

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

In re: ) Chapter 11  
 )  
TWG CAPITAL, INC., ) Case No. 12-11019-BHL-11  
 )  
Debtor. )

**DISCLOSURE STATEMENT WITH RESPECT TO THE CHAPTER 11 PLAN OF  
LIQUIDATION OF TWG CAPITAL, INC. (AS IMMATERIALLY MODIFIED)**

On September 14, 2012 (the "Petition Date"), the above captioned debtor and debtor-in-possession filed its voluntary petition for relief pursuant to Chapter 11 of the United States Bankruptcy Code (the "Bankruptcy Code") with the United States Bankruptcy Court for the Southern District of Indiana (the "Bankruptcy Court"). The Debtor filed its Disclosure Statement with Respect to the Chapter 11 Plan of Liquidation of TWG Capital, Inc. on June 12, 2013. Contemporaneously with the filing of such Disclosure Statement, the Debtor filed a Chapter 11 Plan of Liquidation (the "Plan"), a copy of which accompanies this Disclosure Statement. The Debtor has made certain non-substantive modifications to the Disclosure Statement, as set forth herein.

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**TABLE OF CONTENTS**

	Page
I. Introduction and Disclaimer .....	1
II. Description and History of the Debtor.....	2
A. Background of the Debtor and Overview of Historical Operations .....	2
B. Summary of the Debtor's Chapter 11 Case.....	5
III. Description of the Debtor's Remaining Assets and Liabilities .....	9
A. The Debtor's Remaining Assets .....	9
B. The Debtor's Remaining Liabilities .....	9
IV. The Liquidating Plan.....	10
A. Overall Structure of the Plan.....	10
B. Classification and Treatment of Claims and Equity Interests.....	10
C. Implementation of the Plan.....	13
1. Utilization of Plan Officer .....	13
2. Continued Existence of the Debtor .....	14
3. Funding for the Plan.....	15
4. Plan Sale.....	15
5. Dissolution .....	15
6. Liquidation of Assets .....	16
7. Termination of Employee Benefits.....	16
8. Accounts .....	16
9. Summary of Distribution and Claims Resolution.....	16
10. Executory Contracts and Unexpired Leases .....	18
11. Injunctions and Stays .....	18
12. Rights of Action Retained.....	18
13. Debtor's Release and Exculpation.....	18
V. The Bankruptcy Plan Voting Instructions and Procedures.....	20
A. Notice to Holders of Claims and Holders of Equity Interests .....	20
B. Solicitation Package.....	20
C. Voting Procedures, Ballots, and Voting Deadline .....	20
D. Confirmation Hearing and Deadline for Objections to Confirmation .....	21
VI. Certain Factors to be Considered / Risks of the Plan.....	21
A. Disclaimer Concerning Financial Information .....	22
B. Certain Bankruptcy Considerations .....	22
1. General Risk of Non-Confirmation of the Plan .....	22

- 2. Non-Consensual Confirmation .....22
- 3. Possible Adverse Effects from Delays of Confirmation and/or Effective Date .....22
- C. Liquidation of Assets .....23
- D. Alternatives to the Plan.....23
- VII. Tax Consequences of the Plan .....23
- VIII. Confirmation Requirements.....24
  - A. Classification of Claims and Equity Interests.....24
  - B. Best Interests Test .....24
  - C. Liquidation Analysis.....26
  - D. Feasibility.....26
  - E. Confirmation without Acceptance by All Impaired Classes.....26

## **I. Introduction and Disclaimer**

The Debtor submits this Disclosure Statement pursuant to Section 1125 of the Bankruptcy Code, for use in the solicitation of votes on the Plan, a copy of which is annexed as "Appendix A" hereto, proposed by the Debtor and filed with the United States Bankruptcy Court for the Southern District of Indiana, Indianapolis Division contemporaneously with the filing of this Disclosure Statement. This Disclosure Statement sets forth certain information regarding the Debtor's prepetition history and the liquidation of the Debtor's assets. This Disclosure Statement also describes terms and provisions of the Plan, including certain effects of confirmation of the Plan and the manner in which distributions will be made under the Plan. In addition, this Disclosure Statement discusses the confirmation process and the voting procedures that holders of Claims against the Debtor must follow for their votes to be counted. All capitalized terms not defined in this Disclosure Statement shall have the meanings ascribed to such terms in the Plan.

THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN, CERTAIN STATUTORY PROVISIONS, CERTAIN EVENTS IN THE CHAPTER 11 CASE, AND CERTAIN FINANCIAL INFORMATION. THE DEBTOR DOES NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN, INCLUDING THE FINANCIAL INFORMATION, IS WITHOUT ANY MATERIAL INACCURACY OR OMISSION. THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER NONBANKRUPTCY LAW. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE OF THIS DISCLOSURE STATEMENT, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER THIS DATE.

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS FOR THE PURPOSE OF SOLICITING ACCEPTANCES OF THE PLAN AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN. NO PERSON MAY MAKE ANY REPRESENTATIONS, OTHER THAN THE REPRESENTATIONS CONTAINED IN THIS DISCLOSURE STATEMENT, REGARDING THE PLAN OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN. ALL CREDITORS ARE ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

IF THE PLAN IS CONFIRMED BY THE BANKRUPTCY COURT AND BECOMES EFFECTIVE, ALL HOLDERS OF CLAIMS AND EQUITY INTERESTS (INCLUDING THOSE WHO REJECTED OR WHO ARE DEEMED TO HAVE REJECTED THE PLAN AND THOSE WHO DID NOT SUBMIT BALLOTS TO ACCEPT THE PLAN) WILL BE BOUND BY THE TERMS OF THE PLAN.

**THE PLAN IS A LIQUIDATING PLAN THAT PROVIDES FOR A DISTRIBUTION TO CREDITORS THAT IS COMPARABLE TO A LIQUIDATION**

**UNDER CHAPTER 7 OF THE BANKRUPTCY CODE BUT AVOIDS THE COMMISSION TO WHICH A CHAPTER 7 TRUSTEE WOULD BE ENTITLED. AS THE PLAN IS A PLAN OF LIQUIDATION, CONFIRMATION OF THE PLAN WILL NOT OPERATE AS A DISCHARGE OF THE DEBTOR FROM ALL CLAIMS AND INDEBTEDNESS THAT AROSE BEFORE THE PLAN WAS CONFIRMED.**

## **II. Description and History of the Debtor**

### **A. Background of the Debtor and Overview of Historical Operations**

Formed in 2000, TWG Capital, Inc. ("TWG" or the "Debtor"), headquartered in Indianapolis, Indiana, is a Delaware registered corporation. TWG was a specialty finance company that served the insurance industry, founded around the realization that insurance agents and agencies own predictable renewal commission rights on certain types of insurance policies ("Insurance Commission Receivables", or "ICRs") that generate significant cash flows over extended periods of time. Such ICRs generally have not been recognized by traditional financing sources yet represent significant financial assets. TWG leveraged its understanding of the insurance market and needs of market participants to provide a range of products and services based on the value of ICR assets. TWG was organized around three business segments: Asset Originations, Asset Servicing, and Lending Business.

Asset Originations represented TWG's largest line of business. In this business segment, TWG provided liquidity to insurance agents and agencies originating policies by creating "bankruptcy remote" special purpose vehicles ("SPVs") that acquired the contractual rights of the ICR assets at a discount to their actuarially expected cash flow. TWG earned an origination fee for this service. Since June 2000, TWG's Asset Originations had resulted in expected cash flows of over \$350 million, financed with \$150 million of capital. As of the Petition Date, these purchases aggregated more than 1000 blocks from over 500 agents, and covered over 240,000 individual policyholders from approximately 100 different insurance carriers. The majority of the existing ICR asset purchases resided in TWG's wholly owned SPV, Insurance Receivables 7, LLC ("IR7") formed in 2007.

TWG also serviced ICR assets acquired by IR7, Insurance Receivables 1, LLC ("IR1") (an earlier SPV in which TWG owned a minority interest ) and until shortly prior to the Petition Date, an unrelated entity LION 2004 Receivables Trust ("Lion Trust"). The Company serviced these portfolios using proprietary technology.

TWG established a Lending Business in 2008, which made loans to insurance agencies that were secured by future insurance commissions. The Lending Business was conducted (and assets resided in) TWG's wholly owned subsidiary, IR Finance 1, LLC. ("IR Finance"). TWG serviced the loans and pledged ICRs on behalf of IR Finance.

The funding source for the IR7 assets was a \$90 million (later increased to \$103.5 million) syndicated debt facility ("IR7 Facility") of which \$50 million was initially borrowed. The \$90 million was comprised of \$75 million of senior debt and \$15 million of subordinated debt. The terms of the debt facility dictated that IR7 would be formed as a bankruptcy-remote SPV. This facility was highly levered with the expectation that the subordinated debt would

serve as bridge capital and the assumption that it would need to be refinanced by not later than July 2012 given the higher interest cost.

As part of the IR7 Facility, TWG also entered into an origination and servicing contract with IR7 (the "IR7 Servicing Agreement"), whereby TWG would receive an origination fee for purchases placed in the facility and a servicing fee for monitoring and processing commission payments that were received under the purchases. The origination and servicing fees from IR7 represented the primary source of revenue to TWG.

In late 2007, TWG was in the process of negotiating three large purchase transactions: a \$25 million purchase of Long Term Care ("LTC") ICRs, another LTC purchase with a price ranging from \$25-40 million depending on the acquisition structure, and a purchase of \$50 million Medicare supplemental ("Med Sup") ICRs from American Insurance Marketing Corp. Inc ("AIMC"). Due diligence had been completed on all three transactions and purchase documents were at various stages of completion in early 2008. Upon completion of these transactions, TWG expected the IR7 portfolio mix to be a relatively even mix of Med Sup and LTC ICRs.

In order to accommodate the transactions being negotiated, TWG approached Fifth Third Bank ("Fifth Third") about increasing the senior capacity in the IR7 facility and raised additional subordinated debt of \$13.5 million in February 2008. Additionally, TWG was negotiating with Credit Suisse and Wells Fargo about providing IR7 with larger debt facilities to take out the existing facility and/or provide IR7 with significant increased capacity for these transactions as well as a recapitalization of the existing subordinated debt. TWG decided to move forward with a possible origination of a Credit Suisse facility for IR7 sized at \$200 million. Credit Suisse performed due diligence, began internal syndication discussions and established a web data room for participating banks.

In the meantime, the three large purchase transactions were progressing, with the AIMC Med Sup transaction the first to close in June 2008. Shortly after the close of the AIMC Med Sup transaction, the perfect storm occurred. The financial crisis hit in the fall of 2008 and its prolonged impact effectively shut down the ability of IR7 to refinance its existing debt and secure the replacement/additional funding from Credit Suisse. Certain insurance carriers were struggling; the impact of which hit the IR7 portfolio first with an insurance carrier bankruptcy and \$1.4 million in lost commissions. In late 2009, Coventry (insurance carrier) announced its decision to exit certain Medicare products that further impacted the portfolio by \$6.9 million. As the economy worsened, policyholders had a greater propensity to drop Med Sup policies. Likewise, certain carriers sought non-customary premium rate increases for their non profitable Med Sup product lines which further facilitated higher voluntary lapse of such policies in the IR7 portfolios. This higher voluntary lapse resulted in negative performance to the Med Sup blocks and a loss of expected future cash flow.

In the fall of 2008, TWG became aware that portions of the AIMC purchase were performing below expectation. Investigation revealed that AIMC had provided inaccurate information on certain acquired Med Sup policies that breached AIMC representations and warranties. After efforts to resolve these issues with AIMC stalled, in February 2009, TWG notified Fifth Third of the issues and TWG and IR7 jointly moved forward with arbitration as

provided in the AIMC purchase agreement. Fifth Third initially allowed TWG and IR7 to proceed without impact on the IR7 Facility. However, in May 2009, Fifth Third declared an event of default of the IR7 Facility as a result of the issues surrounding the AIMC acquisition. TWG and IR7 executed a standstill agreement with the IR7 Facility lenders in July 2009, which would afford TWG and IR7 time to conclude the arbitration.

The immediate impact of the declared default was that IR7 became frozen and funding was no longer available for new originations. The freeze exacerbated the impact of the AIMC block issues and the negative Med Sup performance. When the first AIMC transaction closed, the portfolio was heavily weighted towards Med Sup, but it was expected that the two large LTC transactions would close in quick succession. When funding shut down, the LTC blocks could not be acquired.

The events described above effectively made permanent the unprofitable Med Sup/LTC portfolio mix in IR7. On or around May 13, 2008, TWG, Inservico, Inc. ("Inservico") and other parties, including lenders to IR7 (the "IR7 Lenders") entered into that certain Back-Up Servicing Agreement (the "Back-Up Servicing Agreement"). On August 13, 2010, TWG was terminated as the IR7 servicer and pursuant to the Back-Up Servicing Agreement, the IR7 Lenders purportedly appointed Inservico as successor to TWG as the servicer with respect to the IR7 Servicing Agreement. Inservico disputed any allegation that it had any obligations under the Back-Up Servicing Agreement or the IR7 Servicing Agreement. With reservation of Inservico's position, by that certain Subservicing Agreement between Inservico and TWG dated as of September 13, 2012, Inservico subcontracted the servicing of IR7 to TWG. The origination and servicing fees from IR7 remained TWG's primary source of revenue.

On November 18, 2010, the AIMC arbitration settled. In addition to IR7 retaining \$1 million in set off funds previously collected, AIMC paid \$2.5 million on the date of closing and issued a note payable to IR7 in the amount of \$3.0 million that would be paid ratably over the next 4 years. The proceeds from the settlement were primarily used to reduce the outstanding senior debt of the IR7 Facility, but did not relieve the default status or create liquidity for portfolio acquisitions needed to reset portfolio concentrations.

In 2004, TWG was a party in a three party transaction that also included Long Term Preferred Care ("LTPC"), a national marketing organization of LTC policies; and Lion Trust, an SPV created to purchase LTPC ICRs, the primary beneficial owner of which was Imagine International Reinsurance Limited ("Imagine"). The commissions received from insurance carriers in this purchase were paid by the carriers to LTPC on a "gross basis," meaning that they included the commissions that were owed to LTPC as well as the commissions that were ultimately to be paid to the agent or broker that actually signed up the policyholder (collectively, the "Downlines"). Related agreements called for TWG to receive a servicing fee and a senior payment from the Lion Trust, from which senior payment, TWG agreed to pay LTPC's obligations to the Downlines. In 2008, the sums of senior payments to TWG, depending on variable factors, became insufficient to pay the Downlines. From 2008 to October 2011, TWG covered the shortfall to Downlines from TWG operating cash. Effective November 2011, TWG could not continue to fund this shortfall and began a process to remit pro rata to Downlines only the amounts that were received from Lion Trust's senior payment. As of the Petition Date, the senior payment covered only 70% of the amounts owed to the Downlines.

In January 2012, two Downline agents filed suit as a putative class action against TWG to recover the unpaid commissions. TWG had limited operating funds to defend this litigation or pursue recourse or contribution from the other parties to the original Lion Trust transaction.

In August 2009, TWG engaged William Blair & Company ("Blair"), an investment banking firm recognized nationally for its expertise in the financial services industry to advise it on raising capital and evaluating all available strategic alternatives. With the assistance of Blair, TWG developed the following strategies: (i) seeking a partner to merge with or acquire TWG, and (ii) soliciting investors to participate in a private recapitalization. During late 2009 and 2010, Blair conducted a process to identify and contact potential strategic partners (nontraditional lenders and specialty finance entities) and other potential sources of capital (private equity and hedge funds). Blair contacted 117 possible partners. Thirty-five of the parties executed nondisclosure agreements and were provided confidential information on TWG through a virtual data room. A total of five parties conducted some level of due diligence. During the process conducted by Blair, there was considerable interest in the business model and processes built by TWG; however, no definitive capital partner was identified.

Concurrent with Blair's process, City Capital Advisors, an investment banking firm, also introduced TWG to several private equity and specialty finance companies. The feedback received from the parties introduced by City Capital was that they lacked interest in pursuing a transaction because of the apparent complexity of negotiating with the many stakeholders (shareholders, servicing counterparties, lenders, etc.) of TWG.

In addition to the capital raising efforts, TWG's management executed major expense reductions in 2010 and 2011, including elimination of all sales and administrative staff, elimination of all non-essential servicing staff, and expense reductions achieved by outsourcing certain information technology costs and a physical move to a new office location. While each of these expense reduction actions had their intended effects, the total impact was not sufficient to overcome the effect of TWG's continuing losses.

As of the Petition Date, the Debtor employed six employees and had offices in Indianapolis, Indiana and Nashville, Tennessee. As of the filing of this Disclosure Statement, the Debtor "leases" four former TWG employees and officers from Carmel Funding, LLC ("Carmel Funding") as needed to effect the wind-down of the Debtor's business operations and the liquidation of the Debtor's Estate.

## **B. Summary of the Debtor's Chapter 11 Case**

The paramount objectives of a Chapter 11 case are the orderly restructuring of a debtor's business and the negotiation, development, proposal, confirmation and consummation of a Chapter 11 plan. Chapter 11 is also a permissible method for the effectuation of the orderly liquidation of a debtor for whom reorganization is not a viable alternative. Commencing a Chapter 11 case creates an estate that comprises all of the legal and equitable interests of the debtor as of the filing date. The Bankruptcy Code provides that a debtor may continue to operate its business and remain in possession of its property as a "debtor-in-possession." Since the Petition Date, the Debtor has operated its business and managed its properties as debtor-in-



possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or committee has been appointed in the Chapter 11 Case.

#### Entry of First Day Orders

In the early stages of the Chapter 11 Case, the Debtor filed numerous motions seeking the entry of orders intended to ensure a seamless transition between the Debtor's prepetition and postpetition business operations by approving certain regular business conduct that may not be authorized specifically under the Bankruptcy Code. Within the first seven (7) days of operation as Debtor-In-Possession, the Debtor sought and obtained orders addressing operational matters, such as the payment of prepetition employee wages as well as authorization to use preexisting bank accounts and to remit certain commission monies and other funds held by the Debtor as custodian for Downlines or SPVs in the course of its ordinary business operations.

