

**SETTLEMENT AGREEMENT, BUY BACK OF POLICIES, RELEASE OF CLAIMS AND COVENANT NOT TO SUE**

This Settlement Agreement, Buy Back of Policies, Release of Claims, and Covenant Not to Sue ("**Agreement**", as defined below) is made and entered into by and between the Roman Catholic Bishop of Helena, Montana, a Montana Religious Corporation Sole ("**Diocese**", as defined below), and the "**Related Entities**" (as defined below) (collectively, the Diocese and the Related Entities are referred to herein as the "**Catholic Entities**"), on the one hand, and Great American Insurance Company ("**Great American**", as defined below), on the other hand, on the \_\_\_th day of July 2014 (the aforementioned parties being referred to hereinafter collectively as the "**Parties**" or individually as a "**Party**", and are fully defined below).

**WITNESSETH THAT:**

WHEREAS, Great American allegedly issued certain insurance policies to the Diocese ("**Subject Insurance Policies**", as defined below);

WHEREAS, the Subject Insurance Policies have become property of the Diocese's bankruptcy estate following the "**Petition Date**" (as defined below);

WHEREAS, the Catholic Entities are and will be subject to "**Abuse Claims**" (as defined below), certain other "**Claims**" (as defined below), and such Claims as may be filed in the "**Bankruptcy Case**" (as defined below);

WHEREAS, the Diocese has demanded that Great American defend and indemnify it with respect to certain Abuse Claims;

WHEREAS, Great American has reserved its rights with respect to the Subject Insurance Policies and has agreed to defend the Diocese with respect to certain Abuse Claims under such reservation of rights;

WHEREAS, the Parties are engaged in the "**Coverage Litigation**" (as defined below);

WHEREAS, the Diocese has sought the protections available under the "**Bankruptcy Code**" (as defined below) for itself, the Related Entities, and the "**Settling Insurers**" (as defined below), including Great American, and will seek to establish the "**Diocese Trust**" (as defined below);

WHEREAS, whether or not they were subject to Claims and whether or not they tendered demands to Great American, all Catholic Entities are settling with and releasing Great American pursuant to this Agreement;

WHEREAS, the Parties intend that the Subject Insurance Policies be sold, assigned, and transferred to Great American free and clear of all "**Interests**" (as defined below) of all "**Entities**" (as defined below) and that Great American shall buy back the Subject Insurance Policies by payment of the "**Buy-Back Payment**" (as defined below);

WHEREAS, the Parties intend that any and all Interests of all Entities in and against the Subject Insurance Policies shall be extinguished, ended, and forever terminated;

WHEREAS, the Parties intend that the Catholic Entities shall (i) not retain any right, title, or interest in or to the Subject Insurance Policies, and (ii) release Great American from all Claims, and that Great American shall have no remaining duty or obligation of any nature whatsoever to any Catholic Entity;

WHEREAS, Great American is also making a contribution to support the “Plan” (as defined below) and the transactions contemplated thereunder (“Plan Payment”, as defined below), and in exchange will be named as a Settling Insurer and an Entity protected by the “Permanent Injunction” (as defined below), pursuant to the Plan;

WHEREAS, the Catholic Entities agree to sell their Interests under the Subject Insurance Policies back to Great American; the Buy-Back Payment and the Plan Payment shall be transferred to the Diocese Trust; and, in exchange, the Related Entities will be named as Entities to be protected under the Permanent Injunction, pursuant to the Plan;

WHEREAS, by this Agreement, the Parties intend to adopt, by way of compromise, and without prejudice to or waiver of their respective positions in matters with other unrelated parties, without further trial or adjudication of any issues of fact or law, and without Great American’s admission of liability or responsibility, a full and final settlement that releases and terminates all obligations and liabilities of Great American, of any nature whatsoever, to the Catholic Entities; and,

WHEREAS, this Agreement is entered into by the Parties in good faith and as the result of arm’s-length negotiations between the Parties:

## **AGREEMENTS**

NOW, THEREFORE, in full consideration of the foregoing and of the mutual agreements herein contained, and intending to be legally bound, the Parties agree as follows:

### **SECTION 1. Definitions.**

1.1 **Miscellaneous.** As used in this Agreement, the following terms shall have the following meanings. To the extent that a term is not defined in this Agreement and is defined in the Bankruptcy Code, it shall have the meaning set forth in the Bankruptcy Code. Each defined term stated in a singular form shall include the plural form, each defined term stated in plural form shall include the singular form, and each defined term stated in the masculine form or in the feminine form shall include the other. The words “including”, “include”, and “includes” mean “including, without limitation”, “include, without limitation”, and “includes, without limitation”, respectively. The phrase “relating to” means “relating to, with regard to, by reason of, based on, in any way connected with, arising from or arising out of”. (These phrases and/or words are not capitalized herein or in any of the attachments to this

Agreement.) References to other agreements and documents shall be deemed to include all subsequent amendments and other modifications thereto. Unless otherwise indicated, references to "Sections" are references to Sections of this Agreement.

1.2 **"Abuse"** means any act of (a) sexual conduct or misconduct, sexual abuse or molestation, indecent assault and/or battery, rape, lascivious behavior, undue familiarity, pedophilia, ephebophilia, or sexually-related physical, psychological, or emotional harm, or contacts or interactions of a sexual nature between a child and an adult, or a nonconsenting adult and another adult; (b) assault, battery, corporal punishment, or other act of physical, psychological, or emotional abuse, humiliation, or intimidation; or (c) fraud, fraud in the inducement, misrepresentation, concealment, unfair practice, or any other tort relating to the acts and/or omissions listed in subparts (a) and (b) of this sentence. A child or nonconsenting adult is abused whether or not this activity involves explicit force, whether or not it involves genital or other physical contact, and whether or not there is physical, psychological, or emotional harm to the child or nonconsenting adult.

1.3 **"Abuse Claim"** means any Claim relating to Abuse, for which a Catholic Entity is, was, or is alleged to be, legally responsible under any legal theory whatsoever, including any act or omission by an Entity (i) that a Catholic Entity failed to control, direct, train, or supervise; (ii) about whose acts and propensities a Catholic Entity failed to warn, disclose, or provide information; or (iii) that a Catholic Entity allegedly negligently hired or retained.

1.4 **"Affiliate"** means an Entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the other Entity. "Affiliate" includes Subsidiary and Parent. **"Parent"** means any Entity that owns the majority of the shares, membership interests, or other equity interests in the other Entity. **"Subsidiary"** of an Entity means a corporation or limited liability company as to which the Entity possesses shares of common stock, membership interests, or other equity interests and exercises control through the voting of such stock or interests. Notwithstanding the foregoing, the term "Affiliate" excludes the following Entities: the Ursuline Sisters of the Western Province (a/k/a Ursuline Western Province); the Ursuline Convent of the Holy Family; and the Ursuline Convent of Our Lady of Santa Rosa Ursuline Corporation.

1.5 **"Agreement"** means this "Settlement Agreement, Buy Back of Policies, Release of Claims, and Covenant Not to Sue," as the same may be amended or modified from time to time in accordance with its provisions.

1.6 **"Approval Motion"** means the motion to obtain the **"Approval Order"** (as defined below). The Diocese shall provide **"Bankruptcy Notice"** (as defined below) of the Approval Motion.

1.7 **"Approval Order"** means an order of the **"Court"** (as defined below) pursuant to Bankruptcy Code §§ 363(b), (f) and (m), and, if applicable, 105(a), and Federal Rules of Bankruptcy Procedure (**"Bankruptcy Rules"**) 6004 and 9019, which shall:

- 1.7.1 Be in the form and substance as required by this Agreement;
- 1.7.2 Approve this Agreement in its entirety;
- 1.7.3 Authorize and direct the Parties to perform their respective obligations under this Agreement;
- 1.7.4 Authorize the sale of the Subject Insurance Policies to Great American free and clear of all Interests of all Entities;
- 1.7.5 Order that the rights, if any, that the Centers for Medicare & Medicaid Services of the United States Department of Health and Human Services ("**CMS**", as defined below) might have against Great American relating to Claims paid by the Diocese Trust from the proceeds of the Buy-Back Payment attach to the Buy-Back Payment on the "**Payment Date**" (as defined below), and the Diocese Trust shall be solely responsible for the payment of any Claims by CMS relating to Claims paid by the Diocese Trust from the proceeds of the Buy-Back Payment;
- 1.7.6 Order that any rights that any "**Claimant**" (as defined below) might have relating to the Subject Insurance Policies attach to the Buy-Back Payment on the Payment Date;
- 1.7.7 Include the "**Approval Order Injunction**" (as defined below);
- 1.7.8 Bind the Diocese's bankruptcy estate, any trustee appointed to administer the bankruptcy estate, and the Diocese Trust to perform the obligations imposed upon them, if any, by this Agreement;
- 1.7.9 Require the Plan to designate Great American as a Settling Insurer under the Plan; and
- 1.7.10 Find, as follows:
  - (a) The Diocese demonstrated sound business reasons for the sale of the Subject Insurance Policies to Great American;
  - (b) Due and adequate notice of the (1) sale of the Subject Insurance Policies; (2) terms and conditions of this Agreement; and (3) the hearing on the sale, was provided in accordance with Bankruptcy Rules 2002 and 6004;
  - (c) Great American is a good faith purchaser of the Subject Insurance Policies and, as such, is entitled to all protections provided to a good faith purchaser under Bankruptcy Code § 363(m);

- (d) The terms of the transactions contemplated by this Agreement, as well as the genesis and background of this Agreement, have been disclosed to the Court;
- (e) The terms and conditions of this Agreement (including the consideration to be realized by the Catholic Entities) are fair and reasonable, and each Catholic Entity's execution of this Agreement represents a sound exercise of its reasonable business judgment;
- (f) The transactions contemplated by this Agreement are in the best interests of the Diocese's bankruptcy estate, its creditors, and other stakeholders;
- (g) The Related Entities are parties to the relief sought in the Approval Motion, and hence are deemed to have consented to the sale within the meaning of Bankruptcy Code § 363(f)(2);
- (h) Any additional insureds under the Subject Insurance Policies who are not Related Entities have received due and adequate notice of the proposed sale of the Subject Insurance Policies and did not object to the sale of the Subject Insurance Policies free and clear of any Interests to Great American, and thus may be deemed to have consented to such sale within the meaning of Bankruptcy Code § 363(f)(2);
- (i) The Abuse Claims are subject to *bona fide* dispute, hence the Subject Insurance Policies may be sold free and clear of such Claims pursuant to Bankruptcy Code § 363(f)(4);
- (j) All holders of Claims against the Subject Insurance Policies could be compelled in a legal or equitable proceeding to accept a money satisfaction of such Claims, and therefore the Subject Insurance Policies may be sold free and clear of such Claims pursuant to Bankruptcy Code § 363(f)(5);
- (k) The compromises and settlements embodied in the Agreement have been negotiated in good faith, and are reasonable, fair and equitable;
- (l) This Agreement is fair and equitable and in the best interests of the Diocese's estate and the Diocese's creditors after consideration of (1) the probability of success in the Coverage Litigation, with due consideration for uncertainties in fact and law; (2) the complexity and likely duration of the Coverage

Litigation and any attendant expenses, inconvenience and delay; (3) the interests of creditors; and (4) the extent to which this Agreement is the product of arm's-length bargaining and not the product of fraud or collusion;

- (m) The Buy-Back Payment is fair, adequate, and reasonable consideration for the sale and buy-back by Great American of all of the Catholic Entities' Interests in the Subject Insurance Policies and for the Interests of any other Entity in the Subject Insurance Policies, including the Interests of any Entities claiming to be additional insureds under the Subject Insurance Policies who are not Related Entities and the holders of Abuse or other Claims in the Subject Insurance Policies, directly or indirectly, all of which such Interests shall attach to the proceeds of the Buy-Back Payment;
- (n) The Diocese provided due and adequate notice of the (1) sale of the Subject Insurance Policies; (2) terms and conditions of this Agreement; and (3) hearing on the sale, in accordance with Bankruptcy Rules 2002 and 6004 to all known and unknown creditors and other holders of Interests in the Subject Insurance Policies;
- (o) It would be impractical to divide the Subject Insurance Policies between the Diocese and the Related Entities; therefore, to realize the value of the Subject Insurance Policies for the Diocese's bankruptcy estate requires that the sale include all Entities' Interests in the Subject Insurance Policies;
- (p) The sale of the Subject Insurance Policies outside the ordinary course of business satisfies the requirements of Bankruptcy Code § 363(b);
- (q) The sale of the Subject Insurance Policies free and clear of Interests satisfies the requirements of Bankruptcy Code § 363(f);
- (r) The Claims of any Entities that would be covered by the Subject Insurance Policies that are being acquired by Great American pursuant to this Agreement are deemed to be "interests" as that term is used in Bankruptcy Code § 363(f) and hence within the definition of "Interests" below; and,
- (s) The Agreement may be approved pursuant to Bankruptcy Rule 9019(a).

1.8 **“Approval Order Injunction”** means an injunction barring, estopping, and enjoining all Entities from asserting any Claims against the Subject Insurance Policies and against Great American relating to the Subject Insurance Policies. The terms of the Approval Order Injunction must be set forth in the Approval Motion.

1.9 **“Bankruptcy Case”** means the bankruptcy case, *In re: Roman Catholic Bishop Of Helena, Montana, a Montana Religious Corporation Sole (Diocese of Helena)*, Case Number 14-60074, pending before the **“Bankruptcy Court”** (as defined below), which, pursuant to this Agreement, was initiated by the Diocese filing a petition under Chapter 11 of the Bankruptcy Code.

