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Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11 Case  
: No. 10-13553 (SCC)  
NORTH GENERAL HOSPITAL, et al., :  
: :  
Debtors. : (Jointly Administered)  
: :  
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**FURTHER REVISED SECOND AMENDED PLAN OF LIQUIDATION**

North General Hospital, North General Service Corporation and North General Diagnostic & Treatment Center, Debtors-in-Possession (each a “Debtor” and collectively the “Debtors”), hereby propose this Chapter 11 Plan of Liquidation (the “Plan”) pursuant to Section 1121(a) of Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”).

**ARTICLE 1**

**DEFINITIONS**

1.1. Defined Terms. For the purpose of this Plan, each of the terms set forth in this Article 1 shall have the meaning ascribed thereto below and such meaning shall be equally applicable to the singular and plural forms of the terms defined. All of the definitions and provisions contained in this Article 1 are and shall be regarded as integral, substantive and operative provisions of this Plan.

1.2. Other Terms. A term that is used in the Plan and not defined herein, but that is defined in the Bankruptcy Code or in the Bankruptcy Rules, shall have the meaning set forth therein. Any reference contained in this Plan to a particular exhibit, paragraph or article shall be deemed to be a reference to an exhibit, paragraph or article of this Plan.

1.3. Rules of Construction. The rules of construction set forth in Section 102 of the Bankruptcy Code shall be applicable to all of the provisions of this Plan. Without in any way limiting the foregoing, as used in this Plan, the words “includes” and “including” are without limitation.

“Administrative Claim” shall mean any actual and necessary cost or expense of administration of the Case or preservation of the Estates allowed under Sections 503(b) and 507(a)(2) and (b) of the Bankruptcy Code, including all claims for Professional Fees, U.S. Trustee Fees or any other Allowed Claims entitled to be treated as Administrative Claims pursuant to a Final Order of the Bankruptcy Court.

“Allowed” when used as an adjective preceding the word “Claim” or “Membership Interest,” shall mean any Claim against or Membership Interest in the Debtors:

a. in respect of which a proof of Claim or interest has been filed with the Court on or before the Bar Date and (i) as to which no objection to the allowance thereof has been interposed within any applicable period of limitation fixed by Final Order or this Plan; or (ii) as to which any such objection has been interposed, and such objection has been withdrawn or determined by a Final Order;

b. which has been or hereafter is scheduled by the Debtors as liquidated in amount and not disputed or contingent as to liability and, as to which no objection to the allowance thereof has been interposed within any applicable period of limitation;

c. any Claim or Membership Interest specifically identified in this Plan as an Allowed Claim or an Allowed Membership Interest; [and or in respect of Medical Malpractice Claims estimated, by a Final Order]. An “Allowed Claim” shall be net of any valid setoff or recoupment amount based on a valid setoff or recoupment right. Except as otherwise expressly provided herein, the term “Allowed Claim” shall not, for the purposes of computation of distributions under the Plan, include (i) any non-compensatory penalties, fines, punitive damages, exemplary damages, multiple damages, treble damages, or any other Claims or obligations that do not compensate for actual losses incurred or (ii) any other amounts not allowable under the Bankruptcy Code or applicable law.

“Avoidance Action” shall mean any Claims, rights, defenses, or other Causes of Action arising under any Section of Chapter 5 of the Bankruptcy Code, including, without limitation, Sections 502, 510, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551, and 553 of the Bankruptcy Code, or under similar or related state or federal statutes and common law, including state fraudulent transfer laws, whether or not prosecution of such actions has commenced as of the Confirmation Date or the Effective Date.

“Ballot” shall mean the form distributed to each holder of an Impaired Claim against the Debtors that is entitled to vote to accept or reject the Plan on which is to be indicated, among other things, acceptance or rejection of the Plan.

“Bankruptcy Code” shall mean the Bankruptcy Reform Act of 1978, as amended, and in effect on the Petition Date and as set forth in Title 11 of the United States Code.

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure as in effect on the Petition Date, as the same may be amended or modified.

“Bar Date” shall mean the last date fixed by Final Order of the Bankruptcy Court for filing proofs of claim or interests in these Cases.

“Business Day” shall mean any day except a Saturday, Sunday or “legal holiday” as such term is defined in Bankruptcy Rule 9006(a).

“Case” or “Cases” shall mean the Debtors’ jointly administered cases under Chapter 11 of the Bankruptcy Code, carried under Chapter 11 Case No. 10-13553 (SCC), which were commenced by the filing of a voluntary petitions with the Court on the Petition Date.

“Cash”, shall mean with respect to payment under the Plan, lawful currency of the United States of America, regular check, certified check, bank check or wire transfer from a domestic bank, or cash equivalent.

“Causes of Action” shall mean any and all claims, rights, defenses, offsets, recoupments, actions in law or equity or otherwise, choses in action, suits, damages, rights to legal or equitable remedies, judgments, third-party claims, counterclaims and cross-claims against any Person, whether arising under the Bankruptcy Code or federal, state, common, or other law, regardless of whether such Causes of Action are known or unknown, disputed or undisputed, or are the subject of pending litigation or proceedings on the Confirmation Date, the Effective Date, or thereafter, including, without limitation, as to Causes of Action of the Debtors: (a) all Avoidance Actions; (b) all other Claims in avoidance, recovery, and/or subordination; and (c) all other actions described in the Disclosure Statement, the Schedules, or the Plan.

“Claim” shall mean a claim against the Debtors, whether or not asserted or allowed, as such term is defined in Section 101(5) of the Bankruptcy Code.

“Class” shall mean a Class of Claims against the Debtors or Membership Interests described in Article 2 of the Plan, promulgated pursuant to Section 1123(a)(1) of the Bankruptcy Code.

“Collateral” means any property or interests in property of the Estates of the Debtors that is subject to an unavoidable Lien to secure payment or performance of a Claim.

“Committee” shall mean the Official Committee of Unsecured Creditors appointed by the U.S. Trustee in the Cases, as constituted from time to time, in its official capacity and as representative of holders of Unsecured Claims with respect to the Cases, but does not mean the members of the Committee in their individual capacities.

“Confirmation Date” shall mean the date on which the Confirmation Order is entered on the docket of the Cases.

“Confirmation Order” shall mean the Order of the Bankruptcy Court confirming this Plan pursuant to Section 1129 of the Bankruptcy Code.

“Consummation Date” shall mean the date when substantially all payments under the Plan have been made, and all of the Estate Assets otherwise have been distributed or administered.

“Covered Person” shall mean any physician, resident, fellow, nurse or other employee of the Debtors to the extent that such Person has an Indemnification Claim against the Debtors.

“Court” or “Bankruptcy Court” shall mean the United States Bankruptcy Court for the Southern District of New York, and any appellate or other court that is competent to exercise jurisdiction over any matter or proceeding arising in or relating to the Cases.

“Creditor” shall mean any holder of a Claim against any Debtor or any Estate Assets of any Debtor as defined in Section 102(2) of the Bankruptcy Code.

“DASNY” shall mean The Dormitory Authority of the State of New York.

“DASNY Deficiency Claim” means the under secured portion of DASNY’s Claim as defined in Section 5.1(d) of the Plan.

“DASNY Secured Claim” shall mean DASNY’s right to payment, whether reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, undisputed, legal, equitable, as a result of loans or advances made by DASNY to the Debtors and secured by Collateral in the form of the Real Property and all other Estate Assets subject to its Liens. The DASNY Secured Claim shall include any and all claims arising under the DIP Loan, including all secured, superpriority and administrative claims relating thereto.

“Debtor” or “Debtors” shall mean one or all of North General Hospital, North General Service Corporation and North General Diagnostic & Treatment Center, the Debtors in Possession in these jointly administered Cases, as the context dictates.

“Deficiency Claims” shall mean any portion of an Allowed Claim(s) secured by a Lien on property in which the Estate has an interest, or that is subject to setoff, to the extent that the value of such Creditor’s interest or the amount subject to setoff is less than the amount of such Allowed Claim.

“DIP Loan” shall mean all loan and advances under the \$14,000,000 Senior Secured Priority and Super Priority Debtor-in-Possession Credit Agreement, dated July 2, 2010, between the Debtors and DASNY, including any amendment thereof.

“Disallowed” shall mean with reference to any Claim, a Claim against any Debtor or any portion thereof that: (i) has been disallowed, in whole or in part, or expunged by a Final Order; (ii) has been withdrawn, in whole or in part, by the holder thereof or by agreement with the Debtors; (iii) is scheduled at zero or as contingent, disputed or unliquidated and as to which no proof of Claim has been filed by the applicable Bar Date or deemed timely filed with the Court pursuant to either the Bankruptcy Code or any Final Order; or (iv) is not listed in the Schedules and as to which no proof of Claim has been timely filed by the applicable Bar Date or deemed timely filed with the Court pursuant to either the Bankruptcy Code or any Final Order.

“Disclosure Statement” shall mean the disclosure statement filed with the Court by the Debtors with respect to the Plan, including all exhibits and schedules thereto, which was approved by the Court pursuant to Section 1125 of the Bankruptcy Code, as it may be altered, amended, supplemented or modified from time to time.

“Disputed Claim” shall mean a Claim against any Debtor that is not an Allowed Claim or a Disallowed Claim.

“Disputed Claims Reserve” shall mean the account maintained by the Liquidation Trustee for the payment of Disputed Claims that may become Allowed Claims after the Effective Date as provided in Section 8.15 of the Plan.

“D&O Policy” means any policy of directors’ and officers’ insurance maintained by any of the Debtors which covers the Debtors’ current and/or former directors and officers.

“DOH” shall mean the New York State Department of Health.

“Effective Date” shall mean the first Business Day upon which each of the conditions in Article 14 of the Plan has been satisfied or, if permitted, waived pursuant to Section 14.3 of the Plan, and on which no stay of the Confirmation Order is pending.

“Enjoined Entities” shall mean each holder of a Claim, each party in interest, and each entity acting or purporting to act by, through, under or on behalf of any of the foregoing.

“Estate Assets” shall mean any and all property of the Estates, of every kind and character, wherever located, whether real or personal, tangible or intangible, and all proceeds therefrom including, without limitation: (i) any and all Claims or Causes of Action of the Debtors or the Estates against third parties; (ii) any unencumbered Assets of the Estates not otherwise identified in this definition; (iii) the Remaining Cash; and (iv) all files, books and records relating to the Debtors’ business or the administration of the Plan.