#### Retention of Professionals

The Debtor filed retention applications for certain professionals to represent and assist it in the administration of the Chapter 11 Case: Faegre Baker Daniels LLP as counsel for the Debtor [Docket No. 7, 90]; Peters, Browning & Co. P.C. as financial advisor for the Debtor [Docket No. 10, 91]; and BMC Group, Inc. as the Debtor's ballot, claims and noticing agent [Docket No. 92, 129].

#### Postpetition Financing

The Debtor also sought, and obtained, approval for postpetition financing necessary to permit the maintenance and proper preservation of the Debtor's assets and to satisfy other working capital and operations, financial and general corporate needs and to facilitate the proposed sale of substantially all of the Debtor's assets and the orderly liquidation of the Debtor's Estate. Pursuant to the *Final Order (i) Authorizing Debtor to Obtain Postpetition Financing Pursuant to 11 U.S.C. §§364(c); (ii) Granting Liens and Superpriority Claims; (iii) Allowing Use of Cash Collateral; and (iv) Granting Related Relief* entered on October 4, 2012 [Docket No. 79] (the "Final DIP Order"), the Debtor obtained postpetition secured financing from Carmel Funding in an amount up to \$340,000 and obtained authority to use cash collateral. As of the date of filing of this Disclosure Statement, the postpetition financing obtained by the Debtor, including all fees, expenses, and charges related thereto, has been repaid in full.

#### Sale of Substantially All of the Debtor's Assets

Prior to the Petition Date, the Debtor, in consultation with its financial and legal advisors, analyzed its operations and assets to determine how best to maximize values and potential recoveries for its creditors. Unable to raise sufficient capital to offset the Debtor's mounting losses, the Debtor determined, in the exercise of its sound business judgment, that a sale of substantially all of its assets pursuant to 11 U.S.C. § 363(b) was in the best interests of its Estate and creditors. Carmel Funding agreed to serve as the stalking horse bidder against whom other potential buyers may submit competing bids for the Debtor's assets. In accordance with bidding procedures approved by the Bankruptcy Court, the Debtor conducted an auction on November 7, 2012. The Debtor solicited offers from potential overbidders and satisfied due diligence requests related thereto; nevertheless, the Debtor did not receive any competing bids at the auction.

Pursuant to the *Order Granting Motion for Entry of an Order (I) Approving Asset Purchase Agreement; (II) Authorizing the Sale of Substantially All of the Debtor's Assets Free and Clear of All Liens, Claims and Encumbrances; and (III) Authorizing the Assumption and Assignment of Leases and Contracts* entered on November 9, 2012 [Docket No. 142] (the "Sale Order"), the Debtor sold substantially all of its assets to Carmel Funding. As part of the sale, Carmel Funding purchased the Debtor's membership interests in IR Finance 1, LLC and Insurance Receivables 1, LLC but did not purchase the Debtor's membership interests in its various other SPVs. The sale to Carmel Funding closed on December 31, 2012 (the "Closing Date") and yielded a purchase price of \$200,000.00.

#### Employee Termination

The Debtor's employees were terminated effective as of the Closing Date. The Bankruptcy Court also approved the Debtor's rejection of the employment agreements between the Debtor and each of Melanie S. Otto and Mark P. Nondorf by its *Order Granting Motion for an Order Nunc Pro Tunc to December 31, 2012 Authorizing the Rejection of Employment Agreements* [Docket No. 195].

#### Retention of Interim President and Cost Sharing Agreement with Carmel Funding

Pursuant to the *Order Granting Motion for an Order Approving Certain Agreement for Allocation of Costs and Reimbursement of Expenses and Interim Services of Mark P. Nondorf as President* [Docket No. 199], the Bankruptcy Court approved the Cost Sharing Agreement and authorized the Debtor to engage the interim services of Mark P. Nondorf as President of the Debtor and to share certain employment or other overhead costs related to the Debtor's wind-down of its business operations.

#### Rejection of Key Agreements

Pursuant to the *Order Granting Motion to Authorize the Rejection of Certain Agreements* [Docket No. 162], the Debtor obtained Bankruptcy Court approval to reject certain agreements reflecting a complex four-party transaction involving the Debtor, LTPC, Imagine, and the Lion Trust. The Debtor also rejected its agreement with LTPC, whereby LTPC engaged the Debtor to provide servicing with respect to the policy commission stream related to the ICRs of LTPC, which the Bankruptcy Court approved pursuant to its *Order Granting Motion to Authorize the Rejection of Agreement* [Docket No. 161].

#### Settlement with Imagine and Lion Trust

The Debtor negotiated a settlement with Imagine and Lion Trust (the "Lion Trust Settlement"), which resulted in the satisfaction of scheduled claims for over 400 Downlines totaling nearly \$1.2 million (the "Satisfied Claims"), as well as any postpetition claims of the Downlines and any potential damages claims arising from the rejection of Lion Trust and Imagine's agreements with the Debtor. The Bankruptcy Court approved the Lion Trust Settlement by its *Order Granting Motion to Approve Compromise and Settlement Pursuant to Rule 9019* [Docket No. 159]. As part of the Lion Trust Settlement, Lion Trust warranted to the Debtor that it has paid the Satisfied Claims and will continue to pay the post petition commissions due to the Downlines. Further, the Debtor was to receive payments totaling

\$60,000 from Lion Trust and/or Imagine as part of the Lion Trust Settlement. As of the date of this Disclosure Statement, the Debtor has not yet received \$30,000 of the Lion Trust Settlement payment.

*Satisfied Claims Procedures*

The Debtor also received approval of certain procedures to expunge the Satisfied Claims pursuant to the *Order on Motion for Entry of an Order Establishing Procedures for Expunging Satisfied Claims* [Docket No. 194] (the "Satisfied Claim Procedures"). Pursuant to the Satisfied Claim Procedures, the Debtor provided notice to holders of Satisfied Claims that their respective claims against the Debtor were satisfied by Lion Trust and that their names would be purged from the Debtor's creditor list and schedules. See *Notice of Claims Satisfied in Full* [Docket No. 204] and *Second Notice of Claims Satisfied in Full* [Docket No. 241] (the "Satisfied Claims Notices"). Unless the holders of Satisfied Claims timely objected, the Satisfied Claims would be deemed satisfied and expunged, and the holders of Satisfied Claims would not be entitled to any distributions from the Debtor's Estate. The Debtor believes that other holders of Satisfied Claims were not expunged pursuant to the Satisfied Claim Procedures, but the Debtor nonetheless takes the position that such Claims have been fully satisfied by the Lion Trust. The list of holders of Satisfied Claims attached to the Satisfied Claims Notices was provided by the Lion Trust, and the Debtor believes certain holders of Satisfied Claims may not have been listed due to the timing of such holders' commission payables.

*Fifth Third Settlement and Resolution of Receiver Claim*

The Debtor also entered into a settlement with Fifth Third, one of the senior lenders and the lender agent under the IR7 Facility, which resolved the transition of the IR7 servicing obligations to a successor entity and certain claims related to the Insurance Commission Receivables Facility Agreement dated as of July 12, 2007 (the "Fifth Third Settlement"). As part of the Fifth Third Settlement, the Debtor delivered to Fifth Third all documents required to approve an Article 9 foreclosure of Fifth Third's security interests in IR7. As of the date of this Disclosure Statement, Fifth Third had not consummated the foreclosure.

Pursuant to the *Order Granting Emergency Motion to Approve Compromise and Settlement Pursuant to Rule 9019* [Docket No. 217], the Bankruptcy Court approved the Fifth Third Settlement and authorized the Debtor to satisfy the secured claim asserted by the U.S. Small Business Administration, as Receiver for Cardinal Growth, L.P. (the "Receiver") and to discharge the lien asserted by the Receiver by paying to the Receiver (i) a portion of the proceeds of the sale held in escrow as adequate protection for the Receiver's interest pursuant to the Final DIP Order and (ii) funds received by the Debtor under the Fifth Third Settlement.

*Claims Administration*

During the course of the Chapter 11 Case, the Debtor has successfully satisfied the claim of the Debtor's only known purportedly secured creditor and a large majority of the claims of its general unsecured creditors. Additionally, the Debtor has fully paid claims entitled to priority pursuant to Section 507(a)(4) of the Bankruptcy Code pursuant to the Wage Order and the

Priority Claim Order [Docket No. 35, 196], and the Debtor does not believe there are any remaining Other Priority Claims that may be become Allowed Claims.

On April 22, 2013, the Bankruptcy Court entered an order (the "Bar Date Order") [Docket No. 253] establishing (i) June 7, 2013 as the deadline for filing proof of claims and equity interests against the Debtor that arose prepetition; (ii) the later of June 7, 2013 and thirty (30) days following the entry of the order authorizing rejection of an executory contract or unexpired lease under Section 365 of the Bankruptcy Code as the deadline to assert Rejection Damages Claims; and (iii) August 7, 2013 as the deadline for filing proof of claims by a governmental unit.

### **III. Description of the Debtor's Remaining Assets and Liabilities**

The following section provides an overview of the Debtor's remaining assets and liabilities, all of which are dealt with by the Plan.

#### **A. The Debtor's Remaining Assets**

As of the date of this Disclosure Statement, the Debtor's principal assets primarily consist of cash and cash equivalents. As of May 31, 2013, the Debtor held cash and cash equivalents in the approximate amount of \$66,000. The amount of cash on hand may increase or decrease before the Effective Date of the Plan as a result of the liquidation of non-cash assets and the payment of administrative expenses in the ordinary course of business or pursuant to an order of the Bankruptcy Court.

The non-cash assets belonging to the Debtor include, but are not limited to the following: (1) a claim against Imagine and Lion Trust for recovery of the remaining payment due pursuant to the Lion Trust Settlement; and (2) the Ownership Interests. Exclusive of performing limited contractual obligations and paying obligations otherwise entitled to priority treatment under Section 507(a) of the Bankruptcy Code, the Debtor largely ceased all normal business operations more than ninety (90) days prior to the Petition Date. The Debtor's review of the substantially scaled-back prepetition business activity causes it to conclude that it does not have any Causes of Action to recover transfers pursuant to Section 547 or any other section of Chapter 5 of the Bankruptcy Code that may generate additional proceeds available for distribution under the Plan. The Debtor does not, however, waive its right to assert any Cause of Action.

#### **B. The Debtor's Remaining Liabilities**

According to the Debtor's Schedules and the proofs of claim that have been filed in the Chapter 11 Case, the total filed and scheduled claims against the Debtors total over \$2,100,000. The Bar Date has not yet passed, and the Debtor has not completed the process of reviewing, evaluating, and objecting (where appropriate) to the claims filed in the Chapter 11 Case. The Debtor estimates, however, that after the process of reviewing, evaluating, and objecting (where appropriate) to claims has been completed the total filed and scheduled claims against the Debtor will be significantly less than the current total reflected above.

**THE ACTUAL AMOUNT OF DEBT WILL LIKELY VARY FROM THE ESTIMATES INCLUDED IN THIS DISCLOSURE STATEMENT AND THE ESTIMATES PROVIDED**

HEREIN ARE EACH SUBJECT TO MATERIAL CHANGE. IN ADDITION TO THE ESTIMATED DEBTS SET FORTH ABOVE, THE DEBTOR WILL ALSO BE RESPONSIBLE FOR PAYING CERTAIN ADMINISTRATIVE EXPENSES INCURRED IN ADMINISTERING THE CHAPTER 11 CASE.

#### **IV. The Liquidating Plan**

THE FOLLOWING IS A SUMMARY OF THE SIGNIFICANT ELEMENTS OF THE PLAN. THIS DISCLOSURE STATEMENT IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE MORE DETAILED INFORMATION SET FORTH IN THE PLAN, WHICH IS INCLUDED AS APPENDIX A TO THIS DISCLOSURE STATEMENT.

THE PLAN ITSELF AND THE DOCUMENTS REFERRED TO THEREIN WILL CONTROL THE TREATMENT OF CREDITORS AND INTEREST HOLDERS UNDER THE PLAN AND WILL, UPON THE EFFECTIVE DATE, BE BINDING UPON HOLDERS OF CLAIMS AGAINST, OR EQUITY INTERESTS IN, THE DEBTOR OR THE LIQUIDATED ASSETS.

##### **A. Overall Structure of the Plan**

The Plan becomes effective when (i) the Bankruptcy Court has entered a Confirmation Order, (ii) the Confirmation Order has become final and non-appealable, and (iii) all other conditions to consummation set forth in the Plan have been satisfied.

The Plan generally provides for the liquidation and conversion of all of the Debtor's assets to Cash and the distribution of the net proceeds realized therefrom to creditors in accordance with the priorities established by the Bankruptcy Code. Described in very general terms, Allowed Administrative Expense Claims, Allowed Secured Claims, Allowed Priority Tax Claims, and Allowed Other Priority Claims will be paid in Cash in full. Insider Claims, Affinity Claims, and other General Unsecured Claims will receive a Pro Rata distribution of the Debtor's remaining property. Based upon reasonable projections, it does not appear that holders of Equity Interests will receive a distribution under the Plan.

From and after the Confirmation Date, the Debtor shall continue in existence for the purposes set forth in the Plan. From and after the Confirmation Date, and subject to the Effective Date, the then current officer of the Debtor shall continue to serve in his respective capacity through the earlier of the date the Debtor is dissolved in accordance with the Plan and the date such officer resigns, is replaced or is terminated.

##### **B. Classification and Treatment of Claims and Equity Interests**

Section 1122 of the Bankruptcy Code requires that a Chapter 11 Plan classify the claims of a debtor's creditors and the interests of its equity holders. The Bankruptcy Code also provides that, except for certain claims classified for convenience, a plan may place a claim of a creditor or an interest of an equity holder in a particular class only if such claim or interest is substantially similar to the other claims or equity interests of such class. The Bankruptcy Code also requires that a plan provide the same treatment for each claim or interest of a particular class unless the

holder of a particular claim or interest agrees to a less favorable treatment of its claim or interest. The Debtor submits that the Plan complies with this standard.

A Claim or Equity Interest is placed in a particular Class for all purposes, including voting, confirmation, and distribution. In accordance with Section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims of the kinds specified in Sections 507(a)(1) and 507(a)(8) of the Bankruptcy Code, respectively, have not been classified. Administrative Expense Claims include any Claim under Sections 503(b) and 507(a)(1) of the Bankruptcy Code, including, without limitation, any actual and necessary expenses of preserving the assets of the Debtor-in-Possession, any actual and necessary expenses of operating the business of the Debtor-in-Possession, all compensation and reimbursement of expenses allowed by the Bankruptcy Court under Sections 330 or 503 of the Bankruptcy Code, and any fees and charges assessed against the Debtor-in-Possession under Section 1930 of Chapter 123 of Title 28 of the United States Code. Priority Tax Claims include any Claim of a governmental unit of the kind entitled to priority in payment as specified in Sections 502(i) and 507(a)(8) of the Bankruptcy Code.

The Debtor's financial projections as of June 30, 2013, reflecting source and uses of funds assuming confirmation of the Plan is attached as Schedule IV.B. The classification and treatment under the Plan of each Allowed Claim and Equity Interest is as follows:

Unclassified: Administrative Expense Claims. Except to the extent that the Debtor and the holder of an Allowed Administrative Expense Claim agree to a different treatment, the Debtor shall pay to each holder of an Allowed Administrative Expense Claim from Available Cash an amount equal to such Allowed Administrative Expense Claim on the Effective Date; provided, however, that Allowed Administrative Expense Claims representing obligations incurred in the ordinary course of business of the Debtor as Debtor-in-Possession shall be paid in full and performed by the Debtor in accordance with the terms and conditions of the particular transactions and any applicable agreements.

Unclassified: Priority Tax Claims. Except to the extent that the Debtor and the holder of an Allowed Priority Tax Claim against the Debtor agree to a different treatment, the Debtor shall pay to each holder of an Allowed Priority Tax Claim from Available Cash an amount equal to such Allowed Priority Tax Claim on the Distribution Date.

Class 1: Other Priority Claims. Class 1 consists of all Allowed Other Priority Claims against the Debtor. Each holder of an Allowed Other Priority Claim shall be entitled to receive Cash from Available Cash in an amount equal to such Allowed Other Priority Claim on the Distribution Date. The Debtor is not aware of any Other Priority Claims that will become an Allowed Claim.

Class 2: Secured Claims. Class 2 consists of all Allowed Secured Claims against the Debtor. Except to the extent that a holder of a Class 2 Allowed Secured Claim agrees to different treatment, on the Distribution Date, such holder shall receive one of the following treatments, in the discretion of the Debtor, in full and final satisfaction of such Allowed Secured Claim: (i) the Debtor shall pay such Allowed Secured Claim in full in Cash in an amount equal to the Allowed Secured Claim; (ii) the Debtor shall deliver the collateral securing any such

Allowed Secured Claim in full satisfaction of its Allowed Secured Claim, unless the holder of such Claim agrees to less favorable treatment; or (iii) the Debtor shall otherwise treat any Allowed Secured Claim in any manner such that the Claim shall be rendered unimpaired. Each holder of an Allowed Secured Claim is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan. The Debtor does not believe there are any Class 2 Claims that will become Allowed Claims.

Class 3: Insider Claims. Class 3 consists of all Allowed Insider Claims against the Debtor. Class 3 is comprised primarily of (i) non-priority, unsecured Claims of former employees of the Debtor to the extent such Claims are not entitled to priority pursuant to Section 507(a)(4) of the Bankruptcy Code and therefore already satisfied pursuant to the Wage Order and the Priority Claim Order, and (ii) non-priority, unsecured Claims held by the Debtor's SPVs and equity security holders. After satisfaction in full of all Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, and Allowed Secured Claims, and unless otherwise agreed to by the Debtor and the holder of an Allowed Claim in Class 3, each holder of an Allowed Claim in Class 3 shall be entitled to receive its Pro Rata Share of Available Cash (not to exceed the amount of its Allowed Claim) on the Distribution Date. Distributions to holders of Allowed Insider Claims shall be on parity with distributions to holders of Allowed Claims belonging to Classes 4 and 5. The Debtor projects holders of Allowed Insider Claims will receive no more than one to two percent (1 – 2%) of such Allowed Insider Claims and may receive zero. Pursuant to Section 1129(a)(10) of the Bankruptcy Code, Class 3 will not constitute the sole accepting Class for purposes of a "cram-down" under Section 1129(b) of the Bankruptcy Code.

