

UNITED STATES BANKRUPTCY COURT  
SOUTHERN THE DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION  
[www.flsb.uscourts.gov](http://www.flsb.uscourts.gov)

In re:

Chapter 11

HNI HOLDCO, INC. (F/K/A MEDICAL  
STAFFING NETWORK HOLDINGS, INC.), *et*  
*al.*

Case No. 10-29101-BKC-EPK

Jointly Administered

Debtors.

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**CHAPTER 11 PLAN OF LIQUIDATION OF**  
**HNI HOLDCO, INC. (f/k/a Medical Staffing Network Holdings, Inc., et al.)**

Dated: December 17, 2010

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## INTRODUCTION

HNI HoldCo, Inc. (f/k/a Medical Staffing Network Holdings, Inc.), HNI Holdings, LLC (f/k/a Medical Staffing Holdings, LLC), HNI Staffing, Inc. (f/k/a Medical Staffing Network, Inc.), ITSH, Inc. (f/k/a InteliStaf Holdings, Inc.), NILG, Inc. (f/k/a MSN-Illinois Holdings, Inc.), ITSG, Inc. (f/k/a InteliStaf Group, Inc.), NSIL OPS, LLC (f/k/a Medical Staffing Network of Illinois, LLC), NSIL IP, LLC (f/k/a Medical Staffing Network Assets, LLC), ISHC, Inc. (f/k/a InteliStaf Healthcare, Inc.), ITSP I, LLC (f/k/a InteliStaf Partners No. 1, LLC), ITSP II, LLC (f/k/a InteliStaf Partners No. 2, LLC) and IHCM, L.P. (f/k/a InteliStaf Healthcare Management, L.P.) (each, a “Debtor,” and, collectively, the “Debtors”) propose this Chapter 11 Plan of Liquidation of HNI HoldCo, Inc., et al. (including all addenda, exhibits, schedules, and other attachments hereto, as any of the same may be amended from time to time, all of which are incorporated herein by reference, the “Plan”) pursuant to the provisions of Chapter 11 of the Bankruptcy Code (as defined in **Section 1.2.12** below.)

The Debtors urge all Holders of Claims entitled to vote on the Plan to read the Plan and the Disclosure Statement in their entirety before voting to accept or reject the Plan. To the extent, if any, that the Disclosure Statement is inconsistent with the Plan, the Plan will govern. No solicitation materials other than the Disclosure Statement and any schedules and exhibits attached thereto or referenced therein, or otherwise enclosed with the Disclosure Statement served by the Debtors on interested parties, have been authorized by the Debtors or the Bankruptcy Court for use in soliciting acceptances of the Plan. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Federal Bankruptcy Rule 3019, the Debtors expressly reserve the right to alter, amend, modify, revoke, or withdraw this Plan prior to its substantial consummation. The Disclosure Statement has not yet been approved by the Court and will be considered for approval at the same time that the Court considers approval of this Plan.

## ARTICLE 1

### DEFINITIONS, INTERPRETATION AND RULES OF CONSTRUCTION

**1.1 Scope of Definitions.** For the purposes of this Plan, except as expressly provided or unless the context otherwise requires, all capitalized terms not otherwise defined shall have the meanings ascribed to them in Article 1 of this Plan. Any term used in this Plan that is not defined herein, but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules, respectively. Whenever the context requires, capitalized terms shall include the plural as well as the singular number, the masculine gender shall include the feminine, and the feminine gender shall include the masculine.

**1.2 Definitions.** In addition to such other terms as are defined in other Sections of the Plan, the following terms (which appear in the Plan as capitalized terms) used herein shall have the respective meanings defined below.

**1.2.1 Administrative Expense Claim** means any right to payment for any cost or expense of administration (excluding Professional Claims) of these Chapter 11 Cases asserted

or arising under sections 503(b), 507(a)(2), or 507(b) of the Bankruptcy Code, including, any (i) actual and necessary cost or expense of preserving the Debtors' Estates or operating the Debtors' business arising on or after the Petition Date, (ii) payment to be made under this Plan to cure a default on an executory contract or unexpired lease that is assumed pursuant to section 365 of the Bankruptcy Code, (iii) cost, indebtedness or contractual obligation duly and validly incurred or assumed by the Debtors in the ordinary course of business arising on or after the Petition Date, (iv) compensation or reimbursement of expenses of Professionals arising on or after the Petition Date, to the extent allowed by the Bankruptcy Court under section 330(a) or section 331 of the Bankruptcy Code, (v) Allowed Claims that are entitled to be treated as Administrative Expense Claims pursuant to a Final Order of the Bankruptcy Court under section 546(2)(A) of the Bankruptcy Code, and (vi) fees or charges assessed against the Debtors' Estates under section 1930 of title 28 of the United States Code.

