

**Presentment Date and Time: September 2, 2010 at 12:00 Noon (prevailing Eastern Time)**  
**Deadline for Objections: September 2, 2010 by 9:00 a.m. (prevailing Eastern Time)**

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

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In re:	:	Chapter 11
	:	
SAINT VINCENTS CATHOLIC MEDICAL	:	Case No. 10-11963 (CGM)
CENTERS OF NEW YORK, <u>et al.</u> ,	:	
	:	
Debtors.	:	Jointly Administered
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**NOTICE OF PRESENTMENT OF STIPULATION AND ORDER**

PLEASE TAKE NOTICE that Saint Vincents Catholic Medical Centers of New York ("**SVCMC**") and certain of its affiliates, as Chapter 11 debtors and debtors in possession (each a "**Debtor**" or the "**Debtors**")<sup>1</sup> in the above-referenced Chapter 11 cases (the "**Chapter 11 Cases**"), will present to the Honorable Cecelia G. Morris, United States Bankruptcy Judge, for signature on **September 2, 2010 at 12:00 Noon** (prevailing Eastern Time) the Stipulation and Order Pursuant to Sections 105(a) and 363(b) of the Bankruptcy Code Authorizing and Approving the Debtors' Entry Into an Insurance Program With National Union Fire Insurance Company of Pittsburgh, PA and Certain of its Affiliates annexed hereto as Exhibit A.

<sup>1</sup> In addition to SVCMC, the Debtors are as follows: (i) 555 6th Avenue Apartment Operating Corporation; (ii) Bishop Francis J. Mugavero Center for Geriatric Care, Inc.; (iii) Chait Housing Development Corporation; (iv) Fort Place Housing Corporation; (v) Pax Christi Hospice, Inc.; (vi) Sisters of Charity Health Care System Nursing Home, Inc. d/b/a St. Elizabeth Ann's Health Care & Rehabilitation Center; (vii) St. Jerome's Health Services Corporation d/b/a Holy Family Home; and (viii) SVCMC Professional Registry, Inc. There are certain affiliates of SVCMC who are not Debtors.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the proposed order must be made in writing and received in the Bankruptcy Judge's chambers and by the undersigned no later than 9:00 a.m. (prevailing Eastern Time) on September 2, 2010. Unless objections are received by that time, the order may be signed.

Dated: New York, New York  
August 17, 2010

KRAMER LEVIN NAFTALIS & FRANKEL LLP

/s/ Adam C. Rogoff  
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*Counsel for Debtors and Debtors in Possession*

To: Parties listed on the Special Service and General Service Lists as those terms are defined in the Final Case Management Order.

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

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In re:	:	Chapter 11
	:	
SAINT VINCENTS CATHOLIC MEDICAL	:	Case No. 10-11963 (CGM)
CENTERS OF NEW YORK, <u>et al.</u> ,	:	
	:	
Debtors.	:	Jointly Administered
-----	X	

**MOTION FOR ENTRY OF A STIPULATION AND ORDER  
PURSUANT TO SECTIONS 105(a) AND 363(b) OF THE BANKRUPTCY  
CODE AUTHORIZING AND APPROVING THE DEBTORS' ENTRY INTO AN  
INSURANCE PROGRAM WITH NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA AND CERTAIN OF ITS AFFILIATES**

TO THE HONORABLE CECELIA G. MORRIS,  
UNITED STATES BANKRUPTCY JUDGE:

Saint Vincents Catholic Medical Centers of New York ("**SVCMC**") and certain of its affiliates, as chapter 11 debtors and debtors in possession (each a "**Debtor**" and collectively, the "**Medical Centers**" or the "**Debtors**")<sup>2</sup> in the above-referenced chapter 11 cases (the "**Chapter 11 Cases**"), hereby move (the "**Motion**") pursuant to sections 105(a) and 363(b) of title 11 of the United States Code (the "**Bankruptcy Code**") for entry of a stipulation and

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<sup>2</sup> In addition to SVCMC, the Debtors are as follows: (i) 555 6th Avenue Apartment Operating Corporation; (ii) Bishop Francis J. Mugavero Center for Geriatric Care, Inc.; (iii) Chait Housing Development Corporation; (iv) Fort Place Housing Corporation; (v) Pax Christi Hospice, Inc.; (vi) Sisters of Charity Health Care System Nursing Home, Inc. d/b/a St. Elizabeth Ann's Health Care & Rehabilitation Center; (vii) St. Jerome's Health Services Corporation d/b/a Holy Family Home; and (viii) SVCMC Professional Registry, Inc. There are certain affiliates of SVCMC who are not Debtors.

