claim is an Allowed Priority Tax Claim on the Effective Date, (ii) the first Business Day after the date that such Priority Tax Claim becomes an Allowed Priority Tax Claim, and (iii) the date such Allowed Priority Tax Claim is due and payable in the ordinary course as such obligation becomes due; provided that the Debtor and the Reorganized Debtor reserve the right to prepay all or a portion of any such amounts at any time under this option at their discretion. All Allowed Priority Tax Claims that are not due and payable on or before the Effective Date shall be paid in the ordinary course of business or under applicable non-bankruptcy law as such obligations become due.

**iv. DIP Claims**

On the Effective Date, in full and final satisfaction of the Allowed DIP Claim, all indebtedness under the DIP Documents shall be fully satisfied by Debtor.

**B. Classification of Claims and Interests**

**i. Classification in General**

A Claim or Interest is placed in a particular Class for all purposes, including voting, confirmation, and distribution under the Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code; *provided that* a Claim or Interest is placed in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Allowed Claim or Allowed Interest has not been satisfied, released, or otherwise settled prior to the Effective Date.

**ii. Summary of Classification**

The following table designates the Classes of Claims against and Interests in the Debtor and specifies which of those Classes are (a) Impaired or Unimpaired by the Plan, (b) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code, and (c) presumed to accept or deemed to reject the Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, Priority Tax Claims, and DIP Claims, have not been classified.

<b>Class</b>	<b>Designation</b>	<b>Treatment</b>	<b>Entitled to Vote</b>
1	Other Secured Claims	Unimpaired	No (Presumed to Accept)
2	Critical Vendors Claims	Impaired	Yes
3	GUC Claims	Impaired	Yes
4	Emma Base Claim	Impaired	Yes
5	Existing OneCore Interests	Fully Impaired/ Unimpaired	No (Deemed to Reject or Presumed to Accept)

**iii. Special Provision Governing Unimpaired Claims**

Except as otherwise provided in the Plan, nothing under the Plan shall affect the rights of the Debtor or the Reorganized Debtor, as applicable, in respect of any Unimpaired Claims, including all rights in respect of legal and equitable defenses to, or setoffs or recoupments against, any such Unimpaired Claims.

**iv. Other Secured Claims (Class One)**

a) **Classification:** Class 1 consists of Other Secured Claims. To the extent that the Other Secured Claims are secured by different collateral or different interests in the



same collateral, such Claims shall be treated as separate subclasses of Class 1 for purposes of voting to accept or reject the Plan and receiving distributions under the Plan.

b) **Treatment:** Except to the extent a holder of an Allowed Other Secured Claim against the Debtor agrees to a less favorable treatment of such Claim, in full and final satisfaction of such Allowed Other Secured Claim, at the option of the Debtor or the Reorganized Debtor, as applicable, (i) each such holder shall receive payment in Cash in an amount equal to the amount of such Allowed Claim, payable on the later of the Effective Date and the date that is 10 Business Days after the date on which such Other Secured Claim becomes an Allowed Other Secured Claim, in each case, or as soon as reasonably practicable thereafter, (ii) to the extent applicable, such holder's Allowed Other Secured Claim shall be reinstated, (iii) such holder shall receive the collateral securing its Allowed Other Secured Claim, or (iv) such holder shall receive such other treatment so as to render such holder's Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code.

c) **Voting:** Class 1 is Unimpaired, and the holders of Other Secured Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Holders of Other Secured Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Other Secured Claims.

**v. Critical Vendor Claims (Class 2)**

a) **Classification:** Class 2 consists of Critical Vendor Claims.

b) **Treatment:** To the extent that a holder of an Allowed Critical Vendor Claim asserts an Allowed 503(b)(9) Claim, such Claim is unimpaired and is not entitled to vote, as such Claims shall be paid in full on the Effective Date, to the extent not already satisfied pursuant to the authorities granted to Debtor by the Critical Vendor Orders. To the extent a Critical Vendor is the holder of an Allowed Non-503(b)(9) Critical Vendor Claim, such Claimant shall receive, on the Effective Date, an amount sufficient to ensure receipt of 65% of the amount owed as of the Petition Date with respect to such Claimant's non-disputed, non-503(b)(9) prepetition invoices against the Debtor. Holders of Allowed Critical Vendor Claims shall also receive a waiver from the Debtor of any and all Chapter 5 causes of action against them.

c) **Voting:** Class 2 is impaired with respect to Non-503(b)(9) Critical Vendor Claims, and the holders of such Claims are entitled to vote to accept or reject the Plan.

**vi. GUC Claims (Class Three)**

a) **Classification:** Class 3 consists of GUC Claims.

b) **Treatment:** Holders of Allowed GUC Claims shall receive, on the Effective Date, a *pro rata* distribution in the amount of 26.2 percent of Allowed GUC Claims.

c) **Voting:** Class 3 is impaired, and the holders of such Claims are entitled to vote to accept or reject the Plan.

vii. **Base Claim (Class Four)**

a) **Classification:** Class 4 consists of the Base Claim.

b) **Treatment:** The holder of the Allowed Base Claim shall receive, on or before the Effective Date, (i) a 100% interest in the Litigation Trust, such Litigation Trust to receive (a) the remaining balance of the general liability insurance policy applicable to the Base Claim, the Litigation Trust Funded Amount, and (b) certain causes of action the Litigation Trust Causes of Action, and (ii) payment in the amount of \$4 million. Such payment on the Base Claim approximates 26% of the total amount of such Claim.

c) **Voting:** Class 4 is impaired, and the holder of such Claim is entitled to vote to accept or reject the Plan.

viii. **Existing OneCore Interests (Class Five)**

a) **Classification:** Class 5 consists of the holders of Existing OneCore Interests.

b) **Treatment:** Existing OneCore Interests shall be terminated on or before the Effective Date. Holders of Existing OneCore Interests shall not receive a distribution under the Plan. However, with respect to Holders of Existing OneCore Interests who make the New Value Contribution in proportion to their cancelled Existing OneCore Interests shall receive New OneCore Interests in proportion to their terminated Existing OneCore Interests.

c) **Voting:** Holders of Class 5 Claims who do not make the New Value Contribution are fully impaired and, under section 1126(g) of the Bankruptcy Code, are deemed to reject the Plan. Holders of Class 5 Claims who make the New Value Contribution are Unimpaired, and such holders of Existing OneCore Interests are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Holders of Existing OneCore Interests are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Claims.

C. **Means for Implementation**

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

(a) Pursuant to section 1123 of the Bankruptcy Code and in consideration for the distributions and other benefits provided pursuant to the Plan, the Plan, including the Base Settlement, is and shall be deemed a good-faith compromise and settlement of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Interest.

- (b) The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, including the Base Settlement, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtor, its Estate, and Holders of Claims and Interests and is fair, equitable, and reasonable. The compromises, settlements, and releases described herein shall be deemed non-severable from each other and from all other terms of the Plan. In accordance with the provisions of the Plan, pursuant to Bankruptcy Rule 9019, without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Reorganized Debtor may compromise and settle Claims against, and Interests in, the Debtor and its Estate and Causes of Action against other Entities.

**ii. Plan Implementation**

The Restructuring shall be consummated pursuant to a Reorganization Transaction.

**iii. Reorganization Transaction**

**(a) Exit Facility**

On the Effective Date, the Exit Facility Credit Agreement and the other Exit Facility Documents shall be executed, delivered, and all fees and expenses required to be paid on the Effective Date thereunder shall be paid, and the Reorganized Debtor shall be authorized to execute, deliver, enter into, and make any payments required by the Exit Facility Credit Agreement and the other Exit Facility Documents without the need for any further limited liability company action and without further action by the holders of Claims or Interests. The form of the Exit Facility Credit Agreement will be filed as part of the Plan Supplement.

All Liens and security interests granted pursuant to the Exit Facility Documents shall be (a) valid, binding, and enforceable Liens and security interests in the personal and real property described in and subject to such documents, with the priorities established in respect thereof under applicable non-bankruptcy law, and (b) not subject to avoidance, recharacterization or subordination under any applicable law, the Plan, or the Confirmation Order.

The Reorganized Debtor and the Persons granted Liens and security interests under the Exit Facility Documents are authorized to make all filings and recordings and to obtain all governmental approvals and consents necessary to establish and perfect such Liens and security interests under the provisions of the applicable state, provincial, federal, or other law that would be applicable in the absence of the Plan and the Confirmation Order (it being understood that perfection shall occur automatically by virtue of the entry of the Confirmation Order without the need for any filings or recordings) and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such Liens and security interests to third parties.

**(b) Authorization, Issuance, and Distribution of New OneCore Interests**

On and after the Effective Date, the Reorganized Debtor is authorized to issue, or cause to be issued, and shall issue or distribute the New OneCore Interests in accordance with the terms of Section 4.5 of the Plan without the need for any further limited liability company action. All of the New OneCore Interests distributable under the Plan shall be duly authorized, validly issued, and, as applicable, fully paid and non-assessable. The New Governance Documents shall, as applicable, have provided for a sufficient amount of authorized New OneCore Interests to effectuate the issuance or distribution of New OneCore Interests contemplated by and in connection with the Plan, and the Reorganized Debtor shall issue or reserve for issuance a sufficient amount of New OneCore Interests to effectuate all such issuances. Additionally, distributions of New OneCore Interests may be conditioned on the Debtor receiving, prior to the Effective Date, executed signature pages to each applicable New Governance Document from each Person or Entity entitled to receive New OneCore Interests; provided, that, if the Debtor determines to issue New OneCore Interests to a Person or Entity entitled to receive New OneCore Interests but who fails to execute any applicable New Governance Document, such Person or Entity, upon becoming a holder of New OneCore Interests, shall be deemed, without further notice or action, to have agreed to be bound by the New Governance Documents, which shall be deemed to be valid, binding, and enforceable in accordance with their terms, as the same may be amended from time to time following the Effective Date in accordance with their terms, and in each case without the need for execution by any party thereto other than the Reorganized Debtor. The New Governance Documents shall be binding on all Entities receiving New OneCore Interests (and their respective successors and assigns), whether received pursuant to the Plan or otherwise and regardless of whether such Entity executes or delivers a signature page to any New Governance Document.

**(c) Section 1145 Exemption**

The offer, issuance, and distribution of (i) the New OneCore Interests to Owners of Existing OneCore Interests under Section 4.5 of the Plan, and (ii) the Litigation Trust Interests, to the extent applicable, shall be exempt, pursuant to section 1145 of the Bankruptcy Code, without further act or action by any Entity, from registration under (i) the Securities Act of 1933, as amended, and all rules and regulations promulgated thereunder and (ii) any state or local law requiring registration for the offer, issuance, or distribution of securities.

Under section 1145 of the Bankruptcy Code, any securities issued under the Plan that are exempt from such registration pursuant to section 1145(a) of the Bankruptcy Code will be freely tradable by the recipients thereof, subject to (i) the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act, (ii) compliance with any rules and regulations of the SEC, if any, applicable at the time of any future transfer of such securities or instruments, (iii) the restrictions, if any, on the transferability of such securities and instruments, including any restrictions on the transferability under the terms of the New Governance Documents, (iv) any applicable procedures of DTC, and (v) applicable regulatory approvals.

The availability of the exemption under section 1145 of the Bankruptcy Code or any other applicable securities laws shall not be a condition to the occurrence of the Effective Date.

Notwithstanding anything to the contrary in the Plan or otherwise, no Person or Entity may require a legal opinion regarding the validity of any transaction contemplated by the Plan, including, for the avoidance of doubt, whether the New OneCore Interests are exempt from registration or validly issued, fully paid and non-assessable.

#### **iv. Restructuring Transactions; Effectuating Documents**

(a) Following the Confirmation Date or as soon as reasonably practicable thereafter, Debtor and the Reorganized Debtor may take all actions as may be necessary or appropriate to effectuate any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including (i) the execution and delivery of appropriate agreements or other documents of merger, amalgamation, consolidation, restructuring, conversion, disposition, transfer, arrangement, continuance, dissolution, cancellation, sale, purchase, or liquidation containing terms that are consistent with the terms of the Plan, (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan, (iii) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion, amalgamation, arrangement, continuance, cancellation, or dissolution pursuant to applicable state or federal law, (iv) the execution and delivery of the Definitive Documents, (v) the issuance of securities, including, without limitation, equity interests, all of which shall be authorized and approved in all respects in each case without further action being required under applicable law, regulation, order, or rule, (vi) the execution of the Litigation Trust Agreement and implementation of the Litigation Trust, (vii) such other transactions that are necessary or appropriate to implement the Plan in a tax efficient manner, and (viii) all other actions that the applicable Entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law or the Exit Facility Credit Agreement, as applicable.

(b) Each officer or manager of the Debtor is, and each officer or manager of the Reorganized Debtor, as applicable, shall be, authorized and directed to issue, execute, deliver, file, or record such contracts, securities, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and the securities issued pursuant to the Plan in the name of and on behalf of the Reorganized Debtor, all of which shall be authorized and approved in all respects, in each case, without the need for any approvals, authorization, consents, or any further action required under applicable law, regulation, order, or rule (including any action by the members, officers or managers of Debtor or the Reorganized Debtor), except for those expressly required pursuant to the Plan.

(c) In order to preserve the Reorganized Debtor's ability to utilize certain tax attributes that exist as of the Effective Date, the charter, bylaws, and other organizational documents may restrict certain transfers of the New OneCore Interests.

(d) The Debtor will exercise its reasonable business judgment to structure the Restructuring and the Restructuring Transactions in a tax efficient manner including, without limitation, to maximize or preserve any net operating losses and net unrealized built-in asset losses of the Debtor.

(e) All matters provided for herein involving the limited liability company structure of the Debtor or Reorganized Debtor, or any limited liability company, or related action required by the Debtor or Reorganized Debtor in connection herewith shall be deemed to have occurred and shall be in effect, without any requirement of further action by the members, board, or managers of the Debtor or Reorganized Debtor, and with like effect as though such action had been taken unanimously by the members, managers, or officers, as applicable, of the Debtor or Reorganized Debtor.

**v. Continued Limited Liability Company Existence; Dissolution**

(a) Except as otherwise provided in the Plan, in the New Governance Documents, or elsewhere in the Plan Supplement the Reorganized Debtor shall continue to exist after the Effective Date as a limited liability company, with all the powers of a limited liability company, pursuant to the applicable laws of the respective jurisdiction in which it is organized and pursuant to the New Governance Documents, as applicable. On or after the Effective Date, the Reorganized Debtor may, in its sole discretion, take such action that may be necessary or appropriate as permitted by applicable law, instruments and agreements, and the Reorganized Debtor's organizational documents, as the Reorganized Debtor may determine is reasonable and appropriate.

(b) After the Effective Date, the Reorganized Debtor shall be authorized to dissolve the Debtor or the Reorganized Debtor in accordance with applicable law or otherwise as part of a Restructuring Transaction.

**vi. Litigation Trust**

(a) On or prior to the Effective Date, the Debtor and the Litigation Trustee shall execute the Litigation Trust Agreement in form and substance consistent with the terms set forth herein and otherwise reasonably acceptable to the Debtor. On the Effective Date (i) the Debtor shall (x) automatically be deemed to have transferred and assigned to the Litigation Trust all of its right, title, and interest in and to all the Litigation Trust Causes of Action, and, in accordance with section 1141 of the Bankruptcy Code, all such Litigation Trust Causes of Action shall automatically vest in the Litigation Trust free and clear of all Liens, charges, Claims, encumbrances and interests, for the benefit of the holders of the Base Claim and (y) within ten (10) days following entry of the Plan Confirmation Order, the Insurer shall transfer the Litigation Trust Funded Amount to an account established by the Litigation Trustee to fund the administration of the Litigation Trust. The Litigation Trust shall have standing to pursue, assert, litigate, and fully resolve the Litigation Trust Causes of Action and, shall be deemed the assignee of the Debtor, and neither the Debtor nor the Reorganized Debtor shall have any interest in or with respect to the Litigation Trust Causes of Action or any Cash or assets contained in the Litigation Trust.

(b) The Litigation Trust shall be established for the purpose of (i) investigating, commencing, litigating, and settling Litigation Trust Causes of Action, (ii) the liquidation of the Litigation Trust's assets, (iii) distribution of the Litigation Trust Distributable Proceeds, if any, to the Litigation Trust Beneficiaries, and (iv) performing such other duties as set forth in the Litigation Trust Agreement, in each case in accordance with section 301.7701-4(d) of the Treasury Regulations, with no objective to continue or engage in the conduct



of a trade or business.

(c) The Litigation Trust shall be administered by the Litigation Trustee in accordance with the Litigation Trust Agreement. The Litigation Trust Agreement may establish certain powers, duties, and authorities in addition to those explicitly stated herein, but only to the extent that such powers, duties, and authorities do not affect the status of the Litigation Trust as a liquidating trust for United States federal income tax purposes as discussed below. Upon execution of the Litigation Trust Agreement, the Litigation Trustee shall be authorized to take all steps necessary to complete the formation of the Litigation Trust. The Litigation Trustee shall serve as representative of the Estate under section 1123(b) of the Bankruptcy Code for the purpose of (i) enforcing the Litigation Trust Causes of Action and (ii) administering the Litigation Trust and distributing its assets to the Litigation Trust Beneficiaries.

(d) In furtherance of the Plan, (i) the terms of the Litigation Trust shall be set forth in the Litigation Trust Agreement, (ii) the Litigation Trust shall be structured to qualify as a “liquidating trust” within the meaning of section 301.7701-4(d) of the Treasury Regulations and in compliance with Rev. Proc. 94-45, 1994- 2 C.B. 684, and, thus, as a “grantor trust” within the meaning of sections 671 through 679 of the Tax Code to the holders of the Base Claim, consistent with the terms of the Plan, (iii) all parties (including the Debtor, the Reorganized Debtor, Litigation Trust Beneficiaries, and the Litigation Trustee) shall report consistently with such treatment (including the deemed receipt of the underlying assets, subject to applicable liabilities and obligations, by the holders of the Base Claim, as applicable, followed by the deemed transfer of such assets to the Litigation Trust), (iv) all parties shall report consistently with the valuation of the assets transferred to the Litigation Trust as determined by the Litigation Trustee (or its designee), (v) the Litigation Trustee shall be responsible for filing returns for the trust as a grantor trust pursuant to section 1.671-4(a) of the Treasury Regulations, and (vi) the Litigation Trustee shall annually send to each holder of an interest in the Litigation Trust a separate statement regarding the receipts and expenditures of the trust as relevant for federal income tax purposes.

(e) The Litigation Trust shall also be vested with the Debtor’s rights, as such rights existed prior to the Effective Date, to conduct discovery and oral examinations of any party under Bankruptcy Rule 2004. The Litigation Trust, however, shall not be considered a successor of the Debtor and shall not assume any obligations of the Debtor other than expressly provided for by the Plan and the Litigation Trust Agreement. Notwithstanding the foregoing, the Litigation Trust shall not be permitted to seek relief under Bankruptcy Rule 2004 or any other discovery rule established under federal or state law as against (i) the Debtor or the Reorganized Debtor, (ii) any current employees, officers or members of the Debtor or the Reorganized Debtor, or (iii) the DIP Lender.

(f) For the avoidance of doubt, the Litigation Trust shall be solely responsible for all Litigation Trust Expenses (including, for the further avoidance of doubt, professional fees). Neither the Debtor nor the Reorganized Debtor shall have any responsibility for any Litigation Trust Expenses.

(g) The Litigation Trustee and the Reorganized Debtor shall have the right to seek relief from the Bankruptcy Court in the event of any dispute or controversy related to the Litigation Trust Agreement.

### **vii. Retention of Causes of Action**

In accordance with section 1123(b) of the Bankruptcy Code, (a) following the Effective Date, the Reorganized Debtor shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Retained Causes of Action, whether arising before or after the Petition Date, and the Reorganized Debtor's rights to commence, prosecute, or settle such Retained Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date, and the Reorganized Debtor may pursue such Retained Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtor; and (b) following the Effective Date, the Litigation Trust shall retain and may enforce all rights to commence, pursue, and settle, as appropriate, any and all Litigation Trust Causes of Action. **No Person may rely on the absence of a specific reference in the Plan or this Disclosure Statement to any Cause of Action against them as any indication that the Debtor, the Reorganized Debtor, or the Litigation Trust, as applicable, will not pursue any and all available Causes of Action against such Person.** Except with respect to Causes of Action against any Person which Person was released by the Debtor or the Reorganized Debtor on or before the Effective Date (including pursuant to the Plan), the Reorganized Debtor expressly reserves all rights to prosecute any and all Retained Causes of Action against any Person, except as otherwise expressly provided in the Plan. The Litigation Trust expressly reserves all rights to prosecute any and all Litigation Trust Causes of Action. Unless any Causes of Action against a Person are expressly waived, relinquished, exculpated, released, compromised, transferred (including to the Litigation Trust), or settled in the Plan or a Final Order of the Bankruptcy Court, (i) the Reorganized Debtor expressly reserves all Retained Causes of Action for later adjudication; and (ii) the Litigation Trust expressly reserves all Litigation Trust Causes of Action for later adjudication, and therefore, in each case, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, Claim preclusion, estoppel (judicial, equitable, or otherwise), or laches shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or consummation of the Plan. For the avoidance of doubt, notwithstanding anything contained in the Plan to the contrary, on the Effective Date, the Litigation Trust Causes of Action shall be transferred to, and vest in, the Litigation Trust, and shall not be retained by the Reorganized Debtor.

### **viii. Cancellation of Liens**

Except as otherwise specifically provided in the Plan, upon the satisfaction in full, in Cash or otherwise, of a Secured Claim, any Lien securing any Secured Claim that is satisfied in full, in Cash or otherwise, shall be deemed released, and the holder of such Secured Claim shall be authorized and directed to (i) release any collateral or other property of the Debtor (including any Cash collateral) held by such holder, at the sole cost and expense of the Reorganized Debtor, and to (ii) take such actions as may be reasonably requested by the Debtor or the Reorganized Debtor, to evidence the release of such Lien, including the execution, delivery and filing or recording of such releases as may be reasonably requested by the Debtor or the Reorganized Debtor, in the case of each of clauses (i) and (ii), at the sole cost and expense of the Reorganized Debtor and without recourse, representation or warranty of any kind.

### **ix. Employee Matters**

Unless otherwise provided herein and subject to Article V of the Plan, as may be applicable,



the Debtor shall assume or assume and assign to the Reorganized Debtor on the Effective Date (x) the Benefits Plans and (y) all Employment Agreements unless previously assumed or rejected by the Debtor in its sole discretion pursuant to an order of the Bankruptcy Court.

**x. Nonconsensual Confirmation**

The Debtor intends to undertake to have the Bankruptcy Court confirm the Plan under section 1129(b) of the Bankruptcy Code as to any Classes that reject or are deemed to reject the Plan.

**xi. Closing of the Chapter 11 Case**

After the Estate has been fully administered, the Reorganized Debtor shall seek authority from the Bankruptcy Court to close the Chapter 11 Case in accordance with the Bankruptcy Code and Bankruptcy Rules.

**xii. Termination of the Patient Care Ombudsman's Duties**

The duties, responsibilities, and obligations of the Patient Care Ombudsman shall be terminated on the Effective Date, the Patient Care Ombudsman may dispose of any documents provided to the Patient Care Ombudsman in the course of its reporting. Nothing herein shall in any way limit or otherwise affect the Patient Care Ombudsman's obligations of confidentiality under confidentiality agreements, if any, under section 333 of the Bankruptcy Code or under order of the Bankruptcy Court.

**xiii. Notice of Effective Date**

As soon as practicable, but not later than 3 Business Days following the Effective Date, the Debtor shall file a notice of the occurrence of the Effective Date with the Bankruptcy Court.

**D. Distributions**

**i. Distributions Generally**

Except as otherwise provided in the Plan, the Disbursing Agent shall make all distributions under the Plan to the appropriate holders of Allowed Claims in accordance with the terms of the Plan.

**ii. Distribution Record Date**

As of the close of business on the Distribution Record Date, the various transfer registers for each of the Classes of Claims or Interests as maintained by the Debtor or its agent, shall be deemed closed, and there shall be no further changes in the record holders of any of the Claims or Interests. The Debtor and the Reorganized Debtor shall have no obligation to recognize any transfer of the Claims or Interests occurring on or after the Distribution Record Date. In addition, with respect to payment of any Cure Amounts or disputes over any Cure Amounts, neither the Debtor nor the Disbursing Agent shall have any obligation to recognize or deal with any party other than the non-Debtor party to the applicable executory contract or unexpired lease as of the

close of business on the Distribution Record Date, even if such non-Debtor party has sold, assigned, or otherwise transferred its Claim for a Cure Amount.

**iii. Date of Distributions**

Except as otherwise provided in the Plan, any distributions and deliveries to be made under the Plan shall be made on the Effective Date or as otherwise determined in accordance with the Plan, including the treatment provisions of Article IV of the Plan, or the Litigation Trust Agreement, in each case as soon as practicable thereafter; provided that the Reorganized Debtor may implement periodic distribution dates to the extent it reasonably determines them to be appropriate.

**iv. No Postpetition Interest on Claims**

Except as otherwise provided in the Plan, the Confirmation Order, or another order of the Bankruptcy Court or required by the Bankruptcy Code, interest shall not accrue or be paid on any Claims on or after the Petition Date, provided that, other than with respect to the DIP Claim or Other Secured Claims, if interest is payable pursuant to the preceding sentence, interest shall accrue at the federal judgment rate pursuant to 28 U.S.C. § 1961 on a non-compounded basis from the date the obligation underlying the Claim becomes due and is not timely paid through the date of payment.

**v. Delivery of Distributions**

In the event that any distribution to any holder is returned as undeliverable, no further distributions shall be made to such holder unless and until such Disbursing Agent is notified in writing of such holder's then-current address, at which time all currently due, missed distributions shall be made to such holder as soon as reasonably practicable thereafter, without interest. Nothing herein shall require the Disbursing Agent to attempt to locate holders of undeliverable distributions and, if located, assist such holders in complying with any provisions of the Plan.

**vi. Distributions after Effective Date**

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

**vii. Unclaimed Property**

Undeliverable distributions or unclaimed distributions shall remain in the possession of the Reorganized Debtor until such time as a distribution becomes deliverable or the holder accepts distribution, or such distribution reverts back to the Debtor or the Reorganized Debtor, as applicable, and shall not be supplemented with any interest, dividends, or other accruals of any kind. Such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of 180 days from the date of distribution. After such date, and notwithstanding any other provision of the Plan, all unclaimed property or interest in property shall revert to the Reorganized Debtor and the Claim of any other holder to such property or interest in property shall be discharged and forever barred, notwithstanding any federal or state escheat laws

to the contrary.

**viii. Time Bar to Cash Payments**

Checks issued by the Debtor or Reorganized Debtor in respect of Allowed Claims shall be null and void if not negotiated within 180 days after the date of issuance thereof. Thereafter, the amount represented by such voided check shall irrevocably revert to the Reorganized Debtor, and any Claim in respect of such voided check shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary. Requests for re-issuance of any check within 180 days after issuance shall be made to the Reorganized Debtor by the holder of the Allowed Claim to whom such check was originally issued.

**ix. Manner of Payment under Plan**

Except as otherwise specifically provided in the Plan, at the option of the Debtor or the Reorganized Debtor, any Cash payment to be made hereunder may be made by a check or wire transfer or as otherwise required or provided in applicable agreements or customary practices of the Debtor.

**x. Satisfaction of Claims**

Except as otherwise specifically provided in the Plan, any distributions and deliveries to be made on account of Allowed Claims under and in accordance with the terms and conditions of the Plan shall be in complete and final satisfaction, settlement, and discharge of and exchange for such Allowed Claims.

**xi. Minimum Cash Distributions**

The Disbursing Agent shall not be required to make any distribution of Cash less than (\$50) to any holder of an Allowed Claim; provided that if any distribution is not made pursuant to Section 6.10 of the Plan, such distribution shall be added to any subsequent distribution to be made on behalf of the holder's Allowed Claim.

**xii. Setoffs and Recoupments**

Except as expressly provided in a separate order of the Bankruptcy Court, the Debtor and the Reorganized Debtor, as applicable, may, but shall not be required to, set off or recoup against any Claim, and any distribution to be made on account of such Claim, any and all claims, rights, and Causes of Action of any nature whatsoever that the Debtor or the Reorganized Debtor may have against the holder of such Claim pursuant to the Bankruptcy Code or applicable non-bankruptcy law; provided that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor or the Reorganized Debtor or its successor of any claims, rights, or Causes of Action that the Debtor or the Reorganized Debtor or its successor or assign may possess against the holder of such Claim.

**xiii. Allocation of Distributions between Principal and Interest**

Except as otherwise required by law (as reasonably determined by the Debtor or the

Reorganized Debtor), distributions with respect to Allowed Claims shall be allocated first to the principal portion of such Allowed Claim (as determined for federal income tax purposes) and, thereafter, to the remaining portion of such Allowed Claim, if any.

**xiv. No Distribution in Excess of Amount of Allowed Claim**

Notwithstanding anything in the Plan to the contrary, no holder of an Allowed Claim shall receive, on account of such Allowed Claim, distributions under the Plan in excess of the Allowed amount of such Claim.

**xv. Withholding and Reporting Requirements**

a) *Withholding Rights.* In connection with the Plan, any party issuing any instrument or making any distribution described in the Plan shall comply with all applicable withholding and reporting requirements imposed by any federal, state, or local taxing authority, and all distributions pursuant to the Plan and all related agreements shall be subject to any such withholding or reporting requirements. In the case of a non-Cash distribution that is subject to withholding, the distributing party may withhold an appropriate portion of such distributed property and either (i) sell such withheld property to generate Cash necessary to pay over the withholding tax (or reimburse the distributing party for any advance payment of the withholding tax), or (ii) pay the withholding tax using its own funds and retain such withheld property. Any amounts withheld pursuant to the preceding sentence, and paid over to the applicable Governmental Unit, shall be deemed to have been distributed to and received by the applicable recipient for all purposes of the Plan. Notwithstanding the foregoing, each holder of an Allowed Claim or any other Entity that receives a distribution pursuant to the Plan shall have responsibility for any taxes imposed by any Governmental Unit, including income, withholding, and other taxes, on account of such distribution. In the event any party issues any instrument or makes any non-Cash distribution pursuant to the Plan that is subject to withholding tax and such issuing or distributing party has not sold such withheld property to generate Cash to pay the withholding tax or paid the withholding tax using its own funds and retains such withheld property as described above, such issuing or distributing party has the right, but not the obligation, to not make a distribution until such holder has made arrangements reasonably satisfactory to such issuing or disbursing party for payment of any such tax obligations.

b) *Forms.* Any party entitled to receive any property as an issuance or distribution under the Plan shall, upon request, deliver to the Disbursing Agent or such other Entity designated by the Reorganized Debtor (which Entity shall subsequently deliver to the Disbursing Agent any applicable IRS Form W-8 or IRS Form W-9 received) an appropriate IRS Form W-9 or (if the payee is a foreign Entity) IRS Form W-8, and any other forms or documents reasonably requested by the Reorganized Debtor to reduce or eliminate any withholding required by any federal, state, or local taxing authority. If such request is made and the holder fails to comply before the date that is 60 days after the request is made, the amount of such distribution shall irrevocably revert to the Debtor or Reorganized Debtor, as applicable, and any Claim in respect of such distribution shall be discharged and forever barred from assertion against the Debtor or Reorganized Debtor, as applicable, or their respective property.