**1.2.2 Administrative Expense Claims Bar Date** means the date set by the Bankruptcy Court as the last day for Filing all requests for payment of Administrative Expense Claims, which is December 27, 2010.

**1.2.3 Affiliate** shall have the meaning as set forth in section 101(2) of the Bankruptcy Code.

**1.2.4 Allowed Claim** means a Claim Allowed in the particular category or Class identified.

**1.2.5 Allowed** means a Claim or Interest against the Debtors or any portion thereof (a) that has been allowed by a Final Order, or (b) as to which, on or by the Effective Date, (i) no proof of Claim or Interest has been filed with the Bankruptcy Court and (ii) the liquidated and noncontingent amount of which is Scheduled, other than a Claim that is Scheduled at zero, in an unknown amount, or as disputed, or (c) for which a proof of Claim in a liquidated amount has been timely filed with the Bankruptcy Court pursuant to the Bankruptcy Code, any Final Order of the Bankruptcy Court, or other applicable bankruptcy law, and as to which either (i) no objection to its allowance has been filed within the applicable periods of limitation fixed by the Plan, the Bankruptcy Code, or by any order of the Bankruptcy Court or (ii) any objection to its allowance has been settled or withdrawn, or has been denied by a Final Order, or (d) that is expressly allowed in a liquidated amount in the Plan.

**1.2.6 Approved Wind-Down Budget** means the budget prepared by and approved by the Debtors, the DIP Lenders, the DIP Agent and the First Lien Agent listing the expected Wind-Down Costs, commencing on the Closing Date.

**1.2.7 Asset Purchase Agreement** means collectively the Asset Purchase Agreement, dated as of July 2, 2010, between the Debtors and Medical Staffing Network Healthcare, LLC (f/k/a MSN AcquisitionCo, LLC) as Purchaser, and the First Amendment to Asset Purchase Agreement dated August 16, 2010, between the Debtors and the Purchaser (as may be further amended, modified or supplemented from time to time).

**1.2.8 Assets** means all legal or equitable prepetition and postpetition interests of the Debtors in any and all real or personal property of any nature, including any real estate,

buildings, structures, improvements, privileges, rights, easements, leases, subleases, licenses, goods, materials, supplies, furniture, fixtures, equipment, work in process, accounts, chattel paper, tax refunds, cash, deposit accounts, reserves, deposits, equity interests, contractual rights, intellectual property rights, claims, causes of actions, assumed executory contracts and unexpired leases, other general intangibles, and the proceeds, products, offspring, rents or profits thereof.

**1.2.9 Assigned Contract** means each contract assumed by the Debtors and assigned to the Purchaser pursuant to the terms of the Sale Order and the Asset Purchase Agreement.

**1.2.10 Avoidance Actions** means any and all causes of action which a trustee, debtor-in-possession, the estate or other appropriate party in interest may assert under sections 502, 510, 522(f), 522(h), 542, 543, 544, 545, 547, 548, 549, 550, 551, 553 and 724(a) of the Bankruptcy Code (other than those which are released or dismissed as part of and pursuant to the Plan or any previous Order of the Bankruptcy Court), including the Debtors' rights of setoff, recoupment, contribution, reimbursement, subrogation or indemnity (as those terms are defined by the non-bankruptcy law of any relevant jurisdiction) and any other direct or indirect claim of any kind whatsoever, whenever and wherever arising or asserted.

**1.2.11 Ballot** means the form of approved ballot accompanying the approved Disclosure Statement upon which Holders of Claims entitled to vote on the Plan shall indicate their acceptance or rejection of the Plan in accordance with the instructions regarding voting.

**1.2.12 Bankruptcy Code** means title 11 of the United States Code, as in effect on the Petition Date and as thereafter amended, as applicable in these Chapter 11 Cases.

**1.2.13 Bankruptcy Court** means the United States Bankruptcy Court for the Southern District of Florida (West Palm Beach Division) having jurisdiction over these Chapter 11 Cases and, to the extent of any withdrawal of the reference under section 157 of title 28 of the United States Code, the United States District Court for the Southern District of Florida.

**1.2.14 Bankruptcy Rules** means (a) the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, as amended and promulgated under section 2075 of title 28 of the United States Code, (b) the Federal Rules of Civil Procedure, as amended and promulgated under section 2072 of title 28 of the United States Code, (c) the Local Rules of the United States Bankruptcy Court for the Southern District of Florida and the guidelines and requirements of the Office of the United States Trustee, and (d) any standing orders governing practice and procedure issued by the Bankruptcy Court, each as in effect on the Petition Date, together with all amendments and modifications thereto to the extent applicable to these Chapter 11 Cases or proceedings herein, as the case may be.

