

**UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
HARRISBURG DIVISION**

In re:

ROMAN CATHOLIC DIOCESE OF  
HARRISBURG,

Debtor.<sup>1</sup>

Chapter 11

Case No. 1:20-bk-00599 (HWV)

**DISCLOSURE STATEMENT IN SUPPORT OF  
JOINT CHAPTER 11 PLAN OF REORGANIZATION**

THE OFFICIAL COMMITTEE OF TORT CLAIMANTS FOR THE ROMAN CATHOLIC DIOCESE OF HARRISBURG (THE “**COMMITTEE**”) SEEKS CONFIRMATION OF THE CHAPTER 11 PLAN OF REORGANIZATION (THE “**PLAN**”) FILED BY THE COMMITTEE IN THE ROMAN CATHOLIC DIOCESE OF HARRISBURG’S (THE “**DIOCESE**”) BANKRUPTCY CASE.

THIS DISCLOSURE STATEMENT (“**DISCLOSURE STATEMENT**”), THE PLAN, THE ACCOMPANYING BALLOTS, AND THE RELATED MATERIALS ARE BEING FURNISHED BY THE COMMITTEE, PURSUANT TO SECTIONS 1125 AND 1126 OF THE BANKRUPTCY CODE, IN CONNECTION WITH THE SOLICITATION BY THE COMMITTEE OF VOTES TO ACCEPT THE PLAN AS DESCRIBED IN THIS DISCLOSURE STATEMENT.

THE CONFIRMATION AND EFFECTIVENESS OF THE PLAN ARE SUBJECT TO MATERIAL CONDITIONS PRECEDENT, SOME OF WHICH MAY NOT BE SATISFIED. SEE **ARTICLE XI** OF THE PLAN. THERE IS NO ASSURANCE THAT THESE CONDITIONS WILL BE SATISFIED OR WAIVED.

HOLDERS OF CLAIMS AGAINST THE DIOCESE ARE ENCOURAGED TO READ AND CAREFULLY CONSIDER THE MATTERS DESCRIBED IN THIS DISCLOSURE STATEMENT INCLUDING UNDER “**RISK FACTORS TO BE CONSIDERED**” IN **ARTICLE XVII**.

IF THE PLAN IS CONFIRMED BY THE BANKRUPTCY COURT AND THE EFFECTIVE DATE OCCURS, ALL HOLDERS OF CLAIMS AGAINST THE DIOCESE (INCLUDING, WITHOUT LIMITATION, THOSE HOLDERS OF CLAIMS WHO DO NOT SUBMIT BALLOTS TO ACCEPT OR REJECT THE PLAN OR WHO ARE NOT ENTITLED TO VOTE ON THE PLAN) WILL BE BOUND BY THE TERMS OF THE PLAN AND THE TRANSACTIONS DESCRIBED IN THE PLAN.

NEITHER THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF ANY SECURITIES THAT MAY BE DEEMED TO HAVE BEEN ISSUED PURSUANT TO THE PLAN OR THIS DISCLOSURE STATEMENT OR HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

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<sup>1</sup> The last four digits of the Debtor’s federal tax identification number are: 4791. The Debtor’s principal place of business is located at 4800 Union Deposit Road, Harrisburg, Pennsylvania 17111.

THIS DISCLOSURE STATEMENT IS NOT AN OFFER TO SELL SECURITIES AND IS NOT A SOLICITATION OF AN OFFER TO BUY SECURITIES IN ANY STATE WHERE THE ORDER OR SALE IS NOT PERMITTED.

TO THE EXTENT ANY TREATMENT UNDER THE PLAN IS DEEMED TO CONSTITUTE THE ISSUANCE OF A SECURITY, NONE OF THE SECURITIES WILL HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT, OR UNDER ANY STATE SECURITIES OR "*BLUE SKY*" LAWS, AND THE SECURITIES WILL BE ISSUED IN RELIANCE UPON EXEMPTIONS FROM THE SECURITIES ACT AND EQUIVALENT STATE LAWS OR SECTION 1145 OF THE BANKRUPTCY CODE.

THERE HAS BEEN NO INDEPENDENT AUDIT OF THE FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT OR IN ANY EXHIBIT, EXCEPT AS EXPRESSLY INDICATED IN THIS DISCLOSURE STATEMENT OR IN ANY EXHIBIT. THIS DISCLOSURE STATEMENT WAS COMPILED FROM INFORMATION OBTAINED BY THE COMMITTEE FROM NUMEROUS SOURCES BELIEVED TO BE ACCURATE TO THE BEST OF THE COMMITTEE'S KNOWLEDGE, INFORMATION, AND BELIEF. THE COMMITTEE'S PROFESSIONALS HAVE NOT INDEPENDENTLY VERIFIED ANY OF THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT AND ARE NOT RESPONSIBLE FOR ANY INACCURACIES THAT MAY BE CONTAINED IN THIS DISCLOSURE STATEMENT OR THE PLAN.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF, AND THE DELIVERY OF THIS DISCLOSURE STATEMENT WILL NOT, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THE INFORMATION IS CORRECT AT ANY TIME SUBSEQUENT TO THIS DATE, AND THE COMMITTEE UNDERTAKES NO DUTY TO UPDATE THE INFORMATION.

THIS DISCLOSURE STATEMENT AND THE RELATED DOCUMENTS ARE THE ONLY DOCUMENTS AUTHORIZED BY THE BANKRUPTCY COURT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES ACCEPTING OR REJECTING THE PLAN. NO REPRESENTATIONS ARE AUTHORIZED BY THE BANKRUPTCY COURT CONCERNING THE DIOCESE, THE DIOCESE'S BUSINESS OPERATIONS, THE VALUE OF THE DIOCESE'S ASSETS, OR THE VALUES OF ANY INTERESTS DESCRIBED TO BE ISSUED OR BENEFITS OFFERED PURSUANT TO THE PLAN, EXCEPT AS EXPLICITLY SET FORTH IN THIS DISCLOSURE STATEMENT OR ANY OTHER DISCLOSURE STATEMENT OR OTHER DOCUMENT APPROVED FOR DISTRIBUTION BY THE BANKRUPTCY COURT. HOLDERS OF CLAIMS AND INTERESTS SHOULD NOT RELY UPON ANY REPRESENTATIONS OR INDUCEMENT MADE TO SECURE ACCEPTANCE OF THE PLAN, OTHER THAN THOSE SET FORTH IN THIS DISCLOSURE STATEMENT.

FOR THE CONVENIENCE OF HOLDERS OF CLAIMS AND INTERESTS, THIS DISCLOSURE STATEMENT SUMMARIZES THE TERMS OF THE PLAN AND CERTAIN OF THE PLAN DOCUMENTS. IF THERE IS ANY INCONSISTENCY BETWEEN THE PLAN OR THE APPLICABLE PLAN DOCUMENTS AND THIS DISCLOSURE STATEMENT, THE TERMS OF THE PLAN OR THE APPLICABLE PLAN DOCUMENTS ARE CONTROLLING. THE SUMMARIES OF THE PLAN AND THE PLAN DOCUMENTS IN THIS DISCLOSURE STATEMENT DO NOT PURPORT TO BE COMPLETE AND ARE SUBJECT TO, AND ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO, THE FULL TEXT OF THE PLAN AND THE APPLICABLE PLAN DOCUMENTS, INCLUDING THE DEFINITIONS OF TERMS CONTAINED IN THE PLAN AND OTHER PLAN DOCUMENTS. ALL HOLDERS OF CLAIMS AND HOLDERS OF INTERESTS ARE

ENCOURAGED TO REVIEW THE FULL TEXT OF THE PLAN AND THE PLAN DOCUMENTS, AND TO READ CAREFULLY THIS ENTIRE DISCLOSURE STATEMENT, INCLUDING ALL EXHIBITS.

THIS DISCLOSURE STATEMENT MAY NOT BE RELIED ON FOR ANY PURPOSES OTHER THAN TO DETERMINE WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN, AND NOTHING STATED IN THIS DISCLOSURE STATEMENT SHALL CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PERSON, OR BE ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DIOCESE OR ANY OTHER PERSON, OR BE DEEMED CONCLUSIVE EVIDENCE OF THE TAX OR OTHER LEGAL EFFECTS OF THE PLAN ON THE DIOCESE OR HOLDERS OF CLAIMS OR INTERESTS.

THIS DISCLOSURE STATEMENT CONTAINS STATEMENTS THAT ARE FORWARD-LOOKING. FORWARD-LOOKING STATEMENTS ARE STATEMENTS OF EXPECTATIONS, BELIEFS, PLANS, OBJECTIVES, ASSUMPTIONS, PROJECTIONS, AND FUTURE EVENTS OF PERFORMANCE. AMONG OTHER THINGS, THIS DISCLOSURE STATEMENT CONTAINS FORWARD-LOOKING STATEMENTS WITH RESPECT TO ANTICIPATED FUTURE PERFORMANCE OF THE DIOCESE AND A TRUST TO BE CREATED FOR THE BENEFIT OF HOLDERS OF CLASS 4A, 4B, AND CLASS 5 CLAIMS, AS WELL AS ANTICIPATED FUTURE DETERMINATION OF CLAIMS AND DISTRIBUTIONS ON CLAIMS. THESE STATEMENTS, ESTIMATES, AND PROJECTIONS MAY OR MAY NOT PROVE TO BE CORRECT. ACTUAL RESULTS COULD DIFFER MATERIALLY FROM THOSE REFLECTED IN THESE FORWARD-LOOKING STATEMENTS. FORWARD-LOOKING STATEMENTS ARE SUBJECT TO INHERENT UNCERTAINTIES AND TO A WIDE VARIETY OF SIGNIFICANT BUSINESS, LEGAL, AND ECONOMIC RISKS, INCLUDING, AMONG OTHERS, THOSE DESCRIBED IN THIS DISCLOSURE STATEMENT. THE COMMITTEE UNDERTAKES NO OBLIGATION TO UPDATE ANY FORWARD-LOOKING STATEMENT. NEW FACTORS EMERGE FROM TIME TO TIME AND IT IS NOT POSSIBLE TO PREDICT ALL FACTORS, NOR CAN THE IMPACT OF ALL FACTORS BE ASSESSED.

HOLDERS OF CLAIMS AND INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL, OR TAX ADVICE. EACH HOLDER SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL, AND TAX ADVISORS WITH RESPECT TO ANY MATTERS CONCERNING THIS DISCLOSURE STATEMENT, THE SOLICITATION OF VOTES TO ACCEPT THE PLAN, THE PLAN, AND THE TRANSACTIONS DESCRIBED.

EACH HOLDER OF A CLAIM ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN SHOULD READ THIS DISCLOSURE STATEMENT AND THE PLAN (INCLUDING ALL EXHIBITS AND SCHEDULES TO THE PLAN AND DISCLOSURE STATEMENT) IN THEIR ENTIRETY BEFORE VOTING.

TO OBTAIN, AT YOUR COST, ADDITIONAL COPIES OF THIS DISCLOSURE STATEMENT PLEASE CONTACT THE COMMITTEE'S COUNSEL AT:

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## I. INTRODUCTION.

On February 19, 2020 (the “*Filing Date*”), the Diocese filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “*Bankruptcy Code*”). The case is pending before the United States Bankruptcy Court for the Middle District of Pennsylvania (the “*Bankruptcy Court*”).

The Plan sets forth, among other things, the proposed treatment of Claims and other interests in accordance with the Bankruptcy Code. This Disclosure Statement is intended to explain the Plan and provide adequate information to allow Creditors to make an informed judgment regarding the Plan. A copy of the Plan is included with this Disclosure Statement. If the Plan and this Disclosure Statement are not consistent, the terms of the Plan control. Capitalized terms used in this Disclosure Statement but not otherwise defined shall have the meanings ascribed to them in the Plan.

### A. Summary of the Plan.

The Plan establishes a Trust funded by: (i) assets of and contributions from the Diocese; (ii) contributions from the Parishes, Schools, and Related Non-Debtor Entities; (iii) contributions from Insurers; and (iv) contributions from the Self-Settled Trusts. The Trustee will liquidate the Trust Assets and distribute the proceeds to the Survivor Claimants, pursuant to the allocation protocol contained in the Trust Distribution Plan.

The Plan further provides that the holders of the General Unsecured Claims will be paid in full, that all Survivor Claims will be channeled to the Trust, and that the Diocese will receive a discharge from all remaining Claims.

### B. Voting Procedures.

#### 1. Ballots.

If you are entitled to vote to accept or reject the Plan, a ballot is enclosed for purposes of voting on the Plan. If you hold Claims in more than one Class and you are entitled to vote Claims in more than one Class, you will receive separate ballots that must be used to vote in each separate Class. If voting for or against the Plan, please use only the ballot or ballots sent to you with this Disclosure Statement. Votes cast to accept or reject the Plan will be counted by Class.

Please read the voting instructions on the ballot for a thorough explanation of the voting procedures.

A ballot that does not indicate an acceptance or rejection of the Plan will not be counted either as a vote to accept or a vote to reject the Plan. If you cast more than one ballot voting the same Claim before the voting deadline, the last ballot received before the voting deadline will supersede all prior ballots. In addition, you may not split your votes for your Claims within a particular Class under the Plan. Therefore, a ballot within a given Class received from a single creditor that partially rejects and partially accepts the Plan will not be counted. You may not change your vote after the voting deadline passes.

To be counted, completed ballots must be actually received by the Diocese’s solicitation and claims agent by 4:00 p.m. (prevailing Eastern time), on [●], 2022, using one of the following methods:

If by First Class mail:

Roman Catholic Diocese of Harrisburg — Ballot Processing  
c/o Epiq Corporate Restructuring, LLC  
P.O. Box 4422  
Beaverton, OR 97076-4422

If by overnight courier or hand delivery:

Roman Catholic Diocese of Harrisburg — Ballot Processing  
c/o Epiq Corporate Restructuring, LLC  
10300 SW Allen Boulevard  
Beaverton, OR 97005

Or, if by electronic submission:

Please visit <https://dm.epiq11.com/RCDH>. Click on the “*E-Ballot*” section of the Diocese’s website and follow the directions to submit your E-Ballot. If you choose to submit your Ballot via Epiq’s E-Ballot system, you should not also return a hard copy of your Ballot.

**IMPORTANT NOTE: If you chose to submit your Ballot via Epiq’s E-Ballot system, you will need to provide the unique E-Ballot ID Number indicated on your Ballot.**

**“E-BALLOT” IS THE SOLE MANNER IN WHICH BALLOTS WILL BE ACCEPTED VIA ELECTRONIC OR ONLINE TRANSMISSION. BALLOTS SUBMITTED BY FACSIMILE OR EMAIL WILL NOT BE COUNTED.**

**ANY BALLOTS RECEIVED AFTER THE VOTING DEADLINE WILL NOT BE ACCEPTED, NOR WILL ANY BALLOTS RECEIVED BY TELECOPY, FACSIMILE, OR EMAIL.**

**IF YOU HAVE QUESTIONS REGARDING THE BALLOT, DID NOT RECEIVE A RETURN ENVELOPE WITH YOUR BALLOT, DID NOT RECEIVE AN ELECTRONIC COPY OF THE DISCLOSURE STATEMENT AND THE PLAN, OR NEED PHYSICAL COPIES OF THE BALLOT OR OTHER ENCLOSED MATERIALS, PLEASE CONTACT THE DIOCESE’S SOLICITATION AND CLAIMS AGENT, EPIQ CORPORATE RESTRUCTURING, LLC, BY EMAIL AT [TABULATION@EPIQGLOBAL.COM](mailto:TABULATION@EPIQGLOBAL.COM) WITH A REFERENCE TO “*ROMAN CATHOLIC DIOCESE OF HARRISBURG*” IN THE SUBJECT LINE, OR BY CALLING 1-866-977-0992 (US & CANADA, TOLL-FREE) OR 1-503-597-5145 (INTERNATIONAL) AND REQUESTING TO SPEAK WITH A MEMBER OF THE SOLICITATION TEAM.**

2. **Importance of Your Vote.**

Your vote is important. The Bankruptcy Court defines acceptance by a Class of Claims as acceptance by holders of at least two-thirds in amount and a majority in number of Allowed Claims in the Class that vote.

Only the ballots of those Creditors who actually vote are counted for purposes of determining whether a class voted to accept the Plan. Your failure to vote will leave to others the decision to accept or reject the Plan.

### C. Brief Explanation of Chapter 11.

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. Upon the filing of a petition for reorganization under chapter 11, section 362 of the Bankruptcy Code generally provides for an automatic stay of all attempts to collect claims or enforce liens that arose prior to the commencement of the bankruptcy case or that otherwise interfere with a debtor's property or business.

The principal objective of a chapter 11 reorganization is the confirmation of a plan of reorganization or liquidation. The plan sets forth the means for satisfying the claims of creditors and interests of shareholders or members of the debtor. The plan and a disclosure statement that contains information necessary to allow creditors, shareholders, and members to evaluate the plan are sent to creditors, shareholders, and members whose claims or interests are impaired, who then vote to accept or reject the plan.

A class of claims is entitled to vote to accept or reject a plan if that class is "*impaired*" by the plan. A class of claims is impaired, unless the plan cures any defaults that may exist with respect to the claims and leaves unaltered the legal, equitable, and contractual rights to which the claim entitles the holder of the claim.

A plan may be confirmed under section 1129(a) of the Bankruptcy Code, if each class of claims or interests is not impaired by the plan or if each class has voted to accept the plan. Votes will be counted only with respect to claims: (a) that are listed on the Diocese's Schedules other than as disputed, contingent, or unliquidated; or (b) for which a proof of claim was filed on or before the claim filing deadline set by the Bankruptcy Court for filing proofs of claim. However, any vote by a holder of a claim will not be counted if the claim has been disallowed or is the subject of an unresolved objection, absent an order from the Bankruptcy Court allowing the claim for voting purposes. A class of claims has accepted a plan if creditors that hold at least two-thirds in amount and more than one-half in number of the allowed voting claims in the class have voted to accept the plan.

If an impaired class votes to reject the plan, the proponent of the plan may seek to "*cram down*" the plan by confirming it under section 1129(b) of the Bankruptcy Code. A plan proponent may cram down a plan upon a rejecting class only if another impaired class has voted to accept the plan, the plan does not discriminate unfairly, and the plan is fair and equitable with respect to each impaired class that has not voted to accept the plan.

Voting on the plan by each holder of a claim in an impaired class is important. After carefully reviewing the Plan and Disclosure Statement, each holder of a claim should vote on the enclosed ballot either to accept or reject the Plan. Any ballot that does not appropriately indicate acceptance or rejection of the Plan will not be counted. A ballot that is not received by the deadline will not be counted. If a ballot is lost, damaged, or missing, a replacement ballot may be obtained by contacting the Diocese's solicitation and claims agent, Epiq Corporate Restructuring, LLC, by e-mail at [tabulation@epiqglobal.com](mailto:tabulation@epiqglobal.com) with a reference to "Roman Catholic Diocese of Harrisburg" in the subject line, or by calling 1-866-977-0992 (US & Canada, toll-free) or 1-503-597-5145 (international) and requesting to speak with a member of the solicitation team.

Section 1129(a) of the Bankruptcy Code establishes the conditions for the confirmation of a plan. These conditions are too numerous to be fully explained here. Parties are encouraged to seek independent legal counsel to answer any questions concerning the chapter 11 process. Among the conditions for plan confirmation is that either each holder of a claim or interest must accept the plan, or the plan must provide at least as much value as would be received upon liquidation under chapter 7 of the Bankruptcy Code.