## **E. Procedures for Disputed Claims**

### **i. Objections to Claims**

The Debtor or the Reorganized Debtor, as applicable, shall be exclusively entitled to object to Claims; provided that following the Effective Date, the U.S. Trustee shall have standing and the right to be heard for the limited purpose of responding to requests for allowance of Administrative Expense Claims for substantial contribution pursuant to section 503(b)(3)(D) of the Bankruptcy Code. After the Effective Date, the Debtor or Reorganized Debtor, as applicable, shall have and retain any and all rights and defenses that the Debtor had with regard to any Claim to which they may object, except with respect to any Claim that is Allowed. Any objections to Claims shall be served and filed on or before the Claims Objection Deadline.

### **ii. Resolution of Disputed Administrative Expenses and Disputed Claims**

The Debtor or Reorganized Debtor, in their sole discretion, shall have the authority to (i) compromise, settle, otherwise resolve, or withdraw any objections to Claims without any further notice to or action, order, or approval by the Bankruptcy Court, other than with respect to Professional Fee Claims, (ii) reconcile Claims (***Claims Reconciliation***) in an allowed amount without the requirement of filing an objection to any such Claims and without the requirement of any further Court order, and (iii) 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. For the avoidance of doubt, Holders of Claims subject to a Claims Reconciliation demand of the Debtor or the Reorganized Debtor (each, a ***Claims Reconciliation Demand***) must, within fifteen (15) days of service of such demand, furnish to the Debtor or Reorganized Debtor, as applicable, all invoices, agreements, and other documents responsive to such Claims Reconciliation Demand. If any Holder of a Claim subject to a Claims Reconciliation Demand fails to timely and fully respond to such Claims Reconciliation Demand, such Holder's Claim shall be disallowed on motion and notice of opportunity for hearing of the Debtor or Reorganized Debtor, as applicable, demonstrating such Holder's failure to timely comply with such Claims Reconciliation Demand.

### **iii. Payments and Distributions with Respect to Disputed Claims**

Notwithstanding anything herein to the contrary, if any portion of a Claim is a Disputed Claim, no payment or distribution provided hereunder shall be made on account of such Claim, unless and until such Disputed Claim becomes an Allowed Claim.

### **iv. Distributions after Allowance**

(a) Following the Effective Date, a Disputed Claims Reserve shall be maintained. Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary, or the receipt of a determination by the IRS, the Disbursing Agent shall treat the Disputed Claims Reserve as a "disputed ownership fund" governed by section 1.468B-9 of the Treasury Regulations and to the extent permitted by applicable law, report consistently with the foregoing for state and local income tax purposes. All taxes imposed on assets or income of the Disputed Claims Reserve shall be payable by the Debtor or the Reorganized Debtor, as applicable. The Disbursing Agent or the Reorganized Debtor, as applicable, shall be responsible for payment, out

of the assets of the Disputed Claims Reserve any expenses associated with administering the Disputed Claims Reserve, including any taxes imposed on the Disputed Claims Reserve or its assets. All parties (including the Debtor, the Reorganized Debtor, the Disbursing Agent, and the holders of Disputed GUC Claims) shall be required to report for tax purposes consistently with the foregoing.

(b) As soon as reasonably practicable after a Disputed Claim becomes, in whole or in part, an Allowed Claim, the holder thereof shall be entitled to distributions, if any, to which such holder is entitled as provided in the Plan, without interest, as provided in Section 7.9 of the Plan. Such distributions shall be made as soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing such Disputed Claim (or portion thereof) becomes a Final Order.

#### **v. Disallowance of Claims**

Except to the extent otherwise agreed to by the Debtor or Reorganized Debtor, as applicable, 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 section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, as determined by a Final Order, 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 Causes of Action against that Entity have been settled or a Final Order with respect thereto has been entered and all sums due, if any, to the Debtor by that Entity have been turned over or paid to the Debtor or the Reorganized Debtor. All proofs of claim filed on account of an indemnification obligation to a director, officer, or employee, in each case, employed by the Debtor on and/or after the Petition Date shall be deemed satisfied and expunged from the claims register as of the Effective Date to the extent such indemnification obligation is assumed (or honored or reaffirmed, as the case may be) pursuant to the Plan, without any further notice to or action, order, or approval of the Bankruptcy Court. Any Claim that has been or is hereafter listed in the Schedules as contingent, unliquidated, or disputed, and for which no Proof of Claim or Interest is or has been timely filed, shall be deemed disallowed and shall be expunged without further action by the Debtor and without further notice to any party or action, approval, or order of the Bankruptcy Court, and holders of such Claims shall not receive any distributions under the Plan on account of such Claims, subject in each case to Local Bankruptcy Rule 3002-1(a).

#### **vi. Estimation of Claims**

The Debtor or Reorganized Debtor, as applicable, may determine, resolve and otherwise adjudicate all contingent Claims, unliquidated Claims and Disputed Claims in the Bankruptcy Court. The Debtor or the Reorganized Debtor, as applicable, may at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code for any reason or purpose, regardless of whether any party has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, during the pendency of any appeal relating to any such objection. If the Bankruptcy Court estimates any contingent Claim, unliquidated Claim or Disputed Claim, that estimated amount shall constitute the maximum



limitation on such Claim, and the Debtor or the Reorganized Debtor, as applicable, may pursue supplementary proceedings to object to the ultimate allowance of such Claim; provided that such limitation shall not apply to Claims requested by the Debtor to be estimated for voting purposes only.

**vii. No Distributions Pending Allowance**

If an objection, motion to estimate, or other challenge to a Claim is filed, no payment or distribution provided under the Plan shall be made on account of such Claim unless and until (and only to the extent that) such Claim becomes an Allowed Claim.

**viii. Claim Resolution Procedures Cumulative**

All of the objection, estimation, and resolution procedures in the Plan are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently settled, compromised, withdrawn, or resolved in accordance with the Plan without further notice or Bankruptcy Court approval.

**ix. Interest**

To the extent that a Disputed Claim becomes an Allowed Claim after the Effective Date, the holder of such Claim shall not be entitled to any interest that accrued thereon from and after the Effective Date.

**F. Executory Contracts and Unexpired Leases**

**i. General Treatment**

As of and subject to the occurrence of the Effective Date, all executory contracts and unexpired leases, including, without limitation, real property leases, to which the Debtor is a party shall be deemed assumed or assumed and assigned, as applicable, except for any executory contract or unexpired lease that (i) was previously assumed or rejected by the Debtor pursuant to an order of the Bankruptcy Court, (ii) previously expired or was terminated pursuant to its own terms or by agreement of the parties thereto, (iii) is the subject of a separate motion to assume or reject filed by the Debtor on or before the Confirmation Date, (iv) is specifically designated as a contract or lease to be included on the Rejection Schedule, or (v) is the subject of a pending Cure Dispute.

Subject to the occurrence of the Effective Date, entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of the assumptions, assumptions and assignments, or rejections provided for in the Plan pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Each executory contract and unexpired lease assumed or assumed and assigned pursuant to the Plan shall vest in and be fully enforceable by the Reorganized Debtor in accordance with its terms, except as modified by the provisions of the Plan, any order of the Bankruptcy Court authorizing and providing for its assumption or assumption and assignment, or applicable law.

**ii. Determination of Cure Disputes and Deemed Consent**

Any Cure Amount shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code,

by payment of the Cure Amount, as reflected in the applicable cure notice, in Cash on the Effective Date, subject to the limitations described below, or shall provide adequate assurance of future performance under such executory contracts and unexpired leases.

The Debtor shall file, as part of the Plan Supplement, the Assumption Schedule. At least 14 days before the commencement of the Confirmation Hearing, the Debtor shall serve a notice on parties to executory contracts or unexpired leases to be assumed reflecting the Debtor's intention to assume the contract or lease in connection with the Plan and, where applicable, setting forth the proposed Cure Amount (if any). Any objection by a counterparty to an executory contract or unexpired lease to the proposed assumption, assumption and assignment, or related Cure Amount must be filed, served, and actually received by the Debtor within 10 days of the service of the assumption notice, or such shorter period as agreed to by the parties or authorized by the Bankruptcy Court. Any counterparty to an executory contract or unexpired lease that fails to object timely to the proposed assumption, assumption and assignment, or Cure Amount (i) shall be deemed to have assented to such assumption, assumption and assignment, or Cure Amount, notwithstanding any provision thereof that purports to (1) prohibit, restrict, or condition the transfer or assignment of such contract or lease, or (2) terminate or permit the termination of a contract or lease as a result of any direct or indirect transfer or assignment of the rights of the Debtor under such contract or lease or a change, if any, in the ownership or control to the extent contemplated by the Plan, and shall forever be barred and enjoined from asserting such objection against the Debtor or terminating or modifying such contract or lease on account of transactions contemplated by the Plan, and (ii) shall be forever barred, estopped, and enjoined from challenging the validity of such assumption or assumption and assignment, as applicable, thereafter.

If there is a dispute pertaining to the assumption of an executory contract or unexpired lease (other than a dispute pertaining to a Cure Amount), such dispute shall be heard by the Bankruptcy Court prior to the assumption being effective; provided that the Debtor or the Reorganized Debtor may settle any such dispute without any further notice to, or action by, any party or order of the Bankruptcy Court.

To the extent a dispute relates to Cure Amounts, the Debtor may assume and/or assume and assign the applicable executory contract or unexpired lease prior to the resolution of such cure dispute, provided that the Debtor or the applicable Reorganized Debtor reserves Cash in an amount sufficient to pay the full amount reasonably asserted as the Cure Amount by the counterparty to such executory contract or unexpired lease.

Assumption or assumption and assignment of any executory contract or unexpired lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims against the Debtor or defaults by the Debtor, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed executory contract or unexpired lease at any time before the date that the Debtor assumes or assumes and assigns such executory contract or unexpired Lease. Any proofs of claim filed with respect to an executory contract or unexpired lease that has been assumed or assumed and assigned shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity, upon the assumption of such executory contract or unexpired lease.



### iii. Rejection Damages Claims

In the event that the rejection of an executory contract or unexpired lease hereunder results in damages to the other party or parties to such contract or lease, any Claim for such damages, if not heretofore evidenced by a timely filed proof of Claim, shall be forever barred and shall not be enforceable against the Debtor or the Reorganized Debtor, or the Estate, properties or interests in property as agents, successors, or assigns, unless a proof of Claim is filed with the Bankruptcy Court and served upon counsel for the Debtor or the Reorganized Debtor, as applicable, no later than 30 days after the filing and service of the notice of the occurrence of the Effective Date.

### iv. Indemnification Obligations

Except as otherwise provided in the Plan or the Confirmation Order, to the fullest extent permitted by applicable law, any and all obligations of the Debtor pursuant to its limited liability company agreements or other organizational documents or agreements to indemnify officers, members, managers,, agents or employees, in each case solely in their capacity as such, employed by the Debtor on and/or after the Petition Date with respect to all present and future actions, suits, and proceedings against the Debtor or such members, managers,, agents or employees based upon any act or omission for or on behalf of the Debtor (collectively, the “Indemnification Obligations”) shall not be discharged, impaired, or otherwise affected by the Plan; provided, that, the Debtor or the Reorganized Debtor, as applicable, shall not indemnify any such o members, managers,, agents or employees of the Debtor for any Claims or Causes of Action arising out of or relating to any act or omission for which indemnification is barred under applicable law or that is excluded under the terms of the foregoing organizational documents or applicable agreements governing the Debtor’s Indemnification Obligations. The Reorganized Debtor shall not indemnify any persons for any claims or Causes of Action arising out of or relating to any act or omission that is a criminal act or constitutes intentional fraud, gross negligence or willful misconduct. Except as otherwise provided in the Plan, all such Indemnification Obligations shall be deemed and treated as executory contracts that are assumed by the Debtor under the Plan.

### v. Insurance Policies

(a) Notwithstanding any other provision in the Plan, all insurance policies to which the Debtor is a party as of the Effective Date (including any “tail policy”) shall be deemed to be and treated as executory contracts and shall be assumed by the Reorganized Debtor, shall remain in full force and effect thereafter and shall continue as obligations of the Reorganized Debtor in accordance with their respective terms, and all such insurance policies shall vest in the Reorganized Debtor. Coverage for defense and indemnity under each D&O Policy shall remain available to all individuals within the definition of “Insured Persons” in any D&O Policy.

(b) After the Effective Date, all members, managers, agents or employees who served in such capacity at any time before the Effective Date shall be entitled to the full benefits of any D&O Policy (including any “tail” policy) for the full term of such policy regardless of whether such members, managers, agents and/or employees remain in such positions after the Effective Date, in each case, to the extent set forth in such policies.

(c) In addition, after the Effective Date, the Reorganized Debtor shall

not terminate or otherwise reduce the coverage under any D&O Policy (including any “tail policy”) in effect as of the Petition Date.

(d) In the event that the Debtor or Reorganized Debtor, in its sole discretion, determine that an Allowed Claim is covered in full or in part under one of the Debtor’s insurance policies, no distributions under the Plan shall be made on account of such Allowed Claim unless and until, and solely to the extent that, (i) the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy, or (ii) an insurer authorized to issue a coverage position under such insurance policy, or the agent of such insurer, issues a formal determination, which the Debtor in its sole discretion does not contest, that coverage under such insurance policy is excluded or otherwise unavailable for losses arising from such Allowed Claim. To the extent that one or more of the Debtor’s insurers agrees to satisfy in full or in part an Allowed Claim, then immediately upon such insurers’ agreement, the applicable portion of such Allowed Claim may be expunged without a Claim objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court. Nothing in the Plan shall be construed to limit, extinguish, or diminish the insurance coverage that may exist or shall be construed as a finding that liquidated any Claim payable pursuant to an insurance policy. Nothing herein relieves any Entity from the requirement to timely file a proof of claim by the applicable claims bar date.

#### **vi. Licenses and Agreements**

All intellectual property contracts, licenses, including, without limitation, governmentally-issued licenses, royalties, or other similar agreements to which the Debtor has any rights or obligations in effect as of the date of the Confirmation Order shall be deemed and treated as executory contracts pursuant to the Plan and shall be assumed, or assumed and assigned, by the Debtor and shall continue in full force and effect unless any such intellectual property contract, license, royalty, or other similar agreement otherwise is specifically rejected pursuant to a separate order of the Bankruptcy Court, is scheduled on the Rejection Schedule, or is the subject of a separate rejection motion filed by the Debtor. Unless otherwise noted hereunder, as applicable, all other intellectual property contracts, licenses, royalties, or other similar agreements shall vest in the Reorganized Debtor and the Reorganized Debtor may take all actions as may be necessary or appropriate to ensure such vesting as contemplated herein. With respect to governmentally-issued licenses, the Reorganized Debtor shall comply with all valid statutes and regulations governing the maintenance of such licenses.

#### **vii. Assignment**

To the extent provided under the Bankruptcy Code or other applicable law, any executory contract or unexpired lease assumed and assigned hereunder shall remain in full force and effect for the benefit of the transferee or assignee in accordance with its terms, notwithstanding any provision in such executory contract or unexpired lease (including those of the type set forth in section 365(b)(2) of the Bankruptcy Code) that prohibits, restricts, or conditions such transfer or assignment. To the extent provided under the Bankruptcy Code or other applicable law, any provision that prohibits, restricts, or conditions the assignment or transfer of any such executory contract or unexpired lease or that terminates or modifies such executory contract or unexpired lease or allows the counterparty to such executory contract or unexpired lease to terminate, modify, recapture, impose any penalty, condition renewal or extension, or modify any term or condition

upon any such transfer and assignment, constitutes an unenforceable anti-assignment provision and is void and of no force or effect.

### **viii. Reservation of Rights**

The Debtor may amend the Assumption Schedule and the Rejection Schedule at any time prior to the conclusion of the Confirmation Hearing in order to add, delete, or reclassify any executory contract or unexpired lease. The Debtor shall provide notice of such amendment to any affected counterparty as soon as reasonably practicable.

Neither the exclusion nor the inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to the Plan or in the Plan Supplement, nor anything contained in the Plan, shall constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or unexpired lease or that the Debtor or the Reorganized Debtor has any liability thereunder.

Except as explicitly provided in the Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the Debtor or the Reorganized Debtor under any executory or non-executory contract or unexpired or expired lease.

Nothing in the Plan shall increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor or the Reorganized Debtor, as applicable, under any executory or non-executory contract or unexpired or expired lease.

### **ix. Modifications, Amendments, Supplements, Restatements, or Other Agreements**

Unless otherwise provided in the Plan, each executory contract or unexpired lease that is assumed shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such executory contract or unexpired lease, and executory contracts and unexpired leases related thereto, if any, including easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated or is rejected or repudiated under the Plan.

## **G. Conditions Precedent to Confirmation of Plan and Effective Date**

### **i. Conditions Precedent to Confirmation of Plan**

The following are conditions precedent to confirmation of the Plan:

- a) the Disclosure Statement Order shall have been entered and shall not have been reversed, stayed, amended, modified, dismissed, vacated, or reconsidered;
- b) the Plan Supplement and all of the schedules, documents, and exhibits contained therein shall have been filed; and

c) the DIP Orders shall be in full force and effect and there shall be no event of default under the DIP Documents or the DIP Orders, which has not been waived by the DIP Lender pursuant to the terms and conditions of such documents and/or Section 9.3 of the Plan.

**ii. Conditions Precedent to Effective Date**

The following are conditions precedent to the Effective Date of the Plan:

a) the Confirmation Order shall have been entered and shall be a Final Order and shall not be subject to any stay or subject to an unresolved request for revocation under section 1144 of the Bankruptcy Code;

b) the DIP Orders shall be in full force and effect and there shall be no event of default under the DIP Documents or the DIP Orders, which has not otherwise been amended or waived by the applicable DIP Lenders pursuant to the terms and conditions of such documents and/or Section 9.3 of the Plan;

c) the Reorganization Transaction shall have been implemented in accordance with the Description of Transaction Steps in all material respects;

d) the Definitive Documents shall (i) be in form and substance acceptable or reasonably acceptable to the Debtor, (ii) have been executed and delivered, and any conditions precedent contained to effectiveness therein have been satisfied or waived in accordance therewith, and (iii) be in full force and effect and binding upon the relevant parties;

e) all actions, documents and agreements necessary to implement and consummate the Plan, including entry into the Definitive Documents and the New Governance Documents, and the transactions and other matters contemplated thereby, shall have been effected or executed;

f) the New Governance Documents shall have been filed with the appropriate governmental authority, as applicable; and

g) the Litigation Trust shall have been formed, (ii) the Litigation Trust Funded Amount shall have been funded, (iii) the Litigation Trust Interests shall have been issued in accordance with the Plan, (iv) the Litigation Trustee shall have been appointed, and (v) the Litigation Trust Agreement, in form and substance reasonably acceptable to the Debtor shall have been executed and delivered, any conditions precedent to effectiveness contained therein shall have been satisfied or waived in accordance therewith, and shall be in full force and effect and binding upon the relevant parties.

**iii. Waiver of Conditions Precedent**

Except as otherwise provided herein, all actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously and no such action shall be deemed to have occurred prior to the taking of any other such action. Each of the conditions precedent in Section 9.1 and Section 9.2 of the Plan may be waived in writing by the Debtor with the prior written consent of (i) the DIP Lender or the Exit Facility Lender, as applicable, solely to the extent that the waiver of a particular condition precedent would affect the legal and/or

economic rights of the DIP Lender or the Exit Facility Lender, as applicable and respectively, under the Plan, the DIP Credit Agreement, or the Exit Facility Credit Agreement (as applicable).

The stay of the Confirmation Order pursuant to Bankruptcy Rule 3020(e) shall be deemed waived by and upon the entry of the Confirmation Order, and the Confirmation Order shall take effect immediately upon its entry.

## **H. Effect of Confirmation of Plan**

### **i. Vesting of Assets**

On the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all property of the Debtor's Estate shall vest in the Reorganized Debtor free and clear of all Claims, Liens, encumbrances, charges, and other interests, except as provided pursuant to the Plan, the Litigation Trust Agreement, the Confirmation Order, or the Exit Facility Credit Agreement (if applicable). On and after the Effective Date, the Reorganized Debtor may take any action, including the operation of its business, the use, acquisition, sale, lease, and disposition of property, and the entry into transactions, agreements, understandings, or arrangements, whether in or other than in the ordinary course of business, and execute, deliver, implement, and fully perform any and all obligations, instruments, documents, and papers or otherwise in connection with any of the foregoing, free of any restrictions of the Bankruptcy Code or Bankruptcy Rules and in all respects as if there were no pending cases under any chapter or provision of the Bankruptcy Code, except as expressly provided herein. Without limiting the foregoing, the Reorganized Debtor may pay the charges that it incurs on or after the Effective Date for professional fees, disbursements, expenses, or related support services without application to the Bankruptcy Court.

### **ii. Binding Effect**

As of the Effective Date, the Plan shall bind all holders of Claims against and Interests in the Debtor and its successors and assigns, notwithstanding whether any such holders (a) were Impaired or Unimpaired under the Plan, (b) were deemed to accept or reject the Plan, (c) failed to vote to accept or reject the Plan, (d) voted to reject the Plan, or (e) received any distribution under the Plan.

### **iii. Discharge of Claims and Termination of Interests**

Upon the Effective Date and in consideration of the distributions to be made hereunder, except as otherwise expressly provided herein, each holder (as well as any representatives, trustees, or agents on behalf of each holder) of a Claim or Interest and any affiliate of such holder shall be deemed to have forever waived, released, and discharged the Debtor, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Interests, rights, and liabilities that arose prior to the Effective Date. Upon the Effective Date, all such Entities shall be forever precluded and enjoined, pursuant to section 524 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or terminated Interest in the Debtor against the Debtor or the Reorganized Debtor or any of their assets or property, whether or not such holder has filed a proof of claim and whether or not the facts or legal bases therefor were known or existed prior to the Effective Date.

**iv. Term of Injunctions or Stays**

Unless otherwise provided herein, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, all injunctions or stays arising under or entered during the Chapter 11 Case under sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

**v. Injunction**

**a) Upon entry of the Confirmation Order, all holders of Claims and Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan in relation to any Claim or Interest extinguished, discharged, released or treated pursuant to the Plan.**

**b) Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court or as agreed to by the Debtor and a holder of a Claim against or Interest in the Debtor, all Entities who have held, hold, or may hold Claims against or Interests in the Debtor (whether proof of such Claims or Interests has been filed or not and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan) and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, are permanently enjoined, on and after the Effective Date, solely with respect to any Claims, Interests, and Causes of Action that will be or are extinguished, discharged, released, or treated pursuant to the Plan from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Released Parties or the property of any of the Released Parties, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against the Released Parties or the property of any of the Released Parties, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Released Parties or the property of any of the Released Parties, (iv) asserting any right of setoff, directly or indirectly, against any obligation due the Released Parties or the property of any of the Released Parties, except (x) as contemplated or allowed by the Plan or (y) to the extent asserted in a timely filed Proof of Claim or timely filed objection to the confirmation of the Plan, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan. For the avoidance of doubt, nothing in Section 10.5(b) of the Plan shall enjoin any (i) current or former patient of the Debtor from pursuing any Claim against any non-Debtor party that is not a Released Party, including any non-Debtor provider that is not a Released Party, for any acts or omissions arising out of or relating to any Claims for medical malpractice or (ii) Governmental Unit from filing a Proof of Claim on or by the Governmental Bar Date (as defined in the Bar Date Order).**

**c) No Person or Entity shall seek or initiate formal or informal discovery**



requests, demands, or proceedings upon or from the Patient Care Ombudsman without first seeking permission, upon sufficient prior notice to the Patient Care Ombudsman, from the Bankruptcy Court.

d) The injunctions in Section 10.5 of the Plan shall extend to any successors of the Debtor and the Reorganized Debtor and their respective property and interests in property.

vi. Releases

a) Releases by the Debtor

As of the Effective Date, except for the right to enforce the Plan or any right or obligation arising under the Definitive Documents that remains in effect after the Effective Date, for good and valuable consideration, on and after the Effective Date, the Released Parties shall be deemed released and discharged by the Debtor, the Reorganized Debtor, and the Estate, and any Person seeking to exercise the rights of the Estate, and any successors to the Debtor or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code, from any and all Claims, obligations, rights, suits, judgments, damages, demands, debts, Liens, Causes of Action, remedies, losses, and liabilities whatsoever, including any derivative claims, asserted or assertable on behalf of the Debtor, the Reorganized Debtor, or the Estate, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, matured or unmatured, contingent or fixed, existing or hereinafter arising, in law, equity or otherwise, that the Debtor, the Reorganized Debtor, or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Estate, the conduct of the Debtor's business, the Chapter 11 Case, the purchase, sale or rescission of the purchase or sale of any Security of the Debtor or the Reorganized Debtor, the DIP Facility, the DIP Documents, the Definitive Documents, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between the Debtor and any Released Party, the Restructuring, the restructuring of any Claim or Interest before or during the Chapter 11 Cases, the Disclosure Statement, the Plan, and the Definitive Documents, or any related agreements, instruments, or other documents, and the negotiation, formulation, or preparation thereof, the solicitation of votes with respect to the Plan, or any other act or omission, in all cases based upon any act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date; provided, that, nothing in Section 10.6(a) of the Plan shall be construed to release (i) the Released Parties from intentional fraud, willful misconduct, or gross negligence, in each case as determined by a Final Order or (ii) any Retained Causes of Action.

b) Releases by Holders of Claims and Interests

As of the Effective Date, except for the right to enforce the Plan or any right or obligation arising under the Definitive Documents that remains in effect after the Effective Date, for good and valuable consideration, on and after the Effective Date, for good and



valuable consideration, except as specifically set forth elsewhere in the Plan, the Releasing Parties conclusively, absolutely, unconditionally, irrevocably, and forever discharge and release (and each entity so discharged and released shall be deemed discharged and released by the Releasing Parties) the Released Parties and their respective property from any and all Claims, obligations, rights, suits, judgments, damages, demands, debts, Liens, Causes of Action, remedies, losses, and liabilities whatsoever (including contract claims, claims under ERISA and all other statutory claims, claims for contributions, withdrawal liability, reallocation liability, redetermination liability, interest on any amounts, liquidated damages, claims for attorneys' fees or any costs or expenses whatsoever), including any derivative claims, asserted or assertable on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, matured or unmatured, contingent or fixed, existing or hereinafter arising, in law, equity or otherwise, that such Entity would have been legally entitled to assert in its own right (whether individually or collectively) based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Estate, the Restructuring, the Chapter 11 Case, the purchase, sale or rescission of the purchase or sale of any Security of the Debtor or the Reorganized Debtor, the DIP Facility, the DIP Documents, the Definitive Documents, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between the Debtor and any Released Party (other than assumed contracts or leases), the restructuring of Claims and Interests before or during the Chapter 11 Case, the negotiation, formulation, preparation or consummation of the Plan (including the Plan Supplement), the Definitive Documents, or any related agreements, instruments or other documents, or the solicitation of votes with respect to the Plan, in all cases based upon any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date. For the avoidance of doubt, nothing in Section 10.6(b) of the Plan shall be construed to release (i) the Released Parties from intentional fraud, willful misconduct, or gross negligence, in each case as determined by a Final Order or (ii) any current or former patient of the Debtor from pursuing any Claim against any non-Debtor party that is not a Released Party, including any non-Debtor provider that is not a Released Party, for any acts or omissions arising out of or relating to any Claims for medical malpractice.

#### **vii. Exculpation**

Notwithstanding anything herein to the contrary, and to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby released and exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, cause of action, remedy, loss, and liability for any act or omission taken on or after the Petition Date and prior to or on the Effective Date relating to, in any way, or arising out of, the Chapter 11 Case, the negotiation, formulation, preparation, dissemination, implementation, administration, confirmation, consummation, and pursuit of the Disclosure Statement, the Restructuring Transactions, the Plan, or the solicitation of votes for, or confirmation of, the Plan, the funding or consummation of the Plan (including the Plan Supplement), the Patient Care Ombudsman's evaluations, reports, pleadings, or other writings filed by or on behalf of the Patient Care Ombudsman in or in connection with the Chapter 11 Cases, the Definitive Documents, or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and distribution of

**any Securities issued or to be issued pursuant to the Plan, whether or not such distribution occurs following the Effective Date, the occurrence of the Effective Date, negotiations regarding or concerning any of the foregoing, or the administration of the Plan or property to be distributed under the Plan, except for actions determined by Final Order to constitute gross negligence, willful misconduct, or intentional fraud. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations and any other applicable law or rules protecting such Exculpated Parties from liability.**

The Debtor believes the releases and exculpations provided under the Plan to the Released Parties are reasonable and in the best interests of the Debtor and its stakeholders and will be prepared to demonstrate such in connection with confirmation of the Plan. Among others, the cooperation and participation of the Debtor's current officers, members, managers, and employees has been, and continues to be, vital to the success of the Chapter 11 Case. If the current management and the Board had not stayed in place, the consequences to the business cannot be overstated. Given the Debtor's precarious financial position and other issues with respect to its operations, the Debtor very likely would be facing liquidation absent the cooperation of these parties. The Debtor will be prepared to demonstrate at confirmation the contributions of the Released Parties were reasonable and necessary and that the releases and exculpations to be granted pursuant to the Plan are a sound exercise of the Debtor's business judgment and are consistent with applicable Tenth Circuit law.

#### **viii. Subordinated Claims**

The allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtor reserves the right to re-classify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

#### **ix. Retention of Causes of Action/Reservation of Rights**

Except as otherwise provided in Sections 10.5, 10.6, and 10.7 of the Plan, nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, Claims, Causes of Action, rights of setoff or recoupment, or other legal or equitable defenses that the Debtor had immediately prior to the Effective Date on behalf of the Estate or of itself in accordance with any provision of the Bankruptcy Code or any applicable non-bankruptcy law, including any affirmative Causes of Action against parties with a relationship with the Debtor. Other than those Claims and Causes of Action assigned to the Litigation Trust pursuant to Section 5.6 of the Plan, the Reorganized Debtor shall have, retain, reserve, and be entitled to assert all Claims, Causes of Action, rights of setoff or recoupment, and other legal or equitable defenses notwithstanding the occurrence of the Effective Date, and all of the Debtor's legal and equitable rights in respect of any Unimpaired Claim may be asserted after the Confirmation Date and Effective Date to the same extent as if the Chapter 11 Case had not been commenced.

**x. Ipsso Facto and Similar Provisions Ineffective**

Any term of any prepetition policy, prepetition contract, or other prepetition obligation applicable to the Debtor shall be void and of no further force or effect with respect to the Debtor to the extent that such policy, contract, or other obligation is conditioned on, creates an obligation of the Debtor as a result of, or gives rise to a right of any entity based on any of the following: (a) the insolvency or financial condition of the Debtor; (b) the commencement of the Chapter 11 Case; (c) the confirmation or consummation of the Plan, including any change of control that shall occur as a result of such consummation; or (d) the restructuring.

**xi. Solicitation of Plan**

As of and subject to the occurrence of the Confirmation Date: (a) the Debtor shall be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including sections 1125(a) and (e) of the Bankruptcy Code, and any applicable non-bankruptcy law, rule, or regulation governing the adequacy of disclosure in connection with such solicitation and (b) the Debtor and each of its members, managers, officers, employees, affiliates, agents, financial advisors, investment bankers, professionals, accountants, and attorneys shall be deemed to have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer and issuance of any Securities under the Plan, and therefore are not, and on account of such offer, issuance, and solicitation shall not be, liable at any time for any violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or the offer and issuance of any Securities under the Plan.