**1.2.15 Bar Date** means September 30, 2010, which was established by the Bankruptcy Court as the deadline for filing and serving all proofs of claim (other than with respect to Governmental Unit Claims) against the Debtors in these Chapter 11 Cases.

**1.2.16 Bar Date for Governmental Unit Claims** means December 29, 2010, which was established by the Bankruptcy Court as the deadline for Governmental Units to file

and serve all proofs of claim against the Debtors in these Chapter 11 Cases, including, without limitation, claims for Taxes.

**1.2.17 Beneficial Holder** means the entity holding the beneficial interest in a Claim.

**1.2.18 Bidding Procedures Order** means collectively the Order (A) Approving Competitive Bidding and Sale Procedures; (B) Approving Form and Manner of Notices; (C) Approving Asset Purchase Agreement; (D) Scheduling Dates to Conduct Auction and Hearing to Consider Final Approval of Sale, Including Treatment of Executory Contracts and Unexpired Leases; (E) Authorizing the Sale of Substantially All of the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances and Interests; and (F) Granting Related Relief entered by the Bankruptcy Court on July 22, 2010 [D.E. 194], as amended by the Order Granting Debtors' Emergency Motion for Entry of Order Amending Order (A) Approving Competitive Bidding and Sale Procedures; (B) Approving Form and Manner of Notices; (C) Approving Asset Purchase Agreement; (D) Scheduling Dates to Conduct Auction and Hearing to Consider Final Approval of Sale, Including Treatment of Executory Contracts and Unexpired Leases; (E) Authorizing the Sale of Substantially All of the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances and Interests; and (F) Granting Related Relief in Regard to Terms Pursuant to Which Debtors May Assume and Assign Contracts entered by the Bankruptcy Court on August 20, 2010 [D.E. 320].

**1.2.19 Business Day** means any day other than a Saturday, Sunday or a Legal Holiday (as such term is defined in Federal Bankruptcy Rule 9006(a)).

**1.2.20 Carve-Out** shall mean the sum of \$250,000 funded by the First Lien Lenders, the DIP Lenders and/or the Purchaser, as applicable pursuant to the Wind-Down Stipulation and held in the Wind-Down Account to be used solely and specifically to fund distributions to Holders of Allowed General Unsecured Claims, which funds shall not be utilized or distributed for any other purpose or to any other party.

**1.2.21 Cash** means legal tender accepted in the United States of America for the payment of public and private debts, currently denominated in United States Dollars.

**1.2.22 Causes of Action** means any and all actions, claims, rights, defenses, third-party claims, damages, executions, demands, crossclaims, counterclaims, suits, causes of action, choses in action, controversies, agreements, promises, rights to legal remedies, rights to equitable remedies, rights to payment, accounts receivable, notes receivable and claims whatsoever, whether known, unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, uncontingent, matured, unmatured, disputed, undisputed, secured or unsecured and whether asserted or assertable directly, indirectly or derivatively, at law, in equity or otherwise, accruing to the Debtors.

**1.2.23 Chapter 11 Cases** means these chapter 11 cases of the Debtors pending before the Bankruptcy Court as set forth in Exhibit 1 hereto and as being jointly administered with one another under the Case No. 10-29101-BKC-EPK, and as to any Debtor individually, a Chapter 11 Case.



**1.2.24 Claim** means a right of a Creditor against the Debtors, or any one of them, whether or not asserted or allowed, of the type described in section 101(5) of the Bankruptcy Code, as construed by section 102(2) of the Bankruptcy Code.

**1.2.25 Class** means a group of substantially similar Claims or Interests as classified in a particular class under the Plan pursuant to sections 1122 and 1123 of the Bankruptcy Code.

**1.2.26 Closing** means the closing of the purchase and sale of the Purchased Assets and the Transferred Equity Interests, the delivery of the purchase price, the assumption of the Assumed Liabilities and the consummation of the other transactions contemplated by the Asset Purchase Agreement as approved in the Sale Order.

**1.2.27 Closing Date** means September 27, 2010, the date the Closing took place.

**1.2.28 Collateral** means any property or interest in property of the estate of any Debtor subject to a lien, charge or other encumbrance to secure the payment or performance of a Claim, which lien, charge or other encumbrance is not subject to avoidance or is otherwise invalid under the Bankruptcy Code or applicable state law.