If the Plan is confirmed by the Bankruptcy Court, its terms are binding on the Diocese, all Creditors, and other parties in interest, regardless of whether they have voted to accept the Plan.

## II. DESCRIPTION OF THE DIOCESE.

### A. Nature and History of the Diocese.

The Diocese of Harrisburg is the ecclesiastical district comprising a geographic area decreed by the Roman Catholic Church (the “**Church**”) as the Diocese of Harrisburg. Bishop Ronald W. Gainer (“**Bishop Gainer**”) was appointed as Bishop (the “**Bishop**”)<sup>2</sup> of the Diocese on March 19, 2014, by the Supreme Pontiff a/k/a, the Pope. The Bishop is the center and source of pastoral life of the Church in the Diocese of Harrisburg and is responsible to the Pope for implementing the total mission of the Church in the Diocese of Harrisburg. The Bishop is the chief pastor, administrator, and teacher of the Diocese of Harrisburg. The Bishop’s role is not just ecclesiastical in nature, but instead also places him as the chief executive of all of the Diocese of Harrisburg’s business operations, including the secular operations of parishes, schools, catholic charities, and cemeteries, including all of the entities as reported to the Internal Revenue Service on an annual basis that are listed in the Official Catholic Directory. The Bishop’s power extends to all Roman Catholic entities within the Diocese of Harrisburg, with limited exception. The Bishop carries out his canonical duties in accordance with the Code of Canon Law (“**Canon Law**”), which is the ecclesiastical law of the Church.

#### 1. The Church

The supreme authority of the Church is vested in the Pope, who, by virtue of his office, possesses supreme, full, immediate, and universal ordinary power in the Church. The Pope exercises such power in concert with the College of Bishops of which he is the head. A “diocese” is a portion of the Christian faithful which is entrusted to a bishop for him to shepherd with the cooperation of the ordained clergy. It constitutes a particular church in which the Church is truly present and operative. As a general rule, a diocese is territorial and encompasses all Catholics within its geographical bounds. A diocese is divided into “parishes,” which are communities of the Catholics constituted in a particular church, whose pastoral care is entrusted to a priest as its proper pastor under the authority of the diocesan bishop. As a general rule, each parish is territorial and encompasses all the Catholics within its geographical bounds.

#### 2. The History of the Diocese of Harrisburg

The Diocese of Harrisburg’s territory has a history extending back more than two hundred years to the seventeenth century. During the seventeenth century: (a) Jesuit missionaries under the jurisdiction of the Diocese of Quebec traveled south on the Susquehanna River leaving evidence of their priestly activities; and (b) Jesuit and Franciscan missionaries under the jurisdiction of the Diocese of London traveled north on the Susquehanna River from Maryland and preached the Gospel to Native Americans. After the Revolutionary War, Father John Carroll was appointed superior of the American missions in 1784. In 1790, the first Catholic diocese in the United States was established in Baltimore, Father Carroll was consecrated the first bishop, and the diocese included the original thirteen colonies, until the dioceses of Boston, New York, and Philadelphia were established in 1808. From 1808 until 1868, the territory of the Diocese was part of the Diocese of Philadelphia.

On March 3, 1868, Pope Pius IX established the Diocese of Harrisburg. Today, the Diocese encompasses a geographic area of approximately 7,660 square miles and contains close to 245,000

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<sup>2</sup> All references to the defined term “Bishop” herein refer to the position within the Diocese of Harrisburg, including Bishop Gainer and all of his predecessors and successors.

Catholics served by eighty-nine (89) parishes (the “*Parishes*”) and seven (7) missions throughout fifteen (15) counties of central Pennsylvania.

## **B. The Work of the Diocese**

The primary role of the Diocese of Harrisburg is to provide resources, spiritual leadership, direction, support, planning, programming, leadership development, and other services to Catholics, the Parishes, the Schools (as defined herein), and the Related Entities (as defined herein) within the Diocese.

There are many within the Diocese including non-Catholics, who depend on the services that the Church, through the Diocese, delivers directly or otherwise supports, some of which services are material and monetary and others of which are purely spiritual. The Diocese and the workers throughout the Diocese minister to Catholics and promote and administer programs to south-central Pennsylvania.

Within the Diocese, there are ninety-eight (98) diocesan priests, thirty-three (33) retired Diocesan priests, and thirty-one (31) religious order priests working to minister and provide other services. In addition, sixty-three (63) permanent deacons and twenty-three (23) seminarians serve within the Diocese, augmenting the work of the priests. Finally, there are five (5) secondary schools, two (2) K–12 schools, and thirty-three (33) elementary and middle schools (collectively, the “*Schools*”) within the Diocese.

## **C. Relationship Between and Property of the Diocese, Parishes, Schools, and Certain Related Entities**

As set forth above, there are many Roman Catholic ecclesiastical and civil entities that operate within the geographic territory of the Diocese, including the Parishes, the Schools, and other non-profit entities, funds, and trusts (collectively, the “*Related Entities*”).<sup>3</sup>

### **1. Roman Catholic Diocese of Harrisburg Charitable Trust**

On or about November 13, 2009, the Diocese caused to be executed the Roman Catholic Diocese of Harrisburg Charitable Trust Declaration of Trust (the “*Charitable Trust Agreement*”). The Charitable Trust Agreement provides that: (a) the Bishop serves as trustee so long as he serves as Bishop of the Diocese; and (b) the non-real estate assets within the Diocese were conveyed to the Roman Catholic Diocese of Harrisburg Charitable Trust (the “*Charitable Trust*”), to be held in trust for the benefit of, to perform the functions of, and to carry out the purposes of the Church, specifically in carrying out the mission and ministry of the Church within the territorial confines of the Diocese. Further, the Charitable Trust Agreement provides that the assets of the Charitable Trust are not assets of the Diocese itself and that the Charitable Trust’s assets are not subject (in whole or in part) to voluntary or involuntary assignment, transfer, anticipation, legal process, judgments, or claims of creditors of the Charitable Trust, the Trustee (as defined in the Charitable Trust Agreement), or Trust Administrators (as defined in the Charitable Trust Agreement), or Trust Advisors (as defined in the Charitable Trust Agreement), or any employee or agent of the Charitable Trust, or the creditors of any other trust or other entity held or administered by the same trustee, or affiliated in any way with the Diocese.

The Committee does not share the Diocese's view of the legal impact, effect, or enforceability of the Charitable Trust Agreement. The Committee views the Charitable Trust to be a self-settled trust under

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<sup>3</sup> This term “Related Entities” is not an admission by the Committee that the Related Entities identified herein are legally distinct from the Diocese.

applicable law and, as a result, the Committee views all assets held by the Charitable Trust to comprise an integral part of the Diocese's assets and to be part of the Diocese's bankruptcy estate.

2. **Roman Catholic Diocese of Harrisburg Real Estate Trust**

On or about November 13, 2009, the Diocese caused to be executed the Roman Catholic Diocese of Harrisburg Real Estate Trust Declaration of Trust (the "**Real Estate Trust Agreement**"). The Real Estate Trust Agreement provides that: (a) the Bishop serves as trustee so long as he serves as Bishop of the Diocese; and (b) all real property, and the structures and fixtures appurtenant to such real property, within the Diocese were conveyed to the Roman Catholic Diocese of Harrisburg Real Estate Trust (the "**Real Estate Trust**"), to be held in trust for the benefit of, to perform the functions of, and to carry out the purposes of the Church, specifically in carrying out Diocesan operations relating to real property within the Diocese. Further, the Real Estate Trust Agreement provides that the assets of the Real Estate Trusts are not assets of the Diocese itself and that the Real Estate Trust's assets are not subject (in whole or in part) to voluntary or involuntary assignment, transfer, anticipation, legal process, judgments, or claims of creditors of the Real Estate Trust, the Trustee (as defined in the Real Estate Trust Agreement), or Trust Administrators (as defined in the Real Estate Trust Agreement), or Trust Advisors (as defined in the Real Estate Trust Agreement), or any employee or agent of the Real Estate Trust, or the creditors of any other trust or other entity held or administered by the same trustee, or affiliated in any way with the Diocese.

The Committee does not share the Diocese's view of the legal impact, effect, or enforceability of the Real Estate Trust Agreement. The Committee views the Real Estate Trust to be a self-settled trust under applicable law and, as a result, the Committee views all assets held by the Real Estate Trust to comprise an integral part of the Diocese's assets and to be part of the Diocese's bankruptcy estate.

3. **Parishes Within the Diocese**

Under Canon Law, the parishes within a diocese are territorial, comprising of certain geographical area within the applicable diocese. Within the Diocese, there are eighty-nine (89) Parishes whose priest is appointed by the Bishop. Each priest appointed by the Bishop serves the priest's applicable Parish, under the Bishop's authority.

Each Parish has purported to establish its own charitable trust (each a "**Parish Charitable Trust**"), containing the Parish's property. The Bishop is the trustee for each Parish Charitable Trust so long as he serves as Bishop of the Diocese. The priest for each Parish serves as the trust administrator for the Parish Charitable Trust established for the parish in which such priest serves. The Bishop has ultimate control over the Parish Charitable Trust, subject only to certain internal guidelines and the Bishop is not bound by civil law in his management of the Parish Charitable Trust assets. In addition, each parish priest reports to the Bishop and is subject to the Bishop's ultimate authority within the Diocese, and all fundamental aspects of each parish priest's employment and professional advancement fall within the Bishop's control. The Diocese takes the position that the assets of each Parish Charitable Trust are held in trust for religious, charitable, and educational purposes within the applicable Parish and do not constitute assets of the Diocese. The Committee does not agree with the Diocese's position.

4. **Diocese of Harrisburg School and Parish Trust Fund**

As set forth above, there are numerous Parishes, Schools, and Related Entities within the Diocese of Harrisburg. In accordance with Canon Law, the Parishes, Schools, and Related Entities (collectively, the "**Depositors**") have conveyed and continue to convey to the Bishop funds to enable (a) investment of those funds on a unified and more efficient basis and (b) funds to be loaned to Parishes, Schools, and Related Entities for development projects.



According to the Diocese, the funds and other property belonging to the Depositors were held in trust within the Charitable Trust for the Depositors and such treatment was reflected in the books and records. On or about February 27, 2018, the Diocese and the Depositors caused to be executed the Roman Catholic Diocese of Harrisburg Irrevocable Trust Agreement (the “***Irrevocable Trust Agreement***”). The Irrevocable Trust Agreement contains language stating that: (a) the Bishop serves as the trustee so long as he serves as Bishop of the Diocese; (b) all funds held by the Diocese of Harrisburg in the Charitable Trust for the benefit of Depositors were retitled as the “***Diocese of Harrisburg School and Parish Trust Fund***”; and (c) all funds within the Diocese of Harrisburg School and Parish Trust Fund are governed by the Irrevocable Trust Agreement.

It is the Diocese’s position that, under the Irrevocable Trust Agreement, no funds or other assets comprising the Diocese of Harrisburg School and Parish Trust Fund are property of the Diocese, and neither the Diocese, nor any Depositor, nor the Bishop may alienate or in any other manner, whether voluntary or involuntary, assign, transfer, pledge, or mortgage any property consisting of the Diocese of Harrisburg School and Parish Trust Fund, and no individual or entity may attach or otherwise reach any interest of any of them under the Irrevocable Trust Agreement to satisfy a claim against the Diocese, any Depositor, or the Bishop, whether the claim is legal or equitable in nature. The Committee does not necessarily agree with the Diocese’s view of the legal impact, effect, or enforceability of the Irrevocable Trust Agreement.

5. **Foundation of Catholics United in Service**

On July 1, 1988, the Most Reverend William H. Keeler, then Bishop of the Diocese (“***Bishop Keeler***”), signed a Declaration of Trust commonly referred to as FOCUS—Foundation of Catholics United in Service (the “***FOCUS Trust***”). According to the Diocese, the Bishop serves as the trustee of the FOCUS Trust so long as he is Bishop of the Diocese. It is the Diocese’s position that the assets of the FOCUS Trust are to be used exclusively to assist, encourage, support, or promote the stabilization of and improvement of diocesan educational, charitable, and pastoral programs or the development of additional services and programs to meet the present and future needs of the Diocese. The Committee does not necessarily agree with the Diocese’s position. Similarly, it is the Diocese’s position that the assets of the FOCUS Trust shall not be subject to assignment, pledge, attachment, or the claims of creditors of the Diocese, any Parish, any School, or any Related Entity or individual beneficiary. Again, the Committee does not necessarily agree with the Diocese’s position.

6. **Harrisburg Catholic Administrative Services, Inc.**

Like other actions taken by the Diocese in 2009, Harrisburg Catholic Administrative Services, Inc. (“***HCAS***”) was incorporated on or about March 19, 2009, so management and other services could be administered through a separate entity on behalf of the Diocese, the Parishes, the Schools, and the Related Entities. The Bishop is the sole member of HCAS so long as he is the Bishop in the Diocese. The business and affairs of HCAS are overseen by a board of directors.

Pursuant to certain services agreements, HCAS undertakes to use commercially reasonable efforts to provide business management services to the Diocese, the Parishes, the Schools, and the Related Entities (collectively, the “***Service Recipients***”).

In exchange for management services, each Service Recipient agrees to pay HCAS certain consideration, and each Service Recipient further agrees to abide by all policies and procedures issued by HCAS with respect to human resources administration, financial administration, and information technology management. At no time does HCAS take ownership of any assets of the Diocese, the Parishes,

the Schools, or the Related Entities.<sup>4</sup> HCAS maintains separate bank accounts and assets in its own name, separate from the bank accounts and assets of the Diocese, the Parishes, the Schools, and the Related Entities.

Similarly, at all times HCAS ensures that: (a) assets of the Diocese are not used to pay obligations of the Parishes, the Schools, or the Related Entities; (b) assets of the Parishes are not used to pay obligations of the Diocese, the Schools, or the Related Entities; (c) assets of the Schools are not used to pay obligations of the Diocese, the Parishes, or the Related Entities; and (d) assets of the Related Entities are not used to pay obligations of the Diocese, the Parishes, or the Schools.

7. **Schools and Other Educational Institutions Within the Diocese**

As stated above, five (5) secondary schools, two (2) K–12 schools, and thirty-three (33) elementary and middle schools operate within the Diocese. A listing of the Schools may be located on the website maintained by the Diocese at <https://www.hbgdiocese.org/catholic-schools/find-catholic-school/>. Each School receives varying levels of support from the Diocese. It is the Diocese's position that the assets of the Schools are not assets of the Diocese. The Committee does not necessarily agree with the Diocese's position.

8. **Other Related Catholic Entities Within the Diocese**

As stated before, there are additional Related Entities within the Diocese.<sup>5</sup>

i. **The Pennsylvania Catholic Conference**

The Pennsylvania Catholic Conference (the “PCC”) is the public affairs arm of Pennsylvania’s Catholic bishops and the Catholic dioceses of Pennsylvania. The Board of Governors for the PCC comprises the local diocesan bishops of Pennsylvania—that is, the ecclesiastical superiors of each Pennsylvania diocese—and the chairman of the Board of Governors is the Archbishop of Philadelphia. The function of the Board of Governors is to establish the principles of the conference and determine its policies. Bishop Gainer is the president of the PCC. While PCC receives various types of support from the Diocese, it is the Diocese's position that no assets of PCC are assets of the Diocese and the Committee has no basis to refute the Diocese's position.

ii. **Catholic Charities**

Catholic Charities of the Diocese of Harrisburg, Pennsylvania Inc. (“*Catholic Charities*”) is a faith-based agency, acting as a nondenominational social service provider affiliated with the Diocese and the Church. Catholic Charities serves a fifteen county region with programs ranging from maternity homes, adoption services, foster care, and counseling to the only homeless shelter in Central Pennsylvania. Most services provided by Catholic Charities are offered at minimal or no cost. While Catholic Charities receives various types of support from the Diocese, it is the Diocese's position that no assets of Catholic Charities are assets of the Diocese and the Committee has no basis to refute the Diocese's position.

iii. **Kolbe Catholic Publishing, Inc.**

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<sup>4</sup> In order to make payments to third parties, the Diocese funds, or causes to be funded, payments to HCAS. As part of its administrative responsibilities pursuant to certain services agreements, HCAS, in turn, makes payments to such third parties on the Diocese’s behalf using such funds.

<sup>5</sup> This section of the Disclosure Statement describes most of the Related Entities but may not describe every Related Entity.

Kolbe Catholic Publishing, Inc. (“*Kolbe*”) is an in-house print brokerage office of the Diocese. Kolbe was formed in order to reduce printing expenses incurred by the Diocese in connection with printing needs related to religious and educational seminars and events and church and other religious services that the Diocese regularly conducts. Kolbe does not offer printing services to any individual or organization not affiliated with the Diocese and only provides printing services in connection with charitable, religious, and educational events. Bishop Gainer is the president of Kolbe, and the two directors of Kolbe are Bishop Gainer and the Vicar General of the Diocese. It is the Diocese's position that no assets of Kolbe are assets of the Diocese and the Committee has no basis to refute the Diocese's position.

iv. Cemeteries

The Diocese maintains eight cemeteries (the “*Diocesan Cemeteries*”) within the geographic boundaries of the Diocese. The land on which the Diocesan Cemeteries sit is owned by the Real Estate Trust. The Bishop is responsible for the operations of the Diocesan Cemeteries in consultation with the Cemetery Board of Diocese of Harrisburg. Under Canon Law and related guidelines, the Diocesan Cemeteries are not considered mere property but instead are sacred places of prayer, and, as such, the Bishop is entrusted with the perpetual care of the Diocesan Cemeteries. Accordingly, the Diocese established a Perpetual Care Fund (the “*PCF*”) containing funds, including funds from the sale of internment spaces, memorials, burial vaults, and crypt and niche spaces, to be held in trust for the purpose of caring for and maintaining the Diocesan Cemeteries. Bryn Mawr Trust Company administers and invests the funds the PCF on behalf of the Diocese. It is the Diocese's position that the PCF is separate and distinct from the Diocese, and that no assets in the PCF are assets of the Diocese. The Committee does not necessarily agree with the Diocese's position.

v. Catholic Witness

The Catholic Witness (“*Catholic Witness*”) is the official Catholic newspaper within the Diocese. Catholic Witness was established in 1966 and is published 24 times per year in print and online. Catholic Witness offers complimentary subscriptions to members of Parishes within the Diocese. Subscriptions to Catholic Witness are also offered to non-members for a nominal cost. It is the Diocese's position that no assets of Catholic Witness are assets of the Diocese and the Committee has no basis to disagree with the Diocese's position.

vi. Priest Pension Plan

Consistent with Canon Law and Church custom, the Diocese provides a pension plan for retired Diocesan priests (the “*Priest Pension Plan*”). As of July 1, 2018, retired Diocesan priests receive pension benefits in the amount of \$2,240.75 per month, which is increased from year-to-year in the discretion of the Diocese. In addition, the Diocese pays a portion of the retired Diocesan priests’ medical insurance premiums. The market value of the assets in the Priest Pension Plan was approximately \$16.5 million as of June 30, 2019. The Diocese estimates that the Priest Pension Plan was underfunded by approximately \$26.5 million as of June 30, 2019. In addition, to fund the settlements reached as part of the SCP (as defined below), funds were borrowed by the Diocese from the Priest Pension Plan. In turn, the Diocese executed a promissory note in an amount equal to the funds borrowed from the Priest Pension Plan.