**xii. Limited Liability Company Action**

Upon the Effective Date, all actions of the Debtor or the Reorganized Debtor, as applicable, contemplated by the Plan shall be deemed authorized and approved in all respects, including (a) those set forth in Sections 5.2 and 5.4 of the Plan, as applicable, (b) the selection of the managers, and officers for the Reorganized Debtor, (c) the entry into the Exit Facility Credit Agreement (if applicable), (d) the establishment of the Litigation Trust, issuance of the Litigation Trust Interests and execution and delivery of the Litigation Trust Agreement, and (e) all other actions contemplated by the Plan (whether to occur before, on, or after the Effective Date), in each case, in accordance with and subject to the terms and conditions hereof. All matters provided for in the Plan involving the limited liability company structure of the Debtor or the Reorganized Debtor, and any limited liability company action required by the Debtor or the Reorganized Debtor in connection with the Plan shall be in effect, without any requirement of further action by the security holders, members, managers, or officers of the Debtor or the Reorganized Debtor. On or (as applicable) before the Effective Date, the appropriate officers of the Debtor or the Reorganized Debtor, as applicable, shall be authorized and directed to issue, execute, and deliver the agreements, documents, Securities, and instruments, certificates of merger, certificates of conversion, certificates of incorporation, or comparable documents, or franchise tax reports contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Reorganized Debtor, including, (a) the New Governance Documents, (b) the Exit Facility Credit Agreement, and (c) any and all other agreements, documents, Securities, and instruments relating to the foregoing. The authorizations and approvals

contemplated by Section 10.12 of the Plan shall be effective notwithstanding any requirements under non-bankruptcy law.

### **I. Retention of Jurisdiction**

On and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising in, arising under, and related to the Chapter 11 Case for, among other things, the following purposes:

- a) to hear and determine motions and/or applications for the assumption, assumption and assignment, or rejection of executory contracts or unexpired leases, including disputes over Cure Amounts, and the allowance, classification, priority, compromise, estimation, or payment of Claims resulting therefrom;
- b) to determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date;
- c) to ensure that distributions to holders of Allowed Claims are accomplished as provided for in the Plan and Confirmation Order and to adjudicate any and all disputes arising from or relating to distributions under the Plan, including, cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by the holder of a Claim or Interest for amounts not timely paid;
- d) to consider the allowance, classification, priority, compromise, estimation, or payment of any Claim;
- e) to enter, implement or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;
- f) to issue injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Entity with the consummation, implementation, or enforcement of the Plan, the Confirmation Order, or any other order of the Bankruptcy Court;
- g) to hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;
- h) to hear and determine all Professional Fee Claims;
- i) to adjudicate, decide, or resolve any and all matters related to section 1141 of the Bankruptcy Code;
- j) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, the Plan Supplement, the Litigation Trust Agreement, or the Confirmation Order or any agreement, instrument, or other document governing or relating to any of the foregoing, provided that any dispute arising under or in connection with the Exit

Facility shall be dealt with in accordance with the provisions of the applicable document;

k) to take any action and issue such orders as may be necessary to construe, interpret, enforce, implement, execute, and consummate the Plan;

l) to determine such other matters and for such other purposes as may be provided in the Confirmation Order;

m) to hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code);

n) to hear, adjudicate, decide, or resolve any and all matters related to Article X of the Plan, including the releases, discharge, exculpations, and injunctions issued thereunder;

o) to resolve disputes concerning Disputed Claims or the administration thereof;

p) to hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;

q) to enter any final decree closing the Chapter 11 Case;

r) to adjudicate any and all disputes arising from or relating to distributions under the Plan;

s) to resolve disputes as to the ownership of any Claim or Interest;

t) to recover all assets of the Debtor and property of the Debtor's Estate, wherever located;

u) to resolve any disputes concerning whether an Entity had sufficient notice of the Chapter 11 Case, the Disclosure Statement, any solicitation conducted in connection with the Chapter 11 Case, any bar date established in the Chapter 11 Case, or any deadline for responding or objecting to a Cure Amount, in each case, for the purpose of determining whether a Claim or Interest is discharged hereunder or for any other purpose;

v) to hear and determine any rights, Claims, or Causes of Action held by or accruing to the Debtor pursuant to the Bankruptcy Code or pursuant to any federal statute or legal theory;

w) to hear and resolve any dispute over the application to any Claim of any limit on the allowance of such Claim set forth in sections 502 or 503 of the Bankruptcy Code, other than defenses or limits that are asserted under non-bankruptcy law pursuant to section 502(b)(1) of the Bankruptcy Code; and

x) to resolve any and all suits, proceedings, or other matters against or involving the Patient Care Ombudsman.

**ii. Courts of Competent Jurisdiction**

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of the Plan, such abstention, refusal, or failure of jurisdiction shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by the federal and state courts situated in Oklahoma County, Oklahoma.

**J. Miscellaneous Provisions**

**i. Payment of Statutory Fees**

All fees payable pursuant to section 1930 of title 28 of the United States Code and any interest thereon pursuant to 31 U.S.C. § 3717 (“Quarterly Fees”) shall be paid in full in Cash on or before the Effective Date by the Debtor. After the Effective Date, the Reorganized Debtor and the Litigation Trustee shall pay all Quarterly Fees in full in Cash when due in the Chapter 11 Case<sup>3</sup> until such time as a final decree is entered closing the Debtor’s case, a Final Order converting the Debtor’s case to a case under chapter 7 of the Bankruptcy Code is entered, or a Final Order dismissing the Debtor’s case is entered, whichever occurs first. The Debtor shall file all monthly operating reports due prior to the Effective Date when they become due, using UST Form 11-MOR. After the Effective Date, the Reorganized Debtor shall file with the Bankruptcy Court a post-confirmation quarterly report for the Debtor’s case for each quarter such case is pending, using UST Form 11-PCR. Notwithstanding anything to the contrary in the Plan, (i) Quarterly Fees are Allowed; (ii) the U.S. Trustee shall not be required to file any proof of claim or any other request(s) for payment with respect to Quarterly Fees; and (iii) the U.S. Trustee shall not be treated as providing any release under the Plan.

**ii. Substantial Consummation of the Plan**

On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

**iii. Plan Supplement**

The Plan Supplement shall be filed with the Clerk of the Bankruptcy Court. Upon its filing with the Bankruptcy Court, the Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court during normal court hours. Documents included in the Plan Supplement shall be posted at the website of the Debtor’s notice, claims, and solicitation agent.

**iv. Request for Expedited Determination of Taxes**

The Reorganized Debtor shall have the right to request an expedited determination under section 505(b) of the Bankruptcy Code with respect to tax returns of the Debtor filed, or to be filed,

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<sup>3</sup> For the avoidance of doubt, the Litigation Trustee shall be solely responsible for paying quarterly fees with respect to distributions made from the Litigation Trust and shall not be responsible for contributing to quarterly fees arising from distributions made by the Debtor or the Reorganized Debtor.



for any and all taxable periods ending after the Petition Date through the Effective Date.

**v. Exemption from Certain Transfer Taxes**

Pursuant to section 1146 of the Bankruptcy Code, (a) the issuance, transfer or exchange of any Securities, instruments or documents, (b) the creation of any Lien, mortgage, deed of trust, or other security interest, (c) the making or assignment of any lease or sublease or the making or delivery of any deed or other instrument of transfer under, pursuant to, in furtherance of, or in connection with the Plan, including any deeds, bills of sale, or assignments executed in connection with any of the transactions contemplated under the Plan or the revesting, transfer, or sale of any real or personal property of the Debtor pursuant to, in implementation of or as contemplated in the Plan (whether to the Reorganized Debtor or otherwise), (d) the grant of collateral under the Exit Facility Credit Agreement, and (e) the issuance, renewal, modification, or securing of indebtedness by such means, and the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including the Confirmation Order, shall not be subject to any document recording tax, stamp tax, conveyance fee, or other similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, sales tax, use tax, or other similar tax or governmental assessment. Consistent with the foregoing, each recorder of deeds or similar official for any county, city, or governmental unit in which any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument without requiring the payment of any filing fees, documentary stamp tax, deed stamps, stamp tax, transfer tax, intangible tax, or similar tax.

**vi. Amendments**

The Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan prior to the entry of the Confirmation Order, including amendments or modifications to satisfy section 1129(b) of the Bankruptcy Code. After entry of the Confirmation Order, the Debtor may, upon order of the Bankruptcy Court, amend, modify, or supplement the Plan in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law, in each case without additional disclosure pursuant to section 1125 of the Bankruptcy Code.

Before the Effective Date, the Debtor may make appropriate technical adjustments and modifications to the Plan and the documents contained in the Plan Supplement to cure any non-substantive ambiguity, defect (including any technical defect), or inconsistency without further order or approval of the Bankruptcy Court.

**vii. Effectuating Documents and Further Transactions**

Each of the officers of the Reorganized Debtor is authorized, in accordance with their authority under the resolutions of the members or applicable board of directors or managers (on terms materially consistent with the Plan), to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.



### **viii. Revocation or Withdrawal of the Plan**

The Debtor may revoke or withdraw the Plan prior to the Effective Date. If the Plan has been revoked or withdrawn prior to the Effective Date, or if confirmation or the occurrence of the Effective Date as to the Debtor does not occur on the Effective Date, then: (a) the Plan shall be null and void in all respects; (b) any settlement or compromise embodied in the Plan (including the fixing of or limiting to an amount of any Claim or Interest or Class of Claims or Interests), assumption of executory contracts or unexpired leases affected by the Plan, and any document or agreement executed pursuant to the Plan shall be deemed null and void; and (c) nothing contained in the Plan shall (i) constitute a waiver or release of any Claim by or against, or any Interest in, the Debtor or any other Entity, (ii) prejudice in any manner the rights of the Debtor or any other Entity, or (iii) constitute an admission of any sort by the Debtor or any other Entity.

### **ix. Severability of Plan Provisions**

If, before the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtor, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted; provided that any such alteration or interpretation shall be reasonably acceptable to the Debtor. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is (a) valid and enforceable pursuant to its terms, (b) integral to the Plan and may not be deleted or modified without the consent of the Debtor, the Reorganized Debtor, the DIP Lender, or the Exit Facility Lender, solely to the extent that a particular term or provision affects the legal and/or economic rights of the DIP Lender or the Exit Facility Lender as applicable, under the Plan, the DIP Credit Agreement or the Exit Facility Credit Agreement and (c) nonseverable and mutually dependent.

### **x. Governing Law**

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent an exhibit hereto or a schedule in the Plan Supplement or a Definitive Document provides otherwise, the rights, duties, and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Oklahoma, without giving effect to the principles of conflict of laws thereof.

### **xi. Time**

In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

**xii. Dates of Actions to Implement the Plan**

In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

**xiii. Immediate Binding Effect**

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), 7062, or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and Plan Supplement shall be immediately effective and enforceable and deemed binding upon and inure to the benefit of the Debtor, the holders of Claims and Interests (irrespective of whether such Claims or Interests are deemed to have accepted the Plan), the Released Parties, the Exculpated Parties and each of their respective successors and assigns, including the Reorganized Debtor.

**xiv. Deemed Acts**

Subject to and conditioned on the occurrence of the Effective Date, whenever an act or event is expressed under the Plan to have been deemed done or to have occurred, it shall be deemed to have been done or to have occurred without any further act by any party, by virtue of the Plan and the Confirmation Order.

**xv. Successor and Assigns**

The rights, benefits, and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor, or permitted assign, if any, of each Entity.

**xvi. Entire Agreement**

On the Effective Date, the Plan, the Plan Supplement, and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

**xvii. Exhibits to Plan**

All exhibits, schedules, supplements, and appendices to the Plan (including the Plan Supplement) are incorporated into and are a part of the Plan as if set forth in full therein.

**xviii. Notices**

All notices, requests, and demands to or upon the Debtor to be effective shall be in writing (including by electronic transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered, addressed as follows:

- (a) if to the Debtor or the Reorganized Debtor:

Hospital for Special Surgery, LLC *dba* OneCore Health  
Attn: Steve Hockert (shockert@solarasurgical.com)  
100 NE 85th St.  
Oklahoma City, OK 73114  
(405) 631-3085  
onecorehealth.com

-and-

**CROWE & DUNLEVY**  
A Professional Corporation

William H. Hoch, OBA #15788  
Craig M. Regens, OBA #22894  
Mark A. Craige, OBA #1992  
Kaleigh M. Ewing, OBA #35598  
Braniff Building  
324 N. Robinson Ave., Suite 100  
Oklahoma City, OK 73102-8273  
(405) 235-7700  
will.hoch@crowedunlevy.com  
craig.regens@crowedunlevy.com  
mark.craige@crowedunlevy.com  
kaleigh.ewing@crowedunlevy.com

**VII.**

**CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF PLAN**

*The following summary has been provided for informational purposes only. All holders of Claims and Interests are urged to consult their tax advisors concerning the federal, state, local and other tax consequences applicable to them under the Plan.*

The following discussion is a summary of certain U.S. federal income tax consequences of the consummation of the Plan to the Debtor, Reorganized Debtor and to certain holders of Allowed Claims. The following summary does not address the U.S. federal income tax consequences to holders of Claims that are Unimpaired, not entitled to vote, deemed to reject the Plan or otherwise entitled to payment in full in Cash under the Plan, nor to holders of Existing Equity Interests, because such holders are deemed to reject the Plan.

The discussion of U.S. federal income tax consequences below is based on the Internal Revenue Code of 1986, as amended (the “Tax Code”), U.S. Treasury regulations (“Treasury Regulations”), judicial authorities, published positions of the Internal Revenue Service (“IRS”), and other applicable authorities, all as in effect on the date of this Disclosure Statement and all of which are subject to change or differing interpretations (possibly with retroactive effect). The U.S. federal income tax consequences of the contemplated transactions are complex and subject to significant uncertainties. The Debtor has not requested an opinion of counsel or a ruling from the

IRS with respect to any of the tax aspects of the contemplated transactions, and the discussion below is not binding upon the IRS or any court. No assurance can be given that the IRS will not assert, or that a court will not sustain, a different position than any position discussed herein.

This discussion does not purport to address all aspects of U.S. federal income taxation that may be relevant to the Debtor or to certain holders of Allowed Claims in light of their individual circumstances, nor does it address tax issues with respect to such holders of Allowed Claims subject to special treatment under the U.S. federal income tax laws (including, for example, banks, governmental authorities or agencies, partnership or other pass-through entities, subchapter S corporations, dealers and traders in securities, insurance companies, financial institutions, tax exempt organizations, small business investment companies, persons who are related to the Debtor within the meaning of the Tax Code, U.S. Holders (defined below) who prepare “applicable financial statements” (as defined in section 451 of the Tax Code), persons using a mark-to-market method of accounting, or holders of Allowed Claims who are themselves in bankruptcy. No aspect of state, local, estate, gift, or non-U.S. taxation is addressed. Furthermore, this summary assumes that a holder of an Allowed Claim holds only Allowed Claims in a single Class and holds its Allowed Claims as “capital assets” (within the meaning of section 1221 of the Tax Code). This discussion does not address special considerations that may apply to persons who are holders of both Allowed Claims and Existing Equity Interests.

This summary also assumes that the various debt and other arrangements to which the Debtor is a party will be respected for U.S. federal income tax purposes in accordance with their form. In addition, this discussion does not address U.S. federal taxes other than income taxes, nor does it address the Foreign Account Tax Compliance Act.

**THE FOLLOWING SUMMARY OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON A HOLDER’S INDIVIDUAL CIRCUMSTANCES. ALL HOLDERS OF CLAIMS AND EXISTING EQUITY INTERESTS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS FOR THE U.S. FEDERAL, STATE, LOCAL AND OTHER TAX CONSEQUENCES APPLICABLE TO THEM UNDER THE PLAN.**

**A. Certain U.S. Federal Income Tax Consequences of the Plan to U.S. Holders of Certain Allowed Claims**

**a) The Litigation Trust**

The Litigation Trust is intended to be treated as a “liquidating trust” within the meaning of section 301.7701-4(d) of the Treasury Regulations for U.S. federal income tax purposes, which is not a separate taxable entity, but rather is treated for U.S. federal income tax purposes as a “grantor trust” (i.e., a pass-through entity) with the holders of Litigation Trust Interests as the grantors.

The Debtor intends to treat the transfer of assets by the Debtor to the Litigation Trust as (i) a deemed transfer of such assets to holders of the Base Claims receiving Litigation Trust Interests in proportion to their interests in the Litigation Trust in partial satisfaction of such holder’s

Allowed Base Claim, followed by (ii) the deemed transfer by such holders to the Litigation Trust of such assets in exchange for their Litigation Trust Interests.

Under the Plan, the trustee of the Litigation Trust will make a valuation of assets transferred to the Litigation Trust. All parties to the Litigation Trust (including, without limitation, the Debtor, holders of the Base Claim receiving interests in the Litigation Trust, and the trustee of the Litigation Trust) must report consistently with such valuation for all U.S. federal income tax purposes. The valuation will be made available, from time to time, as relevant for tax reporting purposes.

## VIII.

### **CERTAIN RISK FACTORS TO BE CONSIDERED**

Prior to voting to accept or reject the Plan, holders of Claims and Interests should read and carefully consider the risk factors set forth below, in addition to the information set forth in this Disclosure Statement together with any attachments, exhibits, or documents incorporated by reference hereto. The factors below should not be regarded as the only risks associated with the Plan or its implementation. New factors, risks and uncertainties emerge from time to time, and it is not possible to predict all such factors, risks and uncertainties.

#### **A. Certain Bankruptcy Law Considerations**

##### **i. General**

Although the Plan is designed to minimize the length of the Chapter 11 Case, it is impossible to predict with certainty the amount of time that the Debtor may spend in bankruptcy or to assure parties in interest that the Plan will be confirmed. Even if confirmed on a timely basis, bankruptcy proceedings to confirm the Plan could have an adverse effect on the Debtor's business. Among other things, it is possible that bankruptcy proceedings could adversely affect the Debtor's relationships with its key vendors, customers, and employees. The proceedings will also involve additional expense and may divert some of the attention of the Debtor's management away from business operations.

##### **ii. Risk of Non-Confirmation of Plan**

Although the Debtor believes that the Plan will satisfy all requirements necessary for confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will reach the same conclusion or that modifications to the Plan will not be required for confirmation or that such modifications would not necessitate re-solicitation of votes. Moreover, the Debtor can make no assurances that it will receive the requisite acceptances to confirm the Plan, and even if all the Voting Classes vote in favor of the Plan or the requirements for "cramdown" are met with respect to any Class that rejects the Plan, the Bankruptcy Court, which may exercise substantial discretion as a court of equity, may choose not to confirm the Plan.

**iii. Risk of Failing to Satisfy the Vote Requirement**

In the event that the Debtor is unable to get sufficient votes from the Voting Classes, the Debtor may seek to accomplish an alternative chapter 11 plan or seek to cram down the Plan on non-accepting classes. There can be no assurance that the terms of any such alternative chapter 11 plan would be similar or as favorable to holders of Allowed Claims and Interests as those proposed in the Plan.

**iv. Risk of Non-Consensual Confirmation**

In the event that any impaired class of Claims or Interests does not accept or is deemed not to accept the Plan, the Bankruptcy Court may nevertheless confirm such Plan at the request of the Debtor if at least one impaired class has accepted the Plan (with such acceptance being determined without including the vote of any “insider” in such class), and as to each impaired class that has not accepted the Plan, the Bankruptcy Court determines that the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to the dissenting impaired classes. Should any Class vote to reject the Plan, then these requirements must be satisfied with respect to such rejecting Classes. The Debtor believes that the Plan satisfies these requirements.

**v. Risk Related to DIP Facility**

The DIP Facility is intended to provide liquidity to the Debtor during the pendency of the Chapter 11 Case. If the Chapter 11 Case takes longer than expected to conclude, or in the event of a breach of a milestone or another event of default under the DIP Facility, which could occur if the Plan is not confirmed on the proposed timeline, the Debtor may exhaust or lose access to its financing. There is no assurance that the Debtor will be able to obtain additional financing from its existing lender or otherwise. In either such case, the liquidity necessary for the orderly functioning of the Debtor’s business may be materially impaired.

**vi. Risk Related to Possible Objections to the Plan**

There is a risk that certain parties could oppose and object to either the entirety of the Plan or specific provisions of the Plan. Although the Debtor believes that the Plan complies with all relevant Bankruptcy Code provisions, there can be no guarantee that a party in interest will not file an objection to the Plan or that the Bankruptcy Court will not sustain such an objection.

**vii. Risk of Non-Occurrence of Effective Date**

There can be no assurance as to the timing of the Effective Date. If the conditions precedent to the Effective Date set forth in the Plan have not occurred or have not been waived as set forth in Article IX of the Plan, then the Confirmation Order may be vacated, in which event no distributions would be made under the Plan, the Debtor and all holders of Claims or Interests would be restored to the status quo as of the day immediately preceding the Confirmation Date, and the Debtor’s obligations with respect to Claims and Interests would remain unchanged.

### **viii. Conversion to Chapter 7 Case**

If no plan of reorganization can be confirmed, or if the Bankruptcy Court otherwise finds that it would be in the best interest of holders of Claims and Interests, the Chapter 11 Case may be converted to a case under chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be appointed to liquidate the Debtor's assets for distribution in accordance with the priorities established by the Bankruptcy Code. See Article XI hereof, as well as the liquidation analysis annexed hereto as **Exhibit 2** (the "Liquidation Analysis") for a discussion of the effects that a chapter 7 liquidation would have on the recoveries of holders of Claims and Interests. All or substantially all of the Debtor's assets are encumbered by prepetition liens and DIP liens such that there would not be any material unencumbered assets available for distribution in a chapter 7 liquidation.

### **B. Risks Relating to the Plan**

#### **i. Claims Could Be More than Projected**

There can be no assurance that the estimated Allowed amount of Claims in certain Classes will not be significantly more than projected, which, in turn, could cause the value of distributions to each holder in the applicable Class to be reduced, possibly substantially. Inevitably, some assumptions will not materialize, and unanticipated events and circumstances may affect the ultimate results. Further, the deadline for Governmental Units to file Proofs of Claim against the Debtor is April 7, 2025 at 4:00 p.m. (Central Time), after the Confirmation Hearing. Consequently, Governmental Units may file Claims subsequent to the Confirmation Hearing, which Claims may dilute recoveries for holders of unsecured claims. Furthermore, although the Debtor anticipates that Administrative Expense Claims have been projected properly, these amounts are likely to increase if the anticipated timeline of the Chapter 11 Case is delayed or protracted litigation with the creditors of such entities occurs. The actual amount of Allowed Claims may vary from the Debtor's projections, and the variation may be material.

#### **ii. Claims Could be Determined to be Non-Dischargeable**

There can be no assurance that Claims from which the Debtor seeks a discharge will be determined to be dischargeable by the Court. The Court may find certain Claims to be non-dischargeable, which may ultimately dilute recoveries for holders of other Claims.

#### **iii. Conditions to Consummation of Plan**

Although the Debtor believes that it will be able to consummate the Restructuring, there are conditions to the Effective Date, including that certain regulatory approvals, are received. Accordingly, the Debtor is not certain that the Restructuring will be consummated as planned.

#### **iv. Post-Effective Date Indebtedness**

Following the Effective Date, in the event of a Reorganization Transaction, the Reorganized Debtor will have outstanding funded indebtedness under the Exit Facility. The Reorganized Debtor's ability to service its debt obligations will depend on, among other things, the Reorganized Debtor's compliance with affirmative and negative covenants, the applicable



interest rate under the Exit Facility, as well as future operating performance, which depends partly on economic, financial, competitive, and other factors beyond the Reorganized Debtor's control. The Reorganized Debtor may not be able to generate sufficient cash from operations to meet its debt service obligations as well as fund necessary capital expenditures and investments in operating its business. In addition, if the Reorganized Debtor needs to refinance its debt, obtain additional financing, or sell assets or equity, it may not be able to do so on commercially reasonable terms, if at all.

**v. Base Settlement May Not Be Approved by the Bankruptcy Court**

As described more fully above, the Plan incorporates a proposed Base Settlement among the Debtor and Emma Base (the "Base Settlement"); however, the Base Settlement remain subject to approval of the Bankruptcy Court. Such approval may not be obtained.

**C. Risks Relating to the Debtor's Business**

**i. Regulatory Risks**

The Debtor is subject to extensive regulation by both the federal government and the state government in which it provides services. These laws may constrain the business or financial arrangements and relationships through which the Debtor conducts operations. The laws and regulations in these areas are complex, changing and often subject to varying interpretations, and any failure to satisfy applicable laws and regulations could have a material adverse impact on the Debtor's business, results of operations, financial condition, cash flows and reputation. If the Debtor's operations are found to be in violation of any of the laws and regulations, the Debtor may be subject to the applicable penalty associated with the violation, including civil and criminal penalties, damages, fines, exclusion or suspension from participating in governmental health care programs, and the curtailment of the Debtor's operations.

Any penalties, damages, fines or curtailment of its operations, individually or in the aggregate, could adversely affect the Debtor's ability to operate and its financial results. The risks of being found in violation of these laws and regulations is increased by the fact that many of them have not been fully interpreted by the regulatory authorities or the courts, their provisions are open to a variety of interpretations, and such laws and regulations may apply to businesses acquired from time to time by the Debtor.

**ii. Contracts with Payors/Insurance Providers**

The Debtor generates revenues from the U.S. federal Medicare and state Medicaid programs, including Medicare and Medicaid managed care plans. Healthcare expenditures continue to increase and state governments continue to face budgetary shortfalls. Driven by these financial factors and ongoing health reform efforts, federal and state governments have made, and continue to make, significant changes in the Medicare and Medicaid programs, including changes in payment methodologies, reductions in reimbursement payment levels and reductions to payments made to providers under state supplemental payment programs. Some of these changes have already occurred, and could re-occur in the future, limiting the amount of payments the Debtor receives for its services.

In addition, U.S. federal and state governmental and commercial payors, as well as other third parties from whom the Debtor receives payment for the Debtor's services, attempt to control healthcare costs by, for example, requiring healthcare providers to discount payments for their services in exchange for exclusive or preferred participation in their benefit plan networks, restricting coverage through utilization reviews, requiring prior authorizations for non-emergency services and implementing alternative payment models. The ability of commercial payors to control healthcare costs using these measures may be enhanced by the increasing consolidation of private health insurance companies and managed care companies and vertical integration of health insurers with healthcare providers. Cost-reduction strategies by large employer groups and their affiliates may also limit the Debtor's ability to negotiate favorable terms in the Debtor's contracts and otherwise intensify competitive pressure. Furthermore, the Debtor's contracts with payors require the Debtor to comply with a number of terms related to the provision of services and billing for services. If the Debtor is unable to negotiate increased reimbursement rates, maintain existing reimbursement rates or other favorable contract terms, effectively respond to payor cost controls or comply with the terms of the Debtor's payor contracts, the payments the Debtor receives for its services may be reduced or the Debtor may be involved in disputes with payors and experience payment denials, both prospectively and retroactively.

### **iii. Recruiting and Retention of Physicians**

The success of the Debtor's healthcare facilities depends in part on the number and quality of the physicians on the medical staffs of the Debtor's healthcare facilities, the Debtor's ability to employ or contract with quality physicians, the utilization practices of employed and non-employed physicians, maintaining good relations with physicians and controlling costs related to the employment of physicians. In the market the Debtor serves, many physicians have admitting privileges at other healthcare facilities. Such physicians may terminate their affiliation or employment with the Debtor's healthcare facilities at any time. If the Debtor is unable to provide adequate supporting medical staff or technologically advanced medical equipment and facilities that meet physicians' and patients' needs or expectations, services may decrease and the Debtor's operating performance may decline.

### **iv. Privacy and Security Regulations**

There are numerous federal and state laws and regulations within the U.S. addressing patient information privacy and security concerns, including state laws related to identity theft. States continue to pass laws focusing on the privacy and security of health information. Most prominently, the federal regulations issued under HIPAA contain provisions that:

- Protect individual privacy by limiting the uses and disclosures of patient information;
- Require notifications to individuals, and in certain cases to government agencies and the media, in the event of a breach of unsecured protected health information;
- Require the implementation of security safeguards to ensure the confidentiality, integrity and availability of individually identifiable health information in electronic form; and
- Prescribe specific transaction formats and data code sets for certain electronic healthcare transactions.

Furthermore, the Omnibus HIPAA Rule makes business associates directly obligated to adhere to the HIPAA Security Rule and certain provisions of the HIPAA Privacy and Breach Notification Rules, such that violations of these rules can be enforced by the government directly against the business associate. These regulations impose extensive administrative requirements regarding how protected health information may be used and disclosed, and compliance with these regulations requires substantial time and resources. If the Debtor fails to comply with the HIPAA regulations, the Debtor could be subject to civil and criminal penalties and, for the Debtor's employees, possible imprisonment. Furthermore, the Debtor's facilities could be subject to a periodic audit or investigations by the federal government, and enforcement of violations of HIPAA or other similar privacy laws in the jurisdiction where the Debtor operates may occur by federal agencies, state attorneys general, or other relevant regulators.

#### **D. Risks Relating to Exit Obligations**

##### **i. Insufficient Cash Flow to Meet Debt Obligations**

On the Effective Date, in the event that a Reorganization occurs, on a consolidated basis, it is expected that the Reorganized Debtor will have outstanding secured indebtedness in an amount no greater than \$5 million. This level of expected indebtedness and the funds required to service such debt could, among other things, make it more difficult for the Reorganized Debtor to satisfy its obligations under such indebtedness, increasing the risk that it may default on such debt obligations.

The Reorganized Debtor's earnings and cash flow may vary significantly from year to year. Additionally, the Reorganized Debtor's future cash flow may be insufficient to meet its debt obligations and commitments. Any insufficiency could negatively impact the Reorganized Debtor's business. A range of economic, competitive, business, and industry factors will affect the Reorganized Debtor's future financial performance and, as a result, its ability to generate cash flow from operations and to pay its debt. Many of these factors are beyond the Reorganized Debtor's control.

If the Reorganized Debtor does not generate enough cash flow from operations to satisfy its debt obligations, it may have to undertake alternative financing plans, such as refinancing or restructuring debt, selling assets, reducing or delaying capital investments, or seeking to raise additional capital.

It cannot be assured, however, that undertaking alternative financing plans, if necessary, would allow the Reorganized Debtor to meet its debt obligations. An inability to generate sufficient cash flow to satisfy its debt obligations or to obtain alternative financing could materially and adversely affect the Reorganized Debtor's ability to make payments on the Exit Facility and its business, financial condition, results of operations, and prospects.

##### **ii. Defects in Collateral Securing the Exit Obligations**

The Exit Facility will be secured, subject to certain exceptions and permitted liens, by security interests in substantially all assets of the Reorganized Debtor (the "Exit Collateral"). The

Exit Collateral may be subject to customary exceptions, encumbrances, and liens. Further, the Debtor has not conducted appraisals of any assets constituting Exit Collateral to determine if the value of the Exit Collateral upon foreclosure or liquidation equals or exceeds the amount of the Exit Facility. Accordingly, it cannot be assured that the remaining proceeds from a sale of the Exit Collateral would be sufficient to repay the Exit Facility. The fair market value of the Exit Collateral is subject to fluctuations based on factors that include, among others, the ability to sell such collateral in an orderly manner, general economic conditions, the availability of buyers, the Reorganized Debtor's failure to implement its business strategy, and similar factors. The amount received upon a sale of Exit Collateral would be dependent on numerous factors, including, but not limited to, the actual fair market value of such collateral at such time, and the timing and manner of the sale. By its nature, portions of the Exit Collateral may be illiquid and may have no readily ascertainable market value. In the event of a subsequent foreclosure, liquidation, bankruptcy, or similar proceeding, it cannot be assured that the proceeds from any sale or liquidation of the Exit Collateral will be sufficient to pay the Exit Facility, in full or at all. There can also be no assurance that the Exit Collateral will be saleable, and, even if saleable, the timing of its liquidation would be uncertain. Accordingly, there may not be sufficient Exit Collateral to pay all or any of the amounts due on the Exit Facility.