“Estates” shall mean the jointly administered Chapter 11 estates of each of the Debtors created by Section 541 of the Bankruptcy Code.

“Executory Contract” shall mean the type of agreement contemplated by the like term found in Section 365 of the Bankruptcy Code.

“Final Order” shall mean an order of the Court which shall not have been reversed, stayed, modified or amended and:

- a. the time to appeal from or to seek review or rehearing of same shall have expired;
- b. no appeal, review, certiorari or rehearing is pending; and,
- c. the order has become conclusive of all matters adjudicated and is in full force and effect; provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the

Bankruptcy Rules, may be filed with respect to such order shall not cause such order not to be a Final Order.

“HHC” shall mean the NYC Health and Hospital Corporation.

“IFH” shall mean the Institute for Family Health.

“IFH Leases” shall mean the leases IFH entered into with the Debtors, dated \_\_\_\_\_, for the use and occupancy of certain space at the Debtors’ Real Property at 1824 and 1879 Madison Avenue, New York, New York.

“IFH Note” shall mean that promissory note executed and delivered to the Debtors by IFH evidencing IFH’s obligation under the IFH Leases to pay to the Debtors the amount thereunder in exchange for the Debtors’ sale to IFH of certain medical equipment.

“Impaired” shall mean any Class of Claims that is “impaired” within the meaning of Section 1124 of the Bankruptcy Code.

“Indemnification Claim” shall mean any Claim by a Covered Person against the Debtors for indemnification, subrogation, contribution or reimbursement for all liabilities, loss, damage, costs and expenses of whatever kind, including attorneys fees, arising from any professional liability claim or lawsuit which may arise by reason of negligent acts committed or performed within the scope of such Covered Person’s employment, studies, administrative or committee functions or responsibilities with the Debtors.

“Initial Administrative Claims Bar Date” shall mean November 18, 2010, the last date fixed by Final Order of the Bankruptcy Court, dated October 14, 2010 [Docket No. 258] for filing Proofs of Administrative Claims in the Cases.

“Liens” shall mean any and all liens, security interests, encumbrances, mortgages, pledges, or any other interest in Collateral to secure payment of a debt or performance of an obligation.

“Liquidation Trustee” shall mean \_\_\_\_\_, and any successor thereafter appointed under the terms of this Plan and the Confirmation Order for the purpose of making distributions under the Plan.

“Mediation Order” shall mean that certain Order of the Bankruptcy Court, which Order, among other things: will (a) establish the Mediation Procedures; and (b) enjoin the commencement or continuation of Medical Malpractice Claims against, among others, the Debtors and the Covered Person.

“Mediation Procedures” shall mean procedures established to resolve Medical Malpractice Claims pursuant to the Mediation Order.

“Medical Malpractice Claim” shall mean any prepetition Claim asserted or which can be asserted against any of the Debtors or Covered Person on account of or related to such Debtor’s purported liability resulting from the provision of medical services including personal injury or

wrongful death claims, net of the proceeds of any third party insurance available to pay the holder of such Claim.

“Membership Interests” shall mean the membership interests in any of the Debtors.

“MOU” shall mean that certain memorandum of understanding by and among the Debtors, DASNY, IFH and HHC, dated September 24, 2010, relating to the lease of the Real Property to HHC by DASNY and the sale of the Parking Lot after Confirmation of the Plan.

“Net Proceeds” shall mean the Remaining Cash together with the aggregate Cash proceeds (i) of all Estate Assets disposed of by the Estates prior to the Effective Date and (ii) from the liquidation of the Estate Assets thereafter, minus Cash necessary to fund pending or future obligations in respect of U.S. Trustee Fees, Allowed Administrative Claims, Allowed Priority Claims, Allowed Priority Tax Claims and Allowed Secured Claims, the costs of collection and the payment of any amounts necessary to fund the Causes of Action or expenses of the Liquidation Trustee (and related interest, fees, and expenses related to each), and the Disputed Claims Reserve, as applicable, in connection therewith.

“NGH Parking Lot” shall mean the vacant paved lot located at 1879 Madison Avenue, New York, NY 10018, Block 1747, Lot 35.

“PBGC” shall mean the wholly owned United States Government corporation that guarantees the payment of certain benefits upon termination of a pension plan covered by Title IV of the Employment Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1301-1461 (2006 & Supp. III 2009).

“PBGC Secured Claim” means the Secured Claim asserted by the PBGC as more particularly defined and described in Section 5.1(c) of the Plan.

“Pension Plan” shall mean the North General Hospital Pension Plan, Employer Identification No./Plan No. 132996345/003, a single-employer pension plan covered by Title IV of the Employment Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1301-1461 (2006 & Supp. III 2009).

“Person” shall mean an individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, estate, unincorporated organization, government (or agency or political subdivision thereof), or other entity.

“Petition Date” shall mean July 2, 2010, the date on which each of the Debtors filed its voluntary petition under Chapter 11 of the Bankruptcy Code.

“Plan” shall mean this Chapter 11 Plan of Liquidation of the Debtors, including any exhibits hereto (which exhibits are hereby expressly incorporated in this Plan by reference as if set forth herein in their entirety), and any amendments, modifications or corrections to this Plan.

“Plan Administrative Claims Bar Date” shall mean the first Business Day that is thirty (30) days after the Effective Date of the Plan or such other date as may be established by an Order of the Bankruptcy Court.

“Pre Petition Cash” shall mean any and all Cash in the possession, custody or control of the Debtors that are attributable to the Debtors’ operations prior to the Petition Date.

“Priority Claim” shall mean any Claim entitled to priority in accordance with Section 507 of the Bankruptcy Code other than an Administrative Claim or a Priority Tax Claim.

“Priority Tax Claim” shall mean any Claim entitled to priority pursuant to Section 507(a)(8) of the Bankruptcy Code.

“Professional Fee Claims” shall mean all Claims for fees, costs and reimbursement of expenses incurred in the Case by any professional person (within the meaning of Sections 327, 328, 330, 331, 363, 503(b) or 1103 of the Bankruptcy Code or otherwise), retained under an order of the Bankruptcy Court, which fees, costs, and expenses shall have been awarded by Final Order of the Bankruptcy Court pursuant to Sections 330 or 503 (b) of the Bankruptcy Code.

“Professional Fee Claims Bar Date” shall mean 4:00 p.m. (prevailing Eastern time) on the date that is forty-five (45) days after the Effective Date or such later date as may be set by the Bankruptcy Court.

“Real Property” shall mean all right, title and interest of the Debtors in and to the real property at 1824 and 1879 Madison Avenue, New York.

“Pro Rata” shall mean with respect to any monetary distribution on account of any Allowed Claim in any Class, the ratio of (a) the amount of such Allowed Claim to (b) the sum of (i) all Allowed Claims in such Class and (ii) the aggregate maximum allowable amount of all Disputed Claims in such Class for which any reserve must be established under the Plan.

“Remaining Cash” shall mean all Cash held by or for the benefit of the Estates upon the Effective Date.

“Retained Professional” shall mean the professional entity which may be employed with the approval of the Bankruptcy Court under Sections 327, 328, 330, 331, 363, 503(b) and 1103 of the Bankruptcy Code.

“Scheduled” shall mean with respect to any Claim, that such Claim is listed on the Schedules.

“Schedules” shall mean the Schedules of Assets and Liabilities filed with the Court on August 17, 2010 in the Cases, as amended from time to time in accordance with Bankruptcy Rule 1009.

“Secured Claim” shall mean a Claim (a) which the holder has the right to look to certain specified Collateral for satisfaction of its Claim, and (b) against the Debtors to the extent such Claim is secured by a valid lien, security interest, or other interest in property in which the Debtors have an interest, that has been perfected properly as required by applicable law and is not otherwise avoidable by the Debtors as debtors in possession or any other Person, but only to the extent of the value of the Debtors’ interests in such property determined in accordance with

Section 506(a) of the Bankruptcy Code, or, in the event that such Claim is subject to setoff under Section 553 of the Bankruptcy Code, to the extent of such setoff.

“Unclaimed Property” shall have the meaning ascribed to that term in Section 8.19 of the Plan.

“Unimpaired” shall mean, with respect to a Class of Claims, that such Class is not Impaired.

“Unsecured Claim” shall mean a Claim which is not a Secured Claim, Administrative Claim, Priority Claim or Priority Tax Claim.

“U.S. Trustee” shall mean the Office of the United States Trustee for the Southern District of New York.

“U.S. Trustee Fees” shall mean all fees and charges assessed against the Estates under Section 1930 of Title 28 of the United States Code, and interest, if any, for delinquent quarterly fees pursuant to Section 3717 of Title 31 of the United States Code.

“Water Board Secured Claim” shall mean the Secured Claim of the New York City Water Board as described and defined in Section 5.1(b) of the Plan.

## ARTICLE 2

### **CLASSIFICATION OF CLAIMS AND MEMBERSHIP INTERESTS**

2.1. (A) Classification of Allowed Claims and Membership Interests; Elimination of Classes. A Claim is in a particular Class only to the extent that the Claim falls within the description of that Class and is in a different Class to the extent that the remainder of the Claim falls within the description of a different Class. In addition, a Claim in a particular Class is entitled to a distribution under the Plan only to the extent that the Claim is Allowed. Any Class of Claims that is not occupied as of the date of the hearing before the Court on confirmation of the Plan by an Allowed Claim, or a Claim temporarily Allowed under Rule 3018 of the Bankruptcy Rules, and for which, on the Effective Date, there are no Disputed Claims in such Class pending, shall be deemed deleted from the Plan for all purposes.