**D. The Clergy Sex Abuse Crisis and the Diocese’s Response**

1. *Charter for the Protection of Children and Young People*

In spring of 2002, the United States Bishops adopted the *Charter for the Protection of Children and Young People* (the “*Charter*”), adopting a “one strike” policy with regard to clergy serving in any

active, public ministry. The Charter also included: (a) permanent removal from active ministry of any priest or deacon with a substantiated allegation of sexual abuse of a minor; (b) requirement of criminal background checks for adults, including clergy, who work with children and youth; (c) implementation of educational programs for the prevention of child sexual abuse for both adults and children; (d) provision of behavioral guidelines and ethical standards for ministry; (e) establishing outreach for survivors; and (f) creation of review boards to make recommendations to the diocesan bishop about substantiation of accusations against clergy and to oversee policy implementation.

The Diocese has implemented and carries out the directives of the Charter.

## 2. **Diocese Voluntary Compensation Program**

In addition to the foregoing, the Diocese launched the Survivor Compensation Program (the “SCP”) on February 12, 2019. Under the SCP, claimants who had reported alleged sexual abuse to the Diocese before February 2019 were entitled to make claims for compensation for alleged sexual abuse. While originally available only to claimants who had made such claims on or before February 12, 2019, the Diocese ultimately permitted claimants to participate who had alleged abuse by (a) a Diocesan priest, deacon, or seminarian, (b) a priest, deacon, or seminarian from another diocese who had faculties within the Diocese, or (c) a priest or brother from a religious order who had faculties in the Diocese at the time of the alleged abuse.

The enrollment period for the SCP was open for ninety (90) days and ended on May 13, 2019. Once the enrollment process closed, an independent administrator of the SCP, Commonwealth Mediation & Conciliation, Inc. (“CMCI”), assessed the various claims and began making settlement offers.

At all times, CMCI was solely responsible for determining how much and to whom settlements were offered. As a result of the SCP, the Diocese entered into settlement agreements with more than one hundred ten (110) survivors, resulting in excess of \$12.5 million being paid to survivors who participated in the SCP, with a portion of the settlement payments being funded by certain religious entities that also participated in the SCP.

## 3. **Other and Continued Actions by the Diocese**

In addition to implementation of the directives of the Charter and establishing the SCP, the Diocese has taken the following additional steps:

- i. removed from positions of honor within the Diocese the names of Bishops for failure to prevent childhood sexual abuse;
- ii. removed from positions of honor within the Diocese the names of priests, deacons, and seminarians identified by the Diocese as having been involved in the past wrongdoing within the Diocese or who were otherwise named in a 2018 Grand Jury Report;
- iii. conducted nine (9) listening sessions, allowing the faithful and survivors to express their concerns, frustrations, and feelings;
- iv. ensured that all survivors of childhood sexual abuse receive counseling services, at low or no cost to them and from a counselor of their choosing, regardless of their participation in the SCP (accepting or declining a compensation offer in no way impacts a survivor’s access to such counseling); and

v. created an e-mail address to offer more access for parishioners and the public to communicate directly with Bishop Gainer.

The Diocese also has undertaken or is in the process of undertaking the following:

i. reporting of child abuse to Childline and the appropriate District Attorney (as has been the policy within the Diocese since the early 2000's);

ii. reconstitution of the Diocesan Pastoral Counsel, which carefully investigates, prayerfully considers and, in consensus, recommends action to the Bishop of the Diocese regarding pastoral concerns within the Diocese;

iii. restructuring of the Diocesan Review Board, which is made up almost entirely of lay members and which reviews every allegation of abuse once law enforcement has completed their investigation;

iv. revision of youth protection policies within the Diocese;

v. maintenance and reformation of an intensive screening and education process for those in formation for the priesthood;

vi. revision of the Safe Environment Program Lesson Plan for Catholic School and Religious Education students within the Diocese; and

vii. revision of communications materials, including The Catholic Witness.

#### **E. Events Leading to the Chapter 11 Case.**

The Diocese has borne increased expenses in connection with confronting issues regarding clergy sexual abuse. Like other similar situated Catholic dioceses across the country, the Diocese has struggled to remain financially viable while funding compensation for survivors and continued litigation by survivors with which the Diocese has not reached consensual settlements. Ongoing litigation has been necessary due to: (a) disagreement over the level of compensation that can or should be paid to survivors in the face of competing needs for a very limited assets; and (b) intervening changes in law resulting from decisions within the Commonwealth of Pennsylvania and neighboring jurisdictions. The Diocese believes numerous unsettled claims and liabilities remain outstanding.

While the Diocese carried insurance during many periods in which abuse is alleged to have occurred, and while the Diocese believes such insurance provides coverage for the claims as they are asserted or likely would be asserted against the Diocese to date, the Diocese has been largely unsuccessful in obtaining any coverage for claims asserted against the Diocese.

As a result, the Diocese faced the prospect addressing claims asserted in amounts exceeding the Diocese's economic ability to pay, in which circumstance (a) survivors of abuse could be left with no compensation or other support, and (b) those within the Diocese (including non-Catholics) who depend on the services of the Church delivered through the Diocese would be left without the material, monetary, and spiritual support the Diocese provides.

Faced with this prospect, the Diocese concluded seeking relief through chapter 11 of the United States Bankruptcy Code was the best solution to assure: (a) equitable compensation to survivors of clergy sex abuse within the Diocese; (b) continuation of the counseling and other services provided through the

Diocese to those who have been harmed; (c) continuation of the essential programs for the protection of children; and (d) continuation of the mission and ministry of the Church within the Diocese.

### III. EVENTS DURING THE CHAPTER 11 CASE.

#### A. Bankruptcy Filing and First Day Orders.

The Diocese commenced the Chapter 11 Case on the Filing Date, by filing a voluntary petition under chapter 11 of the Bankruptcy Code [Dkt. No. 1]. The Diocese has continued in possession of its assets and the management of its business as debtor in possession, pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

On February 21, 2020, the Bankruptcy Court held an initial hearing to consider certain “first day” matters and entered orders that, among other things:

##### 1. Utilities.

On February 21, 2020, the Bankruptcy Court entered an Interim Order (I) *Authorizing Debtor’s Proposed Form of Adequate Assurance of Payment to Utility Companies Under Section 366 of the Bankruptcy Code*, (II) *Establishing Procedures for Resolving Objections by Utility Companies*, (III) *Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Service*, and (IV) *Granting Related Relief* [Dkt. No. 44] approving the Diocese’s proposed adequate assurance of future performance and related procedures, and barring utility providers from discontinuing, altering, or refusing service. On March 16, 2020, the Bankruptcy Court entered a Final Order granting such relief on a final basis [Dkt. No. 119].

##### 2. Wages.

On February 21, 2020, the Bankruptcy Court entered an *Interim Order: (I) Authorizing the Debtor to (A) Pay Certain Prepetition Wages, Benefits and Other Compensation, and (B) Continue Employee Compensation and Employee Benefits Programs; and (II) Granting Related Relief* [Dkt. No. 46] authorizing the payment of certain pre- and post-petition employee and other obligations. On March 16, 2020, the Bankruptcy Court entered a Final Order granting such relief on a final basis [Dkt. No. 119].

##### 3. Insurance.

On February 21, 2020, the Bankruptcy Court entered an *Interim Order Authorizing the Debtor to (I) Continue Insurance Coverage Entered Into Prepetition and Satisfy Prepetition Obligations Related Thereto; and (II) Renew, Amend, Supplement, Extend, or Purchase Insurance Policies* [Dkt. No. 43] authorizing the Diocese to continue its insurance program in the ordinary course of business. On March 16, 2020, the Bankruptcy Court entered a Final Order granting such relief on a final basis [Dkt. No. 118].

##### 4. Cash Management.

On February 21, 2020, the Bankruptcy Court entered an Interim Order: (I) *Authorizing Continued Use of Existing Cash Management System and Bank Accounts*; (II) *Extending the Time to Comply with, or Seek a Waiver of, Certain United States Trustee Requirements and Section 345(b) of the Bankruptcy Code*; (III) *Authorizing the Debtor to Continue Existing Deposit Practices*; (IV) *Authorizing the Debtor to Maintain Investment Practices*; and (V) *Granting Related Relief* [Dkt. No. 47] authorizing the Diocese to continue using its established cash management system, bank accounts, and documents related to the bank accounts, in lieu of closing existing accounts and establishing an entirely new post-petition cash

management system, to avoid disruption. On April 2, 2020, the Bankruptcy Court entered a second Interim Order granting such relief [Dkt. No. 212]. On June 10, 2020, the Bankruptcy Court entered a Final Order granting such relief on a final basis [Dkt. No. 340].

#### **B. Procedural and Administrative Motions.**

To facilitate the efficient administration of the Chapter 11 Cases and to reduce the administrative burden associated therewith, the Diocese also filed and received authorization to implement several procedural and administrative motions including orders:

- extending the time for the Diocese to file certain schedules of assets and liabilities, statements of financial affairs, and Bankruptcy Rule 2015.3 financial reports, and granting related relief [Dkt. No. 41];
- authorizing the Diocese to file certain portions of Schedule E/F, the Creditor Matrix, and the list of top twenty unsecured creditors under seal to maintain confidentiality of sexual abuse claimants and employees [Dkt. No. 42];
- allowing the Diocese to retain and compensate certain Professionals utilized in the ordinary course of business [Dkt. No. 122];
- approving the procedures for the compensation and reimbursement of expenses of retained Professionals in the Chapter 11 Case [Dkt. No. 121];
- extending the time to assume or reject unexpired leases of nonresidential real property pursuant to Section 365(d)(4) of the Bankruptcy Code [Dkt. Nos. 346, 438, 491, 562, 653, and 719];
- extending the time for removal pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027 [Dkt. Nos. 328, 437, 492, 561, 652, and 720]; and
- extending the exclusivity period [Dkt. Nos. 351, 498, 568, and 665].

#### **C. Retention and Employment of the Diocese's Professionals.**

During the Chapter 11 Case, the Bankruptcy Court approved the Diocese's retention and employment of the following professionals to assist in the administration of the Diocese's Chapter 11 Case: (1) Waller Lansden Dortch & Davis, LLP as bankruptcy counsel to the Diocese [Dkt. No. 259]; (2) Kleinbard, LLC as special counsel to the Diocese [Dkt. No. 100]; and (3) Keegan Linscott & Associates, PC as financial advisors to the Diocese [Dkt. No. 317].

#### **D. Appointment of Official Committee of Tort Claimants.**

On March 6, 2020, the United States Trustee for the Middle District of Pennsylvania appointed the Official Committee of Tort Claimants (the "*Committee*") [Dkt. No. 83]. On March 23, 2020, the Bankruptcy Court approved the Committee's retention of Stinson LLP as bankruptcy counsel to the Committee [Dkt. No. 153].

**E. Insurance Coverage Adversary Proceeding.**

On February 19, 2020, the Diocese commenced an adversary proceeding styled as *Roman Catholic Diocese of Harrisburg v. The Travelers Companies, Inc., Zurich North American Insurance Company, Underwriters of Lloyd’s London, Catholic Mutual Group, The National Catholic Risk Retention Group, Interstate Fire & Casualty Company, and Colonial Penn Insurance Company*, Adv. Case No. 20-00018 (the “**Insurance Coverage Adversary Proceeding**”), against the Diocese’s insurers seeking a declaratory judgment concerning the rights and duties of the Diocese and the insurers under the applicable insurance policies [Adv. Dkt. No. 1].

1. **Mediation and Settlement Negotiations**

During the pendency of the bankruptcy case, the Committee and Diocese worked to resolve dozens of issues and, ultimately, arrive at an agreed-upon global resolution of the case. Unfortunately these efforts were unsuccessful, and the Committee determined it was necessary to file its own Plan. The proposal to creditors in this Disclosure Statement describes a resolution that the Committee believes is fair and reasonable given the circumstances of the Diocese’s chapter 11 case. Despite ongoing disagreement about specific legal or factual issues, the Committee believe that the resolution is fair and reasonable after considering all circumstances and that is why the Committee is proposing the Plan for the Diocese’s reorganization. A summary of the Plan follows below.

**IV. SUMMARY OF THE PLAN.**

The below summary is provided for the convenience of holders of Claims and Interests. If any inconsistency exists between the Plan and this Disclosure Statement, the terms of the Plan are controlling. The summary of the Plan in this Disclosure Statement does not purport to be complete and is subject to, and is qualified in its entirety by references to, the full text of the Plan, including the definitions of terms contained in the Plan. All holders of Claims and Interests are encouraged to review the full text of the Plan and to read carefully this entire Disclosure Statement, including all exhibits.

**A. Overview of Classification and Treatment of Claims and Interests.**

Following the requirements of the Bankruptcy Code, all Claims are placed in classes. Most are placed into separate classes, others are unclassified. These classes are described in detail in the Plan and later in this section of the Disclosure Statement.

The Plan proposes different “treatment” of Claims, depending on their classification under the Plan:

<b>Class</b>	<b>Designation</b>	<b>Impaired</b>	<b>Entitled to Vote</b>
1	Other Priority Claims	No	Deemed to Accept
2	Other Secured Claims	No	Deemed to Accept
3	General Unsecured Claims	No	Deemed to Accept
4a	Claim Number 34	Yes	Yes
4b	Known Survivor Claims	Yes	Yes
5	Unknown Survivor Claims and Late-Filed Survivor Claims	Yes	Yes
6	Pension Plan Note Claim	Yes	Yes
7	Parish and School Claims	Yes	Yes

The holders of claims or interests that are classified and are “impaired” are entitled to vote on the Plan. The classes that are entitled to vote under the Plan are:



<b>Class</b>	<b>Designation</b>	<b>Impaired</b>	<b>Entitled to Vote</b>
4a	Claim Number 34	Yes	Yes
4b	Known Survivor Claims	Yes	Yes
5	Unknown Survivor Claims and Late-Filed Survivor Claims	Yes	Yes
6	Pension Plan Note Claim	Yes	Yes
7	Parish and School Claims	Yes	Yes

**B. Description of Classes and Treatment.**

The following is a description of Claims, classes, and treatment. The treatment is taken from the Plan, but additional information and descriptions regarding the claims and various estimates are provided in this Disclosure Statement. In case of inconsistency, the Plan controls.

1. Allowed Administrative Expense Claims.

i. Administrative Expense Claims Generally.

Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to less favorable treatment with respect to such Allowed Administrative Expense Claim, the Diocese shall pay each holder of an Allowed Administrative Expense Claim, on account of and in full and complete settlement, release and discharge of, and in exchange for, such Claim, payment of Cash in an amount equal to such Allowed Administrative Expense Claim on or as soon as reasonably practicable after the later of: (a) the Effective Date; (b) the first Business Day after the date that is thirty (30) calendar days after the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim; (c) such other date(s) as such holder and the Diocese shall have agreed; or (d) such other date ordered by the Bankruptcy Court; provided, however, that Allowed Administrative Expense Claims that arise in the ordinary course of the Diocese's operations during the Chapter 11 Case may be paid by the Diocese in the ordinary course of business and in accordance with the terms and conditions of the particular agreements governing such obligations, course of dealing, course of operations, or customary practice.

ii. Ordinary Course Liabilities.

Allowed Administrative Expense Claims based on liabilities incurred by the Diocese in the ordinary course of its business shall be satisfied by the Diocese pursuant to the terms and conditions of the particular transaction giving rise to such Administrative Expense Claims, without any further action by the holders of such Administrative Expense Claims or further approval of the Bankruptcy Court.

iii. Professional Fee Claims.

All Professionals or other Persons requesting the final allowance and payment of compensation and/or reimbursement of expenses pursuant to sections 328, 330, 331 and/or 503(b) of the Bankruptcy Code for services rendered during the period from the Filing Date to and including the Effective Date shall file and serve final applications for allowance and payment of Professional Fee Claims on counsel to the Diocese and the United States Trustee no later than the first Business Day that is forty-five (45) days after the Effective Date. Objections to any Professional Fee Claim must be filed and served on the Diocese and the applicable Professional within twenty-one (21) calendar days after the filing of the final fee application that relates to the Professional Fee Claim (unless otherwise agreed by the Diocese and the Professional requesting allowance and payment of a Professional Fee Claim).

Allowed Professional Fee Claims shall be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court on or as soon as reasonably practicable after the later of: (a) the date upon which an order relating to any such Allowed Professional Fee Claim is entered; and (b) such other date(s) as the holders of the Allowed Professional Fee Claim and the Diocese shall have agreed.

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

iv. Statutory Fees and Court Costs.

Statutory Fees and Court Costs will be paid in full in Cash by the Diocese on the Effective Date or as soon as practicable thereafter or as required under the Office of the United States Trustee's quarterly payment guidelines. After confirmation, the Diocese will continue to pay quarterly fees to the Office of the United States Trustee and file quarterly reports with the Office of the United States Trustee until this case is closed by the Bankruptcy Court, dismissed, or converted. This requirement is subject to any amendments to 28 U.S.C. § 1930(a)(6) that Congress makes retroactively applicable to confirmed Chapter 11 cases.

v. Priority Tax Claims.

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to less favorable treatment, the Diocese shall pay each holder of an Allowed Priority Tax Claim on account of and in full and complete settlement, release and discharge of, and in exchange for, such Allowed Priority Tax Claim, at the sole option of the Diocese, Cash in an amount equal to such Allowed Priority Tax Claim on, or as soon thereafter as is reasonably practicable, the later of (a) the Effective Date, to the extent such Claim is an Allowed Priority Tax Claim on the Effective Date, (b) the first Business Day after the date that is thirty (30) calendar days after the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, and (c) the date such Allowed Priority Tax Claim is due and payable in the ordinary course as such obligation becomes due; provided, however, that the Diocese reserves the right to prepay all or a portion of any such amounts at any time under this option without penalty or premium.

2. Class 1: Other Priority Claims.

i. Classification: Class 1 consists of all Other Priority Claims.

ii. Treatment: Except to the extent that a holder of an Allowed Other Priority Claim agrees to less favorable treatment of such Claim, in exchange for full and final satisfaction of such Allowed Other Priority Claim, at the sole option of the Diocese: (a) each such holder shall receive payment in Cash in an amount equal to such Allowed Other Priority Claim, payable on or as soon as reasonably practicable after the last to occur of (i) the Effective Date, (ii) the date on which such Other Priority Claim becomes an Allowed Other Priority Claim, and (iii) the date on which the holder of such Allowed Other Priority Claim and the Diocese shall otherwise agree in writing; or (b) satisfaction of such Allowed Other Priority Claim in any other manner that renders the Allowed Other Priority Claim Unimpaired, including Reinstatement.

iii. Voting: Class 1 is Unimpaired, and each holder of an Other Priority Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Other Priority Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to Other Priority Claims.

3. **Class 2: Other Secured Claims.**

i. **Classification:** Class 2 consists of all Other Secured Claims. To the extent that Other Secured Claims are Secured by different collateral or different interests in the same collateral, such Claims shall be treated as separate subclasses of Class 2 for purposes of voting to accept or reject the Plan and receiving Plan Distributions under the Plan.

ii. **Treatment:** Except to the extent that a holder of an Allowed Other Secured Claim agrees to less favorable treatment of such Claim, in exchange for full and final satisfaction of such Allowed Other Secured Claim, each holder of an Allowed Other Secured Claim will receive, at the sole option of the Diocese: (a) Cash in an amount equal to the Allowed amount of such Claim, including the payment of any interest required to be paid under section 506(b) of the Bankruptcy Code, payable on or as soon as reasonably practicable after the last to occur of (i) the Effective Date, (ii) the date on which such Other Secured Claim becomes an Allowed Other Secured Claim, and (iii) the date on which the holder of such Allowed Other Secured Claim and the Diocese shall otherwise agree in writing; (b) satisfaction of such Other Secured Claim in any other manner that renders the Allowed Other Secured Claim Unimpaired, including Reinstatement; or (c) return of the applicable collateral on the Effective Date or as soon as reasonably practicable thereafter in satisfaction of the Allowed amount of such Other Secured Claim.

iii. **Voting:** Class 2 is Unimpaired, and each holder of an Other Secured Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Other Secured Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to Other Secured Claims.