Class 4: Affinity Claims. Class 4 consists of all Allowed Affinity Claims against the Debtor. Members of Class 4 hold non-priority, unsecured claims against the Debtor. The Debtor separately classifies the holders of Affinity Claims from other holders of non-priority, unsecured claims against the Debtor because the holders of Affinity Claims are each uninformed about their Claims, with any knowledge dependent entirely on the disclosures or actions of the Debtor. Prior to the Petition Date, members of Class 4 were entitled to a small percentage of ICRs collected from policies issued to policy holders marketed through the Affinity. Members of Class 4 have no information from which they could determine any entitlement to or calculate the amount of any Claim to such ICR percentage payment. Members of Class 4 are unable in all cases to independently value their Claims and must rely on the Debtor's determinations as set forth in the Schedules. Given the number of holders, the sums of the Affinity Claims, and reliance of Class 4 members on the Debtor's data as set forth in the Schedules, Class 4 members are separately classified in voting to accept or reject the Plan. After satisfaction in full of all Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, and Allowed Secured Claims, and unless otherwise agreed to by the Debtor and the holder of an Allowed Claim in Class 4, each holder of an Allowed Claim in Class 4 shall be entitled to receive its Pro Rata Share of Available Cash (not to exceed the amount of its Allowed Claim) on the Distribution Date. Distributions to holders of Allowed Affinity Claims shall be on parity with distributions to holders of Allowed Claims belonging to Classes 3 and 5. The Debtor projects holders of Allowed Affinity Claims will receive no more than one to two percent (1 – 2%) of such Allowed Affinity Claims and may receive zero.

Class 5: Other General Unsecured Claims. Class 5 consists of all Allowed Other General Unsecured Claims against the Debtor, including without limitation, Rejection Damages Claims (except those asserted by Insiders), Claims of trade creditors, and Claims asserted against the Debtor by parties other than Insiders or Affinities. Class 5 represents the Debtor's most independent Class of creditors, whose transactions with the Debtor were conducted at arm's-length and pursuant to a direct agreement with the Debtor. Accordingly, Class 5 members are separately classified. After satisfaction in full of all Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, and Allowed Secured Claims, and unless otherwise agreed to by the Debtor and the holder of an Allowed Claim in Class 5, each holder of an Allowed Claim in Class 5 shall be entitled to receive its Pro Rata Share of Available Cash (not to exceed the amount of its Allowed Claim) on the Distribution Date. Distributions to holders of Allowed Other General Unsecured Claims shall be on parity with distributions to holders of Allowed Claims belonging to Classes 3 and 4. The Debtor projects holders of Allowed Other General Unsecured Claims will receive no more than one to two percent (1 – 2%) of such Allowed Other General Unsecured Claims and may receive zero.

Class 6: Equity Interests. Because the value of the Debtor's assets is less than the total value of its debts and liabilities, it is not anticipated that the holders of Allowed Equity Interests in Class 6 will receive any distributions on account of such Equity Interests. The Debtor will request that the Bankruptcy Court make a finding that the Equity Interests have no value for purposes of the "best interest" test under Section 1129(a)(7) of the Bankruptcy Code. The common stock certificates and other instruments evidencing Equity Interests in the Debtor shall be deemed cancelled without further act or action under any applicable agreement, law, regulation, order or rule, and the Equity Interests in the Debtor evidenced thereby shall be extinguished after (i) the Debtor determines following the Confirmation Date that there are not sufficient funds available to holders of Allowed Equity Interests, or (ii) in the event that sufficient funds become available to make a distribution to holders of Allowed Equity Interests, as soon as possible following the Distribution Date, distributions to Allowed Equity Interests, if any, will be paid on the Distribution Date, and the holder of Class 6 Equity Interests shall be entitled to receive its Pro Rata Share of Available Cash.

### **C. Implementation of the Plan**

This section generally describes the procedures to be followed for purposes of implementing the Plan.

#### **1. Utilization of Plan Officer**

From and after the Effective Date, a Plan Officer shall be deemed to be appointed by the Bankruptcy Court pursuant to the terms of the Plan. On the Effective Date, the Plan Officer shall be authorized to take all steps necessary to effect the provisions of the Plan and shall, together with the Debtor, be an official distribution agent to the holders of Allowed Claims. The principal purpose of the Plan Officer is make distributions in respect of Claims against the Debtor's Estate in accordance with the terms of the Plan. During the term of his/her appointment, the Plan Officer will comply with all of its obligations, including, but not limited to, obligations arising by operation of law or pursuant to the terms of the Plan.



The Debtor has determined that Mark P. Nondorf, 6346 Calais Drive, Indianapolis, Indiana 46220, is well suited for the role of Plan Officer and should be so appointed. The compensation of the Plan Officer shall continue pursuant to the terms of the Cost Sharing Agreement, as such agreement has been or may be modified through the closing of the Chapter 11 Case.

Upon appointment by the Bankruptcy Court and pursuant to the terms and provisions of the Plan, the Plan Officer shall, together with the Debtor, act as the sole and official distribution agent for the holders of Allowed Claims. The Plan Officer, together with the Debtor, shall carry out the implementation of the Plan and shall have all duties, powers, and standing and authority necessary to implement the Plan and to administer the assets of the Debtor for the benefit of holders of Allowed Claims. The Plan Officer's powers shall include, without limitation, the following: (1) the power to, jointly with the Debtor, provide for the maintenance of the books and records of the Debtor's Estate and provide for storage and destruction of records as deemed appropriate; (2) the power to, jointly with the Debtor, liquidate any remaining unliquidated assets of the Estate and to sell or otherwise transfer for value any non-Cash property, including the power to complete the Plan Sale; (3) the power to, jointly with the Debtor, abandon to the Debtor any property that cannot be sold or otherwise disposed of for value; (4) the power to, jointly with the Debtor, hold and invest Estate funds until distributed and, in strict accordance with the terms of the Plan, establish one or more checking, savings and investment accounts in the name of the Plan Officer; (5) the power to, jointly with the Debtor, litigate or settle Causes of Action asserted by or against the Debtor, subject to approval by the Bankruptcy Court; (6) the power to, jointly with the Debtor, litigate or settle Claims asserted by or against the Debtor, as provided in Article 7 of the Plan; (7) the power to, jointly with the Debtor, make distributions of Estate funds as provided in the Plan; (8) the power to, jointly with the Debtor, file with the Bankruptcy Court the reports and other documents required by the Plan or otherwise required to close the Chapter 11 Case; (9) the power to take any other actions that the Plan Officer, in his or her reasonable discretion, determines to be in the best interests of the Debtor's creditors and consistent with the purposes of the Plan; and (10) the power to retain, after consultation with the Debtor, any third parties that the Plan Officer deems necessary to carry out the duties of the Plan Officer or to effectuate the terms of the Plan, including any current or former employees of the Debtor and to compensate any third parties retained at rates commensurate with the services to be provided.

## **2. Continued Existence of the Debtor**

From and after the Confirmation Date, the Debtor shall continue in existence (and shall consult and/or confer with the Plan Officer as specifically provided for in the Plan) for the purpose of (i) winding up its affairs as expeditiously as reasonably possible, (ii) conducting the Plan Sale, (iii) liquidating, by conversion to Cash or other methods, any remaining assets of its Estate, as expeditiously as reasonably possible, (iv) enforcing and prosecuting claims, interests, rights and privileges of the Debtor, including, without limitation, the prosecution of Causes of Action, (v) resolving Disputed Claims, (vi) administering the Plan, and (vii) filing appropriate tax returns.

From and after the Confirmation Date, and subject to the Effective Date, the then current officer of the Debtor shall continue to serve in his respective capacity through the date such officer resigns, is replaced or is terminated. From and after the Effective Date, the Debtor shall

not be required to file any document, or take any other action, to withdraw its business operations from any states in which the Debtor previously conducted its business operations.

### 3. **Funding for the Plan**

The Plan shall be funded by (i) Available Cash on the Effective Date, including the proceeds from the sale of the Ownership Interests pursuant to the Plan Sale, and (ii) funds available after the Effective Date from, among other things, the liquidation of the Debtor's remaining assets and the prosecution and enforcement of Asserted Causes of Action of the Debtor.

### 4. **Plan Sale**

As part of the Plan Sale, the Debtor is seeking approval of a sale of the Ownership Interests by Auction to the highest bidder. The Auction shall be conducted within thirty (30) days of the entry of the Confirmation Order pursuant to Section 363 of the Bankruptcy Code. The terms of the Plan Sale, a more detailed description of the Ownership Interests to be sold, and the bidding procedures pursuant to which the Debtor will determine the highest and best offer for the Ownership Interests will be outlined in Exhibit A to the Plan, which shall be provided on the Exhibit Filing Date. The Debtor will provide notice of the Plan Sale and the time and location of the Auction and the bidding procedures to the United States Trustee, all counsel of record, all creditors and parties in interest, Carmel Funding, and all entities known to have expressed any interest in the possible acquisition of any assets of the Debtor after the Petition Date or within three (3) years of the Petition Date.

### 5. **Dissolution**

(a) *IR7 and IR7 Commission Vehicles.* If the Plan Sale fails to produce a purchaser for the Ownership Interests, the Ownership Interests will be abandoned to the Debtor. If the Ownership Interests are not abandoned, the Debtor, as the sole member of IR7 and the IR7 Commission Vehicles, will cease all efforts to operate and maintain IR7 and the IR7 Commission Vehicles and will allow IR7 and the IR7 Commission Vehicles to be dissolved pursuant to Indiana Code §§ 23-1-46-1 to -4, and the Debtor will be relieved of any obligation (i) to prepare and file tax returns on behalf of IR7 and the IR7 Commission Vehicles after the Effective Date, except to the extent the Debtor determines in its sole discretion to do so, and (ii) to comply with the requirements set forth in Indiana Code § 6-8.1-10-9, § 22-4-32-23, §§ 23-1-45-1 to -7, §§ 23-1-47-1 to -4, and § 32-34-1-25 and in Section 6043 of the Internal Revenue Code of 1986, as amended, including without limitation, submission of Form 966 to the Internal Revenue Service.

(b) *Dormant Subsidiaries.* On and after the Effective Date, the Debtor may, without further approval of the Bankruptcy Court, allow the Dormant Subsidiaries to be administratively dissolved pursuant to Indiana Code §§ 23-1-46-1 to -4, and the Debtor will be relieved of any obligation to (x) conduct the business operations or obligations as the sole member of the Dormant Subsidiaries after the Effective Date, (y) prepare and file tax returns on behalf of the Dormant Subsidiaries, except to the extent the Debtor determines in its sole discretion to do so, and (z) comply with the requirements set forth in Indiana Code § 6-8.1-10-9, § 22-4-32-23, §§

23-1-45-1 to -7, §§ 23-1-47-1 to -4, and § 32-34-1-25 and in Section 6043 of the Internal Revenue Code of 1986, as amended, including without limitation, submission of Form 966 to the Internal Revenue Service.

#### **6. Liquidation of Assets**

On and after the Confirmation Date, and subject to the Effective Date, the Debtor may, without further approval of the Bankruptcy Court, use, sell, assign, transfer, abandon or otherwise dispose of at a public or private sale any of the Debtor's remaining assets for the purpose of liquidating and converting such assets to Cash, making distributions and fully consummating the Plan.

#### **7. Termination of Employee Benefits**

Prior to the Petition Date, the Debtor established (i) an ERISA qualified retirement plan under Section 401(k) of the Internal Revenue Code for the benefit of its eligible employees, and withheld amounts designated by eligible employees from their annual earnings to contribute to the 401(k) plan, and (ii) a Section 125 Plan comprised of both medical flexible spending arrangements and dependent care flexible spending arrangements. The Debtor terminated its employees effective on the Closing Date, and there are no active participants in either of the Employee Benefits programs. Accordingly, the Employee Benefits programs shall be terminated effective on the Confirmation Date and thereafter liquidated. The Debtor, upon the Confirmation Date, shall be authorized to take all administrative actions necessary to process the termination of the Employee Benefits as required by applicable, non-bankruptcy law, including but not limited to, filing applicable forms with the Internal Revenue Service and the administrator of the Employee Benefits and to provide any applicable notices to the participants of the Employee Benefits.

#### **8. Accounts**

The Debtor, jointly with the Plan Officer, may establish one or more interest-bearing accounts as they determine may be necessary or appropriate to effectuate the provisions of the Plan consistent with Section 345 of the Bankruptcy Code and any orders of the Bankruptcy Court. The signatories to such accounts shall include, and shall be specifically limited to, a current director of the Debtor and the Plan Officer.

#### **9. Summary of Distribution and Claims Resolution**

On the Distribution Date, and in accordance with the Plan and the priorities established by the Bankruptcy Code, the Debtor and the Plan Officer shall distribute from Available Cash to holders of Allowed Claims, other than holders of Administrative Expense Claims, the amounts payable on their Claims pursuant to the Plan. Administrative Expense Claims shall be paid on the Effective Date or as they are incurred or submitted for payment following the Confirmation Date. The Debtor expressly intends that, except for the payment of Administrative Expense Claims, only one distribution will occur under the Plan, eliminating the administrative expenses necessarily incurred to create and administer a reserve to fund possible distributions on Disputed Claims if ultimately Allowed, whether in full or otherwise.

The Distribution Date shall be a date, as determined by the Debtor, which is after (i) the Effective Date, (ii) the liquidation into Cash of all assets of the Debtor (other than those assets abandoned by the Debtor) and collection of other sums due or otherwise remitted or returned to the Estate, (iii) the date that all Disputed Claims have become Allowed Claims or have been disallowed by Final Order of the Bankruptcy Court, (iv) the resolution of all Asserted Causes of Action, and (v) entry of a Final Order allowing or disallowing all timely asserted Professional Fee Claims and Administrative Expense Claims.

Distributions may be made by check or by wire transfer. Any check so distributed that is returned as undeliverable shall be void and no further distributions to such holder shall be made. All claims for undeliverable distributions shall be made on or before sixty (60) days after the Distribution Date. After such date, all unclaimed property shall, in the Debtor and the Plan Officer's discretion, be used to satisfy the costs of administering and fully consummating the Plan, as needed, or donated to the Indianapolis Bar Foundation, Inc., and the holder of any such Allowed Claim shall not be entitled to any other or further distribution under the Plan on account of such Allowed Claim.

Checks issued by the Debtor and/or the Plan Officer with respect to Allowed Claims shall be null and void if not negotiated within sixty (60) days after the Distribution Date. Requests for reissuance of any check shall be made to the Debtor and the Plan Officer by the holder of the Allowed Claim to whom such check was originally issued within sixty (60) days after the Distribution Date. If a check has not been negotiated within sixty (60) days from issuance and no request for reissuance was received by the Debtor or the Plan Officer prior to the expiration of the sixty (60) days, the Allowed Claim that is the subject of the distribution shall be discharged and forever barred against the Debtor, its Estate, and creditors, and any obligation to such holder shall be deemed null and void. After such date, the unclaimed property shall, in the Debtor and the Plan Officer's discretion, be used to satisfy the costs of administering and fully consummating the Plan, as needed, or donated to the Indianapolis Bar Foundation, Inc., and the holder of any such Allowed Claim shall not be entitled to any other or further distribution under the Plan on account of such Allowed Claim.

If the distribution to a holder of an Allowed Claim is less than \$10.00, no distribution shall be made on account of the Allowed Claims held by the holder of the Allowed Claim unless the holder requests distribution of the Plan Officer and the Debtor no later than thirty (30) days after the Effective Date. The holder of the Allowed Claim shall forever be barred from asserting any Claim therefore against the Debtor, its Estate, and its creditors.

Interest shall not accrue on any Claim postpetition. Distributions shall be allocated first to the principal portion of any Claim until satisfied in full prior to allocation to interest, if any.

The Debtor may setoff against any Claim and the distributions to be made pursuant to the Plan on account of such Claim, any claims, rights and causes of action of any nature that the Debtor may hold against the holder of such Allowed Claim.

The Debtor and the Plan Officer shall have until thirty (30) days after the Effective Date to object to Claims, but such deadline may be extended from time to time upon request of the Debtor to the Bankruptcy Court without further notice to parties in interest. On and after the

Confirmation Date, subject to the Effective Date, the Debtor and the Plan Officer may settle or otherwise resolve Disputed Claims without further notice to or approval by the Bankruptcy Court.

The Debtor and the Plan Officer may, at any time, request that the Bankruptcy Court estimate any Disputed Claim pursuant to Section 502(c) of the Bankruptcy Code regardless of whether the Debtor has previously objected to such Claim. On and after the Confirmation Date, subject to the Effective Date, the Debtor and the Plan Officer may settle or otherwise resolve Claims which have been estimated without further notice to or approval by the Bankruptcy Court.

#### 10. **Executory Contracts and Unexpired Leases**

On the Effective Date, all executory contracts and unexpired leases that exist and have not, prior to the Effective Date, been rejected pursuant to a Final Order of the Bankruptcy Court, between the Debtor and any person, shall be deemed rejected as of the Effective Date, except for any executory contract and unexpired lease (i) assumed by the Debtor and assigned to Carmel Funding pursuant to the Sale Order, or (ii) as to which a motion for approval of the assumption or rejection of such contract or lease has been filed and served prior to the Effective Date.

Rejection Damages Claims must be filed with the Bankruptcy Court **no later than the later of (i) the Bar Date, and (ii) thirty (30) days after the Effective Date.** Any Claims not filed within such applicable time periods will be forever barred from assertion against the Debtor, Debtor-in-Possession, and/or the Estate.