#### Classes:

(B) Claims, other than Administrative Claims and Priority Claims, shall be classified for all purposes, including voting, confirmation and distribution as follows:

Class 1(a) (b) (c) and (d)	Secured Claims
Class 2	Priority Tax Claims
Class 3(a) and (b)	General Unsecured Claims, including Medical Malpractice Claims

## Class 4

## Membership Interests

Class 1: Secured Claims. Class 1 consists of Secured Claims against the Debtors. Given the differences in Collateral securing such Claims, the Plan classifies Secured Claims in Class 1 in four (4) separate subclasses, each based on the underlying Collateral securing such Secured Claim. Each subclass is a distinct Class for treatment and distribution purposes and for all other purposes under the Bankruptcy Code. Class 1(a) consists of all Secured Claims other than the Water Board Secured Claim, the PBCG Secured Claim and the DASNY Secured Claim. The Class 1(a) Secured Claims are not Impaired by the Plan and, are deemed to have accepted the Plan. Class 1(b) consists of the Water Board Secured Claim which is not Impaired by the Plan and is therefore deemed to have accepted the Plan. Class 1(c) consists of the PBCG Secured Claim which is Impaired by the Plan and is therefore entitled to vote to accept or reject the Plan. Class 1(d) consists of the DASNY Secured Claim which is impaired by the Plan and is therefore entitled to vote to accept or reject the Plan.

Class 2: Priority Tax Claims. Class 2 consists of Priority Tax Claims against the Debtors. Class 2 is not Impaired by the Plan and, therefore, each holder of a Class 2 Claim is deemed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

Class 3: General Unsecured Claims. Class 3 consists of Unsecured Claims against the Debtors. The Plan classifies Unsecured Claims in Class 3 as two (2) separate subclasses. Class 3(a) shall include Unsecured Claims other than Medical Malpractice Claims, Class 3(b) shall include Medical Malpractice Claims. Class 3(a) and Class 3(b) are both Impaired by the Plan and, therefore, each holder of a Class 3(a) or Class 3(b) Claim is entitled to vote to accept or reject the Plan.

Class 4: Membership Interests. Class 4 consists of all Membership Interests. The holders of the Membership Interests in Class 4 shall not receive or retain any property under the Plan and, therefore, are deemed to have rejected the Plan. Thus, the holders of the Membership Interests in Class 4 are not entitled to vote to accept or reject the Plan.

## ARTICLE 3

### **PROVISIONS FOR TREATMENT OF PROFESSIONAL FEE CLAIMS**

3.1. Professional Fee Claims Bar Date. All final applications for payment of Professional Fee Claims for the period through and including the Effective Date shall be filed with the Court and served on the Liquidation Trustee and the other parties entitled to notice pursuant to the Interim Compensation and Reimbursement Procedures Order [Docket No. 143] on or before the Professional Fee Claims Bar Date, or such later date as may be agreed to by the Liquidation Trustee. Any Professional Fee Claim that is not asserted in accordance with this Section 3.1 shall be deemed Disallowed under the Plan and the holder thereof shall be enjoined from commencing or continuing any action to collect, offset, recoup or recover such Claim.

3.2. Treatment. Each holder of an Allowed Professional Fee Claim shall be paid by the Debtors or the Liquidation Trustee, as applicable, in Cash from the Remaining Cash an amount equal to such Allowed Professional Fee Claim on or as soon as reasonably practicable after the

first Business Day following the date upon which such Claim becomes Allowed by Final Order, unless the Debtors or the Liquidation Trustee, as applicable, and such holder shall agree to different and less favorable treatment of such Claim.

3.3. Post Effective Date Services. The fees and expenses of professionals retained by the Liquidation Trustee on and after the Effective Date, shall be paid by the Liquidation Trustee upon receipt of invoice(s) therefor, or on such other and less favorable terms as the professional Liquidation Trustee may agree to, without the need for further Court authorization or entry of a Final Order. If the Liquidation Trustee and the professional cannot agree on the amount of post Effective Date fees and expenses to be paid to such professional, such amount shall be determined by the Court.

## ARTICLE 4

### **PROVISIONS FOR TREATMENT OF ADMINISTRATIVE AND PRIORITY CLAIMS**

4.1. Plan Administrative Claims Bar Date. Except for (1) professionals requesting compensation or reimbursement for Professional Fee Claims, and (2) US Trustee Fees, and (3) claimants who were required to file proofs of Administrative Claims on or before the Initial Administrative Claims Bar Date, requests for payment of Administrative Claims must be filed no later than 30 days after entry of the Confirmation Order with the Bankruptcy Court or such later date established by the Bankruptcy Court with notice to the Liquidation Trustee and DASNY.  **Holders of Administrative Claims who are required to file a request for payment of such Claims and who do not file such requests by the Plan Administrative Bar Date shall be forever barred from asserting such Claims against the Debtors or their property, and the holder thereof shall be enjoined from commencing or continuing any action to collect, offset or otherwise recover such Administrative Claim.**

4.2. Treatment. Subject to the Initial Administrative Claims Bar Date and the Plan Administrative Claims Bar Date, and except to the extent the Debtors or the Liquidation Trustee, as applicable, and the holder of the Allowed Administrative Claims or Allowed Priority Claim agree to different and less favorable treatment, the Liquidation Trustee shall pay to the holder of an Allowed Administrative Claim, (other than Professional Fee Claim) or an Allowed Priority Tax Claim, the Allowed Amount thereof, in Cash from Remaining Cash, on the later of the Effective Date or the date such claim becomes an Allowed Administrative Claim or Priority Claim.

4.3. U.S. Trustee Fees. The Debtors or the Liquidation Trustee, as applicable, shall pay all U.S. Trustee Fees on or before the Effective Date, and until such time as the Bankruptcy Court enters a final decree closing the Cases.

## ARTICLE 5

### **PROVISIONS FOR TREATMENT OF SECURED CLAIMS**

5.1. (a) Class 1(a) Secured Claims. Except with respect to the DASNY Secured Claim, the Water Board Secured Claim and the PBGC Secured Claim as provided below, on the

later of: (i) the Effective Date, or (ii) the date any Class 1(a) Secured Claim that was a Disputed Claim thereafter becomes an Allowed Secured Claim, or as soon thereafter as is practicable, holders of Allowed Secured Claims shall be paid by the Liquidation Trustee: (x) the amount of such Allowed Secured Claim, in Cash, from the Remaining Cash, or (y) such other and less favorable treatment as may be agreed to by the Liquidation Trustee and the holder of such Allowed Secured Claim, provided that in no event shall the holder of such Allowed Secured Claim receive more than the value of the Collateral securing such Claim. To the extent that the value of the Collateral securing any Allowed Secured Claim is less than the amount of such Claim, the undersecured portion shall be deemed a Deficiency Claim and treated as an Unsecured Claim in Class 3.

(b) Class 1(b) Water Board Secured Claims. The Water Board filed a Secured Claim under the Public Authorities Law §1045(j)(5) and the New York City Administrative Code §11-301 in the amount of \$617,453.54, plus statutory interest at 9% accruing thereon until fully paid (the “Water Board Secured Claim”) secured by a first priority primary Lien in and against the Real Property (the “Water Board Lien”). On and after the Effective Date the Water Board shall retain the Water Board Lien on the Real Property after such property is conveyed to DASNY, and shall be paid in full, in Cash, from the first proceeds of the sale of the NGH Parking Lot as and when the NGH Parking Lot is sold to HHC in accordance with the MOU.

(c) Class 1(c) PBGC Secured Claim. Each Debtor is a contributing sponsor, or a member of a contributing sponsor’s controlled group (as determined pursuant to 29 U.S.C. § 1301(a)(14)) with respect to the Pension Plan. On December 7, 2010, the PBGC issued to Mr. John P. Maher, Plan Administrator of the Pension Plan under 29 U.S.C. § 1002(16) and 1301(a)(1), a notice of determination stating that the PBGC has determined, under 29 U.S.C. § 1342(a)(1) and (2), that (i) the Pension Plan has not met the minimum funding standard required under Section 412 of the Internal Revenue Code and will be unable to pay benefits when due; (ii) under 29 U.S.C. § 1342(c), the Pension Plan must be terminated to protect the interests of the Pension Plan’s participants; and, (iii) that the PBGC intends to proceed to have the Pension Plan terminated and the PBGC appointed as the statutory trustee, with December 8, 2010, being established as the Pension Plan’s termination date. On January 24, 2011, the Debtors moved for an order authorizing Mr. Maher to enter into an agreement with the PBGC that, inter alia, terminates the Pension Plan pursuant to 29 U.S.C. § 1342(c), names the PBGC as the Pension Plan’s statutory trustee pursuant to 29 U.S.C. § 1342(c), and establishes the Pension Plan’s termination date as December 8, 2010 (the “Trusteeship Agreement”). Upon the Court’s entry of such an order, Mr. Maher will promptly execute and deliver two signed originals of the Trusteeship Agreement to the PBGC.

The PBGC has filed one (1) contingent unliquidated proof of claim against North General Hospital for statutory liability to the Pension Plan for unpaid minimum funding contributions under 26 U.S.C. §§ 412, 430 and 29 U.S.C. § 1082. PBGC alleges that this proof of claim is secured by statutory liens filed by the PBGC, on behalf of the Pension Plan, against North General Hospital’s property and rights to property in the aggregate amount of \$8,810,145 plus interest. In the Disclosure Statement accompanying this Plan, the Committee reserved its right to challenge the PBGC’s assertion of secured status for their claim. However, the value of the Debtors’ assets to which these liens would otherwise attach is less than the amount of the Secured Claims with a priority over these lien claims. To the extent the PBGC Secured Claim is

Allowed, in full and final satisfaction thereof, the Liquidation Trustee shall pay to the PBGC, in Cash from the Remaining Cash, the Allowed Amount of such claim on the later of the Effective Date or the date such Claim is Allowed by Final Order of the Bankruptcy Court. The deficiency amounts of these claims are unsecured and shall be treated and classified as an Unsecured Claim.

(d) Class 1(d) DASNY Secured Claim. In full and final satisfaction and discharge of the DASNY Secured Claim, which is Allowed and valued at \$36,900,000.00, DASNY (or its designee) shall receive (i) subject to the Water Board Lien and IFH Lease but otherwise free and clear of liens, the transfer and conveyance of fee simple title to the Real Property, (ii) any equipment and other assets that DASNY in its sole discretion believes is necessary for the continuing healthcare mission (as set forth in the MOU) at the Facility, (iii) the assignment of any amounts paid or otherwise due the Debtors from IFH, under the IFH Lease and the IFH Note, (iv) the assignment of the IFH Lease and the IFH Note, (v) the assignment of any grants or other funding that the Debtors may receive from the United States and/or New York State, which grants and other funding may be used as a source of payment of the Debtors' Administrative, Priority and other Secured Claims, and (vi) a full and general release of any and all Claims in respect to the Debtors. The remaining amount of DASNY's Claims shall be a Deficiency Claim and shall be treated as a Class 3(a) Unsecured Claim. In addition, in respect of the settlement and treatment of the DASNY Secured Claim as herein provided and the releases granted herein, DASNY agrees to fund the Debtors with not less than \$500,000 from the remaining proceeds of the DIP Loan or otherwise.