4. **Class 3: General Unsecured Claims.**

i. **Classification:** Class 3 consists of General Unsecured Claims.

ii. **Treatment:** Except to the extent that a holder of General Unsecured Claim agrees to less favorable treatment of such Claim, in exchange for full and final satisfaction of such Allowed General Unsecured Claim, at the sole option of the Diocese: (a) each such holder shall receive payment in Cash in an amount equal to such Allowed General Unsecured Claim, payable on or as soon as reasonably practicable after the last to occur of (i) the Effective Date, (ii) the date on which such General Unsecured Claim becomes an Allowed General Unsecured Claim, and (iii) the date on which the holder of such Allowed General Unsecured Claim and the Diocese shall otherwise agree in writing; or (b) satisfaction of such Allowed General Unsecured Claim in any other manner that renders the Allowed General Unsecured Claim Unimpaired, including Reinstatement.

iii. **Voting:** Class 3 is Unimpaired, and each holder of a General Unsecured Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of General Unsecured Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to General Unsecured Claims.

5. **Class 4a: Claim Number 34.**

i. **Classification:** Class 4a consists of the holder of Proof of Claim 34 filed in this case.

ii. In full satisfaction of Class 4a, the Trustee shall distribute the sum of \$650,000 to the holder of Proof of Claim 34 prior to any distribution to the holder of any other claims entitled to a distribution under the Plan. Because Proof of Claim 34 is a Known Survivor Claim, the limitations and provisions relating to releases set forth in subparagraph IV(B)(6)(ii) below apply equally to the Class 4a claim to the extent set forth in the Plan.

iii. In addition to the distribution set forth in subsection 3.2.4(b), and as set forth in the Child Protection Protocols filed contemporaneously with this Plan as Exhibit H to this Plan, each holder of a Class 4a Claim who has provided the release of liability contained in Exhibit D, shall, upon his or her request, also be entitled to receive the following from the Diocese, free of charge:

- a. One cemetery plot at any Diocese cemetery of such Claimant's choice; and
- b. A credit for one fully-paid K-12 education at schools within Diocese.

Each holder of a Class 4a Claim will have the sole option to select the beneficiary of his or her K-12 school tuition credit, and each holder of a Class 4a Claim may freely assign his or her right to one cemetery plot and/or credit for a fully-paid K-12 education as such Class 4a Claimant sees fit in his or her sole discretion.

iv. **Voting:** Class 4a is Impaired, and each holder of a Class 4a Claim is entitled to vote to accept or reject the Plan.

6. **Class 4b: Known Survivor Claims Other than Claim Number 34.**

i. **Classification:** Class 4b Consists of Known Survivor Claims other than Proof of Claim 34.

ii. **Treatment of all other Known Survivor Claims:** The Plan creates the Trust to fund payments to Class 4 Claimants entitled to payment under the Plan, Trust Agreement, and Trust Distribution Plan. The Trust will be funded pursuant to the Insurance Settlement Agreement, and in accordance with Article IV. The Trust shall make distributions to the Class 4a and 4b Claimants, as provided by the Plan, the Trust Agreement, and the Trust Distribution Plan, which shall represent the sole recovery available to Class 4a and 4b Claimants in respect to any obligation owed by Insurers. No Known Survivor Claimant shall receive any payment on any award unless and until such Known Survivor Claimant has executed the release attached as **Exhibit D** to the Plan. Known Survivor Claimants must execute a release of all claims against the Insurers and must release all claims against the Diocese and any other Protected Party.

Any release of Known Survivor Claims, in whole or in part, will be pursuant to the principles set forth in 42 Pa.C.S. § 8326 and *Charles v. Giant Eagle Markets*, 522 A.2d 1, 10 (Pa. 1987). The Survivor Claimants expressly reserve their rights against other Persons, including joint tortfeasors, who will remain severally liable on any Class 4 Claims. But in no event may a Known Survivor Claimant collect on that portion of any judgment or obtain any reallocation of any judgment based on the causal fault or share of liability of any Protected Parties. Any Person that is, or was alleged to be a joint tortfeasor with any of the Protected Parties in connection with the Abuse that forms the basis of a Known Survivor Claim shall be provided by the Trustee with a copy of the executed Release upon reasonable request and provision of an appropriate, executed confidentiality agreement, and shall not be liable for any Protected Parties' share of liability or

fault. Responsibility for preserving and managing Trust Assets and distributing Trust Assets to Class 4 Claimants shall be assigned to, assumed and treated by the Trust as further provided in Article IV, the Trust Agreement, and the Trust Distribution Plan. Class 4 Claims shall be paid in accordance with the provisions of the Trust and Trust Distribution Plan.

iii. In addition to the distribution set forth in subsection 3.2.5(b), and as set forth in the Child Protection Protocols filed contemporaneously with this Plan as Exhibit H to this Plan, each holder of a Class 4b Claim who has provided the release of liability contained in Exhibit D, shall, upon his or her request, also be entitled to receive the following from the Diocese, free of charge:

- a. One cemetery plot at any Diocese cemetery of such Claimant's choice; and
- b. A credit for one fully-paid K-12 education at schools within Diocese.

Each holder of a Class 4b Claim will have the sole option to select the beneficiary of his or her K-12 school tuition credit, and each holder of a Class 4b Claim may freely assign his or her right to one cemetery plot and/or credit for a fully-paid K-12 education as such Class 4b Claimant sees fit in his or her sole discretion.

iv. **Voting:** Class 4b is Impaired, and each holder of a Class 4b Claim is entitled to vote to accept or reject the Plan.

7. **Class 5: Unknown Survivor Claims and Late-Filed Survivor Claims.**

i. **Classification:** Class 5 consists of Unknown Survivor Claims and Late-Filed Survivor Claims.

ii. **Treatment:** The Debtor and Reorganized Debtor shall pay all Unknown Survivor Claims and Late-Filed Survivor Claims as determined by the Unknown Claimants' Representative. No Class 5 Claimant shall receive any payment on any award unless and until such Class 5 Claimant has executed the Release attached as **Exhibit D** to the Plan. Class 5 Claimants must execute a release of all claims against the Insurers and must release all claims against the Diocese and any other Protected Party.

Any release of Unknown Survivor Claims and Late-Filed Survivor Claims, in whole or in part, will be pursuant to the principles set forth in 42 Pa.C.S. § 8326 and Charles v. Giant Eagle Markets, 522 A.2d 1, 10 (Pa. 1987). The Survivor Claimants expressly reserve their rights against other Persons, including joint tortfeasors, who will remain severally liable on any Class 4 Claims. But in no event may a Claimant holding an Unknown Survivor Claims or Late-Filed Survivor Claim collect on that portion of any judgment or obtain any reallocation of any judgment based on the causal fault or share of liability of any Protected Parties. Any Person that is, or was alleged to be a joint tortfeasor with any of the Protected Parties in connection with the Abuse that forms the basis of an Unknown Survivor Claims or Late-Filed Survivor Claims shall be provided by the Trustee with a copy of the executed Release upon reasonable request and provision of an appropriate, executed confidentiality agreement, and shall not be liable for any Protected Parties' share of liability or fault. Responsibility for preserving and managing Trust Assets and distributing Trust Assets to Class 5 Claimants shall be assigned to, assumed and treated by the Trust as further

provided in Article IV, the Trust Agreement, and the Trust Distribution Plan. Class 5 Claims shall be paid in accordance with the provisions of the Trust and Trust Distribution Plan.

iii. In addition to the distribution set forth in subsection 3.2.5(b), and as set forth in the Child Protection Protocols filed contemporaneously with this Plan as Exhibit H to this Plan, each holder of a Class 5 Claim who has provided the release of liability contained in Exhibit D, shall, upon his or her request, also be entitled to receive the following from the Diocese, free of charge:

- a. One cemetery plot at any Diocese cemetery of such Claimant's choice; and
- b. A credit for one fully-paid K-12 education at schools within Diocese.

Each holder of a Class 5 Claim will have the sole option to select the beneficiary of his or her K-12 school tuition credit, and each holder of a Class 5 Claim may freely assign his or her right to one cemetery plot and/or credit for a fully-paid K-12 education as such Class 5 Claimant sees fit in his or her sole discretion.

iv. **Voting:** Class 5 is Impaired, and each holder of a Class 5 Claim is entitled to vote to accept or reject the Plan.

8. **Class 6: Pension Plan Note Claim.**

- i. **Classification:** Class 6 consists of the Pension Plan Note Claim.
- ii. **Treatment:** Class 6 Claims will be paid as agreed to between the Diocese and the Priest Pension Plan.
- iii. **Voting:** Class 6 is Impaired, and each holder of a Class 6 Claim is entitled to vote to accept or reject the Plan.

9. **Class 7: Parish and School Claims.**

- i. **Classification:** Class 7 consists of Parish Claims and School Claims.
- ii. **Treatment:** The Parishes and Schools will make a contribution to the Trust, as set forth in section 4.2.2 of the Plan, in exchange for the releases provided to the Parishes and Schools as part of the Plan. To maximize recovery for Survivor Claimants, the Parishes and Schools waive all rights to distributions on account of their Class 7 Claims. Accordingly, there will be no distribution to the holders of any Class 7 Claims on account of such Class 7 Claims.
- iii. **Voting:** Class 7 is Impaired, and each holder of a Class 7 Claim is entitled to vote to accept or reject the Plan.

**V. CREATION OF THE TRUST.**

**A. Establishment of the Trust.**

On the Effective Date, the Trust shall be established for the purposes of assuming liability of Protected Parties and Insurers for Channeled Claims, subject to Section 13.14 of the Plan, and of receiving,

liquidating, and distributing Trust Assets in accordance with the Plan and the Trust Distribution Plan. The proposed Trust Agreement and Trust Distribution Plan are attached to the Plan as **Exhibit C** and **Exhibit I**, respectively.

**B. Funding of the Trust.**

1. **Transfers from the Diocese to the Trust**

The Diocese will transfer: (a) \$4,000,000 within two (2) Business Days after the Confirmation Order has become a Final Order; and (b) Three Million Four Hundred Thousand Dollars (\$3,400,000) in three equal annual payments, with the first such payment to be made on the first anniversary of the date on which the Confirmation order has become a Final Order.

The Diocese will also transfer to the Trust all rights and interests the Diocese may have in any proceeds of any insurance policies or certificates of insurance issued by, or underwritten by, any Person other than the Insurers, and any claims for such proceeds or claims or causes of action for breach of such policies or certificates or bad faith, wrongful failure to settle, or any similar claim or cause of action, which shall include the claims filed by the Diocese in the insolvency proceedings of Stronghold Insurance Co. Ltd. and CX Reinsurance Company Ltd.

2. **Transfers from the Parishes, Schools, Related Non-Debtor Entities to the Trust**

The Parishes, Schools, and Related Non-Debtor Entities will transfer or otherwise cause to be transferred \$500,000 to the Trust within two (2) Business Days after the Confirmation Order has become a Final Order. The Parishes and Schools will make this contribution to the Trust in exchange for the releases provided to the Parishes and Schools as part of the Plan and, to maximize recovery for Survivor Claimants, will waive all rights to distributions on account of their Class 7 Claims.

3. **Insurer Contributions**

Each Insurer will transfer or otherwise cause to be transferred the following amounts to the Trust within the time set forth under any Insurance Settlement Agreement, but in no event later than ten (10) days after the Effective Date.

<b>Insurer</b>	<b>Contribution Amount</b>
The Catholic National Risk Retention Group, Inc.	\$1,900,000
Travelers as successor to policies issued by United States Fidelity & Guaranty Company	\$1,430,000
Zurich as successor to policies issued by Maryland Casualty Company	\$3,850,000
Certain Underwriters at Lloyd's, London -	\$3,750,000
Interstate Fire & Casualty Company	\$6,900,000
Catholic Mutual Group	\$475,000

In addition, all rights to receive payment of the amounts to be paid under the Plan or any Insurance Settlement Agreement shall be assigned to the Trust.

4. **Contributions from Self-Settled Trusts**

The Roman Catholic Diocese of Harrisburg Real Estate Trust and The Roman Catholic Diocese of Harrisburg Charitable Trust (collectively, the "Self-Settled Trusts") will **each** contribute \$5,000,000 to the

Trust within two (2) business days after the Effective Date. The Self-Settled Trusts will make this contribution to the Trust in exchange for the releases provided to them as part of the Plan.

**C. Vesting.**

On the Effective Date, all Trust Assets shall vest in the Trust, and the Diocese and other Protected Parties shall be deemed for all purposes to have transferred all of their respective Interests in the Trust Assets to the Trust. On the Effective Date, or as soon as practicable thereafter, the Diocese or any other Protected Party, as applicable, shall take all actions reasonably necessary to transfer any Trust Assets to the Trust. Upon the transfer of control of Trust Assets in accordance with this paragraph, the Diocese and other Protected Parties shall have no further Interest in or with respect to the Trust Assets.

**D. Appointment of the Trustee.**

The initial Trustee has been identified in Exhibit C to the Plan. The Trustee shall commence serving as the Trustee on the Confirmation Date; provided, however, that the Trustee shall be permitted to act in accordance with the terms of the Trust Agreement from such earlier date, as authorized by the Committee, and shall be entitled to seek compensation in accordance with the terms of the Trust Agreement and the Plan.

**E. Rights and Responsibilities of Trustee**

The Trust shall be established for the purposes described in Section 4.5 of the Plan. The Trust shall receive, and be deemed to be the sole assignee of, the transfer and assignment of assets as provided in Article IV of Plan, including the contributions set forth in Section 4.2.1, Section 4.2.2, Section 4.2.3, and Section 4.2.4 of the Plan. The Trust shall make distributions to the Class 4 Claimants and the Class 5 Claimants, as and to the extent provided by the Plan, the Trust Agreement, and the Trust Distribution Plan. The proposed Trust Agreement and Trust Distribution Plan are attached to the Plan as Exhibit C and Exhibit I, respectively.

The Trust shall be a third-party beneficiary of any Insurance Settlement Agreement, with the right, power, and authority to take any action required to enforce any Insurance Settlement Agreement. Additionally, the Trust shall have the right, power, and authority to seek enforcement of the Plan, Confirmation Order, or any other Final Order entered by the Bankruptcy Court in this Chapter 11 Case that may affect the Trust's ability to administer Trust Assets or otherwise perform its duties pursuant to the Plan. Among other things, the Trustee: (a) shall liquidate and convert to Cash the Trust Assets, make timely distributions, and not unduly prolong the duration of the Trust; (b) may request an expedited determination of taxes of the Trust under section 505(b) of the Bankruptcy Code for all returns filed for, or on behalf of, the Trust for all taxable periods through the dissolution of the Trust; and (c) may retain professionals, including legal counsel, accountants, financial advisors, auditors, and other agents on behalf of the Trust, at the Trust's sole expense, as reasonably necessary and to carry out the obligations of the Trustee hereunder and under the Trust Agreement. The Confirmation Order shall state that, absent permission of the Bankruptcy Court, no judicial, administrative, arbitral, or other action, or proceeding shall be commenced in any forum other than the Bankruptcy Court against the Trustee in its official capacity, with respect to its status, duties, powers, acts, or omissions as Trustee.

**F. Investment Powers; Permitted Cash Expenditures**

All funds held by the Trust shall be invested in Cash or short-term highly liquid investments that are readily convertible to known amounts of Cash as more particularly described in the Trust Agreement. The Trustee may expend the Cash of the Trust in a manner consistent with the terms of the Trust Agreement.



## **G. Registry of Beneficial Interests**

To evidence the beneficial interest in the Trust of each holder of such an interest, the Trustee shall maintain a registry of beneficiaries.

## **H. Non-Transferability of Interests**

Any transfer of an interest in the Trust shall not be effective until and unless the Trustee receives written notice of such transfer.

## **I. Tax Matters**

The Trust is intended to qualify as a “Designated” or “Qualified Settlement Fund” pursuant to Section 468B of the Internal Revenue Code and the Treasury Regulations promulgated thereunder. The Diocese is the “transferor” within the meaning of Treasury Regulation Section 1.468B-1(d)(1). The Trustee shall be classified as the “administrator” within the meaning of Treasury Regulation Section 1.468B-2(k)(3). The Trust Documents, including the Trust Agreement, are incorporated herein by reference. The Trust shall not be deemed to be the same legal entity as the Diocese, but only the assignee of certain assets of the Diocese and a representative of the Estate for delineated purposes within the meaning of section 1123(b)(3) of the Bankruptcy Code. The Trust is expected to be tax exempt. The Trustee shall file such income tax and other returns and documents as are required to comply with the applicable provisions of the Internal Revenue Code of 1986, 26 U.S.C. §§ 1 et seq., as may be amended, and the regulations promulgated thereunder, 31 C.F.R. §§ 900 et seq., and Pennsylvania law and the regulations promulgated thereunder, and shall pay from the Trust all taxes, assessments, and levies upon the Trust, if any.

## **J. Immunity; Liability; Indemnification**

### **1. No Liability for Diocese or Trustee**

Neither the Diocese or its respective members, designees, or professionals, nor the Trustee or any duly designated agent or representative of the Trustee, nor their respective employees, shall be liable for the acts or omissions of any other member, designee, agent, or representative of such Trustee, except that the Trustee shall be liable for its specific acts or omissions resulting from such Trustee’s misconduct, gross negligence, fraud, or breach of the fiduciary duty of loyalty. The Trustee may, in connection with the performance of its functions and in its sole and absolute discretion, consult with its attorneys, accountants, financial advisors, and agents, and shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such Persons. Notwithstanding such authority, the Trustee shall not be under any obligation to consult with its attorneys, accountants, financial advisors, or agents, and its determination not to do so shall not result in the imposition of liability on the Trustee unless such determination is based on the Trustee’s recklessness, gross negligence, willful misconduct, or fraud.

### **2. No Recourse Against Trustee**

No recourse shall ever be had, directly or indirectly, against the Trustee personally, or against any employee, contractor, agent, attorney, accountant, or other professional retained in accordance with the terms of the Trust Agreement or the Plan by the Trustee, by legal or equitable proceedings or by virtue of any statute or otherwise, nor upon any promise, contract, instrument, undertaking, obligation, covenant or Trust Agreement whatsoever executed by the Trustee in implementation of this Trust Agreement or the Plan, or by reason of the creation of any indebtedness by the Trustee under the Plan for any purpose authorized by the Trust Agreement or the Plan, it being expressly understood and agreed that all such

liabilities, covenants, and Trust Agreements of the Trust whether in writing or otherwise, shall be enforceable only against and be satisfied only out of the Trust Assets or such part thereof as shall under the term of any such Trust Agreement be liable therefore or shall be evidence only of a right of payment out of the Trust Assets. Notwithstanding the foregoing, the Trustee may be held liable for its recklessness, gross negligence, willful misconduct, knowing and material violation of law, or fraud; and if liability on such grounds is established, recourse may be had directly against the Trustee. The Trust shall not be covered by a bond.

### 3. **Indemnification by Trust**

The Trust shall defend, indemnify, and hold harmless the Trustee, its officers, directors, agents, representatives, and employees to the fullest extent that a corporation or trust organized under the laws of Pennsylvania entitled to indemnify and defend its directors, trustees, officers, and employees against any and all liabilities, expenses, Claims, damages or losses incurred by them in the performance of their duties hereunder.