1.10 **“Bankruptcy Code”** means Title 11 of the United States Code, 11 U.S.C. § 101, *et seq.*

1.11 **“Bankruptcy Court”** means the United States Bankruptcy Court for the District of Montana.

1.12 **“Bankruptcy Notice”** means notice as required under Bankruptcy Rule 2002, 6004(a) and (c) and applicable local rules, sent to (a) all known holders of Claims against any Catholic Entity, including Abuse Claims, and their attorneys, if any; (b) the **“Future Claims Representative”** (as defined below); (c) the **“Committee”** (as defined below); (d) all insurers of the Diocese; (e) the Secretary of the Department of Health and Human Services; (f) the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1850; (g) the United States attorney for the District of Montana; (h) the Ursuline Sisters of the Western Province (a/k/a Ursuline Western Province) (i) all Entities who, in the opinion of any Party, might reasonably be expected to be affected by the sale; (j) all Entities listed as an additional insured under any insurance policy issued to the Diocese by any Settling Insurer; and (k) all other Entities as required by the Bankruptcy Code or as directed by the Court. Notice shall also be given by (a) national publication; and (b) local publication within Montana and the surrounding areas, including every county in which a Catholic Entity or an Entity enumerated in subparagraphs (h), (i) or (j) is located.

1.13 **“Business Day”** means any day that is not a Saturday, Sunday, or legal holiday in the State of Montana or the State of Ohio.

1.14 **“Buy-Back Payment”** means the payment by Great American to the Diocese Trust of a sum equal to One Million Seven Hundred and Fifty Thousand (\$1,750,000) Dollars, for the buy-back of all Interests of the Catholic Entities in the Subject Insurance Policies.

1.15 **“Claim”** means (a) a claim as that term is defined in Section 101(5) of the Bankruptcy Code; or (b) any claim, assertion of right, complaint, cross-complaint, counterclaim, liabilities, rights, request, allegation, arbitration, mediation, lawsuit, litigation, direct action, administrative proceeding, cause of action, suit, action, lien, debt, bill, indemnity, equitable indemnity, right of subrogation, equitable subrogation, injunctive relief, controversy, contribution, exoneration, covenant, agreement, promise, act, omission, trespass, variance,

damages, judgment, compensation, set-off, reimbursement, restitution, cost, expense, loss, exposure, execution, attorneys' fee, obligation, order, affirmative defense, writ, demand, inquiry, request, directive, obligation, proof of claim in a bankruptcy proceeding or submitted to a trust established pursuant to the Bankruptcy Code, government claim or action, settlement, and/or any liability whatsoever, whether past, present or future, known or unknown, asserted or unasserted, foreseen or unforeseen, fixed or contingent, matured or unmatured, liquidated or unliquidated, direct, indirect or otherwise consequential, whether in law, equity, admiralty or otherwise, whether currently known or unknown, whether compromised, settled or reduced to a consent judgment, which may exist now or hereinafter for property damages, compensatory damages (such as loss of consortium, wrongful death, survivorship, proximate, consequential, general and special damages), punitive damages, bodily injury, personal injury, public and private claims, or any other right to relief whether sounding in tort, contract, strict liability, equity, nuisance, trespass, statutory violation, wrongful entry or eviction or other eviction or other invasion of the right of private occupancy. For avoidance of doubt, "Claim" includes any Abuse Claim, any **"Contribution Claim"** (as defined below), any **"Extra-Contractual Claim"** (as defined below), any **"Trust Claim"** (as defined below), and any **"Direct Action Claim"** (as defined below). **"Claimant"** means the Entity who holds a Claim.

1.16 **"CMS"** means the Centers for Medicare & Medicaid Services of the United States Department of Health and Human Services and/or any other agent or successor Entity charged with responsibility for monitoring, assessing, or receiving reports made under **"MMSEA"** (as defined below) and pursuing Claims under **"MSP"** (as defined below), including Claims for reimbursement of payments made to Trust Claim holders who recover from the Diocese Trust (**"Medicare Claims"**).

1.17 **"Committee"** means the Official Committee of Unsecured Creditors appointed by the United States Trustee in the Bankruptcy Case.

1.18 **"Confirmation Order"** means a Court order that has not been stayed, confirming the Plan after a confirmation hearing upon Bankruptcy Notice, in the form and substance as required by this Agreement. The wording of the Confirmation Order shall be mutually acceptable to the Diocese and Great American. The Confirmation Order shall contain all of the following provisions, but no provision that is contrary to or inconsistent with this Agreement:

- 1.18.1 Specifically and individually ordering all Entities as set forth in the Plan to act or refrain from acting as specified in the Plan;
- 1.18.2 Incorporating the terms and provisions of the Approval Order Injunction as though fully set forth therein;
- 1.18.3 Providing for the imposition of the Permanent Injunction in favor of Great American and the Related Entities;
- 1.18.4 Ordering that the Diocese is discharged from all Claims, including all Abuse and Trust Claims;

- 1.18.5 Identifying the Diocese, the “**Diocese’s Agents**” (as defined below), and the “**Related Entities’ Agents**” (as defined below), except for those Entities who committed the acts of Abuse, each of the Related Entities, and Great American, by name, as Entities to be protected by the Permanent Injunction;
- 1.18.6 Ordering that the Claims, if any, that CMS might have against Great American relating to Claims paid by the Diocese Trust from the proceeds of the Plan Payment shall be paid solely by the Diocese Trust;
- 1.18.7 Including judgment reduction provisions of the same form and content as those in Sections 8.1 and 8.2, applicable to all Settling Insurers, and ordering the Catholic Entities and the Diocese Trust to reduce any judgments or settlements accordingly; and
- 1.18.8 Incorporating the separately entered findings of fact and conclusions of law, which are required under Bankruptcy Code §§ 1129(a), and, if applicable, 105(a) and 1129(b), to confirm the Plan and as necessary to dismiss with prejudice the Coverage Litigation, and making the following findings:
  - (a) There are unique circumstances in this case requiring the imposition of the Permanent Injunction;
  - (b) The Subject Insurance Policies are property of the Diocese’s bankruptcy estate and are therefore subject to the core jurisdiction of the Court;
  - (c) The ongoing sexual abuse litigation was the primary cause in the Diocese’s filing of the Bankruptcy Case;
  - (d) The Abuse and Trust Claims against the Related Entities are within the jurisdiction of the Court because the Related Entities might also assert that they are insured under the same insurance policies as the Diocese;
  - (e) The Claims against the Subject Insurance Policies are within the jurisdiction of the Court because the Subject Insurance Policies are property of the Diocese’s bankruptcy estate;
  - (f) The Buy-Back Payment and Plan Payment constitute critical contributions to the success of the Plan, and the Plan would not be feasible without such contributions;

- (g) Because it would be impractical to divide the Subject Insurance Policies, it was necessary for the Diocese to obtain the Related Entities' participation in this Agreement;
- (h) The Related Entities would not release their Interests under the Subject Insurance Policies unless they obtained the benefits of the Permanent Injunction, because to do so would have left them exposed to Abuse and Trust Claims, whether or not such Claims be valid and whether or not coverage exists under the Subject Insurance Policies for such Claims;
- (i) The Buy-Back and Plan Payments provide good and valuable consideration to the Diocese Trust, and enable unsecured creditors such as the holders of Abuse Claims and Trust Claims to realize increased distributions on their Claims;
- (j) This Agreement is therefore an essential component of the Plan;
- (k) As a condition for the buy-back set forth in this Agreement, Great American required the Diocese to indemnify it from any Claims;
- (l) The indemnification by the Diocese in Section 6 is an essential component of this Agreement;
- (m) The Permanent Injunction will ensure that the indemnification by the Diocese does not prevent the Diocese from obtaining a fresh start in the Bankruptcy Case, and therefore the Permanent Injunction is necessary to the Plan;
- (n) This Agreement is necessary to the Plan because it provides significant funding for the Plan, therefore, the Permanent Injunction is an essential component of this Agreement;
- (o) Great American repurchased the Subject Insurance Policies pursuant to this Agreement. Great American did not purchase any other assets of the Diocese and is not a continuation of the Diocese or engaging in a continuation of the Diocese's business. Great American shall not have any responsibility or liability with respect to any of the Diocese's other assets; and,
- (p) Great American is not, and shall not be deemed to be, a successor to the Diocese by reason of any theory of law or equity or as a result of the consummation of the transactions contemplated in this Agreement, the Plan, or otherwise. Great American shall not

assume, or be deemed to have assumed, any liabilities or other obligations of the Diocese.

The entry of the Confirmation Order containing all of the provisions set out in this Section 1.18, but no provision that is contrary to or inconsistent with them, is a condition precedent to the performance of Great American's obligations under this Agreement. **"Non-Compliant Confirmation Order"** means any confirmation order entered by the Court in the Bankruptcy Case that does not satisfy all of the requirements of this Section 1.18.

1.19 **"Contribution Claim"** means any Claim by any insurer of a Catholic Entity against any other insurer of a Catholic Entity seeking contribution, equitable contribution, indemnity, equitable indemnity, subrogation, equitable subrogation, "other insurance clauses" rights, or pursuant to any other theory under law or in equity, relating to the defense or payment by such paying insurer of all or any part of any Claim (a) asserted against a Catholic Entity; (b) relating to the Subject Insurance Policies; (c) relating to the Coverage Litigation; or (d) channeled to or paid, in whole or in part, by the Diocese Trust.

1.20 **"Court"** means either the Bankruptcy Court or the District Court, as appropriate.

1.21 **"Coverage Litigation"** means the litigation entitled *William C. Whalen, et. al. v. Roman Catholic Bishop of Helena, et. al.* (and related Crossclaims and Third Party Claims), being Case No. BDV-2012-976 of the Montana First Judicial District Court for Lewis and Clark County, Montana.

1.22 **"Diocese"** means The Roman Catholic Bishop of Helena, Montana, a Montana Religious Corporation Sole, including those schools, parishes, etc., listed on Attachment D. The **"Diocese's Agents"** include its Affiliates and each of its and their respective current and former officers, directors, employees, agents, representatives, shareholders, members, managers, partners, administrators and attorneys, including each of their respective successors, assigns, heirs, administrators or executors, solely in their capacity as such.

1.23 **"Diocese Trust"** means the trust that assumes liability for, and is established to pay, Trust Claims, pursuant to the Plan and, if applicable, Bankruptcy Code § 105. The Diocese Trust shall be established as a **"Qualified Settlement Fund"** (as defined below) pursuant to **"I.R.C."** (as defined below) Section 468(B).

1.24 **"Direct Action Claim"** means any Claim by any Entity against Great American identical or similar to, or relating to, any Trust Claim, whether arising by contract, in tort or under the laws of any jurisdiction, including any statute that gives a third party a direct cause of action against an insurer.

1.25 **"District Court"** means the United States District Court for the District of Montana.

1.26 **“Entity”** means any person, individual, corporation, partnership, association, limited liability company, joint stock company, joint venture, estate, trust, legal representative, unincorporated organization, federal, state, local or foreign government or any governmental or quasi-governmental body or political subdivision or any agency, department, board or instrumentality thereof of any federal, state, local or foreign government, and any successor in interest, heir, executor, administrator, trustee, trustee in bankruptcy, or receiver of any person or entity, or any other legal entity.

1.27 **“Execution Date”** means the earliest date on which this Agreement is signed by the Parties.

1.28 **“Extra-Contractual Claim”** means any Claim against Great American, seeking any type of relief, including compensatory, exemplary, or punitive damages, or attorneys' fees, interest, costs, or any other type of relief, on account of bad faith; failure to provide insurance coverage under any Subject Insurance Policy; failure or refusal to compromise and settle any Claim insured under any Subject Insurance Policy; failure to act in good faith; violation of any covenant or duty of good faith and fair dealing; violation of any unfair claims practices act or similar statute, regulation or code; violation of any statute, regulation or code governing unlawful, unfair, or fraudulent competition, business, or trade practices, and/or untrue or misleading advertising; and any type of alleged misconduct or any other act or omission of any type for which the Claimant seeks relief other than coverage or benefits under an insurance policy. Extra-Contractual Claims include any Claim relating to Great American's (a) handling of any request for insurance coverage for any Claim, including defense of same; and (b) conduct relating to the negotiation of this Agreement.

1.29 **“Final Order”** means an order as to which the time to appeal, petition for *certiorari*, petition for review, or move for reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, review, reargue, or rehear shall have been waived in writing in form and substance satisfactory to the Diocese and Great American, and their counsel or, in the event that an appeal, *writ of certiorari*, petition for review, or reargument or rehearing thereof has been sought, such order shall have been affirmed by the highest court to which such order was appealed, or *certiorari* or review has been denied or from which reargument or rehearing was sought, and the time to take any further appeal, petition for *certiorari*, petition for review, or move for reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure or any analogous rule under the Bankruptcy Rules may be filed with respect to such order shall not cause such order not to be a “Final Order.” For the avoidance of doubt, if the Plan is substantially consummated as defined in Bankruptcy Code § 1101(2) (**“Substantial Consummation”**) and any appeal of the Confirmation Order becomes equitably moot due to Substantial Consummation, the Confirmation Order shall be considered a Final Order.

1.30 **"Future Claims Representative"** means Michael R. Hogan, who was appointed by Order of the Bankruptcy Court on April 9, 2014.