order (“**Stipulation and Order**”), attached hereto as **Exhibit A**, authorizing and approving the Debtors’ entry into an insurance program with National Union Fire Insurance Company of Pittsburgh, PA and certain of its affiliates (“**National Union**”). In support of the Motion, the Debtors respectfully represent as follows:

### **SUMMARY OF RELIEF REQUESTED**

1. In the ordinary course of their businesses, the Debtors renew their various insurance policies on an annual basis. The term of the Debtors’ insurance policies for workers’ compensation, general liability, and automobile liability excess coverage expired in late June 2010. In connection with the renewal, National Union requested the entry of a Stipulation and Order memorializing the renewal.

2. Pursuant to the Stipulation and Order, the parties recognize certain arbitration rights and agreed that a singular forum would be utilized for arbitrations under such policies. The Stipulation and Order also provides that National Union will renew the existing insurance policies and utilize the excess value of certain prepetition letters of credit provided to National Union, as beneficiary, as security for any claims relating to the postpetition renewal obligations. Since the “equity” of the existing letters of credit will provide the security for the new postpetition obligations, the Stipulation and Order clarifies the application of any draws under the letters of credit as between National Union’s prepetition claims (under its unassumed prepetition insurance contracts) and its postpetition claims (if any) relating to the postpetition renewal period.<sup>3</sup>

### **BACKGROUND**

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<sup>3</sup> There are certain contracts for which the Debtors dispute the validity of the outstanding claims and those have been expressly carved out of the Stipulation and Order and the Arbitration Agreement and the parties’ respective rights are reserved.

3. On April 14, 2010 (the “**Petition Date**”), each Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Chapter 11 Cases are jointly administered for procedural purposes only.

4. The Debtors are operating their business as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

5. On April 21, 2010, the United States Trustee for the Southern District of New York (the “**U.S. Trustee**”) appointed (i) an official committee of unsecured creditors pursuant to section 1102 of the Bankruptcy Code (the “**Creditors’ Committee**”), (ii) Alan Chapell as consumer privacy ombudsman pursuant to section 332 of the Bankruptcy Code (the “**Consumer Privacy Ombudsman**”), and (iii) Daniel T. McMurray as patient care ombudsman pursuant to section 333 of the Bankruptcy Code (the “**Patient Care Ombudsman**”).

### **JURISDICTION**

6. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. The Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

8. The statutory predicates for the relief requested herein are sections 105(a) of the United States Bankruptcy Code (the “**Bankruptcy Code**”) and Rules 6004 and 9006(c) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

### **THE MEDICAL CENTERS’ HISTORY AND BUSINESS**

9. Founded by the Sisters of Charity in 1849, the Medical Centers are the only remaining Catholic-sponsored, acute-care hospital network in New York City. Dedicated to

fulfilling a charitable healthcare mission, the Medical Centers are committed to a mission that demands they give “Respect, Integrity, Compassion and Excellence to all who come to us in need, especially the poor.”

10. Until recently, the Medical Centers’ core business centered around St. Vincent’s Hospital Manhattan (the “**Hospital**”), which is located in the Greenwich Village section of Manhattan. The Medical Centers operate numerous other services, including a behavioral health facility, nursing homes, continuing care facilities, a hospice, a home health agency and a military health plan serving active duty dependents, retirees, and their families. Additionally, the Medical Centers operated certain physician-related affiliates, which provide specialized care across 14 clinical departments, and were affiliated with 18 licensed behavioral health and community medicine programs and six ambulatory care providers in Manhattan.

11. SVCMC and its then debtor and non-debtor affiliates emerged from Chapter 11 in the summer of 2007 subject to over \$1 billion of liabilities. After emergence, management attempted to increase their revenue, improve their operations, and reduce costs. Despite these efforts, however, the Medical Centers’ revenue remained constant, and the Debtors incurred operating losses of approximately \$43 million in 2008 and approximately \$64 million in 2009. In 2008 and 2009, the Hospital alone had operating losses of approximately \$81 and \$107 million, respectively.

