

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF STATE

\_\_\_\_\_  
IN THE MATTER OF: )  
 )  
Local Government Center, Inc., et al. ) C-2011000036  
 )  
RESPONDENTS )  
\_\_\_\_\_ )

**HEALTHTRUST'S NOTICE OF TERMINATION AGREEMENT  
TERMINATING SETTLEMENT AGREEMENT**

HealthTrust, Inc. ("HealthTrust") notifies the Presiding Officer of the Termination Agreement between HealthTrust and Property-Liability Trust, Inc. ("PLT") as follows:

1. HealthTrust and PLT have terminated the Settlement Agreement between them that became operational on January 10, 2014. The Settlement Agreement is the underlying basis for the New Hampshire Bureau of Securities Regulation's ("BSR") Motion for Entry of Default.

2. On Friday, May 30, 2014 the PLT Board of Directors voted to enter into the Termination Agreement contingent on the HealthTrust Board of Directors voting to enter into the agreement at its meeting scheduled for Tuesday, June 3, 2014. On June 3, 2014, the HealthTrust Board of Directors voted to enter into the Termination Agreement.

3. A copy of the Termination Agreement is submitted as Exhibit A to this pleading. In short, the sole reason for the Settlement Agreement, PLT's insolvency, the basis for which has been explained in numerous pleadings in this matter, no longer exists. Instead, it appears that the PLT assets transferred to HealthTrust pursuant to the Settlement Agreement exceed the amount required to pay PLT's coverage obligations and the \$17.1 million PLT was directed to pay HealthTrust in the Final Order dated August 16, 2012 ("Final Order").

4. The Termination Agreement is effective as of Friday, June 6, 2014, at 5:00 p.m. Exhibit A ¶ B1. The Settlement Agreement is terminated at that time. Exhibit A ¶ B2. All PLT assets transferred to HealthTrust pursuant to the Settlement Agreement, net of claim payments and other expenses incurred thereunder, will be re-transferred from HealthTrust to PLT. Exhibit A ¶ B3. All remaining PLT liabilities that were transferred to HealthTrust pursuant to the Settlement Agreement will be re-transferred from HealthTrust to PLT. Exhibit A ¶ B4. The PLT employees who were transferred to HealthTrust pursuant to the Settlement Agreement, and all outstanding liabilities related to their employment, will be re-transferred from HealthTrust to PLT. Exhibit A ¶ B6.<sup>1</sup>

5. Contemporaneous with the transfers referenced in the preceding paragraph, PLT will pay HealthTrust \$17.1 million in complete and full satisfaction of the payment directed by the Final Order. Exhibit A ¶ B5. Although not stated in the Termination Agreement because it is a unilateral determination made by the HealthTrust Board of directors, subject to the Presiding Officer's and the BSR's approval, HealthTrust will distribute the \$17.1 million to its current members or another identified combination of current and former HealthTrust members. Assuming the Presiding Officer's and the BSR's approval, HealthTrust will complete the distribution as soon as practicable.<sup>2</sup>

Respectfully submitted,

HEALTHTRUST, INC.

By Its Attorneys,

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<sup>1</sup> Additionally, any service or lease agreements between HealthTrust and PLT that were in effect on January 10, 2014 will be reinstated on the same terms and conditions that existed on that date. Exhibit A ¶ B8.

<sup>2</sup> The current members' distribution will require calculations of contributions through June. Because some members prefer contribution holidays over refund checks, HealthTrust will provide advance notice to the members of their share of the distribution and the opportunity to notify HealthTrust if the individual member prefers a contribution holiday. Thus, HealthTrust anticipates that the logistics will be completed and checks disbursed or contribution holidays commenced in September.

Dated: June 3, 2014

/s/ Michael D. Ramsdell  
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/s/ David I. Frydman  
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HealthTrust, Inc.  
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603-230-3373  
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**CERTIFICATE OF SERVICE**

I certify that I have forwarded copies of this pleading to counsel of record via email.