1.31 **"Great American"** means Great American Insurance Company. **"Great American's Agents"** include (a) its past and present Affiliates; (b) the Affiliates of the Parents of Great American Insurance Company; (c) any joint venture in which Great American Insurance Company participated on or before the Execution Date; and (d) each of the respective current and former officers, directors, employees, agents, representatives, shareholders, members, managers, partners and attorneys, including each of the respective successors, assigns, heirs, administrators or executors of any of the Entities identified in subsections (a)-(c), solely in their capacity as such.

1.32 **"Interests"** means all liens, Claims, encumbrances, interests, and other rights of any nature, whether at law or in equity, including Abuse Claims, Contribution Claims, Direct Action Claims, Extra-Contractual Claims and Trust Claims.

1.33 **"I.R.C."** means the Internal Revenue Code, 26 U.S.C. §101, *et seq.*

1.34 **"Medicare Beneficiary"** means any individual who has received or is eligible to receive benefits under Title XVIII of the Social Security Act, 42 U.S.C. § 1395, *et seq.*, enacted July 1, 1966, including all subsequent amendments thereto, and is the holder of a Trust Claim.

1.35 **"Medicare Secondary Payer Act" or "MSP"** means 42 U.S.C. § 1395y *et seq.*, or any other similar statute or regulation, and any related rules or regulations issued in connection therewith or amendments thereto.

1.36 **"MMSEA"** means Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (P.L.110-173), which imposes reporting obligations on those Entities with payment obligations under the MSP.

1.37 **"Payment Date"** means the date that Great American pays to the Diocese Trust the Buy-Back Payment and the Plan Payment, which date shall be ten (10) Business Days after the first Business Day after the later of the dates that both the Approval Order and Confirmation Order have become Final Orders.

1.38 **"Permanent Injunction"** means the injunction imposed by the Confirmation Order and set forth in the Plan of Reorganization, pursuant to the Plan and, if applicable, Bankruptcy Code § 105, which enjoins any Entity from taking legal action against Great American for the purpose of directly or indirectly collecting, recovering, or receiving payment or recovery with respect to any Abuse, Contribution, Direct Action, Extra-Contractual or Trust, Claim. The Permanent Injunction shall, *inter alia*, enjoin all Entities from any of the following with respect to any and all Abuse, Contribution, Direct Action, Extra-Contractual and Trust Claims:

- 1.38.1 Commencing or continuing in any manner any action or other proceeding against Great American, the property of Great American, the Catholic Entities, the Diocese's Agents, and/or the Related Entities' Agents, except for those persons who committed the acts of Abuse;
- 1.38.2 Enforcing, attaching, collecting, or recovering, by any manner or means, any judgment, award, decree or order against Great American, the property of Great American, the Catholic Entities, the Diocese's Agents, and/or the Related Entities' Agents, except for those persons who committed the acts of Abuse;
- 1.38.3 Creating, perfecting, or enforcing any lien of any kind against Great American, the property of Great American, the Catholic Entities, the Diocese's Agents, and/or the Related Entities' Agents, except for those persons who committed the acts of Abuse;
- 1.38.4 Asserting or accomplishing any setoff, right of indemnity, subrogation, contribution, or recoupment of any kind against any obligation due Great American, the property of Great American, the Diocese, the Diocese's Agents, the Related Entities and/or the Related Entities' Agents, except for those persons who committed the acts of Abuse; and,
- 1.38.5 Taking any act, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan.

The terms of the Permanent Injunction must be set out in the Plan and in any disclosure statement describing the Plan. **"Non-Compliant Injunction"** means any permanent injunction proposed in the Bankruptcy Case that does not contain all of the requirements set forth above in this Section 1.38.

1.39 **"Petition Date"** means the date that the Bankruptcy Case was filed, *i.e.*, January 31, 2014.

1.40 **"Plan of Reorganization"** or **"Plan"** means a plan of reorganization that contains all of the following provisions but no provision that is contrary to or inconsistent with this Agreement or any of the following provisions; allows all of the acts and transactions under, and envisioned by, this Agreement to occur with binding legal effect; and does not materially and adversely affect the rights, duties, or interests of Great American or the Catholic Entities under this Agreement. The wording of the Plan shall be mutually acceptable to the Catholic Entities and Great American. The Plan shall contain provisions:

- 1.40.1 Incorporating this Agreement;

- 1.40.2 Establishing the Diocese Trust, appointing a trustee, and binding both of them to perform those requirements imposed upon them by this Agreement;
- 1.40.3 Transferring all liability for Abuse Claims and other Trust Claims to the Diocese Trust;
- 1.40.4 Requiring that all holders of Abuse Claims assign all of their Claims against Settling Insurers and the Catholic Entities to the Diocese Trust in exchange for a Claim against the Diocese Trust;
- 1.40.5 Describing the role of the Future Claims Representative, and appointing the Future Claims Representative to continue in his duties with respect to Trust Claims;
- 1.40.6 Providing for the Permanent Injunction and the entry of the Confirmation Order, and not changing the scope of the Permanent Injunction or its application to Great American;
- 1.40.7 Requiring that each Claimant receiving a payment from the Diocese Trust sign a written general release that remises, releases, covenants not to sue, and forever discharges Great American and its insureds under the Subject Insurance Policies from and against all Claims;
- 1.40.8 Denominating Great American as a Settling Insurer;
- 1.40.9 Including judgment reduction provisions of the same form and content as those in Sections 8.1 and 8.2 of this Agreement, protecting all Settling Insurers; and,
- 1.40.10 Including the following provisions:
  - (a) It is the position of the Diocese that neither the Catholic Entities, the Diocese Trust, nor the Settling Insurers will have any reporting obligations in respect of their contributions to the Diocese Trust, or in respect of any payments, settlements, resolutions, awards, or other claim liquidations by the Diocese Trust, under the reporting provisions of MSP or MMSEA. Prior to making any payments to any Claimants, the Diocese Trust, shall seek a statement or ruling from the United States Department of Health and Human Services ("HHS") that neither the Diocese Trust, the Catholic Entities nor the Settling Insurers have any reporting obligations under MMSEA with respect to payments to the Diocese Trust by the Catholic Entities or the Settling Insurers or payments by the Diocese Trust to Claimants. Unless and until

there is definitive regulatory, legislative, or judicial authority (as embodied in a final non-appealable decision from the United States Court of Appeals for the Ninth Circuit or the United States Supreme Court), or a letter from the Secretary of HHS confirming that the Catholic Entities and the Settling Insurers have no reporting obligations under MMSEA with respect to any settlements, payments, or other awards made by the Diocese Trust or with respect to contributions the Catholic Entities and the Settling Insurers have made or will make to the Diocese Trust, the Diocese Trust shall, at its sole expense, in connection with the implementation of the Plan, act as a reporting agent for the Catholic Entities and the Settling Insurers, and shall timely submit all reports that would be required to be made by any of the Catholic Entities or Settling Insurers under MMSEA on account of any Claims settled, resolved, paid, or otherwise liquidated by the Diocese Trust or with respect to contributions to the Diocese Trust including, reports that would be required if the Catholic Entities and the Settling Insurers were determined to be “applicable plans” for purposes of MMSEA, or any of the Catholic Entities and Settling Insurers were otherwise found to have MMSEA reporting requirements. The Diocese Trust, in its role as reporting agent for the Catholic Entities and the Settling Insurers, shall follow all applicable guidance published by CMS to determine whether or not, and, if so, how, to report to CMS pursuant to MMSEA.

- (b) If the Diocese Trust is required to act as a reporting agent for the Catholic Entities or the Settling Insurers pursuant to the provisions of Section 1.40.10(a), the Diocese Trust shall provide a written certification to each of the Catholic Entities and Settling Insurers within ten (10) Business Days following the end of each calendar quarter, confirming that all reports to CMS required by Section 1.40.10(a) have been submitted in a timely fashion, and identifying (a) any reports that were rejected or otherwise identified as noncompliant by CMS, along with the basis for such rejection or noncompliance, and (b) any payments to Medicare Beneficiaries that the Diocese Trust did not report to CMS.
- (c) With respect to any reports rejected or otherwise identified as noncompliant by CMS, the Diocese Trust shall, upon request by any of the Catholic Entities or Settling Insurers, promptly provide copies of the original reports submitted to CMS, as well as any response received from CMS with respect to such reports; *provided, however*, that the Diocese Trust may redact from such

copies the names, Social Security numbers other than the last four digits, health insurance claim numbers, taxpayer identification numbers, employer identification numbers, mailing addresses, telephone numbers, and dates of birth of the injured parties, Claimants, guardians, conservators and/or other personal representatives, as applicable. With respect to any such reports, the Diocese Trust shall reasonably undertake to remedy any issues of noncompliance identified by CMS and resubmit such reports to CMS, and, upon request by any of the Catholic Entities or Settling Insurers, provide the Catholic Entities and Settling Insurers copies of such resubmissions; *provided, however*, that the Diocese Trust may redact from such copies the names, Social Security numbers other than the last four digits, health insurance claim numbers, taxpayer identification numbers, employer identification numbers, mailing addresses, telephone numbers, and dates of birth of the injured parties, Claimants, guardians, conservators and/or other personal representatives, as applicable. In the event the Diocese Trust is unable to remedy any issue of noncompliance, the provisions of Section 1.40.10(g) shall apply.

- (d) If the Diocese Trust is required to act as a reporting agent for the Catholic Entities or Settling Insurers pursuant to the provisions of Section 1.40.10(a), with respect to each Claim of a Medicare Beneficiary that was paid by the Diocese Trust and not disclosed to CMS, the Diocese Trust shall, upon request by any of the Catholic Entities or Settling Insurers, promptly provide the last four digits of the Claimant's Social Security number, the year of the Claimant's birth and any other information that may be necessary in the reasonable judgment of any of the Catholic Entities or Settling Insurers to satisfy their obligations, if any, under MMSEA, as well as the basis for the Diocese Trust's failure to report the payment. In the event any of the Catholic Entities or Settling Insurers inform the Diocese Trust that it disagrees with the Diocese Trust's decision not to report a claim paid by the Diocese Trust, the Diocese Trust shall promptly report the payment to CMS. All documentation relied upon by the Diocese Trust in making a determination that a payment did not have to be reported to CMS shall be maintained for a minimum of six (6) years following such determination.
- (e) If the Diocese Trust is required to act as a reporting agent for the Catholic Entities or Settling Insurers pursuant to the provisions of Section 1.40.10(a), the Diocese Trust shall make the reports and

provide the certifications required by Sections 1.40.10(a) and 1.40.10(b) until such time as each of the Catholic Entities and Settling Insurers determines, in its reasonable judgment, that it has no further legal obligation under MMSEA or otherwise to report any settlements, resolutions, payments, or liquidation determinations made by the Diocese Trust or contributions to the Diocese Trust. Furthermore, following any permitted cessation of reporting, or if reporting has not previously commenced due to the satisfaction of one or more of the conditions set forth in Section 1.40.10(a), and if any of the Catholic Entities or Settling Insurers reasonably determines, based on subsequent legislative, administrative, regulatory, or judicial developments, that reporting is required, then the Diocese Trust shall promptly perform its obligations under Sections 1.40.10(a) and 1.40.10(b).

- (f) Section 1.40.10(a) is intended to be purely prophylactic in nature, and does not imply, and shall not constitute an admission, that the Catholic Entities and/or Settling Insurers are in fact “applicable plans” within the meaning of MMSEA, or that they have any legal obligation to report any actions undertaken by the Diocese Trust or contributions to the Diocese Trust under MMSEA or any other statute or regulation.
- (g) In the event that CMS concludes that reporting done by the Diocese Trust in accordance with Section 1.40.10(a) is or may be deficient in any way, and has not been corrected to the satisfaction of CMS in a timely manner, or if CMS communicates to the Diocese Trust, any of the Catholic Entities or Settling Insurers a concern with respect to the sufficiency or timeliness of such reporting, or there appears to any of the Catholic Entities or Settling Insurers a reasonable basis for a concern with respect to the sufficiency or timeliness of such reporting or non-reporting based upon the information received pursuant to Section 1.40.10(b), 1.40.10(c), or 1.40.10(d) or other credible information, then each of the Catholic Entities and Settling Insurers shall have the right to submit its own reports to CMS under MMSEA, and the Diocese Trust shall provide to any party that elects to file its own reports such information as the electing party may require in order to comply with MMSEA, including, the full reports filed by the Diocese Trust pursuant to Section 1.40.10(a) without any redactions. The Catholic Entities and Settling Insurers shall keep any information they receive from the Diocese Trust pursuant to this Section 1.40.10(g) confidential and shall not use such

information for any purpose other than meeting obligations under MMSEA.