## ARTICLE 6

### **PROVISIONS FOR TREATMENT OF PRIORITY TAX CLAIMS**

6.1. Classification. Class 2 shall consist of Allowed Priority Tax Claims of a State, Federal or Municipal taxing authority. Class 2 is not Impaired.

6.2. Treatment. Except to the extent that a holder of an Allowed Priority Tax Claim and the Debtors or the Liquidation Trustee, as applicable, agree to different and less favorable treatment, which treatment shall be reasonably acceptable to DASNY, each holder of an Allowed Priority Tax Claim shall receive Cash on the Effective Date in an amount equal to such Allowed Priority Tax Claim from Remaining Cash. Any Claim or demand for a penalty relating to any Priority Tax Claim (other than a penalty of the type specified in Section 507(a)(8)(G) of the Bankruptcy Code) shall be Disallowed, and the holder of an Allowed Priority Tax Claim shall not assess or attempt to collect such penalty from the Debtors' Estates or any of the Estate Assets, provided however that the foregoing provision shall not apply to the United States Internal Revenue Service.

## ARTICLE 7

### **PROVISIONS FOR TREATMENT OF UNSECURED CLAIMS MEDICAL MALPRACTICE CLAIMS AND MEMBERSHIP INTERESTS**

7.1. Unsecured Claims. After the payment of all Allowed, or reserving in full for all Disputed, Secured Claims, Administrative Claims, Professional Fee Claims, Priority Tax Claims and Priority Claims, each in accordance with the provisions of the Plan, each holder of an Allowed Class 3(a) Unsecured Claim shall receive, in full and final satisfaction of its claims, its Pro Rata share of proceeds from the Liquidation Trust.

7.2. Medical Malpractice Claims. Pursuant to the Mediation Procedures:

(a) Each holder of a Class 3(b) Medical Malpractice Claim for which a proof of claim was timely filed (or deemed timely filed) may elect to be granted relief from the automatic stay imposed under Section 362(a) of the Bankruptcy Code to litigate such holder's Medical Malpractice Claim in state court provided that, if such election is made, any recovery on account of such Medical Malpractice Claim shall be limited to available insurance, if any, and shall not otherwise receive a distribution under the Plan. Each holder of a Class 3(b) Medical Malpractice Claim that asserts a claim against any Covered Person for Claims that would entitle such Covered Persons to an Indemnification Claim may not make this election unless such holder affirmatively elects to either release such Covered Person from any liability or look only to available insurance with respect to such Covered Person prior to pursuing such election.

(b) Any holder of a Class 3(b) Medical Malpractice Claim, for which a proof of claim was timely filed (or deemed timely filed), that does not elect the treatment under Section 7.2(a) of the Plan, shall submit such claim for determination through the Mediation Procedures. If the Mediation Procedures do not result in an Allowed Medical Malpractice Claim, such Claim shall be estimated by the District Court pursuant to Section 502(c) of the Bankruptcy Code together with any vicarious or other liability the Debtors may have related to such Claim.

(c) The holders of Allowed Class 3(b) Medical Malpractice Claims, whether estimated by the District Court or liquidated through the Mediation Procedures, in full and complete satisfaction of such Allowed Claims, shall receive a Pro Rata distribution from the Liquidation Trust equal to the Pro Rata percentage received by holders of Allowed Class 3(a) Claims.

(d) If the holder of a Class 3(b) Medical Malpractice Claim elects the treatment under Section 7.2(a) to have the automatic stay lifted, such election will be binding on such holder regardless of whether Class 3 accepts the Plan, provided that the Plan is confirmed and the Effective Date occurs. In addition, nothing contained in the Plan shall alter, modify, limit or impair the provisions of those "So Ordered" stipulations and orders lifting the automatic stay, resolving litigation claims and limiting recoveries to available insurance; such stipulations will remain in full force and effect and control the disposition of the Medical Malpractice Claims subject to those stipulations.

7.3. Membership Interests. As of the Effective Date, all issued and outstanding Membership Interests in Class 4 shall be cancelled and no consideration will be paid or delivered with respect thereto.

## ARTICLE 8

### **IMPLEMENTATION OF THE PLAN AND THE LIQUIDATION TRUSTEE**

8.1. Implementation of the Plan. The Plan will be implemented by the Liquidation Trustee in a manner consistent with the terms and conditions set forth in the Plan and the Confirmation Order.

8.2. Full Satisfaction. The treatment of and consideration to be received by holders of Allowed Claims pursuant to this Plan shall be in full satisfaction and settlement of such holder's respective Claims against the Debtors and the Estates, except as otherwise may be provided in this Plan or the Confirmation Order. Amounts paid to holders of such Allowed Claims in satisfaction thereof shall be allocated first to the principal amount of such Allowed Claims with any excess being allocated to interest, if applicable, that has properly accrued on such Allowed Claims but remains unpaid.

8.3. Plan Funding. The funds to be utilized to make Cash payments under the Plan have been and/or will be generated from, among other things, the not less than \$500,000.00 contribution from DASNY, collections of patient and accounts receivable, the proceeds of sale of substantially all of the Estate Assets to date in the Cases, other than the assets to be conveyed to DASNY, the proceeds of the liquidation of the remaining Estate Assets and any proceeds of the D&O Policies. As these funds are realized by the Debtors, the Debtors or the Liquidation Trustee, as applicable, shall deposit the funds in a segregated account at a federally insured depository bank subject to administration and disbursement by the Liquidation Trustee as set forth below.

8.4. Vesting of Assets in the Debtors. Except as expressly provided herein and subject to the rights and obligations of the Liquidation Trustee, on the Effective Date, all Estate Assets shall pass to and vest in the Debtors as provided herein free and clear of all Claims, Liens, encumbrances, charges, Membership Interests and other rights and interests of Creditors and equity holders arising on or before the Effective Date, but subject to the terms and conditions of the Plan and the Confirmation Order. However, nothing in the Plan or Confirmation Order shall serve to extinguish or limit any federal interest which, pursuant to 45 CFR Part 74 exists with respect to property or equipment purchased by the Debtors with grant monies provided by the U.S. Department of Health and Human Services ("HHS"). While the Debtors' position is that any transfer of property or equipment is subject to prior approval of the Bankruptcy Court, HHS disagrees with the Debtors and asserts that it may exercise without seeking prior court approval (i) its right, pursuant to 45 CFR §74.34(h), to direct the transfer of any such property or equipment (including title) to the Federal government or to an eligible non-Federal party named by the granting agency, or (ii) its right, pursuant to CFR §74.34(g), to direct the Debtors to dispose of such property or equipment in accordance with the applicable regulations. Nothing in the Plan or Confirmation Order shall affect the reimbursement, if any, that HHS may be entitled to from any sales proceeds of such property or equipment under applicable regulations. HHS

reserves the right to assert that no Bankruptcy Court approval is required prior to HHS exercising its rights with respect to property or equipment purchased by Debtors with federal grant monies pursuant to 45 CFR Part 74 or other applicable law.

8.5. Continuing Existence. From and after the Effective Date, the Debtors shall continue in existence for the purposes of (i) winding up their affairs as expeditiously as reasonably possible, (ii) liquidating, by conversion to Cash, or other methods, of any remaining Estate Assets, as expeditiously as reasonably possible, (iii) enforcing and prosecuting Causes of Action, interests, rights and privileges of the Debtors, (iv) resolving Disputed Claims, (v) administering the Plan, (vi) filing appropriate tax returns and (vii) performing all such other acts and conditions required by and consistent with consummation of the terms of the Plan. Upon the distribution of all Estate Assets pursuant to this Plan and the filing by the Liquidation Trustee of a certification to that effect with the Bankruptcy Court (which may be included in the application for entry of a final decree), the Debts shall be deemed dissolved for all purposes without the necessity for any other or further actions to be taken by or on behalf of the Debtors or payment to be made in connection therewith; provided, however, that the Debtors may take appropriate action to dissolve under applicable law. From and after the Effective Date, the Debtors shall not be required to file any document, or take any action, to withdraw its business operations from any states where the Debtors previously conducted business.

8.6. Management of the Debtors. On the Effective Date, the operation of the Debtors and the administration of this Plan shall become the general responsibility of the Liquidation Trustee.

8.7. Powers and Obligations of the Liquidation Trustee

(a) The Confirmation Order shall provide for the appointment of the Liquidation Trustee. The compensation for the Liquidation Trustee shall be established on or prior to the Confirmation Date and shall be subject to Court approval. The Liquidation Trustee shall be deemed the Estate's representative in accordance with Section 1123 of the Bankruptcy Code and shall have all powers, authority and responsibilities specified under Sections 704 and 1106 of the Bankruptcy Code.