#### 11. **Injunctions and Stays**

Unless otherwise provided, all injunctions or stays provided for in the Chapter 11 Case pursuant to Sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Distribution Date.

#### 12. **Rights of Action Retained**

Pursuant to Section 1123(b)(3) of the Bankruptcy Code and except as otherwise provided in the Plan, the Debtor will retain and may (but is not required to) prosecute and enforce all Causes of Action or claims arising under applicable state laws, if any, and including Causes of Action of a trustee or a debtor-in-possession under the Bankruptcy Code except those that are expressly released hereunder. Exhibit B to the Plan shall set forth, without limitation, a more detailed description of the Causes of Action. Exhibit B shall be provided on the Exhibit Filing Date. A Cause of Action that is not listed on Exhibit B shall not be lost or waived by reason of the entry of the Confirmation Order or the occurrence of the Effective Date. All Causes of Action must be commenced on or before thirty (30) days after the Effective Date or shall be deemed abandoned.

#### 13. **Debtor's Releases and Exculpation**

In connection with certain exculpations and releases extended by the Debtor, the Debtor, the Plan Officer, and any of their respective members, shareholders, officers, directors,

employees, professionals, attorneys, advisors or agents, and each of their predecessors, successors, heirs, and assigns, who are or were members, shareholders, officers, directors, employees, professional, attorneys, advisors or agents, as the case may be, during the Chapter 11 Case collectively are the "Released Parties."

*Exculpation.* The Plan provides that on and after the Confirmation Date, subject to the Effective Date, the Released Parties shall not have or incur any liability to any holder of a Claim or Equity Interest for (a) any act or omission in connection with, relating to, or arising out of, the Chapter 11 Case, (b) any Tax Claim except to the extent of distributions from Available Cash, (c) the formulation, negotiation or implementation of this Disclosure Statement or the Plan, (d) the solicitation of acceptances of the Plan, (e) the pursuit of confirmation of the Plan, (f) the confirmation of the Plan, (g) on account of any transactions or relationship with the Debtor (either prior to or after the Petition Date), (h) the consummation of the Plan or any contract, instrument, release or any other agreement or document created, or entered into, in connection with the Plan, or (i) the administration of the Plan or the property to be distributed under the Plan; provided however that the foregoing exculpation shall not be deemed to release any liability resulting from any such Released Party's willful misconduct or gross negligence, and, in all respects, each of the Released Parties shall be entitled to (x) rely upon the advice of counsel with respect to its duties and responsibilities during the Chapter 11 Case and under the Plan, and (y) any defense of qualified immunity that may be available under applicable law.

*Debtor's Release.* The Plan provides that, notwithstanding anything to the contrary in the Plan, as of the Effective Date, for good, valuable and adequate consideration, including without limitation, the provision of financing to the Debtor-in-Possession, acquisition of the assets of the Debtor subject to higher and better offers, and the provision of services by the Debtor's former and present officers in administering the assets and managing the affairs of the Debtor-in-Possession, the Debtor shall be deemed to forever waive and release each of the Released Parties from any and all obligations, suits, judgments, damages, demands, debts, remedies, rights, causes of action (including avoidance actions), rights of setoff and liabilities whatsoever (including any derivative claims asserted on behalf of the Debtor) in connection with or in any way related to the Debtor, the conduct of the Debtor's business, the Chapter 11 Case, the Disclosure Statement or the Plan (other than the rights of the Debtor or the Plan Officer, or a creditor holding an Allowed Claim to enforce the obligations under the Confirmation Order and the Plan and the contracts, instruments, releases and other agreements or documents delivered thereunder), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or hereafter arising, in law, equity, or otherwise, that are based, in whole or in part, on any act, omission, transaction, event or other occurrence taking place prior to the Effective Date, provided however, this release shall not operate as a release or waiver of any causes of action or liabilities as of the Petition Date arising out of gross negligence, willful misconduct, fraud or criminal acts of any such Released Party as determined by Final Order.

## **V. The Bankruptcy Plan Voting Instructions and Procedures**

### **A. Notice to Holders of Claims and Holders of Equity Interests**

This Disclosure Statement is being transmitted to certain holders of Claims against the Debtor. The purpose of this Disclosure Statement is to provide adequate information to enable the holders of Claims against the Debtor to make reasonably informed decisions with respect to the Plan prior to exercising their right to vote to accept or reject the Plan. All holders of Claims against the Debtor are encouraged to read the Disclosure Statement and the Plan carefully and in their entirety before deciding to vote either to accept or to reject the Plan.

CERTAIN INFORMATION CONTAINED IN THE DISCLOSURE STATEMENT IS BY ITS NATURE FORWARD LOOKING AND CONTAINS ESTIMATES, ASSUMPTIONS, AND PROJECTIONS THAT MAY BE MATERIALLY DIFFERENT FROM ACTUAL FUTURE RESULTS. EXCEPT WHERE SPECIFICALLY NOTED, THE FINANCIAL INFORMATION CONTAINED HEREIN HAS NOT BEEN AUDITED BY A CERTIFIED PUBLIC ACCOUNTING FIRM AND HAS NOT BEEN PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

### **B. Solicitation Package**

Accompanying the Disclosure Statement are copies of (i) the Plan; (ii) notice fixing the time for filing of acceptances or rejections of the Plan; (iii) notice fixing the date, time, and place of the hearing to consider confirmation of the Plan and fixing the time for filing objections to the Plan; and (iv) if you are the holder of Claim(s) or Interest(s) entitled to vote on the Plan, one or more ballots to be used by you in voting to accept or to reject the Plan.

### **C. Voting Procedures, Ballots, and Voting Deadline**

Pursuant to the provisions of the Bankruptcy Code, only classes of Claims and Equity Interests that are impaired under the terms and provisions of the Plan are entitled to vote to accept or reject the Plan (except for classes receiving no distribution, which are deemed to have rejected the Plan). Classes 1 and 2 are unimpaired under the Plan and, therefore, are conclusively presumed to accept the Plan. For purposes of voting on the Plan, each holder of an Allowed Equity Interest in Class 6 is conclusively presumed to have rejected the Plan.

Ballots for acceptance or rejection of the Plan are being provided only to members of the voting Classes with respect to the Plan. If you are entitled to vote Claims in more than one (1) Class, you will receive separate ballots that must be used for each separate Class of Claims. Other forms of ballot are not acceptable and will not be counted. Each holder of a Claim in a voting Class with respect to the Plan should read this Disclosure Statement and the Plan in their entirety. After carefully reviewing the Plan, this Disclosure Statement and the detailed instructions accompanying your ballot, please indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the ballot that has been provided for you.

A ballot to be used for voting your acceptance or rejection of the Plan has been mailed to you together with this Disclosure Statement. Holders of Claims against the Debtor should read the instructions carefully and complete, date, and sign the ballot. The order approving this

Disclosure Statement sets forth the address to which ballots must be delivered, which will either be the offices of the Debtor's counsel, Faegre Baker Daniels LLP, or the Debtor's claims and noticing agent, BMC Group, Inc. IN ORDER TO BE TABULATED, YOUR BALLOT MUST BE RECEIVED AT THE ADDRESS LISTED ON THE ORDER APPROVING THE DISCLOSURE STATEMENT NOT LATER THAN \_\_\_\_\_, 2013.

If more than one-half in number of the voting creditors of a Class vote to accept the Plan and at least two-thirds in amount of the Allowed Claims of such voting creditors are voted in favor of the Plan, such Class will be determined to have accepted that Plan. All unimpaired Classes are deemed to have accepted the Plan. For purposes of determining whether a Class of Claims has accepted or rejected the Plan, only the votes of those creditors who have timely returned their ballots will be considered. Failure to vote or a vote to reject the Plan will not affect the treatment to be accorded a Claim or Equity Interest if the Plan is confirmed by the Bankruptcy Court.

**D. Confirmation Hearing and Deadline for Objections to Confirmation**

Pursuant to Section 1128 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 3017(c), the Bankruptcy Court has scheduled a hearing on the confirmation of the Plan for \_\_\_\_\_, 2013 (the "Confirmation Hearing") before the Honorable Basil H. Lorch, III at The Birch Bayh Federal Building and US Courthouse, Indianapolis, Indiana. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice, except for the announcement of the adjournment date made at the Confirmation Hearing or at any subsequent adjourned Confirmation Hearing. The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan be filed with the Clerk of the Bankruptcy Court and served so that they are received on or before \_\_\_\_\_, 2013:

Counsel to the Debtor:

FAEGRE BAKER & DANIELS LLP  
600 East 96th Street, Suite 600  
Indianapolis, Indiana 46240  
Attn: Jay Jaffe, Esq.

The United States Trustee:

Office of the United States Trustee  
101 West Ohio Street, Suite 1000  
Indianapolis, Indiana 46204  
Attn: Beth Kramer, Esq.

**VI. Certain Factors to be Considered / Risks of the Plan**

THE HOLDER OF A CLAIM AGAINST THE DEBTOR SHOULD READ AND CAREFULLY CONSIDER THE FOLLOWING FACTORS, AS WELL AS THE OTHER INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT AND IN THE PLAN BEFORE DECIDING WHETHER TO VOTE TO ACCEPT OR TO REJECT THE PLAN.



**A. Disclaimer Concerning Financial Information**

Although the Debtor has used its best efforts to ensure the accuracy of the financial information provided in this Disclosure Statement, the financial information contained in this Disclosure Statement has not been audited and is based upon an analysis of data available at the time of the preparation of the Plan and Disclosure Statement. Although the Debtor believes that such financial information fairly reflects the finances of the Debtor, the Debtor is unable to warrant or represent that the information contained herein is without inaccuracies.

**B. Certain Bankruptcy Considerations**

**1. General Risk of Non-Confirmation of the Plan**

If the Plan is not confirmed and consummated, there can be no assurance that the Chapter 11 Case will continue rather than be converted to a liquidation under Chapter 7 of the Bankruptcy Code or that any alternative plan of liquidation would be on terms as favorable to the holders of the impaired Classes as the terms of the Plan.

**2. Non-Consensual Confirmation**

Pursuant to the "cram down" provisions of Section 1129(b) of the Bankruptcy Code, the Bankruptcy Court can grant Confirmation at the Debtor's request if at least one impaired Class has accepted the Plan (with such acceptance being determined without including the acceptance of any insider in such Class), and as to each impaired Class that has not accepted the Plan, the Bankruptcy Court determines that the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to the impaired Classes. Class 3 shall not constitute the sole accepting, impaired Class for purposes of Section 1129(b), as the Class is composed entirely of Insider Claims. In accordance with Section 1129(a)(8) of the Bankruptcy Code, the Debtor may request confirmation of the Plan without the acceptance of all impaired Classes entitled to vote in accordance with Section 1129(b) of the Bankruptcy Code. If any Class rejects the Plan, the Debtor will seek to confirm the Plan pursuant to the "cram down" provisions of Section 1129(b) of the Bankruptcy Code. The treatment afforded creditors in each Class in the event of a "cram down" will be as indicated herein.

**3. Possible Adverse Effects from Delays of Confirmation and/or Effective Date**

The Debtor believes that any delays of either confirmation or effectiveness of the Plan could result in, among other things, (a) increased Professional Fee Claims and/or (b) adverse effects on the liquidation value of the Debtor's assets. Either of these or any other negative effects of delays of either confirmation or effectiveness of the Plan could endanger the ultimate approval of the Plan by the Bankruptcy Court.

Any effort by the Debtor to confirm the Plan pursuant to the "cram down" method will likely involve complex litigation which, regardless of the outcome, may impose substantial additional administrative expenses on the Debtor's Estate. Such expenses would be paid ahead of any distribution to unsecured creditors.

The Debtor also reserves the right to modify the terms of the Plan, as necessary to obtain confirmation without the acceptance of all impaired Classes. Such modifications could result in a less favorable treatment of any non-accepting Class or Classes, as well as of any Classes junior to such non-accepting Classes, than the treatment currently provided in the Plan.

### **C. Liquidation of Assets**

Except to the extent the assets of the Debtor have already been reduced to Cash, the timing and amount of distributions depends on (i) the results of the Plan Sale, (ii) the speed of the claims reconciliation process, and (iii) the resolution of any Asserted Causes of Action. Although the Debtor will endeavor to resolve Disputed Claims and Asserted Causes of Action as expeditiously as possible, and in such a manner as to maximize Available Cash, the Debtor cannot warrant either the timing or the amount of distributions under the Plan.

### **D. Alternatives to the Plan**

After careful review of the Debtor's current business operations, estimated recoveries in a Chapter 7 liquidation scenario and the complexity of the Debtor's business operations, the Debtor has concluded that recovery to creditors will be maximized by the Debtor's proposed Plan.

Based upon the information available and known by the Debtor, the Debtor has concluded that distributions to creditors will occur much sooner and have greater value to creditors under the Plan than under any other alternative. Should the Plan not be confirmed, it is likely that the distributions to creditors would be delayed and could be materially reduced by the additional fees and other costs associated with extended proceedings to propose and confirm an alternative Chapter 11 Plan, or if the case were converted to Chapter 7, a Chapter 7 liquidation. Accordingly, the Debtor believes that the Plan offers the best prospects of recovery for the holders of Claims against and Equity Interests in the Debtor and strongly recommends that holders of Claims and Equity Interests vote to accept the Plan.

## **VII. Tax Consequences of the Plan**

THE FEDERAL, STATE, LOCAL AND OTHER GENERAL TAX CONSEQUENCES AS A RESULT OF THE PLAN TO THE HOLDERS OF CLAIMS MAY VARY BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER. THEREFORE, EACH CREDITOR SHOULD CONSULT THEIR OWN TAX ADVISOR TO DETERMINE THE TREATMENT AFFORDED THEIR RESPECTIVE CLAIMS BY THE PLAN UNDER FEDERAL TAX LAW, THE TAX LAW OF THE VARIOUS STATES AND LOCAL JURISDICTIONS OF THE UNITED STATES AND THE LAWS OF FOREIGN JURISDICTIONS.

NO STATEMENT IN THIS DISCLOSURE STATEMENT SHOULD BE CONSTRUED AS LEGAL OR TAX ADVICE. THE DEBTOR AND ITS COUNSEL DO NOT ASSUME ANY RESPONSIBILITY OR LIABILITY FOR THE TAX CONSEQUENCES A CREDITOR MAY INCUR AS A RESULT OF THE TREATMENT AFFORDED ITS CLAIM UNDER THE PLAN.

## **VIII. Confirmation Requirements**

In order to confirm the Plan, the Bankruptcy Code requires that the Bankruptcy Court make a series of determinations concerning the Plan, including that (a) the Plan has classified Claims and Equity Interests in a permissible manner; (b) the Plan complies with the technical requirements of Chapter 11 of the Bankruptcy Code; (c) the Debtor proposed the Plan in good faith, and (d) the Debtor's disclosures as required by Chapter 11 of the Bankruptcy Code have been adequate and have included information concerning all payments made or promised in connection with the Plan. The Debtor believes that all of these conditions will have been met by the date set for the Confirmation Hearing and will seek rulings from the Bankruptcy Court to such effect at the Confirmation Hearing.

The Bankruptcy Code also requires that the Plan shall have been accepted by the requisite votes of creditors and equity security holders (except to the extent that a "cram down" is available under Section 1129(b) of the Bankruptcy Code); that such Plan be feasible (that is, that there be a reasonable prospect that the Debtor will be able to perform its obligations under the Plan and will not likely require further financial reorganization); and that such Plan is in the "best interests" of all impaired creditors and equity security holders (that is, that impaired creditors and equity holders will receive at least as much pursuant to such Plan as they would receive in a Chapter 7 liquidation). To confirm the Plan, the Bankruptcy Court must find that all of these conditions are met with respect to the Plan. Thus, even if the creditors and equity security holders of the Debtor accept the Plan by the requisite votes, the Bankruptcy Court must make independent findings respecting such Plan's feasibility and whether it is in the best interests of the Debtor's creditors and equity security holders before it may confirm such Plan.

### **A. Classification of Claims and Equity Interests**

The Bankruptcy Code requires that a Chapter 11 Plan place each creditor's claim and each equity security holder's interest in a Class with other Claims and Equity Interests that are "substantially similar." As previously set forth herein, the Debtor believes that the Plan meets the classification requirements of the Bankruptcy Code.

### **B. Best Interests Test**

Before the Plan may be confirmed, the Bankruptcy Court must find (with certain exceptions) that the Plan provides, with respect to each Class, that each holder of a Claim or Equity Interest in such Class either (i) has accepted the Plan or (ii) will receive or retain under the Plan property of a value that is not less than the value of the distribution that such holder would receive or retain if the Debtor was liquidated under Chapter 7 of the Bankruptcy Code on the Effective Date. The Debtor believes that the Plan meets this "best interests" test.

In Chapter 7 liquidation cases, creditors and interest holders of a debtor are paid from available assets generally in the following order, with no lower priority class receiving any payments until all amounts due to senior priority classes have been paid fully or payment provided for:

1. Secured creditors (to the extent of the value of their collateral).

2. Priority creditors.
3. Unsecured creditors.
4. Debt or penalties expressly subordinated by its terms, by the Bankruptcy Code, or by order of the bankruptcy court.
5. Equity interest holders.

The Debtor believes that the value of distributions in a Chapter 7 liquidation would be less than the value of the distributions under the Plan, for the following reasons:

*Increased Expenses.* If the Debtor were liquidated under Chapter 7, a Chapter 7 trustee would mandatorily be appointed to take possession of the Debtor's Estate and conduct the liquidation of remaining assets and distribution of net proceeds to creditors. In order to realize the value of those assets, the Chapter 7 trustee and its counsel and other professionals would need to become familiar with the Debtor's business, the prior conduct of its operations and Chapter 11 Case, and the terms of numerous underlying transactions giving rise to the various claims, causes of action, and rights of the Debtor. Such a process would involve substantial time and expense, particularly given the technical nature and unique complexity of the Debtor's business operations and its prepetition and postpetition transactions. The Chapter 7 trustee's professionals would be entitled to compensation at their normal hourly rates and to reimbursement of costs incurred in this process. In addition, the Chapter 7 trustee would be entitled to a fee of up to three percent (3%) of the monies disbursed to creditors in the Chapter 7 case. These fees and expenses would be in addition to the fees and expenses of the Debtor's professionals incurred during the Chapter 11 Case. The additional fees and expenses attributable to the Chapter 7 case would be deducted from assets otherwise available for distribution to creditors under the Plan.