12. The Medical Centers’ poor operating results stem from four principal causes.

- The Hospital’s large operating footprint and staffing are not properly aligned with the current state of its business, as significant changes in the healthcare industry have reduced the number of hospital admissions. While certified as a 727-bed hospital, and burdened with all of the

attendant costs of a larger physical facility, the Hospital, in 2009, used only approximately 340 beds on a daily basis.

- The Medical Centers' patient mix and reimbursement experience limited their revenues. The Hospital had one of the lowest percentages of higher margin private patients of all private Manhattan hospitals and the highest percentage of Medicare and self-pay (i.e., uninsured) discharges per year. In addition, approximately 56% of the Hospital's inpatient admissions came through its Emergency Department, which is required by law to treat patients without regard to their ability to pay. Moreover, as a stand-alone healthcare provider, the Medical Centers have been unable to negotiate reimbursement rates that are competitive with other private area hospitals.
- The profound financial crisis that has gripped New York and the rest of the Nation over the last several years has magnified the financial challenges faced by the Medical Centers. In an effort to balance their budgets, New York State and the federal government have repeatedly reduced hospital reimbursement rates over the last several years, a change that disproportionately impacts the Medical Centers because they have a higher government payor population than other New York medical centers.
- The financial and other obligations assumed in connection with the Prior Chapter 11 Plan resulted in annual payment obligations that exceeded what the current Hospital operations could bear.

13. By the end of 2009, the Debtors faced a severe cash crisis. In response, the Board appointed a Special Restructuring Committee in December 2009, hired a chief restructuring officer in late January and other restructuring professionals shortly thereafter, and took steps to cut costs and assess their restructuring alternatives. Despite these efforts, however, the Debtors' liquidity crisis deepened. By early February 2010, only emergency funding provided by their prepetition lenders and the State of New York enabled the Debtors to make payroll and stave off an immediate bankruptcy filing.

14. The Debtors used the respite provided by this emergency financing, subsequent financial assistance from their prepetition lenders, the State of New York, the Sisters of Charity and a Board member, and wage concessions by employees to explore options for

preserving their businesses' long-term viability and maximizing the value of their assets. Among other things, the Debtors worked to identify and negotiate with potential new sponsors to preserve operations at the Hospital and potential purchasers for their non-Hospital services and assets. While these efforts led to the entry of non-binding letters of intent for the sale of certain non-Hospital services, they did not yield a transaction that will support the continued operation of the Hospital. Despite an extensive marketing process and several serious indications of interest, negotiations concerning the last potential transaction terminated on March 31, 2010. When it became clear that all potential partners had withdrawn from consideration, the Debtors concluded that the continued operation of the Hospital was no longer a viable option.

15. As a result, on April 6, 2010, the Board of Directors of SVCMC voted to approve the closure of the Hospital and the transfer or closure of the outpatient programs and clinics associated with and operated by the Hospital. In accordance with New York State law, the Debtors submitted their proposed plan of closure on April 9, 2010 (the “**Closure Plan**”) (as such may be amended from time to time) to the DOH for approval. Prior to the Petition Date, the Debtors commenced the process of implementing their Closure Plan. By orders dated April 16, 2010 and May 14, 2010, the Court authorized the Debtors to continue implementation of the Closure Plan during their Chapter 11 Cases.

### **RELIEF REQUESTED**

16. Pursuant to sections 105 and 363 of the Bankruptcy Code, the Debtors seek approval of the Stipulation and Order.

### **BASIS FOR RELIEF REQUESTED**



17. Section 105(a) of the Bankruptcy Code provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Renewal of these insurance programs falls within the ambit of the Debtors’ ordinary course business. A debtor in possession may enter into transactions involving property of the estate in the ordinary course of business without first obtaining bankruptcy court approval. See 11 U.S.C. § 363(c)(1); Med. Malpractice Ins. Ass’n v. Hirsch (In re Lavigne), 114 F.3d 379, 384 (2d Cir. 1997); In re The Leslie Fay Cos., 168 B.R. 294, 301 (Bankr. S.D.N.Y. 1994).