**1.2.29 Confirmation Date** means the date on which the Bankruptcy Court enters the Confirmation Order on its docket.

**1.2.30 Confirmation Hearing** means the duly noticed hearing held by the Bankruptcy Court to consider Confirmation of the Plan pursuant to Bankruptcy Code section 1128, including any continuances thereof.

**1.2.31 Confirmation Order** means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code, as such order may be amended, modified or supplemented.

**1.2.32 Credit Bid** means, as provided in the Asset Purchase Agreement, a credit bid by the Purchaser of a portion of the outstanding indebtedness under the First Lien Credit Agreement in an amount equal to \$84,122,982.40, excluding certain additional obligations specified in the Asset Purchase Agreement.

**1.2.33 Creditor** means any Entity who holds a Claim against any of the Debtors.

**1.2.34 Cure Amount** means the amount the Debtors believe must be paid to cure all prepetition defaults under a Scheduled Contract.

**1.2.35 Cure Notice** means the notice of potential assumption and assignment of the Scheduled Contracts served by the Debtors on all non-Debtor parties to the Scheduled Contracts providing the Cure Amount.

**1.2.36 Debtor(s)** means, individually, HNI HoldCo, Inc. (f/k/a Medical Staffing Network Holdings, Inc.) and each Debtor listed on Exhibit 1 hereto, and collectively all of them,

including in their capacity as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

**1.2.37 Deficiency Claims** means with respect to any Claim secured by a Lien or security interest in any property of any Debtor having a value of less than the amount of such Claim (after taking into account other Liens and security interests of higher priority in such property), the portion of such Claim that exceeds the value of the holder of such Claim's interest in the Estates' property securing such Claims.

**1.2.38 DIP Agent** means GECC as administrative agent under the DIP Facility.

**1.2.39 DIP Budget** means the budget approved by the Bankruptcy Court on July 22, 2010 in its Final Order (I) Authorizing Debtors (A) to Obtain Postpetition Secured Financing Pursuant to 11 U.S.C. §§ 105, 361, 362 and 364, and (B) to Utilize Cash Collateral Pursuant to 11 U.S.C. § 363; and (II) Granting Adequate Protection to Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363 and 363 [D.E. 193] (as amended, modified or supplemented from time to time).

**1.2.40 DIP Facility** means the post-petition credit facility provided for under the Senior Secured Priming and Super-Priority Debtor-in-Possession Credit Agreement, dated as of July 7, 2010, (as amended, restated, supplemented or otherwise modified from time to time (the "DIP Credit Agreement")) entered into between the Debtors and the DIP Lenders and approved by DIP Loan Order.

**1.2.41 DIP Lenders** means the DIP Agent and the other lenders party to the DIP Facility.

**1.2.42 DIP Loan Order** means the Final Order (I) Authorizing Debtors (A) to Obtain Postpetition Secured Financing Pursuant to 11 U.S.C. §§ 105, 361 362 and 364, and (B) to Utilize Cash Collateral Pursuant to 11 U.S.C. §363; and (II) Granting Adequate Protection to Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363 and 364 entered by the Bankruptcy Court on July 22, 2010 (D.E. 193).

**1.2.43 Disallowed** means, with respect to any Claim or Interest or portion thereof, any Claim against or Interest in the Debtor which (i) has been disallowed, in whole or part, by a Final Order of the Bankruptcy Court, (ii) has been withdrawn by agreement of the Debtors and the Holder thereof, in whole or in part, (iii) has been withdrawn, in whole or in part, by the Holder thereof; (iv) if listed in the Schedules as zero or as Disputed, contingent or unliquidated and in respect of which a Proof of Claim or a Proof of Interest, as applicable, has not been timely Filed or deemed timely Filed pursuant to the Plan, the Bankruptcy Code or any Final Order of the Bankruptcy Court or other applicable bankruptcy law, (v) has been reclassified, expunged, subordinated or estimated to the extent that such reclassification, expungement, subordination or estimation results in a reduction in the Filed amount of any Proof of Claim or Proof of Interest, or (vi) is deemed to be Filed under applicable law or order of the Bankruptcy Court or which is required to be Filed by order of the Bankruptcy Court but as to which such Proof of claim or Proof of Interest was not timely or properly Filed. In each case a

Disallowed Claim or Disallowed Interest is disallowed only to the extent of disallowance, withdrawal, reclassification, expungement, subordination or estimation.

**1.2.44 Disallowed Claim** means a Claim, or any portion thereof, that is Disallowed.

**1.2.45 Disallowed Interest** means an Interest, or any portion thereof, that is Disallowed.

**1.2.46 Disclosure Statement** means that certain *Disclosure Statement in Connection with Chapter 11 Plan of Liquidation of HNI HoldCo, Inc. (f/k/a Medical Staffing Network Holdings, Inc.), et al*, including the schedules and exhibits attached thereto, as amended, modified or supplemented from time to time, that is prepared and will be distributed (upon approval of the Bankruptcy Court) in accordance with the Bankruptcy Code, Bankruptcy Rules and any other applicable law.