**iii. Failure to Maintain Perfection of Security Interests of Collateral**

The failure to maintain properly perfected liens of the Exit Collateral could adversely affect the collateral agent's ability to enforce rights with respect to the Exit Collateral for the benefit of the lender under the Exit Facility. In addition, applicable law requires that certain property and rights acquired after the grant of a general security interest or lien can only be perfected at the time such property and rights are acquired and identified. There can be no assurance that the collateral agent will monitor, or that Reorganized Debtor will inform the trustee or the collateral agent of, the future acquisition of property and rights that constitute Exit Collateral, and that the necessary action will be taken to properly perfect the security interest in such after-acquired Exit Collateral. The collateral agent has no obligation to monitor the acquisition of additional property or rights that constitute Exit Collateral or the perfection of any security interests therein. Such failure may result in the loss of the practical benefits of the liens thereon or of the priority of the liens securing the Exit Facility against third parties.

**iv. Casualty Risk of Collateral**

The Reorganized Debtor will be obligated to maintain adequate insurance or otherwise insure against hazards as is customarily done by companies having assets of a similar nature in the same or similar localities. There are, however, certain losses that may either be uninsurable or not economically insurable, in whole or in part. As a result, it is possible that the insurance proceeds will not compensate the Reorganized Debtor fully for its losses. If there is a total or partial loss of any of the pledged collateral, the insurance proceeds received may be insufficient to satisfy the Exit Facility.

**E. Additional Factors**

**i. Debtor Could Withdraw or Amend the Plan**

The Plan may be revoked, amended or withdrawn prior to the confirmation date by the Debtor. If the Debtor elects to do so, certain parties may assert that (i) the Plan and Disclosure Statement may require material modifications to reflect the terms of the alternative restructuring and the effect such transaction has on recoveries for unsecured creditors, and (ii) a re-solicitation of votes in respect of the modified Plan may be required. The Debtor reserves all rights with respect thereto.

**ii. Debtor Has No Duty to Update**

The statements contained in this Disclosure Statement are made by the Debtor as of the date hereof, unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has been no change in the information set forth herein since that date. The Debtor has no duty to update this Disclosure Statement unless otherwise ordered to do so by the Bankruptcy Court.

**iii. No Representations or Warranties Outside Disclosure Statement Are Authorized**

No representations or warranties concerning or related to the Debtor, the Chapter 11 Case, or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this Disclosure Statement. Any representations, warranties, or other inducements made to secure your acceptance or rejection of the Plan that are other than those contained in, or included with, this Disclosure Statement should not be relied upon in making the decision to accept or reject the Plan.

**iv. No Legal or Tax Advice Is Provided by Disclosure Statement**

The contents of this Disclosure Statement should not be construed as legal, business, or tax advice. Each holder of a Claim or Interest should consult their own legal counsel and accountant or financial advisor as to legal, tax, and other matters concerning their Claim or Interest.

This Disclosure Statement is not legal advice to you. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to confirmation of the Plan.

**v. No Admission Made**

Nothing contained herein or in the Plan will constitute an admission of, or will be deemed evidence of, the tax or other legal effects of the Plan on the Debtor or holders of Claims or Interests.

**vi. Failure to Identify Litigation Claims or Projected Objections**

No reliance should be placed on the fact that a particular litigation claim or projected objection to a particular Claim or Interest is, or is not, identified in this Disclosure Statement. The Debtor may seek to investigate, file, and prosecute Claims and Interests, and may object to Claims or Interests after the Confirmation or Effective Date of the Plan irrespective of whether this Disclosure Statement identifies such Claims or Interests or objections to such Claims or Interests.

**vii. Certain Tax Consequences**

For a discussion of certain tax considerations to the Debtor and certain holders of Claims in connection with the implementation of the Plan, see Article VII hereof.

**IX.**

**VOTING PROCEDURES AND REQUIREMENTS**

**A. Voting Instructions and Voting Deadline**

Only holders of Class 2 Claims (Critical Vendors Claims), Class 3 Claims (GUC Claims), and Class 4 Claims (Base Claim) (collectively, the “Eligible Holders”) are entitled to vote to accept or reject the Plan, subject to certain exclusions. The Debtor is providing copies of this Disclosure Statement (including all exhibits and appendices) and related materials and a ballot in the Solicitation Packages to record holders of Critical Vendors Claims, GUC Claims, and the Base Claim.

Each ballot contains detailed voting instructions. Each ballot also sets forth in detail, among other things, the deadlines, procedures, and instructions for voting to accept or reject the Plan, the date for determining which creditors or interest holders are entitled to vote on the Plan (the “Voting Record Date”), and the applicable standards for tabulating ballots. The Voting Record Date for determining which holders are entitled to vote on the Plan is April 12, 2025.

Please complete the information requested on the ballot, sign, date, and indicate your vote on the ballot, and return the completed ballot in accordance with the instructions set forth on the ballot.

FOR YOUR VOTE TO BE COUNTED, YOUR BALLOT MUST BE ACTUALLY RECEIVED BY THE VOTING AGENT NO LATER THAN MAY 1, 2025 AT 5:00 P.M. PREVAILING CENTRAL TIME (THE “VOTING DEADLINE”).

AN OTHERWISE PROPERLY COMPLETED, EXECUTED, AND TIMELY RETURNED BALLOT FAILING TO INDICATE EITHER ACCEPTANCE OR REJECTION OF THE PLAN OR INDICATING BOTH ACCEPTANCE AND REJECTION OF THE PLAN WILL NOT BE COUNTED IN DETERMINING THE ACCEPTANCE OR REJECTION OF THE PLAN.

If you are an Eligible Holder and you did not receive a ballot, received a damaged ballot, or lost your ballot, or if you have any questions concerning the procedures for voting on the Plan,



please contact Kurtzman Carson Consultants LLC *dba* Verita Global at <https://www.veritaglobal.net/OneCore/Inquiry>.

**THE PLAN PROVIDES THE HOLDERS OF CLAIMS OR INTERESTS THAT VOTE TO ACCEPT THE PLAN BUT DO NOT OPT OUT OF GRANTING THE RELEASES ARE DEEMED TO HAVE GRANTED THE RELEASES SET FORTH THEREIN.**

**IF A HOLDER OF A CLAIM RECEIVES A BALLOT AND VOTES TO ACCEPT THE PLAN, AND DOES NOT CHECK THE OPT-OUT BOX ON SUCH BALLOT, SUCH HOLDER SHALL BE DEEMED TO HAVE CONSENTED TO THE RELEASE, INJUNCTION, AND EXCULPATION PROVISIONS SET FORTH IN SECTIONS 10.5, 10.6, AND 10.7 OF THE PLAN.**

**B. Parties Entitled to Vote**

Claims in Class 2 (Critical Vendors Claims), Class 3 (GUC Claims), and Class 4 (Base Claim) of the Plan are impaired, and Eligible Holders in such Classes are entitled to vote to accept or reject the Plan. Claims and Interests in all other Classes under the Plan (Classes 1 and 5) are either unimpaired and presumed to accept or impaired and deemed to reject the Plan and are not entitled to vote.

The Debtor will request confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code over the rejection of the Plan by any Class that is deemed to reject the Plan, and Section 1129(b) of the Bankruptcy Code permits the confirmation of a chapter 11 plan notwithstanding the rejection of such plan by one or more impaired classes of claims or equity interests. Under section 1129(b) of the Bankruptcy Code, a plan may be confirmed by a bankruptcy court if it does not “discriminate unfairly” and is “fair and equitable” with respect to each rejecting class. For a more detailed description of the requirements for confirmation of a nonconsensual plan, *see* Article X.C.ii hereof.

**C. Change of Vote**

Any party that has previously submitted to the Voting Agent prior to the Voting Deadline a properly completed ballot may revoke such ballot and change its vote by submitting to the Voting Agent prior to the Voting Deadline a subsequent, properly completed ballot for acceptance or rejection of the Plan.

**D. Waivers of Defects, Irregularities, etc.**

Unless otherwise directed by the Bankruptcy Court, all questions as to the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawals of ballots will be determined by the Voting Agent and/or the Debtor, as applicable. The Debtor reserves the right to reject any and all ballots submitted by any of its respective Claim or Interest holders not in proper form, the acceptance of which would, in the opinion of the Debtor or its counsel, as applicable, be unlawful. The Debtor further reserves its rights to waive any defects or irregularities or conditions of delivery as to any particular ballot by any of its creditors. The interpretation (including the ballot and the respective instructions thereto) by the Debtor, unless otherwise directed by the Bankruptcy



Court, will be final and binding on all parties. Unless waived, any defects or irregularities in connection with deliveries of ballots must be cured within such time as the Debtor (or the Bankruptcy Court) determines. Neither the Debtor nor any other person will be under any duty to provide notification of defects or irregularities with respect to deliveries of ballots nor will any of them incur any liabilities for failure to provide such notification. Unless otherwise directed by the Bankruptcy Court, delivery of such ballots will not be deemed to have been made until such irregularities have been cured or waived. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will be invalidated.

**E. Miscellaneous**

Unless otherwise ordered by the Bankruptcy Court, ballots that are signed, dated, and timely received, but on which a vote to accept or reject the Plan has not been indicated, will not be counted. The Debtor, in its sole discretion, may request that the Voting Agent attempt to contact such voters to cure any such defects in the ballots. If you cast ballots received by Verita Global on the same day, but which are voted inconsistently, such ballots will not be counted. An otherwise properly executed ballot that attempts to partially accept and partially reject the Plan will not be counted as an acceptance of the Plan.

The ballots provided to Eligible Holders will reflect the principal amount of such Eligible Holder's Claim or Interest; however, when tabulating votes, the Voting Agent may adjust the amount of such Eligible Holder's Claim or Interest by multiplying the principal amount by a factor that reflects all amounts accrued between the Voting Record Date and the Petition Date including, without limitation, interest.

Under the Bankruptcy Code, for purposes of determining whether the requisite acceptances have been received, only holders of the Critical Vendors Claims, GUC Claims, and Base Claim, as applicable, that actually vote will be counted. The failure of a holder to deliver a duly executed ballot to the Voting Agent will be deemed to constitute an abstention by such holder with respect to voting on the Plan and such abstention will not be counted as a vote for or against the Plan.

Except as provided below, unless the ballot is timely submitted to the Voting Agent before the Voting Deadline together with any other documents required by such ballot, the Debtor may, in its sole discretion, reject such ballot as invalid, and therefore decline to utilize it in connection with seeking confirmation of the Plan.

**X.**

**CONFIRMATION OF PLAN**

**A. Confirmation Hearing**

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court to hold a confirmation hearing upon appropriate notice to all required parties. The Debtor will request that the Bankruptcy Court schedule the Confirmation Hearing. Notice of the Confirmation Hearing will be provided to all known creditors and equity holders or their representatives. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for the announcement of the adjourned date made at the Confirmation

Hearing, at any subsequent adjourned Confirmation Hearing, or pursuant to a notice filed on the docket of the Chapter 11 Case.

**B. Objections to Confirmation**

Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to the confirmation of a plan. Any objection to confirmation of the Plan must be in writing, must conform to the Bankruptcy Rules and applicable local rules, must set forth the name of the objector, the nature and amount of Claims or Interests held or asserted by the objector against the Debtor's estate or properties, the basis for the objection and the specific grounds thereof, and must be filed with the Bankruptcy Court, with a copy to the chambers of the United States Bankruptcy Judge appointed to the Chapter 11 Case, together with proof of service thereof, and served upon the following parties, including such other parties as the Bankruptcy Court may order:

**i. The Debtor at:**

Hospital for Special Surgery, LLC *dba* OneCore Health  
Attn: Steve Hockert (shockert@solarasurgical.com)  
100 NE 85th St.  
Oklahoma City, OK 73114  
(405) 631-3085  
onecorehealth.com

**ii. Counsel to the Debtor at:**

**CROWE & DUNLEVY**  
A Professional Corporation

William H. Hoch, OBA #15788  
Craig M. Regens, OBA #22894  
Mark A. Craige, OBA #1992  
Kaleigh M. Ewing, OBA #35598  
Braniff Building  
324 N. Robinson Ave., Suite 100  
Oklahoma City, OK 73102-8273  
(405) 235-7700  
will.hoch@crowedunlevy.com  
craig.regens@crowedunlevy.com  
mark.craige@crowedunlevy.com  
kaleigh.ewing@crowedunlevy.com

**iii. Office of the U.S. Trustee at:**

The Office of the U.S. Trustee  
Attn: Jeff Tate (jeff.tate@usdoj.gov); and Marjorie Creasey  
(marjorie.creasey@usdoj.gov)

215 Dean A. McGee Ave., Suite 408  
Oklahoma City, OK 73102

**iv. Counsel to the DIP Lender at:**

Solara Surgical Partners  
c/o Mark Toffoli  
204 N. Robinson Ave., Suite 1235  
Oklahoma City, OK 73102

**C. Requirements for Confirmation of Plan**

**i. Requirements of Section 1129(a) of the Bankruptcy Code**

**a) General Requirements**

At the Confirmation Hearing, the Bankruptcy Court will determine whether the confirmation requirements specified in section 1129(a) of the Bankruptcy Code have been satisfied including, without limitation, whether:

(i) the Plan complies with the applicable provisions of the Bankruptcy Code;

(ii) the Debtor has complied with the applicable provisions of the Bankruptcy Code;

(iii) the Plan has been proposed in good faith and not by any means forbidden by law;

(iv) any payment made or promised by the Debtor or by a person issuing securities or acquiring property under the Plan, for services or for costs and expenses in or in connection with the Chapter 11 Case, or in connection with the Plan and incident to the Chapter 11 Case, has been disclosed to the Bankruptcy Court, and any such payment made before confirmation of the Plan is reasonable, or if such payment is to be fixed after confirmation of the Plan, such payment is subject to the approval of the Bankruptcy Court as reasonable;

(v) the Debtor has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director or officer of the Reorganized Debtor, or a successor to the Debtor under the Plan, and the appointment to, or continuance in, such office of such individual is consistent with the interests of the holders of Claims and Interests and with public policy, and the Debtor has disclosed the identity of any insider who will be employed or retained by the Reorganized Debtor, and the nature of any compensation for such insider;

(vi) with respect to each Class of Claims or Interests, each holder of an impaired Claim or impaired Interest has either accepted the Plan or will receive or

retain under the Plan, on account of such holder's Claim or Interest, property of a value, as of the Effective Date, that is not less than the amount such holder would receive or retain if the Debtor were liquidated on the Effective Date under chapter 7 of the Bankruptcy Code;

(vii) except to the extent the Plan meets the requirements of section 1129(b) of the Bankruptcy Code (as discussed further below), each Class of Claims either accepted the Plan or is not impaired under the Plan;

(viii) except to the extent that the holder of a particular Claim has agreed to a different treatment of such Claim, the Plan provides that administrative expenses and priority Claims, other than Priority Tax Claims, will be paid in full on the Effective Date, and that Priority Tax Claims will receive either payment in full on the Effective Date or deferred cash payments over a period not exceeding 5 years after the Petition Date, of a value, as of the Effective Date of the Plan, equal to the Allowed amount of such Claims;

(ix) at least one Class of impaired Claims has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a Claim in such Class;

(x) confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor under the Plan; and

(xi) all fees payable under section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, have been paid or the Plan provides for the payment of all such fees on the Effective Date.

**b) Best Interests Test**

As noted above, with respect to each impaired class of claims and equity interests, confirmation of a plan requires that each such holder either (i) accept the plan, or (ii) receive or retain under the plan property of a value, as of the effective date of the plan, that is not less than the value such holder would receive or retain if the debtor was liquidated under chapter 7 of the Bankruptcy Code. This requirement is referred to as the "best interests test."

This test requires a Bankruptcy Court to determine what the holders of allowed claims and allowed equity interests in each impaired class would receive from a liquidation of the debtor's assets and properties in the context of a liquidation under chapter 7 of the Bankruptcy Code. To determine if a plan is in the best interests of each impaired class, the value of the distributions from the proceeds of the liquidation of the debtor's assets and properties (after subtracting the amounts attributable to the aforesaid claims) is then compared with the value offered to such classes of claims and equity interests under the plan.

The Debtor believes that under the Plan all holders of Impaired Claims and Interests will receive property with a value not less than the value such holders would receive in a liquidation

under chapter 7 of the Bankruptcy Code. The Debtor's belief is based primarily on (i) consideration of the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to holders of impaired Claims and Interests, and (ii) the Liquidation Analysis, attached hereto as **Exhibit 2**.

The Debtor believes that any liquidation analysis is speculative, as it is necessarily premised on assumptions and estimates, which are inherently subject to significant uncertainties and contingencies, many of which would be beyond the control of the Debtor. The Liquidation Analysis is solely for the purpose of disclosing to holders of Claims and Interests the effects of a hypothetical chapter 7 liquidation of the Debtor, subject to the assumptions set forth therein. There can be no assurance as to values that would actually be realized in a chapter 7 liquidation nor can there be any assurance that a bankruptcy court will accept the Debtor's conclusions or concur with such assumptions in making its determinations under section 1129(a)(7) of the Bankruptcy Code.

**c) Feasibility**

The Bankruptcy Code requires that a debtor demonstrate that confirmation of a plan is not likely to be followed by liquidation or the need for further financial reorganization unless contemplated by the Plan. The Effective Date of the Plan will not occur unless the Restructuring Transactions contemplated by the Plan close. Upon such closing the Reorganized Debtor will have sufficient funds to make the Distributions required under the Plan. Accordingly, the Debtor believes that all Plan obligations will be satisfied without the need for a further reorganization.

**d) Equitable Distribution of Voting Power**

On or before the Effective Date, pursuant to and only to the extent required by section 1123(a)(6) of the Bankruptcy Code, the organizational documents for the Debtor will be amended as necessary to satisfy the provisions of the Bankruptcy Code and will include, among other things, pursuant to section 1123(a)(6) of the Bankruptcy Code, (i) a provision prohibiting the issuance of non-voting equity securities, and (ii) a provision setting forth an appropriate distribution of voting power among classes of equity securities possessing voting power.

**ii. Additional Requirements for Non-Consensual Confirmation**

Under the Bankruptcy Code, a class accepts a chapter 11 plan if (i) holders of 2/3 in amount and (ii) with respect to holders of claims, more than a majority in number of the allowed claims in such class (other than those designated under section 1126(e) of the Bankruptcy Code) vote to accept the plan. Holders of claims or interests that fail to vote are not counted in determining the thresholds for acceptance of the plan.

In the event that any impaired class of claims or interests does not accept or is deemed to reject the plan, the Bankruptcy Court may still confirm the plan at the request of the debtor if, as to each impaired class of claims or interests that has not accepted the plan, the plan "does not discriminate unfairly" and is "fair and equitable" with respect to such classes of claims or interests, pursuant to section 1129(b) of the Bankruptcy Code. Both of these requirements are in addition to other requirements established by case law interpreting the statutory requirements. The Debtor intends to seek non-consensual confirmation of the Plan, if necessary.

a) **Unfair Discrimination Test**

The “unfair discrimination” test applies to classes of claims or interests that are of equal priority and are receiving different treatment under the plan. A chapter 11 plan does not discriminate unfairly, within the meaning of the Bankruptcy Code, if the legal rights of a dissenting class are treated in a manner consistent with the treatment of other classes whose legal rights are substantially similar to those of the dissenting class and if no class of claims or interests receives more than it legally is entitled to receive for its claims or interests. This test does not require that the treatment be the same or equivalent, but that such treatment be “fair.”

The Debtor believes the Plan satisfies the “unfair discrimination” test. Claims of equal priority are receiving comparable treatment and such treatment is fair under the circumstances.

b) **Fair and Equitable Test**

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 allowed amount of the claims in such class. As to dissenting classes, the test sets different standards depending on the type of claims in such class. The Debtor believes that the Plan satisfies the “fair and equitable” test with respect to any dissenting Classes, as further explained below.

(i) Unsecured Creditors

The Bankruptcy Code requires that either (a) each holder of an impaired unsecured claim receive or retain under the plan property of a value equal to the amount of its allowed claim or (b) the holders of claims and equity interests that are junior to the claims of the dissenting class not receive any property under the plan. The Plan provides that each holder of an Impaired unsecured Claim shall receive the treatment summarized above in Article VI of this Disclosure Statement.

(ii) Equity Interests

The Bankruptcy Code requires that either (a) each holder of an equity interest receive or retain under the plan property of a value equal to the greater of (i) the fixed liquidation preference or redemption price, if any, of such stock and (ii) the value of the stock, or (b) the holders of equity interests that are junior to any dissenting class of equity interests not receive any property under the plan. Pursuant to the Plan, all Existing OneCore Interests will be cancelled and the holders of Existing OneCore Interests will receive New OneCore Interests in the Reorganized Debtor in proportion to their contributions of new value in support of the Plan.

iii. **The Debtor’s Releases and Third-Party Releases**

Section 10.6(a) of the Plan provides a release of certain claims and Causes of Action of the Debtor, the Reorganized Debtor, and the Estate against the Released Parties in exchange for good and valuable consideration and valuable compromises made by the Released Parties (the “Debtor’s Releases”). The Debtor’s Releases do not release any claims or Causes of Action arising after the Effective Date against any party or affect the rights of the Debtor or Reorganized Debtor to enforce the terms of the Plan or any right or obligation arising under the Definitive Documents that remain

in effect after the Effective Date. Section 10.6(b) of the Plan provides for the release of claims and Causes of Action held by the Releasing Parties against the Released Parties in exchange for good and valuable consideration and the valuable compromises made by the Released Parties (the “Third-Party Releases,” and together with the Debtor Releases, the “Releases”).

The Debtor believes, and will be prepared to demonstrate at the Confirmation Hearing, that the Releases and exculpation provisions of the Plan are consistent with applicable law and are a sound exercise of the Debtor’s business judgment. The substantial contributions made by the Debtor’s members and officers to the Debtor’s restructuring include, but are not limited to, (i) negotiating the restructuring, as embodied in the Plan; (ii) obtaining substantial recoveries for unsecured creditors to which they may have not otherwise been entitled; and (iii) devoting significant time to navigating the Debtor through the Chapter 11 Case in addition to their regular duties.

## XI.

### **ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF PLAN**

The Debtor has evaluated several alternatives to the Plan. After studying these alternatives, the Debtor has concluded that the Plan is the best alternative and will maximize recoveries to parties in interest, assuming confirmation and consummation of the Plan. If the Plan is not confirmed and consummated, the alternatives to the Plan are (i) the preparation and presentation of an alternative plan of reorganization, (ii) a sale of some or all of the Debtor’s assets pursuant to section 363 of the Bankruptcy Code, or (iii) a liquidation under chapter 7 of the Bankruptcy Code.

#### **A. Plan of Reorganization**

If the Plan is not confirmed, the Debtor (or if the Debtor’s exclusive period during which to file a plan of reorganization has expired, any other party in interest) could attempt to formulate a different plan. Such a plan might involve either: (i) a reorganization and continuation of the Debtor’s business or (ii) an orderly liquidation of the Debtor’s assets. The Debtor, however, believes that the Plan, as described herein, enables its creditors and interest holders to realize the most value under the circumstances.

#### **B. Alternate Sale Under Section 363 of Bankruptcy Code**

If the Plan is not confirmed, the Debtor could seek from the Bankruptcy Court, after notice and a hearing, authorization to sell its assets through a stand-alone alternative transaction under section 363 of the Bankruptcy Code. Upon analysis and consideration of this alternative, the Debtor does not believe that a stand-alone alternative sale of its assets under section 363 of the Bankruptcy Code would yield a higher recovery for holders of Claims and Interests than the Plan.

#### **C. Liquidation Under Chapter 7 or Applicable Non-Bankruptcy Law**

If no plan can be confirmed, the Chapter 11 Case may be converted to a case under chapter 7 of the Bankruptcy Code in which a trustee would be appointed to liquidate the assets of the Debtor for distribution to the Debtor’s creditors in accordance with the priorities established by the Bankruptcy Code. The effect a chapter 7 liquidation would have on the recovery of holders of



Allowed Claims and Interests is set forth in the Liquidation Analysis.

As noted in Article XI of this Disclosure Statement, the Debtor believes that liquidation under chapter 7 would result in smaller distributions to creditors - potentially including no distribution to Holders of GUC Claims - and interest holders than those provided for in the Plan, because of, among other reasons, the delay resulting from the conversion of the cases and the additional administrative expenses associated with the appointment of a trustee and the trustee's retention of professionals that would be required to become familiar with the many legal and factual issues in the Chapter 11 Case.

## **XII.**

### **RECOMMENDATION OF DEBTOR AND EMMA BASE**

The Debtor and Emma Base believe the Plan is in the best interests of all stakeholders and urge the holders of Claims in Classes 2, 3, and 4 to vote in favor thereof.

Dated: March 27, 2025

Respectfully submitted,

**ONECORE**

/s/Craig M. Regens

William H. Hoch, OBA #15788

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***Counsel to Debtor and Debtor in Possession***

**Exhibit 1**

**Chapter 11 Plan of Reorganization of Hospital for Special Surgery, LLC  
*DBA OneCore Health***

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

	X	
In re	:	
	:	Chapter 11
HOSPITAL FOR SPECIAL SURGERY, LLC	:	
<i>Db</i> a ONECORE HEALTH,	:	Case No. 24-12862-JDL
	:	
Debtor.	:	
	X	

**THIS PLAN HAS NOT YET BEEN APPROVED BY THE BANKRUPTCY COURT. THIS IS NOT AN OFFER OR SOLICITATION OF AN OFFER OR ANY OTHER SOLICITATION WITH RESPECT TO ANY SECURITIES. THE INFORMATION IN THE PLAN IS SUBJECT TO CHANGE.**

**CHAPTER 11 PLAN OF REORGANIZATION OF  
HOSPITAL FOR SPECIAL SURGERY, LLC *DBA* ONECORE HEALTH**

**CROWE & DUNLEVY**  
A Professional Corporation

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***Attorneys for Debtor and Debtor in  
Possession***

Dated: March 27, 2025  
Oklahoma City, Oklahoma

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The Debtor, as proponent within the meaning of section 1129 of the Bankruptcy Code, proposes the Plan pursuant to section 1121(a) of the Bankruptcy Code. Capitalized terms used herein have the meanings set forth in Article I.A.

## **ARTICLE I. DEFINITIONS AND INTERPRETATION.**

### **Definitions**

The following terms have the respective meanings specified below:

1.1. ***Accepting Class*** means a Class that votes to accept the Plan in accordance with section 1126 of the Bankruptcy Code.

1.2. ***Administrative Expense Claim*** means a Claim for payment of an administrative expense of a kind specified under section 503(b) of the Bankruptcy Code and entitled to priority or superpriority under sections 507(a)(2) or 507(b) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred on or after the Petition Date of preserving the Estate and operating the business of the Debtor, (b) Allowed Professional Fee Claims, (c) Allowed DIP Claims, and (d) all fees and charges assessed against the Estate pursuant to section 1930 of chapter 123 of title 28 of the United States Code.

1.3. ***Allowed*** means, with respect to any Claim against the Debtor, a Claim: (i) (a) that is timely filed by the applicable Bar Date or (b) as to which there exists no requirement for the holder of a Claim to file proof of such Claim under the Plan, the Bankruptcy Code, the Bankruptcy Rules or a Final Order (including the Bar Date Order), (ii) (a) that is listed in the Schedules as not contingent, not unliquidated, and not disputed and (b) for which no contrary Proof of Claim has been timely filed, or (iii) Allowed under the Plan or by a Final Order, any stipulation approved by the Bankruptcy Court, or any contract, instrument, indenture, or other agreement entered into or assumed in connection with the Plan. With respect to any Claim described in clause (i) or (ii) above, such Claim will be considered Allowed only if, and to the extent that, (A) no objection to the allowance of such Claim has been asserted, or may be asserted, on or before the Claims Objection Deadline, (B) an objection to such Claim is asserted and such Claim is subsequently allowed pursuant to a Final Order, (C) such Claim is settled pursuant to, or as authorized under, an order of the Bankruptcy Court, or (D) such Claim is allowed pursuant to the Plan or any agreements related hereto and such allowance is approved and authorized by the Bankruptcy Court. For the avoidance of doubt, a Proof of Claim filed after the applicable Bar Date shall not be Allowed for any purposes absent the Debtor's written agreement to such late filing or the entry of a Final Order allowing such late-filed Claim. "Allow" and "Allowing" shall have correlative meanings.

1.4. ***Allowed DIP Claim Amount*** means \$2,000,000.00, or such other amount as is drawn against the DIP Facility on or before the Effective Date, together with any then-accrued interest.

1.5. ***Assumption Schedule*** means the schedule of executory contracts and unexpired leases to be assumed, or assumed and assigned, by the Debtor pursuant to the Plan.

1.6. **Avoidance Actions** means any and all actual or potential Claims and Causes of Action to avoid a transfer of property of, or an obligation incurred by, the Debtor arising under chapter 5 of the Bankruptcy Code, including sections 502(d), 542, 544, 545, 547, 548, 549, 550, 551, 552, and 553(b) of the Bankruptcy Code, and applicable non-bankruptcy law.

1.7. **Bar Date** means the applicable date by which Proofs of Claim must be filed with respect to Claims against the Debtor, as ordered by the Bankruptcy Court pursuant to the Bar Date Order or other applicable order, or pursuant to the Plan.

1.8. **Bar Date Order** means, collectively, the *Order (I) Setting Bar Dates for Filing Proofs of Claim; (II) Approving Form and Manner for Filing Proofs of Claim; and (III) Approving the Form and Manner of Notice of Bar Dates* [Docket No. 140], and any amendments or supplements thereto that have the effect of fixing, amending, or extending the deadline to file Proofs of Claim, in each case, as entered by the Bankruptcy Court.

1.9. **Bankruptcy Code** means title 11 of the United States Code, 11 U.S.C. § 101, et seq., as amended from time to time, as applicable to the Chapter 11 Case.

1.10. **Bankruptcy Court** means the United States Bankruptcy Court for the Western District of Oklahoma having jurisdiction over the Chapter 11 Case.

1.11. **Bankruptcy Rules** means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code and any Local Bankruptcy Rules of the Bankruptcy Court, in each case, as amended from time to time and applicable to the Chapter 11 Case.

1.12. **Base Claim** means that claim filed by creditor Emma Base on November 5, 2024 as Proof of Claim No. 4 in the amount of \$15,265,541.26.

1.13. **Base Settlement** means the global settlement and compromise of all claims and controversies among the Debtor and Emma Base, with respect to, among other things, the Plan and classification and treatment of Claims therein, and the Disclosure Statement, the terms of which are substantially incorporated herein and reflected in the Disclosure Statement at Section I.B.

1.14. **Benefit Plans** means each (i) “employee benefit plan” as defined in section 3(3) of ERISA and (ii) other compensation or benefit plan, policy, agreement or arrangement and workers’ compensation program, retirement plan, healthcare plan, disability plan, life and accidental death and dismemberment insurance plan, deferred compensation plan, severance program, retention plan and incentive plan, and all amendments and modifications thereto, in each case sponsored or maintained in the ordinary course by the Debtor for the benefit of any of its employees, directors or individual independent contractors as of the Petition Date.