18. Section 363(b)(1) of the Bankruptcy Code provides, in relevant part, that a debtor in possession, “after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Section 363 of the Bankruptcy Code does not set forth a standard for determining when it is appropriate for a court to authorize the use of a debtor’s assets prior to confirmation of a plan. However, the Second Circuit has required that the decision to use assets outside the ordinary course of business be based upon a sound business justification. See In re Chateaugay Corp., 973 F.2d 141, 143 (2nd Cir. 1992) citing Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063, 1071 (2nd Cir. 1983). Whether or not there are sufficient business reasons to justify a transaction depends upon the facts and circumstances of each case. Lionel, 722 F.2d at 1071. Even applying the “business judgment” rule used for approving transaction outside of the ordinary course of business, the Debtors submit that entering into the Stipulation and Order is warranted. See In re Chrysler LLC, 576 F.3d 108, 117-18 (2d Cir. 2009) (citing In re Iridium Operating LLC, 478 F.3d 452, 466 (2d Cir. 2007)).

19. The Debtors investigated their options to obtain this necessary coverage which they must maintain to operate as debtors-in-possession and in order to be in compliance with applicable non-bankruptcy law. After analyzing the available coverage on the market, the Debtors determined that renewal of their existing policies pursuant to the Stipulation and Order was, in their business judgment, the most efficient and cost-effective manner to obtain the required insurance coverage.

### **RESERVATION OF RIGHTS**

20. The Debtors are not assuming any agreements with National Union or its affiliates. Nothing contained in this Motion or the Stipulation and Order should be deemed to be an assumption or adoption of any policy, procedure, or executory contract that may be described or referenced herein or otherwise between the parties. Without limitation on the foregoing, the insurance contract renewal represents an agreement solely for the periods effective between June 30, 2010 and June 30, 2011. No obligations arising or relating to the coverage periods prior to June 30, 2010 are being assumed.

### **NOTICE**

21. No trustee or examiner has been appointed in the Chapter 11 Cases. In accordance with the Final Administrative Order Establishing Case Management and Scheduling Procedures (the “**Case Management Order**”), entered on May 13, 2010, notice of this Motion has been given to the parties identified on the General Service List and the Special Service List (as such terms are identified in the Case Management Order). The Debtors submit that no other notice of this Motion need be given.

**NO PREVIOUS REQUEST**

22. No previous request for the relief sought herein has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter an order granting the relief requested and such other or further relief as is just.

Dated: New York, New York  
August 17, 2010

KRAMER LEVIN NAFTALIS & FRANKEL LLP

/s/ Adam C. Rogoff  
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*Counsel for Debtors and Debtors in Possession*

**EXHIBIT A**

**Executed Stipulation and Order with Annexed Arbitration Agreement**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	Chapter 11
	:	
SAINT VINCENTS CATHOLIC MEDICAL	:	Case No. 10-11963 (CGM)
CENTERS OF NEW YORK, <u>et al.</u> ,	:	
	:	
Debtors.	:	Jointly Administered
-----	X	

**STIPULATION AND ORDER PURSUANT TO SECTIONS 105(a)  
AND 363(b) OF THE BANKRUPTCY CODE AUTHORIZING  
AND APPROVING THE DEBTORS' ENTRY INTO AN INSURANCE  
PROGRAM WITH NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA AND CERTAIN OF ITS AFFILIATES**

**WHEREAS**, on April 14, 2010 (the "Petition Date"), Saint Vincents Catholic Medical Centers of New York ("SVCMC") and certain of its affiliates, as Chapter 11 debtors and debtors in possession (collectively, the "Debtors"), filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code;

**WHEREAS**, prior to the Petition Date, commencing June 30, 1991, National Union Fire Insurance Company of Pittsburgh, Pa. and certain of its affiliates (collectively, "Insurer") issued certain insurance policies to the Debtors, or subsidiaries, affiliates or divisions thereof ("Prepetition Insurance Program");

**WHEREAS**, the Insurer holds and is beneficiary to letter of credit nos. 136192070095 and 136192070096 provided by Queensbrook Insurance Limited ("QIL") (hereinafter the "Collateral");

**WHEREAS**, the Debtors seek entry into a renewal insurance program for workers' compensation, general liability, and automobile liability coverage for itself and certain other

insureds under policy nos. 026-149-283, 436-08-01, 397-64-75, respectively (collectively, the “Postpetition Renewal Insurance Program”) with Insurer with an effective date of June 30, 2010;