(b) The Liquidation Trustee will act for the Debtors in a fiduciary capacity as applicable to a board of directors, subject to the provisions of the Plan. On the Effective Date, the Liquidation Trustee shall succeed to all of the rights of the Debtors with respect to the Estate Assets necessary to protect, conserve, and liquidate all Estate Assets as quickly as reasonably practicable, including, without limitation, control over (including the right to waive) all attorney/client privileges, work-product privileges, accountant-client privileges and any other evidentiary privileges relating to the Estate Assets that, prior to the Effective Date, belonged to, but are not limited to the Debtors pursuant to applicable law. The powers and duties of the Liquidation Trustee shall include:

(i) to invest Cash in accordance with Section 345 of the Bankruptcy Code, and withdraw and make distributions of Cash to holders of Allowed Claims and pay taxes and other obligations owed by the Debtors or incurred by the Liquidation Trustee in connection with the wind-down of the Estates in accordance with the Plan;

(ii) to receive, manage, invest, supervise, and protect the Estate Assets, including paying taxes or other obligations incurred in connection with the Estate Assets;

(iii) subject to the approval of the Bankruptcy Court to engage attorneys, consultants, agents, employees and all professional persons, to assist the Liquidation Trustee with respect to the Liquidation Trustee's responsibilities;

(iv) to pay the fees and expenses for the attorneys, consultants, agents, employees and professional persons engaged by the Liquidation Trustee and to pay all other expenses for winding down the affairs of the Debtors in each case in accordance with a wind-down budget, or as otherwise agreed to by the Liquidation Trustee or determined by the Bankruptcy Court;

(v) to pay the fees and expenses of administering the affairs of the Debtors as Liquidation Trustee including, without limitation, the Liquidation Trustee's compensation, insurance premiums, and any bond required of the Liquidation Trustee to protect the Estate Assets;

(vi) to execute and deliver all documents, and take all actions, necessary to consummate the Plan and wind-down the Debtors' business;

(vii) to dispose of, and deliver title to others, or otherwise realize the value of all the remaining Estate Assets;

(viii) to coordinate the collection of outstanding accounts receivable;

(ix) to coordinate the storage and maintenance of the Debtors' books and records;

(x) to oversee compliance with the Debtors' accounting, finance and reporting obligations;

(xi) to prepare monthly operating reports and financial statements and U.S. Trustee quarterly reports;

(xii) to oversee the filing of final tax returns, audits and other corporate dissolution documents if required;

(xiii) to perform any additional corporate actions as necessary to carry out the wind-down and liquidation of the Debtors;

(xiv) to communicate regularly with and respond to inquiries from DASNY and the U.S. Trustee and their professionals, including providing regular cash budgets, information on all disbursements on a weekly basis, and copies of bank statements on a monthly basis;

(xv) to object to, compromise and settle Claims;

(xvi) to act on behalf of the Debtors in all adversary proceedings and contested matters (including, without limitation, any Causes of Action), then pending or that can be commenced in the Bankruptcy Court and in all actions and proceedings pending or commenced elsewhere, to settle, retain, enforce, dispute or adjust and Claim and otherwise pursue actions involving Assets of the Debtors that could arise or be asserted at any time under the Bankruptcy Code, unless otherwise waived or relinquished in the Plan;

(xvii) to implement and/or enforce all provisions of the Plan; and

(xviii) such other powers as may be vested in or assumed by the Liquidation Trustee pursuant to the Plan or order of the Bankruptcy Court or as may be necessary and proper to carry out the provisions of the Plan.

8.8. Liquidation Trustee Exempt from Giving Bond. The Liquidation Trustee shall obtain such bond as ordered by the Court in the Confirmation Order or otherwise.

8.9. Resignation, Death or Removal of the Liquidation Trustee. The Liquidation Trustee may resign at any time upon not less than 30 days' written notice to the U.S. Trustee's Office. The Liquidation Trustee may be removed at any time by the Bankruptcy Court for cause upon application to the Court on five (5) days' written notice to the U.S. Trustee and the Liquidation Trustee and his or her counsel. In the event of the resignation, removal, death or incapacity of the Liquidation Trustee, the United States Trustee shall designate another Person to become the Liquidation Trustee, and thereupon the successor Liquidation Trustee, without further act, shall become fully vested with all of the rights, powers, duties and obligations of his predecessor. No successor Liquidation Trustee hereunder shall in any event have any liability or responsibility for the acts or omissions of his or her predecessors.

8.10. Committee. On the Effective Date, the Committee shall cease to continue and shall be disbanded.

8.11. Rights of Action. In accordance with Section 1123(b)(3)(B) of the Bankruptcy Code, the Liquidation Trustee may pursue all Causes of Action for the benefit of the holders of Class 3 Claims. Any distributions provided for in the Plan and the allowance of any Claim for the purpose of voting on the Plan is and shall be without prejudice to the rights of the Liquidation Trustee to pursue and prosecute any Causes of Action. Except as otherwise set forth in the Plan, all Causes of Action of the Debtors shall survive confirmation of the Plan and the commencement and prosecution of Causes of Action of the Debtors shall not be barred or limited by any estoppel or res-judicata, whether judicial, equitable or otherwise. In reviewing the Plan and the Disclosure Statement, and in determining whether to vote for or against the Plan, Creditors (including Creditors who received payments or transfers from the Debtors within ninety (90) days prior to the Petition Date and insiders who received payments from the Debtors within one (1) year before the Petition Date) and other parties should consider that Causes of Action of the Debtors may exist against them, that, except as otherwise set forth in the Plan, the Plan preserves all Causes of Action of the Debtors, and that the Plan authorizes the Liquidation Trustee to prosecute all Causes of Action of the Debtors.

8.12. Corporate Action. Subject to the consummation of the transfers of the Real Property to DASNY, HHC and IFH, as the case may be, prior to the Effective Date, on the Effective Date, the appointment of the Liquidation Trustee, and any and all other matters provided for under the Plan involving corporate action by the Debtors, their directors, their trustees or their shareholders, including, without limitation, the transfer of management responsibilities of the Debtors to the Liquidation Trustee, shall be deemed to have occurred and shall be in effect from and after the Effective Date pursuant to applicable law, without any requirement of further action by the Debtors' directors, officers, trustees or shareholders. From and after the Effective Date, the Debtors shall not be required to file any document, or take any action, to withdraw their business operations from any states where the Debtors previously conducted business.

8.13. Cancellation of Existing Securities Instruments and Agreements. On the Effective Date, except as otherwise provided herein, all securities, instruments, and agreements governing any Impaired Claim or Membership Interests shall be deemed cancelled and terminated, and the obligations of the Debtors relating to, arising under, in respect of, or in connection with such securities, instruments, or agreements shall be deemed released and/or satisfied as to the Debtors.

8.14. Setoffs. The Liquidation Trustee may, pursuant to and to the extent permitted by applicable law, setoff against any Claim asserted against the Estate Assets, and the payments or other distributions to be made pursuant to the Plan in respect of such Claim, any Claims of any nature whatsoever that that Debtors or the Estates may have against the holder of such Claim, provided that the Liquidation Trustee shall give the holders of such Claim notice of the proposed setoff and the holder of such Claim does not object to the proposed setoff within thirty (30) days; provided further that if an objection is timely raised to a proposed setoff, the Liquidation Trustee may seek relief from the Bankruptcy Court to effectuate the setoff; and provided further that neither the failure to effect a setoff, nor the allowance of any Claim against the Debtors hereunder, shall constitute a waiver or release of any such Claim the Debtors or the Estates may have against such holder.

8.15. Funding of the Disputed Claims Reserve.

(a) The portion of the Estate Assets attributable to the distributions under the Plan that would have to be made to the holders of Disputed Secured, Administrative, Priority Tax, Priority and Unsecured Claims shall be held by the Liquidation Trustee in the "Disputed Claims Reserve." Any Cash including, without limitation, the Disputed Claims Reserve, shall be held in an interest-bearing account. As Disputed Claims are resolved, excess Cash in the Disputed Claims Reserve shall be made available for distribution to the holders of Allowed Claims in accordance with the Plan, provided that there is sufficient Cash to administer the Plan and pay Plan expenses. The Liquidation Trustee may set aside from the Estate Assets an amount of Cash that the Liquidation Trustee determines is necessary to pay ongoing expenses of administering the Plan.

(b) For the purposes of effectuating the distributions to the holders of Allowed Claims, the Liquidation Trustee shall reserve the amount that would be distributed on the filed amount of any Disputed Claim or, at the Liquidation Trustee's option, he or she may request that the Court estimate the amount of Disputed Claims pursuant to Section 502(c) of the Bankruptcy

Code, in which event the amounts so estimated shall be deemed the amounts of the Disputed Claims for purposes of distribution under the Plan. In lieu of estimating the amount of any Disputed Claim, the Court may determine the amount to be reserved for such Disputed Claim (singularly or in the aggregate), or such amount may be fixed by agreement in writing by and between the Liquidation Trustee and the holder of a Disputed Claim. In the event that the Bankruptcy Court (or the District Court with respect to Medical Malpractice Claims) estimates any contingent or unliquidated Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court (or the District Court with respect to Medical Malpractice Claims). If the estimated amount constitutes a maximum limitation on such Claim, the Liquidation Trustee may elect to pursue any supplemental proceedings to object to any ultimate allowance of such Claim. Claims may be estimated by the Bankruptcy Court (or the District Court with respect to Medical Malpractice Claims) and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court or the District Court, as applicable.

8.16. Plan Distributions. The Liquidation Trustee shall make distributions to holders of Allowed Claims in accordance with the Plan. The Liquidation Trustee may withhold from amounts distributable to any Person any and all amounts determined in the Liquidation Trustee's reasonable sole discretion to be required by any law, regulation, rule, ruling, directive or other governmental requirement. Holders of Allowed Claims shall, as a condition to receiving distributions, provide such information and take such steps as the Liquidation Trustee may reasonably require to ensure compliance with withholding and reporting requirements and to enable the Liquidation Trustee to obtain certifications and information as may be necessary or appropriate to satisfy the provisions of any tax law.

8.17. No Recourse. Notwithstanding that the Allowed amount of any particular Disputed Claim is reconsidered under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or is Allowed in an amount for which after application of the payment priorities established by this Plan there is insufficient value to provide a recovery equal to that received by other holders of Allowed Claims in the respective Class, no Claim holder shall have recourse against the Debtors, the Estate, the Liquidation Trustee, DASNY, the Committee or any of their respective professionals, consultants, officers, directors or members or their successors or assigns, or any of their respective property. However, except as specifically stated otherwise in this Plan, nothing in this Plan shall modify any right of a holder of a Claim under Section 502(j) of the Bankruptcy Code.

8.18. Cash Distributions. The Liquidation Trustee shall not be required to make interim or final Cash distributions in an amount less than \$5.00. Any funds so withheld and not distributed on an interim basis shall be held in reserve and distributed in subsequent distributions to the extent the aggregate distribution exceeds \$10,000. Should a final distribution to any holder of a Claim not equal or exceed \$5.00, that sum shall be distributed to other holders of Allowed Claims.

8.19. Delivery of Plan Distributions. All distributions under the Plan on account of any Allowed Claims shall be made at the address of the holder of such Allowed Claim as set forth on the register on which the Liquidation Trustee records the name and address of such holders or at such other address as such holder shall have specified for payment purposes in a written notice to

the Liquidation Trustee at least fifteen (15) days prior to such distribution date. In the event that any distribution to any holder is returned as undeliverable, the Liquidation Trustee shall use reasonable efforts to determine the current address of such holder, but no distribution to such holder shall be made unless and until the Liquidation Trustee has determined the then-current address of such holder, at which time such distribution shall be made to such holder without interest; provided, however, that such undeliverable or unclaimed distributions shall be deemed Unclaimed Property. The Liquidation Trustee shall reallocate the undeliverable and unclaimed distributions for the benefit of all other holders of Allowed Claims in accordance with the Plan.