/s/ Michael D. Ramsdell  
Michael D. Ramsdell

Exhibit A

## TERMINATION AGREEMENT

### Preamble

This Agreement (“Termination Agreement”) is entered into as of the Effective Date (defined below at ¶ B.1) by and between Property-Liability Trust, Inc. (“PLT”) as assignee of the Local Government Center Property-Liability Trust, LLC, and HealthTrust, Inc. (“HealthTrust”), as assignee of the Local Government Center Health Trust, LLC, in order to terminate the Settlement Agreement previously entered by them which became operational on January 10, 2014 (the “Settlement Agreement”). HealthTrust and PLT, each independently, is a “Party” hereunder and together, they are the “Parties”.

### A. Recitals

1. HealthTrust is a New Hampshire voluntary corporation organized under RSA 292 and operating as a pooled risk management program under RSA 5-B. The mission of HealthTrust is to provide high quality, cost-effective employee benefit products and services for public employers and employees in New Hampshire in order to reduce costs through pooling strategies with a commitment to education, health promotion, and disease prevention.

2. PLT is a New Hampshire voluntary corporation organized under RSA 292 and operating as a pooled risk management program under RSA 5-B. The mission of PLT is to provide high quality, affordable property liability, workers compensation and unemployment coverages to public employers in New Hampshire by pooling their risk and stabilizing costs through a commitment to loss prevention and risk management training.

3. HealthTrust and PLT were among the respondents named in a staff petition submitted to the New Hampshire Secretary of State (“Secretary”) by the Bureau of Securities Regulation (“BSR”) alleging, among other things, violations of RSA 5-B. The Secretary issued an order on September 2, 2011, granting the BSR petition. HealthTrust and PLT requested a hearing which ultimately resulted in the issuance of the Final Order on August 16, 2012 (“Final Order”). The Final Order imposed both monetary and non-monetary obligations on the Parties.

4. Among the non-monetary obligations contained in the Final Order and applicable to either or both of the Parties were requirements that within 90 days, the Parties reorganize the structure of the governance of the respective pooled risk management programs to provide each program with an independent board and its own set of bylaws (Final Order at 73). In order to comply with this requirement, in November 2012, independent boards and separate bylaws were established for the HealthTrust and PLT pooled risk management programs.

5. Among the monetary obligations contained in the Final Order was the requirement that PLT re-pay \$17.1 million to HealthTrust (“Ordered Re-Payment”) (Final Order at 78). Following receipt of the Ordered Re-Payment, the Final Order required that any amounts found to exceed the level of earnings and surplus permitted to be maintained by HealthTrust shall be distributed to HealthTrust members. (Final Order at 76-77, 79).

6. The Parties appealed portions of the Final Order to the New Hampshire Supreme Court in the matter of Appeal of Local Government Center Inc., et. al., Case No. 2012-729. On January 10, 2014 the New Hampshire Supreme Court affirmed the Ordered Re-Payment.

7. For the reasons described in the Settlement Agreement, the Parties concluded that if the New Hampshire Supreme Court affirmed the Ordered Re-Payment, PLT would be rendered insolvent thereby delaying and or reducing payment of the \$17.1 million and interrupting the payment of PLT coverage claims to the detriment of HealthTrust and those PLT claimants which would become competing claimants in an insolvency proceeding.

8. On January 10, 2014 the Settlement Agreement became operational and PLT's assets and liabilities were transferred to HealthTrust. PLT's employees were transferred to HealthTrust and HealthTrust began to process PLT's coverage claims.

9. On February 7, 2014, the BSR filed a Motion for Entry of Default Order against HealthTrust and PLT asserting that the Settlement Agreement violated the Final Order as well as RSA 5-B. The BSR sought as a remedy that HealthTrust and PLT "shall cease and desist operating in violation of the August 16, 2012 Order and N.H. RSA § 5-B or be deemed not entitled to the statutory exemptions from the state's insurance laws and from state taxation granted pursuant to RSA 5-B:6."

10. After the Settlement Agreement became operational, HealthTrust engaged PLT's former independent actuaries (Towers Watson) to review the adequacy of the carried reserves for PLT's coverage obligations as of January 10, 2014. Towers Watson did so and provided HealthTrust in February 2014 with a materially lower central estimate of those obligations. Accrual of that lower amount shows that the transferred PLT assets most likely exceed the amount needed to pay both PLT's coverage obligations and the Ordered Re-Payment.