Reasonable expenses, costs, and fees (including attorneys' fees and costs) incurred by or on behalf of a Trustee, and its respective agents, in connection with any action, suit, or proceeding, whether civil, administrative, or arbitral, from which they are entitled to be indemnified by the Trust, shall be paid by the Trust in advance of the final disposition thereof upon receipt of an undertaking, by or on behalf of such Trustee, and its respective agents, to repay such amount in the event that it shall be determined ultimately by Final Order that such Trustee, and its respective professionals, officers, and directors is not entitled to be indemnified by the Trust.

#### **K. Trust Liability**

On the Effective Date, the Trust shall automatically and without further act or deed assume: (a) all liability, if any, of the Protected Parties and Insurers in respect of Channeled Claims, subject to Section 13.14 of the Plan; and (b) the responsibility for preserving and managing Trust Assets and distributing Trust Assets.

#### **L. Termination**

The Trust shall terminate after its liquidation, administration, and distribution of the Trust Assets in accordance with the Plan and its full performance of all other duties and functions set forth herein or in the Trust Agreement. The Trust shall terminate no later than the fifth (5th) anniversary of the Effective Date.

### **VI. DISMISSAL**

The plan is intended to be a consensual plan that incorporates the agreement of the Diocese, Parishes, Schools, Insurers, Self-Settled Trusts, and Committee. In the event that the Plan receives the requisite votes necessary to meet the provisions of 11 U.S.C. Section 1126, but any of Diocese, Parishes, Schools, Insurers, Self-Settled Trusts, and Committee object(s) to the Plan or otherwise do(es) not consent to the Plan, this Bankruptcy Case shall be dismissed pursuant to 11 U.S.C. Section 1112.

### **VII. SURVIVOR CLAIMS.**

#### **A. Assessment**

Each Survivor Claim will be assessed by the Survivor Claims Reviewer in accordance with the Trust Distribution Plan to determine whether the Survivor Claimant is entitled to a distribution. The Diocese

and other Protected Parties shall reasonably cooperate with the Survivor Claims Reviewer and the Trustee as requested by the Survivor Claims Reviewer or the Trustee in connection with any inquiries by either in the administration of the Trust Distribution Plan.

#### **B. Release and Discharge of Survivor Claims**

No Survivor Claimant shall receive any payment on any award unless and until such Survivor Claimant has executed the release attached as **Exhibit D** to the Plan. Each Survivor Claimant must execute a release of all Claims against the Insurers and the Protected Parties.

#### **C. Distributions to Survivor Claimants**

A Survivor Claimant who the Survivor Claims Reviewer determines to be entitled to a distribution will receive a distribution from the Trust in the amount(s) and at the time(s) provided for in the Trust Distribution Plan. Any payment on a Survivor Claim constitutes payment for damages on account of personal physical injuries or sickness arising from an occurrence, within the meaning of section 104(a)(2) of the Internal Revenue Code of 1986, as amended.

#### **D. Survivor Claims Reviewer**

The Trustee shall retain the Survivor Claims Reviewer. Fees payable to the Survivor Claims Reviewer for review of Class 4 Claims shall be paid from the Trust Assets. Fees payable to the Survivor Claims Reviewer for review of Class 5 Claims shall be paid by the Trustee from the Class 5 Claims Reserve.

#### **E. Medicare Procedures**

With respect to all Survivor Claims, the Trust shall maintain sufficient funds to pay any potential reimbursements to Medicare. The Trust shall complete the following "Medicare Procedures" for Survivor Claims: (a) the Trustee shall determine whether each Survivor Claimant with a Date of injury after December 5, 1980 is Medicare Eligible; (b) upon request, the Trust shall provide to an Insurer or the Diocese information sufficient to allow them to perform their own SSA queries to the extent they wish to do so; (c) in the event that one or more Survivor Claimants with Dates of injury after December 5, 1980 is/are identified as Medicare Eligible, the Trust shall complete a query to the CMS for each such Survivor Claimant to determine whether any Conditional Payment has been made to or on behalf of that Survivor Claimant arising from or relating to treatment for Abuse; (d) if any Conditional Payment has been made to or on behalf of that Survivor Claimant, the Trustee shall, within the time period called for by the MSPA, reimburse the appropriate Medicare Trust Fund for the appropriate amount, and submit the required information for that Survivor Claimant to the appropriate agency of the United States government.

The Trust shall defend, indemnify, and hold harmless the Diocese, Parishes, Schools and Insurers from any Medicare Claims reporting and payment obligations relating to its payment of Channeled Claims, including any obligations owing or potentially owing under MMSEA or MSP, and any Claims related to the Trust's obligations under the Plan.

### **VIII. INSURERS.**

#### **A. Insurance Settlement Agreement**

Any Insurance Settlement Agreement shall automatically be, and hereby is, incorporated by reference and made part of the Plan as if set forth fully herein. Upon (a) the Confirmation Order becoming a Final Order, (b) the conditions precedent in the Insurance Settlement Agreement being satisfied, and (c)

subject to any termination provisions in the Insurance Settlement Agreement, the Insurance Settlement Agreement shall become fully binding on the Trust, Protected Parties, the Diocese, the Committee, Insurers, the Survivor Claimants, parties in interest in the Chapter 11 Case, and any of the foregoing Persons' successors and assigns. Any Insurance Settlement Agreement shall survive the confirmation, effectiveness, and consummation of the Plan.

**B. Sale Free and Clear of Interests of Insurer Policies**

To the extent provided in any Insurance Settlement Agreement and effective on the later of (a) the Effective Date of the Plan and (b) the payment by the Insurer of any Insurance Settlement Amount due under any Insurance Settlement Agreement, each and every Insurer Policy shall be sold to the issuing Insurer, pursuant to sections 105, 363, and 1123 of the Bankruptcy Code, free and clear of all liens, Claims and Interests of all Protected Parties and Survivor Claimants; provided, however, that the certificates of insurance issued by Catholic Mutual and The National Catholic Risk Retention Group, respectively, to the Diocese shall not be sold. Any Insurance Settlement Agreement and corresponding Approval Order will provide that any Insurer that is repurchasing any Insurer Policy is a good faith purchaser of such insurance policy within the meaning of section 363(m) of the Bankruptcy Code, the consideration exchanged constitutes a fair and reasonable settlement of the parties' disputes and of their respective rights and obligations relating to each such Insurer Policy and constitutes reasonably equivalent value, the releases in any such Insurance Settlement Agreement and the policy buyback comply with the Bankruptcy Code and applicable non-bankruptcy laws, and each such Insurer Policy shall be terminated and be of no further force and effect with the issuing Insurer having fully and completely performed any and all obligations under each such Insurer Policy, including any performance owed to the Diocese, Parishes, Schools, Other Insured Entities, and Related Non-Debtor Entities and all limits of liability of each such Insurer Policy shall be deemed fully and properly exhausted.

**C. Resolution of Claims Involving Insurers**

The Confirmation Order shall provide that within ten (10) days after payment of the Insurance Settlement Amounts, the Diocese and the Insurers shall effect dismissal with prejudice of their Claims against each other in the Insurance Coverage Adversary Proceeding, with each side to bear its own fees and costs.

**D. The Insurer's Payments**

The Insurers will pay to the Trust the sums set forth in any Insurance Settlement Agreement within the time set forth in their respective Insurance Settlement Agreement, but in no event later than ten (10) days after the Effective Date.

**E. Judgment Reduction**

In a proceeding, suit or action to recover or obtain insurance coverage or proceeds for a Survivor Claim from an insurer that is not an Insurer ("Other Insurer"), the following shall apply:

If an Other Insurer has asserted, asserts, or could assert, any Contribution Claim against an Insurer, then any judgment or award obtained by any Protected Party, the Trust, or a Survivor Claimant against such Other Insurer shall be automatically reduced by the amount, if any, that a court or arbitrator determine such Insurer would have been liable to pay such Other Insurer as a result of its Contribution Claim, so that the Contribution Claim is thereby satisfied and extinguished entirely ("Reduction Amount"). In any action by a Protected Party, the Trust, or a Survivor Claimant against an Other Insurer to obtain insurance coverage or proceeds for a Survivor Claim where the Insurers are not parties, the Other Insurers' Contribution Claim may be asserted as a defense, and to the extent the Other Insurers' Contribution Claim against an Insurer is

determined to be valid by the court presiding over such action, the liability of the Other Insurer will be reduced dollar for dollar by the amount so determined. In the event that a reduction is not made as described above, then any Contribution Claim by any Other Insurer against any Insurer will be determined by the court or arbitration proceeding in which such Contribution Claim is filed. To the extent possible, no Insurer will be required to answer or otherwise respond to a complaint alleging a Contribution Claim against an Insurer until such Reduction Amount is determined by such court or arbitrator. If, notwithstanding the foregoing, a court refuses to reduce the liability of the Other Insurer, then once the order establishing the Insurer's liability for the Contribution Claim is a Final Order, the Trust shall promptly indemnify and hold harmless the Insurer for such amount of any such Abuse-Related Contribution Claim.

If, in the future, an Other Insurer releases its Contribution Claims, if such exist, that it may have against any Insurer, then the applicable Insurer shall release its contribution claims against such releasing Other Insurer.

To the extent that the Trust indemnifies any Insurers, or if any Other Insurer asserts a Claim directly against the Trust arising from or concerning the Insurer Policies, any contribution claims of the applicable Insurers shall be transferred to the Trust, and the Trust shall be authorized to assert the contribution claims of the applicable Insurers against such Other Insurer.

#### **F. Pursuit of Contribution Claims**

Each Insurer agrees that it will not pursue any Contribution Claim that it may have against any other Insurer. Notwithstanding the foregoing, if an Other Insurer asserts a Contribution Claim against an Insurer, then such Insurer shall be free to assert its contribution claim against such Other Insurer, as provided in Section 7.5 of the Plan.

#### **G. Further Assurances; Non-Material Modifications**

From and after the Effective Date, the Diocese and the Insurers shall be authorized to enter into, execute, adopt, deliver, or implement all notes, contracts, security agreements, instruments, releases, and other agreements or documents necessary to effectuate or memorialize the settlements contained in Article VII without further order of the Bankruptcy Court. The Diocese and the Insurers may make technical or immaterial alterations, amendments, modifications, waivers, or supplements to the terms of any Insurance Settlement Agreement. A class of Claims that has accepted the Plan shall be deemed to have accepted the Plan, as altered, amended, modified, or supplemented under Section 7.7 of the Plan, if the proposed alteration, amendment, modification, or supplement does not materially and adversely change the treatment of the Claims within such class. An order of the Bankruptcy Court approving any amendment or modification made pursuant to Section 7.7 of the Plan shall constitute an order in aid of consummation of the Plan and shall not require the re-solicitation of votes on the Plan.

#### **H. Indemnification Obligations**

From and after the Effective Date, the Trust shall defend, indemnify, and hold harmless the Insurers with respect to any and all Channeled Claims. The Diocese shall defend, indemnify, and hold harmless the Insurers from and against all other Claims that are subject to any indemnity obligation to the Insurers under any Insurance Settlement Agreement or the Plan.

The indemnification obligations of the Trust to the Insurers includes Survivor Claims made by Persons over whom the Protected Parties do not have control, including any other Person who asserts Survivor Claims against or right to coverage under the Insurer Policies. The Insurers shall have the right to defend any Claims identified in Section 7.8 of the Plan and shall do so in good faith in the event the Insurer

chooses to defend such Claims. The Insurers may undertake the defense of any Claim on receipt of such Claim without affecting such indemnification obligations. The Insurers shall notify the Trust and/or the Diocese, as applicable, as soon as practicable of any Claims identified in Section 7.8 of the Plan and of their choice of preferred counsel. Any obligation of the Trust or Diocese to indemnify the Insurer under Section 7.8 of the Plan shall not exceed the Settlement Amount set forth in the Settlement Agreement as actually paid by the corresponding Insurer. In defense of any such Claims, the Insurers may settle or otherwise resolve a Claim consistent with the terms of the Plan and with the prior consent of the indemnifying party, which consent shall not be unreasonably withheld.

#### **I. Timing**

The injunctions, releases, and discharges to which any Insurer is entitled pursuant to any Insurance Settlement Agreement, the Plan, the Confirmation Order, the Approval Orders, and the Bankruptcy Code shall only become effective when the Trust receives the Insurance Settlement Amount in full from the corresponding Insurer pursuant to the terms of any Insurance Settlement Agreement.

### **IX. MEANS FOR IMPLEMENTATION OF THE PLAN.**

#### **A. General Settlement of Claims and Interests**

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, distribution, releases, and other benefits provided under the Plan, upon the Effective Date, the provisions of the Plan shall constitute a good faith compromise and settlement of Claims, Interests, and controversies relating to the contractual, legal, and subordinations rights that holders of Claims or Interests might have with respect to any Claims or Interests under the Plan. Distributions made to holders of Claims or Interests in any Class are intended to be final.

#### **B. Sources of Consideration for Distributions**

The Protected Parties shall fund Plan Distributions using cash on hand or otherwise available.

#### **C. Organizational Documents**

The Diocese shall enter into such agreements and may amend its formation, organizational, and/or governance documents, as applicable, to the extent necessary to implement the terms and provisions of the Plan. After the Effective Date, the Diocese may amend and restate its organizational documents, and the Diocese may file its charter, certificate of formation, bylaws, rules and regulations, or such other applicable organizational and/or governance documents, as applicable, and other constituent documents as permitted or required by applicable law.

#### **D. Due Authorization**

Upon the Effective Date, all actions contemplated by the Plan shall be deemed authorized, approved, and, to the extent taken prior to the Effective Date, ratified in all respects without any requirement of further action by members, creditors, directors, or managers of the Diocese, or any other Person.

#### **E. Corporate Action**

On the Effective Date, all matters provided for herein that would otherwise require approval of the management of the Diocese shall be deemed to have occurred and shall be in effect from and after the

Effective Date pursuant to the applicable law of Pennsylvania, without any requirement of further action by the management of the Diocese.

**F. Identity of Officers of Diocese**

In accordance with section 1129(a)(5) of the Bankruptcy Code, the identities and affiliations of the Persons proposed to serve as the members or managers of the Diocese and the persons proposed to serve as directors (if applicable) and officers of the Diocese on and after the Effective Date are set forth on **Exhibit F** to the Plan.

**G. Effectuating Documents; Further Transactions; Exemption from Certain Transfer Taxes**

The Diocese shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of the Plan. Pursuant to section 1146(a) of the Bankruptcy Code, the following shall not be subject to any stamp tax, real estate transfer tax, mortgage recording tax, sales or use tax, or similar tax: (a) the creation of any mortgage, deed of trust, lien, or other security interest; (b) the making or assignment of any lease or sublease; or (c) the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, including any merger agreements, agreements of consolidation, restructuring, disposition, liquidation or dissolution, deeds, bills of sale, or assignments executed in connection with any of the foregoing or pursuant to the Plan.

**X. ESTIMATIONS/ASSESSMENTS.**

**A. Estimations/Assessments are Not Binding**

Estimations of Survivor Claims and Unknown Survivor Claims for purposes of voting, and the determination of qualification, assignment of points, and payment of distributions of Survivor Claims under the Trust Distribution Plan shall not: (a)(i) constitute an admission of liability by any Person with respect to such Claims, (ii) have any res judicata or collateral estoppel effect on any Person, (iii) constitute a settlement, release, accord, satisfaction, or novation of such Claims, (iv) be used by any third-party as a defense to any alleged joint liability, or (v) otherwise prejudice any rights of the Trust, Protected Parties, Insurers, and Survivor Claimants in all other contexts or fora; or (b) be deemed to constitute a determination of liability of any Person.

**XI. DISTRIBUTIONS AND CLAIMS ADMINISTRATION FOR CLAIMS OTHER THAN SURVIVOR CLAIMS.**

**A. Distributions**

Unless otherwise provided in the Plan, distributions for Claims other than Survivor Claims shall be made by the Diocese.

**B. Method of Payment**

Except with respect to Survivor Claims, payments under the Plan will be made by check, mailed with first class postage pre-paid, to the holder of each Claim at the address listed on its Proof of Claim as of the Record Date (or by such other method as may be agreed to by the Diocese and the applicable holder of a Claim), or if no Proof of Claim has been filed by the date of the hearing on confirmation, to the address

listed on the Schedules as of the Record Date. Holders of Claims as of the Record Date may contact the Diocese to amend their addresses as follows:

Roman Catholic Diocese of Harrisburg  
Attn: XXX  
4800 Union Deposit Road  
Harrisburg, Pennsylvania 17111  
XXX@hbgdiocese.org

### **C. Reservation of Rights to Object to Claims**

Unless a Claim is expressly described as an Allowed Claim pursuant to or under the Plan, or otherwise becomes an Allowed Claim prior to the Effective Date, upon the Effective Date, the Diocese or Trustee, as applicable, shall have and retain any and all objections to any and all Claims and motions or other requests for the payment of Claims, whether Administrative Expense, secured, or unsecured, including, without limitation, any and all objections to the validity or amount of any and all alleged Administrative Expense Claims, priority tax Claims, liens and security interests, whether under the Bankruptcy Code, other applicable law, or contract. The failure to object to any Claim in this Chapter 11 Case shall be without prejudice to the Diocese's or the Trustee's, as applicable, right to contest or otherwise defend against such Claim in the Bankruptcy Court when and if such Claim is sought to be enforced by the holder of such Claim.

### **D. Filing of Objections**

Except with respect to Administrative Expenses, any objections to Claims will be filed within ninety (90) days after the Effective Date (unless such day is not a Business Day, in which case such deadline will be the next Business Day thereafter) or at such later date as approved by the Bankruptcy Court upon request from the Diocese. Any Claim objections arising solely under section 502(d) of the Bankruptcy Code are not subject to the 90-day deadline and may be pursued through an adversary proceeding asserting a Claim under Chapter 5 of the Bankruptcy Code. An objection to a Claim will be deemed properly served on the holder of the Claim, if the Diocese effects service by any of the following methods: (a) in accordance with Bankruptcy Rule 7004; (b) by first class mail on the signatory on the Proof of Claim or other representative identified on the Proof of Claim or Interest or any attachment thereto; or (c) by first class mail on any counsel that has appeared on the behalf of the claimholder in the Chapter 11 Case.

### **E. Procedures for Treating and Resolving Disputed Claims**

#### **1. No Distributions Pending Allowance**

Notwithstanding any other provision hereof, no payments or distributions will be made with respect to all or any portion of a Disputed Claim, other than a Survivor Claim, unless and until all objections to such Disputed Claim have been settled or withdrawn or have been determined by a Final Order, and the Disputed Claim has become an Allowed Claim.

#### **2. Claims Estimation**

Except with respect to Survivor Claims, the Diocese may request estimation or limitation of any Disputed Claim that is contingent or unliquidated pursuant to section 502(c) of the Bankruptcy Code; provided, however, that the Bankruptcy Court will determine: (a) whether such Disputed Claim is subject to estimation pursuant to section 502(c) of the Bankruptcy Code; and (b) the timing and procedures for such estimation proceedings, if any. Unless provided otherwise in an order of the Bankruptcy Court, the



estimated amount shall constitute the Allowed amount of such Claim or a maximum limitation on such Claim, as the Bankruptcy Court may direct; provided, however, that if the estimate constitutes the maximum limitation on such Claim, the Diocese may elect to pursue supplemental proceedings to object to the ultimate allowance of such Claim. The foregoing shall not limit the rights granted by section 502(j) of the Bankruptcy Code.