8.20. Distributions to Holders as of the Confirmation Date. As of the close of business on the Confirmation Date, the Claims register shall be closed, and there shall be no further changes in the record holders of any Claims. Neither the Debtors nor the Liquidation Trustee, as applicable, shall have any obligation to recognize any transfer of any Claims occurring after the close of business on the Confirmation Date, and shall instead be entitled to recognize and deal for all purposes under the Plan (except as to voting to accept or reject the Plan pursuant to Section 9.1 of the Plan) with only those holders of record as of the close of business on the Confirmation Date.

8.21. Abandoned Estate Assets. Upon the election of the Liquidation Trustee, the Liquidation Trustee may abandon any Assets included among the Estate Assets, without the need for additional approval of the Court, and upon such abandonment, such assets shall cease to be Estate Assets.

8.22. Resignation of Directors and Officers. Upon the Effective Date of this Plan, the Debtors' directors and officers shall be deemed to have resigned as the directors and officers of the Debtors.

8.23. No Agency Relationship. The Liquidation Trustee shall not be deemed to be the agent for any of the holders of Claims in connection with the funds held or distributed pursuant to this Plan. The Liquidation Trustee shall not be liable for any mistake of fact or law or error of judgment or any act or omission of any kind unless it constitutes gross negligence or willful misconduct or breach of fiduciary duty. The Liquidation Trustee shall be indemnified and held harmless, including the cost of defending such claims and attorneys' fees in seeking indemnification, by the Estate against any and all claims arising out of his or her duties under this Plan, except to the extent his or her actions constitute gross negligence or willful misconduct or breach of fiduciary duty. The Liquidation Trustee may conclusively rely, and shall be fully protected personally in acting upon any statement, instrument, opinion, report, notice, request, consent, order, or other instrument or document which he or she believes to be genuine and to have been signed or presented by the proper party or parties. The Liquidation Trustee may rely upon information previously generated by the Debtors and such additional information provided to him by former employees of the Debtors.

8.24. Indefeasibility of Distributions. All distributions provided for under the Plan shall be indefeasible.

8.25. Distribution of Unclaimed Property. Any Unclaimed Property shall irrevocably revert to the Estate for re-distribution in accordance with the Plan.

8.26. Saturday, Sunday, or Legal Holiday. If 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 the next Business Day.

8.27. Waiver. Any requirement in the Plan or for a Final Order may be waived by the agreement of the Debtors, DASNY and the Committee.

## **ARTICLE 9**

### **VOTING**

9.1. Voting of Claims. Each holder of an Allowed Claim in an Impaired Class which receives or retains property under the Plan shall be entitled to vote separately to accept or reject the Plan and indicate such vote on a duly executed and delivered Ballot as provided in such order as is entered by the Court establishing certain procedures with respect to the solicitation and tabulation of votes to accept or reject the Plan, or any other controlling Order or Orders of the Court.

9.2. Nonconsensual Confirmation. If any Impaired Class entitled to vote shall not accept the Plan by the requisite statutory majorities provided in Sections 1126(c) or 1126(d) of the Bankruptcy Code, as applicable, or if any Impaired Class is deemed to have rejected the Plan, the Debtors reserve the right (a) to undertake to have the Court confirm the Plan under Section 1129(b) of the Bankruptcy Code and (b) subject to Section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, to modify the Plan to the extent necessary to obtain entry of the Confirmation Order, provided such modifications are consistent with Section 15.1 of the Plan. At the Confirmation Hearing, the Debtors will seek a ruling that if no holder of a Claim or Membership Interest eligible to vote in a particular Class timely votes to accept or reject the Plan, the Plan will be deemed accepted by the holders of such Claims or Membership Interests in such Class for the purposes of Section 1129(b).

## **ARTICLE 10**

### **SUBSTANTIVE CONSOLIDATION**

10.1. Post Effective Date Substantive Consolidation. On the Effective Date: (a) all Estate Assets (and all proceeds thereof) and liabilities of each Debtor shall be deemed merged or treated as though they were merged into and with the assets and liabilities of the other Debtors, (b) no distributions shall be made under the Plan on account of intercompany Claims among the Debtors and all such Claims shall be eliminated, (c) all guarantees of the Debtors of the obligations of any other Debtor shall be deemed eliminated and extinguished so that any Claim against any Debtor and any guarantee thereof executed by any other Debtor and any joint and several liability of any of the Debtors shall be deemed to be one obligation of the consolidated Debtors, (d) each and every Claim filed or to be filed in any of the Cases shall be deemed filed against the consolidated Debtors, and shall be deemed one Claim against and obligation of the consolidated Debtors, and (e) for purposes of determining the availability of the right of set-off under Section 553 of the Bankruptcy Code, the Debtors shall be treated as one entity so that, subject to the other provisions of Section 553 of the Bankruptcy Code, debts due to any of the

Debtors may be setoff against the debts of the other Debtors. Such substantive consolidation shall not (other than for purposes related to the Plan) affect the legal and corporate structures of the Debtors. Notwithstanding anything in this section to the contrary, all post Effective Date U.S. Trustee Fees shall be calculated on a separate legal entity basis for each Debtor.

## ARTICLE 11

### **EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

11.1. Assumption or Rejection of Executory Contracts. On and as of the Effective Date, all Executory Contracts are hereby deemed rejected, except: (i) the IFH Leases which are deemed assumed, and (ii) any other Executory Contract (a) that has been specifically assumed or assumed and assigned by the Debtors on or before the Confirmation Date with the approval of the Court, (b) in respect of which a motion for assumption or assumption and assignment has been filed with the Court on or before the Confirmation Date, or (c) that is specifically designated as a contract to be assumed on a schedule to the Plan, which schedule, if any, shall be filed with the Court on or prior to the Confirmation Hearing. Notwithstanding the preceding, the Debtors' collective bargaining agreements with 1199 SEIU United Healthcare Workers East ("1199 SEIU") will only be rejected upon the consent of the Debtors and 1199 SEIU or pursuant to Section 1113 of the Bankruptcy Code, provided, however, that upon the termination of the Debtors employees under such collective bargaining agreements such collective bargaining agreements shall terminate by its terms.

11.2. Approval of Assumption or Rejection of Executory Contracts. Entry of the Confirmation Order by the Clerk of the Court, but subject to the condition that the Effective Date occur, shall constitute (a) the approval, pursuant to Sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the assumption or assumption and assignment of the Executory Contracts assumed or assumed and assigned pursuant to Section 11.1 of the Plan, and (b) the approval, pursuant to Sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the rejection of the Executory Contracts rejected pursuant to Section 11.1 of the Plan.

11.3. Bar Date for Filing Proofs of Claim Relating to Executory Contracts Rejected Pursuant to the Plan. Claims against the Debtors arising out of the rejection of Executory Contracts pursuant to the Plan must be filed with the Court no later than thirty (30) days after the later of service of (a) notice of entry of an order approving the rejection of such Executory Contract, and (b) notice of occurrence of the Effective Date. Any such Claims not filed within such time shall be forever barred from assertion against the Debtors and any and all of their respective properties and Assets.

## ARTICLE 12

### **INJUNCTION AND RELEASES**

#### 12.1. Injunction.

(a) Except as otherwise expressly provided herein including, without limitation, the treatment of Claims against the Debtors and their Membership Interests, the entry

of the Confirmation Order shall, provided that the Effective Date shall have occurred, operate to enjoin permanently all Persons that have held, currently hold or may hold a Claim against the Debtors, or who have held, currently hold or may hold a Membership Interest that is terminated pursuant to the Plan, from taking any of the following actions against the Debtors, the Liquidation Trustee, DASNY, the Committee or members thereof, present and former directors, officers, trustees, agents, attorneys, advisors, members or employees of the Debtors, DASNY, the Committee or members thereof, or the Liquidation Trustee, or any of their respective successors or assigns, or any of their respective assets or properties, on account of any Claim against the Debtors or any Membership Interests: (a) commencing, conducting or continuing in any manner, directly or indirectly, any action or other proceeding with respect to a Claim against the Debtors or any Membership Interests; (b) enforcing, levying, attaching, collecting or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree or order with respect to a Claim against the Debtors or any Membership Interests; (c) creating, perfecting or enforcing in any manner, directly or indirectly, any lien or encumbrance of any kind with respect to a Claim against the Debtors or any Membership Interests; (d) asserting any setoff, right of subrogation or recoupment of any kind, directly or indirectly, against any debt, liability or obligation due to the Debtors or their property or Assets with respect to a Claim against the Debtors or any Membership Interests; and (e) proceeding in any manner in any place whatsoever that does not conform to, comply with, or is inconsistent with the provisions of the Plan; provided, nothing in this injunction shall preclude the holder of a Claim against the Debtors from pursuing any applicable insurance after the Cases are closed, from seeking discovery in actions against third parties or from pursuing third-party insurance that does not cover Claims against the Debtors; provided further, however, nothing in this injunction shall limit the rights of a holder of a Claim against the Debtors to enforce the terms of the Plan. As to the United States, its agencies, departments or agents (collectively the “United States”), nothing in the Plan or Confirmation Order shall discharge, extinguish, release or otherwise preclude any valid right of setoff or recoupment including but not limited to any right of setoff or recoupment with respect to any Medicare overpayments. Nothing herein shall enjoin the United States from initiating or continuing any criminal, police or regulatory action against the Debtors.

(b) Covered Persons Injunction. Except as otherwise provided in the Plan or the Confirmation Order, upon the Effective Date, all Persons are permanently enjoined from commencing or continuing any medical malpractice action against any Covered Person and/or from enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order with respect to a claim that would entitle a Covered Person to an Indemnification Claim, provided however, that such injunction shall not extend to recoveries against any available insurance. In exchange for this injunction, each Covered Person shall be deemed to waive any Indemnification Claim against the Debtors and their Estates, provided that the waiver of the Indemnification Claims shall not impair the injunction in this Section of the Plan and neither the waiver of the Indemnification Claims, nor this injunction shall release the obligations of any other insurance company to defend a Covered Person under an otherwise applicable insurance policy. As additional consideration for this Injunction for the benefit of its bargaining unit, The Committee of Interns and Residents/SEIU will also withdraw its Claim.