1.15. **Board** means the board of members and/or managers, or such other grouping of members or managers responsible for the operational management of OneCore Health.

1.16. **Business Day** means any day other than a Saturday, a Sunday, or any other day on which banking institutions in New York, New York are required or authorized to close by law or

executive order.

1.17. **Cash** means cash and cash equivalents, including bank deposits, checks, and other similar items in legal tender of the United States of America.

1.18. **Cash Collateral** has the meaning set forth in section 363(a) of the Bankruptcy Code.

1.19. **Cause of Action** means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, lien, indemnity, guaranty, suit, obligation, liability, loss, debt, damage, judgment, account, defense, remedies, offset, power, privilege, license and franchise of any kind or character whatsoever, known, unknown, foreseen or unforeseen, existing or hereafter arising, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law (including under any state or federal securities laws). Cause of Action also includes, (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity, fraud, fraud in the inducement, conversion, unjust enrichment, or constructive trust, (b) the right to object to Claims or Interests, (c) any Avoidance Action or any claim pursuant to section 362 of the Bankruptcy Code, (d) any claim or defense including fraud, mistake, duress, and usury and any other defenses set forth in section 558 of the Bankruptcy Code, and (e) any state law fraudulent transfer claim.

1.20. **Chapter 11 Case** means the case pending for the Debtor under chapter 11 of the Bankruptcy Code in the Bankruptcy Court.

1.21. **Chief Executive Officer** means Steve Hockert, the Debtor's chief executive officer.

1.22. **Claim** has the meaning set forth in section 101(5) of the Bankruptcy Code as against the Debtor.

1.23. **Claims Objection Deadline** means the later of (a) one-hundred and eighty (180) days after the Effective Date, and (b) such later date as may be fixed by the Bankruptcy Court (in each case, as the same may be extended by an order of the Bankruptcy Court).

1.24. **Class** means any group of Claims or Interests classified as set forth in Article III of the Plan.

1.25. **Confirmation Date** means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Case, within the meaning of Bankruptcy Rules 5003 and 9021.

1.26. **Confirmation Hearing** means the hearing to be held by the Bankruptcy Court to consider confirmation of the Plan, as such hearing may be adjourned, reconvened, or continued from time to time.

1.27. **Confirmation Order** means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

1.28. **Critical Vendor** means any entity who has accepted payment from the Debtor upon execution, prior to the Effective Date, of a Vendor Payment Agreement by and between the Debtor and such entity.

1.29. **Critical Vendors Orders** means the Interim and Final Orders *Granting Debtor's Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Payment of Prepetition Claims of Critical Vendors and (II) Granting Related Relief*. [Docket Nos. 47 and 93].

1.30. **Cure Amount** means the amount of Cash or other property, as the Debtor or Reorganized Debtor, as applicable, and the counterparty to an executory contract or unexpired lease of the Debtor may agree or the Bankruptcy Court may order, as necessary to (a) cure a monetary default by the Debtor in accordance with the terms of an executory contract or unexpired lease of the Debtor and (b) permit the Debtor to assume (or assume and assign) such executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code.

1.31. **Cure Dispute** means a pending objection relating to assumption or assumption and assignment of an executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code.

1.32. **D&O Policy** means, collectively, all insurance policies (including any "tail policy") issued or providing coverage to the Debtor for current or former directors', members', managers', and officers' liability, and all agreements, documents or instruments related thereto.

1.33. **Debtor** means Hospital for Special Surgery, LLC, d/b/a OneCore Health.

1.34. **Debtor Professionals** means the persons or firms retained by the Debtor pursuant to sections 327, 328, or 363 of the Bankruptcy Code.

1.35. **Debtor in Possession** means the Debtor in its capacity as debtor in possession in the Chapter 11 Case pursuant to sections 1101, 1107(a) and 1108 of the Bankruptcy Code.

1.36. **Definitive Documents** means (i) the Plan and the Plan Supplement, (ii) the Disclosure Statement and any materials transmitted to creditors and interest holders in connection with the solicitation of votes on the Plan, (iii) the Disclosure Statement Order and the Confirmation Order, (iv) the DIP Motion, (v) the DIP Credit Agreement, (vi) the DIP Order, (vii) the Exit Facility Documents, if applicable, (viii) the Litigation Trust Agreement, and (ix) such other agreements and documentation reasonably desired or necessary to consummate and document the transactions contemplated by the Plan, in each case, including any amendments, modifications, and supplements thereto and any related notes, certificates, agreements, documents, instruments, and orders (as applicable), which shall be in form and substance reasonably acceptable to the Debtor.

1.37. **Description of Transaction Steps** means the description of the Reorganization Transaction as set forth in the Plan Supplement.

1.38. **DIP Claim** means all Claims held by the DIP Lender on account of, arising under, or relating to, the DIP Credit Agreement, the DIP Facility, or the DIP Order, including Claims for all principal amounts outstanding, and any and all fees, interest, expenses, indemnification obligations, reimbursement obligations, and other amounts due under the DIP Documents.

1.39. **DIP Collateral** has the meaning set forth in the DIP Order.

1.40. **DIP Credit Agreement** means that certain Superpriority Senior Secured Debtor-in-Possession Credit Agreement, by and among the Debtor, as borrower, and the DIP Lender, as approved by the Bankruptcy Court pursuant to the DIP Order.

1.41. **DIP Documents** means, collectively, the DIP Credit Agreement, the DIP Order, and all other agreements, documents, and instruments delivered or executed in connection therewith (including any fee letters or schedules executed in connection with the DIP Facility (as amended, restated, modified, or supplemented from time to time)).

1.42. **DIP Facility** means the super-priority revolving line of credit to the Debtor in Possession in the aggregate principal amount of \$2 million, as approved by the DIP Order.

1.43. **DIP Lender Advisor(s)** means Mark B. Toffoli of the Gooding Law Firm, P.C. and any other advisors retained by the DIP Lender, with the consent of the Debtor (such consent not to be unreasonably withheld, conditioned, or delayed).

1.44. **DIP Lender** means Solara Surgical Partners, LLC, the lender under the DIP Credit Agreement.

1.45. **DIP Loans** means the loans provided under the DIP Facility.

1.46. **DIP Order** means the Final DIP Order.

1.47. **Disallowed** means a Claim against the Debtor, or any portion thereof, (i) that has been disallowed by a Final Order of the Bankruptcy Court, a settlement, or the Plan, (ii) that is listed in the Schedules at zero (\$0) or as contingent, disputed, or unliquidated and as to which a Bar Date has been established 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 of the Bankruptcy Court or applicable law, or (iii) that is not listed in the Schedules and as to which a Bar Date has been established 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 of the Bankruptcy Court or under applicable law.

1.48. **Disbursing Agent** means any Entity (including the Debtor or Reorganized Debtor, if it acts in such capacity) in its capacity as a disbursing agent under Article VI of the Plan.

1.49. **Disclosure Statement** means the disclosure statement for the Plan, as approved by the Bankruptcy Court pursuant to the Disclosure Statement Order.

1.50. **Disclosure Statement Order** means the order entered by the Bankruptcy Court finding the Disclosure Statement contains adequate information pursuant to section 1125 of the Bankruptcy Code and authorizing solicitation of the Plan.

1.51. **Disputed** means with respect to a Claim or Interest, any such Claim or Interest (a) that is neither Allowed nor Disallowed under the Plan or a Final Order, nor deemed Allowed under sections 502, 503, or 1111 of the Bankruptcy Code, (b) that has not been Allowed and is

listed as unliquidated, contingent or disputed in the Schedules, or (c) for which a proof of claim for payment has been made and related to which the Debtor or any party in interest has interposed a timely objection or request for estimation, and such objection or request for estimation has not been withdrawn or determined by a Final Order. If the Debtor or a party in interest disputes only a portion of a Claim, such Claim shall be deemed Allowed in any amount the Debtor or such party in interest does not dispute, and shall be deemed Disputed as to the balance of such Claim.

1.52. ***Distribution Record Date*** means the Effective Date of the Plan.

1.53. ***Effective Date*** means the date on which all conditions to the effectiveness of the Plan set forth in Article IX hereof have been satisfied or waived in accordance with the terms of the Plan.

1.54. ***Employment Agreements*** means, as to an employee, member, manager, officer, director, or individual independent contractor, all employment and compensation agreements, in each case, existing as of the Effective Date, including any employment, services, separation, retention, incentive, bonus, or similar or related agreements, arrangements, plans, programs, policies or practices, in each case, as in effect as of the Effective Date.

1.55. ***Entity*** has the meaning set forth in section 101(15) of the Bankruptcy Code.

1.56. ***ERISA*** means the Employee Retirement Income Security Act of 1974, as amended.

1.57. ***Estate*** means the estate of the Debtor created under section 541 of the Bankruptcy Code.

1.58. ***Exculpated Parties*** means, collectively, in each case, solely in their capacities as such: (a) the Debtor, (b) the Debtor's members, managers, directors, and officers who served at any time between the Petition Date and the Effective Date, (c) Professionals retained by order of the Bankruptcy Court to represent the Debtor, including professionals retained pursuant to the OCP Order, (d) the Patient Care Ombudsman, and (e) with respect to each of the foregoing, all Related Parties who acted on their behalf in connection with the matters as to which exculpation is provided herein, solely to the extent such Related Parties are Estate fiduciaries. For the avoidance of doubt and notwithstanding anything herein or in any Definitive Document to the contrary, (x) the Debtor's members, managers, officers and directors employed at any time between the Petition Date and the Effective Date shall be Exculpated Parties under the Plan and (y) all of the Debtor's members, managers, officers, and directors employed prior to, but not on or after, the Petition Date shall not be Exculpated Parties under the Plan.

1.59. ***Existing OneCore Interests*** means member interests in the Debtor.

1.60. ***Exit Facility*** means the credit facility to be provided to the Reorganized Debtor on the Effective Date, which shall be comprised of the New Exit Loans.

1.61. ***Exit Facility Credit Agreement*** means that certain credit agreement, which shall be effective on the Effective Date, by and among the Reorganized Debtor and the Exit Facility Lender, substantially in the form annexed to the Plan Supplement.



1.62. **Exit Facility Documents** means, collectively, the Exit Facility Credit Agreement and all other “Loan Documents” (as defined therein), including all other agreements, documents, and instruments delivered or entered into pursuant thereto or in connection therewith (including any guarantee agreements and collateral documentation) (in each case, as amended, restated, modified, or supplemented from time to time).

1.63. **Exit Facility Lender** means the lender under the Exit Facility Credit Agreement and each other party that becomes a lender thereunder from time to time in accordance with the terms of the Exit Facility Credit Agreement.

1.64. **Final DIP Order** means the *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506 and 507, (I) Authorizing Debtor to Obtain Senior Secured Superpriority Postpetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Authorizing the Use of Cash Collateral, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief* [Docket No. 195].

1.65. **Final Order** means an order or judgment of a court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court, which has not been reversed, vacated, or stayed and as to which (a) the time to appeal, petition for certiorari, or move for a new trial, reargument, or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for a new trial, reargument, or rehearing shall then be pending, or (b) if an appeal, writ of certiorari, new trial, reargument, or rehearing thereof has been sought, such order or judgment shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for a new trial, reargument, or rehearing shall have expired; provided that no order or judgment shall fail to be a “Final Order” solely because of the possibility that a motion under Rules 59 or 60 of the Federal Rules of Civil Procedure or any analogous Bankruptcy Rule (or any analogous rules applicable in another court of competent jurisdiction) or sections 502(j) or 1144 of the Bankruptcy Code has been or may be filed with respect to such order or judgment.

1.66. **Governmental Unit** has the meaning set forth in section 101(27) of the Bankruptcy Code.

1.67. **GUC** means a creditor, within the meaning of 11 U.S.C. § 101(10), whose claim against the Debtor is unsecured and not entitled to priority, whether administrative or otherwise.

1.68. **Impaired** means, with respect to a Claim, Interest, or Class of Claims or Interests, “impaired” within the meaning of sections 1123(a)(4) and 1124 of the Bankruptcy Code.

1.69. **Insurer** means Allied World Insurance Company.

1.70. **Interests** means any equity security in the Debtor as defined in section 101(16) of the Bankruptcy Code, including all common stock, preferred stock, or other instruments evidencing an ownership interest in the Debtor, whether or not transferable, and any option, warrant, right, or any other interest that is exercisable, convertible, or exchangeable into equity of the Debtor, contractual or otherwise, including equity or equity-based incentives, grants, or other instruments issued, granted, or promised to be granted to current or former members, managers,



employees, directors, officers, or contractors of the Debtor, to acquire any such interests in the Debtor that existed immediately before the Petition Date.

1.71. ***Interim Compensation Order*** means any order authorizing interim payment of Professional Fees.

1.72. ***IRS*** means the Internal Revenue Service.

1.73. ***Lien*** has the meaning set forth in section 101(37) of the Bankruptcy Code.

1.74. ***Litigation Trust*** means that certain trust to be established on the Effective Date for the benefit of the holder of the Base Claim in accordance with Section 5.6 of the Plan.

1.75. ***Litigation Trust Agreement*** means that certain trust agreement to be entered into on or prior to the Effective Date by the Debtor and the Litigation Trustee, which agreement shall be in form and substance consistent with the terms set forth herein, and otherwise reasonably acceptable to the Debtor.

1.76. ***Litigation Trust Beneficiaries*** means the holder of the Base Claim.

1.77. ***Litigation Trust Causes of Action*** means any and all causes of action against Hoisington & Lindsey PLLC, which claims arise from its representation of the Debtor and as listed in its Schedule A/B [See Docket No. 144]. For the avoidance of doubt, the Litigation Trust Causes of Action shall not include (a) the Retained Causes of Action, (b) the Claims or Causes of Action expressly released pursuant to Section 10.6(a) of the Plan, (c) any avoidance actions, including, without limitation, any preference action against any Critical Vendor, (d) any other Claim or Cause of Action (including counterclaims) for breach of contract, specific performance or injunctive relief held by the Debtor against a former member, manager, officer, director or employee of the Debtor that was employed prior to (but not on or after) the Petition Date arising under any employment agreement, confidentiality agreement or non-compete agreement or similar agreement with such former member, manager, officer, director or employee, and (e) any Claims, Causes of Action, counterclaims, or affirmative defenses the Debtor may assert in any litigation with any former members, managers, officers, directors, or employees of the Debtor concerning the rights of any such party under his or her employment agreement with the Debtor. For the avoidance of doubt, the Debtor makes no representations or warranties as to the validity of any Litigation Trust Cause of Action assigned to the Litigation Trust.

1.78. ***Litigation Trust Distributable Proceeds*** means the Cash proceeds, whether by settlement, adjudication or otherwise, of any Litigation Trust Causes of Action, or the Cash proceeds of any other assets of the Litigation Trust, net of any Litigation Trust Expenses.

1.79. ***Litigation Trust Expenses*** means any fees and expenses (including, for the avoidance of doubt, professional fees) incurred by the Litigation Trustee in the administration of the Litigation Trust.

1.80. ***Litigation Trust Funded Amount*** means \$551,662.65, more or less, to be funded by the remaining proceeds of the policy of insurance applicable to the Base Claim and, further, to be directed by the Bankruptcy Court, by and through the Confirmation Order, to be paid by Allied

World Insurance Company into an account maintained by the Litigation Trust.

1.81. **Litigation Trust Interests** means the non-transferable interests in the Litigation Trust, which shall be distributed to the Litigation Trust Beneficiaries, in accordance with Section 5.6 of the Plan and the Litigation Trust Agreement.

1.82. **Litigation Trustee** the trustee of the Litigation Trust, to be selected by Emma Base, in consultation with, and reasonably acceptable to, the Debtor.

1.83. **Medicaid Business** means all, or substantially all, of the assets that comprise the Debtor's Medicaid Advantage business.

1.84. **New Exit Lender** means the lender making the New Exit Loan under the Exit Facility Credit Agreement.

1.85. **New Exit Loan** means the new money first priority delayed draw term loan to be provided to the Reorganized Debtor under the Exit Facility Credit Agreement, which shall be in an aggregate principal amount of up to \$5 million and secured on a first priority basis.

1.86. **New OneCore Interests** means the new member interests of Reorganized Debtor to be issued (i) on the Effective Date or (ii) as otherwise permitted pursuant to the Plan.

1.87. **New Value Contribution** means the contribution of \$2.8 million in new value, consisting of \$2.5 million in Cash and \$300,000 in value arising out of Solara Surgical Partners, LLC's waiver of its GUC Claim (the "New Value Contribution") by Existing OneCore Interest Owners who choose to participate in such New Value Contribution.<sup>1</sup>

1.88. **OCP Order** means the *Order Implementing Procedures to Retain, Compensate and Reimburse Professionals Utilized in the Ordinary Course of Business* [Docket No. 202].

1.89. **Other Priority Claim** means any Claim, other than an Administrative Expense Claim, Priority Tax Claim, or an Other Secured Claim, entitled to priority in payment as specified in section 507(a) of the Bankruptcy Code.

1.90. **Other Secured Claim** means a Secured Claim other than a First Lien Claim.

1.91. **Patient Care Ombudsman** means Deborah Burian, in her capacity as patient care ombudsman in the Chapter 11 Case, pursuant to that certain agreed order of the Bankruptcy Court, dated November 6, 2024 [Docket No. 102].

1.92. **Person** has the meaning set forth in section 101(41) of the Bankruptcy Code.

1.93. **Petition Date** means October 7, 2024.

1.94. **Plan** means this chapter 11 plan, including all appendices, exhibits, schedules, and

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<sup>1</sup> For the avoidance of doubt, the New Value Contribution is not, and shall not be construed to be, a contribution made as a consequence of a capital call; no capital call having been made.

supplements hereto (including any appendices, schedules, and supplements to the Plan contained in the Plan Supplement), as the same may be amended, supplemented, or modified from time to time in accordance with the provisions of the Bankruptcy Code and the terms hereof.

1.95. ***Plan Objection Deadline*** means the deadline set by the Bankruptcy Court by which parties in interest must file objections to confirmation of the Plan.

1.96. ***Plan Supplement*** means a supplemental appendix to the Plan containing, among other things, substantially final forms of documents, schedules, and exhibits to the Plan to be filed with the Bankruptcy Court, including, among other things, the following: (a) New Governance Documents (to the extent such New Governance Documents reflect material changes from the Debtor's existing organizational documents and bylaws), (b) the Description of Transaction Steps, (c) the Assumption Schedule, (d) the Rejection Schedule, (e) the Litigation Trust Agreement, which shall be reasonably acceptable to the Debtor, (f) a schedule of Retained Causes of Action, (g) the Exit Facility Credit Agreement, and (h) to the extent known, information required to be disclosed in accordance with section 1129(a)(5) of the Bankruptcy Code. The Plan Supplement shall be filed with the Bankruptcy Court not later than seven (7) calendar days prior to the Voting Deadline; *provided that*, through the Effective Date, the Debtor shall have the right to amend and supplement the Plan Supplement and any schedules, exhibits, or amendments thereto, in accordance with the terms of the Plan and the Litigation Trust Agreement.

1.97. ***Preference Action*** means an Avoidance Action pursuant to section 547 or 549 of the Bankruptcy Code and any similar cause of action under non-bankruptcy law.

1.98. ***Prepetition Secured Parties*** has the meaning ascribed to it in the DIP Order.

1.99. ***Priority Tax Claim*** means any Secured Claim or unsecured Claim of a Governmental Unit of the kind entitled to priority in payment as specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

1.100. ***Professional*** means the Patient Care Ombudsman or a Person or Entity (i) employed by the Debtor or the Patient Care Ombudsman, in each case pursuant to a Bankruptcy Court order in accordance with sections 105(a), 327, 328(a), 330, 333, 363, or 1103 of the Bankruptcy Code and to be compensated for services rendered before or on the Effective Date pursuant to sections 327, 328, 329, 330, 331, or 363 of the Bankruptcy Code; or (ii) awarded compensation and reimbursement by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code that are not Restructuring Expenses.

1.101. ***Professional Fee Claim*** means any Claims for fees and expenses (including transaction and success fees) incurred by a Professional on or after the Petition Date to the extent such fees and expenses have not been paid pursuant to an order of the Bankruptcy Court.

1.102. ***Pro Rata*** means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims and Disputed Claims in such Class.

1.103. ***Rejection Schedule*** means the schedule of executory contracts and unexpired leases to be rejected by the Debtor pursuant to the Plan.

1.104. ***Related Parties*** means an Entity's predecessors, successors and assigns, parents, subsidiaries, affiliates, managed accounts or funds, and all of their respective current and former members, managers, officers (other than the Debtor's former members, managers, and officers employed prior to, but not on or after, the Petition Date), directors, principals, shareholders (and any fund managers, fiduciaries or other agents of shareholders with any involvement related to the Debtor), partners, employees, agents, trustees, advisory board members, financial advisors, attorneys, accountants, actuaries, investment bankers, consultants, representatives, management companies, fund advisors and other professionals, and such persons' respective heirs, executors, estates, servants and nominees.

1.105. ***Released Parties*** means, collectively, and in each case, solely in their capacities as such: (a) the Debtor, (b) the Reorganized Debtor, (c) the DIP Lender, (d) the Prepetition Secured Parties, (e) the Patient Care Ombudsman, (f) the Exit Facility Lenders, and (g) with respect to each of the foregoing, all Related Parties. For the avoidance of doubt and notwithstanding anything herein or in any Definitive Document to the contrary, (x) the Debtor's members, managers, officers, directors, and Debtor Professionals employed at any time on and after the Petition Date through the Effective Date shall be Released Parties under the Plan and (y) the Debtor's former members, managers, employees, officers and directors, or any former employee, member, manager, officer or director of any predecessor in interest of the Debtor employed prior to, but not on or after, the Petition Date shall not be Released Parties under the Plan.

1.106. ***Releasing Parties*** means, collectively, and in each case solely in their capacity as such: (a) the Debtor, (b) the Reorganized Debtor, (c) the DIP Lender, (d) the Prepetition Secured Parties, (e) the Patient Care Ombudsman, (f) the Exit Facility Lenders, and (g) the Holders of Claims or Interests that vote to accept the Plan and do not opt out of granting the releases set forth herein; *provided*, that, if a Person or Entity is not a "Releasing Party," then its Related Parties (in their capacities as such) are not Releasing Parties.

1.107. ***Reorganization Transaction*** means any transaction, or series of transactions the Debtor determines is necessary or appropriate to implement the stand-alone restructuring under the Plan.

1.108. ***Reorganized Debtor*** means the Debtor, as reorganized pursuant to and under the Plan, including any transferee or successor thereto by merger, consolidation, transfer or otherwise, on or after the Effective Date.

1.109. ***Restructuring*** means the restructuring of the Debtor, the principal terms of which are set forth in the Plan and the Plan Supplement, which shall be consummated pursuant to a Reorganization Transaction.

1.110. ***Restructuring Transactions*** means all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate this Plan or any other document contemplated thereby, including, but not limited to, the transactions described in Section 5.4 of this Plan or as described in the Plan Supplement.

1.111. ***Retained Causes of Action*** means any Claims or Causes of Action to be retained by, and vest in, the Reorganized Debtor in accordance with Section 5.8 of the Plan and identified

in the Plan Supplement; provided, that, the Retained Causes of Action shall exclude any Litigation Trust Causes of Action.

1.112. ***Schedules*** means, collectively, the schedules of assets and liabilities, schedules of executory contracts and unexpired leases, and statements of financial affairs filed by the Debtor pursuant to section 521 of the Bankruptcy Code and in substantial accordance with the Official Bankruptcy Forms, as the same may have been amended, modified, or supplemented from time to time.

1.113. ***Secured Claim*** means a Claim (a) secured by a Lien on collateral to the extent of the value of such collateral as (i) set forth in the Plan, (ii) agreed to by the holder of such Claim and the Debtor, or (iii) determined by a Final Order in accordance with section 506(a) of the Bankruptcy Code, or (b) secured by the amount of any right of setoff of the holder thereof in accordance with section 553 of the Bankruptcy Code.

1.114. ***Security*** has the meaning set forth in section 101(49) of the Bankruptcy Code.

1.115. ***Subordinated Claims*** means any prepetition Claim against the Debtor that is subject to subordination pursuant to section 510 of the Bankruptcy Code or otherwise or any Claim for reimbursement, indemnification, or contribution allowed under section 502 of the Bankruptcy Code on account of such Claim.

1.116. ***Tax Code*** means the Internal Revenue Code of 1986, as amended from time to time.

1.117. ***Unimpaired*** means, with respect to a Claim, Interest, or Class of Claims or Interests, not “impaired” within the meaning of section 1124 of the Bankruptcy Code.

1.118. ***U.S. Trustee*** means the Office of the United States Trustee for the Western District of Oklahoma.

1.119. ***Voting Agent*** means Kurtzman Carson Consultants LLC, d/b/a Verita Global, solely in its capacity as the Debtor’s voting agent.

1.120. ***Voting Deadline*** means the date set by the Bankruptcy Court by which all completed ballots to vote on the Plan must be received.

**A. Interpretation; Application of Definitions and Rules of Construction.**

Unless otherwise specified, all section or exhibit references in the Plan are to the respective section in, or exhibit to, the Plan, as the same may be amended, waived, or modified from time to time. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Plan as a whole and not to any particular section, subsection, or clause contained therein. The headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. For purposes herein: (1) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender, (2) any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions

means that the referenced document shall be substantially in that form or substantially on those terms and conditions, (3) unless otherwise specified, all references herein to “Sections” are references to Sections hereof or hereto, (4) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply, and (5) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

**B. Reference to Monetary Figures.**

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

**C. Controlling Document.**

In the event of an inconsistency between the terms and provisions in the Plan (without reference to the Plan Supplement) and the terms and provisions in the Disclosure Statement, the Plan Supplement, any other instrument or document created or executed pursuant to the Plan (including any Definitive Document) or any order (other than the Confirmation Order referenced in the Plan (or any exhibits, schedules, appendices, supplements or amendments to any of the foregoing), the Plan (without reference to the Plan Supplement) shall govern and control. Notwithstanding anything herein to the contrary, in the event of a conflict between the Confirmation Order, on the one hand, and any of the Plan, the Plan Supplement, or the Definitive Documents, on the other hand, the Confirmation Order shall govern and control in all respects.

**ARTICLE II. ADMINISTRATIVE EXPENSE AND PRIORITY CLAIMS.**

**2.1 *Administrative Expense Claims.***

Except to the extent a holder of an Allowed Administrative Expense Claim agrees to less favorable treatment, each holder of an Allowed Administrative Expense Claim (other than a DIP Claim or a Professional Fee Claim) shall receive, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Claim, Cash in an amount equal to the unpaid portion of such Allowed Administrative Expense Claim on the latest of: (a) the Effective Date; (b) the first Business Day after the date that is 30 days after the date on which such Administrative Expense Claim becomes an Allowed Administrative Expense Claim; (c) the date on which such Administrative Expense Claim becomes payable under any agreement with the Debtor or the Reorganized Debtor relating thereto; (d) in respect of liabilities incurred by the Debtor in the ordinary course of business, the date upon which such liabilities are payable in the ordinary course of business by the Debtor or the Reorganized Debtor, as applicable, consistent with the Debtor’s past practice; or (e) such other date as may be agreed upon between the holder of such Allowed Administrative Expense Claim and the Debtor or the Reorganized Debtor, as the case may be.

**2.2 *Professional Fee Claims.***

(a) All Entities seeking an award by the Bankruptcy Court of Professional Fee Claims shall file and serve on the Debtor and/or the Reorganized Debtor, and such other Persons who are designated by the applicable Bankruptcy Rules, the Confirmation Order, the Interim Compensation Order, or any other applicable order of the Bankruptcy Court, on or before the date



that is forty-five (45) days after the Effective Date, their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred from the Petition Date through the Effective Date. Objections to any Professional Fee Claims must be filed and served on the Reorganized Debtor, the U.S. Trustee, and the requesting party no later than twenty-one (21) calendar days after the filing of the final applications for compensation or reimbursement (unless otherwise agreed by the Debtor or the Reorganized Debtor, as applicable, and the party requesting compensation of a Professional Fee Claim).

(b) Allowed Professional Fee Claims shall be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court (i) within five (5) calendar days of an order relating to any such Allowed Professional Fee Claim is entered or as soon as reasonably practicable thereafter, or (ii) upon such other terms and conditions as may be mutually agreed upon between the holder of such an Allowed Professional Fee Claim and the Debtor or the Reorganized Debtor, as applicable. Notwithstanding the foregoing, any Professional Fee Claims that are authorized to be paid pursuant to any administrative orders entered by the Bankruptcy Court, including the Interim Compensation Order, may be paid at the times and in the amounts authorized pursuant to such orders.

(c) No later than 10 calendar days prior to the Effective Date, holders of Professional Fee Claims shall provide to Debtor a reasonable and good faith estimate of unpaid Professional Fee Claims incurred in rendering services before the Effective Date.

(d) The Reorganized Debtor is authorized to pay compensation for services rendered or reimbursement of expenses incurred by the Debtor Professionals after the Effective Date in the ordinary course and without the need for Bankruptcy Court approval.

### 2.3 ***DIP Claims.***

(a) ***DIP Claims.*** On the Effective Date, in full and final satisfaction of the Allowed DIP Claims, all obligations under the DIP Documents, shall be paid in full.

## **ARTICLE III. CLASSIFICATION OF CLAIMS AND INTERESTS.**

### 3.1 ***Classification in General.***

A Claim or Interest is placed in a particular Class for all purposes, including voting, confirmation, and distribution under the Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code; *provided that* a Claim or Interest is placed in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Allowed Claim or Allowed Interest has not been satisfied, released, or otherwise settled prior to the Effective Date.

### 3.2 ***Summary of Classification.***

The following table designates the Classes of Claims against and Interests in Debtor and specifies which of those Classes are (a) Impaired or Unimpaired by the Plan, (b) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code, and (c)



presumed to accept or deemed to reject the Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and DIP Claims, have not been classified. All of the potential Classes for Debtor are set forth herein.

<b>Class</b>	<b>Designation</b>	<b>Treatment</b>	<b>Entitled to Vote</b>
1	Other Secured Claims	Unimpaired	No (Presumed to Accept)
2	Critical Vendors Claims	Impaired	Yes
3	GUC Claims	Impaired	Yes
4	Emma Base Claim	Impaired	Yes
5	Existing OneCore Interests	Fully Impaired/Unimpaired	No (Deemed to Reject or Presumed to Accept)

### **3.3 *Special Provision Governing Unimpaired Claims.***

Except as otherwise provided in the Plan, nothing under the Plan shall affect the rights of the Debtor or the Reorganized Debtor, as applicable, in respect of any Unimpaired Claims, including all rights in respect of legal and equitable defenses to, or setoffs or recoupments against, any such Unimpaired Claims.

## **ARTICLE IV. TREATMENT OF CLAIMS AND INTERESTS.**

### **4.1 *Other Secured Claims (Class 1).***

(a) *Classification:* Class 1 consists of the Other Secured Claims. To the extent that the Other Secured Claims are secured by different collateral or different interests in the same collateral, such Claims shall be treated as separate subclasses of Class 1 for purposes of voting to accept or reject the Plan and receiving distributions under the Plan.