3. **No Distribution if Cause of Action Asserted**

Notwithstanding any other provision hereof, no payment or distribution will be made with respect to all or any portion of a Claim or Allowed Claim held by a claimant against whom a Claim or Cause of Action under Chapter 5 of the Bankruptcy Code is asserted unless and until such Claim or Cause of Action under Chapter 5 of the Bankruptcy Code has been settled or withdrawn or has been determined by Final Order.

4. **Payment Upon Allowance and Disallowance of Disputed Claims**

At such time as a Disputed Claim becomes, in whole or in part, an Allowed Claim, the Diocese shall distribute to the holder thereof the distribution(s) to which the holder is then entitled under the Plan. Such distribution, if any, shall be made as soon as practicable after the entry of the Final Order allowing the Claim.

**F. De Minimis Distributions**

The Diocese shall not be required to make any payment of less than fifty dollars (\$50.00) with respect to any Allowed General Unsecured Claim.

**G. Unclaimed Payments**

In the event a payment is returned to the Diocese unclaimed, with no indication of the payee's forwarding address, the Diocese will hold such payment for a period of ninety (90) days from the date of return. If not claimed by the payee by the end of that period, the funds will be retained by the Diocese.

**H. Time Bar to Check Payments**

Checks issued by the Diocese shall be null and void if not negotiated within ninety (90) days from and after the date of issuance. Requests for re-issuance of any check shall be made to the Diocese by the holder of the Allowed Claim with respect to which such check originally was issued. Any claim in respect of such a voided check must be made on or before one hundred twenty (120) days after the date of issuance of such check. After one hundred twenty (120) days after issuance of a non-negotiated check for which the holder of the Allowed Claim did not request re-issuance, all claims in respect of voided checks shall be discharged and forever barred.

**I. Compliance with Tax Requirements**

Notwithstanding any other provision of the Plan, (a) each holder of an Allowed Claim that is to receive a distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any taxing authority, including income, withholding, and other tax obligations, on account of such distribution, and (b) no distribution shall be made to or on behalf of such holder pursuant to the Plan unless and until such holder has made arrangements satisfactory to the Diocese for the payment and satisfaction of such withholding tax obligations or such tax obligation that would be imposed upon the Diocese in connection with such distribution.

## **J. Setoffs and Recoupments**

The Diocese may, pursuant to applicable non-bankruptcy law, set off against or recoup from any distribution(s) to be made pursuant to the Plan, the claims, rights, and Causes of Action of any nature the Diocese may hold against the holder of such Allowed Claim; provided, however, that neither the failure to effect such a setoff or recoupment nor the allowance of any Claim hereunder shall constitute a waiver or release of any such claims, rights, and Causes of Action that the Diocese or may hold against such holder.

## **XII. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.**

### **A. Assumption or Rejection of Executory Contracts and Unexpired Leases**

Each Assumed Agreement shall be assumed as of the Effective Date, to the extent that each such Assumed Agreement has not already expired, concluded, or terminated under its own terms, without the need for any further notice to or action, order, or approval of the Bankruptcy Court under sections 365 and 1123 of the Bankruptcy Code. All other executory contracts, unexpired leases, or other agreements that are not Assumed Agreements and were not previously assumed or rejected by order of the Bankruptcy Court in the Chapter 11 Case shall be deemed rejected as of the Effective Date. Entry of the Confirmation Order shall constitute, pursuant to sections 365 and 1123 of the Bankruptcy Code, the approval of the rejection of all such executory contracts and unexpired leases.

### **B. Cure of Defaults**

Not later than [ ], the Diocese shall provide notices of proposed Cure Amounts to the counterparties to the Assumed Agreements proposed to be assumed under the Plan, which notices shall include a description of the procedures for objecting to the Cure Amount, the ability of the Diocese to provide “*adequate assurance of future performance*” (within the meaning of section 365 of the Bankruptcy Code) under the Assumed Agreement to be assumed, or any other matter pertaining to assumption.

Unless otherwise agreed in writing by the parties to the applicable Assumed Agreement, **any objection by a counterparty to an Assumed Agreement to a proposed assumption or related Cure Amount must be filed, served, and actually received by counsel to the Diocese within ten (10) days of the service of the notice of proposed assumption and Cure Amount, or such shorter period as agreed to by the parties or authorized by the Bankruptcy Court.** Any counterparty to an Assumed Agreement that fails to timely object to the proposed assumption or Cure Amount shall be deemed to have consented to such assumption and Cure Amount and shall be forever barred, estopped, and enjoined from contesting the Diocese’s assumption of the applicable Assumed Agreement and from requesting payment of a Cure Amount that differs from the amounts paid or proposed to be paid by the Diocese, in each case without the need for any objection by the Diocese or any further notice to or action, order, or approval of the Bankruptcy Court. The Diocese may settle any Cure Amount without any further notice to or action, order, or approval of the Bankruptcy Court.

The Diocese, as applicable, shall pay undisputed Cure Amounts, if any, on the Effective Date or as soon as reasonably practicable thereafter, or on such other terms as the parties may agree. If there is any dispute regarding the Cure Amount, the ability of the Diocese to provide “*adequate assurance of future performance*” (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or any other matter pertaining to assumption, then the Diocese, as applicable, shall pay the applicable Cure Amount as reasonably practicable after entry of a Final Order resolving such dispute and approving such assumption, or as may otherwise be agreed upon by the Diocese, as applicable, and the counterparty to the Assumed Agreement. The payment of Cure Amounts required by

section 365(b)(1) of the Bankruptcy Code following the entry of a Final Order resolving the dispute and approving the assumption shall not prevent or delay implementation of the Plan or occurrence of the Effective Date.

The Diocese's assumption of any Assumed Agreement pursuant to the Plan or otherwise and payment of the applicable Cure Amount shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any Assumed Agreement at any time prior to the effective date of assumption. **Any and all Proofs of Claim based upon Assumed Agreements that have been assumed in the Chapter 11 Case, including pursuant to the Confirmation Order, shall be deemed disallowed and expunged as of the later of (a) the date of entry of an order of the Bankruptcy Court (including the Confirmation Order) approving such assumption, (b) the effective date of such assumption, and (c) the Effective Date, in which case without the need for any objection by the Diocese or any further notice to or action, order, or approval of the Bankruptcy Court.**

#### **C. Bar Dates for Rejection Damage Claims**

To the extent not subject to a claim filing deadline set forth in any prior or subsequent order of the Bankruptcy Court, claims arising out of the rejection of an executory contract or unexpired lease pursuant to Section 11.1 of the Plan must be filed with the Bankruptcy Court no later than thirty (30) days after the entry of the Confirmation Order and, upon allowance, shall be an Allowed General Unsecured Claim. **Any Claim arising out of the rejection of an executory contract or unexpired lease that is not timely filed shall be automatically disallowed, forever barred from assertion, and unenforceable against the Diocese, the Estate, or any property of the foregoing, without the need for any objection by the Diocese or further notice to or action, order, or approval of the Bankruptcy Court, and any such claim shall be deemed fully satisfied, released, and discharged, notwithstanding any Claim or Proof of Claim to the contrary.**

#### **D. Contracts and Leases Entered After the Filing Date**

Contracts and leases entered into after the Filing Date by the Diocese, including any Assumed Agreements assumed by the Diocese, will be performed by the Diocese in the ordinary course of its operations. Accordingly, such contracts and leases (including any Assumed Agreements) shall survive and remain unaffected by entry of the Confirmation Order.

#### **E. Compensation and Benefits Programs**

Other than any Compensation and Benefits Programs assumed by the Diocese prior to the entry of the Confirmation Order, all of the Compensation and Benefits Programs entered into before the Filing Date and not since terminated shall be deemed to be, and shall be treated as though they are, Assumed Agreements under the Plan and deemed assumed under sections 365 and 1123 of the Bankruptcy Code, and the Diocese's obligations under the Compensation and Benefits Programs survive and remain unaffected by entry of the Confirmation Order and will be fulfilled in the ordinary course of the Diocese's operations. Compensation and Benefits Programs assumed by the Diocese prior to the entry of the Confirmation Order shall continue to be fulfilled in the ordinary course of the Diocese's operations from and after the date of any order of the Bankruptcy Court authorizing the assumption of such Compensation and Benefits Program.

**F. Workers' Compensation Programs**

As of the Effective Date, the Diocese shall continue to honor their obligations under: (a) all applicable workers' compensation laws; and (b) the Workers' Compensation Program. All Proofs of Claim on account of the Workers' Compensation Program shall be deemed withdrawn automatically and without any further notice to or action, order, or approval of the Bankruptcy Court; provided, however, that nothing in the Plan shall limit, diminish, or otherwise alter the Diocese's defenses, Causes of Action, or other rights under applicable non-bankruptcy law with respect to the Workers' Compensation Programs; provided, further, however, that nothing herein shall be deemed to impose any obligations on the Diocese or its insurers in addition to what is provided for under the terms of the Workers' Compensation Programs and applicable state law.

**G. Modifications, Amendments, Supplements, Restatements, or Other Agreements**

Unless otherwise provided in the Plan, each Assumed Agreement that is assumed shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Assumed Agreement and Assumed Agreements related thereto, if any, including easements licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless the Diocese rejects or repudiates any of the foregoing agreements. Modifications, amendments, and supplements to, or restatements of, prepetition Assumed Agreements that have been executed by the Diocese during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Assumed Agreement, or the validity, priority, or amount of any Claims that may arise in connection therewith.

**H. Reservation of Rights**

Nothing contained in the Plan shall constitute an admission by the Diocese that a contract or lease is in fact an Assumed Agreement or that the Diocese has any liability thereunder. If there is a dispute as of the Confirmation Date regarding whether a contract or lease is or was executory or unexpired at the time of assumption, the Diocese, or, after the Effective Date, the Diocese, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter the treatment of such contract or lease, including by rejecting such contract or lease *nunc pro tunc* to the Confirmation Date.

**XIII. CONFIRMATION AND CONSUMMATION OF THE PLAN.**

**A. Conditions Precedent to Confirmation**

Confirmation of the Plan shall not occur unless all of the following conditions precedent have been satisfied:

- i. the Confirmation Order is in form and substance acceptable to the Committee;
  - ii. the Confirmation Order shall approve and implement the Channeling Injunction and Supplemental Insurer Injunction set forth in Article XIII of the Plan;
  - iii. the Plan Documents shall be in form and substance acceptable to the Committee;
- and
- iv. all consent conditions set forth in Section 5.1 of the Plan, are satisfied.

**B. Conditions Precedent to the Effective Date**

The Effective Date shall not occur, and the Plan shall not be consummated, unless and until each of the following conditions have been satisfied:

- i. the Bankruptcy Court shall have entered the Confirmation Order in form and substance satisfactory to the Committee and Insurers, the Confirmation Order shall be a Final Order, and no stay of the Confirmation Order shall then be in effect;
- ii. any Insurance Settlement Agreement shall have been duly executed by all parties thereto and filed with the Bankruptcy Court, in each case in form and substance satisfactory to the Committee and Insurers.
- iii. the Trustee and the Diocese shall have executed the Trust Agreement;
- iv. all Approval Orders shall have become a Final Order;
- v. the payments from the Diocese, Parishes, Schools, Related Non-Debtor Entities, Insurers, and Self-Settled Trusts discussed in Article IV shall have been received by the Trust;
- vi. the Plan has not been materially amended, altered, or modified as confirmed by the Confirmation Order, unless such material amendment, alteration, or modification has been made with consent of the Committee; and
- vii. the Committee shall have filed a notice of occurrence of the Effective Date.

**C. Waiver of Conditions Precedent to the Effective Date**

Except for the condition precedent set forth in Section 12.2(a) of the Plan, each of the conditions precedent to the occurrence of the Effective Date set forth in Section 12.2 of the Plan may be waived in whole or in part by the Committee without notice to or leave or order of the Bankruptcy Court or any formal action other than proceedings to confirm or consummate the Plan. The failure to satisfy any condition precedent to the Confirmation Date or satisfy or waive any condition precedent to the Effective Date may be asserted by the Committee regardless of the circumstances giving rise to the failure of such condition to be satisfied.

**D. Effect of Non-Occurrence of Conditions**

If substantial consummation of the Plan does not occur, the Plan will be null and void in all respects and nothing contained in the Plan or the Disclosure Statement will: (a) constitute a waiver or release of any Claims by or against the Protected Parties or Insurers; (b) prejudice in any manner the rights of the Protected Parties, the Trust, or Insurers; (c) constitute an admission, acknowledgement, offer, or undertaking by the Protected Parties or Insurers in any respect, including but not limited to, in any proceeding or case against the Diocese; or (d) be admissible in any action, proceeding, or case against the Protected Parties or Insurers in any court or other forum.

**XIV. EFFECTS OF CONFIRMATION.**

**A. Binding Effect**

As of the Effective Date, all provisions of the Plan, including all agreements, instruments, and other documents filed in connection with the Plan by the Diocese, the Trust, the Protected Parties, or the Insurers, shall be binding upon the Diocese, the Estate, all holders of Claims or Interests, each such holder's

respective successors and assigns, and all other Persons that are affected in any manner by the Plan, regardless of whether the Claim or Interest of such holder is Impaired under the Plan and whether such holder has accepted the Plan. Except as otherwise expressly provided in the Plan, all agreements, instruments, and other documents filed in connection with the Plan shall be given full force and effect and shall bind all Persons referred to therein on and after the Effective Date, whether or not such agreements are actually issued, delivered, or recorded on or after the Effective Date and whether or not such Persons have actually executed such agreement.

## **B. Discharge**

### **1. Discharge of the Diocese**

As of the Effective Date and except as expressly provided in the Plan or the Confirmation Order, the Diocese shall be discharged and released, and each holder of a Claim or Interest and any successor, assign, and affiliate of such holder shall be deemed to have forever waived, discharged, and released the Diocese, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Interests, rights and liabilities, and all debts of the kind specified in section 502 of the Bankruptcy Code, based upon any act, omission, transaction, occurrence, or other activity of any nature that occurred prior to the Confirmation Date, in each case whether or not (a) a proof of Claim based upon such debt is filed or deemed filed under section 501 of the Bankruptcy Code, (b) a Claim based upon such debt is Allowed under section 502 of the Bankruptcy Code, (c) a Claim based upon such debt is or has been disallowed by order of the Bankruptcy Court, or (d) the holder of a Claim based upon such debt is deemed to have accepted the Plan.

### **2. Discharge Injunction**

As of the Effective Date, except as expressly provided in the Plan or the Confirmation Order, and subject to 12.2.1, all holders of Claims of any nature whatsoever against or in the Diocese or any of its assets or properties based upon any act, omission, transaction, occurrence, or other activity of any nature that occurred prior to the Confirmation Date shall be precluded and permanently enjoined from prosecuting or asserting any such discharged Claim against the Diocese or the property of the Diocese. In accordance with the foregoing, except as expressly provided in the Plan or the Confirmation Order, and subject to 12.2.1, the Confirmation Order shall be a judicial determination of discharge or termination of all Claims, Interests, and other debts and liabilities against or in the Diocese, pursuant to section 105, 524, 1141 of the Bankruptcy Code, and such discharge shall void any judgment obtained against the Diocese at the time to the extent such judgment relates to a discharged Claim.

## **C. Channeling Injunction Preventing Prosecution of Channeled Claims Against Protected Parties and Insurers**

**In consideration of the undertakings of the Protected Parties and the Insurers under the Plan, their contributions to the Trust, and other consideration, and pursuant to their respective settlements with the Diocese, and to further preserve and promote the agreements between and among the Protected Parties and Insurers, and to supplement where necessary the injunctive effect of the discharge as provided in sections 524 and 1141 of the Bankruptcy Code, and pursuant to section 105 of the Bankruptcy Code:**

**i. any and all Channeled Claims are channeled into the Trust and shall be treated, administered, determined, and resolved under the procedures and protocols and in the amounts as established under the Plan and the Trust Agreement as the sole and exclusive remedy for all holders of Channeled Claims; and**

ii. any and all Persons who have held or asserted, hold or assert, or may in the future hold or assert any Channeled Claims are hereby permanently stayed, enjoined, barred, and restrained from taking any action, directly or indirectly, for the purposes of asserting, enforcing, or attempting to assert or enforce any Channeled Claim against the Protected Parties or Insurers, including:

a. commencing or continuing in any manner any action or other proceeding of any kind with respect to any Channeled Claim against any of the Protected Parties or the Insurers or against the property of any of the Protected Parties or the Insurers;

b. enforcing, attaching, collecting or recovering, or seeking to accomplish any of the preceding, by any manner or means, from any of the Protected Parties or the Insurers, or the property of any of the Protected Parties or the Insurers, any judgment, award, decree, or order with respect to any Channeled Claim against any of the Protected Parties or the Insurers;

c. creating, perfecting, or enforcing, or seeking to accomplish any of the preceding, any lien of any kind relating to any Channeled Claim against any of the Protected Parties or the Insurers, or the property of the Protected Parties or the Insurers;

d. asserting, implementing, or effectuating, any Channeled Claim of any kind against: (A) any obligation due any of the Protected Parties or the Insurers; (B) any of the Protected Parties or the Insurers; or (c) the property of any of the Protected Parties or the Insurers;

e. taking any act, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan; or

f. asserting or accomplishing any setoff, right of indemnity, subrogation, contribution, or recoupment of any kind against an obligation due to any of the Protected Parties, the Insurers, or the property of the Protected Parties or Insurers.

The Channeling Injunction is an integral part of the Plan and is essential to the Plan's consummation and implementation. With respect to the Insurers, the Channeling Injunction will become effective with respect to each applicable Insurer as of the date that the Trust receives the Settlement Amount as defined in the Insurance Agreement for such Insurer. In a successful action to enforce the injunctive provisions of Section 13.3 of the Plan in response to a willful violation thereof, the moving party shall be entitled to recover all costs and expenses incurred, including reasonable attorneys' fees, from the non-moving party, and such other legal or equitable remedies as are just and proper, after notice and a hearing.

#### **D. Supplemental Insurer Injunction**

Pursuant to sections 105(a) and 363 of the Bankruptcy Code, and in consideration of the undertakings of the Insurers pursuant to any Insurance Settlement Agreement, including certain Insurers' purchase of the applicable Insurer Policies free and clear of all Claims and Interests pursuant to section 363(f) of the Bankruptcy Code, any and all Persons who have held, now hold, or who may in the future hold any Claims or Interests (including all debt holders, all equity holders, all Persons holding a Claim, governmental, tax and regulatory authorities, lenders, trade and other

creditors, Survivor Claimants, Insurers, perpetrators and all others holding Interests of any kind or nature whatsoever, including those Claims released or to be released pursuant to any Insurance Settlement Agreement) against any of the Insurers, which, directly or indirectly, arise from, relate to, or are in connection with any Survivor Claims that are covered or alleged to be covered under the Insurer Policies, are hereby permanently stayed, enjoined, barred, and restrained from taking any action, directly or indirectly, to assert, enforce or attempt to assert or enforce any such Claim or Interest against the Insurers or Insurer Policies to the extent such Claims or Interests arise from the same injury or damages asserted in connection with a Survivor Claim, including:

- i. commencing or continuing in any manner any action or other proceeding, whether legal, equitable or otherwise, against the Insurers or the property of the Insurers;
- ii. enforcing, attaching, collecting, or recovering, or seeking to do any of the preceding, by any manner or means, any judgment, award, decree or order against the Insurers or the property of the Insurers;
- iii. creating, perfecting, or enforcing, or seeking to do any of the preceding, any lien of any kind against the Insurers or the property of the Insurers;
- iv. asserting or accomplishing any setoff, right of indemnity, subrogation, contribution, or recoupment of any kind against any obligation due to the Insurers or the property of the Insurers; and
- v. taking any act, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan.