- (h) Notwithstanding any other provisions hereof, if the Diocese Trust is required to act as a reporting agent for any of the Catholic Entities or Settling Insurers, then such entities shall take all steps necessary and appropriate as required by CMS to permit any reports contemplated by this Section to be filed. Furthermore, until the Catholic Entities or Settling Insurers provide the Diocese Trust with any necessary information that may be provided by the CMS's Coordination of Benefits Contractor to effectuate reporting, the Diocese Trust shall have no obligation to report under Section 1.40.10(a) with respect to any such entity that has not provided such information, but only so long as such entity has not provided such information; and the Diocese Trust shall have no indemnification obligation under Section 1.40.10(k) to any Catholic Entity or Settling Insurer for any penalty, interest or sanction that may arise solely on account of such Catholic Entities' or Settling Insurer's failure to timely provide such information to the Diocese Trust in response to a timely request by the Diocese Trust for such information.
- (i) In connection with the implementation of the Plan, the Trustee(s) of the Diocese Trust shall obtain prior to remittance of funds to Claimants' counsel or the Claimant, if *pro se*, in respect of any Trust Claim a certification from the Claimant to be paid that said claimant has provided for the payment and/or resolution of any obligations owing or potentially owing under MSP relating to such Trust Claim; otherwise the Diocese Trust shall withhold from any payment to the Claimant funds sufficient to assure that any obligations owing or potentially owing under MSP relating to such Trust Claim are paid to CMS. The Diocese Trust shall provide a quarterly certification of its compliance with this Section to each of the Catholic Entities and Settling Insurers, and permit reasonable audits by such entities, no more often than quarterly, to confirm the Diocese Trust's compliance with this Section. For the avoidance of doubt, the Diocese Trust shall be obligated to comply with the requirements of this Section regardless of whether any Catholic Entity or Settling Insurer elects to file its own reports under MMSEA pursuant to Section 1.40.10(g).
- (j) Compliance with the provisions of this Section 1.40.10 shall be a material obligation of the Diocese Trust in favor of the Settling Insurers under any settlement agreements between any of those

insurers and the Catholic Entities, which authorizes funding to the Diocese Trust.

- (k) The Diocese Trust shall defend, indemnify and hold harmless the Catholic Entities and Settling Insurers from any Claims in respect of Medicare Claims reporting and payment obligations in connection with Trust Claims, including any obligations owing or potentially owing under MMSEA or MSP, and any Claims related to the Diocese Trust's obligations under this Section 1.40.10.
- (l) On the first Business Day following the date that (a) the Trust has paid all of its funds to Claimants and (b) complied with all of its obligations pursuant to Sections 1.40.10(a)-(k), the Trust shall terminate, and shall have no further obligation under Section 1.40.10(k).

1.40.11 Including the following provision, to be entitled "Insurance Neutrality":

Notwithstanding anything to the contrary in the Confirmation Order or the Plan, nothing in the Confirmation Order or the Plan (including any other provision that purports to be preemptory or supervening), shall in any way operate to impair, or have the effect of impairing, any insurers' legal, equitable or contractual rights, if any, in any respect. The rights of insurers shall be determined under their insurance policies and related insurance settlement agreements, as applicable.

For purposes of this Agreement, the term "Plan" includes all documents, exhibits, attachments, appendices or other documents filed with or in support of the Plan and necessary for its implementation, and any documents relating to the establishment and operation of the Diocese Trust. **"Non-Compliant Plan"** means any plan proposed in the Bankruptcy Case that does not contain all of the requirements set forth in this Section 1.40.

1.41 **"Plan Payment"** means the payment by Great American to the Diocese Trust of a sum of One Million Seven Hundred and Fifty Thousand Dollars (\$1,750,000), to obtain the benefit of the Permanent Injunction and other provisions contained in this Agreement.

1.42 **"Qualified Settlement Fund"** shall have the meaning ascribed to such term in the I.R.C.

1.43 **"Related Entities"** means those Entities listed on Attachment C. The **"Related Entities' Agents"** include Affiliates of each of the Related Entities and each of their respective current and former officers, directors, employees, agents, representatives, shareholders, members, managers, partners, administrators and attorneys, including each of their respective successors, assigns, heirs, administrators or executors, solely in their capacity as such, and any

other Entity that was in the past or is now affiliated with, related to or associated with a Related Entity, including any corporations that have been acquired by, merged into or combined with a Related Entity or its predecessors, or a Related Entity's past and present subsidiaries, affiliates, successors and assigns.

1.44 **"Settlement Amount"** means the sum of Three Million, Five Hundred Thousand United States Dollars (\$3,500,000), which comprises the Buy-Back Payment and the Plan Payment. Great American shall pay the Settlement Amount pursuant to the terms of Section 2.

1.45 **"Settling Insurers"** means Great American and any other insurer of the Diocese that settles with the Diocese, which seeks and obtains the protection of the Permanent Injunction.

1.46 **"Subject Insurance Policies"** means (a) all alleged insurance policies for which any evidence has allegedly been provided, as set forth in Attachment A hereto; and (b) any and all known and unknown liability insurance policies (i) ever issued by Great American to a Catholic Entity, or (ii) that potentially provide(s) or actually provide(s) coverage by Great American to a Catholic Entity for any Claim.

1.47 **"Trust Claims"** means (a) all Abuse Claims; and (b) any other Claims against a Catholic Entity or any of the Settling Insurers to the extent that liability for such Claims is transferred to and is assumed by the Diocese Trust.

## **SECTION 2. Settlement Amount Payment.**

2.1 In consideration of the mutual covenants stated in this Agreement, Great American shall pay the Settlement Amount in two separate payments, as follows:

2.1.1 If, (a) after a hearing upon Bankruptcy Notice, the Court enters an order that meets the definition of "Approval Order" set forth in Section 1.7, and the Approval Order subsequently becomes a Final Order, and (b) after a confirmation hearing upon Bankruptcy Notice the Court enters a confirmation order that meets the definition of "Confirmation Order" set forth in Section 1.18, and the Confirmation Order subsequently becomes a Final Order, then on the Payment Date, Great American shall pay the Buy-Back Payment to the Diocese Trust, for the sale of the Subject Insurance Policies back to Great American, pursuant to Bankruptcy Code §§ 363(b), (f), and (m) and, if applicable, 105(a), and Bankruptcy Rules 6004 and 9019, free and clear of all Claims and Interests of all Entities.

2.1.2 If, after a confirmation hearing upon Bankruptcy Notice, the Court enters a confirmation order that meets the definition of "Confirmation Order" set forth in Section 1.18, and the Confirmation Order subsequently becomes a Final Order, then on the Payment Date, Great American shall pay the Plan Payment to the Diocese Trust, for the entry of the

Confirmation Order and the protection afforded by the Permanent Injunction.

- 2.1.3 No part of, interest in, or title to, the Buy-Back Payment shall pass to the Diocese, its bankruptcy estate, or the Diocese Trust except pursuant to the provisions of Section 2.1.1 and the Buy-Back Payment shall not become property of the Diocese Trust unless and until all of the conditions set forth in Section 2.1.1 are fully satisfied. No part of, interest in, or title to, the Plan Payment shall pass to the Diocese Trust except pursuant to the provisions of Section 2.1.2 and the Plan Payment shall not become property of the Diocese Trust unless and until all of the conditions set forth in Section 2.1.2 are fully satisfied

### **SECTION 3. Forbearance of Litigation and Claims**

3.1 Upon the Execution Date, the Parties shall cease all litigation activities against each other in the Coverage Litigation; *provided, however*, that each Party may take whatever steps, which, in its sole judgment, are necessary to defend its interests as long as it remains a party in the Coverage Litigation.

3.2 Within ten (10) Business Days after the Payment Date, the Parties shall dismiss, with prejudice, all Claims against each other in the Coverage Litigation, in the form of the dismissal attached hereto as Attachment B.

3.3 On the Payment Date, the Diocese agrees to use its best efforts to obtain the dismissal of other Claims, if any, against Great American by any other insurer in the Coverage Litigation.

3.4 Each Party covenants not to sue the other Party until (a) the Payment Date, at which time this covenant shall be superseded by the releases provided in Section 4, or (b) the date on which this Agreement is terminated. As of the Execution Date, the Catholic Entities further agree:

3.4.1 To withdraw all outstanding tender of Claims to Great American for defense and indemnity;

3.4.2 Not to tender any Claims to Great American; and

3.4.3 Not to request that Great American fund any judgments or settlements.

3.5 Great American shall have no obligation to pay, handle, object, or otherwise respond to any Claim, unless this Agreement is terminated.

3.6 The Parties shall bear their own costs, expenses, and counsel fees in the Coverage Litigation, in the Bankruptcy Case, and relating to this Agreement.

#### **SECTION 4. Releases and Policy Buy Back.**

The Catholic Entities and Great American enter into the following agreements and releases:

##### **4.1 By the Catholic Entities.**

4.1.1 Effective upon the Payment Date and in consideration of the payment of the Buy-Back Payment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Catholic Entities do hereby settle, remise, release, covenant not to sue, and forever discharge Great American and Great American's Agents from and against all Claims that the Catholic Entities ever had, now have, or hereafter may have, from the beginning of time to the Payment Date. Notwithstanding the above, and for avoidance of doubt, the Catholic Entities do not settle, remise, release, covenant not to sue, and/or forever discharge their rights to bring a Claim for enforcement or breach of this Agreement.

4.1.2 Upon the Payment Date, the Catholic Entities and, upon its creation, the Diocese Trust, shall have no right with respect to Great American under the Subject Insurance Policies, and any and all rights, duties, responsibilities, and obligations of Great American relating to the Subject Insurance Policies are terminated upon such date.

4.1.3 Upon the Payment Date, the Catholic Entities and, upon its creation, the Diocese Trust, shall reserve no Claims, rights, or benefits or any other matter or thing against Great American, and shall assure Great American its peace and freedom from all Claims and from all assertions of rights in connection with such Claims, including Trust Claims.

4.1.4 Effective upon the Payment Date, Great American shall have bought back the Subject Insurance Policies free and clear of any and all Interests of any Entity, and shall be credited with the return of all premiums received, and, as a result, the Subject Insurance Policies shall no longer remain in effect. This credit for the return of premiums shall not reduce or otherwise affect the Settlement Amount. Effective on the Payment Date, any and all rights, duties, responsibilities, and obligations of Great American created by the Subject Insurance Policies or otherwise shall be terminated and extinguished. Upon the Payment Date, no Entity, including the Catholic Entities (and those claiming under them) and, upon its creation, the Diocese Trust, shall have any insurance coverage under the Subject Insurance Policies. The releases contained in this Agreement are intended to operate as though Great American had never issued the Subject Insurance Policies.

4.1.5 All of the releases and other benefits provided in this Agreement by the Catholic Entities to Great American and Great American's Agents are at least as favorable as the releases and other benefits that the Catholic Entities have provided to any other insurer in the Bankruptcy Case. If the Catholic Entities enter into any agreement with any insurer in the Bankruptcy Case that provides that insurer with releases or other benefits that are more favorable than those contained in this Agreement, then this Agreement shall be deemed to be

modified to provide to Great American and Great American's Agents with those more favorable releases and/or benefits. The Catholic Entities shall notify Great American and Great American's Agents promptly of the existence of such more favorable releases or benefits.

4.1.6 The Catholic Entities expressly assume the risk that Claims, acts, omissions, matters, causes, or things relating to the Subject Insurance Policies or insurance coverage may have occurred that the Catholic Entities do not know or do not suspect to exist. The Catholic Entities hereby waive with respect to Claims released in Section 4.1.1 the terms and provisions of any statute, rule, or doctrine of common law that either (a) narrowly construes releases purporting by their terms to release Claims in whole or in part relating to such Claims, acts, omissions, matters, causes or things; or (b) which restricts or prohibits the releasing of such Claims.

**4.1.7 THE CATHOLIC ENTITIES ACKNOWLEDGE THAT THEY HAVE BEEN ADVISED BY THEIR ATTORNEYS CONCERNING, AND ARE FAMILIAR WITH, MONTANA CODE § 28-1-1602 AND EXPRESSLY WAIVE ANY AND ALL RIGHTS UNDER MONTANA CODE § 28-1-1602, WHICH PROVIDES THAT "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN THE CREDITOR'S FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY THE CREDITOR, MUST HAVE MATERIALLY AFFECTED THE CREDITOR'S SETTLEMENT WITH THE DEBTOR," AND UNDER ANY OTHER FEDERAL OR STATE STATUTE OR LAW OF SIMILAR EFFECT.**

4.2 By Great American.

4.2.1 Effective upon the Payment Date, and in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Great American hereby settles, remises, releases, covenants not to sue, and forever discharges the Catholic Entities, the Diocese's Agents and the Related Entities' Agents from any and all Claims that Great American ever had, now has, or hereafter may have, from the beginning of time to the Payment Date. Notwithstanding the above, and for avoidance of doubt, Great American does not settle, remise, release, covenant not to sue, and/or forever discharge its rights to bring a Claim for enforcement or breach of this Agreement.

4.2.2 Upon the Payment Date, Great American shall have no right with respect to the Catholic Entities or, upon its creation, the Diocese Trust, under the Subject Insurance Policies, and any and all rights, duties, responsibilities, and obligations of the Catholic Entities, and, upon its creation, the Diocese Trust, relating to the Subject Insurance Policies are terminated upon such date.

4.2.3 Upon the Payment Date, Great American shall reserve no Claims, rights, or benefits or any other matter or thing against the Catholic Entities and, upon its creation, the Diocese Trust, and shall assure the Catholic Entities and, upon its creation, the Diocese Trust their peace and freedom from all Claims and from all assertions of rights in connection with such Claims.

4.2.4 Nothing herein shall affect Great American's rights relating to its reinsurers or retrocessionaires in their capacities as such, including the right to seek reimbursement.

4.2.5 Great American expressly assumes the risk that Claims, acts, omissions, matters, causes, or things relating to the Subject Insurance Policies may have occurred that it does not know or does not suspect to exist. Great American hereby waives, with respect to the claims released in Section 4.2.1, the terms and provisions of any statute, rule, or doctrine of common law that either (a) narrowly construes releases purporting by their terms to release Claims in whole or in part relating to such Claims, acts, omissions, matters, causes, or things; or (b) which restricts or prohibits the releasing of such Claims.