**1.2.47 Disputed** means with respect to a Claim or Interest, any Claim or Interest that has not been Allowed by a Final Order as to which (a) a Proof of Claim or Interest has been Filed with the Bankruptcy Court, or is deemed Filed under applicable law or order of the Bankruptcy Court, and (b) an Objection to such Claim or Interest has been or may be timely Filed or deemed Filed under applicable law by the Debtors or any other party in interest and any such Objection has not been (i) withdraw, (ii) overruled or denied by a Final Order or (iii) granted by a Final Order. For purposes of the Plan, a Claim or Interest that has not been Allowed by a Final Order shall be considered a Disputed Claim or Interest, whether or not an Objection has been or may be timely Filed, to the extent (A) the amount of the Claim or Interest specified in the Proof of Claim or Interest exceeds the amount of any corresponding Claim or Interest in the Schedules, (B) the classification of the Claim or Interest specified in the Proof of claim or Interest differs from the classification of any corresponding Claim or Interest listed in the Schedules, (C) any corresponding Claim or Interest has been listed in the Schedules as zero or as Disputed, contingent or unliquidated, (D) no corresponding Claim or Interest has been listed in the Schedules or (E) such Claim or Interest is reflected as zero or as unliquidated or contingent in the Proof of Claim or Interest Filed in respect thereof.

**1.2.48 Disputed Claim** means a Claim, or any portion thereof, that is Disputed.

**1.2.49 Distribution** means each distribution of Cash to Holders of Allowed Claims pursuant to and under the terms of this Plan by the Plan Administrator on each Distribution Date.

**1.2.50 Distribution Date** means the date or dates on which a Holder of an Allowed Claim shall receive a distribution of Property under the terms of the Plan, which date shall be the Effective Date or such other date designated in the Confirmation Order.

**1.2.51 Effective Date** means the date selected by the Debtors that is (a) at least fifteen (15) days following occurrence of the Confirmation Date; and (b) no more than five (5) Business Days following the first date on which no stay of the Confirmation Order is in effect and all conditions to the Effective Date set forth in **Article 12** hereof have been satisfied or, if waivable, waived pursuant to **Section 12.1.3** hereof.

**1.2.52 Entity** means an entity as defined in section 101(15) of the Bankruptcy Code.

**1.2.53 Estate** means, with regard to each Debtor, the estate that was created by the commencement by such Debtor of its Chapter 11 Case pursuant to section 541 of the Bankruptcy Code, and shall be deemed to include, without limitation, any and all rights, powers, and privileges and Causes of Action of such Debtor and any and all Assets and interests in property, whether real, personal or mixed, rights, causes of action, avoidance powers or extensions of time that such Debtor or such estate shall have had as of the Petition Date, or which such Estate acquired after the commencement of these Chapter 11 Cases, whether by virtue of sections 541, 544, 545, 546, 547, 548, 549 or 550 of the Bankruptcy Code, or otherwise. "Estates" has a correlative meaning.

**1.2.54 Excluded Assets** means those assets of the Debtors not included in the Purchased Assets, including Avoidance Actions.

**1.2.55 Excluded Liabilities** means those liabilities of the Debtors not included in the Assumed Liabilities.

**1.2.56 Fee Order** means the Order Granting Debtors' Motion for Order Establishing Procedures for Monthly and Interim Compensation and Reimbursement of Expenses for Professionals dated July 22, 2010, authorizing the interim payment of Professional Claims [D.E. 187].

**1.2.57 File or Filed** means file or filed with the Bankruptcy Court in these Chapter 11 Cases.

**1.2.58 Final Decree** means the final decree entered by the Bankruptcy Court after the Effective Date and pursuant to section 350(a) of the Bankruptcy Code and Bankruptcy Rule 3022.

**1.2.59 Final Order** means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket in any Chapter 11 Case or the docket of any other court of competent jurisdiction, that has not been reversed, stayed, modified or amended, and as to which the time to appeal or seek certiorari or move for a new trial, reargument or rehearing has expired, and no appeal or petition for certiorari or other proceedings for a new trial, reargument or rehearing has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been timely filed has been withdrawn or resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought or the new trial, reargument or rehearing has been denied or resulted in no modification of such order, 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 or applicable state court rules of civil procedure, may be Filed with respect to such order, shall not cause such order not to be a Final Order.