(b) *Treatment:* Except to the extent a holder of an Allowed Other Secured Claim against Debtor agrees to a less favorable treatment of such Claim, in full and final satisfaction of such Allowed Other Secured Claim, at the option of the Debtor or Reorganized Debtor, as applicable (i) each such holder shall receive payment in Cash in an amount equal to the amount of such Allowed Claim, payable on the later of the Effective Date and the date that is ten (10) Business Days after the date on which such Other Secured Claim becomes an Allowed Other Secured Claim, in each case, or as soon as reasonably practicable thereafter, (ii) to the extent applicable, such holder's Allowed Other Secured Claim shall be reinstated, (iii) such holder shall receive the collateral securing its Allowed Other Secured Claim, or (iv) such holder shall receive such other treatment so as to render such holder's Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code.

(c) *Voting:* Class 1 is Unimpaired, and the holders of Other Secured Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Holders of Other Secured Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Other Secured Claims.

**4.2 Critical Vendors Claims (Class 2).**

(a) *Classification:* Class 2 consists of Critical Vendor Claims.

(b) *Allowance:* Critical Vendor Claims consisting of claims under section 503(b)(9) are allowed and have been fully satisfied pursuant to the Critical Vendors Orders in the amount of \$2,157,348.09. Non-503(b)(9) Critical Vendors Claims are allowed in the aggregate amount of \$1,120,048.77.

(c) *Treatment:* To the extent that a holder of an Allowed Critical Vendor Claim asserts an Allowed 503(b)(9) Claim, such Claim is unimpaired and is not entitled to vote, as such Claims shall be paid in full on the Effective Date, to the extent not already satisfied pursuant to the authorities granted to the Debtor by the Critical Vendor Orders. To the extent a Critical Vendor is the holder of an Allowed Non-503(b)(9) Critical Vendor Claim, such Claimant shall receive, on the Effective Date, an amount sufficient to ensure receipt of 65% of the amount owed with respect to such Claimant's non-disputed, non-503(b)(9) prepetition invoices against the Debtor. Holders of Allowed Critical Vendor Claims shall also receive a waiver from the Debtor of any and all Chapter 5 causes of action against them.

(d) *Voting:* Class 2 is Impaired, and the holders of Critical Vendor Claims in Class 2 are entitled to vote to accept or reject the Plan.

**4.3 GUC Claims (Class 3).**

(a) *Classification:* Class 3 consists of GUC Claims.

(b) *Treatment:* Holders of Allowed GUC Claims shall receive, on the Effective Date, a pro rata distribution in the amount of 26.2 percent of Allowed GUC Claims. For the avoidance of doubt, Solara Surgical Partners, LLC is contributing the value of its Allowed GUC Claim as part of the New Value Contribution and shall neither vote its GUC Claim nor receive any distribution in satisfaction thereof.

(c) *Voting:* Class 3 is Impaired, and the holders of GUC Claims in Class 2 are entitled to vote to accept or reject the Plan.

**4.4 Emma Base Claim (Class 4).**

(a) *Classification:* Class 4 consists of the Base Claim.

(b) *Treatment:* The holder of the Allowed Base Claim shall receive, on before the Effective Date, (i) a 100% interest in the Litigation Trust, such Litigation Trust to receive the (a) Litigation Trust Funded Amount and (b) Litigation Trust Causes of Action, and (ii) payment in the amount of \$4 million.

(c) *Voting:* Class 4 is Impaired, and the holder of the Base Claims in Class 4 is entitled to vote to accept or reject the Plan.

**4.5 Existing OneCore Interests (Class 5).**

(a) *Classification:* Class 5 consists of Existing OneCore Interests Claims.

(b) *Treatment:* Existing OneCore Interests shall be terminated on or before the Effective Date. Holders of Existing OneCore Interests shall not receive a distribution under the Plan. However, with respect to Holders of Existing OneCore Interests who make the New Value Contribution in proportion to their cancelled Existing OneCore Interests shall receive New OneCore Interests in proportion to their terminated Existing OneCore Interests.

(c) *Voting:* Holders of Class 5 Claims who do not make the New Value Contribution are fully impaired and, under section 1126(g) of the Bankruptcy Code, are deemed to reject the Plan. Holders of Class 5 Claims who make the New Value Contribution are Unimpaired, and such holders of Existing OneCore Interests are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Holders of Existing OneCore Interests are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Claims.

**ARTICLE V. MEANS FOR IMPLEMENTATION.**

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

(a) Pursuant to section 1123 of the Bankruptcy Code and in consideration for the distributions and other benefits provided pursuant to the Plan, the Base Settlement and all other compromises, settlements, and releases set forth herein shall be deemed a good-faith compromise and settlement of all related Claims, Interests, and controversies.

(b) The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Plan, the Base Settlement and all other compromises, settlements, and releases set forth herein, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtor and its Estate, and Holders of Claims and Interests and is fair, equitable, and reasonable. The compromises, settlements, and releases described herein shall be deemed nonseverable from each other and from all other terms of the Plan. In accordance with the provisions of the Plan, pursuant to Bankruptcy Rule 9019, without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Reorganized Debtor may compromise and settle Claims against, and Interests in, the Debtor and its Estate and Causes of Action against other Entities.

**5.2 *Plan Implementation.***

The Restructuring shall be consummated pursuant to a Reorganization Transaction, as set forth in the Description of Transaction Steps.

**5.3 *Reorganization Transaction.***

(a) *Exit Facility.*

On the Effective Date, the Exit Facility Credit Agreement and the other Exit Facility Documents shall be executed, delivered, and all fees and expenses required to be paid on the Effective Date thereunder shall be paid, and the Reorganized Debtor shall be authorized to execute, deliver, enter into, and make any payments required by the Exit Facility Credit Agreement and the other Exit Facility Documents without the need for any further corporate action and without further action by the holders of Claims or Interests. The form of the Exit Facility Credit Agreement will be filed as part of the Plan Supplement.

All Liens and security interests granted pursuant to the Exit Facility Documents shall be (a) valid, binding, and enforceable Liens and security interests in the personal and real property described in and subject to such documents, with the priorities established in respect thereof under applicable non-bankruptcy law, and (b) not subject to avoidance, recharacterization or subordination under any applicable law, the Plan, or the Confirmation Order.

The Reorganized Debtor and the Persons granted Liens and security interests under the Exit Facility Documents are authorized to make all filings and recordings and to obtain all governmental approvals and consents necessary to establish and perfect such Liens and security interests under the provisions of the applicable state, provincial, federal, or other law that would be applicable in the absence of the Plan and the Confirmation Order (it being understood that perfection shall occur automatically by virtue of the entry of the Confirmation Order without the need for any filings or recordings) and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such Liens and security interests to third parties.

**(b) *Authorization, Issuance, and Distribution of New OneCore Interests.***

On and after the Effective Date, the Reorganized Debtor is authorized to issue, or cause to be issued, and shall issue or distribute the New OneCore Interests in accordance with the terms of Section 4.5 of the Plan without the need for any further corporate, limited liability company, or shareholder action. All of the New OneCore Interests distributable under the Plan shall be duly authorized, validly issued, and, as applicable, fully paid and non-assessable. The New Governance Documents shall, as applicable, have provided for a sufficient amount of authorized New OneCore Interests to effectuate the issuance or distribution of New OneCore Interests contemplated by and in connection with the Plan, and the Reorganized Debtor shall issue or reserve for issuance a sufficient amount of New OneCore Interests to effectuate all such issuances. Additionally, distributions of New OneCore Interests may be conditioned on the Debtor receiving, prior to the Effective Date, executed signature pages to each applicable New Governance Document from each Person or Entity entitled to receive New OneCore Interests; provided, that, if the Debtor determines to issue New OneCore Interests to a Person or Entity entitled to receive New OneCore Interests but who fails to execute any applicable New Governance Document, such Person or Entity, upon becoming a holder of New OneCore Interests, shall be deemed, without further notice or action, to have agreed to be bound by the New Governance Documents, which shall be deemed to be valid, binding, and enforceable in accordance with their terms, as the same may be amended from time to time following the Effective Date in accordance with their terms, and in each case without the need for execution by any party thereto other than Reorganized Debtor. The New Governance Documents shall be binding on all Entities receiving New OneCore Interests (and their respective successors and assigns), whether received pursuant to the Plan or otherwise and regardless of

whether such Entity executes or delivers a signature page to any New Governance Document.

**(c) Section 1145 Exemption.**

The offer and sale by the Reorganized Debtor of the Litigation Trust Interests to the Litigation Trust Beneficiaries in accordance with Section 5.6 of the Plan shall be exempt pursuant to section 1145(a) of the Bankruptcy Code, without further act or action by any Entity, from registration under (i) section 5 of the Securities Act of 1933, as amended (the “Securities Act”), and all rules and regulations promulgated thereunder and (ii) any state or local law requiring registration for the offer or sale of securities. To the extent section 1145 is not applicable, the Reorganized Debtor may rely upon other applicable exemptions from registration.

Under section 1145 of the Bankruptcy Code, any securities of the Debtor offered or sold under the Plan that are exempt from such registration pursuant to section 1145(a) of the Bankruptcy Code will be unrestricted securities as set forth in section 1145(c) of the Bankruptcy Code and, generally, may be resold without registration under the Securities Act, subject to (i) the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act, (ii) compliance with any rules and regulations of the Securities and Exchange Commission, if any, applicable at the time of any future transfer of such securities or instruments, (iii) the restrictions, if any, on the transferability of such securities and instruments, including any restrictions on the transferability under the terms of the New Governance Documents, (iv) any applicable procedures of DTC, and (v) applicable regulatory approvals.

The availability of the exemption under section 1145 of the Bankruptcy Code or any other applicable securities laws shall not be a condition to the occurrence of the Effective Date.

Subject to the occurrence of the Effective Date, the Plan and the Confirmation Order shall be deemed to be legal and binding obligations of the Reorganized Debtor in all respects.

Following the Effective Date, the Reorganized Debtor and any Person or Entity receiving securities under the Plan shall comply with all applicable provisions of the securities laws.

**(d) Officers and Board of Managers.**

(i) On the Effective Date, the New Board shall consist of (x) the Chief Executive Officer and (y) such other additional members, as determined by the Debtor. The composition of the New Board shall be disclosed in accordance with section 1129(a)(5) of the Bankruptcy Code.

(ii) Except to the extent a member of the board of managers of the Debtor continues to serve as a director or manager of the Reorganized Debtor on and after the Effective Date, the members of the board of managers of the Debtor prior to the Effective Date, in their capacities as such, shall have no continuing obligations to the Reorganized Debtor on or after the Effective Date and each such director or manager will be deemed to have resigned or shall otherwise cease to be a director or manager of the Debtor on the Effective Date.

(iii) Commencing on the Effective Date, each of the managers of the Reorganized Debtor shall be elected and serve pursuant to the terms of the applicable organizational documents of Reorganized Debtor and may be replaced or removed in accordance with such organizational documents.

#### 5.4 *Restructuring Transactions; Effectuating Documents.*

(a) Following the Confirmation Date or as soon as reasonably practicable thereafter, the Debtor and the Reorganized Debtor may take all actions as may be necessary or appropriate to effectuate any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including (i) the execution and delivery of appropriate agreements or other documents of merger, amalgamation, consolidation, restructuring, conversion, disposition, transfer, arrangement, continuance, dissolution, cancellation, sale, purchase, or liquidation containing terms that are consistent with the terms of the Plan, (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan, (iii) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion, amalgamation, arrangement, continuance, cancellation, or dissolution pursuant to applicable state or federal law, (iv) the execution and delivery of the Definitive Documents, (v) the issuance of securities, all of which shall be authorized and approved in all respects in each case without further action being required under applicable law, regulation, order, or rule, (vi) the execution of the Litigation Trust Agreement and implementation of the Litigation Trust, (vii) such other transactions that are necessary or appropriate to implement the Plan in a tax efficient manner, and (viii) all other actions that the applicable Entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law or the Exit Facility Credit Agreement, as applicable.

(b) Each officer or manager of the Debtor is, and each officer or manager of the Reorganized Debtor, as applicable, shall be, authorized and directed to issue, execute, deliver, file, or record such contracts, securities, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and any securities issued pursuant to the Plan in the name of and on behalf of the Reorganized Debtor, all of which shall be authorized and approved in all respects, in each case, without the need for any approvals, authorization, consents, or any further action required under applicable law, regulation, order, or rule (including any action by the stockholders or directors or managers of the Debtor or the Reorganized Debtor), except for those expressly required pursuant to the Plan.

(c) In order to preserve the Reorganized Debtor's ability to utilize certain tax attributes that exist as of the Effective Date, the charter, bylaws, and other organizational documents may restrict certain transfers of the New OneCore Interests.

(d) The Debtor will exercise reasonable business judgment to structure the Restructuring and the Restructuring Transactions in a tax efficient manner including, without limitation, to maximize or preserve any net operating losses and net unrealized built-in asset losses of the Debtor.

(e) All matters provided for herein involving the corporate structure of the



Debtor or Reorganized Debtor, or any corporate, limited liability company, or related action required by the Debtor or Reorganized Debtor in connection herewith shall be deemed to have occurred and shall be in effect, without any requirement of further action by the members, board, or managers of the Debtor or Reorganized Debtor, and with like effect as though such action had been taken unanimously by the members, managers, or officers, as applicable, of the Debtor or Reorganized Debtor.

#### **5.5 *Continued Corporate Existence; Dissolution.***

(a) Except as otherwise provided in the Plan, in the New Governance Documents, or elsewhere in the Plan Supplement, the Reorganized Debtor shall continue to exist after the Effective Date as a limited liability company with all the powers of a limited liability company, pursuant to the applicable laws of the respective jurisdictions in which it is incorporated or organized and pursuant to the New Governance Documents. On or after the Effective Date, the Reorganized Debtor may, in its sole discretion, take such action that may be necessary or appropriate as permitted by applicable law, instruments and agreements, and Reorganized Debtor's organizational documents, as the Reorganized Debtor may determine is reasonable and appropriate.

(b) After the Effective Date, the Reorganized Debtor shall be authorized to dissolve the Debtor or the Reorganized Debtor in accordance with applicable law or otherwise as part of a Restructuring Transaction.

(c) Any such dissolution described in this Section 5.5 may be effective as of the Effective Date without any further action by any manager, board, or member of the Debtor.

#### **5.6 *Litigation Trust.***

(a) On or prior to the Effective Date, the Debtor and the Litigation Trustee shall execute the Litigation Trust Agreement in form and substance consistent with the terms set forth herein and otherwise reasonably acceptable to the Debtor. On the Effective Date (i) the Debtor shall (x) automatically be deemed to have transferred and assigned to the Litigation Trust all of its right, title, and interest in and to all the Litigation Trust Causes of Action, and, in accordance with section 1141 of the Bankruptcy Code, all such Litigation Trust Causes of Action shall automatically vest in the Litigation Trust free and clear of all Liens, charges, Claims, encumbrances and interests, for the benefit of the holder of the Base Claim and (y) within ten (10) days following entry of the Plan Confirmation Order, the Insurer shall transfer the Litigation Trust Funded Amount to an account established by the Litigation Trustee to fund the administration of the Litigation Trust. The Litigation Trust shall have standing to pursue, assert, litigate, and fully resolve the Litigation Trust Causes of Action and, to the extent applicable, shall be deemed the assignee of the Debtor and neither the Debtor nor the Reorganized Debtor shall have any interest in or with respect to the Litigation Trust Causes of Action or any Cash or assets contained in the Litigation Trust.

(b) The Litigation Trust shall be established for the purpose of (i) investigating, commencing, litigating, and settling Litigation Trust Causes of Action, (ii) the liquidation of the Litigation Trust's assets, (iii) distribution of the Litigation Trust Distributable



Proceeds, if any, to the Litigation Trust Beneficiaries, and (iv) performing such other duties as set forth in the Litigation Trust Agreement, in each case in accordance with section 301.7701-4(d) of the Treasury Regulations, with no objective to continue or engage in the conduct of a trade or business.

(c) The Litigation Trust shall be administered by the Litigation Trustee in accordance with the Litigation Trust Agreement. The Litigation Trust Agreement may establish certain powers, duties, and authorities in addition to those explicitly stated herein, but only to the extent that such powers, duties, and authorities do not affect the status of the Litigation Trust as a liquidating trust for United States federal income tax purposes as discussed below. Upon the execution of the Litigation Trust Agreement, the Litigation Trustee shall be authorized to take all steps necessary to complete the formation of the Litigation Trust. The Litigation Trustee shall serve as representative of the Estate under section 1123(b) of the Bankruptcy Code for the purpose of (i) enforcing the Litigation Trust Causes of Action and (ii) administering the Litigation Trust and distributing its assets to the Litigation Trust Beneficiaries, in each case in accordance with and subject to the terms of the Litigation Trust Agreement. For the avoidance of doubt, the Litigation Trustee shall not serve as representative of the Estate under section 1123(b) of the Bankruptcy Code for any other purpose.

(d) In furtherance of the Plan, (i) the terms of the Litigation Trust shall be set forth in the Litigation Trust Agreement, (ii) the Litigation Trust shall be structured to qualify as a “liquidating trust” within the meaning of section 301.7701-4(d) of the Treasury Regulations and in compliance with Rev. Proc. 94-45, 1994- 2 C.B. 684, and, thus, as a “grantor trust” within the meaning of sections 671 through 679 of the Tax Code to the holder of the Base Claim, consistent with the terms of the Plan, (iii) all parties (including the Debtor, the Reorganized Debtor, Litigation Trust Beneficiaries, and the Litigation Trustee) shall report consistently with such treatment (including the deemed receipt of the underlying assets, subject to applicable liabilities and obligations, by the holder of the Base Claim, as applicable, followed by the deemed transfer of such assets to the Litigation Trust), (iv) all parties shall report consistently with the valuation of the assets transferred to the Litigation Trust as determined by the Litigation Trustee (or its designee), (v) the Litigation Trustee shall be responsible for filing returns for the trust as a grantor trust pursuant to section 1.671-4(a) of the Treasury Regulations, and (vi) the Litigation Trustee or Disbursing Agent, as applicable, shall annually send to each holder of an interest in the Litigation Trust a separate statement regarding the receipts and expenditures of the trust as relevant for federal income tax purposes.

(e) The Litigation Trust shall also be vested with the Debtor’s rights as such rights existed prior to the Effective Date, to conduct discovery and oral examinations of any party under Bankruptcy Rule 2004. The Litigation Trust, however, shall not be considered a successor of the Debtor and shall not assume any obligations of the Debtor other than expressly provided for by the Plan and the Litigation Trust Agreement. Notwithstanding the foregoing, the Litigation Trust shall not be permitted to seek relief under Bankruptcy Rule 2004 as against (i) the Debtor or the Reorganized Debtor, (ii) any current employees, members, managers, officers, or directors of the Debtor or the Reorganized Debtor, or (iii) the DIP Lender.

(f) For the avoidance of doubt, the Litigation Trust shall be solely responsible for all Litigation Trust Expenses (including, for the further avoidance of doubt, professional fees).

Neither the Debtor nor the Reorganized Debtor shall have any responsibility for any Litigation Trust Expenses.

(g) The Litigation Trustee and the Reorganized Debtor shall have the right to seek relief from the Bankruptcy Court in the event of any dispute or controversy related to the Litigation Trust Agreement.

#### **5.7 *Cancellation of Existing OneCore Interests and Agreements.***

(a) Except for the purpose of evidencing a right to a distribution under the Plan and except as otherwise set forth in the Plan, including with respect to executory contracts or unexpired leases that shall be assumed or assumed and assigned by the Debtor, on the Effective Date, all agreements, instruments, and other documents evidencing any Claim or Interest, including, without limitation, any Allowed DIP Claim, or any Interest and any rights of any holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect and the obligations of the Debtor thereunder shall be deemed fully satisfied, released, and discharged. The holders of or parties to such cancelled instruments, Existing OneCore Interests, and other documentation shall have no rights arising from or related to such instruments, Existing OneCore Interests, or other documentation or the cancellation thereof, except the rights provided for pursuant to the Plan.

(b) Notwithstanding such cancellation and discharge and the releases contained in Article X of the Plan, the DIP Credit Agreement shall continue in effect solely to the extent necessary to (i) allow the holder of the Allowed DIP Claim to receive distributions under the Plan, (ii) allow and preserve the rights of the Debtor, the Reorganized Debtor, and the Disbursing Agent to (A) make post-Effective Date distributions or take such other action pursuant to the Plan on account of the Allowed DIP Claim, as applicable, and to otherwise exercise their rights and discharge their obligations relating to the interests of the holder of such Claim in accordance with the Plan, (iii) allow the DIP Lender to enforce any obligations owed to it under the Plan (including seeking compensation and reimbursement for any reasonable and documented fees and expenses, pursuant to any respective charging liens as may be provided in the DIP Documents), (iv) preserve the DIP Lender's right to any contingent or indemnification obligations of the Debtor pursuant and subject to the terms of the DIP Credit Agreement or the DIP Order (v) permit the DIP Lender to perform any function necessary to effectuate the foregoing, and (vi) permit the DIP Lender to appear in the Chapter 11 Case or in any proceeding in the Bankruptcy Court or any other court relating to the DIP Documents, *provided that* nothing in this Section 5.7 shall affect the discharge of Claims pursuant to the Bankruptcy Code, the Confirmation Order, or the Plan or result in any liability or expense to the Reorganized Debtor.

(c) Notwithstanding the foregoing, any provision in any document, instrument, lease, or other agreement that causes or effectuates, or purports to cause or effectuate, a default, termination, waiver, or other forfeiture of, or by, the Debtor of its interests, as a result of the cancellations, terminations, satisfaction, releases, or discharges provided for in this Section 5.7 shall be deemed null and void and shall be of no force and effect.

(d) Except for the foregoing, on and after the Effective Date, all duties and responsibilities of the DIP Lender shall be fully discharged (i) unless otherwise specifically set forth in or provided for under the Plan, the Plan Supplement, or the Confirmation Order, and (ii) except

with respect to such other rights of the DIP Lender, pursuant to the DIP Documents, survive the termination of documents. Subsequent to the performance by each DIP Lender of its obligations pursuant to the Plan and Confirmation Order, such DIP Lender and its agents shall be relieved of all further duties and responsibilities related to the DIP Documents.

(e) The Litigation Trust Interests shall be non-transferable other than if transferred by will, intestate succession, or otherwise by operation of law.

#### 5.8 *Retention of Causes of Action.*

In accordance with section 1123(b) of the Bankruptcy Code, (a) following the Effective Date, the Reorganized Debtor shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Retained Causes of Action, whether arising before or after the Petition Date, and the Reorganized Debtor's rights to commence, prosecute, or settle such Retained Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date, and the Reorganized Debtor may pursue such Retained Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtor; and (b) following the Effective Date, the Litigation Trust shall retain and may enforce all rights to commence, pursue, and settle, as appropriate, any and all Litigation Trust Causes of Action. **No Person may rely on the absence of a specific reference in this Plan or the Disclosure Statement to any Cause of Action against them as any indication that the Debtor, the Reorganized Debtor, or the Litigation Trust, as applicable, will not pursue any and all available Causes of Action against such Person.** Except with respect to Causes of Action against any Person which Person was released by the Debtor or the Reorganized Debtor on or before the Effective Date (including pursuant to this Plan), the Reorganized Debtor expressly reserves all rights to prosecute any and all Retained Causes of Action against any Person, except as otherwise expressly provided in this Plan. The Litigation Trust expressly reserves all rights to prosecute any and all Litigation Trust Causes of Action. Unless any Causes of Action against a Person are expressly waived, relinquished, exculpated, released, compromised, transferred (including to the Litigation Trust), or settled in this Plan or a Final Order of the Bankruptcy Court, (i) the Reorganized Debtor expressly reserves all Retained Causes of Action for later adjudication; and (ii) the Litigation Trust expressly reserves all Litigation Trust Causes of Action for later adjudication, and therefore, in each case, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, Claim preclusion, estoppel (judicial, equitable, or otherwise), or laches shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or consummation of this Plan. For the avoidance of doubt, notwithstanding anything contained in this Plan to the contrary, on the Effective Date, the Litigation Trust Causes of Action shall be transferred to, and vest in, the Litigation Trust, and shall not be retained by the Reorganized Debtor.

#### 5.9 *Cancellation of Liens.*

Except as otherwise specifically provided herein, upon the satisfaction in full, in Cash or otherwise, of a Secured Claim, any Lien securing any Secured Claim that is satisfied in full, in Cash or otherwise, shall be deemed released, and the holder of such Secured Claim shall be authorized and directed to (i) release any collateral or other property of the Debtor (including any Cash collateral) held by such holder, at the sole cost and expense of the Reorganized Debtor, and to (ii) take such actions as may be reasonably requested by the Debtor or the Reorganized

Debtor, to evidence the release of such Lien, including the execution, delivery and filing or recording of such releases as may be reasonably requested by the Debtor or the Reorganized Debtor, in the case of each of clauses (i) and (ii), at the sole cost and expense of the Reorganized Debtor and without recourse, representation or warranty of any kind.

**5.10 *Employee Matters.***

(a) Unless otherwise provided herein and subject to Article V of the Plan, as may be applicable:

(i) The Debtor shall assume or assume and assign to the Reorganized Debtor on the Effective Date (x) the Benefits Plans and (y) all Employment Agreements unless previously assumed or rejected by the Debtor in its sole discretion pursuant to an order of the Bankruptcy Court.

(ii) Any Interests granted prior to the Effective Date to a current or former members, managers, employee, officer, director or individual independent contractor under a Benefit Plan, an Employment Agreement, or otherwise shall be cancelled and extinguished. For the avoidance of doubt, if any Benefit Plan or Employment Agreement is assumed and such plan or agreement provides in part for an award or potential award of Interests in the Debtor, such Benefit Plan or Employment Agreement shall be assumed in all respects other than the provisions of such agreement relating to Interest awards.

**5.11 *Nonconsensual Confirmation.***

The Debtor intends to undertake to have the Bankruptcy Court confirm the Plan under section 1129(b) of the Bankruptcy Code as to any Classes that reject or are deemed to reject the Plan.

**5.12 *Closing of the Chapter 11 Case.***

After the Estate has been fully administered, the Reorganized Debtor shall seek authority from the Bankruptcy Court to close the Chapter 11 Case in accordance with the Bankruptcy Code and Bankruptcy Rules.

**5.13 *Termination of the Patient Care Ombudsman's Duties.***

The duties, responsibilities, and obligations of the Patient Care Ombudsman shall be terminated on the Effective Date, the Patient Care Ombudsman may dispose of any documents provided to the Patient Care Ombudsman in the course of its reporting. Nothing herein shall in any way limit or otherwise affect the Patient Care Ombudsman's obligations of confidentiality under confidentiality agreements, if any, under section 333 of the Bankruptcy Code or under order of the Bankruptcy Court.

**5.14 *Notice of Effective Date.***

As soon as practicable, but not later than three (3) Business Days following the

Effective Date, the Debtor shall file a notice of the occurrence of the Effective Date with the Bankruptcy Court.

## **ARTICLE VI. DISTRIBUTIONS.**

### **6.1 *Distributions Generally.***

Except as otherwise provided in the Plan, the Disbursing Agent shall make all distributions under the Plan to the appropriate holders of Allowed Claims in accordance with the terms of the Plan.

### **6.2 *Distribution Record Date.***

As of the close of business on the Distribution Record Date, the various transfer registers for each of the Classes of Claims or Interests as maintained by the Debtor or its respective agents, shall be deemed closed, and there shall be no further changes in the record holders of any of the Claims or Interests. The Debtor and the Reorganized Debtor shall have no obligation to recognize any transfer of the Claims or Interests occurring on or after the Distribution Record Date. In addition, with respect to payment of any Cure Amounts or disputes over any Cure Amounts, neither Debtor, the Reorganized Debtor, nor the Disbursing Agent, as applicable shall have any obligation to recognize or deal with any party other than the non-Debtor party to the applicable executory contract or unexpired lease as of the close of business on the Distribution Record Date, even if such non-Debtor party has sold, assigned, or otherwise transferred its Claim for a Cure Amount.

### **6.3 *Date of Distributions.***

Except as otherwise provided in the Plan, any distributions and deliveries to be made under the Plan shall be made on the Effective Date or as otherwise determined in accordance with the Plan, including the treatment provisions of Article IV of the Plan, or the Litigation Trust Agreement, in each case, as soon as practicable thereafter; *provided that* the Reorganized Debtor may implement periodic distribution dates to the extent it reasonably determines them to be appropriate.

### **6.4 *No Postpetition Interest on Claims.***

Except as otherwise provided in the Plan, the Confirmation Order, or another order of the Bankruptcy Court or required by the Bankruptcy Code, interest shall not accrue or be paid on any Claims on or after the Petition Date, *provided that*, other than with respect to DIP Claims or Other Secured Claims, if interest is payable pursuant to the preceding sentence, interest shall accrue at the federal judgment rate pursuant to 28 U.S.C. § 1961 on a non-compounded basis from the date the obligation underlying the Claim becomes due and is not timely paid through the date of payment.

### **6.5 *Distributions after Effective Date.***

Distributions made after the Effective Date to holders of Disputed Claims that are

not Allowed Claims as of the Effective Date but which later become Allowed Claims shall be deemed to have been made on the Effective Date.

#### 6.6 ***Unclaimed Property.***

Undeliverable distributions or unclaimed distributions shall remain in the possession of the Reorganized Debtor until such time as a distribution becomes deliverable or the holder accepts distribution, or such distribution reverts back to the Debtor or the Reorganized Debtor, as applicable, and shall not be supplemented with any interest, dividends, or other accruals of any kind. Such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of one hundred and eighty (180) days from the date of distribution. After such date, and notwithstanding any other provision of the Plan, all unclaimed property or interest in property shall revert to the Reorganized Debtor and the Claim of any other holder to such property or interest in property shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

#### 6.7 ***Time Bar to Cash Payments.***

Checks issued by the Disbursing Agent in respect of Allowed Claims shall be null and void if not negotiated within one hundred eighty (180) days after the date of issuance thereof. Thereafter, the amount represented by such voided check shall irrevocably revert to the Reorganized Debtor, and any Claim in respect of such voided check shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary. Requests for re-issuance of any check within one hundred eighty (180) days after issuance shall be made to the Disbursing Agent by the holder of the Allowed Claim to whom such check was originally issued.

#### 6.8 ***Manner of Payment under Plan.***

Except as otherwise specifically provided in the Plan, at the option of the Debtor or the Reorganized Debtor, any Cash payment to be made hereunder may be made by a check or wire transfer or as otherwise required or provided in applicable agreements or customary practices of the Debtor.

#### 6.9 ***Satisfaction of Claims.***

Except as otherwise specifically provided in the Plan, any distributions and deliveries to be made on account of Allowed Claims under and in accordance with the terms and conditions of the Plan shall be in complete and final satisfaction, settlement, and discharge of and exchange for such Allowed Claims.

#### 6.10 ***Minimum Cash Distributions.***

The Disbursing Agent shall not be required to make any distribution of Cash less than Fifty Dollars (\$50) to any holder of an Allowed Claim.

#### 6.11 ***Setoffs and Recoupments.***

Except as expressly provided in a separate order of the Bankruptcy Court, the



Debtor and the Reorganized Debtor, as applicable, may, but shall not be required to, set off or recoup against any Claim, and any distribution to be made on account of such Claim, any and all claims, rights, and Causes of Action of any nature whatsoever that the Debtor or the Reorganized Debtor may have against the holder of such Claim pursuant to the Bankruptcy Code or applicable non-bankruptcy law; *provided that* neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor or Reorganized Debtor or its respective successor of any claims, rights, or Causes of Action that the Debtor or Reorganized Debtor or its respective successor or assign may possess against the holder of such Claim.