12.2. Releases. Upon the Effective Date, (a) (i) each Person that receives and retains a distribution under the Plan, (ii) each Person who obtains a release under the Plan or obtains the

benefit of an injunction provided pursuant to the Plan, and (iii) each Person who received any benefit from any third party insurance providers on account of a claim against the Debtors or a Covered Person, in consideration therefor, conclusively, absolutely, unconditionally, irrevocably and forever releases and discharges each of the Debtors and their present and former directors, officers, trustees, agents, attorneys, advisors, or members (solely in their capacity as such), and (b) the Debtors conclusively, absolutely, unconditionally, irrevocably and forever release and discharge each member of North General Hospital, North General Service Corporation and North General Diagnostic & Treatment Center Board of Trustees and the officers of each (solely in their capacity as such): of and from any and all past, present and future legal actions, causes of action, choses in action, rights, demands, suits, claims, liabilities, encumbrances, lawsuits, adverse consequences, amounts paid in settlement, costs, fees, damages, debts, deficiencies, diminution in value, disbursements, expenses, losses and other obligations of any kind, character or nature whatsoever, whether in law, equity or otherwise (including, without limitation, those arising under Chapter 5 of the Bankruptcy Code and applicable non-bankruptcy law, and any and all alter-ego, lender liability, indemnification or contribution theories of recovery, and interest or other costs, penalties, legal, accounting and other professional fees and expenses, and incidental, consequential and punitive damages payable to third parties), whether known or unknown, fixed or contingent, direct, indirect, or derivative, asserted or unasserted, foreseen or unforeseen, suspected or unsuspected, now existing, heretofore existing or which may heretofore accrue against the Debtors and their present and former directors, officers, trustees, agents, attorneys, advisors, or members (solely in their capacity as such) occurring from the beginning of time to and including the Effective Date related in any way, directly or indirectly, arising out of, and/or connected with any or all of the Debtors and their Estates, the Cases, the Debtors' pre-petition financing arrangements, the DIP Loan and the failure of any person or entity, to maintain malpractice insurance, provide funding for a self-insurance trust for medical malpractice claims, or cause the Debtors to cease operations (including any such claims based on theories of alleged negligence, misrepresentation, nondisclosure or breach of fiduciary duty); provided, however, that this Section 12.2 shall not limit the Debtors' obligations under the Plan. Except as provided in subsection (b) of this Section 12.2, nothing contained in this Section 12.2 shall be a release by the Debtors of any claim or Cause of Action, including, without limitation, those arising under Chapter 5 of the Bankruptcy Code or applicable non-bankruptcy law, or a release by any professional of any Professional Fee Claims. Nothing in the Plan or Confirmation Order discharges, releases, or precludes: (i) any liability that is not a Claim (as that term is defined in the Bankruptcy Code); (ii) any Allowed Claim of a government unit that is not fully satisfied; or (iii) any liability to a governmental unit on the part of any Persons other than the Debtors.

12.3. Exculpation. None of (i) Windels Marx Lane & Mittendorf, LLP, and Garfunkel Wild, P.C. in their respective capacities as counsel and special counsel to the Debtors, (ii) the Debtors' trustees, in-house counsel, officers and directors (in their capacities as such); (iii) the Liquidation Trustee and its representatives (in their capacities as such); (iv) the Committee, (v) the members of the Committee, in their individual capacities as members of the Committee, (vi) Alston & Bird LLP, in its capacity as counsel to the Committee, (vii) NHB Advisors, in its capacity as financial advisor for the Committee, and (viii) DASNY and its attorneys and advisors, shall have or incur any liability for any act or omission in connection with, related to, or arising out of, the Cases, the formulation, preparation, dissemination, implementation, confirmation, or approval of the Plan, the administration of the Plan or the property to be distributed under the Plan, or any contract, instrument, release, or other agreement or document

provided for or contemplated in connection with the consummation of the transactions set forth in the Plan; provided, however, that the foregoing provisions shall not affect the liability of any Person that would result from any such act or omission to the extent that act or omission is determined by a Final Order of the Court to have constituted willful misconduct or gross negligence; and in all respects, such Persons shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan and shall be fully protected from liability in acting or refraining to act in accordance with such advice; provided further, however, that this Section 12.3 shall not limit the Debtors' obligations under the Plan.

12.4. Release of Collateral. Except as expressly provided otherwise in the Plan, (including without limitation, the Water Board Lien, which shall continue to encumber the Debtors' Real Property as herein provided, and the treatment of the DASNY Secured Claim as set forth in Section 5.1(d) of the Plan) unless a holder of a Secured Claim receives a return of its Collateral in respect of such Claim under the Plan: (i) each holder of: (A) an Allowed Secured Claim; and/or (B) an Allowed Claim that is purportedly secured, on the Effective Date shall (x) turn over and release to the Debtors any and all property that secures or purportedly secures such Claim; and (y) execute such documents and instruments as the Liquidation Trustee reasonably requires to evidence such claimant's release of such property; and (ii) on the Effective Date, all Claims, rights, title and interest in such property shall revert to the Debtors, free and clear of all Claims, including (without limitation) Liens, charges, pledges, encumbrances and/or security interests of any kind. No Distribution hereunder shall be made to or on behalf of any holder of such Claim unless and until such holder executes and delivers to the Liquidation Trustee such release of Liens. Any such holder that fails to execute and deliver such release of Liens within sixty (60) days of any demand thereof shall be deemed to have no further Claim and shall not participate in any distribution hereunder. Notwithstanding the immediately preceding sentence, a holder of a Disputed Claim shall not be required to execute and deliver such release of Liens until the time such Claim is Allowed or Disallowed.

12.5. Cause of Action Injunction. On and after the Effective Date, all Persons other than the Liquidation Trustee will be permanently enjoined from commencing or continuing in any manner any Cause of Action or proceeding (whether directly, indirectly, derivatively or otherwise) on account of, or respecting any, claim, debt, right or Cause of Action that the Liquidation Trustee retains authority to pursue in accordance with the Plan.

12.6. Preservation and Application of Insurance. The provisions of the Plan shall not diminish or impair in any manner the enforceability and/or coverage of any insurance.

12.7. Limitation. Nothing in the Disclosure Statement, the Plan, or any order confirming the Plan shall be construed as discharging, exculpating, releasing, or relieving the Debtors or any such parties' officers, directors, or other representatives, in any capacity, from any liability with respect to the Pension Plan under any law, government policy, or regulatory provision. The PBGC and the Pension Plan shall not be enjoined or precluded from enforcing such liability against any person as a result of confirmation of the Plan.

## ARTICLE 13

### **PROVISIONS FOR RESOLVING AND TREATING CLAIMS**

13.1. Prosecution of Disputed Claims. Except as otherwise provided herein, the Liquidation Trustee shall have the right to object to all Claims on any basis, including those Claims that are not listed in the Schedules, that are listed therein as disputed, contingent, and/or unliquidated, that are listed therein at a lesser amount than asserted by the respective Creditor, or that are listed therein at for a different category of claim than asserted by the respective Creditor. Subject to further extension by the Court for cause with or without notice, the Liquidation Trustee may object to the allowance of Class 3 Unsecured and Medical Malpractice Claims up to one hundred eighty (180) days after the Effective Date, the allowance of Administrative/Priority Claims and Secured Claims up to the later of (i) sixty (60) days after the Effective Date or (ii) the deadline for filing an objection established by Order of the Court; provided, however, that an objection to a Claim based on Section 502( d) of the Bankruptcy Code may be made at any time in any adversary proceeding against the holder of any relevant Claim. The filing of a motion to extend the deadline to object to any Claims shall automatically extend such deadline until a Final Order is entered on such motion. In the event that such motion to extend the deadline to object to Claims is denied by the Bankruptcy Court, such deadline shall be the later of the current deadline (as previously extended, if applicable) or thirty (30) days after the Bankruptcy Court's entry of an Order denying the motion to extend such deadline. From and after the Effective Date, the Liquidation Trustee shall succeed to all of the rights, defenses, offsets, and counterclaims of the Debtors and the Committee in respect of all Claims, and in that capacity shall have the power to prosecute, defend, compromise, settle, and otherwise deal with all such objections, subject to the terms of the Plan.

13.2. Settlement of Disputed Claims. Pursuant to Bankruptcy Rule 9019(b), the Liquidation Trustee may settle any Disputed Claim (or aggregate of Claims if held by a single Creditor) in an amount of up to [\$50,000], respectively, without notice, a Court hearing or Court approval.

13.3. No Distributions Pending Allowance. Notwithstanding any provision in the Plan to the contrary, no partial payments and no partial distributions shall be made by the Liquidation Trustee with respect to any portion of any Claim against the Debtors if such Claim or any portion thereof is a Disputed Claim. In the event and to the extent that a Claim against the Debtors becomes an Allowed Claim after the Effective Date, the holder of such Allowed Claim shall receive all payments and distributions to which such holder is then entitled under the Plan.

## ARTICLE 14

### **CONDITIONS TO CONFIRMATION OF PLAN**

14.1. Conditions to Confirmation. The following conditions are conditions precedent to Confirmation of the Plan unless waived by DASNY pursuant to Section 14.3 of the Plan: (i) the Confirmation Order must be in a form and substance reasonably acceptable to DASNY and the Committee; and (ii) the Confirmation Order shall:

(a) authorize the appointment of all parties appointed under or in accordance with the Plan, including, without limitation, the Liquidation Trustee, and direct such parties to perform their obligations under such documents;

(b) approve in all respects the transactions, agreements, and documents to be effected pursuant to the Plan;

(c) authorize the Liquidation Trustee to assume the rights and responsibilities fixed in the Plan;

(d) approve the releases and injunctions granted and created by the Plan;

(e) order, find, and decree that the Plan complies with all applicable provisions of the Bankruptcy Code, including that the Plan was proposed in good faith; and

(f) except as specifically provided in the Plan, order that nothing herein operates as a discharge, release, exculpation, or waiver of, or establishes any defense or limitation of damages to, any Claim or Cause of Action belonging to the Estates.