**4.2.6 GREAT AMERICAN ACKNOWLEDGES THAT IT HAS BEEN ADVISED BY ITS ATTORNEYS CONCERNING, AND IS FAMILIAR WITH, MONTANA CODE § 28-1-1602 AND EXPRESSLY WAIVES ANY AND ALL RIGHTS UNDER MONTANA CODE § 28-1-1602, WHICH PROVIDES THAT "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN THE CREDITOR'S FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY THE CREDITOR, MUST HAVE MATERIALLY AFFECTED THE CREDITOR'S SETTLEMENT WITH THE DEBTOR," AND UNDER ANY OTHER FEDERAL OR STATE STATUTE OR LAW OF SIMILAR EFFECT.**

4.3 The Parties intend that this Agreement shall be complete and shall not be subject to any claims of accident, unilateral mistake, mutual mistake, mistake of fact, fraud, fraud in the inducement, rescission, reformation, or claims of similar effect, and they intend by this Agreement to resolve all present and future disputes between them.

4.4 Upon the Payment Date, all limits of liability, including all per person, per accident, or per occurrence and aggregate limits of the Subject Insurance Policies, shall be deemed fully satisfied by payment and shall be deemed exhausted such that Great American shall have no further obligation to pay any Claim.

4.5 This Agreement constitutes the full and final resolution of all issues of any nature whatsoever between the Parties, including all issues and Claims in the Coverage Litigation, save the enforcement of this Agreement.

## **SECTION 5. Obligations in Bankruptcy Court and/or District Court.**

5.1 The Diocese shall seek, *inter alia*, entry of the Approval Order and the Confirmation Order by the Court.

5.2 The Diocese shall make the Approval Motion in the Bankruptcy Court within five (5) days after the Execution Date. The Diocese shall serve Bankruptcy Notice of the filing of the Approval Motion. The hearing on the Approval Motion shall be scheduled in and heard by the Bankruptcy Court no later than the date of the hearing to confirm the Plan.

5.3 The Diocese will provide to Great American its proposed findings of fact and conclusions of law in support of the Approval Order twenty (20) days before submitting them to the Bankruptcy Court to permit Great American to comment and make suggestions to the Diocese.

5.4 In the event that any Entity attempts to prosecute a Claim against Great American, including an Abuse Claim, Contribution Claim, Direct Action Claim, Extra-Contractual Claim, Trust Claim, a Claim relating to the Subject Insurance Policies, or a Claim made, or that could have been made, in the Coverage Litigation, then promptly following notice from Great American to do so, the Diocese will file a motion and supporting papers to obtain an order from the Court, pursuant to Bankruptcy Code §§ 362 and 105(a), protecting Great American from any such Claims until the Approval Order and Permanent Injunctions have both become effective upon the date that both the Approval and Confirmation Orders have become Final Orders, or, alternatively, this Agreement is terminated under Section 7.

5.5 The Diocese shall provide to Great American (a) an initial draft of any plan of reorganization thirty (30) days before it is filed so that Great American may provide comments and suggestions; and (b) as soon as possible, a copy of any revisions to such plan relating to the requirements of Section 1.40. Great American reserves its rights to object to any Non-Compliant Plan. If the Diocese proposes a Non-Compliant Plan, then Great American may contest such plan, and the Diocese shall not request a hearing date on confirmation of such plan which is less than one hundred and twenty (120) days after the date upon which such plan is filed with the Court.

5.6 The Diocese shall serve Bankruptcy Notice of the hearing on confirmation of the Plan and the time for filing objections thereto.

5.7 The Diocese will seek entry of the Confirmation Order, containing the Permanent Injunction, together with supporting findings of fact and conclusions of law, as set forth in Section 1.18, including any required under the Bankruptcy Code.

5.8 Great American shall provide to the Diocese a draft of the Permanent Injunction. The Diocese shall also provide to Great American (a) an initial draft of the proposed Confirmation Order thirty (30) days before it is submitted to the Court for approval so that Great American may provide comments and suggestions; and (b) as soon as possible, a copy of any material revisions to such proposed Confirmation Order or proposed Permanent Injunction. Great American reserves the right to object to, *inter alia*, any Non-Compliant Confirmation Order and/or any Non-Compliant Injunction.

## **SECTION 6. Indemnity**

6.1 The Diocese shall defend, indemnify, and hold harmless Great American in respect of any and all Claims relating to the Subject Insurance Policies, including all Claims made by (i) any Entity claiming to be insured (as a named insured, additional insured, or otherwise) under the Subject Insurance Policies; (ii) any Entity who has made, will make, or can

make a Claim; and (iii) any Entity who has acquired or been assigned the right to make a Claim under the Subject Insurance Policies. The Diocese's obligations under this Section 6 shall not exceed the Settlement Amount. This indemnification includes Claims made by Entities over whom the Diocese does not have control, including any other Entity who asserts Claims against or rights to coverage under the Subject Insurance Policies. For purposes of the indemnification obligation of the Diocese under this Section 6.1, the term "Claim" also includes amounts paid in respect of any judgment, order, decree, settlement, contract, or otherwise.

6.2 Great American shall have the right to defend all Claims identified under Section 6.1. Great American may undertake the defense of any Claim upon receipt of such a Claim. Great American agrees to notify the Diocese as soon as practicable of Claims identified under Section 6.1, and of its choice of counsel. The Diocese and Great American shall mutually agree on the selection of competent defense counsel. Great American's defense of a Claim shall have no effect upon the Diocese's obligations to indemnify Great American for such Claim, as set forth in Section 6.1. The Diocese shall reimburse all reasonable and necessary attorneys' fees, expenses, costs, and amounts incurred by Great American in defending such Claims. Great American shall defend any such Claim in good faith. In defense of any such Claim, Great American may settle or otherwise resolve a Claim without the prior consent of the Diocese.

## **SECTION 7. Effectiveness of Agreement and Termination of Agreement**

7.1 This Agreement shall be effective upon the Execution Date.

7.2 The Parties shall have the right to terminate this Agreement on the following grounds, and shall otherwise have no right to terminate this Agreement. Upon a valid termination on any of the following grounds, this Agreement shall be void *ab initio*:

7.2.1 If either the Approval Order or the Confirmation Order does not become a Final Order, then Great American, in its sole discretion, may terminate this Agreement. Notwithstanding anything else in this Agreement, upon the Approval Order and the Confirmation Order both becoming Final Orders, this Agreement may not be terminated.

7.2.2 At any time before the Court rules on the Approval Motion, Great American and the Diocese may terminate this Agreement upon their mutual written consent.

7.2.3 If the Court denies the Approval Motion:

(a) Either the Diocese or Great American may terminate this Agreement if the Court does not permit the Diocese to re-file an Approval Motion that cures the defects cited by the Court in denying the Approval Motion; provided, however, that if the Court permits the Diocese to re-file the Approval Motion, then no Party may terminate this Agreement at that time.

- (b) If the Diocese fails to re-file a revised Approval Motion within sixty (60) days after the entry of the Court order denying the previous Approval Motion, then Great American may terminate this Agreement.
  - (c) If the Diocese files a revised Approval Motion and the Court denies it, then either the Diocese or Great American may terminate this Agreement.
- 7.2.4 If the Court does not enter an order that meets the definition of "Approval Order", or if the Court does enter such an order but the Approval Order does not become a Final Order, then Great American, in its sole discretion, may terminate this Agreement.
- 7.2.5 Great American may terminate this Agreement if (a) the Diocese fails to obtain the Approval Order in the Bankruptcy Case within three (3) years after the Petition Date.
- 7.2.6 If, after a confirmation hearing upon Bankruptcy Notice, including notice as required by the Bankruptcy Code or as ordered by the Court, the Court does not enter a confirmation order that meets the definition of "Confirmation Order" set forth in Section 1.18, or if the Court does enter such an order but the Confirmation Order does not become a Final Order, Great American, in its sole discretion, may either: (a) terminate this Agreement; or (b) continue this Agreement in effect temporarily while the Parties attempt to negotiate (i) an alternative settlement that could be incorporated into a different plan of reorganization for confirmation by the Court or (ii) an alternative Confirmation Order (and if such negotiations are unsuccessful in Great American's sole discretion, Great American may terminate this Agreement).
- 7.2.7 Subject to Section 7.2.1 above: (a) if a Catholic Entity materially breaches any of the provisions of Section 12, then Great American may terminate this Agreement; and (b) if Great American materially breaches any of the provisions of Section 12, then the Diocese may terminate this Agreement.
- 7.2.8 In the event either Party terminates this Agreement, such Party must give notice of termination to the other Parties in the manner prescribed in Section 19.
- 7.2.9 Great American may waive any requirement (a) of this Section; (b) that the Approval Order contain any or all of the provisions described in Section 1.7; and/or (c) that the Confirmation Order contain any or all of the provisions described in Section 1.18. Any such waiver is effective only if in writing, even if supported by additional consideration.

7.2.10 Whether or not a termination of this Agreement is valid shall be determined pursuant to Section 18.

7.3 In the event that this Agreement is terminated, the Parties agree that venue of any dispute between any Catholic Entity and Great American over any issue that was an issue, or could have been made an issue, in the Coverage Litigation, shall be in the Montana First Judicial District Court, Lewis and Clark County, Montana; in such event, the Parties reserve any and all rights, including the right to remove and/or to oppose removal of the Coverage Litigation to Federal Court. Except for issues raised in the Coverage Litigation as provided for in the previous sentence, the Parties reserve all their rights relating to litigation of any and all matters.

7.4 Notwithstanding anything in this Agreement to the contrary, if this Agreement is validly terminated:

- 7.4.1 Sections 2.1.3; 7; 10; 13; 14; 16; 17; 18; and 24, and the definitions in Section 1 relating to the foregoing Sections, shall survive termination and shall remain in full force and effect. The remaining provisions of this Agreement shall be void *ab initio*.
- 7.4.2 Great American shall not be designated as a Settling Insurer, and shall neither seek nor receive any benefit or protection as a Settling Insurer relating to the provisions of this Agreement;
- 7.4.3 The Parties shall have the rights, defenses and obligations relating to the Subject Insurance Policies that they would have had absent this Agreement;
- 7.4.4 The releases provided for in Section 4 shall not become effective;
- 7.4.5 Great American shall be free to pursue its objections to any plan and to appeal from any confirmation order; and
- 7.4.6 In the event that this Agreement is terminated, any otherwise applicable statutes of limitation or repose, or other time-related limitations available to the Parties, shall be deemed to have been tolled for the period beginning on December 1, 2013, and ending on the date that is sixty (60) days following the date upon which this Agreement is terminated, and no Party shall assert, plead, raise or otherwise rely on or take advantage, whether actively or passively, of any time-related defense to any Claim by any other Party related to the period for which such Claim is tolled under the terms of this Agreement. Notwithstanding this provision, the Parties retain any time-related defenses that may have existed on December 1, 2013.

## **SECTION 8. Judgment Reduction Clause.**

8.1 In any proceeding, suit or action, including the Coverage Litigation, involving any of the Catholic Entities or the Diocese Trust, as applicable, and one or more of the Catholic Entities' insurers, where any insurer has asserted, asserts, or could assert any Contribution Claim against Great American, then any judgment obtained by a Catholic Entity or the Diocese Trust against such other insurer shall be automatically reduced by the amount, if any, that Great American would have been liable to pay such other insurer as a result of that insurer's Contribution Claim so that the Contribution Claim by such other insurer against Great American is thereby satisfied and extinguished entirely. The Catholic Entities and the Diocese Trust further agree that, in order to effectuate this clause in any action against another insurer where Great American is not a party, the Catholic Entities or the Diocese Trust, as applicable, shall obtain a finding from that court of what amount Great American would have been required to pay such other insurer under its Contribution Claim, before entry of judgment against such other insurer.

8.2 In any settlement agreement between a Catholic Entity or the Diocese Trust, as applicable, and one or more of the Catholic Entities' insurers, where any insurer has asserted, asserts, or could assert any Contribution Claim against Great American, then any settlement amount agreed by the settling parties shall be automatically reduced by the amount, if any, that Great American would have been liable to pay such other insurer as a result of that insurer's Contribution Claim so that the Contribution Claim by such other insurer against Great American is thereby satisfied and extinguished entirely. In the event that the settling parties are unable to agree on the amount of the Contribution Claim being extinguished, the settling parties shall obtain a finding from the Court of what amount Great American would have been required to pay such other insurer under its Contribution Claim.

8.3 Great American agrees that it will not pursue any Contribution Claim that it might have against any insurer (a) described in Section 8.1 or 8.2, whose Contribution Claim against Great American is satisfied and extinguished entirely; or (b) that does not make a Contribution Claim against Great American. Notwithstanding the foregoing, if an Entity pursues a Contribution Claim against Great American, then Great American shall be free to assert its Contribution Claims against such Entity.

8.4 The Catholic Entities and the Diocese Trust shall use their best efforts to obtain, from all other insurers with which either or both of them executes a settlement after December 1, 2013, agreements similar to those contained in this Section 8.

## **SECTION 9. Cooperation.**

9.1 The Catholic Entities will undertake all reasonable actions and cooperate with Great American to obtain the dismissal of (a) all Claims against Great American in the Coverage Litigation, and (b) all Abuse, Contribution, Direct Action, Extra-Contractual and Trust Claims against Great American, and any other Claims relating to the foregoing, and to obtain additional orders from the Court enjoining such Claims, should any further orders become necessary.

9.2 The Catholic Entities will undertake all reasonable actions and cooperate with Great American in connection with Great American's reinsurers, including responding to reasonable requests for information and meeting with representatives of reinsurers as set forth below.