**1.2.60 First Lien Agent** means GECC as administrative agent under the First Lien Credit Agreement.

**1.2.61 First Lien Credit Agreement** means that certain Amended and Restated Credit Agreement, dated as of March 12, 2009 (as may have been amended, supplemented or otherwise modified from time to time), among the Debtors, the First Lien Agent and the First Lien Lenders.

**1.2.62 First Lien Lenders** means the various lenders under the First Lien Credit Agreement.

**1.2.63 GECC** means General Electric Capital Corporation.

**1.2.64 General Unsecured Claim** means all Unsecured Claims against the Debtors.

**1.2.65 Holder** means the legal or Beneficial Holder of a Claim or Interest (and, when used in conjunction with a Class or type of Claim or Interest, means a Holder of a Claim or Interest in such Class or of such type).

**1.2.66 Impaired** shall have the meaning ascribed to it in section 1124 of the Bankruptcy Code when used with reference to a Claim or an Interest.

**1.2.67 Interests** means any and all equity interests, ownership interests or shares in any of the Debtors and issued by any of the Debtors prior to the Petition Date (including, without limitation, all capital stock, stock certificates, common stock, preferred stock, partnership interests, rights, options, warrants, contingent warrants, convertible or exchangeable securities, investment securities, subscriptions or other agreements and contractual rights to acquire or obtain such an interest or share in any of the Debtors, partnership interests in any of the Debtors' stock appreciation rights, conversion rights, repurchase rights, redemption rights, dividend rights, preemptive rights and liquidation preferences, puts, calls or commitments of any character whatsoever relating to any such equity, ownership interests or shares of capital stock of any of the Debtors or obligating any of the Debtors to issue, transfer or sell any shares of capital stock) whether or not certificated, transferable, voting or denominated "stock" or a similar security.

**1.2.68 IRC** means the Internal Revenue Code of 1986, as amended from time to time.

**1.2.69 Iwamoto Complaint** means that certain Complaint to Avoid Transfers Pursuant to 11 U.S.C. § 547 and to Recover Property Transferred Pursuant to 11 U.S.C. § 550 [D.E. 144] whereby the Debtors commenced an action to avoid and recover certain preferential transfers of property, consisting of garnished funds totaling \$561,414.79 made for or on account of an antecedent debt during the ninety-day period prior to the Petition Date.

**1.2.70 Lien** means a charge against, interest in or other encumbrance upon property to secure payment of a debt or performance of an obligation.

**1.2.71 Litigation Claims** means (a) all claims, rights and causes of action of the Debtors and their Estates of every kind or nature whatsoever, whether arising prior to, during or

after these Chapter 11 Cases, including Avoidance Actions, except for any claims by the Debtors against each other.

**1.2.72 Local Rules** means the Local Rules of the United States Bankruptcy Court for the Southern District of Florida and the guidelines and requirements of the Office of the United States Trustee for the Southern District of Florida.

**1.2.73 Miscellaneous Secured Claim** has the meaning ascribed to such term in **Section 4.2.2** hereof.

**1.2.74 MSN Holdings** means Medical Staffing Network Holdings, Inc., a Delaware corporation, n/k/a HNI HoldCo, Inc.

**1.2.75 Non-Assumed Contracts** means any contracts to which the Debtors are a party but that are not Assigned Contracts.

**1.2.76 Objection** means any objection, application, motion, complaint or any other legal proceeding seeking, in whole or in part, to Disallow, determine, liquidate, classify, reclassify or establish the priority, expunge, subordinate or estimate any Claim (including the resolution of any request for payment of any Administrative Expense Claim) or Interest other than a Claim or an Interest that is Allowed.

**1.2.77 Person** means an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a joint venture, an unincorporated organization, or a governmental unit as defined in section 101(41) of the Bankruptcy Code.

**1.2.78 Petition Date** means July 2, 2010.

**1.2.79 Plan** means this Chapter 11 plan of liquidation of HNI HoldCo, Inc. (f/k/a Medical Staffing Network Holdings, Inc.), *et al.*, and all exhibits annexed hereto or referenced herein, as it may be amended, modified or supplemented from time to time in accordance with the provisions of the Plan or the Bankruptcy Code and Bankruptcy Rules.

**1.2.80 Plan Administrator** means Joseph J. Luzinski.

**1.2.81 Post Confirmation Debtor Assets** means all property of the Debtors as of the Confirmation Date (excluding Purchased Assets and Transferred Equity Interests sold to the Purchaser pursuant to the Sale Order and Asset Purchase Agreement), including, without limitation, the Excluded Assets, all Causes of Action and the Wind-Down Funding, including the Carve-Out.