14.2. Conditions to Effective Date. The Plan shall not become effective unless and until the following conditions shall have been satisfied or waived pursuant to Section 14.3 of the Plan:

(a) the Confirmation Date shall have occurred and the Confirmation Order, in a form consistent with the requirements of Section 14.1 of the Plan, shall have become a Final Order;

(b) the Liquidation Trustee shall have been appointed;

(c) all actions, documents and agreements necessary to implement the provisions of the Plan shall have been effected or executed and delivered;

(d) all other actions required by the Plan to occur on or before the Effective Date shall have occurred.

14.3. Waiver of Conditions. Any of the conditions set forth in this Article may be waived by DASNY to the extent such waiver does not affect the distributions hereunder.

14.4. Notices to Court. The Liquidation Trustee shall notify the Court in writing promptly after the Effective Date that the Effective Date has occurred.

## ARTICLE 15

### **MODIFICATION, REVOCATION OR WITHDRAWAL OF THE PLAN**

15.1. Modification of Plan. Generally, the Debtors may alter, amend or modify the Plan pursuant to Section 1127 of the Bankruptcy Code at any time prior to the Confirmation Date. After such time and prior to substantial consummation of the Plan, the Debtors or the Liquidation Trustee may, so long as the treatment of holders of Claims against the Debtors or Interests under

the Plan is not adversely affected, institute proceedings in Court to remedy any defect or omission or to reconcile any inconsistencies in the Plan, or the Confirmation Order, and any other matters as may be necessary to carry out the purposes and effects of the Plan; provided, however, notice of such proceedings shall be served in accordance with Bankruptcy Rule 2002 or as the Court shall otherwise order.

15.2. Revocation or Withdrawal of Plan. The Debtors reserve the right to revoke or withdraw the Plan at any time prior to the Confirmation Date. If the Debtors revoke or withdraw the Plan prior to the Effective Date, then the Plan shall be deemed null and void, and nothing contained in the Plan shall be deemed to constitute a waiver or release of any Claims by or against the Debtors or any other Person or to prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors.

## ARTICLE 16

### MISCELLANEOUS PROVISIONS

16.1. Payment of Statutory Fees. All outstanding U.S. Trustee Fees payable pursuant to Section 1930 of Title 28 of the United States Code shall be paid on or before the Effective Date.

16.2. Reports. Until a final decree closing the Cases is entered, the Liquidation Trustee shall comply with any requisite reporting requirements established pursuant to the guidelines of the U.S. Trustee.

16.3. Governing Law. Except to the extent the Bankruptcy Code, the Bankruptcy Rules, or other federal laws are applicable, the laws of the State of New York shall govern the construction and implementation of the Plan and all rights and obligations arising under the Plan.

16.4. Withholding and Reporting Requirements. In connection with the Plan and all instruments issued in connection therewith and distributions thereon, the Liquidation Trustee shall comply with all withholding, reporting, certification and information requirements imposed by any federal, state, local or foreign taxing authority and all distributions hereunder shall, to the extent applicable, be subject to any such withholding, reporting, certification and information requirements. Persons entitled to receive distributions hereunder shall, as a condition to receiving such distributions, provide such information and take such steps as the Liquidation Trustee may reasonably require to ensure compliance with such withholding and reporting requirements, and to enable the Liquidation Trustee to obtain the certifications and information as may be necessary or appropriate to satisfy the provisions of any tax law.

16.5. Section 1146 Exemption. Pursuant to Section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of any security under the Plan; or the execution, delivery, or recording of an instrument of transfer pursuant to, in implementation of or as contemplated by the Plan; or the vesting, transfer, or sale of any Real Property of the Debtors pursuant to, in implementation of or as contemplated by the Plan shall not be taxed under any state or local law imposing a stamp tax, transfer tax, or similar tax or fee. 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 documentary stamp tax, deed stamps, stamp tax, transfer tax, intangible tax, or similar tax.

16.6. Severability. In the event that any provision of the Plan is determined to be unenforceable, such determination shall not limit or affect the enforceability and operative effect of any other provisions of the Plan. To the extent that any provision of the Plan would, by its inclusion in the Plan, prevent or preclude the Court from entering the Confirmation Order, the Court, on the request of the Debtors, may modify or amend such provision, in whole or in part, as necessary to cure any defect or remove any impediment to the Confirmation of the Plan existing by reason of such provision; provided, however, that such modification shall not be effected except in compliance with Section 15.1 of the Plan.

16.7. Reservation of Rights. If the Plan is not confirmed for any reason, the rights of all parties in interest in the Cases are and shall be reserved in full. Any concession reflected or provision contained herein, if any, is made for purposes of the Plan only, and if the Plan does not become effective, no party in interest in the Cases shall be bound or deemed prejudiced by such concession.

16.8. Binding Effect: Counterparts. The provisions of the Plan shall bind all holders of Claims against the Debtors and Membership Interests, whether or not they have accepted the Plan. The Plan may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Plan.

16.9. Notices. All notices, requests, and demands to or upon the Debtors, the Liquidation Trustee, DASNY or the Committee must be in writing (including by facsimile transmission or electronic mail) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission or by electronic mail, when received and telephonically confirmed, addressed as follows:

If to the Debtors, to:

WINDELS MARX LANE & MITTENDORF, LLP  
156 West 56th Street  
New York, NY 10019  
Tel: (212) 237-1000  
Fax: (212) 262-1215  
Attn: Charles E. Simpson  
Email: csimpson@windelsmarx.com

If to the Committee, to:

ALSTON & BIRD LLP  
90 Park Ave.  
New York, NY 10016-1387  
Tel: (212) 210-9400

Fax: (212) 922-9444  
Attn: Martin G. Bunin  
Craig E. Freeman  
Email: marty.bunin@alston.com  
craig.freeman@alston.com

If to the Liquidation Trustee, to:

If to DASNY, to:  
DORMITORY AUTHORITY OF THE STATE OF NEW YORK  
515 Broadway  
Albany, NY 12207-2964  
Telephone: (518) 275-3120  
Facsimile: (518) 257-3100  
Attn: Jeffrey Pohl, General Counsel  
Deborah Paden, Managing General Counsel  
Larry N. Volk, Senior Director, Portfolio Management  
jpohl@dasny.org  
dpaden@dasny.org  
lvolk@dasny.org

And to their counsel:  
WINSTON & STRAWN LLP  
200 Park Avenue  
New York, NY 10166-4193  
Telephone: (212) 294-5318  
Facsimile: (518) 257-3100  
Attn: David Neier  
denier@winston.com

## ARTICLE 17

### **RETENTION OF JURISDICTION**

17.1. Exclusive Jurisdiction of the Court. Except as otherwise provided in the Plan, following the Effective Date, the Court will retain exclusive jurisdiction over these Cases for the following purposes:

- (a) to hear and determine any pending applications for the assumption or rejection of Executory Contracts, and the resulting allowance of Claims against the Debtors;
- (b) to determine any adversary proceedings, applications, contested matters and other litigated matters pending on the Effective Date;

(c) to ensure that distributions to holders of Allowed Claims are accomplished as provided in the Plan;

(d) to hear and determine objections to or requests for estimation of Claims against the Debtors, including any objections to the classification of any Claims, and to allow, disallow and/or estimate Claims, in whole or in part;

(e) to enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated;

(f) to issue any appropriate orders in aid of execution of the Plan or to enforce the Confirmation Order and/or the discharge, or the effect of such discharge, provided to the Debtors;

(g) to hear and determine any applications to modify the Plan, to cure any defect or omission or to reconcile any inconsistency in the Plan or in any order of the Court, including, without limitation, the Confirmation Order;

(h) to hear and determine all applications for compensation and reimbursement of expenses of professionals under Sections 327, 328, 330, 331, 363 and 503(b) of the Bankruptcy Code;

(i) to hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Plan;

(j) to hear and determine other issues presented or arising under the Plan;

(k) to hear and determine other issues related to the Plan to the extent not inconsistent with the Bankruptcy Code; and

(l) to enter a final decree closing the Cases.

17.2. Non-Exclusive Jurisdiction of the Court. Following the Effective Date, the Court will retain non-exclusive jurisdiction over these Cases for the following purposes:

(a) to recover all Assets of the Debtors and Estate Assets, wherever located;

(b) to hear and determine any actions commenced on or after the Effective Date by the Liquidation Trustee, including, but not limited to, Avoidance Actions or other Causes of Action;

(c) to hear and determine any motions or contested matters involving taxes, tax refunds, tax attributes and tax benefits and similar or related matters with respect to the Debtors or the Estates arising prior to the Effective Date or relating to the period of administration of the Cases, including, without limitation, matters concerning state, local and federal taxes in accordance with Sections 346, 505 and 1146 of the Bankruptcy Code; and

(d) to hear and determine any other matters to the extent not inconsistent with the Bankruptcy Code.

17.3. Failure of the Court to Exercise Jurisdiction. If the Court abstains from exercising or declines to exercise jurisdiction over any matter arising under, arising in or related to the Cases, including with respect to the matters set forth above in this Article, this Article shall not prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such subject matter.

## ARTICLE 18

### SUBSTANTIAL CONSUMMATION

The Plan shall be “substantially consummated”, within the meaning of Sections 1101(2) and 1127(b) of the Bankruptcy Code on the Consummation Date, it hereby being understood and agreed that substantial consummations shall not occur and shall not be deemed to have occurred unless and until all distributions under this Plan shall have been made.

## ARTICLE 19

### RESERVATIONS OF RIGHTS

In the event that this Plan is not confirmed, the rights of all parties-in-interest in the Case shall be reserved in full.

Dated: New York, New York  
February 25, 2011

NORTH GENERAL SERVICE  
CORPORATION,  
Debtor-in-Possession

By: /s/ John P. Maher  
Name: John P. Maher, MPH  
Title: CFO and Treasurer

NORTH GENERAL HOSPITAL,  
Debtor-in-Possession

By: /s/ John P. Maher  
Name: John P. Maher, MPH  
Title: President/Chief Restructuring Officer

NORTH GENERAL DIAGNOSTIC &  
TREATMENT CENTER,  
Debtor-in-Possession

By: /s/ John P. Maher  
Name: John P. Maher, MPH  
Title: Treasurer

Submitted by:

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Attorneys for North General Hospital, et al.,  
Debtors-in-Possession