9.2.1 Upon the Approval Order becoming a Final Order, Great American shall have the right (upon reasonable notice and in a manner convenient to the Catholic Entities or the Diocese Trust, as applicable) to review and obtain from the Catholic Entities, or the Diocese Trust, relevant files, information and documents (a) concerning Claims subject to payment or potential payment with the proceeds of this Agreement, and (b) required of or necessary to Great American in connection with any Claims for reinsurance for the Settlement Amount or in connection with this Agreement. Great American will accept the documents in the form provided to the Catholic Entities or the Diocese Trust (*e.g.*, electronic, paper, *etc.*) or in the form easiest for the Catholic Entities or the Diocese Trust to provide. Neither the Catholic Entities nor the Diocese Trust shall be required to modify or change the form or format of any such information. Great American shall pay reasonable copying charges of documents obtained under this Section.

9.2.2 For the avoidance of doubt, the relevant files, information and documents referenced in Section 9.2.1 shall include:

- (a) Information from any database maintained by the Diocese Trust, any information that the Diocese Trust collects pursuant to any trust distribution procedures, and any information included on any claim form used by the Diocese Trust with respect to Trust Claims, and,
- (b) For each Trust Claim resolved:
  - (i) the Claimant's name;
  - (ii) a claim number, if the Diocese Trust uses such a number to identify Claims;
  - (iii) status (open or closed);
  - (iv) date of first alleged abuse;
  - (v) the age of the Claimant at the time of the alleged first abuse; and,
  - (vi) the amount of indemnity paid.

9.2.3 Upon the Approval Order becoming a Final Order, the Catholic Entities and the Diocese Trust, once established, shall reasonably cooperate in obtaining and providing the files, information and documents referred to in Sections 9.2.1 and 9.2.2 at Great American's reasonable request and expense (provided that Great American shall have no obligation to pay, other than reasonable copying costs, any internal costs of the Diocese Trust, including costs associated with time or expenses of the Diocese Trust's employees). For the avoidance of doubt, and without limitation of the foregoing, the Diocese Trust shall undertake all reasonable actions to cooperate with Great American in connection with their reinsurers, including (upon reasonable notice, at Great American's expense (such as reasonable copying costs) other than internal costs of the Diocese Trust, including costs associated with time and expense of the Diocese Trust's employees, and in a manner convenient to the Diocese Trust as applicable) responding to reasonable requests for information and meeting with representatives of reinsurers. Such cooperation shall include providing Great American's representative access to all files relating to Trust Claims, including all medical, claim status, and payment records contained in such files. For the avoidance of doubt, this Section 9, and any results of such a review:

- (a) Shall not affect Great American's payment obligations under this Agreement;
- (b) Shall not obligate the Diocese Trust to collect any information from any Claimant that it is not otherwise obligated to collect; and
- (c) Shall not give Great American any right to challenge the allowance or payment of any Claim by the Diocese Trust.

9.2.4 Great American shall not provide any "**Report**" (as defined in Section 9.2.6), results, files, information, or documents obtained by Great American pursuant to this Section ("**Materials**") to any other Entity and shall keep the Materials confidential, except that Great American may:

- (a) Provide the Materials to the Entities identified in Section 13.1;
- (b) Use the Materials in any proceeding or process to obtain reinsurance with respect to the Settlement Amount or this Agreement or in connection with its compliance with applicable laws or regulations; and
- (c) Respond to any order of any court compelling the production of such Materials, after providing reasonable notice to the Catholic Entities or, if established, the Diocese Trust that such materials

are being requested in any legal proceeding and before the entry of such an order.

- 9.2.5 Great American shall exercise reasonable care to maintain the confidentiality of the Materials, including seeking a confidentiality pledge from any Entity with which it shares the Materials and seeking a protective order in any proceeding in which it uses the Materials, but Great American's right to disclose any portion of the Materials to any of the Entities in Section 13.1 shall not be affected if Great American's reasonable efforts do not result in a confidentiality pledge being given or a confidentiality order being entered. If Great American is unable to obtain confidentiality pledges that are substantively the same as the confidentiality protocols in the "Order Establishing Deadlines for Filing Proofs of Claims; Approving Proof of Claim Forms; Providing for Sealing of Schedules and Pleadings and for Confidentiality Protocols; and Approving Form and Manner of Notice" entered as Docket No. 248 in the Bankruptcy Case ("**Confidentiality Protocols**"), or a protective order that includes the Confidentiality Protocols, then Great American may provide the Materials to the Entities described in Section 13.1 only if the Materials are redacted for any information that can be used to personally identify the Abuse Claimant. Nothing in this Section shall prevent Great American from using the Materials for its own internal purposes.
- 9.2.6 At the Diocese Trust's sole discretion, the Diocese Trust may satisfy its obligations under Section 9.2 by providing Great American (or its representatives) with a report ("**Report**") concerning Trust Claims activity with respect to the time period that is the subject of Great American's request for relevant files, information and documents. If the Diocese Trust is required to collect under the Plan or any trust distribution procedures, or in fact collects the following information, such Reports shall include:
- (a) With respect to the Diocese Trust, the number of total Claims filed, pending, settled, dismissed or that went to judgment, the total indemnity paid, and total expense paid; and
  - (b) With respect to each Claim resolved during the relevant period:
    - (i) the Claimant's name and Social Security number;
    - (ii) the claim number, if any;
    - (iii) jurisdiction, if any;
    - (iv) status (open or closed);

- (v) the date of first abuse as set forth in the complaint or as reflected by information reasonably available to the Diocese Trust (as applicable);
- (vi) the age of the Claimant at the time of first alleged abuse;
- (vii) the name of the abuse perpetrator for which the Diocese is alleged to be responsible;
- (viii) date of death, if applicable; and
- (ix) the amount of indemnity paid.

9.2.7 If the proofs of claim submitted to the Diocese Trust include the information required in (9.2.6(b)(i)-(ix)), then the Reports may include copies of the proofs of claim rather than summaries thereof.

9.2.8 If the Diocese Trust exercises its discretion to provide Reports to Great American pursuant to Section 9.2.6, the Diocese Trust shall still be obligated, at the request of Great American (upon reasonable notice, at Great American's sole expense, and in a manner convenient to the Diocese Trust) to make available to Great American files, information and documents described in this Section 9 relating to Trust Claims that are the subject of the Report.

## **SECTION 10. Representation by Counsel**

This Agreement is not a contract of insurance, nor is this Agreement subject to rules of construction governing contracts of insurance, including the doctrine of *contra proferentem*. The Parties acknowledge and agree that this Agreement was bargained for and entered into in good faith and as the result of arm's-length negotiations, and that at all times material they have been represented by counsel of their own choosing concerning the rights affected by this Agreement, the form and content of it, and the advisability of executing it. This Agreement has been reviewed by counsel for each of the Parties and shall not be strictly construed against either Party.

## **SECTION 11. Remedies**

The performance by the Catholic Entities and/or the Diocese Trust under Sections 3.1; 3.2; 3.4; 3.5; 4; 5; 6; 7.4; 8; 9; 12; 13; and 18 is unique. The Parties acknowledge and agree that money damages would be both incalculable and insufficient remedy for any breach of those Sections of this Agreement by the Catholic Entities or the Diocese Trust and that any such breach would cause Great American irreparable harm. Accordingly, the Parties also agree that in the event of any breach or threatened breach of those Sections of this Agreement, in addition to any other remedies at law or in equity it may have, Great American shall be entitled, without the requirement of posting a bond or other security, to specific performance of those

Sections, which shall include any equitable relief necessary, including injunctive relief, to require the Catholic Entities and/or the Diocese Trust to specifically perform those Sections of this Agreement, without proof of actual damages.

## **SECTION 12. Representations and Warranties**

12.1 Each Catholic Entity represents and warrants that (a) it has not sold, assigned or conveyed to any other Entity any of the Subject Insurance Policies or any rights thereunder prior to the Execution Date; and (b) it will not sell, assign, or convey to any Entity any of the Subject Insurance Policies or any rights thereunder between the Execution Date and the Payment Date.

12.2 The Catholic Entities represent and warrant that they are the owners of the Subject Insurance Policies and that no other Entity has legal title to said policies.

12.3 Each Catholic Entity represents and warrants that none of the Claims released herein has been, or will be, assigned or transferred, in whole or in part, to any Entity other than through this Agreement.

12.4 Each Catholic Entity represents and warrants that it has not in any way assisted, and shall not in any way assist, any Entity in the establishment of any Claim against Great American.

12.5 The Diocese represents and warrants that, based on its independent assessments, with the assistance and advice of counsel, of the probability of success against Great American in the Coverage Litigation, the complexity of the issues and facts in the Coverage Litigation, and the delay in obtaining relief, and the expense of possible future litigation, it believes that (a) the Settlement Amount and other benefits received under this Agreement by the Diocese constitutes a fair and reasonable settlement of the Diocese's Claims in the Coverage Litigation and other Claims against Great American, and (b) the Settlement Amount and other benefits received under this Agreement by the Diocese constitute reasonably equivalent value for the release, indemnity, protection under the Permanent Injunction, and other benefits received by Great American under this Agreement.

12.6 Each Catholic Entity represents and warrants that it shall not contest that this Agreement, including the release set forth in Section 4, is binding, or that valuable and fair consideration or reasonably equivalent value has been received by the Catholic Entities for this Agreement.

12.7 Each Catholic Entity represents and warrants that it shall reasonably cooperate with Great American in responding to, and opposing, any motion, objection, Claim, assertion, or argument by any third party that this Agreement, including the release set forth in Section 4, is not binding, or should be avoided, or that valuable and fair consideration or reasonably equivalent value has not been received by it and/or the Diocese Trust for this Agreement.

12.8 Each Catholic Entity represents and warrants that it enters into this Agreement for the specific purpose of obtaining payment by Great American of the Settlement Amount to the Diocese Trust, based on its evaluation and determination that the payment of the Settlement Amount is, and will be, in the best interest of creditors and other parties in interest, whether known or unknown, who hold or may hold Claims, including Abuse Claims.

12.9 Each Party represents and warrants that this Agreement has been thoroughly negotiated and analyzed by its counsel and has been executed and delivered in good faith, pursuant to arm's-length negotiations, and for value and valuable consideration.

12.10 Subject to the entry of the Approval Order, each Party represents and warrants that it has authority to execute this Agreement as its binding and legal obligation. Each Party represents and warrants that the person signing this Agreement on its behalf is authorized to execute this Agreement and that it has read this Agreement in full. Each Catholic Entity represents and warrants that it has had the opportunity to consult its attorneys, and agrees to execute this Agreement.

12.11 The Diocese and Great American have completed a reasonable search for any policy of insurance issued by Great American to the Diocese, which would afford coverage with respect to the Abuse Claims. Other than the alleged policies for which documentation has been provided as set forth in Attachment A, no such policies have been identified. Notwithstanding the foregoing, nothing in this Agreement, including the Attachments thereto, shall be construed as or deemed to be an admission or evidence that any binder, certificate, or policy of insurance was in fact issued and/or affords coverage in connection with the Abuse Claims.

### **SECTION 13. Confidentiality**

13.1 This Agreement will remain confidential between the Parties and their representatives, subject to any necessary disclosures to reinsurers, attorneys, accountants, auditors, actuaries, employees and such other representatives that may need to be apprised of it and to any governmental entity such as a rating agency requesting such information.

13.2 The fact of settlement and the amount of settlement may be disclosed to the Diocese's other insurers in the Coverage Litigation upon notice and agreement of the Parties, provided the Diocese's other insurers to whom such disclosure is made agree to keep such information confidential.

13.3 The terms of this Agreement may be disclosed in a filing submitted to the Court to secure the Approval Order, Confirmation Order, and other applicable orders and as may be necessary or convenient to effectuate the terms and conditions of this Agreement.

### **SECTION 14. Non-Prejudice and Construction of Agreement.**

14.1 This Agreement is subject to Federal Rule of Evidence 408 and Montana Rule of Evidence 408, is intended to be and is a compromise between the Parties and shall not be

construed as an admission of coverage relating to the Subject Insurance Policies, nor shall this Agreement or any provision hereof be construed as a waiver, modification, or retraction of the positions of the Parties with respect to the interpretation and application of the policies that are the subject of the Coverage Litigation.

14.2 This Agreement is the product of informed negotiations and involves compromises of the Parties' previously stated legal positions. Accordingly, this Agreement does not reflect the Parties' views as to their rights and obligations with respect to matters or Entities outside the scope of this Agreement. This Agreement is without prejudice to positions taken by Great American relating to other insureds or Claimants, and without prejudice to positions taken by the Diocese relating to other insurers.

14.3 Nothing in this Agreement, express or implied, confers on any Entity, other than the Parties, any benefit or any legal or equitable right, remedy, or Claim.

#### **SECTION 15. No Modification.**

15.1 Before the entry of the Approval Order, no change or modification of this Agreement shall be valid, even if supported by additional consideration, unless it is made in writing and signed by the Parties.

15.2 After the entry of the Approval Order, this Agreement may be changed or modified only in a written notice signed by the Parties and approved by the Court.

#### **SECTION 16. No Waiver.**

Either Party may specifically and expressly waive in writing any portion of this Agreement or any breach hereof, but only to the extent such provision is for the benefit of the waiving Party, and no such waiver shall constitute a further or continuing waiver of any preceding or succeeding breach of the same or any other provision. The consent by one Party to any act for which such consent was required shall not be deemed to imply consent or waiver of the necessity of obtaining such consent for the same or similar acts in the future, and no forbearance by a Party to seek a remedy for noncompliance or breach by the other Party shall be construed as a waiver of any right or remedy with respect to such noncompliance or breach.