**WHEREAS**, the Insured presently calculates, subject to the uncertainty of loss development, that the Insurer is over-collateralized under the letters of credit constituting the Collateral on account of the Prepetition Insurance Program, and the Insurer agrees to provide the Postpetition Renewal Insurance Program, and upon payment of the first annual premium payment in full, SVCMC shall not be required to provide any additional collateral; provided however that for the avoidance of doubt, nothing herein shall constitute a cross-collateralization of obligations between the Prepetition Insurance Program and Postpetition Renewal Insurance Program other than with respect to the fact that any equity in the prepetition Collateral is being used to provide postpetition collateral under the Postpetition Renewal Insurance Program (and no new or additional collateral is being provided under either the Postpetition Insurance Renewal Program or the Prepetition Insurance Program); provided further however that the parties agree that the Collateral shall be applied first to the obligations under the Prepetition Insurance Program and, thereafter, to the obligations under the Postpetition Renewal Insurance Program;

**WHEREAS**, the Debtors’ share of the annual premium payment will be \$663,996 for the Postpetition Renewal Insurance Program;

**WHEREAS**, the Debtors received a Notice of Premium Due (“Notice of Premium Due”) for policy periods ranging from April 1, 1995 through April 1, 1999 with respect to Chartis Insurance Contract Nos. 209400, 209401, 209402, and 209403 (the “1995-1999 Prepetition Insurance Program”), and on or about July 9, 2010 the Debtors informed the Insurer that the merits of the amounts sought were disputed;

**WHEREAS**, prior to the Petition Date, the parties agreed to certain arbitration provisions as set forth more fully in the contracts for the Prepetition Insurance Program and for administrative convenience of the parties, the Debtors and the Insurer have entered into an arbitration agreement ("Arbitration Agreement") annexed hereto as Exhibit A to consolidate and coordinate any arbitration proceeding relating to the Prepetition Insurance Program and/or the Postpetition Renewal Insurance Program provided, however that Chartis Insurance Contract Nos. 209400, 209401, 209402, and 209403 are expressly excluded from the Arbitration Agreement and the parties expressly reserve their respective rights, if any, with respect to those contracts and claims, if any thereunder (including, without limitation, the Insurer's right to seek arbitration of any alleged disputes arising from or relating to the 1995-1999 Prepetition Insurance Program separately or in conjunction with any arbitration pursuant to the Arbitration Agreement, and the rights of the Debtors and other parties in interest to object to such arbitration).

**NOW, THEREFORE, IT IS HEREBY STIPULATED, ORDERED, AND AGREED**, by and between the parties through their undersigned counsel, that:

1. The above Whereas Clauses are incorporated herein as agreed.
2. The Debtors are hereby authorized to enter into the Postpetition Renewal Insurance Program pursuant to Section 363 of the Bankruptcy Code as an ordinary course transaction.
3. The Debtors are authorized to and agree to execute all documentation reasonably requested by Insurer or otherwise necessary to enter into the Postpetition Renewal Insurance Program.
4. Upon execution of this Stipulation and Order by the Debtors and the Insurer, the Debtors will pay \$663,996 for its share of the Postpetition Renewal Insurance

Program's annual premium ("Premium"), which shall only be applied to the Postpetition Renewal Insurance Program and not to any claims under the Prepetition Insurance Program.

5. In the event of a default by the Debtors under the Postpetition Renewal Insurance Program, Insurer may exercise all contractual rights in accordance with the terms of the Postpetition Renewal Insurance Program without further order of the Court, only after written statutory notice to the Debtors and/or their agents (a copy of which the Debtors will promptly forward to the Official Committee of Unsecured Creditors and to the DIP Lender) with opportunity to cure such default, including, without limitation, its rights to (i) cancel the Postpetition Renewal Insurance Program, (ii) foreclose on the Collateral, in part or in full, in which it has a security interest and which may be subject to the automatic stay insofar as relates to the Postpetition Renewal Insurance Program, and (iii) receive and apply the unearned or returned premiums with respect to the Postpetition Renewal Insurance Program to the Debtors' outstanding obligations to Insurer only with respect to the Postpetition Renewal Insurance Program. The automatic stay, to the extent it applies, shall be deemed lifted without further order of this Court only with respect to the Postpetition Renewal Insurance Program and not any of the Insurer's rights or claims under the Prepetition Insurance Program.