*Reduced Proceeds.* If the Debtor's remaining assets were liquidated under Chapter 7, the proceeds of those assets would be no greater than the proceeds available for distribution under the Plan and might well be less. Under the Plan, the Debtor will liquidate the Debtor's remaining assets for distribution to creditors. The Debtor and the Plan Officer have the requisite knowledge, experience and skill necessary to maximize the value of the Debtor's assets for the benefit of creditors, and there can be no assurance that a trustee appointed in a Chapter 7 liquidation would have the same degree of expertise as the Debtor. If a Chapter 7 trustee were appointed who did not possess capabilities comparable to those of the Debtor, the aggregate proceeds realized from the Debtor's remaining assets could be materially reduced. Likewise, the Plan Officer possesses the requisite knowledge and familiarity with the Debtor's complex financial systems and commission tracking systems to best position the Plan Officer to resolve Disputed Claims efficiently and fairly. In addition, to the extent the Debtor's remaining assets deteriorate in value over time, the delay arising from conversion of the Debtor's Chapter 11 Case to Chapter 7 could also result in reduced recoveries to creditors.

*Delayed Distributions.* Distributions in a Chapter 7 case may not occur for a substantial period of time, thereby reducing the present value of such distributions.

**C. Liquidation Analysis**

The Plan generally provides for the prompt distribution of the proceeds of the liquidation of the assets of the Debtor's Estate. If the case were converted to a case under Chapter 7 of the Bankruptcy Code, a Chapter 7 trustee would have similar expenses to those that will be incurred by the Debtor but would also be entitled to a commission for making the distributions. Accordingly, the Debtor believes that the Plan will result in a somewhat higher distribution to unsecured creditors than conversion to Chapter 7 and the appointment of a trustee. In addition, to the extent that distributions in a Chapter 7 liquidation likely would be made at a later date than under the Chapter 11 Plan, the difference in the present value of the Chapter 7 and Chapter 11 recoveries would be greater than the nominal amounts presented above. A liquidation analysis prepared by the President of the Debtor is attached to the Disclosure Statement as Appendix B.

**D. Feasibility**

Section 1129(a)(11) of the Bankruptcy Code requires a finding that confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization (unless such liquidation is proposed in the plan). As the Plan is itself a plan of liquidation, the Debtor believes that the Plan is feasible and that the Bankruptcy Court will so find.

**E. Confirmation without Acceptance by All Impaired Classes**


Section 1129(b) of the Bankruptcy Code allows a bankruptcy court to confirm a plan, even if such plan has not been accepted by all impaired classes entitled to vote on such plan, provided that such plan has been accepted by at least one impaired class (without including any acceptance of the Plan by an insider). It is also possible that one or more other Classes will reject the Debtor's Plan. Section 1129(b) of the Bankruptcy Code states that notwithstanding the failure of an impaired class to accept a plan of reorganization, such plan shall be confirmed, on request of the proponent of the plan, in a procedure commonly known as a "cram down," so long as the plan does not "discriminate unfairly," and is "fair and equitable" with respect to each class of claims or Equity Interests that is impaired under and has not accepted the plan.

The Debtor believes that it will be able to obtain confirmation in accordance with Section 1129(b) of the Bankruptcy Code.

**CONCLUSION**

For the reasons set forth herein, the Debtor urges holders of Claims to vote to accept the Plan.

TWG CAPITAL, INC.,  
Debtor and Debtor-in-Possession

By:   
\_\_\_\_\_  
Mark P. Nondorf, President

**APPENDIX A**  
**DEBTOR'S PLAN OF LIQUIDATION**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

In re: ) Chapter 11  
 )  
TWG CAPITAL, INC., ) Case No. 12-11019-BHL-11  
 )  
Debtor. )

**CHAPTER 11 PLAN OF LIQUIDATION OF TWG CAPITAL, INC.**

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**TABLE OF CONTENTS**

	<u>Page</u>
ARTICLE 1. DEFINITIONS AND INTERPRETATION .....	1
A. Definitions .....	1
B. Rules of Interpretation.....	7
C. Computation of Time .....	8
D. References to Monetary Figures.....	8
ARTICLE 2. TREATMENT OF ADMINISTRATIVE EXPENSE CLAIMS AND PRIORITY TAX CLAIMS .....	8
2.1. Administrative Expense Claims.....	8
2.2. Priority Tax Claims.....	8
ARTICLE 3. CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS .....	9
3.1. Class 1 - Other Priority Claims .....	9
3.2. Class 2 – Secured Claims.....	9
3.3. Class 3 – Insider Claims .....	9
3.4. Class 4 – Affinity Claims.....	10
3.5. Class 5 – Other General Unsecured Claims.....	11
3.6. Class 6 - Equity Interests .....	11
ARTICLE 4. ACCEPTANCE OR REJECTION OF THE PLAN .....	12
4.1. Voting of Claims.....	12
4.2. Blank Ballots.....	12
4.3. Acceptance by a Class of Creditors .....	12
4.4. Cramdown.....	12
ARTICLE 5. MEANS FOR IMPLEMENTATION AND EXECUTION OF THE PLAN .....	12
5.1. Utilization of Plan Officer .....	12
5.2. Authorization to Effectuate the Plan.....	14
5.3. Continuing Existence .....	14
5.4. Funding for this Plan.....	15
5.5. Plan Sale.....	15
5.6. Dissolution .....	15
5.7. Liquidation of Assets .....	16
5.8. Termination of Employee Benefits.....	16
5.9. Accounts .....	16
5.10. Closing of the Chapter 11 Case .....	16
ARTICLE 6. PROVISIONS GOVERNING DISTRIBUTIONS. ....	16

6.1.	Distribution Date.....	16
6.2.	Delivery of Distributions and Undeliverable Distributions .....	17
6.3.	Time Bar to Cash Payments.....	17
6.4.	De Minimis Distributions .....	17
6.5.	Withholding and Reporting Requirements .....	17
6.6.	Setoffs .....	17
6.7.	Professional Fees and Expenses.....	18
6.8.	Transactions on Business Days.....	18
ARTICLE 7. PROCEDURES FOR RESOLVING AND TREATING DISPUTED CLAIMS.....		18
7.1.	Resolution of Disputed Claims .....	18
7.2.	Estimation .....	19
ARTICLE 8. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES. ....		19
8.1.	Procedures for Rejection of Executory Contracts and Unexpired Leases.....	19
8.2.	Approval of Rejection of Executory Contracts and Unexpired Leases.....	19
8.3.	Bar Date for Filing Rejection Damages Claims .....	19
8.4.	Retiree Benefits.....	19
ARTICLE 9. EFFECTIVENESS OF THE PLAN. ....		20
9.1.	Conditions to the Effective Date.....	20
9.2.	Waiver of Conditions.....	20
ARTICLE 10. EFFECT OF CONFIRMATION. ....		20
10.1.	Release of Assets .....	20
10.2.	Binding Effect.....	20
10.3.	Retained Actions.....	20
10.4.	Debtor's Releases and Exculpation .....	21
10.5.	Term of Injunctions or Stays.....	22
10.6.	Injunction .....	22
ARTICLE 11. RETENTION OF JURISDICTION.....		22
11.1.	Jurisdiction of Bankruptcy Court.....	22
ARTICLE 12. MISCELLANEOUS PROVISIONS.....		23
12.1.	Effectuating Documents and Further Transactions.....	23
12.2.	Post-Effective Date Fees and Expenses of Professionals .....	24
12.3.	Payment of Statutory Fees .....	24

12.4. Modification of Plan .....	24
12.5. Withdrawal or Revocation .....	24
12.6. Courts of Competent Jurisdiction .....	24
12.7. Notices .....	24
12.8. Severability .....	25
12.9. Governing Law .....	25
12.10. Headings .....	25
12.11. Exhibits .....	25

## INTRODUCTION

TWG Capital, Inc., the debtor and debtor-in-possession (the "Debtor"), proposes the following Chapter 11 plan of liquidation pursuant to Section 1121(a) of the Bankruptcy Code, providing for the liquidation of the Debtor's assets and distributions in accordance with the priorities established by the Bankruptcy Code.

## ARTICLE 1.

### DEFINITIONS AND INTERPRETATION

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

1.1 **Administrative Claims Bar Date** means the date that is thirty (30) days after the Confirmation Date.

1.2 **Administrative Expense Claim** means any Claim under Sections 503(b) and 507(a)(2) of the Bankruptcy Code, including, without limitation, any actual and necessary expenses of preserving the assets of the Debtor-in-Possession, any actual and necessary expenses of operating the business of the Debtor-in-Possession, all compensation and reimbursement of expenses allowed by the Bankruptcy Court under Sections 330 or 503 of the Bankruptcy Code, and any fees and charges assessed against the Debtor-in-Possession under Section 1930 of Chapter 123 of Title 28 of the United States Code.

1.3 **Affinity** means a counterparty to an Affinity Agreement.

1.4 **Affinity Agreement** means all contracts and arrangements between the Debtor, as assignee of LTPC, and an Affinity, under which the Debtor owed any compensation or had any payment obligation to such Affinity arising out of or related to assigned commission rights and the policies of long term care insurance that relate to the assigned commission rights.

1.5 **Affinity Claim** means any Claim of an Affinity related to or arising out of the Debtor's obligations under an Affinity Agreement.

1.6 **Agent** means an insurance agent, broker, underwriter or insurance agency but does not include an insurance company that is the issuer of an insurance policy.

1.7 **Allowed** means, with respect to a Claim or Equity Interest, any Claim or Equity Interest, proof of which was timely and properly filed or, if no proof of Claim or proof of interest was filed, which has been or hereafter is listed by the Debtor-in-Possession on the Schedules as liquidated in amount and not disputed or contingent and, in either case, as to which no objection to allowance has been interposed, or as to which any objection has been determined by a Final Order to the extent such objection is determined in favor of the respective holder. Unless otherwise specified in this Plan or by order of the Bankruptcy Court, "Allowed Claim" shall not, for purposes of computation of distributions under this Plan, include interest on a

Claim from and after the Petition Date. Further, “Allowed Claim” shall not include any portion of a Claim that is a Disputed Claim.

1.8 **Asserted Causes of Action** means all Causes of Action commenced by the Debtor or the Plan Officer on or before thirty (30) days after the Effective Date.

1.9 **Auction** means the auction of the Ownership Interests to the highest bidder pursuant to the terms and bidding procedures set forth in Exhibit A to the Plan.

1.10 **Available Cash** means all Cash of the Estate to be distributed to the holders of Allowed Claims against the Estate on the Distribution Date.

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

1.12 **Bankruptcy Court** means the United States Bankruptcy Court for the Southern District of Indiana, Indianapolis Division, or the court so authorized with respect to any such proceeding.

1.13 **Bankruptcy Rules** means the Federal Rules of Bankruptcy Procedure, as amended from time to time, as applicable to the Chapter 11 Case, including the local rules and general orders of the Bankruptcy Court.

1.14 **Bar Dates** means the date(s) designated by the Bankruptcy Court as the last date(s) for filing claims against the Debtor, including general unsecured claims and rejection damages claims.

1.15 **Business Day** means any day other than a Saturday, a Sunday, or any other day on which banking institutions in Indianapolis, Indiana are required or authorized to close by law or executive order.

1.16 **Carmel Funding** means Carmel Funding, LLC, a Delaware limited liability company.

1.17 **Cash** means cash and cash equivalents.

1.18 **Causes of Action** means any and all claims, causes of action, demands, rights, actions, suits, obligations, liabilities, accounts, defenses, offsets, powers, and privileges, licenses and franchises of any kind or character whatsoever, known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, whether arising before, on or after the Petition Date in contract or in tort, in law or equity, or under any other theory of law, including all turnover, avoidance or preference actions arising under Chapter 5 of the Bankruptcy Code.

1.19 **Chapter 11 Case** means the voluntary case commenced under Chapter 11 of the Bankruptcy Code by the Debtor, styled In re TWG Capital, Inc., Case No. 12-11019-BHL-11.

1.20 **Claim** means any right to payment from the Debtor, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured, known or unknown; or any right to an equitable remedy for breach of performance if such breach gives rise to a right of payment from the Debtor, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured, known or unknown.

1.21 **Class** means any group of substantially similar Claims or Equity Interests classified by this Plan pursuant to Section 1123(a)(1) of the Bankruptcy Code.

1.22 **Closing Date** means December 31, 2012, the date the sale to Carmel Funding, as approved by the Sale Order, closed.

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

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

1.25 **Cost Sharing Agreement** means the Agreement for Allocation of Costs and Reimbursement of Expenses executed by the Debtor and Carmel Funding and dated January 1, 2013, and approved by the Bankruptcy Court on February 4, 2013, pursuant to the *Order Granting Motion for an Order Approving Certain Agreement for Allocation of Costs and Reimbursement of Expenses and Interim Services of Mark P. Nondorf as President* [Docket No. 199].

1.26 **Debtor** means TWG Capital, Inc., a Delaware registered corporation.

1.27 **Debtor-in-Possession** means the Debtor in its capacity as Debtor-in-Possession pursuant to Section 1107 of the Bankruptcy Code.

1.28 **Disclosure Statement** means the disclosure statement, as the same may be amended from time to time, which is required by Section 1125 of the Bankruptcy Code and which accompanies this Plan.

1.29 **Disputed** means, with respect to a Claim, (a) any such Claim proof of which was timely and properly filed and (i) which has been or hereafter is listed on each of the Schedules as unliquidated, disputed, or contingent, and which has not been resolved by written agreement of the parties or an order of the Bankruptcy Court, or (ii) as to which the Debtor or any other party in interest has interposed a timely objection or request for estimation in accordance with the Bankruptcy Code and the Bankruptcy Rules, which objection or request for estimation has not been withdrawn or determined by a Final Order, and (b) any Claim as to which a proof of Claim was required to be filed by order of the Bankruptcy Court but as to which a proof of Claim was filed untimely or improperly. Prior to (x) the time that an objection has been filed and (y) the expiration of the time within which to object to such Claim set forth herein or a date otherwise established by order of the Bankruptcy Court, for purposes of this Plan, (A) a Claim shall be considered a **Disputed Claim** if the amount of the Claim specified in the proof of

Claim exceeds the amount of the Claim scheduled by the Debtor as other than disputed, contingent or unliquidated or (B) in the event that a Claim is not listed on the Schedules, then the entire amount of such Claim shall be considered a Disputed Claim. Because it is not anticipated that the holders of Allowed Equity Interests will receive any distributions on account of such Equity Interests, it is unnecessary to characterize any Equity Interest, or any portion thereof, as Disputed.

1.30 **Distribution Date** means the date on which distribution of Available Cash is made pursuant to Article 6 of this Plan. The Distribution Date shall be a date, as determined by the Debtor and the Plan Officer, which is after (i) the Effective Date, (ii) the liquidation into Cash of all assets of the Debtor (other than those assets abandoned by the Debtor) and collection of other sums due or otherwise remitted or returned to the Estate, (iii) the date that all Disputed Claims have become Allowed Claims or have been disallowed by Final Order of the Bankruptcy Court, (iv) the resolution of all Asserted Causes of Action, and (v) entry of a Final Order allowing or disallowing all timely asserted Professional Fee Claims and Administrative Expense Claims.

1.31 **Dormant Subsidiaries** means certain of the Debtor's wholly-owned subsidiaries, which were acquired by the Debtor in connection with the acquisition of insurance commission receivables and had all agency operations wound down shortly after purchase and prior to the Petition Date, including the following: Professional Benefits, Inc., Senior Health Division, Inc., AIM Neighbors, LLC, and American Insurance Marketing Corp.

1.32 **Downline** means an Agent or Affinity to whom the Debtor owes any obligation to remit commissions pursuant to the Debtor's agreement with LTPC.

1.33 **Effective Date** means the date to be selected by the Debtor on which this Plan shall become effective, which date shall be as soon as reasonably practicable after the date on which the conditions specified in Section 9.1 of this Plan have been satisfied or waived by the Debtor.

1.34 **Employee Benefits** means the Debtor's (i) ERISA qualified retirement plan under Section 401(k) of the Internal Revenue Code and (ii) Section 125 Plan comprised of both medical flexible spending arrangements and dependent care flexible spending arrangements, as both such plans were in effect from the Petition Date through the Closing Date.

1.35 **Equity Interest** means the interest of any holder of equity securities of the Debtor prior to the Effective Date represented by the issued and outstanding shares of common stock, including any existing options, warrants or rights, contractual or otherwise, to acquire such equity securities.

1.36 **Estate** means the Debtor's Estate created pursuant to Section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

1.37 **Exhibit** means an exhibit annexed or to be annexed to this Plan, as it may be amended.

1.38 **Exhibit Filing Date** means the date on which Exhibits to the Plan shall be filed with the Bankruptcy Court, which date shall be no fewer than ten (10) days prior to the Voting Deadline, unless a later date is approved by the Bankruptcy Court.

1.39 **Final Order** means an order or judgment, the operation or effect of which has not been stayed, reversed or amended, and as to which order or judgment (or any revision, modification, or amendment thereof) the time to appeal or seek review or rehearing or move for a new trial has expired, and as to which no appeal or petition for review, reargument, rehearing or proceeding for a new trial was timely filed or, if timely filed, remains pending.

1.40 **ICRs** means insurance commission receivables.

1.41 **Insider** means any Person that qualified as an "insider" as defined in Section 101 of the Bankruptcy Code. "Insider" shall not be limited to the enumerated categories set forth in Section 101(31) of the Bankruptcy Code, and such term shall include all such Persons that qualify as an "insider" within the meaning of the Bankruptcy Code and as the Bankruptcy Court may so rule.