**1.2.82 Priority Claim** means a Claim to the extent that it is of a kind described in, and entitled to priority under, sections 507(a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7) or (a)(9) of the Bankruptcy Code, that is not a Priority Tax Claim.

**1.2.83 Priority Tax Claim** means any Claim entitled to priority pursuant to section 507(a)(8) of the Bankruptcy Code.

**1.2.84 Professional** means a Person (a) employed in these Chapter 11 Cases pursuant to a Final Order in accordance with sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered prior to the Effective Date, pursuant to sections 327, 328, 329, 330, 331 and 363 (solely in the case of ordinary course professionals) of the Bankruptcy Code or (b) for which compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

**1.2.85 Professional Claim** means a Claim of a Professional retained in these Chapter 11 Cases by the Debtors pursuant to a Final Order in accordance with sections 327 or 1103 of the Bankruptcy Code or otherwise, for compensation or reimbursement of actual and necessary costs and expenses relating to services incurred after the Petition Date and prior to and including the Effective Date.

**1.2.86 Professional Expense Escrow** means the funds set aside by the DIP Lenders, and money funded under the Approved Wind-Down Budget, and held by Berger Singerman, P.A. to be disbursed for payment of professional fees as provided in the Approved Wind-Down Budget.

**1.2.87 Proof of Claim** means any proof of Claim Filed with the Bankruptcy Court with respect to any of the Debtors pursuant to Bankruptcy Rules 3001 or 3002.

**1.2.88 Proof of Interest** means any proof of Interest Filed with the Bankruptcy Court with respect to any of the Debtors pursuant to Bankruptcy Rule 3002.

**1.2.89 Pro Rata** means the proportion by amount that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims in that Class, or the proportion by amount that Allowed Claims in a particular Class bear to the aggregate amount of Allowed Claims in a particular Class and other Classes entitled to share in the same recovery as such Allowed Claim under the Plan; *provided however*, that in no event shall the amount of consideration distributed on account of an Allowed Claim exceed 100% of the amount of the Allowed Claim.

**1.2.90 Purchased Assets** shall mean substantially all of the Debtors' assets as described in the Asset Purchase Agreement.

**1.2.91 Purchaser** shall mean Medical Staffing Network Healthcare, LLC (f/k/a MSN AcquisitionCo, LLC), an entity formed for the purpose of acquiring substantially all of the Debtors' assets.

**1.2.92 Released Parties** means (a) the Debtors, (b) the First Lien Agent, (c) the Second Lien Agent, (d) the First Lien Lenders, (e) the Second Lien Lenders, (f) the DIP Agent, (g) the DIP Lenders, (h) the Purchaser, (i) each Advisor of the Debtors, the First Lien Agent, the Second Lien Agent, the DIP Agent and the Purchaser, and each of their respective officers, directors, members, employees, representatives, counsel, Advisors, agents, parents, subsidiaries and affiliates, and each of their respective successors and assigns. For purposes of this definition, "Advisors" means each financial advisor, investment banker, professional, accountant and attorney, and each of their respective employees, parent corporations, subsidiaries, affiliates and partners.

**1.2.93 Rejection Claim** means a Claim for damages resulting from the rejection of an executory contract by the Debtors pursuant to **Section 8.2** of the Plan.

**1.2.94 Reinstated or Reinstatement** means (i) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim so as to leave such Claim Unimpaired in accordance with section 1124 of the Bankruptcy Code, or (ii) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim to demand or receive accelerated payment of such Claim after the occurrence of a default (a) curing any such default that occurred before or after the Petition Date, other than a default of a kind specific in section 365(b)(2) of the Bankruptcy Code; (b) reinstating the maturity of such Claim as such maturity existed before such default; (c) compensating the Holder of such Claim for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; and (d) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitled the Holder of such Claim; provided, however, that any contractual right that does not pertain to the payment when due of principal and interest on the obligation on which such Claim is based, including, but not limited to, financial covenant ratios, negative pledge covenants, covenants or restrictions on merger or consolidation, and affirmative covenants regarding corporate existence or which prohibit certain transactions or actions contemplated by the Plan, or conditioning such transactions or action on certain factors, shall not be required to be reinstated in order to accomplish Reinstatement.

**1.2.95 Sale Order** means the Order (I) Authorizing the Sale of Substantially All of the Debtors' Assets Free and Clear of Liens, Claims, Encumbrances and Other Interests; (II) Authorizing and Approving the Asset Purchase Agreement; (III) Approving Procedures and Rights Related to Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (IV) Granting Related Relief entered August 23, 2010 [D.E. 327], as may be amended or supplemented by other orders of the Court.