6. The reimbursement obligations and any other obligations under the Postpetition Renewal Insurance Program (regardless of whether all or any part of such obligations are liquidated before or after confirmation of a plan or conversion of one or more of the pending cases to chapter 7) shall be administrative obligations entitled to priority under section 503(b) of the Bankruptcy Code. The Premium is being paid pursuant to the Debtors' post-petition financing. Because the Debtors are authorized to meet their obligations under the Postpetition Renewal Insurance Program without further order of the Court, no additional proof



of claim or request for payment of administrative expenses need be filed by Insurer. Insurer shall be exempt from any bar date that may be issued for the filing of any proof of claim solely relating to administrative expenses for the Postpetition Renewal Insurance Program insofar as Insurer's rights to its Collateral are concerned; *provided, however* that Insurer must comply with any bar date that may be issued for the filing of any proof of claim or request for payment relating to the Prepetition Insurance Program.

7. The following transactions are hereby approved and shall not be voidable under chapter 5 of the Bankruptcy Code or any applicable state law: (a) the Insured granting a security interest in the Collateral in favor of Insurer to secure the obligations under the Postpetition Renewal Insurance Program and (b) the Insured making postpetition payments to Insurer under the Postpetition Renewal Insurance Program. There are no voidable transactions under chapter 5 of the Bankruptcy Code or any applicable state law against Insurer relating to the two letters of credit constituting the Collateral or to any payment made to the Insurer in connection with the Prepetition Insurance Program.

8. Insurer is authorized to retain and use Collateral, any additional or replacement collateral or security, and any prior or future payment that may be provided to Insurer for application to the Postpetition Renewal Insurance Program and in accordance with the Postpetition Renewal Insurance Program's terms. The parties agree that the Collateral shall be applied to the Prepetition Insurance Program in accordance with the governing prepetition agreements and the excess value shall be applied to the Postpetition Renewal Insurance Program; provided however that nothing herein shall constitute relief from the automatic stay to the extent it applies with respect to the Prepetition Insurance Program.

9. Any premium adjustment related to the Postpetition Renewal Insurance Program will only be applicable to the Postpetition Renewal Insurance Program and not the Prepetition Insurance Program.

10. Insurer may adjust, settle and pay insured claims, utilize funds provided for that purpose, and otherwise carry out the terms and conditions of the Postpetition Renewal Insurance Program in accordance with the governing documents and Insurer's and the Debtors' rights therein, without further order of the Court.

11. The Postpetition Renewal Insurance Program may not be altered by any plan of reorganization filed in these chapter 11 cases and shall survive any plan of reorganization filed by the Debtors. Nothing in any plan of reorganization confirmed in these cases shall impair the interests of Insurer in the Collateral that it holds for the Postpetition Renewal Insurance Program or in the Collateral that it is receiving in accordance with this Stipulation and Order for the Postpetition Renewal Insurance Program.

12. Insofar as the Postpetition Renewal Insurance Program is concerned, the Debtors' rights against the Collateral held by the Insurer, in whatever form, shall be governed by the terms of the Postpetition Renewal Insurance Program and the related security documentation and the Debtors shall not take any action against Insurer in the Bankruptcy Court on account of the Postpetition Renewal Insurance Program that is inconsistent with the terms of such documentation, including, without limitation, actions for turnover or estimation. Estimation of Insurer's claim under Section 502(c) of the Bankruptcy Code relating to the Postpetition Renewal Insurance Program shall not be authorized as a basis to require Insurer to return any part of the security it now holds for the Postpetition Renewal Insurance Program, and during the pendency of these cases, Insurer shall not be required, except as otherwise provided in the

underlying contracts, to return any part of the security it now holds for the Postpetition Renewal Insurance Program without adequate protection for its interest in such security to be returned pursuant to section 361(1) of the Bankruptcy Code. Notwithstanding the foregoing, Insurer or the Debtors may seek to estimate its unsecured administrative claim in the event the estate of the Debtors is to be (or has been) liquidated and/or dispersed.

13. Notwithstanding the foregoing, nothing contained herein shall pertain to, prejudice, impair, or enhance the parties' respective positions and rights under the related documentation concerning the Notice of Premium Due and the 1995-1999 Prepetition Insurance Program (including, without limitation, the Insurer's right to seek arbitration of any alleged claims relating to the 1995-1999 Prepetition Insurance Program and the rights of the Debtors and other parties in interest to object to such arbitration).