#### **SECTION 17. Governing Law.**

This Agreement shall be governed by and shall be construed in accordance with the laws of Montana without regard to its conflict of law principles, and where necessary, in accordance with federal bankruptcy law. The Diocese and Great American reserve the right to argue what law governs the interpretation of the Subject Insurance Policies, including whether or not any Subject Insurance Policies exist.

**SECTION 18. Court to Resolve Disputes.**

Notice of any dispute, controversy or claim ("**Dispute**") relating to this Agreement shall be provided by written notice to the other Party in accordance with Section 19, specifying the facts underlying the Dispute, and the Party receiving the Notice shall have ten (10) Business Days to cure the Dispute. Any Dispute shall be submitted to the Court for resolution.

**SECTION 19. Notices.**

Any notices, consents and other communications required or permitted herein shall be in writing and shall be effective, and any applicable time period shall commence when (a) delivered to the following address by hand or by a nationally recognized overnight courier service (costs prepaid) or (b) transmitted electronically to the following facsimile or e-mail addresses with confirmation of receipt of transmission, in each case marked to the attention of the person (by name or title) designated below (or to such other address, facsimile number, e-mail address, or Entity as a Party may designate by notice to the other Parties).

Unless another person is designated, in writing, for receipt of notices hereunder, notices to the respective Parties shall be sent to the following person:

The Catholic Entities:

Fr. John Robertson  
Chancellor of Diocese of Helena  
P. O. Box 1729,  
Helena, MT 59624-1729

or

515 North Ewing Street  
Helena, MT 59601

With a copy to:

J. Ford Elsaesser, Esq.  
Elsaesser Jarzabek Anderson Elliott &  
Macdonald  
102 S. 3rd Ave. Ste 24  
Sandpoint, ID 83864  
Attorneys for the Diocese

William Driscoll  
Franz & Driscoll, PLLP  
21 North Last Chance Gulch, Suite 210  
P. O. Box 1155  
Helena, MT 59601

James Murray

Dickstein Shapiro LLP  
1825 Eye Street NW  
Washington, DC 20006

Great American:

Office of General Counsel  
Great American Insurance Company  
49 East Fourth Street, Suite 700  
Cincinnati, OH 45201-5425

With a copy to:

Russell W. Roten, Esq.  
Duane Morris LLP  
865 South Figueroa Street, Suite 3100  
Los Angeles, CA 90017  
Attorneys for Great American

Catalina J. Sugayan, Esq.  
Sedgwick LLP  
One North Wacker Drive  
Suite 4200  
Chicago, Illinois 60606-2841  
United States of America  
Attorneys for Great American

#### **SECTION 20. Integration.**

This Agreement, including the attachments, constitutes the entire Agreement between the Parties with respect to the subject matter hereof and thereof, and supersedes all discussions, agreements and understandings, both written and oral, between the Parties with respect thereto.

#### **SECTION 21. Additional Documents.**

The Parties shall execute any such other documents as may be reasonably required to obtain the Approval Order and the Confirmation Order as set forth herein, or as may reasonably be necessary to effectuate any other requirement or agreement herein.

#### **SECTION 22. Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed an original. This Agreement is binding when one or more counterparts, individually or taken together, is signed by each of the Parties.

**SECTION 21. Additional Documents.**

The Parties shall execute any such other documents as may be reasonably required to obtain the Approval Order and the Confirmation Order as set forth herein, or as may reasonably be necessary to effectuate any other requirement or agreement herein.

**SECTION 22. Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed an original. This Agreement is binding when one or more counterparts, individually or taken together, is signed by each of the Parties.

**SECTION 23. Facsimile.**

This Agreement may be effected by facsimile or other electronic transmission of executed copies of the signature page delivered to counsel for the Parties.

**SECTION 24. Captions and Headings**

The captions and headings used in this Agreement are for reference purposes only and shall not be taken into account in construing or interpreting this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives.

<b>THE ROMAN CATHOLIC BISHOP OF HELENA, MONTANA</b>  By: _____  Name: _____  Title: _____  Date: _____, 2014  Approved: J. Ford Elsaesser, Elsaesser Jarzabek Anderson Elliott & Macdonald	<b>GREAT AMERICAN INSURANCE COMPANY</b>  By: <u>Troy A. Galley</u>  Name: <u>Troy A. Galley</u>  Title: <u>Divisional Vice President</u>  Date: <u>1/12</u> , 201 <sup>5</sup> <sub>4</sub>  Approved: Russell Roten, Duane Morris LLP
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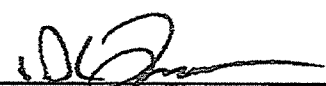
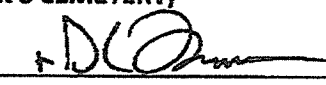





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**SECTION 24. Captions and Headings**




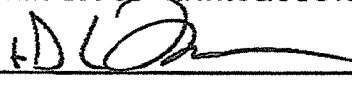

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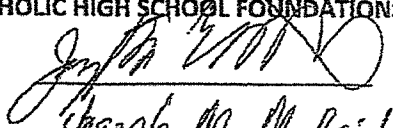

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives.

<b>THE ROMAN CATHOLIC BISHOP OF HELENA, MONTANA</b>	<b>GREAT AMERICAN INSURANCE COMPANY</b>
By: <u></u>	By: _____
Name: <u>George Leo Thomas</u>	Name: _____
Title: <u>Bishop of Helena</u>	Title: _____
Date: <u>01/12/2015</u>	Date: _____, 2014
Approved: J. Ford Elsaesser, Elsaesser Jarzabek Anderson Elliott & Macdonald	Approved: Russell Roten, Duane Morris LLP

<b>BUTTE GIRLS' CENTRAL</b> By: <u></u> Name: <u>George Leo Thomas</u> Title: <u>Bishop of Helena</u> Date: <u>01 12, 2014</u> <sup>15</sup>	<b>CARROLL COLLEGE AND CARROLL COLLEGE FOUNDATION</b> By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>CATHOLIC CEMETERY ASSOCIATION (HOLY CROSS CEMETERY, DWELLING, ST. PATRICK'S CEMETERY)</b> By: <u></u> Name: <u>George Leo Thomas</u> Title: <u>President, Resurrection Cemetery Assoc</u> Date: <u>01 12, 2014</u> <sup>15</sup>	<b>CATHOLIC CEMETERIES</b> By: <u></u> Name: <u>George Leo Thomas</u> Title: <u>President, Resurrection Cemetery Assoc</u> Date: <u>01 12, 2014</u> <sup>15</sup>
<b>CATHOLIC CHARITIES (BANK OR OFFICE, RESIDENCE, BOARDING HOUSE)</b> By: <u></u> Name: <u>George Leo Thomas</u> Title: <u>Member, Catholic Social Service of Montana</u> Date: <u>01 12, 2014</u> <sup>15</sup>	<b>CATHOLIC CEMETERY OF BUTTE</b> By: <u></u> Name: <u>George Leo Thomas</u> Title: <u>President, Resurrection Cemetery Assoc</u> Date: <u>01 12, 2014</u> <sup>15</sup>
<b>CATHOLIC CHARITIES OF MONTANA, INC.</b> By: <u></u> Name: <u>George Leo Thomas</u> Title: <u>Member, Catholic Social Service of Montana</u> Date: <u>01 12, 2014</u> <sup>15</sup>	<b>CATHOLIC CHARITIES / ST. VINCENT DEPAUL (RETAIL STORE)</b> By: <u></u> Name: <u>George Leo Thomas</u> Title: <u>Member, Catholic Social Service of Montana</u> Date: <u>01 12, 2014</u> <sup>15</sup>




<b>BUTTE GIRLS' CENTRAL</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>CARROLL COLLEGE AND CARROLL COLLEGE FOUNDATION</b>  By: <u>Thomas M. Evans</u> Name: <u>Dr. Thomas M. Evans</u> Title: <u>President</u> Date: <u>Jan 12, 2015</u>
<b>CATHOLIC CEMETERY ASSOCIATION (HOLY CROSS CEMETERY, DWELLING, ST. PATRICK'S CEMETERY)</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>CATHOLIC CEMETERIES</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>CATHOLIC CHARITIES (BANK OR OFFICE, RESIDENCE, BOARDING HOUSE)</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>CATHOLIC CEMETERY OF BUTTE</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>CATHOLIC CHARITIES OF MONTANA, INC.</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>CATHOLIC CHARITIES / ST. VINCENT DEPAUL (RETAIL STORE)</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014

<b>CATHOLIC HIGH SCHOOL FOUNDATIONS</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>CATHOLIC CHARITIES, INC.</b>  By: <u></u> Name: <u>George Lee Thomas</u> Title: <u>Montana Catholic Social Services of Montana</u> Date: <u>01</u> <u>12</u> , 201 <sup>5</sup> <u>4</u>
<b>CENTRAL EDUCATIONAL FOUNDATION OF SILVER BOW</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>CATHOLIC SOCIAL SERVICES FOR MONTANA, INC. (INCLUDES HELENA AND BILLINGS LOCATIONS)</b>  By: <u></u> Name: <u>George Lee Thomas</u> Title: <u>Montana Catholic Social Services of Montana</u> Date: <u>01</u> <u>12</u> , 201 <sup>5</sup> <u>4</u>
<b>FLATHEAD ASSOCIATION FOR CATHOLIC EDUCATION</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>CHRISTIAN BROTHERS HIGH SCHOOL</b>  By: <u></u> Name: <u>George Lee Thomas</u> Title: <u>Bishop of Helena</u> Date: <u>01</u> <u>12</u> , 201 <sup>5</sup> <u>4</u>
<b>LEGENDARY LODGE - CATHOLIC BOYS CAMP</b>  By: <u></u> Name: <u>George Lee Thomas</u> Title: <u>Bishop of Helena</u> Date: <u>01</u> <u>12</u> , 201 <sup>5</sup> <u>4</u>	<b>HANDMAIDS OF MARY</b>  By: <u></u> Name: <u>George Lee Thomas</u> Title: <u>Bishop of Helena</u> Date: <u>01</u> <u>12</u> , 201 <sup>5</sup> <u>4</u>

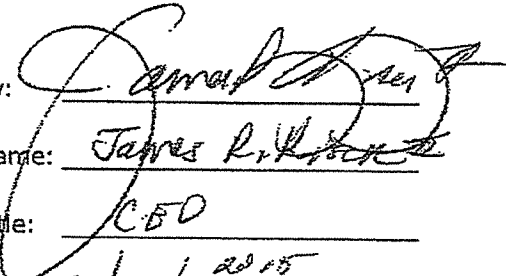
<b>CATHOLIC HIGH SCHOOL FOUNDATIONS</b> By: <u></u> Name: <u>Joseph M. McBride</u> Title: <u>President Butte Central Education Foundation</u> Date: <u>1/13/2015</u>	<b>CATHOLIC CHARITIES, INC.</b> By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>CENTRAL EDUCATIONAL FOUNDATION OF SILVER BOW</b> By: <u></u> Name: <u>Joseph M. McBride</u> Title: <u>President Butte Central Education Foundation</u> Date: <u>1/13/2015</u>	<b>CATHOLIC SOCIAL SERVICES FOR MONTANA, INC. (INCLUDES HELENA AND BILLINGS LOCATIONS)</b> By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>FLATHEAD ASSOCIATION FOR CATHOLIC EDUCATION</b> By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>CHRISTIAN BROTHERS HIGH SCHOOL</b> By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>LEGENDARY LODGE – CATHOLIC BOYS CAMP</b> By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>HANDMAIDS OF MARY</b> By: _____ Name: _____ Title: _____ Date: _____, 2014


<b>CATHOLIC HIGH SCHOOL FOUNDATIONS</b> By: <u>[Signature]</u> Name: <u>DAVID HERBESHEIMER</u> Title: <u>PRESIDENT</u> Date: <u>JAN. 12</u> 2015	<b>CATHOLIC CHARITIES, INC.</b> By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>CENTRAL EDUCATIONAL FOUNDATION OF SILVER BOW</b> By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>CATHOLIC SOCIAL SERVICES FOR MONTANA, INC. (INCLUDES HELENA AND BILLINGS LOCATIONS)</b> By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>FLATHEAD ASSOCIATION FOR CATHOLIC EDUCATION</b> By: <u>[Signature]</u> Name: <u>DAVID HERBESHEIMER</u> Title: <u>PRESIDENT</u> Date: <u>JAN. 12</u> 2015	<b>CHRISTIAN BROTHERS HIGH SCHOOL</b> By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>LEGENDARY LODGE – CATHOLIC BOYS CAMP</b> By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>HANDMAIDS OF MARY</b> By: _____ Name: _____ Title: _____ Date: _____, 2014

<b>CATHOLIC HIGH SCHOOL FOUNDATIONS</b> By: <u><i>Stacy Kendrick</i></u> Name: <u><i>Stacy Kendrick</i></u> Title: <u><i>Foundation Director</i></u> Date: <u><i>1/10/2015</i></u>	<b>CATHOLIC CHARITIES, INC.</b> By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>CENTRAL EDUCATIONAL FOUNDATION OF SILVER BOW</b> By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>CATHOLIC SOCIAL SERVICES FOR MONTANA, INC. (INCLUDES HELENA AND BILLINGS LOCATIONS)</b> By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>FLATHEAD ASSOCIATION FOR CATHOLIC EDUCATION</b> By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>CHRISTIAN BROTHERS HIGH SCHOOL</b> By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>LEGENDARY LODGE – CATHOLIC BOYS CAMP</b> By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>HANDMAIDS OF MARY</b> By: _____ Name: _____ Title: _____ Date: _____, 2014