11. After consulting with Towers Watson and HealthTrust's financial and operational staff as well as legal counsel, it is the business judgment of the HealthTrust Board of Directors that:

- a. The PLT assets transferred pursuant to the Settlement Agreement most likely exceed the amount required to pay PLT's incurred coverage obligations and the \$17.1 million Ordered Re-Payment; and,
- b. The sole reason for the Settlement Agreement, PLT's insolvency, is therefore no longer present.

12. After consulting with Towers Watson and HealthTrust's financial and operational staff as well as PLT's legal counsel, it is the business judgment of the PLT Board of Directors that:

- a. The PLT assets transferred pursuant to the Settlement Agreement most likely exceed the amount required to pay PLT's incurred coverage obligations and the \$17.1 million Ordered Re-Payment; and,

- b. The sole reason for the Settlement Agreement, PLT's insolvency, is therefore no longer present.

**B. Agreement**

1. This Termination Agreement is effective upon signature by the Parties' duly authorized representatives, as of 5:00 PM Eastern Time on June 6, 2014 ("Effective Date").
2. The Parties agree that the Settlement Agreement is terminated as of the Effective Date.
3. All PLT assets transferred to HealthTrust pursuant to the Settlement Agreement, net of claim payments and other expenses incurred thereunder, are re-transferred to PLT as of the Effective Date.
4. All the remaining PLT liabilities originally transferred to HealthTrust pursuant to the Settlement Agreement are re-transferred to PLT as of the Effective Date.
5. Coincident with the foregoing transfers, PLT will pay HealthTrust \$17.1 million in full and complete satisfaction of its Ordered Re-Payment obligation to HealthTrust.
6. The PLT employees previously transferred to HealthTrust pursuant to the Settlement Agreement will be re-transferred to PLT as of the Effective Date together with all outstanding liabilities related to the employment of those employees between January 10, 2014 and the Effective Date.
7. Any other obligations imposed on PLT or HealthTrust pursuant to the Settlement Agreement are terminated as of the Effective Date.
8. Any service or lease agreements in effect between HealthTrust and PLT on January 10, 2014 immediately prior to the transfers pursuant to the Settlement Agreement (unless specifically modified thereafter) are hereby reinstated on the same terms and conditions in effect on that date.
9. Each Party agrees to take such actions and to execute all such documents as may be reasonably requested in order to effectuate the provisions of this Termination Agreement.

**C. Representations and Warranties**

1. PLT represents and warrants that:
  - a. As of the date of this Termination Agreement it is duly organized and validly existing and subsisting under the laws of the State of New Hampshire, it is in good standing, and neither the execution, delivery, nor performance of this Termination Agreement will violate any law binding on PLT;
  - b. PLT has the full right and power to enter into this Termination Agreement and to perform all obligations hereunder;

- c. The PLT Board of Directors has reviewed the Termination Agreement, sought such advice and information as it believed necessary, and voted in favor of adopting the Termination Agreement;
  - d. The individual signing this Termination Agreement on behalf of PLT is duly authorized to do so.
2. HealthTrust represents and warrants that:
- a. As of the date of this Termination Agreement it is duly organized and validly existing and subsisting under the laws of the State of New Hampshire, it is in good standing, and neither the execution, delivery, nor performance of this Termination Agreement will violate any law binding on HealthTrust;
  - b. HealthTrust has the full right and power to enter into this Termination Agreement and to perform all obligations hereunder;
  - c. The HealthTrust Board of Directors has reviewed the Termination Agreement, sought such advice and information as it believed necessary, and voted in favor of adopting the Termination Agreement;
  - d. The individual signing this Termination Agreement on behalf of HealthTrust is duly authorized to do so;
  - e. Since January 10, 2014 there has been no material adverse change in the condition of the assets or scope of the liabilities that were transferred to HealthTrust, except changes arising in the ordinary course of business;
  - f. The financial statements delivered to PLT fairly represent the condition of the business operations relating to the PLT property-liability, workers' compensation, and unemployment compensation coverage lines administered by HealthTrust pursuant to the Settlement Agreement; and,
  - g. Since January 10, 2014, HealthTrust has caused the operating and financial results of the PLT coverage lines to be tracked and reported separately and the assets re-transferred to PLT hereunder constitute all of the assets attributable to the operation of those property-liability, workers' compensation, and unemployment compensation coverage lines.