14. This Stipulation shall inure to the benefit of the Insurer, the Debtors, and their successors and assigns.

15. This Stipulation shall only relate to the matters specifically referenced herein. Without limiting the foregoing, nothing herein shall constitute an assumption of the Prepetition Insurance Program and related agreements under section 365 of the Bankruptcy Code or otherwise.

16. This Stipulation may be signed in counterparts and by facsimile, with each signed counterpart being deemed a part of the original document

17. This Stipulation may not be modified, altered, or amended except by a writing signed by the parties and shall be binding upon the Debtors, their successors in interest, including without limitation, any Trustee in Bankruptcy.

18. The Court shall retain jurisdiction to resolve all matters relating to the implementation of this Stipulation and Order.

ZEICHNER ELLMAN & KRAUSE LLP

By: 

Michael S. Davis, Esq.  
575 Lexington Avenue  
New York, New York 10022

*Attorneys for National Union Fire Insurance  
Company of Pittsburgh, Pa. and Certain of Its  
Affiliates*

KRAMER LEVIN NAFTALIS & FRANKEL,  
LLP

By: 

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Facsimile: (212) 715-8392

*Attorneys for the Debtors*

SO ORDERED:

Dated: New York, New York  
\_\_\_\_\_, 2010

\_\_\_\_\_  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit A**

**Arbitration Agreement**

## **ARBITRATION AGREEMENT**

**Effective this 5 of August, 2010**

**By and between**

**NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA. and THE  
INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA**

**(Hereinafter called "Company," "us" or "our")**

**and**

**SAINT VINCENT CATHOLIC MEDICAL CENTERS OF NEW YORK**

**(Hereinafter called "Client," "you," or "your")**

**and**

**QUEENSBROOK INSURANCE LIMITED**

**(Hereinafter called "Queensbrook")**

WHEREAS, commencing June 30, 1991, and annually thereafter, the Company and its affiliates and subsidiaries, have issued and may continue to issue to the Client certain policies of insurance providing coverage for workers compensation, employers liability, general liability and automobile liability ("Program"); and,

WHEREAS, Queensbrook an affiliate of the Client, has, from time to time, provided reinsurance to the Company for risks insured under the Program ("Reinsurance"); and,

WHEREAS, the Client, Queensbrook and the Company have entered into various agreements that set forth the terms and conditions of the Program and the Reinsurance; and,

WHEREAS, to secure obligations of the Client and Queensbrook to the Company arising out of or relating to the Program and the Reinsurance (including risks ceded to Queensbrook), the Client or Queensbrook have delivered, during the years encompassed by the Program and Reinsurance, and may continue to deliver to the Company, certain collateral including but not limited to letters of credit and funds held in trust or escrow ("Security"); and,

WHEREAS, the Client, Queensbrook and the Company entered into a Cross-Collateralization Agreement effective June 30, 1998 (the "Cross Collateralization Agreement"), whereby the Client and Queensbrook granted the Company the right to cross-collateralize the Security to pay any of the Client's or Queensbrook's obligations to the Company arising out of or relating to the Program or Reinsurance; and,

WHEREAS, simultaneous with the Cross Collateralization Agreement, the Client and the Company entered into a Payment Agreement effective June 30, 1998 (the "Payment Agreement") that includes the following arbitration provision (the "Arbitration Clause"):

**Unresolved disputes must be settled by Arbitration.**

If a dispute that *you* and we cannot settle by mutual agreement arises about this agreement or any transaction related to it, that dispute must be submitted to 3 arbitrators. We may submit to such arbitration any dispute not resolved within 30 days after it arises.

*You* must notify us in writing as soon as *you* have submitted a dispute to arbitration. We must notify *you* in writing as soon as we have submitted a dispute to arbitration.

This Section will apply whether that dispute arises before or after termination of this Agreement.

How arbitrators must be chosen: *You* must choose one arbitrator and we must choose another. They will choose the third. If *you* or we refuse or neglect to appoint an arbitrator within 30 days after written notice from the other party requesting it to do so, or if the two arbitrators fail to agree on a third arbitrator within 30 days of their appointment, either party may make an application to a Justice of the Supreme Court of the State of New York, County of New York and the Court will appoint the additional arbitrator or arbitrators.

Qualifications of arbitrators: Unless *you* and we agree otherwise, all arbitrators must be executive officers or former executive officers of property or casualty insurance or reinsurance companies or insurance brokerage companies, or risk management officials in an industry similar to *yours*, domiciled in the United States of America not under the control of either party to this Agreement.