1.42 **Insider Claim** means any non-priority, unsecured Claim of an Insider.

1.43 **IR7** means Insurance Receivables 7, LLC, a Delaware limited liability company.

1.44 **IR7 Commission Vehicles** means certain of the Debtor's wholly owned subsidiaries that may receive insurance commissions periodically but has assigned any rights to those commissions to IR7.

1.45 **LTPC** means Long Term Preferred Care, Inc., a Tennessee corporation.

1.46 **Other General Unsecured Claim** means any Claim other than an Administrative Expense Claim, Priority Tax Claim, Other Priority Claim, Secured Claim, Insider Claim, or Affinity Claim.

1.47 **Other Priority Claim** means any Claim, other than an Administrative Expense Claim or a Priority Tax Claim, entitled to priority in payment under Section 507(a) of the Bankruptcy Code.

1.48 **Ownership Interests** means the Debtor's 100% ownership interests in IR7 and the IR7 Commission Vehicles.

1.49 **Person** means an individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, limited liability partnership, trust, trustee, United States Trustee, estate, unincorporated organization, government, governmental unit (as defined in the Bankruptcy Code), agency, or political subdivision thereof, or other entity.

1.50 **Petition Date** means September 14, 2012, the date on which the Debtor commenced the Chapter 11 Case.



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

1.52 **Plan Officer** means the individual deemed to be appointed by the Bankruptcy Court on the Effective Date that, among other things, shall be authorized to take all other steps necessary to effect the provisions of the Plan and shall, together with the Debtor, be an official distribution agent to the holders of Allowed Claims.

1.53 **Plan Sale** means the duly noticed and advertised sale of the Ownership Interests under Section 363 of the Bankruptcy Code.

1.54 **Priority Claim Order** means the *Order Granting Motion for an Order Authorizing the Debtor to Pay Certain Priority Claims Under 11 U.S.C. § 507(a)(4)* entered by the Bankruptcy Court on February 4, 2013 [Docket No. 196].

1.55 **Priority Tax Claim** means any Claim of a governmental unit of the kind entitled to priority in payment as specified in Sections 502(i) and 507(a)(8) of the Bankruptcy Code.

1.56 **Professional Fee Claim** means any Claim of a Professional for compensation or reimbursement of costs and expenses relating to services incurred prior to and including the Effective Date, when and to the extent any such Claim is Allowed by the Bankruptcy Court pursuant to Sections 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code.

1.57 **Professionals** means those Persons (a) employed pursuant to an order of the Bankruptcy Court in accordance with Sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered prior to the Effective Date, pursuant to Sections 327, 328, 329, 330 and 331 of the Bankruptcy Code, or (b) for which compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to Section 503(b)(4) of the Bankruptcy Code.

1.58 **Pro Rata Share** means the proportion that the amount of any Claim bears to the aggregate amount of such Claim and all other Claims in the same Class entitled to distributions from the same source of Cash.

1.59 **Rejection Damages Claim** means any Claim arising from the rejection of an executory contract or unexpired lease pursuant to Section 365 of the Bankruptcy Code.

1.60 **Sale Order** means the *Order Granting Motion for Entry of an Order (I) Approving Asset Purchase Agreement; (II) Authorizing the Sale of Substantially All of the Debtor's Assets Free and Clear of All Liens, Claims and Encumbrances; and (III) Authorizing the Assumption and Assignment of Leases and Contracts* entered by the Bankruptcy Court on November 9, 2012 [Docket No. 142].

1.61 **Schedules** means the schedules of assets and liabilities and the statement of financial affairs filed by the Debtor on October 12, 2012, as required by Section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, including any supplements or amendments thereto through the Confirmation Date.

1.62 **Secured Claim** means a Claim held by any entity to the extent of the value, as set forth in this Plan, as agreed to by the holder of such Claim, the Debtor, or as determined by a Final Order of the Bankruptcy Court pursuant to Section 506(a) of the Bankruptcy Code, of any interest in property of the Estate securing such Claim; provided, however, that a Secured Claim shall not include any portion of the Claim that exceeds the value of the interest in property of the Estate securing such Claim.

1.63 **SPV** means a special purpose vehicle.

1.64 **Tax Claim** means a Claim asserted by a taxing entity, including without limitation, Priority Tax Claims.

1.65 **Voting Deadline** means \_\_\_\_\_, 2013, the date established by order of the Bankruptcy Court for parties to submit their ballots to accept or reject the Plan.

1.66 **Wage Order** means the *Order on First Day Motion of Debtor for Entry of an Order (A) Authorizing, But Not Requiring, Payment of Certain Pre-Petition (i) Wages, Salaries, and Other Compensation, (ii) Employee Medical and Similar Benefits, (iii) Reimbursable Employee Expenses, and (B) Authorizing and Directing Applicable Banks and Other Financial Institutions to Receive, Process, and Honor and Pay All Checks Presented for Payment and to Honor All Electronic Payment Requests Made by the Debtor Related to the Foregoing* entered by the Bankruptcy Court on September 20, 2012 [Docket No. 35].

**B. Rules of Interpretation.**

(a) For purposes of this Plan, except as expressly provided, all capitalized terms not otherwise defined shall have the meanings given them in Article 1 of this Plan. Any term used in this Plan that is not defined herein, but is defined in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules.

(b) For purposes of this Plan, unless otherwise provided herein: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, will include both the singular and the plural; (b) each pronoun stated in the masculine, feminine or neuter includes the masculine, feminine and neuter; (c) unless otherwise provided in this Plan, any reference in this Plan to a contract, instrument, release or other agreement or document being in a particular form or on particular terms and conditions means that such document will be substantially in such form or substantially on such terms and conditions; (d) any reference in this Plan to an existing document or schedule filed or to be filed means such document or schedule, as it may have been or may be amended, modified or supplemented pursuant to this Plan; (e) any reference to a Person as a Holder of a Claim or Interest includes that Person's heirs, successors, and assigns; (f) all references in this Plan to Articles and Exhibits are references to Articles and Exhibits of or to this Plan; (g) the words "herein," "hereof," "hereunder," and "hereto" unless limited by further reference refer to this Plan in its entirety rather than to a particular portion of this Plan; (h) captions

and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of this Plan; (i) subject to the provisions of any contract, by-laws, instrument, release or other agreement or document entered into in connection with this Plan, the rights and obligations arising under this Plan shall be governed by and construed and enforced in accordance with federal law including the Bankruptcy Code and the Bankruptcy Rules; and (j) the rules of construction set forth in Section 102 of the Bankruptcy Code will apply.

C. **Computation of Time.** In computing any period of time prescribed or allowed by the Plan, unless otherwise expressly provided, the provisions of Bankruptcy Rule 9006(a) shall apply. A period described as a number of "days" (as opposed to "Business Days") means calendar days.

D. **References to Monetary Figures.** All references in the Plan to monetary figures shall refer to currency of the United States of America unless otherwise expressly provided.

## ARTICLE 2.

### TREATMENT OF ADMINISTRATIVE EXPENSE CLAIMS AND PRIORITY TAX CLAIMS

2.1. **Administrative Expense Claims.** Except to the extent that the Debtor and the holder of an Allowed Administrative Expense Claim agree to a different treatment, the Debtor shall pay to each holder of an Allowed Administrative Expense Claim from Available Cash an amount equal to such Allowed Administrative Expense Claim on the Effective Date; provided, however, that Allowed Administrative Expense Claims representing obligations incurred in the ordinary course of business of the Debtor as Debtor-in-Possession shall be paid in full and performed by the Debtor in accordance with the terms and conditions of the particular transactions and any applicable agreements. **Applications for payment of Administrative Expense Claims, other than Professional Fee Claims and liabilities incurred in the ordinary course of business by the Debtor and not yet due and payable according to their terms, shall be filed on or before the Administrative Claims Bar Date.** Claims incurred by the Debtor in the ordinary course of business after the Petition Date will continue to be paid in the ordinary course of business by the Debtor when due. Within three business days of entry of the Confirmation Order, the Debtor will file and serve a Notice of Administrative Expense Claims Bar Date on all creditors and parties of interest of the Debtor's Estate.

2.2. **Priority Tax Claims.** Except to the extent that the Debtor and the holder of an Allowed Priority Tax Claim against the Debtor agree to a different treatment, the Debtor shall pay to each holder of an Allowed Priority Tax Claim from Available Cash an amount equal to such Allowed Priority Tax Claim on the Distribution Date.

### ARTICLE 3.

#### CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

Claims and Equity Interests are classified for all purposes, including voting, confirmation, and distribution pursuant to the Plan. No interest, late fees or charges accruing on any Allowed Claim from and after the Petition Date through the Effective Date will be paid unless specifically included in the plan treatment. The classification and plan treatment of each Allowed Claim and Equity Interest is as follows:

3.1. **Class 1 - Other Priority Claims.** Class 1 consists of all Allowed Other Priority Claims against the Debtor. The Debtor is not aware of any Class 1 Claims that may become an Allowed Claim.

(a) **Impairment and Voting.** Class 1 is unimpaired by this Plan. The holder of an Allowed Claim in Class 1 is not entitled to vote to accept or reject this Plan.

(b) **Distributions to Class 1.** Each holder of an Allowed Claim in Class 1 shall be entitled to receive Cash from Available Cash in an amount equal to such Allowed Claim on the Distribution Date.

3.2. **Class 2 – Secured Claims.** Class 2 consists of all Allowed Secured Claims against the Debtor. The Debtor is not aware of any Class 2 Claims that may become an Allowed Claim.

(a) **Impairment and Voting.** Class 2 is unimpaired by this Plan. The holder of an Allowed Claim in Class 2 is not entitled to vote to accept or reject this Plan.

(b) **Distributions to Class 2.** Except to the extent that a holder of a Class 2 Allowed Secured Claim agrees to different treatment, on the Distribution Date, such holder shall receive one of the following treatments, in the discretion of the Debtor, in full and final satisfaction of such Allowed Secured Claim: (i) the Debtor shall pay such Allowed Secured Claim in full in Cash in an amount equal to the Allowed Secured Claim; (ii) the Debtor shall deliver the collateral securing any such Allowed Secured Claim in full satisfaction of its Allowed Secured Claim, unless the holder of such Claim agrees to less favorable treatment; or (iii) the Debtor shall otherwise treat any Allowed Secured Claim in any manner such that the Claim shall be rendered unimpaired. Each holder of an Allowed Secured Claim is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan. The Debtor does not believe there are any Class 2 Claims that will become Allowed Claims.

3.3. **Class 3 – Insider Claims.** Class 3 consists of all Allowed Insider Claims against the Debtor. Class 3 is comprised primarily of (i) non-priority, unsecured Claims of former employees of the Debtor to the extent such Claims are not entitled to priority pursuant to Section 507(a)(4) of the Bankruptcy Code and therefore already satisfied pursuant to the Wage

Order and the Priority Claim Order, and (ii) non-priority, unsecured Claims held by the Debtor's SPVs and equity security holders.

(a) **Impairment and Voting.** Class 3 is impaired by this Plan. Each holder of an Allowed Claim under Class 3 is entitled to vote to accept or reject this Plan. Pursuant to Section 1129(a)(10) of the Bankruptcy Code, Class 3 will not constitute the sole accepting Class for purposes of a "cram-down" under Section 1129(b) of the Bankruptcy Code.

(b) **Distributions to Class 3.** After satisfaction in full of all Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, and Allowed Secured Claims, and unless otherwise agreed to by the Debtor and the holder of an Allowed Claim in Class 3, each holder of an Allowed Claim in Class 3 shall be entitled to receive its Pro Rata Share of Available Cash (not to exceed the amount of its Allowed Claim) on the Distribution Date. Distributions to holders of Allowed Insider Claims shall be on parity with distributions to holders of Allowed Claims belonging to Classes 4 and 5.

3.4. **Class 4 – Affinity Claims.** Class 4 consists of all Allowed Affinity Claims against the Debtor. Members of Class 4 hold non-priority, unsecured claims against the Debtor. The Debtor separately classifies the holders of Affinity Claims from other holders of non-priority, unsecured claims against the Debtor because the holders of Affinity Claims are each uninformed about their Claims, with any knowledge dependent entirely on the disclosures or actions of the Debtor. Prior to the Petition Date, members of Class 4 were entitled to a small percentage of ICRs collected from policies issued to policy holders marketed through the Affinity. Members of Class 4 have no information from which they could determine any entitlement to or calculate the amount of any Claim to such ICR percentage payment. Members of Class 4 are unable in all cases to independently value their Claims and must rely on the Debtor's determinations as set forth in the Schedules. Given the number of holders, the sums of the Affinity Claims, and the reliance of Class 4 members on the Debtor's data as set forth in the Schedules, Class 4 members are separately classified in voting to accept or reject the Plan.

(a) **Impairment and Voting.** Class 4 is impaired by this Plan. Each holder of an Allowed Claim in Class 4 is entitled to vote to accept or reject this Plan.

(b) **Distributions to Class 4.** After satisfaction in full of all Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, and Allowed Secured Claims, and unless otherwise agreed to by the Debtor and the holder of an Allowed Claim in Class 4, each holder of an Allowed Claim in Class 4 shall be entitled to receive its Pro Rata Share of Available Cash (not to exceed the amount of its Allowed Claim) on the Distribution Date. Distributions to holders of Allowed Affinity Claims shall be on parity with distributions to holders of Allowed Claims belonging to Classes 3 and 5.

3.5. **Class 5 – Other General Unsecured Claims.** Class 5 consists of all Allowed Other General Unsecured Claims against the Debtor, including without limitation, Rejection Damages Claims (except those asserted by Insiders), Claims of trade creditors, and Claims asserted against the Debtor by parties other than Insiders or Affinities. Class 5 represents the Debtor's most independent Class of creditors, whose transactions with the Debtor were conducted at arm's-length and pursuant to a direct agreement with the Debtor. Accordingly, Class 5 members are separately classified.

(a) **Impairment and Voting.** Class 5 is impaired by this Plan. Each holder of an Allowed Claim in Class 5 is entitled to vote to accept or reject this Plan.

(b) **Distributions to Class 5.** After satisfaction in full of all Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, and Allowed Secured Claims, and unless otherwise agreed to by the Debtor and the holder of an Allowed Claim in Class 5, each holder of an Allowed Claim in Class 5 shall be entitled to receive its Pro Rata Share of Available Cash (not to exceed the amount of its Allowed Claim) on the Distribution Date. Distributions to holders of Allowed Other General Unsecured Claims shall be on parity with distributions to holders of Allowed Claims belonging to Classes 3 and 4.

3.6. **Class 6 - Equity Interests.** Class 6 consists of all Allowed Equity Interests.

(a) **Impairment and Voting.** Class 6 is impaired by this Plan. For purposes of this Plan, each holder of an Allowed Equity Interest in Class 6 is conclusively presumed to have rejected this Plan as holders of an Allowed Equity Interest in Class 6 and are not entitled to vote to accept or reject this Plan.

(b) **Distributions to Class 6.** Because the value of the Debtor's assets is less than the total value of its debts and liabilities, it is not anticipated that the holders of Allowed Equity Interests in Class 6 will receive any distributions on account of such Equity Interests. The Debtor will request that the Bankruptcy Court make a finding that the Equity Interests have no value for purposes of the "best interest" test under Section 1129(a)(7) of the Bankruptcy Code. The common stock certificates and other instruments evidencing Equity Interests in the Debtor shall be deemed cancelled without further act or action under any applicable agreement, law, regulation, order or rule, and the Equity Interests in the Debtor evidenced thereby shall be extinguished after (i) the Debtor determines following the Confirmation Date that there are not sufficient funds available to holders of Allowed Equity Interests, or (ii) in the event that sufficient funds become available to make a distribution to holders of Allowed Equity Interests, as soon as possible following the Distribution Date, distributions to Allowed Equity Interests, if any, will be paid on the Distribution Date, and the holder of Class 6 Equity Interests shall be entitled to receive its Pro Rata Share of Available Cash.

## ARTICLE 4.

### ACCEPTANCE OR REJECTION OF THE PLAN

4.1. **Voting of Claims.** Each holder of an Allowed Claim in an impaired Class of Claims (Classes 3, 4 and 5) shall be entitled to vote to accept or reject this Plan by following the procedures set forth herein and in the Disclosure Statement. For purposes of calculating the number of Allowed Claims in a Class of Claims that have voted to accept or reject this Plan under Section 1126(c) of the Bankruptcy Code, all Allowed Claims in such Class held by one entity or any affiliate thereof (as defined in the Securities Act of 1933 and the rules and regulations promulgated thereunder) shall be aggregated and treated as one Allowed Claim in such Class.

4.2. **Blank Ballots.** Any Ballot that is executed by the holder of a Claim or Equity Interest but that does not indicate an acceptance or rejection of the Plan shall be deemed to be an acceptance of the Plan.

4.3. **Acceptance by a Class of Creditors.** Consistent with Section 1126(c) of the Bankruptcy Code and except as provided for in Section 1126(e) of the Bankruptcy Code, a Class of creditors shall have accepted this Plan if it is accepted by at least two-thirds in dollar amount and more than one-half in number of the holders of Allowed Claims of such Class that have timely and properly voted to accept or reject this Plan.

4.4. **Cramdown.** The Debtor shall utilize the provisions of Section 1129(b) of the Bankruptcy Code to satisfy the requirements for confirmation of this Plan over the rejection, if any, of any Class entitled to vote to accept or reject this Plan.

## ARTICLE 5.

### MEANS FOR IMPLEMENTATION AND EXECUTION OF THE PLAN

5.1. **Utilization of Plan Officer.**

(a) **Purpose of the Plan Officer.** The principal purpose of the Plan Officer is to make distributions in respect of Claims against the Debtor's Estate in accordance with the terms of this Plan.