**6.12 *Allocation of Distributions between Principal and Interest.***

Except as otherwise required by law (as reasonably determined by the Debtor or the Reorganized Debtor), distributions with respect to Allowed Claims shall be allocated first to the principal portion of such Allowed Claim (as determined for federal income tax purposes) and, thereafter, to the remaining portion of such Allowed Claim, if any.

**6.13 *No Distribution in Excess of Amount of Allowed Claim.***

Notwithstanding anything in the Plan to the contrary, no holder of an Allowed Claim shall receive, on account of such Allowed Claim, distributions under the Plan in excess of the Allowed amount of such Claim.

**6.14 *Withholding and Reporting Requirements.***

(a) *Withholding Rights.* In connection with the Plan, any party issuing any instrument or making any distribution described in the Plan shall comply with all applicable withholding and reporting requirements imposed by any federal, state, or local taxing authority, and all distributions pursuant to the Plan and all related agreements shall be subject to any such withholding or reporting requirements. In the case of a non-Cash distribution that is subject to withholding, the distributing party may withhold an appropriate portion of such distributed property and either (i) sell such withheld property to generate Cash necessary to pay over the withholding tax (or reimburse the distributing party for any advance payment of the withholding tax), or (ii) pay the withholding tax using its own funds and retain such withheld property. Any amounts withheld pursuant to the preceding sentence, and paid over to the applicable Governmental Unit, shall be deemed to have been distributed to and received by the applicable recipient for all purposes of the Plan. Notwithstanding the foregoing, each holder of an Allowed Claim or any other Entity that receives a distribution pursuant to the Plan shall have responsibility for any taxes imposed by any Governmental Unit, including income, withholding, and other taxes, on account of such distribution. In the event any party issues any instrument or makes any non-Cash distribution pursuant to the Plan that is subject to withholding tax and such issuing or distributing party has not sold such withheld property to generate Cash to pay the withholding tax or paid the withholding tax using its own funds and retains such withheld property as described above, such issuing or distributing party has the right, but not the obligation, to not make a distribution until such holder has made arrangements reasonably satisfactory to such issuing or disbursing party for payment of any such tax obligations.

(b) *Forms.* Any party entitled to receive any property as an issuance or



distribution under the Plan shall, upon request, deliver to the Disbursing Agent or such other Entity designated by the Reorganized Debtor (which Entity shall subsequently deliver to the Disbursing Agent any applicable IRS Form W-8 or IRS Form W-9 received) an appropriate IRS Form W-9 or (if the payee is a foreign Entity) IRS Form W-8, and any other forms or documents reasonably requested by the Reorganized Debtor to reduce or eliminate any withholding required by any federal, state, or local taxing authority. If such request is made and the holder fails to comply before the date that is 60 days after the request is made, the amount of such distribution shall irrevocably revert to the Debtor or the Reorganized Debtor, as applicable, and any Claim in respect of such distribution shall be discharged and forever barred from assertion against the Debtor or the Reorganized Debtor, as applicable, or its respective property.

## ARTICLE VII. PROCEDURES FOR DISPUTED CLAIMS.

### 7.1 *Objections to Claims.*

The Debtor or the Reorganized Debtor, as applicable, shall be entitled to object to Claims; *provided that* following the Effective Date, the U.S. Trustee shall have standing and the right to be heard for the limited purpose of responding to requests for allowance of Administrative Expense Claims for substantial contribution pursuant to section 503(b)(3)(D) of the Bankruptcy Code. After the Effective Date, the Debtor or the Reorganized Debtor, as applicable, shall have and retain any and all rights and defenses that the Debtor had with regard to any Claim to which it may object, except with respect to any Claim that is Allowed. Any objections to Claims shall be served and filed on or before the Claims Objection Deadline.

### 7.2 *Resolution of Disputed Administrative Expenses and Disputed Claims.*

The Debtor or Reorganized Debtor, in their sole discretion, shall have the authority to (i) compromise, settle, otherwise resolve, or withdraw any objections to Claims without any further notice to or action, order, or approval by the Bankruptcy Court, other than with respect to Professional Fee Claims, (ii) reconcile Claims (***Claims Reconciliation***) in an allowed amount without the requirement of filing an objection to any such Claims and without the requirement of any further Court order, and (iii) 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. For the avoidance of doubt, Holders of Claims subject to a Claims Reconciliation demand of the Debtor or the Reorganized Debtor (each, a ***Claims Reconciliation Demand***) must, within fifteen (15) days of service of such demand, furnish to the Debtor or Reorganized Debtor, as applicable, all invoices, agreements, and other documents responsive to such Claims Reconciliation Demand. If any Holder of a Claim subject to a Claims Reconciliation Demand fails to timely and fully respond to such Claims Reconciliation Demand, such Holder's Claim shall be disallowed on motion and notice of opportunity for hearing of the Debtor or Reorganized Debtor, as applicable, demonstrating such Holder's failure to timely comply with such Claims Reconciliation Demand.

### 7.3 *Payments and Distributions with Respect to Disputed Claims.*

Notwithstanding anything herein to the contrary, if any portion of a Claim is a Disputed Claim, no payment or distribution provided hereunder shall be made on account of such

Claim unless and until such Disputed Claim becomes an Allowed Claim.

#### **7.4 *Distributions after Allowance.***

(a) Following the Effective Date, a Disputed Claims Reserve shall be maintained by the Disbursing Agent. Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary, or the receipt of a determination by the IRS, the Disbursing Agent shall treat the Disputed Claims Reserve as a “disputed ownership fund” governed by section 1.468B-9 of the Treasury Regulations and to the extent permitted by applicable law, report consistently with the foregoing for state and local income tax purposes. All taxes imposed on assets or income of the Disputed Claims Reserve shall be payable out of the Disputed Claims Reserve. The Disbursing Agent or the Reorganized Debtor, as applicable, shall be responsible for payment, out of the assets of the Disputed Claims Reserve, of any expenses associated with administering the Disputed Claims Reserve, including any taxes imposed on the Disputed Claims Reserve or its assets. All parties (including the Debtor, the Reorganized Debtor, the Disbursing Agent, and the holders of Disputed GUC Claims) shall be required to report for tax purposes consistently with the foregoing.

(b) As soon as reasonably practicable after a Disputed Claim becomes, in whole or in part, an Allowed Claim, the holder thereof shall be entitled to distributions, if any, to which such holder is entitled as provided in the Plan, without interest, as provided in Section 7.9 of the Plan. Such distributions shall be made as soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing such Disputed Claim (or portion thereof) becomes a Final Order.

#### **7.5 *Disallowance of Claims.***

Except to the extent otherwise agreed to by the Debtor or Reorganized Debtor or as otherwise set forth herein, as applicable, 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 section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, as determined by a Final Order, 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 Causes of Action against that Entity have been settled or a Final Order with respect thereto has been entered and all sums due, if any, to the Debtor by that Entity have been turned over or paid to the Debtor or the Reorganized Debtor. All proofs of claim filed on account of an indemnification obligation to a member, managers, director, officer, or employee, in each case, employed by the Debtor on and/or after the Petition Date shall be deemed satisfied and expunged from the claims register as of the Effective Date to the extent such indemnification obligation is assumed (or honored or reaffirmed, as the case may be) pursuant to the Plan, without any further notice to or action, order, or approval of the Bankruptcy Court. Any Claim that has been or is hereafter listed in the Schedules as contingent, unliquidated, or disputed, and for which no Proof of Claim or Interest is or has been timely filed, shall be deemed disallowed and shall be expunged without further action by the Debtor and without further notice to any party or action, approval, or order of the Bankruptcy Court, and holders of such Claims shall not receive any distributions under the Plan on account of such Claims, subject in each case to Local Bankruptcy Rule 3002-1(a).

#### 7.6 *Estimation of Claims.*

The Debtor or the Reorganized Debtor, as applicable, may determine, resolve and otherwise adjudicate all contingent Claims, unliquidated Claims and Disputed Claims in the Bankruptcy Court, and the Debtor or the Reorganized Debtor, as applicable, may at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code for any reason or purpose, regardless of whether any party has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, during the pendency of any appeal relating to any such objection. If the Bankruptcy Court estimates any contingent Claim, unliquidated Claim or Disputed Claim, that estimated amount shall constitute the maximum limitation on such Claim, and the Debtor or the Reorganized Debtor, as applicable, may pursue supplementary proceedings to object to the ultimate allowance of such Claim; *provided that* such limitation shall not apply to Claims requested by the Debtor to be estimated for voting purposes only.

#### 7.7 *No Distributions Pending Allowance.*

If an objection, motion to estimate, or other challenge to a Claim is filed, no payment or distribution provided under the Plan shall be made on account of such Claim unless and until (and only to the extent that) such Claim becomes an Allowed Claim.

#### 7.8 *Claim Resolution Procedures Cumulative.*

All of the objection, estimation, and resolution procedures in the Plan are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently settled, compromised, withdrawn, or resolved in accordance with the Plan without further notice or Bankruptcy Court approval.

#### 7.9 *Interest.*

To the extent that a Disputed Claim becomes an Allowed Claim after the Effective Date, the holder of such Claim shall not be entitled to any interest that accrued thereon from and after the Effective Date.

### **ARTICLE VIII. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.**

#### 8.1 *General Treatment.*

(a) As of and subject to the occurrence of the Effective Date, all executory contracts and unexpired leases to which the Debtor is a party shall be deemed assumed or assumed and assigned, as applicable, except for any executory contract or unexpired lease that (i) was previously assumed or rejected by the Debtor pursuant to an order of the Bankruptcy Court, (ii) previously expired or was terminated pursuant to its own terms or by agreement of the parties thereto, (iii) is the subject of a separate motion to assume or reject filed by the Debtor on or before the Confirmation Date, (iv) is specifically designated as a contract or lease to be included on the Rejection Schedule, or (v) is the subject of a pending Cure Dispute.

(b) Subject to the occurrence of the Effective Date, entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of the assumptions, assumptions and assignments, or rejections provided for in the Plan pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Each executory contract and unexpired lease assumed or assumed and assigned pursuant to the Plan shall vest in and be fully enforceable by the Reorganized Debtor in accordance with its terms, except as modified by the provisions of the Plan, any order of the Bankruptcy Court authorizing and providing for its assumption or assumption and assignment, or applicable law.

## 8.2 *Determination of Cure Disputes and Deemed Consent.*

(a) Any Cure Amount shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure Amount, as reflected in the applicable cure notice, in Cash on the Effective Date, subject to the limitations described below, or shall provide adequate assurance of future performance under such executory contracts and unexpired leases. At least fourteen (14) days before the commencement of the Confirmation Hearing, the Debtor shall serve a notice on parties to executory contracts or unexpired leases to be assumed reflecting the Debtor's intention to assume the contract or lease in connection with the Plan and, where applicable, setting forth the proposed Cure Amount (if any). **Any objection by a counterparty to an executory contract or unexpired lease to the proposed assumption, assumption and assignment, or related Cure Amount must be filed, served, and actually received by the Debtor within ten (10) days of the service of the assumption notice, or such shorter period as agreed to by the parties or authorized by the Bankruptcy Court.** Any counterparty to an executory contract or unexpired lease that fails to object timely to the proposed assumption, assumption and assignment, or Cure Amount (i) shall be deemed to have assented to such assumption, assumption and assignment, or Cure Amount, notwithstanding any provision thereof that purports to (1) prohibit, restrict, or condition the transfer or assignment of such contract or lease, or (2) terminate or permit the termination of a contract or lease as a result of any direct or indirect transfer or assignment of the rights of the Debtor under such contract or lease or a change, if any, in the ownership or control to the extent contemplated by the Plan, and shall forever be barred and enjoined from asserting such objection against the Debtor or terminating or modifying such contract or lease on account of transactions contemplated by the Plan, and (ii) shall be forever barred, estopped, and enjoined from challenging the validity of such assumption or assumption and assignment, as applicable, thereafter.

(b) If there is a dispute pertaining to the assumption of an executory contract or unexpired lease (other than a dispute pertaining to a Cure Amount), such dispute shall be heard by the Bankruptcy Court prior to the assumption being effective; *provided that* the Debtor or the Reorganized Debtor may settle any such dispute without any further notice to, or action by, any party or order of the Bankruptcy Court.

(c) To the extent a dispute relates to Cure Amounts, the Debtor may assume and/or assume and assign the applicable executory contract or unexpired lease prior to the resolution of such cure dispute, *provided that* the Debtor or the Reorganized Debtor reserves Cash in an amount sufficient to pay the full amount reasonably asserted as the Cure Amount by the counterparty to such executory contract or unexpired lease.

(d) Assumption or assumption and assignment of any executory contract or unexpired lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims against the Debtor or defaults by the Debtor, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed executory contract or unexpired lease at any time before the date that the Debtor assumes or assumes and assigns such executory contract or unexpired Lease. Any proofs of claim filed with respect to an executory contract or unexpired lease that has been assumed or assumed and assigned shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity, upon the assumption of such executory contract or unexpired lease.

### 8.3 ***Rejection Damages Claims.***

In the event that the rejection of an executory contract or unexpired lease hereunder results in damages to the other party or parties to such contract or lease, any Claim for such damages, if not heretofore evidenced by a timely filed proof of Claim, shall be forever barred and shall not be enforceable against the Debtor or the Reorganized Debtor, or its Estate, properties or interests in property as agents, successors, or assigns, unless a proof of Claim is filed with the Bankruptcy Court and served upon counsel for the Debtor or the Reorganized Debtor, as applicable, no later than thirty (30) days after the filing and service of the notice of the occurrence of the Effective Date.

### 8.4 ***Indemnification Obligations.***

Except as otherwise provided in the Plan or the Confirmation Order, to the fullest extent permitted by applicable law, any and all obligations of the Debtor pursuant to its limited liability company agreements, or other organizational documents or agreements to indemnify members, managers, officers, directors, agents or employees, in each case solely in their capacity as such, employed by the Debtor on and/or after the Petition Date with respect to all present and future actions, suits, and proceedings against the Debtor or such members, managers, officers, directors, agents, or employees based upon any act or omission for or on behalf of the Debtor (collectively, the “***Indemnification Obligations***”) shall not be discharged, impaired, or otherwise affected by the Plan; *provided*, that, Debtor or the Reorganized Debtor, as applicable, shall not indemnify any such members, managers, officers, directors, agents, or employees of the Debtor for any Claims or Causes of Action arising out of or relating to any act or omission for which indemnification is barred under applicable law or that is excluded under the terms of the foregoing organizational documents or applicable agreements governing the Debtor’s Indemnification Obligations. The Reorganized Debtor shall not indemnify any persons for any claims or Causes of Action arising out of or relating to any act or omission that is a criminal act or constitutes intentional fraud, gross negligence or willful misconduct. Except as otherwise provided in the Plan, all such Indemnification Obligations shall be deemed and treated as executory contracts that are assumed by the Debtor under the Plan.

### 8.5 ***Insurance Policies.***

(a) Notwithstanding any other provision in the Plan, all insurance policies to which Debtor is a party as of the Effective Date (including any “tail policy”) shall be deemed to be



and treated as executory contracts and shall be assumed by the Reorganized Debtor, shall remain in full force and effect thereafter and shall continue as obligations of the Reorganized Debtor in accordance with their respective terms, and all such insurance policies shall vest in the Reorganized Debtor. Coverage for defense and indemnity under each D&O Policy shall remain available to all individuals within the definition of “Insured Persons” in any D&O Policy.

(b) After the Effective Date, all members, managers, officers, directors, agents, or employees who served in such capacity at any time before the Effective Date shall be entitled to the full benefits of any D&O Policy (including any “tail” policy) for the full term of such policy regardless of whether such members, managers, officers, directors, agents, and/or employees remain in such positions after the Effective Date, in each case, to the extent set forth in such policies.

(c) In addition, after the Effective Date, the Reorganized Debtor shall not terminate or otherwise reduce the coverage under any D&O Policy (including any “tail policy”) in effect as of the Petition Date.

(d) In the event that the Debtor or Reorganized Debtor, in their sole discretion, determine that an Allowed Claim is covered in full or in part under one of the Debtor’s insurance policies, no distributions under the Plan shall be made on account of such Allowed Claim unless and until, and solely to the extent that, (i) the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy, or (ii) an insurer authorized to issue a coverage position under such insurance policy, or the agent of such insurer, issues a formal determination in accordance with the terms of the insurance policy, which the Debtor in its sole discretion does not contest, that coverage under such insurance policy is excluded or otherwise unavailable for losses arising from such Allowed Claim. To the extent that one or more of the Debtor’s insurers agrees to satisfy in full or in part an Allowed Claim, then immediately upon such insurers’ agreement, the applicable portion of such Allowed Claim may be expunged without a Claim objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court. For the avoidance of doubt, nothing in this Plan or the Confirmation Order shall be construed to limit, extinguish, expand, or diminish the insurance coverage that may exist or shall be construed as a finding that liquidated any Claim payable pursuant to an insurance policy. Nothing herein relieves any Entity from the requirement to timely file a proof of claim by the applicable claims bar date.

## 8.6 *Licenses and Agreements.*

All intellectual property contracts, licenses, including, without limitation, governmentally-issued licenses, royalties, or other similar agreements to which the Debtor has any rights or obligations in effect as of the date of the Confirmation Order shall be deemed and treated as executory contracts pursuant to the Plan and shall be assumed, or assumed and assigned, by the Debtor and shall continue in full force and effect unless any such intellectual property contract, license, royalty, or other similar agreement otherwise is specifically rejected pursuant to a separate order of the Bankruptcy Court, is scheduled on the Rejection Schedule, or is the subject of a separate rejection motion filed by the Debtor. Unless otherwise noted hereunder, as applicable, all other intellectual property contracts, licenses, royalties, or other similar agreements shall vest in the Reorganized Debtor and the Reorganized Debtor may take all actions as may be necessary or appropriate to ensure such vesting as contemplated herein. With respect to governmentally-issued

licenses, the Reorganized Debtor shall comply with all valid statutes and regulations governing the maintenance of such licenses.

#### **8.7 Assignment.**

To the extent provided under the Bankruptcy Code or other applicable law, any executory contract or unexpired lease assumed and assigned hereunder shall remain in full force and effect for the benefit of the transferee or assignee in accordance with its terms, notwithstanding any provision in such executory contract or unexpired lease (including those of the type set forth in section 365(b)(2) of the Bankruptcy Code) that prohibits, restricts, or conditions such transfer or assignment. To the extent provided under the Bankruptcy Code or other applicable law, any provision that prohibits, restricts, or conditions the assignment or transfer of any such executory contract or unexpired lease or that terminates or modifies such executory contract or unexpired lease or allows the counterparty to such executory contract or unexpired lease to terminate, modify, recapture, impose any penalty, condition renewal or extension, or modify any term or condition upon any such transfer and assignment, constitutes an unenforceable anti-assignment provision and is void and of no force or effect.

#### **8.8 Reservation of Rights.**

(a) The Debtor may amend the Assumption Schedule and the Rejection Schedule, at any time prior to the conclusion of the Confirmation Hearing to add, delete, or reclassify any executory contract or unexpired lease. The Debtor shall provide notice of such amendment to any affected counterparty as soon as reasonably practicable.

(b) Neither the exclusion nor the inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to the Plan or in the Plan Supplement, nor anything contained in the Plan, shall constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or unexpired lease or that the Debtor or the Reorganized Debtor has any liability thereunder.

(c) Except as explicitly provided in the Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the Debtor or the Reorganized Debtor under any executory or non-executory contract or unexpired or expired lease.

(d) Nothing in the Plan shall increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor or the Reorganized Debtor, as applicable, under any executory or non-executory contract or unexpired or expired lease.

#### **8.9 Modifications, Amendments, Supplements, Restatements, or Other Agreements.**

Unless otherwise provided in the Plan, each executory contract or unexpired lease that is assumed shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such executory contract or unexpired lease, and executory contracts and unexpired leases related thereto, if any, including easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated or is rejected or repudiated under



the Plan.

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

**9.1 *Conditions Precedent to Confirmation of Plan.***

The following are conditions precedent to confirmation of the Plan:

- (a) the Disclosure Statement Order shall have been entered and shall not have been reversed, stayed, amended, modified, dismissed, vacated, or reconsidered;
- (b) the Plan Supplement and all of the schedules, documents, and exhibits contained therein shall have been filed;
- (c) the DIP Order shall be in full force and effect and there shall be no event of default under the DIP Documents or the DIP Order, which has not been waived by the DIP Lender pursuant to the terms and conditions of such documents and/or Section 9.3 of the Plan.

**9.2 *Conditions Precedent to Effective Date.***

The following are conditions precedent to the Effective Date of the Plan:

- (a) the Confirmation Order shall have been entered and shall be a Final Order and shall not be subject to any stay or subject to an unresolved request for revocation under section 1144 of the Bankruptcy Code;
- (b) the DIP Orders shall be in full force and effect and there shall be no event of default under the DIP Documents or the DIP Orders, which has not otherwise been amended or waived by the applicable DIP Lender pursuant to the terms and conditions of such documents and/or Section 9.3 of the Plan;
- (c) the Reorganization Transaction shall have been implemented in accordance with the Description of Transaction Steps in all material respects;
- (d) all actions, documents and agreements necessary to implement and consummate the Plan, including entry into the Definitive Documents and the New Governance Documents, and the transactions and other matters contemplated thereby, shall have been effected or executed;
- (e) the New Governance Documents shall have been filed with the appropriate governmental authority, as applicable; and
- (f) (i) the Litigation Trust shall have been formed, (ii) the Litigation Trust Funded Amount shall have been distributed to the Trust, (iii) the Litigation Trust Interests shall have been issued in accordance with the Plan, (iv) the Litigation Trustee shall have been appointed, and (v) the Litigation Trust Agreement, in form and substance reasonably acceptable to Debtor,

shall have been executed and delivered, any conditions precedent contained to effectiveness therein shall have been satisfied or waived in accordance therewith, and shall be in full force and effect and binding upon the relevant parties;

### 9.3 *Waiver of Conditions Precedent.*

(a) Except as otherwise provided herein, all actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously and no such action shall be deemed to have occurred prior to the taking of any other such action. Each of the conditions precedent in Section 9.1 and Section 9.2 (other than Section 9.2(a)) may be waived in writing by the Debtor with the prior written consent of the DIP Lender or the Exit Facility Lender, as applicable, solely to the extent that the waiver of a particular condition precedent would affect the legal and/or economic rights of the DIP Lender or the Exit Facility Lender, as applicable and respectively, under the Plan, the DIP Credit Agreement, or the Exit Facility Credit Agreement (as applicable).

(b) The stay of the Confirmation Order pursuant to Bankruptcy Rule 3020(e) shall be deemed waived by and upon the entry of the Confirmation Order, and the Confirmation Order shall take effect immediately upon its entry.

### 9.4 *Effect of Failure of a Condition.*

If the conditions listed in Section 9.2 of the Plan are not satisfied or waived in accordance with Section 9.3 of the Plan in a notice filed with the Bankruptcy Court prior to the expiration of such period, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall (a) constitute a waiver or release of any Claims by or against or any Interests in Debtor, (b) prejudice in any manner the rights of any Entity, or (c) constitute an admission, acknowledgement, offer, or undertaking by the Debtor, the Exit Facility Lender, or any other Entity.

## **ARTICLE X. EFFECT OF CONFIRMATION OF PLAN.**

### 10.1 *Vesting of Assets.*

On the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all property of the Debtor's Estate shall vest in the Reorganized Debtor free and clear of all Claims, Liens, encumbrances, charges, and other interests, except as provided pursuant to the Plan, the Litigation Trust Agreement, the Confirmation Order, or the Exit Facility Credit Agreement (if applicable). On and after the Effective Date, the Reorganized Debtor may take any action, including the operation of its businesses, the use, acquisition, sale, lease, and disposition of property, and the entry into transactions, agreements, understandings, or arrangements, whether in or other than in the ordinary course of business, and execute, deliver, implement, and fully perform any and all obligations, instruments, documents, and papers or otherwise in connection with any of the foregoing, free of any restrictions of the Bankruptcy Code or Bankruptcy Rules and in all respects as if there were no pending cases under any chapter or provision of the Bankruptcy Code, except as expressly provided herein. Without limiting the foregoing, the Reorganized Debtor may pay the charges that it incurs on or after the Effective Date for professional fees, disbursements, expenses, or related support services without application to the Bankruptcy Court.

## 10.2 *Binding Effect.*

As of the Effective Date, the Plan shall bind all holders of Claims against and Interests in the Debtor and its respective successors and assigns, notwithstanding whether any such holders (a) were Impaired or Unimpaired under the Plan, (b) were deemed to accept or reject the Plan, (c) failed to vote to accept or reject the Plan, (d) voted to reject the Plan, or (e) received any distribution under the Plan.

## 10.3 *Discharge of Claims and Termination of Interests.*

Upon the Effective Date and in consideration of the distributions to be made hereunder, except as otherwise expressly provided herein, each holder (as well as any representatives, trustees, or agents on behalf of each holder) of a Claim or Interest and any affiliate of such holder shall be deemed to have forever waived, released, and discharged the Debtor, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Interests, rights, and liabilities that arose prior to the Effective Date. Upon the Effective Date, all such Entities shall be forever precluded and enjoined, pursuant to section 524 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or terminated Interest in the Debtor against the Debtor or the Reorganized Debtor or any of their assets or property, whether or not such holder has filed a proof of claim and whether or not the facts or legal bases therefor were known or existed prior to the Effective Date.

## 10.4 *Term of Injunctions or Stays.*

Unless otherwise provided herein, the Confirmation Order, or in a Final Order of the Bankruptcy Court, all injunctions or stays arising under or entered during the Chapter 11 Case under sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

## 10.5 *Injunction.*

(a) Upon entry of the Confirmation Order, all holders of Claims and Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan in relation to any Claim or Interest extinguished, discharged, released or treated pursuant to the Plan.

(b) Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court or as agreed to by the Debtor and a holder of a Claim against or Interest in the Debtor, all Entities who have held, hold, or may hold Claims against or Interests in the Debtor (whether proof of such Claims or Interests has been filed or not and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan) and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, are permanently enjoined, on and after the Effective Date, solely with respect to any Claims, Interests, and Causes of Action that will be or are extinguished, discharged, released, or treated pursuant to the Plan from (i) commencing, conducting, or continuing in any manner, directly or indirectly,

any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Released Parties or the property of any of the Released Parties, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against the Released Parties or the property of any of the Released Parties, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Released Parties or the property of any of the Released Parties, (iv) asserting any right of setoff, directly or indirectly, against any obligation due the Released Parties or the property of any of the Released Parties, except (x) as contemplated or allowed by the Plan or (y) to the extent asserted in a timely filed Proof of Claim or timely filed objection to the confirmation of the Plan, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan. For the avoidance of doubt, nothing in this Section 10.5(b) shall enjoin any (i) current or former patient of the Debtor from pursuing any Claim against any non-Debtor party, including any non-Debtor provider, for any acts or omissions arising out of or relating to any Claims for medical malpractice or (ii) Governmental Unit from filing a Proof of Claim on or by the Governmental Bar Date (as defined in the Bar Date Order).

(c) No Person or Entity shall seek or initiate formal or informal discovery requests, demands, or proceedings upon or from the Patient Care Ombudsman or her Professionals without first seeking permission, upon sufficient prior notice to the Patient Care Ombudsman, from the Bankruptcy Court.

(d) The injunctions in this Section 10.5 shall extend to any successors of the Debtor and the Reorganized Debtor and their respective property and interests in property.

## 10.6 ***Releases.***

(a) Releases by the Debtor.

As of the Effective Date, except for the right to enforce the Plan or any right or obligation arising under the Definitive Documents that remains in effect after the Effective Date, for good and valuable consideration, on and after the Effective Date, the Released Parties shall be deemed released and discharged by the Debtor, the Reorganized Debtor, and the Estate, and any Person seeking to exercise the rights of the Estate, and any successors to the Debtor or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code, from any and all Claims, obligations, rights, suits, judgments, damages, demands, debts, Liens, Causes of Action, remedies, losses, and liabilities whatsoever, including any derivative claims, asserted or assertable on behalf of the Debtor, the Reorganized Debtor, or the Estate, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, matured or unmatured, contingent or fixed, existing or hereinafter arising, in law, equity or otherwise, that the Debtor, the Reorganized Debtor, or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Estate, the conduct of the Debtor's business, the Chapter 11 Case, the purchase, sale or rescission of the purchase or sale of any Security of the Debtor or the Reorganized Debtor, the DIP Facility, the DIP Documents, the Definitive Documents, the subject matter of, or the transactions or events

giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between the Debtor and any Released Party, the Restructuring, the restructuring of any Claim or Interest before or during the Chapter 11 Cases, the Disclosure Statement, the Plan, and the Definitive Documents, or any related agreements, instruments, or other documents, and the negotiation, formulation, or preparation thereof, the solicitation of votes with respect to the Plan, or any other act or omission, in all cases based upon any act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date; provided, that, nothing in Section 10.6(a) of the Plan shall be construed to release (i) the Released Parties from intentional fraud, willful misconduct, or gross negligence, in each case as determined by a Final Order or (ii) any Retained Causes of Action.

(b) Releases by Holders of Claims and Interests.

As of the Effective Date, except for the right to enforce the Plan or any right or obligation arising under the Definitive Documents that remains in effect after the Effective Date, for good and valuable consideration, on and after the Effective Date, except as specifically set forth elsewhere in the Plan, the Releasing Parties conclusively, absolutely, unconditionally, irrevocably, and forever discharge and release (and each entity so discharged and released shall be deemed discharged and released by the Releasing Parties) the Released Parties and their respective property from any and all Claims, obligations, rights, suits, judgments, damages, demands, debts, Liens, Causes of Action, remedies, losses, and liabilities whatsoever (including contract claims, claims under ERISA and all other statutory claims, claims for contributions, withdrawal liability, reallocation liability, redetermination liability, interest on any amounts, liquidated damages, claims for attorneys' fees or any costs or expenses whatsoever), including any derivative claims, asserted or assertable on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, matured or unmatured, contingent or fixed, existing or hereinafter arising, in law, equity or otherwise, that such Entity would have been legally entitled to assert in its own right (whether individually or collectively) based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Estate, the Restructuring, the Chapter 11 Case, the purchase, sale or rescission of the purchase or sale of any Security of the Debtor or the Reorganized Debtor, the DIP Facility, the DIP Documents, the Definitive Documents, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between the Debtor and any Released Party (other than assumed contracts or leases), the restructuring of Claims and Interests before or during the Chapter 11 Case, the negotiation, formulation, preparation or consummation of the Plan (including the Plan Supplement), the Definitive Documents, or any related agreements, instruments or other documents, or the solicitation of votes with respect to the Plan, in all cases based upon any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date. For the avoidance of doubt, nothing in Section 10.6(b) of the Plan shall be construed to release (i) the Released Parties from intentional fraud, willful misconduct, or gross negligence, in each case as determined by a Final Order or (ii) any current or former patient of the Debtor from pursuing any Claim against any non-Debtor party that is not a Released Party, including any non-Debtor provider that is not a Released Party, for any acts or omissions arising out of or relating to any Claims for medical malpractice.