How the arbitration must proceed: The arbitration must take place in New York, New York unless *you* and we agree otherwise. The arbitration must be governed by the United States Arbitration Act, Title 9 U.S.C. Section 1, et seq. Judgment upon the award rendered by the arbitrators may be entered by a court having jurisdiction thereof.

*You* and we must both submit our respective cases to the arbitrators within 30 days of the appointment of the third arbitrator. The arbitrators must make their decision within 60 days following the termination of the hearing, unless *you* and we consent to an extension. The majority decision of any two arbitrators, when filed with *you* and us, will be final and binding on *you* and on us.

The arbitrators must interpret this Agreement as an honorable engagement and not merely a legal obligation. They are relieved of all judicial formalities. They may

abstain from following the strict rules of law. They must make their award to effect the general purpose of this Agreement in a reasonable manner.

The arbitrators must render their decision in writing, based upon a hearing in which evidence may be introduced without following strict rules of evidence, but in which cross-examination and rebuttal must be allowed.

The arbitrators may award compensatory money damages and interest thereupon. They may order *you* to provide collateral to the extent required by this Agreement. They will have exclusive jurisdiction over the entire matter in dispute, including any question as to its arbitrability.

WHEREAS, the Client, Queensbrook and the Company desire that any disputes that arise in connection with the Program and/or Reinsurance be decided by a single arbitration panel in accordance with the Arbitration Clause.

NOW, THEREFORE, in consideration of the premises and mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

The Client, Queensbrook and the Company agree that the Arbitration Clause shall govern any dispute that the Client, Queensbrook and the Company cannot settle by mutual agreement arising in connection with the obligations secured by the Cross Collateralization Agreement; provided, however that Chartis Insurance Contract Nos. 209400, 209401, 209402, and 209403 are expressly excluded from the Arbitration Agreement and the parties expressly reserve their respective rights, if any, with respect to those contracts and claims, if any thereunder (including, without limitation, the Insurer's right to seek arbitration of any alleged disputes arising from or relating to the 1995-1999 Prepetition Insurance Program separately or in conjunction with any arbitration pursuant to the Arbitration Agreement, and the rights of the Debtors and other parties in interest to object to such arbitration).

The Client, Queensbrook and the Company agree that the dispute will be submitted to three arbitrators: (i) one arbitrator chosen by the Client and Queensbrook; (ii) one arbitrator chosen by the Company; and (iii) a third arbitrator to be chosen in accordance with the Arbitration Clause.

The Client agrees that it shall not contend that its duty to arbitrate disputes arising under the Program are impaired, altered or limited by the fact that it has filed a bankruptcy petition in the United States Bankruptcy Court, Southern District of New York, No. 10-11963.

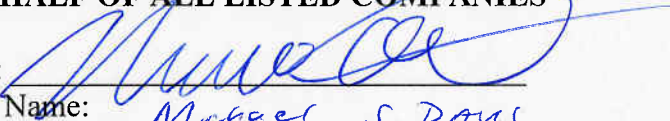
All matters concerning the construction and interpretation of the Agreement will be interpreted and construed in accordance with the laws of the State of New York.

This Agreement will terminate only upon the mutual written consent of the Parties.



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives in New York, New York.

**NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA., ON  
BEHALF OF ALL LISTED COMPANIES**

By:   
Name: Michael S. Davis  
Title: COUNSEL  
Dated: 8-4-10

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Dated: \_\_\_\_\_

**SAINT VINCENT CATHOLIC MEDICAL  
CENTERS OF NEW YORK**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Dated: \_\_\_\_\_

**QUEENSBROOK INSURANCE LIMITED**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Dated: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives in New York, New York.

**NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA., ON  
BEHALF OF ALL LISTED COMPANIES**

By: \_\_\_\_\_  
Name:  
Title:  
Dated:

By: \_\_\_\_\_  
Name:  
Title:  
Dated:

**SAINT VINCENT CATHOLIC MEDICAL  
CENTERS OF NEW YORK**

By: Steven R. Korf  
Name: STEVEN R. KORF  
Title: CHIEF FINANCIAL OFFICER  
Dated: 8/5/10

**QUEENSBROOK INSURANCE LIMITED**

By: Steven R. Korf  
Name: STEVEN R. KORF  
Title: CHIEF FINANCIAL OFFICER  
Dated: 8/5/10