#### **D. Covenants**

1. Subject to BSR prior approval or non-objection, in the event the re-transferred assets (combined with member contributions through June 30, 2016) prove insufficient to cover all liabilities associated with PLT coverage to existing members through June 30, 2016, HealthTrust will arrange for or provide a line of credit to PLT with commercially reasonable terms in an amount needed to cover the insufficiency in meeting the claims liability associated with PLT coverage to existing members through June 30, 2016.

#### **E. Miscellaneous**

1. *Notice.* All communications under this Termination Agreement, including notice, approval or any waiver, extension or other communication required to be reduced to writing, shall be delivered (either in hardcopy or by electronic means) as follows:

If to HealthTrust: Peter Bragdon, Executive Director  
Health Trust, Inc.  
PO Box 617  
Concord, NH 03302-0617  
pbragdon@healthtrustnh.org

If to PLT: Wendy Lee Parker, Executive Director  
Property-Liability Trust, Inc.  
PO Box 2008  
Concord, NH 03302-2008  
wparker@pltnh.org

2. *Choice of Law and Venue.* This Termination Agreement, any disputes which may arise in connection with the interpretation or enforcement of this Termination Agreement, and the rights and obligations of the Parties shall be governed by the laws of the State of New Hampshire without regard or reference to choice or conflict of law rules. The Parties consent to the exclusive jurisdiction of the Business Court Docket of the New Hampshire Superior Court ("Business Court") for the resolution (subject to a Party's right of appeal) of any disputes pursuant to this Termination Agreement. If for any reason the matter is not accepted by the Business Court then the Parties consent to the exclusive jurisdiction of the Superior Court for Merrimack County.

3. *Interpretation.* The section headings herein are intended for reference and shall not by themselves determine the construction or interpretation of this Termination Agreement. Unless the context of this Termination Agreement clearly requires otherwise: (a) references to the plural include the singular, the singular the plural, and the part the whole; (b) references to one gender include all genders; (c) "or" has the inclusive meaning frequently identified with the phrase "and/or", (d) "including" has the inclusive meaning frequently associated with the phrases "but not limited to" or "without limitation"; (e) references to "hereunder", "herein", or "hereof" relate to this Termination Agreement as a whole; (f) the terms dollars and "\$" refer to United States dollars. Any reference herein to any statute, rule, regulation, or agreement, including this



Termination Agreement, shall be deemed to include such statute, rule, regulation, or agreement as it may be modified, varied, amended, or supplemented from time to time.

4. *Preamble and Recitals.* The Preamble and Recitals to this Termination Agreement are a part of this Termination Agreement as if set forth in full herein.

5. *Waiver.* Any agreement on the part of any Party hereto to any extension or waiver shall be valid only if in writing signed by the Party granting such waiver or extension and shall be a one-time waiver or extension only, and any such waiver or extension or any other failure to insist on strict compliance with any duty or obligation hereunder shall not operate as a waiver or extension of, or estoppel with respect to, any continuing, subsequent, or other failure to comply with this Termination Agreement;

6. *Rights and Remedies.* Except as otherwise provided in this Termination Agreement, the rights, powers, remedies, and privileges provided in this Termination Agreement are cumulative and not exclusive of any rights, powers, remedies, and privileges provided by applicable law.

7. *Entire Understanding; Modification.* This Termination Agreement represents the entire understanding between the Parties with respect to the subject matter hereof and supersedes any and all prior understandings, agreements, plans, and negotiations, whether written or oral, with respect to the subject matter hereof. All modifications of this Termination Agreement must be in writing and signed by each of the Parties hereto.

8. *Time of the Essence.* The Parties hereto hereby agree that time shall be of the essence with respect to the performance of this Termination Agreement.

9. *Third Party Beneficiaries.* This Termination Agreement does not and is not intended to confer any rights or remedies upon any person other than the Parties.

10. *Execution in Counterparts.* This Termination Agreement may be executed in one or more counterparts, any of which shall be deemed an original and all of which taken together shall constitute one and the same Termination Agreement. Execution and delivery of this Termination Agreement may be evidenced by facsimile or electronic transmission.

**Property-Liability Trust, Inc.**

By: 

Dennis J. Pavlicek  
Chairman of the Board

~~June~~, 2014  
May 30,

**HealthTrust, Inc.**

By: 

Peter J. Curro  
Chairman of the Board

June 3, 2014