For the avoidance of doubt, the Supplemental Insurer Injunction bars the above referenced actions against the Insurers and the Insurer Policies but against no other person or thing. The Supplemental Insurer Injunction will be effective with respect to an Insurer only as of the date that the Trust receives the Settlement Amount as defined in the Plan or in any Insurance Settlement Agreement for such Insurer. The foregoing injunctive provisions are an integral part of the Plan and are essential to its implementation.

#### **E. Injunction Against Interference with Plan**

Upon entry of the Confirmation Order, all holders of Claims and Interests shall be precluded and enjoined from taking any actions to interfere with the implementation and consummation of the Plan.

#### **F. Protected Parties' Waiver and Consent**

In consideration of the releases and Channeling Injunction, and other covenants set forth herein, subject to the occurrence of the Effective Date, and the satisfaction of each of the conditions precedent to the effectiveness of any Insurance Settlement Agreement and the receipt by the Trust of the settlement payments required by any Insurance Settlement Agreement, each of the Protected Parties:

- i. irrevocably and unconditionally, without limitation, releases, acquits, forever discharges, and waives any Claims and/or Interests they have or might have now or in the future against the other Protected Parties and Diocese with respect to any contribution, subrogation, indemnification, or other similar Claim arising from or relating to released Survivor Claims covered or alleged to be covered under the Insurer Policies, and any Insurer Policies; and



ii. consents to the sale of Protected Parties' Claims and/or Interests, if any, in the Insurer Policies in accordance with any Insurance Settlement Agreement and to the contribution of the proceeds from such sale and settlement to the Trust, as provided in the Plan.

Nothing herein shall be construed to bar either (i) a Claim based on Abuse against a Person who is not a Protected Party or an Insurer; or (ii) a Claim by such Person for insurance coverage in connection with a Claim described in the foregoing section (1) under an insurance policy other than the Insurer Policies.

#### **G. Diocese Waiver and Release of Claims**

In consideration of any payments to be made by the Insurers and other consideration provided by each Insurer, upon payment by the Insurers of their respective settlement amounts under any Insurance Settlement Agreement, the Diocese irrevocably and unconditionally, without limitation, releases, acquits, forever discharges, and waives any Claims and/or Interests the Diocese has or might have now or in the future: (a) under the Insurer Policies, to the extent those Insurer Policies are bought back under any Insurance Settlement Agreement and the Plan; (b) against the Insurers with respect to any Survivor Claim; and (c) against the other Protected Parties with respect to any Channeled Claim.

#### **H. Exculpation and Limitation of Liability**

**From and after the Effective Date, none of the Exculpated Parties shall have or incur any liability for, and each Exculpated Party shall be released from, any Claim, Cause of Action, or liability to any other Exculpated Party, to any holder of a Claim, or to any other party in interest, for any act or omission that occurred during and in connection with the Chapter 11 Case or in connection with the preparation and filing of the Chapter 11 Case, the formulation, negotiation, or pursuit of confirmation of the Plan, the consummation of the Plan, the administration of the Plan or the property to be distributed under the Plan, the formulation and negotiation of any Insurance Settlement Agreement, or the seeking or obtaining of an Approval Order related to any Insurance Settlement Agreement, except for Claims, Causes of Action, or liabilities arising from the gross negligence, willful misconduct, fraud, or breach of the fiduciary duty of loyalty of any Exculpated Party, in each case subject to determination of such by Final Order of a court of competent jurisdiction and provided that any Exculpated Party shall be entitled to reasonably rely upon the advice of counsel with respect to its duties and responsibilities (if any) under the Plan. Without limiting the generality of the foregoing, the Committee and the Diocese and their respective officers, board and committee members, employees, attorneys, financial advisors, and other Professionals shall be entitled to and granted the benefits of section 1125(e) of the Bankruptcy Code and the Channeling Injunction.**

#### **I. Limitation of Liability**

The Protected Parties, the Trust, the Trustee, and professionals employed by the foregoing shall not have any liability to any entity, including any governmental entity or any of the Diocese's insurers, on account of payments made to a Survivor Claimant, including any liability under the MSPA.

#### **J. Injunctions in Full Force and Effect**

All injunctions and/or stays provided for in the Plan, the injunctive provisions of sections 524 and 1141 of the Bankruptcy Code, and all injunctions or stays protecting any Insurer that has purchased its policies of insurance or certificates of insurance, free and clear of all liens, Claims, and Interests pursuant to sections 105, 363, and 1123 of the Bankruptcy Code, are permanent and will remain in full force and effect following the Effective Date of the Plan and are not subject to being vacated or modified. The

injunctions and releases contained in the Plan shall control, notwithstanding any other provision in the Plan or any Insurance Settlement Agreement.

**K. Injunctions and Releases Integral**

The foregoing injunctive provisions and releases are an integral part of the Plan and are essential to its implementation. Any and all currently pending court proceedings, the continuation of which would violate Article XIII of the Plan or the releases provided for under the Plan or any Insurance Settlement Agreement shall be dismissed with prejudice, within twenty-one (21) days of the Effective Date of the Plan.

**L. Title to and Vesting of Assets**

All property of the Diocese and the Estate is dealt with by the Plan. Therefore, on the Effective Date, to the fullest extent allowed by sections 1141(b) and 1141(c) of the Bankruptcy Code, all property of the Diocese and the Estate, including Retained Claims, shall vest in the Diocese and such property shall be free and clear of all Interests and Claims of creditors and equity security holders, except to the extent the Plan explicitly provides that such Interests or Claims are retained. From and after the Effective Date, the Diocese may operate, use, acquire, and dispose of property in accordance with the Plan, free and clear of any restrictions of the Bankruptcy Code and the Bankruptcy Rules, and in all respects as if there were no pending case under any chapter or provision of the Bankruptcy Code, except as provided in the Plan. The Diocese may pursue any Retained Claims at the discretion of the Diocese and will retain the proceeds thereof, if any.

**M. No Bar on Certain Claims**

Notwithstanding the foregoing injunctions and Plan provisions, nothing in the Plan shall be construed to bar either (a) a Claim based on Abuse against a Person who is not a Protected Party or an Insurer or (b) a Claim by such Person for insurance coverage in connection with a Claim described in the foregoing clause (a) under an insurance policy other than the Insurer Policies.

**N. Defense and Indemnity for Covered Non-Survivor Claims**

After the Effective Date, the Diocese will defend and indemnify any Protected Party with respect to any Covered Non-Survivor Claims, and, if so required by any Insurance Settlement Agreement, will defend and indemnify the Insurers with respect to any Covered Non-Survivor Claims. As to any Claim against the Trust that qualifies as a Covered Non-Survivor Claim, the Diocese will also undertake on behalf of the Trust the enforcement of the injunctions set forth in the Plan, will defend the Covered Non-Survivor Claim, and, if judgment is entered on such Claim, will indemnify the Trust for any liability for such Claim. The Diocese may not seek insurance coverage for the Claims defended or indemnified under Section 13.14 of the Plan from the Insurers under any Insurer Policy. Nothing in this provision or any other Plan provision is intended to suggest that any Person is entitled to obtain a judgment on a Covered Non-Survivor Claim or other Channeled Claim, that such judgment would be covered under any Insurer Policy, or that any Person is entitled to seek coverage for such judgment against any Protected Party or Insurer in violation of the Discharge, Channeling Injunction, or Supplemental Insurer Injunction. For the avoidance of doubt, nothing contained in the Plan is intended to provide, expand, modify or add coverage for the Diocese or any other Protected Party under any Insurer Policy to cover the Diocese's indemnification of any Covered Non-Survivor Claims.

**O. Cancellation of Instruments**

On the Effective Date, all instruments evidencing or creating any indebtedness or obligation of the Diocese, except such instruments that are authorized or issued under the Plan, shall be cancelled and extinguished. The holders of, or parties to, the cancelled notes and other agreements and instruments shall have no rights arising from or relating to such notes, share certificates, and other agreements and instruments or the cancellation thereof, except any rights provided pursuant to the Plan.

**P. Dissolution of the Committee**

On the Effective Date, the Committee shall be dissolved, and the members thereof and the professionals retained thereby shall be released and discharged from their respective fiduciary obligations.

**XV. RETENTION OF JURISDICTION.**

**A. By the Bankruptcy Court**

Pursuant to sections 105, 1123(a)(5), and 1142(b) of the Bankruptcy Code, and 28 U.S.C. §§ 157 and 1334, on and after the Effective Date, the Bankruptcy Court shall retain: (a) original and exclusive jurisdiction over the Chapter 11 Case; (b) original, but not exclusive, jurisdiction to hear and determine all core proceedings arising under the Bankruptcy Code or arising in the Chapter 11 Case; and (c) original, but not exclusive, jurisdiction to hear and make proposed findings of fact and conclusions of law in any non-core proceedings related to the Chapter 11 Case and the Plan, including matters concerning the interpretation, implementation, consummation, execution, or administration of the Plan. Subject to, but without limiting the generality of the foregoing, the Bankruptcy Court's post-Effective Date jurisdiction shall include jurisdiction:

1. over disputes concerning the ownership of Claims;
2. over disputes concerning the distribution or retention of assets under the Plan;
3. over objections to Claims, motions to allow late-filed Claims, and motions to estimate Claims;
4. over proceedings to determine the extent, validity, or priority of any Lien asserted against property of the Diocese, the Estate, or Trust, or property abandoned or transferred by the Diocese, the Estate, or the Trust;
5. over motions to approve Insurance Settlement Agreement entered into after the Effective Date by the Trustee;
6. over matters related to the assets of the Estate or of the Trust, including the terms of the Trust, or the recovery, liquidation, or abandonment of Trust Assets;
7. the removal of the Trustee and the appointment of a successor Trustee;
8. over matters relating to the subordination of Claims;
9. to enter and implement such orders as may be necessary or appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated;

10. to consider and approve modifications of or amendments to the Plan, to cure any defects or omissions or to reconcile any inconsistencies in any order of the Bankruptcy Court, including the Confirmation Order;

11. to issue orders in aid of execution, implementation, or consummation of the Plan, including the issuance of orders enforcing any and all releases and injunctions issued under or pursuant to the Plan and any Insurance Settlement Agreement;

12. over disputes arising from or relating to the Plan, the Confirmation Order, or any agreements, documents, or instruments executed in connection therewith;

13. over requests for allowance of payment of Claims entitled to priority under sections 507(a)(2) and 503(b) of the Bankruptcy Code and any objections thereto;

14. over all applications for compensation under sections 327, 328, 329, and 330 of the Bankruptcy Code;

15. over matters concerning state, local, or federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

16. over conflicts and disputes among the Trust, the Diocese, and holders of Claims;

17. over disputes concerning the existence, nature, or scope of the Discharge, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee or retiree benefit program, regardless of whether such termination occurred prior to or after the Effective Date;

18. to issue injunctions, provide declaratory relief, or grant such other legal or equitable relief as may be necessary or appropriate to restrain interference with the Plan, the Diocese or its property, the Estate or its property, the Trust or its property, Trustee, the Professionals, or the Confirmation Order;

19. to enter a Final Decree closing the Chapter 11 Case;

20. to enforce all orders previously entered by the Bankruptcy Court; and

21. over any and all other suits, adversary proceedings, motions, applications, and contested matters that may be commenced or maintained pursuant to the Chapter 11 Case or the Plan.

#### **B. By the District Court**

Pursuant to sections 105, 1123(a)(5), and 1142(b) of the Bankruptcy Code, and 28 U.S.C. § 1334, on and after the Effective Date, the District Court shall retain original, but not exclusive, jurisdiction to hear and determine all matters arising under the Bankruptcy Code or arising in or related to the Chapter 11 Case.

#### **C. Actions to Collect Amounts Owed Pursuant to the Plan**

The Trust may, but is not required to, commence an adversary proceeding to collect amounts owed pursuant to the Plan for any settlements embodied in the Plan or later approved by the Bankruptcy Court,

which are not paid in accordance with the Plan. Any such action may be commenced by filing a motion in aid of confirmation with the Bankruptcy Court.

#### **D. Case Closure**

The existence and continued operation of the Trust shall not prevent the Bankruptcy Court from closing the Chapter 11 Case. The Trustee will not take any actions to unreasonably keep the case open. In an action involving the Trust, any costs incurred in reopening the Chapter 11 Case, including, without limitation, any Statutory Fees and Court Costs, will be paid by the Trustee from the Trust Assets.

### **XVI. TAX CONSEQUENCES OF THE PLAN.**

**THE INCOME TAX LAWS APPLICABLE TO RECEIVING A DISTRIBUTION OR DEDUCTING A LOSS FROM A BANKRUPTCY ESTATE ARE COMPLEX. THE SUMMARY DESCRIPTION OF TAX CONSEQUENCES BELOW IS FOR GENERAL INFORMATIONAL PURPOSES ONLY AND IS SUBJECT TO SIGNIFICANT UNCERTAINTIES.**

**THE COMMITTEE HAS NOT REQUESTED A RULING FROM THE INTERNAL REVENUE SERVICE NOR HAS OBTAINED AN OPINION OF COUNSEL WITH RESPECT TO THESE MATTERS. THUS, NO ASSURANCE CAN BE GIVEN AS TO THE TAX CONSEQUENCES OF THE PLAN.**

**THE DISCUSSION CONTAINED IN THIS DISCLOSURE STATEMENT AS TO FEDERAL TAX CONSIDERATIONS IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, FOR THE PURPOSE OF AVOIDING PENALTIES.**

**NO REPRESENTATIONS ARE MADE REGARDING THE PARTICULAR TAX CONSEQUENCES OF THE PLAN TO ANY HOLDER OF A CLAIM OR ANY OTHER ENTITY OR PERSON. EACH HOLDER OF A CLAIM SHOULD CONSULT HIS, HER, OR ITS TAX PROFESSIONAL TO UNDERSTAND FULLY THE FEDERAL, STATE, LOCAL, AND FOREIGN TAX CONSEQUENCES OF THE PLAN.**

The following discussion summarizes certain federal income tax consequences of the Plan to the Diocese and holders of general unsecured claims and interests. The summary is based upon relevant provisions of the Internal Revenue Code of 1986, as amended (the "Tax Code"), the applicable Treasury Regulations promulgated thereunder (the "Treasury Regulations"), judicial authority, published rulings, and such other authorities considered relevant now in effect, all of which are subject to change. This summary does not address the federal income tax consequences to holders of allowed administrative expense claims, priority claims, or secured claims, if any. This summary does not address foreign, state, or local income tax consequences, or any estate or gift tax consequences of the Plan, or the federal income tax consequences of the Plan to special classes of taxpayers. Accordingly, this summary should not be relied upon for purposes of determining the specific tax consequences of the Plan with respect to a particular holder of a claim or interest.

#### **A. Federal Income Tax Consequences to Holders of Unsecured Claims.**

In accordance with the Plan, all classes of holders of General Unsecured Claims, holders of Survivor Claims, and holders of Unknown Survivor Claims, will receive a distribution on the Claims. Any holder of a General Unsecured Claim, Survivor Claim, or Unknown Survivor Claim will realize a loss in an amount equal to the Claim, minus any recovery, on an adjusted tax basis.

The tax consequences to holders of General Unsecured Claims, Survivor Claims, and Unknown Survivor Claims will differ and will depend on factors specific to the holder, including but not limited to: (i) whether the Claim, or a portion of the Claim, constitutes a claim for interest or principal, (ii) the origin of the Claim, (iii) the type of consideration received in exchange for the Claim, (iv) whether the holder is a United States person or a foreign person for tax purposes, (v) whether the holder reports income on the accrual or cash basis method, and (vi) whether the holder has taken a bad debt deduction or otherwise recognized a loss with respect to the Claim.

The Committee anticipates that distributions to Survivor Claimants will, in all instances, constitute damages, other than punitive damages, on account of personal physical injuries and physical sickness, within the meaning of Section 104(a)(2) of the Internal Revenue Code of 1986, as amended. The Committee has not, however, fully analyzed such tax issues and cannot (and do not hereby) make any assurances or representations regarding the anticipate tax treatment of Survivor Claims.

**THERE ARE MANY FACTORS THAT WILL DETERMINE THE TAX CONSEQUENCE TO EACH HOLDER OF A GENERAL UNSECURED CLAIM, SURVIVOR CLAIM, OR UNKNOWN SURVIVOR CLAIM. FURTHERMORE, THE TAX CONSEQUENCES OF THE PLAN ARE COMPLEX, AND IN SOME CASES, UNCERTAIN. THEREFORE, IT IS IMPORTANT THAT EACH HOLDER OF A GENERAL UNSECURED CLAIM OBTAIN HIS, HER, OR ITS OWN PROFESSIONAL TAX ADVICE REGARDING THE TAX CONSEQUENCES TO THE HOLDER OF A GENERAL UNSECURED CLAIM AS A RESULT OF THE PLAN.**

**B. Federal Income Tax Consequences to the Diocese.**

The Diocese is a non-profit, non-stock member corporation having tax-exempt status under 26 U.S.C. § 501(c)(3). Due to the Diocese's status as a non-profit corporation, the Committee anticipates that the confirmation of the Plan will have no material federal income tax consequences on a cash basis for the Diocese.

**C. Tax Consequences to the Trust.**

The Plan Trust may satisfy the requirements of a designated settlement fund under Section 468B of the Tax Code or a qualified settlement fund under Regulation 1.468B-1 of the Treasury Regulations. There are certain tax consequences associated with the characterization of the Plan Trust as a designated settlement fund or a qualified settlement fund.

**THE COMMITTEE EXPRESS NO OPINION REGARDING WHETHER THE PLAN TRUST IS A DESIGNATED SETTLEMENT FUND OR A QUALIFIED SETTLEMENT FUND. THE COMMITTEE HAS NOT REQUESTED A RULING FROM THE INTERNAL REVENUE SERVICE OR AN OPINION OF COUNSEL REGARDING WHETHER THE PLAN TRUST IS A DESIGNATED SETTLEMENT FUND OR A QUALIFIED SETTLEMENT FUND. ACCORDINGLY, EACH CREDITOR IS URGED TO CONSULT ITS OWN TAX ADVISOR REGARDING THE CHARACTERIZATION OF THE PLAN TRUST AND THE TAX CONSEQUENCES OF SUCH CHARACTERIZATION.**

**XVII. ALTERNATIVES TO THE PLAN.**

The Committee believes the Plan is in the best interests of its Creditors and should accordingly be accepted and confirmed. If the Plan as proposed, however, is not confirmed, the following two alternatives may be available: (A) an alternative plan of reorganization may be proposed and confirmed or (B) the

Diocese's Chapter 11 Case may be dismissed. As discussed below, a third option, liquidation under Chapter 7, is not a viable alternative in this Chapter 11 Case.

**A. Alternative Plan Pursuant To Chapter 11 of the Bankruptcy Code.**

If the Plan is not confirmed, the Committee or the Diocese, jointly or separately, may propose a different plan, which might involve an alternative means for reorganization of the Diocese. However, the Committee believes that the terms of the Plan provide for the best result for the Diocese's Creditors. The negotiation and drafting required for a different plan would likely add substantially greater administrative expenses with no guarantee of a better result for the Diocese's Creditors. For these reasons, the Committee does not believe that alternative plans of reorganization are preferable alternatives to the Plan.

**B. Dismissal of the Diocese's Chapter 11 Case.**

If the Plan is not confirmed, the Committee, the Diocese, or another party in interest may seek to dismiss the Chapter 11 Case. After appropriate notice and a hearing, the Bankruptcy Court may grant the request and dismiss the Chapter 11 Case. Dismissal of the Diocese's Chapter 11 Case would have the effect of restoring, or attempting to restore, all parties to the position they were in immediately prior to the Filing Date.