### 10.7 *Exculpation.*

Notwithstanding anything herein to the contrary, and to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby released and exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, cause of action, remedy, loss, and liability for any act or omission taken on or after the Petition Date and prior to or on the Effective Date relating to, in any way, or arising out of, the Chapter 11 Case, the negotiation, formulation, preparation, dissemination, implementation, administration, confirmation, consummation, and pursuit of the Disclosure Statement, the Restructuring Transactions, the Plan, or the solicitation of votes for, or confirmation of, the Plan, the funding or consummation of the Plan (including the Plan Supplement), the Patient Care Ombudsman's evaluations, reports, pleadings, or other writings filed by or on behalf of the Patient Care Ombudsman in or in connection with the Chapter 11 Cases, the Definitive Documents, or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and distribution of any Securities issued or to be issued pursuant to the Plan, whether or not such distribution occurs following the Effective Date, the occurrence of the Effective Date, negotiations regarding or concerning any of the foregoing, or the administration of the Plan or property to be distributed under the Plan, except for actions determined by Final Order to constitute gross negligence, willful misconduct, or intentional fraud. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations and any other applicable law or rules protecting such Exculpated Parties from liability.

### 10.8 *Subordinated Claims.*

The allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtor reserves the right to re-classify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

### 10.9 *Retention of Causes of Action/Reservation of Rights.*

Except as otherwise provided in Sections 10.5, 10.6, and 10.7 of the Plan, nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, Claims, Causes of Action, rights of setoff or recoupment, or other legal or equitable defenses that the Debtor had immediately prior to the Effective Date on behalf of the Estate or of itself in accordance with any provision of the Bankruptcy Code or any applicable non-bankruptcy law, including any affirmative Causes of Action against parties with a relationship with the Debtor. Other than those Claims and Causes of Action assigned to the Litigation Trust pursuant to Section 5.6 of the Plan, the Reorganized Debtor shall have, retain, reserve, and be entitled to assert all Claims, Causes of Action, rights of setoff or recoupment, and other legal or equitable defenses notwithstanding the occurrence of the Effective Date, and all of the Debtor's legal and equitable rights in respect of any Unimpaired Claim may be asserted after the Confirmation Date and Effective Date to the same extent as if the Chapter 11 Case had not been commenced. For the avoidance of doubt, while the Debtor retains all causes of action under chapter 5 of the Bankruptcy



Code not expressly waived herein, Debtor has reviewed potential chapter 5 causes of action and evaluated when it became insolvent; presently, Debtor does not believe any such causes of action exist.

#### 10.10 *Ipso Facto and Similar Provisions Ineffective.*

Any term of any prepetition policy, prepetition contract, or other prepetition obligation applicable to the Debtor shall be void and of no further force or effect with respect to the Debtor to the extent that such policy, contract, or other obligation is conditioned on, creates an obligation of the Debtor as a result of, or gives rise to a right of any entity based on any of the following: (a) the insolvency or financial condition of the Debtor; (b) the commencement of the Chapter 11 Case; (c) the confirmation or consummation of the Plan, including any change of control that shall occur as a result of such consummation; or (d) the restructuring.

#### 10.11 *Solicitation of Plan.*

As of and subject to the occurrence of the Confirmation Date: (a) the Debtor shall be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including sections 1125(a) and (e) of the Bankruptcy Code, and any applicable non-bankruptcy law, rule, or regulation governing the adequacy of disclosure in connection with such solicitation and (b) the Debtor and each of its respective members, managers, directors, officers, employees, affiliates, agents, financial advisors, investment bankers, professionals, accountants, and attorneys shall be deemed to have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer and issuance of any Securities under the Plan, and therefore are not, and on account of such offer, issuance, and solicitation shall not be, liable at any time for any violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or the offer and issuance of any Securities under the Plan.

#### 10.12 *Limited Liability Company Action.*

Upon the Effective Date, all actions of the Debtor or the Reorganized Debtor, as applicable, contemplated by the Plan shall be deemed authorized and approved in all respects, including (a) those set forth in Sections 5.2 and 5.4 of the Plan, as applicable, (b) the selection of the managers and officers for the Reorganized Debtor, (c) the distribution, transfer, or issuance of the New OneCore Interests, (d) the entry into the Exit Facility Credit Agreement, (e) the establishment of the Litigation Trust, issuance of the Litigation Trust Interests and execution and delivery of the Litigation Trust Agreement, and (f) all other actions contemplated by the Plan (whether to occur before, on, or after the Effective Date), in each case, in accordance with and subject to the terms and conditions hereof. All matters provided for in the Plan involving the limited liability company structure of the Debtor or the Reorganized Debtor, and any limited liability company action required by the Debtor or the Reorganized Debtor in connection with the Plan shall be in effect, without any requirement of further action by the members, managers, or officers of the Debtor or the Reorganized Debtor. On or before the Effective Date, the appropriate officers of the Debtor or the Reorganized Debtor, as applicable, shall be authorized and directed to issue, execute, and deliver the agreements, documents, New OneCore Interests, and instruments, or comparable documents, or franchise tax reports contemplated by the Plan (or necessary or



desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Reorganized Debtor, including, (a) the New Governance Documents, (b) the Exit Facility Credit Agreement, and (c) any and all other agreements, documents, New OneCore Interests, and instruments relating to the foregoing. The authorizations and approvals contemplated by this Section 10.12 shall be effective notwithstanding any requirements under non-bankruptcy law.

## **ARTICLE XI. RETENTION OF JURISDICTION.**

### **11.1 *Retention of Jurisdiction.***

On and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising in, arising under, and related to the Chapter 11 Case for, among other things, the following purposes:

(a) to hear and determine motions and/or applications for the assumption, assumption and assignment, or rejection of executory contracts or unexpired leases, including disputes over Cure Amounts, and the allowance, classification, priority, compromise, estimation, or payment of Claims resulting therefrom;

(b) to determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date;

(c) to ensure that distributions to holders of Allowed Claims are accomplished as provided for in the Plan and Confirmation Order and to adjudicate any and all disputes arising from or relating to distributions under the Plan, including, cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by the holder of a Claim or Interest for amounts not timely paid;

(d) to consider the allowance, classification, priority, compromise, estimation, or payment of any Claim;

(e) to enter, implement or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;

(f) to issue injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Entity with the consummation, implementation, or enforcement of the Plan, the Confirmation Order, or any other order of the Bankruptcy Court;

(g) to hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(h) to hear and determine all Professional Fee Claims;

(i) to adjudicate, decide, or resolve any and all matters related to section 1141 of the Bankruptcy Code;

(j) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, the Plan Supplement, the Litigation Trust Agreement, or the Confirmation Order or any agreement, instrument, or other document governing or relating to any of the foregoing, *provided that* any dispute arising under or in connection with the Exit Facility shall be dealt with in accordance with the provisions of the applicable document;

(k) to take any action and issue such orders as may be necessary to construe, interpret, enforce, implement, execute, and consummate the Plan;

(l) to determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(m) to hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code);

(n) to hear, adjudicate, decide, or resolve any and all matters related to Article X of the Plan, including the releases, discharge, exculpations, and injunctions issued thereunder;

(o) to resolve disputes concerning Disputed Claims or the administration thereof;

(p) to hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;

(q) to enter any final decrees closing the Chapter 11 Case;

(r) to adjudicate any and all disputes arising from or relating to distributions under the Plan;

(s) to resolve disputes as to the ownership of any Claim or Interest;

(t) to recover all assets of the Debtor and property of the Debtor's Estate, wherever located;

(u) to resolve any disputes concerning whether an Entity had sufficient notice of the Chapter 11 Case, the Disclosure Statement, any solicitation conducted in connection with the Chapter 11 Case, any bar date established in the Chapter 11 Case, or any deadline for responding or objecting to a Cure Amount, in each case, for the purpose of determining whether a Claim or Interest is discharged hereunder or for any other purpose;

(v) to hear and determine any rights, Claims, or Causes of Action held by or accruing to the Debtor pursuant to the Bankruptcy Code or pursuant to any federal statute or legal theory;

(w) to hear and resolve any dispute over the application to any Claim of any limit on the allowance of such Claim set forth in sections 502 or 503 of the Bankruptcy Code, other than defenses or limits that are asserted under non-bankruptcy law pursuant to section 502(b)(1)

of the Bankruptcy Code; and

(x) to resolve any and all suits, proceedings, or other matters against or involving the Patient Care Ombudsman and/or her Professionals.

### **11.2 *Courts of Competent Jurisdiction.***

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of the Plan, such abstention, refusal, or failure of jurisdiction shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by the federal and state courts situated in Oklahoma County, Oklahoma.

## **ARTICLE XII. MISCELLANEOUS PROVISIONS.**

### **12.1 *Payment of Statutory Fees.***

All fees payable pursuant to section 1930 of title 28 of the United States Code and any interest thereon pursuant to 31 U.S.C. § 3717 (“**Quarterly Fees**”) shall be paid in full in Cash on or before the Effective Date by the Debtor. After the Effective Date, the Reorganized Debtor and the Litigation Trustee shall pay all Quarterly Fees in full in Cash when due in Debtor’s case until such time as a final decree is entered closing the Debtor’s case, a Final Order converting the Debtor’s case to a case under chapter 7 of the Bankruptcy Code is entered, or a Final Order dismissing the Debtor’s case is entered, whichever occurs first. The Debtor shall file all monthly operating reports due prior to the Effective Date when they become due, using UST Form 11-MOR. After the Effective Date, the Reorganized Debtor shall file with the Bankruptcy Court a post-confirmation quarterly report for each the Debtor’s case for each quarter such case is pending, using UST Form 11-PCR. Notwithstanding anything to the contrary in the Plan, (i) Quarterly Fees are Allowed; (ii) the U.S. Trustee shall not be required to file any proof of claim or any other request(s) for payment with respect to Quarterly Fees; and (iii) the U.S. Trustee shall not be treated as providing any release under the Plan.

### **12.2 *Substantial Consummation of the Plan.***

On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

### **12.3 *Plan Supplement.***

The Plan Supplement shall be filed with the Clerk of the Bankruptcy Court. Upon its filing with the Bankruptcy Court, the Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court during normal court hours. Documents included in the Plan Supplement shall be posted at the website of the Debtor’s notice, claims, and solicitation agent.

### **12.4 *Request for Expedited Determination of Taxes.***

The Reorganized Debtor shall have the right to request an expedited determination under section 505(b) of the Bankruptcy Code with respect to tax returns of the Debtor filed, or to

be filed, for any and all taxable periods ending after the Petition Date through the Effective Date.

#### 12.5 *Exemption from Certain Transfer Taxes.*

Pursuant to section 1146 of the Bankruptcy Code, (a) the issuance, transfer or exchange of any New OneCore Interests, instruments or documents, (b) the creation of any Lien, mortgage, deed of trust, or other security interest, (c) the making or assignment of any lease or sublease or the making or delivery of any deed or other instrument of transfer under, pursuant to, in furtherance of, or in connection with the Plan, including any deeds, bills of sale, or assignments executed in connection with any of the transactions contemplated under the Plan or the revesting, transfer, or sale of any real or personal property of the Debtor pursuant to, in implementation of or as contemplated in the Plan (whether the Reorganized Debtor or otherwise), (d) the grant of collateral under the Exit Facility Credit Agreement, and (e) the issuance, renewal, modification, or securing of indebtedness by such means, and the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including the Confirmation Order, shall not be subject to any document recording tax, stamp tax, conveyance fee, or other similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, sales tax, use tax, or other similar tax or governmental assessment. Consistent with the foregoing, each recorder of deeds or similar official for any county, city, or governmental unit in which any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument without requiring the payment of any filing fees, documentary stamp tax, deed stamps, stamp tax, transfer tax, intangible tax, or similar tax.

#### 12.6 *Amendments.*

(a) The Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan prior to the entry of the Confirmation Order, including amendments or modifications to satisfy section 1129(b) of the Bankruptcy Code. After entry of the Confirmation Order, the Debtor may, upon order of the Bankruptcy Court, amend, modify, or supplement the Plan in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law.

(b) Before the Effective Date, the Debtor may make appropriate technical adjustments and modifications to the Plan and the documents contained in the Plan Supplement to cure any non-substantive ambiguity, defect (including any technical defect), or inconsistency, without further order or approval of the Bankruptcy Court.

#### 12.7 *Effectuating Documents and Further Transactions.*

Each of the officers of the Reorganized Debtor is authorized, in accordance with their authority under the resolutions of the applicable board of directors or managers (on terms materially consistent with the Plan), to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan, which shall be in form and substance reasonably satisfactory to the Debtor.

### 12.8 *Revocation or Withdrawal of the Plan.*

The Debtor may revoke or withdraw the Plan prior to the Effective Date. If the Plan has been revoked or withdrawn prior to the Effective Date, or if confirmation or the occurrence of the Effective Date does not occur on the Effective Date, then: (a) the Plan shall be null and void in all respects; (b) any settlement or compromise embodied in the Plan (including the fixing of or limiting to an amount of any Claim or Interest or Class of Claims or Interests), assumption of executory contracts or unexpired leases affected by the Plan, and any document or agreement executed pursuant to the Plan shall be deemed null and void; and (c) nothing contained in the Plan shall (i) constitute a waiver or release of any Claim by or against, or any Interest in, the Debtor or any other Entity, (ii) prejudice in any manner the rights of the Debtor or any other Entity, or (iii) constitute an admission of any sort by the Debtor or any other Entity.

### 12.9 *Severability of Plan Provisions.*

If, before the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtor, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted; *provided that* any such alteration or interpretation shall be reasonably acceptable to the Debtor. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is (a) valid and enforceable pursuant to its terms, (b) integral to the Plan and may not be deleted or modified without the consent of the Debtor, the Reorganized Debtor and the DIP Lender, Exit Facility Lender, solely to the extent that a particular term or provision affects the legal and/or economic rights of the DIP Lender or the Exit Facility Lender, as applicable, under the Plan, the DIP Credit Agreement or the Exit Facility Credit Agreement and (c) nonseverable and mutually dependent.

### 12.10 *Governing Law.*

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent an exhibit hereto or a schedule in the Plan Supplement or a Definitive Document provides otherwise, the rights, duties, and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Oklahoma, without giving effect to the principles of conflict of laws thereof.

### 12.11 *Time.*

In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

**12.12 *Dates of Actions to Implement the Plan.***

In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day but shall be deemed to have been completed as of the required date.

**12.13 *Immediate Binding Effect.***

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), 7062, or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and Plan Supplement shall be immediately effective and enforceable and deemed binding upon and inure to the benefit of the Debtor, the holders of Claims and Interests (irrespective of whether such Claims or Interests are deemed to have accepted the Plan), the Released Parties, the Exculpated Parties and each of their respective successors and assigns, including the Reorganized Debtor.

**12.14 *Deemed Acts.***

Subject to and conditioned on the occurrence of the Effective Date, whenever an act or event is expressed under the Plan to have been deemed done or to have occurred, it shall be deemed to have been done or to have occurred without any further act by any party, by virtue of the Plan and the Confirmation Order.

**12.15 *Successor and Assigns.***

The rights, benefits, and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor, or permitted assign, if any, of each Entity.

**12.16 *Entire Agreement.***

On the Effective Date, the Plan, the Plan Supplement, and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

**12.17 *Exhibits to Plan.***

All exhibits, schedules, supplements, and appendices to the Plan (including the Plan Supplement) are incorporated into and are a part of the Plan as if set forth in full herein.

**12.18 *Notices.***

All notices, requests, and demands to or upon the Debtor to be effective shall be in writing (including by electronic transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered, addressed as follows:

(a) if to the Debtor or the Reorganized Debtor:

OneCore Health  
100 NE 85th St.  
Oklahoma City, OK 73114  
Attn: Steve Hockert (shockert@solarasurgical.com)

- and -

Crowe & Dunlevy, P.C.  
324 N. Robinson Ave.  
Suite 100  
Oklahoma City, OK 73102  
Telephone: (405) 235-7700  
Attn: Will Hoch (will.hoch@crowedunlevy.com)  
Craig Regens (craig.regens@crowedunlevy.com)  
Kaleigh Ewing (kaleigh.ewing@crowedunlevy.com)

After the Effective Date, the Reorganized Debtor has authority to send a notice to Entities providing that, to continue to receive documents pursuant to Bankruptcy Rule 2002, they must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Reorganized Debtor is authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to (i) those Entities who have filed such renewed requests and (ii) those Entities whose rights are affected by such documents.

Dated: March 27, 2025

Respectfully submitted,

OneCore Health

By: /s/Steve Hockert

Name: Steve Hockert

Title: Chief Executive Officer

Approved for Entry:

**ONECORE**

/s/ Craig M. Regens

William H. Hoch, OBA #15788

Craig M. Regens, OBA #22894

Mark A. Craige, OBA #1992

Kaleigh Ewing, OBA #35598

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[kaleigh.ewing@crowedunlevy.com](mailto:kaleigh.ewing@crowedunlevy.com)

***Counsel to Debtor and Debtor in Possession***

**Exhibit 2**

**Liquidation Analysis of Hospital for Special Surgery, LLC *DBA* OneCore Health**

EXHIBIT 2

LIQUIDATION ANALYSIS OF  
HOSPITAL FOR SPECIAL SURGERY, LLC  
D/B/A ONECORE HEALTH

**I. Introduction**

Section 1129(a)(7) of the Bankruptcy Code requires that a bankruptcy court finds, as a condition to confirmation, that a Chapter 11 plan provides, with respect to each impaired class of claims or equity interests (“Claim”, “Claims” or “Allowed Claims”), that each holder of a claim or an equity interest in such impaired class either: (i) has accepted the plan; or (ii) will receive or retain under the plan property of a value that is not less than the amount that the non-accepting holder would receive or retain if the debtor’s assets were to be liquidated under Chapter 7 of the Bankruptcy Code on the effective date of the plan.

The Debtor, along with its restructuring, legal and financial advisors, have prepared this hypothetical analysis (“Liquidation Analysis”) in connection with the Plan of Reorganization (“Plan”) and Disclosure Statement. The Liquidation Analysis, also known as the “best interests test”, assumes Onecore Health (“Debtor” or “Company”) will pursue a hypothetical liquidation under Chapter 7 as of the estimated Effective Date of the Plan and the Debtor’s assets would be disposed of under the direction of a Chapter 7 trustee (“Trustee”). The Debtor believes that each holder of a Claim would receive equal or greater value under the Plan than such holder would receive if the Debtor was forced to liquidate under Chapter 7, and that, as a result, the Plan satisfies the “best interests” test of section 1129(a)(7) of the Bankruptcy Code. The Liquidation Analysis presented herein has been prepared solely for the purpose described above and may not be used for any other purposes.

The Liquidation Analysis contains numerous estimates, including estimated Allowed Claims, based upon a review of the Debtor’s financial statements. The Liquidation Analysis also includes assumptions and estimates for Claims incurred during the Chapter 11 case that could be asserted and allowed in a Chapter 7 liquidation, including unpaid Chapter 11 administrative claims and Chapter 7 administrative claims. To date, the Court has not estimated or otherwise fixed the total amount of Allowed Claims used for purposes of preparing the Liquidation Analysis. Therefore, the Debtor’s estimate of Allowed Claims set forth in the Liquidation Analysis should not be relied on for any other purpose, including determining the value of any distribution to be made on account of Allowed Claims under the Plan. The actual amount of Allowed Claims in the Chapter 11 Cases could materially differ from the estimated amounts in the Liquidation Analysis.

Management has prepared this Liquidation Analysis in good faith based upon what they believe are reasonable assumptions. Events and circumstances frequently do not occur as expected and differences between actual and expected results may be material. The Liquidation Analysis is based on factors that are outside the control of the Company including, but not limited to, regulatory, market, industry, competitive and economic factors. Accordingly, there can be no assurance that the values assumed in the Liquidation Analysis

would be realized if the Debtor's assets were actually liquidated. In addition, any liquidation would take place in the future, at which time circumstances may exist that cannot presently be predicted. In addition, there could be other potential alternatives that could occur in a hypothetical Chapter 7 liquidation that are not presented in the Liquidation Analysis, including alternatives that would reduce and/or delay creditor recoveries.

The Debtor has no obligation to update this Liquidation Analysis for any information that becomes available after the date of this filing. However, the Debtor reserves the right to amend or supplement the Liquidation Analysis upon receipt of additional information.

## **II. Conclusion – Consummation Of The Plan Will Provide Greater Value Than Under A Hypothetical Liquidation Through Chapter 7 Of The Bankruptcy Code**

The distributions to holders of Claims under the Liquidation Analysis provide for lower recoveries relative to the recoveries under the Plan, and therefore the Debtor believes that consummation of the Plan will provide no less favorable recoveries to Claimants than a liquidation under Chapter 7 of the Bankruptcy Code.

## **III. Methodology**

**Administrative Procedures and Conversion of Cases:** The Liquidation Analysis assumes that the Chapter 11 case is converted to a case under Chapter 7.

**Professionals Involved in the Chapter 7 Cases:** As part of the Chapter 7 case, the Debtor assume that the Trustee would choose to retain certain professionals, including counsel, financial advisors, and investment bankers or transaction brokers, among others, to provide expertise and assistance in the liquidation of the Debtor's assets. The Liquidation Analysis assumes that the Debtor's existing counsel and advisors would be replaced by the Trustee with new professionals.

**Timing Considerations of the Chapter 7 Cases:** The Liquidation Analysis assumes an expedited wind down of substantially all of the Debtor's operations commencing on or around May 1, 2025 (the "Conversion Date") and a subsequent liquidation of the Debtor's monetizable assets. Upon the Conversion Date, the Trustee would quickly wind down operations by immediately ceasing new patient admissions and working to safely transfer patients to alternative sites of care. The Liquidation Analysis assumes that it will take approximately two (2) weeks from the commencement of the closure process to a full cessation of healthcare operations. The timeframe assumes that applicable regulatory agencies do not require a more extended closure process, which would increase applicable operating costs. The transfer of care or closure of a medical provider must be conducted in accordance with state law. The change of ownership of Medicare and Medicaid providers is subject to specific legal processes. The Debtor would also need to address industry specific issues such as the transfer of medical reports in compliance with HIPAA rules. These constraints limit the ability to expedite the transition process. Following the period in which no patients remain at the Debtor's facilities, the Trustee would consummate piecemeal collection and sales of the Debtor's assets over an

approximately 180-day period.

The Liquidation Analysis assumes the use of cash collateral would be limited following the Conversion Date and that the Debtor would not have funds to support any process other than a process by the Trustee to convert the Debtor's assets to cash, thereby limiting the amount of administrative expenses. There is no assurance that a liquidation would be completed in the assumed timeframe, nor is there any assurance that the recoveries assigned to the Debtor's assets would be realized. If the Debtor is not allowed the use of cash collateral, recoveries in a liquidation are likely to be less than those shown in this Liquidation Analysis.

**Trustee Fees for Chapter 7 Administration:** Under section 326(a) of the Bankruptcy Code, for a case under Chapter 7, the Court may allow reasonable compensation for the Trustee's services not to exceed three percent (3.0%) of moneys exceeding \$1.0 million disbursed or turned over in the case by the Trustee to parties-in-interest, excluding the Debtor, but including holders of Secured Claims. The Debtor assumes in the Liquidation Analysis that such fees would be approximately three percent (3.0%) of gross liquidation proceeds, excluding proceeds from the Debtor's unrestricted cash at the Conversion Date.

**Additional Claims:** The cessation of the Debtor's business in a Chapter 7 liquidation is likely to trigger certain Claims that might otherwise not exist under the proposed Plan. Examples of these kinds of Claims include, but are not limited to, Claims related to rejection of executory contracts, litigation Claims, employment Claims, and Claims associated with the Debtor's financing structure. While some of these Claims could be significant and may be entitled to priority in payment over General Unsecured Claims, no adjustment has been made for these potential Claims unless specified in the assumptions and notes to the Liquidation Analysis.

**Basis of Presentation:** The Liquidation Analysis is based on the unaudited balance sheets of the Debtor as of January 31, 2025, with certain balances projected by the Debtor to reflect anticipated activity through the Conversion Date. The Liquidation Analysis contemplates that the Debtor's operations would be wound down beginning on the Conversion Date and assets would be sold in expedited transactions to various third-party buyers.

**Liquidation Analysis:** The Debtor assumes a liquidation would be conducted pursuant to Chapter 7 of the Bankruptcy Code, with a trustee ("Trustee") appointed to manage the bankruptcy estate. The Trustee would be responsible for liquidating the Debtor's assets in a manner intended to maximize the recovery to creditors. Asset sale proceeds resulting from the liquidation would be reduced by the expenses of the liquidation process prior to distributions to any holders of Allowed Claims. The three (3) major components of the liquidation process would be as follows: (i) administering and managing costs and post-conversion operational cash flow related to the liquidation process, such as personnel costs, Claims reconciliation costs, estate wind down costs, medical records retention and Trustee and professional fees; (ii) generation of cash proceeds from the sale/collection of assets; and (iii) distribution of net proceeds generated from asset sales to claimants in accordance with the priority scheme under Chapter 7 of the Bankruptcy Code. The Liquidation Analysis does not include recoveries resulting from any potential preferences, fraudulent conveyances or other litigation or avoidance action Claims.

		Liquidation Recovery %		Liquidation Recovery	
	Estimated 5/1/2025	Low	High	Low	High
Gross Liquidation Proceeds					
Cash	\$ 266,892	100%	100%	\$ 266,892	\$ 266,892
Accounts Receivable	6,013,828	52%	54%	3,149,807	3,275,662
Other Receivables	209,598	45%	55%	94,319	115,279
Inventory	1,047,838	10%	25%	104,784	261,960
Prepaid Insurance	610,894	0%	0%	-	-
Prepaid Other	177,928	0%	0%	-	-
Fixed Assets - Net	1,641,062	25%	35%	410,266	574,372
Insurance Policy Proceeds	527,000	100%	100%	527,000	527,000
Total Liquidation Proceeds	<u>\$ 10,495,040</u>			<u>\$ 4,553,067</u>	<u>\$ 5,021,164</u>
Chapter 7 Liquidation Costs					
Trustee Fees				128,585	142,628
Professional Fees				150,367	169,091
Total Chapter 7 Liquidation Costs				278,952	311,719
Liquidation Value				<u>\$ 4,274,115</u>	<u>\$ 4,709,445</u>
Liquidation Value (Rounded)				\$ 4,200,000	\$ 4,700,000

*Note: This Liquidation Analysis does not include estimates for the tax consequences, both Federal and state, that may be triggered upon the liquidation of assets in the manner described above. Such tax consequences could be material.*

#### IV. Key Assumptions of the Liquidation Analysis

**Cash and Cash Equivalents:** Cash and cash equivalents consist of unrestricted cash held in bank accounts as of the Conversion Date. Cash and cash equivalents are assumed to be fully recoverable. As of the Conversion Date, the Debtor estimates holding approximately \$267,000 of cash and cash equivalents.

**Net Patient Accounts Receivable:** The Liquidation Analysis assumes that the Trustee would retain a third party to assist with the collection of amounts owed from patients and third-party payors. Projected recoveries reflect the estimated cost to collect / monetize these balances, the offset of credit balances, and the impact of a scenario where the Debtor is not operating as a going concern. Net Patient Accounts Receivable is estimated at 10% of balances past due more than one hundred twenty (120) days and 45%-55% of the remaining balances outstanding.

**Other Receivables:** Other receivables are primarily comprised of ERC credits, sales tax refunds, utility deposits and leased space deposits.

**Inventory:** Inventory consists of medical supplies, medicines, protective equipment and other related items.

**Prepaid Insurance:** The Debtor made certain prepayments for future services to be rendered related to insurance premiums for workers compensation, property and machinery, general liability and cyber policies. The Debtor's policy contains a 100% minimum earned premium clause;

therefore, there is no potential recovery for prepaid insurance.

**Prepaid Other:** The Debtor made certain prepayments for future services to be rendered related to licensing, contract services, rent, software and medical supplies.

**Property, Plant and Equipment:** The Debtor maintains various fixed and movable furniture, fixtures, and equipment at their facility. The Debtor's property and plant assets consist of capital improvements.

**Insurance Policy Proceeds:** The Debtor's estimated balance on the wasting policy for professional and general liability as it relates to the litigation styled *In Re: Emma Base, et al. v. Onecore Health, et al.*, Case No. CJ-2022-1096; District Court for Oklahoma County, State of Oklahoma.

**Chapter 7 Liquidation Costs:**

The Liquidation Analysis assumes that new patient admissions would cease immediately upon the Conversion Date and employees would begin transferring patients to alternative sites of care, a process that would be completed within two (2) weeks of the Conversion Date. The operating cash flows shown include employee, insurance and utility related costs during such period to facilitate this process.

The Liquidation Analysis assumes that Net Patient Accounts Receivables related to the System's Pre-Conversion Date patient care operations will be collected or sold following the Conversion Date as reflected in the estimated recovery of the Net Patient Accounts Receivable balance as of the Conversion Date.

- Chapter 7 Trustee Fees: The Liquidation Analysis assumes Chapter 7 Trustee fees and expenses will total approximately 3% of gross liquidation proceeds, excluding cash, as previously described.
- Chapter 7 Professional Fees: Estimated Chapter 7 professional fees include estimated costs for legal, financial and transaction professionals retained by the Trustee following the Conversion Date.

**Recovery Analysis:** To the extent proceeds are available after payment of the Chapter 7 Liquidation Costs, such proceeds are allocated to applicable claimants in priority in accordance with section 726 of the Bankruptcy Code:

- Administrative & Priority Claims: Administrative Claims include estimated Claims for post petition employee wages and benefits, accounts payable, taxes, accrued expenses, accrued, unpaid Allowed Professional Fee Amounts, claims arising under section 503(b)(9) of the Bankruptcy Code and DIP Claims.
- Class 1: Class 1 represents the Secured Claim of U.S. Bank and Stryker Flex Financial. The Claim amount used in the Liquidation Analysis represent the unpaid principal of the obligation. The Liquidation Analysis assumes that all assets in which a Secured Claim is



asserted are collateral for such Claim.

- Class 2: Class 2 represents Unsecured Claims of critical vendors for prepetition liabilities.
- Class 3: Class 3 represents general prepetition Unsecured Claims for prepetition liabilities.
- Class 4: Class 4 represents the Unsecured Claim for the judgment in the litigation styled *In Re: Emma Base, et al. v. Onecore Health, et al., Case No. CJ-2022-1096; District Court for Oklahoma County, State of Oklahoma.*
- Class 5: Class 5 represents the existing OneCore ownership interests.

		Low		High	
	5/1/2025	Estimated		Estimated	
	Claims	Recovery	Recovery %	Recovery	Recovery %
Administrative & Priority Claims					
Post-Petition Administrative Expense Claims	2,200,000	2,042,065	92.8%	2,200,000	100.0%
Professional Fee Claims	250,000	232,053	92.8%	250,000	100.0%
Section 503(b)9 Claims	74,832	69,460	92.8%	74,832	100.0%
DIP Claims	2,000,000	1,856,423	92.8%	2,000,000	100.0%
Total Administrative Claims		4,200,000		4,524,832	
Other Secured Claims					
US Bank / Stryker Flex - Class 1	147,000	-	0.0%	147,000	100.0%
Total Secured Claims		-		147,000	
Unsecured Claims					
Critical Vendor Claims - Class 2	1,120,049	-	0.0%	1,700	0.2%
General Unsecured Claims - Class 3	2,173,171	-	0.0%	3,298	0.2%
Emma Base Claim - Class 4	15,265,541	-	0.0%	23,170	0.2%
Existing OneCore Interests - Class 5		-	0.0%	-	0.0%
Total Unsecured Claims		-		28,168	
Grand Total		\$ 4,200,000		\$ 4,700,000	