(b) **Identity of Initial Plan Officer and Compensation of Plan Officer.** The Debtor has determined that Mark P. Nondorf, 6346 Calais Drive, Indianapolis, Indiana 46220, is well suited for the role of Plan Officer and should be so appointed. The compensation of the Plan Officer shall continue pursuant to the terms of the Cost Sharing Agreement, as such agreement has been or may be modified through the closing of the Chapter 11 Case.

(c) **Appointment of Plan Officer.** On the Effective Date, the Plan Officer shall be deemed to be appointed by the Bankruptcy Court pursuant to the terms of this Plan. On the Effective Date, the Plan Officer shall be authorized to take all steps necessary to effect the provisions of this Plan and, together with the

Debtor, shall be an official distribution agent to the holders of Allowed Claims. If, for any reason, the Plan Officer ceases to perform the functions and responsibilities set forth below prior to the completion of all distributions to be made under this Plan, the Debtor may appoint a replacement Plan Officer effective upon the submission of a Notice of Appointment of Plan Officer to the Bankruptcy Court or, if the parties are unable to agree upon the identity of a Plan Officer, the Bankruptcy Court shall appoint a replacement Plan Officer upon such notice and with such consultation as the Bankruptcy Court deems appropriate.

(d) Powers and Duties of Plan Officer. Upon appointment by the Bankruptcy Court and pursuant to the terms and provisions of this Plan, the Plan Officer shall, together with the Debtor, act as the official distribution agent for the holders of Allowed Claims. The Plan Officer, together with the Debtor, shall carry out the implementation of this Plan and shall have all duties, powers, and standing and authority necessary to implement the Plan and to administer the assets of the Debtor for the benefit of holders of Allowed Claims. The Plan Officer's powers shall include, without limitation, the following:

(i) The power to, jointly with the Debtor, provide for the maintenance of the books and records of the Debtor's Estate and provide for storage and destruction of records as deemed appropriate;

(ii) The power to, jointly with the Debtor, liquidate any remaining unliquidated assets of the Estate and to sell or otherwise transfer for value any non-Cash property, including the power to complete the Plan Sale;

(iii) The power to, jointly with the Debtor, abandon to the Debtor any property that cannot be sold or otherwise disposed of for value;

(iv) The power to, jointly with the Debtor, litigate or settle Causes of Action asserted by or against the Debtor, subject to approval by the Bankruptcy Court;

(v) The power to, jointly with the Debtor, litigate or settle Claims asserted by or against the Debtor, as provided in Article 7 of this Plan;

(vi) The power to, jointly with the Debtor, hold and invest Estate funds until distributed and, in strict accordance with the terms of this Plan, establish one or more checking, savings and investment accounts in the name of the Plan Officer;

(vii) The power to, jointly with the Debtor, make distributions of Estate funds as provided in this Plan;



(viii) The power to, jointly with the Debtor, file with the Bankruptcy Court the reports and other documents required by the Plan or otherwise required to close the Chapter 11 Case;

(ix) The power to take any other actions that the Plan Officer, in his or her reasonable discretion, determines to be in the best interests of the Debtor's creditors and consistent with the purposes of this Plan; and

(x) The power to retain, after consultation with the Debtor, any third parties that the Plan Officer deems necessary to carry out the duties of the Plan Officer or to effectuate the terms of the Plan, including any current or former employees of the Debtor. The Plan Officer shall have the power to compensate any third parties retained at rates commensurate with the services to be provided.

(e) Discharge of Plan Officer. After the Distribution Date, the Plan Officer shall file with the Bankruptcy Court a final report of distributions and perform such other duties as are specified in the Plan, whereupon the Plan Officer shall have no further duties under the Plan.

5.2. Authorization to Effectuate the Plan. The entry of the Confirmation Order shall constitute authorization for the Debtor and the Plan Officer to take or cause to take all corporate action necessary and appropriate to consummate and implement the Plan prior to and after the Effective Date, and all such actions taken or caused to be taken shall be deemed to have occurred and shall be in effect from and after the Effective Date pursuant to applicable non-bankruptcy law and the Bankruptcy Code, without any requirement of further action by the Debtor.

5.3. Continuing Existence.

(a) From and after the Confirmation Date, the Debtor shall continue in existence (and shall consult and/or confer with the Plan Officer as specifically provided for in the Plan) for the purpose of (i) winding up its affairs as expeditiously as reasonably possible, (ii) conducting the Plan Sale, (iii) liquidating, by conversion to Cash or other methods, of any remaining assets of its Estate, as expeditiously as reasonably possible, (iv) enforcing and prosecuting claims, interests, rights and privileges of the Debtor, including, without limitation, the prosecution of Causes of Action, (v) resolving Disputed Claims, (vi) administering this Plan, and (vii) filing appropriate tax returns.

(b) From and after the Confirmation Date, and subject to the Effective Date, the then current officer of the Debtor shall continue to serve in his respective capacity through the date such officer resigns, is replaced or is terminated.

(c) From and after the Effective Date, the Debtor shall not be required to file any document, or take any other action, to withdraw its business operations from any states in which the Debtor previously conducted its business operations.

5.4. **Funding for this Plan.** This Plan shall be funded by (i) Available Cash on the Effective Date, including the proceeds from the sale of the Ownership Interests pursuant to the Plan Sale, and (ii) funds available after the Effective Date from, among other things, the liquidation of the Debtor's remaining assets and the prosecution and enforcement of Asserted Causes of Action of the Debtor.

5.5. **Plan Sale.** As part of the Plan Sale, the Debtor is seeking approval of a sale of the Ownership Interests by Auction to the highest bidder. The Auction shall be conducted within thirty (30) days of the entry of the Confirmation Order pursuant to Section 363 of the Bankruptcy Code. The terms of the Plan Sale, a more detailed description of the Ownership Interests to be sold, and the bidding procedures pursuant to which the Debtor will determine the highest and best offer for the Ownership Interests will be outlined in Exhibit A to this Plan, which shall be provided on the Exhibit Filing Date. The Debtor will provide notice of the Plan Sale and the time and location of the Auction and the bidding procedures to the United States Trustee, all counsel of record, all creditors and parties in interest, Carmel Funding, and all entities known to have expressed any interest in the possible acquisition of any assets of the Debtor after the Petition Date or within three (3) years prior to the Petition Date.

5.6. **Dissolution.**

(a) *IR7 and IR7 Commission Vehicles.* If the Plan Sale fails to produce a purchaser for the Ownership Interests, the Ownership Interests will be abandoned to the Debtor. If the Ownership Interests are abandoned, the Debtor, as the sole member of IR7 and the IR7 Commission Vehicles, will cease all efforts to operate and maintain IR7 and the IR7 Commission Vehicles and will allow IR7 and the IR7 Commission Vehicles to be dissolved pursuant to Indiana Code §§ 23-1-46-1 to -4, and the Debtor will be relieved of any obligation (i) to prepare and file tax returns on behalf of IR7 and the IR7 Commission Vehicles after the Effective Date, except to the extent the Debtor determines in its sole discretion to do so, and (ii) to comply with the requirements set forth in Indiana Code § 6-8.1-10-9, § 22-4-32-23, §§ 23-1-45-1 to -7, §§ 23-1-47-1 to -4, and § 32-34-1-25 and in Section 6043 of the Internal Revenue Code of 1986, as amended, including without limitation, submission of Form 966 to the Internal Revenue Service.

(b) *Dormant Subsidiaries.* On and after the Effective Date, the Debtor may, without further approval of the Bankruptcy Court, allow the Dormant Subsidiaries to be administratively dissolved pursuant to Indiana Code §§ 23-1-46-1 to -4, and the Debtor will be relieved of any obligation to (x) conduct the business operations or obligations as the sole member of the Dormant Subsidiaries after the Effective Date, (y) prepare and file tax returns on behalf of the Dormant Subsidiaries, except to the extent the Debtor determines in its sole discretion to do so, and (z) comply with the requirements set forth in Indiana Code § 6-8.1-10-9, § 22-4-32-23, §§ 23-1-45-1 to -7, §§ 23-1-47-1 to -4, and § 32-34-1-25 and in Section 6043 of the Internal Revenue Code of 1986, as amended, including without limitation, submission of Form 966 to the Internal Revenue Service.

5.7. **Liquidation of Assets.** On and after the Confirmation Date, and subject to the Effective Date, the Debtor may, without further approval of the Bankruptcy Court, use, sell, assign, transfer, abandon or otherwise dispose of at a public or private sale any of the Debtor's remaining assets for the purpose of liquidating and converting such assets to Cash, making distributions and fully consummating the Plan.

5.8. **Termination of Employee Benefits.** Prior to the Petition Date, the Debtor established (i) an ERISA qualified retirement plan under Section 401(k) of the Internal Revenue Code for the benefit of its eligible employees, and withheld amounts designated by eligible employees from their annual earnings to contribute to the 401(k) plan, and (ii) a Section 125 Plan comprised of both medical flexible spending arrangements and dependent care flexible spending arrangements. The Debtor terminated its employees effective on the Closing Date, and there are no active participants in either of the Employee Benefits programs. Accordingly, the Employee Benefits programs shall be terminated effective on the Confirmation Date and thereafter liquidated. The Debtor, upon the Confirmation Date, shall be authorized to take all administrative actions necessary to process the termination of the Employee Benefits as required by applicable, non-bankruptcy law, including but not limited to, filing applicable forms with the Internal Revenue Service and the administrator of the Employee Benefits and to provide any applicable notices to the participants of the Employee Benefits.

5.9. **Accounts.** The Debtor, jointly with the Plan Officer, may establish one or more interest-bearing accounts as they determine may be necessary or appropriate to effectuate the provisions of this Plan consistent with Section 345 of the Bankruptcy Code and any orders of the Bankruptcy Court. The signatories to such accounts shall include, and shall be specifically limited to, a current director of the Debtor and the Plan Officer.

5.10. **Closing of the Chapter 11 Case.** When all Disputed Claims filed against the Debtor have become Allowed Claims or have been disallowed by Final Order, and all remaining assets of the Debtor (other than those assets abandoned by the Debtor), have been liquidated and converted into Cash and such Cash has been distributed in accordance with this Plan, or at such earlier time as the Debtor, jointly with the Plan Officer, deem appropriate, the Debtor and/or the Plan Officer shall seek authority from the Bankruptcy Court to close the Chapter 11 Case in accordance with the Bankruptcy Code and the Bankruptcy Rules.

## ARTICLE 6.

### PROVISIONS GOVERNING DISTRIBUTIONS.

6.1. **Distribution Date.** On the Distribution Date, the Debtor and the Plan Officer shall distribute all Available Cash to holders of Allowed Claims other than holders of Administrative Expense Claims. Administrative Expense Claims shall be paid on the Effective Date or as they are incurred and submitted for payment following the Confirmation Date. Distributions to all other holders of Allowed Claims shall be allocated first to the principal portion of any such Allowed Claim, and only after the principal portion of any such Allowed Claim is satisfied in full, to any portion of such Allowed Claim comprising interest (but solely to the extent that interest is an allowable portion of such Allowed Claim). All payments shall be made in accordance with the priorities established by the Bankruptcy Code. The Debtor

expressly intends that, except for the payment of Administrative Expense Claims, only one distribution will occur under the Plan, eliminating the administrative expenses necessarily incurred to create and administer a reserve to fund possible distributions on Disputed Claims if ultimately Allowed, whether in full or otherwise.

6.2. **Delivery of Distributions and Undeliverable Distributions.**

Distributions to holders of Allowed Claims and Equity Interests shall be made at the address of each such holder as set forth on the Schedules filed with the Bankruptcy Court unless superseded by the address as set forth on the proofs of Claim and Equity Interests filed by such holders or other writing notifying the Debtor or the Plan Officer of a change of address. All claims for undeliverable distributions shall be made on or before sixty (60) days after the Distribution Date. After such date, all unclaimed property shall, in the Debtor and the Plan Officer's discretion, be used to satisfy the costs of administering and fully consummating this Plan, as needed, or donated to the Indianapolis Bar Foundation, Inc., and the holder of any such Allowed Claim shall not be entitled to any other or further distribution under this Plan on account of such Allowed Claim.

6.3. **Time Bar to Cash Payments.**

Checks issued by the Debtor and/or the Plan Officer with respect to Allowed Claims shall be null and void if not negotiated within sixty (60) days after the Distribution Date. Requests for reissuance of any check shall be made to the Debtor and the Plan Officer by the holder of the Allowed Claim to whom such check was originally issued within sixty (60) days after the Distribution Date. If a check has not been negotiated within sixty (60) days from issuance and no request for reissuance was received by the Debtor or the Plan Officer prior to the expiration of the sixty (60) days, the Claim that is the subject of the distribution shall be discharged and forever barred against the Debtor, its Estate, and creditors, and any obligation to such holder shall be deemed null and void. After such date, the unclaimed property shall, in the Debtor and the Plan Officer's discretion, be used to satisfy the costs of administering and fully consummating this Plan, as needed, or donated to the Indianapolis Bar Foundation, Inc., and the holder of any such Allowed Claim shall not be entitled to any other or further distribution under this Plan on account of such Allowed Claim.

6.4. **De Minimis Distributions.**

If the distribution to a holder of an Allowed Claim is less than \$10.00, no distribution shall be made on account of the Allowed Claims held by the holder of the Allowed Claim unless the holder requests distribution of the Plan Officer and the Debtor no later than thirty (30) days after the Effective Date. The holder of the Allowed Claim shall forever be barred from asserting any Claim therefore against the Debtor, its Estate, and its creditors.

6.5. **Withholding and Reporting Requirements.**

In connection with this Plan and all instruments issued in connection therewith and distributed thereon, the Debtor and the Plan Officer shall comply with all applicable withholding and reporting requirements imposed by any federal, state or local taxing authority, and all distributions under this Plan shall be subject to any such withholding or reporting requirements.

6.6. **Setoffs.**

The Debtor and the Plan Officer may, in accordance with the provisions of the Plan, Section 553 of the Bankruptcy Code and applicable non-bankruptcy law, set off against any Allowed Claim and the distributions to be made pursuant to this Plan on

account of such Claim (before any distribution is made on account of such Claim), the claims, rights and causes of action of any nature that the Debtor may hold against the holder of such Allowed Claim; provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor or the Debtor-in-Possession of any such claims, rights and causes of action that the Debtor or the Debtor-in-Possession may possess against such holder; and provided further, however, that any claims of the Debtor arising before the Petition Date shall first be setoff against Claims against the Debtor arising before the Petition Date.

6.7. **Professional Fees and Expenses.** Each Professional retained with approval by order of the Bankruptcy Court or requesting compensation in the Chapter 11 Case pursuant to Sections 330 or 503(b) of the Bankruptcy Code shall be required to file an application for an allowance of final compensation and reimbursement of expenses in the Chapter 11 Case incurred through the Effective Date on or before thirty (30) days after the Effective Date. Objections to any such application shall be filed on or before a date to be set by the Bankruptcy Court in the Confirmation Order. All compensation and reimbursement of expenses allowed by the Bankruptcy Court shall be paid no later than 10 days after entry of the order allowing such fees and expenses.

6.8. **Transactions on Business Days.** If the Effective Date or any other date on which a transaction may occur under this Plan shall occur on a day that is not a Business Day, the transactions contemplated by this Plan to occur on such day shall instead occur on the next succeeding Business Day.

## ARTICLE 7.

### PROCEDURES FOR RESOLVING AND TREATING DISPUTED CLAIMS.

7.1. **Resolution of Disputed Claims.** Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, and except as otherwise expressly provided for below, the Debtor and the Plan Officer shall each have the exclusive right (except as to applications for allowances of compensation and reimbursement of expenses under Sections 330 and 503 of the Bankruptcy Code) to make and file objections to Claims (which includes, without limitation, objections to Rejection Damages Claims filed pursuant to Section 8.3 of the Plan) and shall serve a copy of each objection upon the holder of the Claim to which the objection is made as soon as practicable, but in no event later than thirty (30) days after the Effective Date; provided, however, that such thirty (30) day period may be automatically extended by the Debtor by the filing by the Debtor or the Plan Officer of a Notice of Extension in the Chapter 11 Case, without any further application to, or approval by, the Bankruptcy Court, for an additional thirty (30) days. Such deadline may be further extended by order of the Bankruptcy Court. From and after the Confirmation Date, subject to the Effective Date, all objections shall be litigated to a Final Order except in the event the Debtor (with the consent of the Plan Officer not to be unreasonably withheld) or the Plan Officer (with the consent of the Debtor not to be unreasonably withheld), as applicable, elects to withdraw any such objection or the Debtor (with the consent of the Plan Officer, not to be unreasonably withheld) or the Plan Officer (with the consent of the Debtor, not to be unreasonably withheld), as applicable, and the claimant elect to compromise, settle or otherwise resolve any such objection by agreement, in which event they

may settle, compromise or otherwise resolve any Disputed Claim without further notice to or approval by the Bankruptcy Court.

7.2. **Estimation.** The Debtor or the Plan Officer may, at any time request that the Bankruptcy Court estimate any Disputed Claim pursuant to Section 502(c) of the Bankruptcy Code regardless of whether the Debtor has previously objected to such Claim, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time, including during litigation concerning any objection to such Claim. In the event that the Bankruptcy Court estimates any Disputed Claim, that estimated amount may constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtor or the Plan Officer may elect to pursue any supplemental proceedings to object to any ultimate payment of such Claim. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not necessarily exclusive of one another. On and after the Confirmation Date, Claims which have been estimated subsequently may be compromised, settled, withdrawn or otherwise resolved without further notice to or approval by the Bankruptcy Court as provided in Section 7.1 of this Plan.

## ARTICLE 8.

### TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

8.1. **Procedures for Rejection of Executory Contracts and Unexpired Leases.** On the Effective Date, all executory contracts and unexpired leases that exist and have not, prior to the Effective Date, been rejected pursuant to a Final Order of the Bankruptcy Court, between the Debtor and any person, shall be deemed rejected as of the Effective Date, except for any executory contract and unexpired lease (i) assumed by the Debtor and assigned to Carmel Funding pursuant to the Sale Order, or (ii) as to which a motion for approval of the assumption or rejection of such contract or lease has been filed and served prior to the Effective Date.