Upon the dismissal of the Diocese's Chapter 11 Case, the protection of the Bankruptcy Code would be lost, which could result in litigation between the Diocese and individual Survivors and the Diocese and its insurers. In addition to the expense and delay, the Committee believes that these actions could lead to an unfair distribution to Creditors, with the first Creditors to obtain and enforce a judgment against the Diocese depleting the Diocese's assets and resulting in insufficient assets to satisfy any further judgments. Therefore, the Committee believes that dismissal of the Diocese's Chapter 11 Case is not a preferable alternative to the Plan.

**C. Chapter 7 Liquidation Not A Viable Alternative.**

Pursuant to 11 U.S.C. § 1112(c), if a debtor is "not a moneyed corporation," the debtor's Chapter 11 case cannot be converted to a Chapter 7 case without the debtor's consent. The Diocese, as a non-profit entity, may not be forced to convert its Chapter 11 Case to a Chapter 7 case. Thus, conversion to a Chapter 7 case is not a viable alternative to the Plan.

**XVIII. ACCEPTANCE AND CONFIRMATION OF THE PLAN.**

**A. General Confirmation Requirements.**

Section 1129(a) of the Bankruptcy Code requires the Bankruptcy Court, after appropriate notice, to hold a hearing on confirmation of a plan (the "Confirmation Hearing"). In order for a plan to be confirmed at the Confirmation Hearing, the Bankruptcy Code requires that the Bankruptcy Court determine that the Plan complies with the technical requirements of Chapter 11 of the Bankruptcy Code and that the disclosures concerning the Plan have been adequate and have included information concerning all payments made or promised in connection with the Plan and this Chapter 11 Case.

Section 1129(a) of the Bankruptcy Code contains the requirements for confirmation of a plan. Among these requirements are that (1) a plan must be accepted by the requisite votes of creditors except to the extent that the plan may be confirmed over a dissenting class pursuant to 11 U.S.C. § 1129(b); (2) a plan must be feasible, meaning that there is a reasonable probability that the debtor will be able to perform its obligations under the plan without further need of financial reorganization; (3) a plan must in the "*best*

*interests*” of all creditors, meaning that creditors will receive at least as much under the plan as they would receive in a hypothetical liquidation case under Chapter 7 of the Bankruptcy Code; and (4) a plan must comply with the applicable provisions of Chapter 11 of the Bankruptcy Code.

The Committee believes that the Plan complies with all of these requirements, including the specific requirements further discussed below.

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

The “best interests of creditors” test requires that the Bankruptcy Court find either (1) that all members of each impaired class has accepted the Diocese’s Plan or (2) that each holder of an Allowed Claim of each impaired class of Claims will receive or retain under the Plan, on account of the Claim, property of a value that is not less than the amount that the holder would receive or retain if the Diocese was hypothetically liquidated under Chapter 7 of the Bankruptcy Code, as of the Effective Date.

To calculate what holders of Claims would receive if the Diocese was hypothetically liquidated under Chapter 7 of the Bankruptcy Code, the Bankruptcy Court must first determine the dollar amount that would be realized from the hypothetical liquidation (the “Chapter 7 Liquidation Fund”). The Chapter 7 Liquidation Fund would consist of the net proceeds in the Diocese’s hypothetical Chapter 7 case from the disposition of the Diocese’s assets augmented by the cash held by the Diocese and recoveries on actions against third parties, if any.

The Chapter 7 Liquidation Fund would then be reduced by the costs of liquidation, including without limitation (1) the fees and expenses of a trustee, counsel for the trustee, and any other professionals for the trustee, (2) selling expenses, (3) unpaid expenses incurred by the Diocese in the Chapter 11 Case, such as fees for attorneys, financial advisors, and accountants, that would be allowed in a Chapter 7 proceeding, (4) interest expense on oversecured debt, if any, (5) and claims incurred by the Diocese during the pendency of the Chapter 11 Case. These costs of liquidation would be paid from the Chapter 7 Liquidation Fund before the balance of the Chapter 7 Liquidation Fund would be made available to the Survivors and holders of General Unsecured Claims. In addition, the conversion to Chapter 7 would establish a new bar date for the filing of claims in the Chapter 7 case and additional filed claims or claims that would otherwise arise upon conversion to a Chapter 7 case would dilute the balance of the Chapter 7 Liquidation Fund available to Creditors. The present value of the distributions out of the Chapter 7 Liquidation after deduction of the amounts described above is then compared to the present value of the property offered to each of the classes of Claims under the Plan to determine if the Plan is in the best interests of each holder of a Claim.

The Committee believes that the Plan as proposed is in the best interest of all Creditors. While the Diocese may not be forced to convert to a Chapter 7 case, the Committee believes that Survivors and holders of General Unsecured Claims will receive a distribution under the Plan greater than a distribution they would receive in a hypothetical Chapter 7 liquidation. In a Chapter 7 liquidation, the Insurers would no longer be bound by any Insurance Settlement Agreement, resulting in more than \$18 million no longer available for distribution. Similarly, a Chapter 7 liquidation would not benefit from the \$500,000 in contributions from the Parishes, Schools, and Related Non-Debtor Entities. Moreover, the Chapter 7 trustee would be entitled to compensation of a percentage of all funds distributed to parties in interest pursuant to 11 U.S.C. § 326, with the compensation necessarily diluting the amount of funds available to pay Creditors. Attached as **Exhibit B** to this Disclosure Statement is an analysis of expected recoveries to creditors under the Plan and under a hypothetical Chapter 7 liquidation of the Diocese.

While the liquidation analysis includes the liquidation of the Diocese’s real and personal property, it is not clear if any of the Diocese’s property would be capable of liquidation under Chapter 7 pursuant to



the protections of the Religious Freedom Restoration Act, the First Amendment, and the Pennsylvania Constitution.

Moreover, under the Plan, holders of Administrative Claims will be paid in full and the Committee believes holders of Administrative Claims will receive faster distribution under the Plan. In sum, for all of the reasons set forth above, the Committee anticipates that all Creditors will receive a larger and faster distribution under the Plan than under a Chapter 7 liquidation.

### **C. Financial Feasibility Test.**

In addition to the requirements discussed above, the Bankruptcy Code requires that consummation of a plan will not likely be followed by the liquidation of, or the need for further financial reorganization of, the debtor. In this case, the Diocese has prepared projections of the cash flow for the ministries and operations of the Diocese. The cash flow projections are attached as **Exhibit C** to this Disclosure Statement. The cash flow projections demonstrate that the Diocese will be able to fund the Plan on the Effective Date and that the Diocese will be able to make all payments required pursuant to the Plan. Accordingly, the Committee believes that the Plan passes the financial feasibility test.

### **D. Cramdown Alternative.**

In the event that a certain class or classes of Claims reject the Plan, the Committee may seek confirmation of the Plan pursuant to the “cramdown” provisions of the Bankruptcy Code. Specifically, Section 1129(b) of the Bankruptcy Code provides that a plan can be confirmed even if the plan is not accepted by all impaired classes, as long as at least one impaired class of claims has accepted it. A bankruptcy court may confirm a plan at the request of a plan proponent if the plan “does not discriminate unfairly” and “is fair and equitable” as to each impaired class that has not accepted the plan. A plan does not discriminate unfairly within the meaning of the Bankruptcy Code if a dissenting class is treated equally with respect to other classes of equal rank. The Committee believes that the Plan does not discriminate unfairly with respect to any classes of Claims.

In addition, a plan is fair and equitable as to a class of claims which rejects a plan if the plan provides (i) for each holder of a claim included in the rejecting class to receive or retain on account of that claim property that has a value, as of the effective date of the plan, equal to the allowed amount of the claim; or (ii) that the holder of any claim or interest that is junior to the claims of the class will not receive or retain on account of the junior claim or interest any property at all.

The Committee believes that the Plan meets the “fair and equitable” requirements of Section 1129(b) of the Bankruptcy Code with respect to holders of Claims in all classes. Specifically with respect to holders of Survivor Claims, Unknown Survivor Claims, and General Unsecured Claims, the Plan does not provide for the retention of any interests by equity holders because the Diocese, as a non-profit entity, does not have any equity holders. Furthermore, the Plan provides the mechanism for capturing value from both real property owned by the Diocese and from coverage claims against the Insurers, which will likely increase the distributions to holders of Survivor Claims and Unknown Survivor Claims. The Committee understands, however, that the Plan may not be confirmable with respect to these classes if any class does not vote in favor of the Plan.

## **XIX. RISK FACTORS TO BE CONSIDERED.**

**HOLDERS OF CLAIMS AGAINST THE DIOCESE SHOULD READ AND CONSIDER CAREFULLY THE INFORMATION SET FORTH BELOW, AS WELL AS THE OTHER INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT, PRIOR TO VOTING TO**

**ACCEPT OR REJECT THE PLAN. THIS INFORMATION, HOWEVER, SHOULD NOT BE REGARDED AS THE ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN AND/OR ITS IMPLEMENTATION.**

**A. Failure to Satisfy Vote Requirement.**

If the Committee obtains the requisite votes to accept the Plan in accordance with the requirements of the Bankruptcy Code, the Committee intends, as promptly as practicable thereafter, to seek confirmation of the Plan. In the event that sufficient votes are not received, the Committee may be forced to pursue an alternative plan of reorganization or to dismiss the Chapter 11 Case.

**B. Non-Confirmation or Delay of Confirmation of the Plan.**

In the event a party objects to the Plan, it is possible that the Bankruptcy Court may not approve confirmation of the Plan and that this case may be dismissed.

**C. Non-Consensual Confirmation.**

In the event any impaired class of Claims does not accept the Plan, the Bankruptcy Court may nevertheless confirm the Plan at the Committee's request if the cramdown requirements are met. The Committee believes that the Plan satisfies these requirements.

**D. Risk of Non-Occurrence of the Effective Date.**

Although the Committee believes that the Effective Date will occur reasonably soon after the Confirmation Date, there can be no assurance as to the timing or as to whether the Effective Date will in fact occur.

**E. Classification and Treatment of Claims.**

Section 1122 of the Bankruptcy Code requires that the Plan classify Claims against the Diocese. The Bankruptcy Code also provides that the Plan may place a Claim in a particular class only if the Claim is substantially similar to the other Claims in the class. The Committee believes all Claims have been appropriately classified in the Plan. To the extent that the Bankruptcy Court finds that a different classification is required for the Plan to be confirmed and the reclassification adversely affects the treatment of the Claim of any Creditor, the Committee would be required to re-solicit votes for or against the Plan.

The Bankruptcy Code also requires that the Plan provide the same treatment for each Claim of a particular class unless the holder of a particular Claim agrees to a less favorable treatment of its Claim. The Committee believes that it has complied with the requirement of equal treatment. To the extent that the Court finds that the Plan does satisfy the equal treatment requirement, the Court could deny confirmation of the Plan.

Issues or disputes relating to classification or treatment could result in a delay of the confirmation or consummation of the Plan and could increase the risk that the Plan will not be consummated.

**F. Review of Class 4 And Class 5 Claims.**

The potential recovery to Class 4 Claims and Class 5 Claims depends on, among other things, the outcome of the Survivor Claim Reviewer's review of the Class 4 and Class 5 Claims both in order to determine if the Claim will be allowed and in order to allocate the appropriate point allocation for each

Claim for purposes of distribution. Therefore, the distribution to holders of Class 4 and Class 5 Claims will increase or decrease depending on the allowance of Claims and the point allocation give to each Claim.

## **XX. INCORPORATION OF CHILD PROTECTION PROTOCOLS.**

### **A. Child Protection Protocols**

The Child Protection Protocols are incorporated into the Plan.

## **XXI. MISCELLANEOUS PROVISIONS.**

### **A. Modification of the Plan**

The Committee may modify the Plan at any time prior to the confirmation hearing, in accordance with section 1127(a) of the Bankruptcy Code. After the Confirmation Date and prior to substantial consummation, the Committee may modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code, by filing a motion on notice as required under the applicable Bankruptcy Rules, and the solicitation of all creditors and other parties in interest shall not be required unless directed by the Bankruptcy Court. Notwithstanding the foregoing, those provisions of the Plan that implement and supplement any Insurance Settlement Agreement may not be severed, waived, amended, deleted, or otherwise modified without the prior written approval of all of the Insurers affected by such severance, waiver, amendment, deletion, or modification.

### **B. United States Trustee Reports**

From the Effective Date until the Chapter 11 Case is closed, the Diocese shall, within thirty (30) days of the end of each fiscal quarter, file with the Bankruptcy Court and submit to the United States Trustee, quarterly reports setting forth all receipts and disbursements as required by the United States Trustee guidelines. The Diocese will not be required to file monthly operating reports or provide copies of bank account statements.

### **C. Severability of Plan Provisions**

Except as specifically provided herein, the terms of the Plan constitute interrelated compromises and are not severable, and no provision of the Plan may be stricken, altered, or invalidated, except by amendment of the Plan by the Committee.

### **D. Regulated Rates**

The Plan affects no rates subject to approval by any governmental regulatory commission.

### **E. Successors and Assigns**

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

### **F. Governing Law**

The rights, duties, and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the Bankruptcy Code and, to the extent not inconsistent therewith, the laws of the Commonwealth of Pennsylvania, without giving effect to principles of conflict of laws.

**G. Construction**

The section headings contained in the Plan are for reference purposes and shall not affect in any way the meaning or interpretation of the Plan. To the extent of any inconsistencies between the information contained in the Disclosure Statement and the terms and provisions of the Plan, the terms and provisions of the Plan shall govern.

**H. Revocation**

The Committee reserves the right to revoke and withdraw the Plan, prior to entry of the Confirmation Order.

**I. Controlling Documents**

In the event and to the extent that any provision of the Plan or Trust Agreement is inconsistent with any provision of the Disclosure Statement, the provisions of the Plan or Trust Agreement, as applicable, shall control and take precedence. In the event and to the extent that any provision of the Trust Agreement (other than provisions relating to the Trustee’s authority to act) is inconsistent with any provision of the Plan, the Plan shall control and take precedence. In the event and to the extent that any provision of the Confirmation Order is inconsistent with any provision of the Plan or the Trust Agreement, the provisions of the Confirmation Order shall control and take precedence.

**J. Notices**

Any notices or requests by parties in interest under or in connection with the 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:

If to the Diocese  
Roman Catholic Diocese of Harrisburg  
Attn: XXX  
4800 Union Deposit Road  
Harrisburg, Pennsylvania 17111  
XXX@hbgdiocese.org

with a copy to:  
Waller Lansden Dortch & Davis, LLP  
Attn: Blake D. Roth & Tyler N. Layne  
511 Union Street, Suite 2700  
Nashville, Tennessee 37219  
blake.roth@wallerlaw.com  
tyler.layne@wallerlaw.com

and

Kleinbard LLC  
Attn: Matthew H. Haverstick & Joshua J. Voss  
Three Logan Square  
1717 Arch Street, 5th Floor  
Philadelphia, Pennsylvania 19103  
mhaverstick@kleinbard.com

jvoss@kleinbard.com

If to the Trust or Trustee:

DW Harrow & Assoc., LLC  
1880 State Highway 309  
Kerens, TX 75144

If to the Committee:

Robert T. Kugler (State Bar No. 194116)  
Edwin H. Caldie (State Bar No. 388930)  
50 South Sixth Street, Suite 2600  
Minneapolis, MN 55402  
Telephone: (612) 335-1500  
Facsimile: (612) 335-1657  
Email: robert.kugler@stinson.com  
ed.caldie@stinson.com

**K. Filing of Additional Documents**

At any time before substantial consummation, the Trust may file with the Bankruptcy Court or execute, as appropriate, such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan, or otherwise to comply with applicable law.

**L. Direction to a Party**

On and after the Effective Date, the Trust, as applicable, may apply to the Bankruptcy Court for entry of an order directing any Person to execute or deliver or to join in the execution or delivery of any instrument or document reasonably necessary or reasonably appropriate to effect a transfer of properties dealt with by the Plan, and to perform any other act (including satisfaction of any lien or security interest) that is reasonably necessary or reasonably appropriate for the consummation of the Plan.

**M. Certain Actions**

By reason of entry of the Confirmation Order, prior to, on, or after the Effective Date (as appropriate), all matters provided for under the Plan that would otherwise require approval of the officers of the Diocese under the Plan, including (a) the adoption, execution, delivery, and implementation of all contracts, leases, instruments, releases, and other agreements or documents related to the Plan and (b) the adoption, execution, and implementation of other matters provided for under the Plan involving the Diocese or organizational structure of the Diocese, shall be deemed to have occurred and shall be in effect prior to, on, or after the Effective Date (as appropriate), pursuant applicable non-bankruptcy law, without any requirement of further action by the officers of the Diocese.

**N. Plan as Settlement Communication**

The Plan furnishes or offers or promises to furnish (or accepts or offers or promises to accept) valuable consideration in compromising or attempting to compromise Claims and Causes of Action that are disputed as to validity or amount (including Survivor Claims and the Insurance Coverage Adversary Proceeding), except as otherwise provided above. Accordingly, the Plan, the Disclosure Statement, and any communications regarding the Plan or the Disclosure Statement are subject in all respects to Rule 408 of the Federal Rules of Evidence and any comparable provision(s) of applicable state law precluding their use

as evidence of liability for, or the validity or invalidity of, any Disputed Claim or Cause of Action. Except as expressly set forth in the Plan, nothing in the Plan is intended to constitute a compromise of Survivor Claims.

**O. Other Rights**

Except as expressly set forth in the Plan, nothing in the Plan shall preclude any Person from asserting in any proceeding, or against any award or judgment entered in such proceeding, any and all rights that may be accorded under Pennsylvania law, or any other applicable statutory or common law, of contribution, indemnity, reduction, credit, or setoff, arising from the settlement and resolution of the Survivor Claims.

**XXII. BANKRUPTCY RULE 9019 REQUEST.**

Pursuant to Bankruptcy Rule 9019 and through the Plan, the Committee requests approval of all compromises and settlements included in the Plan.

**XXIII. CONFIRMATION REQUEST.**

The Committee requests confirmation of the Plan under section 1129 of the Bankruptcy Code, with respect to any Impaired Class that does not accept the Plan or is deemed to reject the Plan.

**XXIV. CONCLUSION.**

The Plan offers the best alternative for the highest and fastest recovery for Creditors. Accordingly, the Committee believes that the Plan is in the best interests of the Diocese's Creditors and other interested parties, and the Committee urges the holders of impaired Claims entitled to vote to accept the Plan and to evidence their acceptance by properly voting and timely returning their ballots.

[Signatures on following page.]

THE OFFICIAL COMMITTEE OF  
TORT CLAIMANTS CREDITORS

/s/ Lara McKeever

By: Lara McKeever

Its: Chairperson

/s/ Robert T. Kugler

Robert T. Kugler (State Bar No. 194116)

Edwin H. Caldie (State Bar No. 388930)

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Claimants*

**EXHIBIT A TO DISCLOSURE STATEMENT**  
**CHAPTER 11 PLAN OF REORGANIZATION**

CORE/3519315.0002/172011368.1



**[To be filed separately]**

**EXHIBIT B TO DISCLOSURE STATEMENT**  
**LIQUIDATION ANALYSIS**

CORE/3519315.0002/172011368.1

**[To be provided]**

**EXHIBIT C TO DISCLOSURE STATEMENT**  
**CASH FLOW PROJECTIONS**

CORE/3519315.0002/172011368.1

**[To be provided]**