<b>LOYOLA-SACRED HEART HIGH SCHOOL FOUNDATION</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>LOYOLA HIGH SCHOOL</b>  By: <u></u> Name: <u>George Leo Thomas</u> Title: <u>Bishop of Helena</u> Date: <u>01 12, 2014</u>
<b>RESURRECTION CEMETERY, INC.</b>  By: <u></u> Name: <u>George Leo Thomas</u> Title: <u>President, Resurrection Cemetery Inc.</u> Date: <u>01 12, 2014</u>	<b>MONTANA CATHOLIC CONFERENCE, INC.</b>  By: <u></u> Name: <u>George Leo Thomas</u> Title: <u>Member, Montana Catholic Conference, Inc.</u> Date: <u>01 12, 2014</u>
<b>ST. JOSEPH'S HOSPITAL</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>SISTERS OF PROVIDENCE OF MONTANA CORPORATION F/K/A SISTERS OF CHARITY OF PROVIDENCE IN THE TERRITORY OF MONTANA</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014

<p>LOYOLA-SACRED HEART HIGH SCHOOL FOUNDATION</p> <p>By: <u><i>Stacy Kendrick</i></u></p> <p>Name: <u><i>Stacy Kendrick</i></u></p> <p>Title: <u><i>Foundation Director</i></u></p> <p>Date: <u><i>1/15</i></u>, 2015</p>	<p>LOYOLA HIGH SCHOOL</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____, 2014</p>
<p>RESURRECTION CEMETERY, INC.</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____, 2014</p>	<p>MONTANA CATHOLIC CONFERENCE, INC.</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____, 2014</p>
<p>ST. JOSEPH'S HOSPITAL</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____, 2014</p>	<p>SISTERS OF PROVIDENCE OF MONTANA CORPORATION F/K/A SISTERS OF CHARITY OF PROVIDENCE IN THE TERRITORY OF MONTANA</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____, 2014</p>

<b>LOYOLA-SACRED HEART HIGH SCHOOL FOUNDATION</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>LOYOLA HIGH SCHOOL</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>RESURRECTION CEMETERY, INC.</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>MONTANA CATHOLIC CONFERENCE, INC.</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>ST. JOSEPH'S HOSPITAL</b>  By:  Name: <u>James R. Ritz</u> Title: <u>CEO</u> Date: <u>01/13</u> / <u>2015</u>	<b>SISTERS OF PROVIDENCE OF MONTANA CORPORATION F/K/A SISTERS OF CHARITY OF PROVIDENCE IN THE TERRITORY OF MONTANA</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014

<b>LOYOLA-SACRED HEART HIGH SCHOOL FOUNDATION</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>LOYOLA HIGH SCHOOL</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>RESURRECTION CEMETERY, INC.</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>MONTANA CATHOLIC CONFERENCE, INC.</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014
<b>ST. JOSEPH'S HOSPITAL</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014	<b>SISTERS OF PROVIDENCE OF MONTANA CORPORATION F/K/A SISTERS OF CHARITY OF PROVIDENCE IN THE TERRITORY OF MONTANA</b>  By:  Name: <u>JEFF D. FEE</u> Title: <u>CEO</u> Date: <u>1/13</u> , 2014

FOUNDATION FOR THE DIOCESE OF HELENA, FKA WESTERN MONTANA CATHOLIC FOUNDATION	
By:	<u>Jeanne Saareinen</u>
Name:	<u>Jeanne Saareinen</u>
Title:	<u>Executive Director</u>
Date:	<u>January 9, 2015</u>

<b>LOYOLA-SACRED HEART HIGH SCHOOL FOUNDATION</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014 Approved: _____ _____	<b>MONTANA CATHOLIC CONFERENCE, INC.</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014 Approved: _____ _____
<b>RESURRECTION CEMETERY, INC.</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014 Approved: _____ _____	<b>SISTERS OF CHARITY OF PROVIDENCE</b>  By: _____ Name: _____ Title: _____ Date: _____, 2014 Approved: _____ _____

ST. JOSEPH'S HOSPITAL	WESTERN MONTANA CATHOLIC FOUNDATION
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____, 2014	Date: _____, 2014
Approved: _____	Approved: _____
_____	_____

## ATTACHMENT A

## LIST OF SUBJECT INSURANCE POLICY EVIDENCE

The Parties agree that they have been unable to locate (a) any insurance policies issued to the Diocese by Great American or (b) any certificates of insurance indicating that Great American issued any insurance policies to the Diocese. The following documentation has been found, however, and the Diocese contends that the documentation is adequate as secondary evidence to establish that certain insurance policies were issued to the Diocese by Great American effective from 1956 to 1963. Great American contends that such documentation does not establish the existence of any insurance policies nor is it evidence of policies.

- a. A letter from Howard E. Connor & Company, Inc., to Bishop Gilmore dated August 4, 1959, that reported on a slip and fall on the steps of St. Patrick's Church in Butte, Montana on November 30, 1958, which referenced policy number GC 55889 and was copied to Great American Insurance Company in San Francisco.
- b. A letter dated August 4, 1959, which states the Diocese's previous liability insurance policy had limits of "\$5,000 per person and \$10,000 per accident", and that those limits had been increased to "\$5,000 per person and \$100,000 per accident".
- c. A copy of an invoice dated August 3, 1959 referencing a Great American Comprehensive General Liability Policy, the Policy No. LGC6112164, the period August 1, 1959 to August 1, 1962, and other information.
- d. A letter dated July 28, 1958, in which the Diocese's Chancellor wrote "[w]e have increased the limits of the Liability insurance to \$10,000 per person and \$100,000 per accident."
- e. A letter dated June 20, 1963, from Joe Flynn to Rev. Joseph B. Oblinger, which states, *inter alia*, "... as of May 1 we were rewriting the Comprehensive Liability Policy and placing it in the Standard Accident Insurance Company. Under this new policy we are giving credit for the unexpired portion of the present policy which expires in August."
- f. A "Chancery Bulletin" dated September 18, 1962, stating, *inter alia*, "(B)efore the death of the late Bishop Gilmore [on April 2, 1962], we had adopted a program of extended coverage. We now carry \$100,000/\$500,000 limits of liability."
- g. A letter dated March 14, 1963, to Bishop Hunthausen from Joe Flynn Agency, Inc. discussing liability coverage for Carroll College and the Diocese.
- h. A letter dated June 20, 1963, from Joe Flynn Agency to Rev. Oblinger that stated the current CGL was being rewritten in the Standard Accident Insurance Company with credit given for the "unexpired portion of the present policy."

**ATTACHMENT B**

**DISMISSAL**

**ATTACHMENT C  
LIST OF RELATED ENTITIES**

1. Butte Girls' Central
2. Carroll College
3. Carroll College Foundation
4. Catholic Cemeteries
5. Catholic Cemetery Association (Holy Cross Cemetery, Dwelling, St. Patrick's Cemetery)
6. Catholic Cemetery of Butte
7. Catholic Charities (Bank or Office, Residence, Boarding House)
8. Catholic Charities / St. Vincent DePaul (Retail Store)
9. Catholic Charities of Montana, Inc.
10. Catholic Charities, Inc.
11. Catholic High School Foundations
12. Catholic Social Services for Montana, Inc. (includes Helena and Billings locations)
13. Central Educational Foundation of Silver Bow
14. Christian Brothers High School
15. Flathead Association for Catholic Education
16. Handmaids of Mary
17. Legendary Lodge - Catholic Boys Camp
18. Loyola High School
19. Loyola-Sacred Heart High School Foundation
20. Montana Catholic Conference, Inc.
21. Resurrection Cemetery, Inc.
22. Sisters of Charity of Providence
23. St. Joseph's Hospital
24. Western Montana Catholic Foundation

**ATTACHMENT D  
LIST OF DIOCESAN ENTITIES**

1. Anaconda Catholic Community
2. Bishops' Residence (and Office)
3. Blessed John Paul II Parish
4. Blessed Sacrament Mission
5. Blessed Trinity Parish
6. Butte Catholic Community Central
7. Butte Catholic Community North
8. Chapel of the Ascension Mission
9. Christ the King Parish
10. Flint Creek Catholic Community
11. Georgetown Lake Mission
12. Guardian Angel Mission
13. Holy Cross Parish, including Missions in Canton, MT, and Toston, MT
14. Holy Family Parish, including St. Mary's Mission in Logan, MT and the Mission in Manhattan, MT
15. Holy Rosary Parish including Mission
16. Holy Savior Parish
17. Holy Spirit Catholic Community
18. Immaculate Conception Mission (Judith Gap)
19. Immaculate Conception Mission (Troy)
20. Immaculate Conception Parish (Butte)
21. Immaculate Conception Parish (Deer Lodge)
22. Immaculate Conception Parish (Polson)
23. Immaculate Conception Parish including Mission (Wolf Creek)
24. Lima Mission
25. Living Water Mission
26. Madison County Catholic Community
27. Notre Dame Mission
28. Noxon Mission
29. Our Lady of Mercy Parish
30. Our Lady of Swan Valley Mission
31. Our Lady of the Lake Mission
32. Our Lady of the Pines
33. Our Lady of the Valley
34. Our Lady of Wisdom Mission
35. Parish of the Little Flower including Mission
36. Resurrection Parish
37. Risen Christ Parish
38. Sacred Heart Mission
39. Sacred Heart Mission (Arlee)

40. Sacred Heart Mission (Hot Springs)
41. Sacred Heart Mission (Wolf Creek)
42. Sacred Heart Parish (Butte)
43. Sacred Heart Parish including St. Joseph Mission in D'Aste, MT
44. Spirit of Christ Mission
45. Ss. Cyril & Methodius Parish including St. John's Mission in Clancy, MT and St. Mary's Mission in Marysville, MT
46. St. Albert the Great Mission
47. St. Anne Parish
48. St. Ann's Parish (Bonner)
49. St. Ann's Parish (Butte)
50. St. Anthony's Parish
51. St. Bartholomew's Parish including Mission in Ringling, MT
52. St. Catherine's Parish including Mission
53. St. Charles Borromeo Parish
54. St. Charles Parish
55. St. Francis of Assisi Parish
56. St. Francis Parish (Hamilton)
57. St. Francis Parish including Holy Cross Mission in Dupuyer, MT and Sacred Heart Mission in Williams, MT
58. St. Francis Xavier Parish
59. St. Helena Parish including Cathedral, Rectory, Grade Schools, Convent, Resurrection Cemetery, Dwelling, and Cathedral High School
60. St. Helena Parish including Mission in Brown's Gulch, MT
61. St. Ignatius Mission Parish
62. St. James Parish including Missions in Paradise, MT; Camas Hot Springs, MT; and, Townsite of Thompson Falls, MT
63. St. John Berchmans Mission
64. St. John Mission
65. St. John the Apostle Mission
66. St. John the Baptist Parish including Mission in Deborgia, MT and St. Mary's Mission in Superior, MT
67. St. John the Evangelist Mission
68. St. John the Evangelist Parish (Butte)
69. St. John the Evangelist Parish (Fairfield)
70. St. John Vianney
71. St. John's Parish including Guardian Angel Mission in Power, MT and Blessed Sacrament Mission in Dutton, MT
72. St. Joseph Mission (Charlo)
73. St. Joseph Mission (Florence)
74. St. Joseph of Big Sky Mission
75. St. Joseph Parish (Sheridan)
76. St. Joseph's Parish (Anaconda)
77. St. Joseph's Parish (Butte)

78. St. Joseph's Parish including Immaculate Conception Mission in Troy, MT
79. St. Joseph's Parish including Missions in Judith Gap, MT and Shawmuit, MT
80. St. Joseph's Parish including St. Mathias Mission, and St. Patrick's Mission in Bynum, MT
81. St. Jude the Apostle Mission
82. St. Lawrence Parish
83. St. Margaret's Parish
84. St. Mary Mission (Babb)
85. St. Mary Mission (Gold Creek)
86. Mary of the Assumption including St. Joseph Mission in Sheridan, MT and Montana Mission in Ennis, MT
87. St. Mary Queen of Heaven Mission
88. St. Mary's Parish (Stevensville)
89. St. Mary's Parish (Butte)
90. St. Mary's Parish (Helena)
91. St. Mary's Parish including Mission in Florence, MT
92. St. Matthew's Parish
93. St. Matthias Mission
94. St. Michael's Parish (Conrad)
95. St. Michael's Parish (Drummond)
96. St. Michael's Parish including St. Mary's Mission, St. Patrick's Mission, and St. Theodore Mission
97. St. Patrick Parish
98. St. Patrick's Church
99. St. Patrick's Parish
100. St. Paul's Parish
101. St. Peter's Parish including Anaconda Central High School
102. St. Philip Benizi Mission
103. St. Phillip's Parish
104. St. Richard's Parish including St. Ann's Mission and St. Catherine's Mission
105. St. Rose of Lima Parish including St. John the Apostle Mission
106. St. Teresa's Parish including Notre Dame Mission in Twin Bridges, MT
107. St. Theodore Mission
108. St. Thomas Aquinas Church including St. Norbert's Mission in Kevin, MT
109. St. Thomas Aquinas Mission
110. St. Thomas Parish
111. St. Thomas the Apostle Parish
112. St. William Parish (Dutton)
113. St. William Parish (Shelby)
114. St. William Parish (Thompson Falls)
115. St. William-Guardian Angel Catholic Community
116. West Glacier Mission