8.2. **Approval of Rejection of Executory Contracts and Unexpired Leases.** Entry of the Confirmation Order shall constitute the approval, pursuant to Section 365(a) of the Bankruptcy Code, of the rejection of the executory contracts and unexpired leases rejected pursuant to Section 8.1 of this Plan.

8.3. **Bar Date for Filing Rejection Damages Claims.** Rejection Damages Claims must be filed with the Bankruptcy Court **no later than the later of (i) the Bar Date, and (ii) thirty (30) days after the Effective Date.** Any Claims not filed within such applicable time periods will be forever barred from assertion against the Debtor, Debtor-in-Possession, and/or the Estate.

8.4. **Retiree Benefits.** The Debtor has never funded nor maintained any retiree benefit plans, funds or programs, as defined in Section 1114 of the Bankruptcy Code, for the purpose of providing or reimbursing payments for retired employees and their spouses and dependents for medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death under any plan, fund, or program (through the purchase of insurance or otherwise). Any such retiree benefit plans established by the Debtor prior to the Petition Date

were discretionary and never funded, and, accordingly, no such payments will be, or are required to be, made pursuant to Section 1129(a)(13) of the Bankruptcy Code.

## ARTICLE 9.

### EFFECTIVENESS OF THE PLAN.

9.1. **Conditions to the Effective Date.** The following are conditions precedent to the Effective Date of this Plan:

- (a) The Bankruptcy Court shall have entered an order confirming this Plan in form and substance satisfactory to the Debtor;
- (b) No stay of the Confirmation Order shall then be in effect;
- (c) All documents, instruments and agreements, in form and substance satisfactory to the Debtor, provided for under or necessary to implement this Plan shall have been executed and delivered by the parties thereto, unless such execution or delivery has been waived by the parties benefited thereby; and
- (d) The Debtor and the Plan Officer shall have filed a Notice of Effective Date in the Chapter 11 Case certifying that the conditions precedent have occurred or have been excused.

9.2. **Waiver of Conditions.** The Debtor may waive the conditions to effectiveness of this Plan set forth in Section 9.1 of this Plan.

## ARTICLE 10.

### EFFECT OF CONFIRMATION.

10.1. **Release of Assets.** Until the Effective Date, the Bankruptcy Court shall retain jurisdiction of the Debtor, its assets and properties. Thereafter, jurisdiction of the Bankruptcy Court shall be limited to the subject matters set forth in Article 11 of this Plan, and the Debtor shall perform and wind up its affairs as provided in this Plan.

10.2. **Binding Effect.** Except as otherwise provided in Section 1141(d)(3) of the Bankruptcy Code, on and after the Confirmation Date, and subject to the Effective Date, the provisions of this Plan shall bind any holder of a Claim against, or Equity Interests in, the Debtor and their respective heirs, successors and assigns, whether or not the Claim or Equity Interest of such holder is impaired under this Plan and whether or not such holder has accepted this Plan.

10.3. **Retained Actions.** Pursuant to Section 1123(b)(3) of the Bankruptcy Code and except as otherwise provided in this Plan, the Debtor will retain and may (but is not required to) prosecute and enforce all Causes of Action or claims arising under applicable state laws, if any, and including Causes of Action of a trustee or a debtor-in-possession under the Bankruptcy Code except those that are expressly released hereunder. Exhibit B to the Plan shall set forth, without limitation, a more detailed description of the Causes of Action. Exhibit B shall

be provided on the Exhibit Filing Date. A Cause of Action that is not listed on Exhibit B shall not be lost or waived by reason of the entry of the Confirmation Order or the occurrence of the Effective Date. All Causes of Action must be commenced on or before thirty (30) days after the Effective Date or shall be deemed abandoned.

10.4. **Debtor's Releases and Exculpation.** For the purposes of this section 10.4, "**Released Parties**" means (i) the Debtor, (ii) the Plan Officer, and (iii) each and any of their respective members, shareholders, officers, directors, employees, professionals, attorneys, advisors or agents, and each of their predecessors, successors and assigns, who are or were members, shareholders, officers, directors, employees, professionals, attorneys, advisors or agents, as the case may be, during the Chapter 11 Case.

(a) *Exculpation.* On and after the Confirmation Date, subject to the Effective Date, the Released Parties shall not have or incur any liability to any holder of a Claim or Equity Interest for (i) any act or omission in connection with, relating to, or arising out of, the Chapter 11 Case, (ii) any Tax Claim except to the extent of distributions from Available Cash, (iii) the formulation, negotiation or implementation of the Disclosure Statement or this Plan, (iv) the solicitation of acceptances of this Plan, (v) the pursuit of confirmation of this Plan, (vi) the confirmation of this Plan, (vii) on account of any transactions or relationship with the Debtor (either prior to or after the Petition Date), (viii) the consummation of this Plan or any contract, instrument, release or any other agreement or document created, or entered into, in connection with the Plan, or (ix) the administration of this Plan or the property to be distributed under this Plan; provided however that the foregoing exculpation shall not be deemed to release any liability resulting from any such Released Party's willful misconduct or gross negligence as determined by a Final Order, and, in all respects, each of the Released Parties shall be entitled to (y) rely upon the advice of counsel with respect to its duties and responsibilities during the Chapter 11 Case and under this Plan, and (z) any defense of qualified immunity that may be available under applicable law.

(b) *Debtor's Release.* Notwithstanding anything to the contrary herein, as of the Effective Date, for good, valuable and adequate consideration, the adequacy of which is hereby confirmed, including without limitation, the provision of financing to the Debtor-in-Possession, acquisition of the assets of the Debtor subject to higher and better offers, and the provision of services by the Debtor's former and present officers in administering the assets and managing the affairs of the Debtor-in-Possession, the Debtor shall be deemed to forever waive and release each of the Released Parties from any and all obligations, suits, judgments, damages, demands, debts, remedies, rights, causes of action (including avoidance actions), rights of setoff and liabilities whatsoever (including any derivative claims asserted on behalf of the Debtor) in connection with or in any way related to the Debtor, the conduct of the Debtor's business, the Chapter 11 Case, the Disclosure Statement or the Plan (other than the rights of the Debtor or the Plan Officer, or a creditor holding an Allowed Claim to enforce the obligations under the Confirmation Order and the Plan and the contracts, instruments, releases and other agreements or documents delivered thereunder),



whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or hereafter arising, in law, equity, or otherwise, that are based, in whole or in part, on any act, omission, transaction, event or other occurrence taking place prior to the Effective Date, provided however, this release shall not operate as a release or waiver of any causes of action or liabilities as of the Petition Date arising out of gross negligence, willful misconduct, fraud or criminal acts of any such Released Party as determined by a Final Order.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the foregoing release by the Debtor, which includes by reference each of the related provisions and definitions contained herein, and further shall constitute the Bankruptcy Court's findings that the foregoing release by the Debtor is: (i) in exchange for good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of claims released by the Debtor; (iii) in the best interests of the Debtor and all holders of Claims and Interests; (iv) fair, equitable and reasonable; (v) given and made after due notice and opportunity for hearing; and (vi) a bar to the Debtor asserting any claim or Cause of Action released pursuant to the foregoing release by the Debtor.

10.5. **Term of Injunctions or Stays.** Unless otherwise provided, all injunctions or stays provided for in the Chapter 11 Case pursuant to Sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until all obligations of the Debtor and the Plan Officer under the Plan have been performed and the Chapter 11 Case has been closed.

10.6. **Injunction.** On and after the Confirmation Date, subject to the Effective Date, all persons are permanently enjoined from commencing or continuing in any manner any action or proceeding (whether directly, indirectly, derivatively or otherwise) on account of or respecting any Claim, debt, right or Cause of Action of the Debtor for which the Debtor or the Plan Officer retains sole and exclusive authority to pursue in accordance with Section 10.3 of this Plan.

## **ARTICLE 11.**

### **RETENTION OF JURISDICTION.**

11.1. **Jurisdiction of Bankruptcy Court.** The Bankruptcy Court shall retain exclusive jurisdiction of all matters arising under, arising out of, or related to, the Chapter 11 Case and this Plan pursuant to, and for the purposes of, Sections 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following purposes:

- (a) To hear and determine any motions for the assumption, assumption and assignment or rejection of executory contracts or unexpired leases, and the allowance of any Claims resulting therefrom;

(b) To determine any and all pending adversary proceedings, applications, and contested matters;

(c) To hear and determine any objection to, or requests for estimation of, any Claims (whether filed before or after the Effective Date), that are not otherwise settled, compromised, withdrawn or resolved as provided for in Article 7 hereof;

(d) 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;

(e) To issue such orders in aid of execution of this Plan to the extent authorized by Section 1142 of the Bankruptcy Code;

(f) To consider any modifications of this Plan, to cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

(g) To hear and determine all applications for compensation and reimbursement of expenses of Professionals under Sections 330, 331, and 503(b) of the Bankruptcy Code;

(h) To hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of this Plan and the Confirmation Order;

(i) To hear and determine matters related to the Plan Sale;

(j) To hear and determine matters concerning state, local and federal taxes in accordance with Section 346, 505 and 1146 of the Bankruptcy Code;

(k) To hear and determine all suits or adversary proceedings to recover all assets of the Debtor and property of the Estate, wherever located;

(l) To hear any other matter consistent with the provisions of the Bankruptcy Code; and

(m) To enter a final decree closing the Chapter 11 Case.

## ARTICLE 12.

### MISCELLANEOUS PROVISIONS.

12.1. **Effectuating Documents and Further Transactions.** The President, or if such person is unable or unwilling to do so, any other authorized officer of the Debtor shall be authorized to execute, deliver, file, or record such contracts, instruments, releases and other agreements or documents and take such actions on behalf of the Debtor as may be necessary or

appropriate to effectuate and further evidence the terms and conditions of this Plan, without any further action by or approval of the director of the Debtor.

12.2. **Post-Effective Date Fees and Expenses of Professionals**. On or after the Effective Date, the Debtor shall, without the necessity for any approval by the Bankruptcy Court, pay the reasonable fees and expenses of the Professionals employed by the Debtor in connection with the implementation and consummation of the Plan, the claims reconciliation process, and any other matters as to which such Professionals may be engaged.

12.3. **Payment of Statutory Fees**. All fees payable pursuant to Chapter 123 of Title 28, United States Code, as determined by the Bankruptcy Court on the Confirmation Date, shall be paid on the Distribution Date. Any statutory fees accruing after the Confirmation Date shall constitute Administrative Expense Claims and be paid in accordance with Section 2.1 of this Plan.

12.4. **Modification of Plan**. The Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan at any time prior to the entry of the Confirmation Order. After the entry of the Confirmation Order, the Debtor may, upon order of the Bankruptcy Court, amend or modify this Plan, in accordance with Section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan. A holder of an Allowed Claim or Equity Interest that is deemed to have accepted this Plan shall be deemed to have accepted this Plan as modified if the proposed modification does not materially and adversely change the treatment of the Claim or Equity Interest of such holder.

12.5. **Withdrawal or Revocation**. The Debtor may withdraw or revoke this Plan at any time prior to the Confirmation Date. If the Debtor revokes or withdraws this Plan prior to the Confirmation Date, or if the Confirmation Date does not occur, then this Plan shall be deemed null and void. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any Claim by or against the Debtor or any other person or to prejudice in any manner the rights of the Debtor or any other person in any further proceedings involving the Debtor.

12.6. **Courts of Competent Jurisdiction**. If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of this Plan, such abstention, refusal or failure of jurisdiction shall have no effect upon and shall not control, prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

12.7. **Notices**. Any notices to or requests of the Debtor by parties in interest under or in connection with this Plan shall be in writing and served either by (i) certified mail, return receipt requested, postage prepaid, (ii) hand delivery, or (iii) reputable overnight delivery service, all charges prepaid, and shall be deemed to have been given when received by the following parties:

TWG CAPITAL, INC.  
7434 Shadeland Station Way  
Indianapolis, IN 46256  
Attn: Mr. Mark P. Nondorf

-and-

Mr. Mark P. Nondorf, as  
Plan Officer for TWG Capital, Inc.  
6346 Calais Drive  
Indianapolis, IN 46220

with copies to:

FAEGRE BAKER DANIELS LLP  
600 East 96th Street  
Suite 600  
Indianapolis, IN 46240  
Attn: Jay Jaffe, Esq.

12.8. **Severability.** In the event that the Bankruptcy Court determines, prior to the Confirmation Date, that any provision of this Plan is invalid, void or unenforceable, the Bankruptcy Court shall, with the consent of the Debtor, have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.


12.9. **Governing Law.** Except to the extent the Bankruptcy Code or Bankruptcy Rules are applicable, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Indiana, without giving effect to the principles of conflicts of law thereof.

12.10. **Headings.** Headings are used in this Plan for convenience and reference only, and shall not constitute a part of this Plan for any other purpose.

12.11. **Exhibits.** All Exhibits and Schedules to this Plan are incorporated into and are a part of this Plan as if set forth in full herein.

Dated: Indianapolis, Indiana  
June 12, 2013

TWG CAPITAL, INC.,  
Debtor and Debtor-in-Possession

By:   
Mark P. Nondorf, President

**EXHIBIT A**

**PLAN SALE TERM SHEET**

**(To be provided on or before the Exhibit Filing Date)**

**EXHIBIT B**

**CAUSES OF ACTION**

**(To be provided on or before the Exhibit Filing Date)**

**APPENDIX B**  
**LIQUIDATION ANALYSIS**



## TWG Capital, Inc. Hypothetical Liquidation Analysis

This Hypothetical Liquidation Analysis ("Analysis") has been prepared in connection with TWG Capital, Inc.'s Disclosure Statement filed on June 12, 2013 (docket # \_\_\_) (as may be subsequently amended, the "Disclosure Statement"). This Analysis reflects values for which assets might be liquidated in a Chapter 7 bankruptcy case for TWG Capital, Inc. ("Debtor") as of July 31, 2013. The purpose of this analysis is to demonstrate potential recoveries to creditors upon a chapter 7 liquidation of the Debtor in comparison to recoveries projected under the Debtor's plan of liquidation.

This Analysis has been prepared assuming that the current Chapter 11 case converts to a Chapter 7 case on July 31, 2013 and assets are liquidated as promptly as is feasible by a newly appointed chapter 7 trustee. This Analysis is based upon unaudited book values of assets and liabilities of Debtor as of May 31, 2013 and necessarily relies on balance sheet projections for July 31, 2013.

This Analysis represents estimates of recoveries on each asset and/or classes of assets and also estimates the amount of allowed claims in the case. As such, the Debtor and its advisors can make no representation or warranty as to the actual results of a liquidation of the Debtor.

In addition to the above, the Analysis relies on and is limited by the following assumptions:

- 1) Assumes Asset valuations are unchanged from those in hand projected for the purposes of the Chapter 11 Plan.
- 2) Wind down and liquidation expenses are estimates based on 11 U.S.C. § 326, costs of auction and other comparable services, and are informed by the liquidation of other operations of comparable size and complexity; in particular, because of the Debtor's complex financial system and commission tracking systems, these estimates assume a chapter 7 trustee will require the assistance of the Debtor's President and perhaps other former employees to liquidate the remaining assets and administer the estate, inclusive of the process of assessing and prosecuting those Claims to be Disputed.
- 3) Chapter 7 Professional Fees presume allowance under 11 U.S.C. § 330, as applicable.
- 4) Administrative Claims presume allowance under 11 U.S.C. § 330 of fees for professional services to Debtor- in- Possession as billed and accrued prior to the hypothetical conversion to a case under chapter 7.
- 5) Estimated Allowed Claims are estimates based on Debtor's schedules, filed proofs of claim and outstanding pre-petition payables.

TWG Capital, Inc.  
Liquidation Analysis (projected as of July 31, 2013)  
Estimated and Unaudited

	Net Fair Market Value	Estimated Liquidation Value	Estimated Realization Rate
<b>Assets</b>			
Cash & Cash Equivalents	\$ 66,000	\$ 66,000	100.0%
Net Receivables	\$ 30,000	\$ 30,000	100.0%
Pre-Paid Assets	\$ 80,000	\$ 80,000	100.0%
Total Assets	\$ 176,000	\$ 176,000	
<b>Estimated Costs post conversion</b>			
Chapter 7 Trustee Fees		\$ 9,250	
Wind-Down Expenses (chapter 7 Administrative Claims)		\$ 25,000	
Professional Fees		\$ 31,000	
		\$ 65,250	
<b>Net Proceeds Available to Creditors</b>		<b>\$ 110,750</b>	

	Estimated Allowed Claim	Estimated Total Paid	Estimated % of Allowed Claims Paid
<b>Claims</b>			
Administrative Claims	\$ 120,000	\$ 110,750	92.3%
Secured Claims	\$ -	\$ -	
Priority Claims	\$ -	\$ -	
General Unsecured Claims	\$ 1,372,000	\$ -	0.0%
Total Claims	\$ 1,492,000	\$ 110,750	

**Schedule IV.B**

Liquidation Estimate Under Plan  
 prepared as of 7/9/13, data as of June 30  
 TWG Capital

**Assets:**

Cash		64,690.69
AR Imagine		30,000.00
Deposits		
	FB&D	75,000.00
	Accountants	5,000.00
<b>Total Assets</b>		<b>174,690.69</b>

**Liabilities:**

Post 9/14 Payables:	FB&D	Other Admin	
Billed thru 4/30	(77,941.08)		
Unbilled at 7/9	(28,800.00)		
	(106,741.08)	(887.27)	(107,628.35)

**Subtotal Available for Future Expenses** **67,062.34**

**Remaining Projected Expenses:**

FB&D	(15,000.00) estimated
BMC	(3,600.00) estimated
Peters Browning (Accountants)	(15,000.00) 2012 and final 2013 returns
Trustee Fees - 2 quarters	(9,750.00) 2nd/3rd qtr pymt
Operating Expenses	(15,000.00) est for IBNR liabilities and future op expenses

**Estimated Cash Available for Creditors (after Admin Exp)** **8,712.34**