**1.2.96 Scheduled** means as set forth on the Schedules.

**1.2.97 Scheduled Contract** means any executory contract or unexpired lease to which any of the Debtors were a party and the counterparties to which each received a Cure Notice.

**1.2.98 Schedules** means the Schedules of Assets and Liabilities Filed by the Debtors in accordance with Bankruptcy Code section 521 and Federal Bankruptcy Rule 1007, as the same may be amended from time to time prior to the Effective Date in accordance with Federal Bankruptcy Rule 1009.

**1.2.99 Second Lien Agent** means NexBank, SSB as administrative agent under the Second Lien Credit Agreement.

**1.2.100 Second Lien Credit Agreement** means that certain Credit Agreement, dated as of March 12, 2009 (as may have been amended, supplemented or otherwise modified from time to time), among the Debtors, the Second Lien Agent and the Second Lien Lenders.

**1.2.101 Second Lien Lenders** means the various lenders under the Second Lien Credit Agreement.



**1.2.102 Secured Tax Claims** has the meaning ascribed to such term in **Section 4.2.2** hereof.

**1.2.103 Taxes** means all income, alternative minimum, net worth or gross receipts, capital, value added, franchise, profits, excise, sales, use, employment, withholding, property, payroll or other taxes, assessments, or governmental charges, together with any interest, penalties, additions to tax, fines, and similar amounts relating thereto, imposed or collected by any federal, state, local or foreign governmental authority on or from any of the Debtors.

**1.2.104 Transferred Equity Interests** means certain equity interests in a non-debtor affiliate of the Debtors as described in the Asset Purchase Agreement.

**1.2.105 U. S. Trustee** means the Office of the United States Trustee.

**1.2.106 Unimpaired** means any Claim that is not Impaired within the meaning of section 1124 of the Bankruptcy Code.

**1.2.107 Unsecured Claim** means any Claim against the Debtors, excluding Administrative Expense Claims, Professional Claims, Priority Tax Claims, Priority Claims, Secured Tax Claims and Miscellaneous Secured Claims. Unsecured Claims shall include all Deficiency Claims.

**1.2.108 Wind-Down Account** means the interest-bearing account established at an authorized depository institution reasonably acceptable to the DIP Agent, the First Lien Agent and the United States Trustee into which the Debtors deposited all funds to be used to purposes of funding the Approved Wind-Down Budget, including the Carve-Out, with the exception of the budgeted amounts for professional fees, which shall be held by Berger Singerman, PA and disbursed in accordance with the procedure set up for the Professional Expense Escrow.

**1.2.109 Wind-Down Costs** means all costs and expenses entailed with implementing the Plan and winding down the operations of the Debtors, including payment of the Plan Administrator and post Confirmation Date Professionals, payment of Allowed Claims, payment of Priority Tax Claims, and other expenses as delineated in the Approved Wind-Down Budget.

**1.2.110 Wind-Down Funding** means the funding of the Wind-Down Account pursuant to the Wind-Down Stipulation.

**1.2.111 Wind-Down Stipulation** means the stipulation approved on September 27, 2010 in the Court's Order Granting Debtors' Emergency Motion to Approve Stipulation By and Between the Debtors, The Purchaser, The First Lien Agent and The DIP Agent With Respect to Certain Wind-Down Matters in Connection With the Sale of Substantially All Assets of the Debtors [D.E. 458].

**1.3 Rules of Interpretation.**

**1.3.1** In the event of an inconsistency, (a) the provisions of the Plan, shall control over the contents of the Disclosure Statement, and (b) the provisions of the Confirmation Order shall control over the contents of the Plan.

A. For the purposes of the Plan:

(1) any reference in the Plan to a contract, instrument, release or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; provided, however, that any change to such form, terms or conditions that is material to a party to such document shall not be modified without such party's consent unless such document expressly provides otherwise;

(2) any reference in the Plan to an existing document, exhibit or schedule Filed or to be Filed means such document, exhibit or Plan schedule, as it may have been or may be amended, modified or supplemented as of the Effective Date;

(3) unless otherwise specified, all references in the Plan to "Sections," "Articles," "Exhibits" and "Plan Schedules" are references to Sections, Articles, Exhibits and Plan Schedules of or to the Plan;

(4) unless otherwise specified, the words "herein," "hereof," "hereto," "thereunder" and others of similar import refer to the Plan in its entirety rather than to only a particular portion of the Plan;

(5) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be part of or to affect interpretations of the Plan; and

(6) the word "including" means "including without limitation."

B. Whenever a distribution of property is required to be made on a particular date, the distribution shall be made on such date or as soon as reasonably practicable thereafter.

C. All exhibits to the Plan are incorporated into the Plan and shall be deemed to be included in the Plan, regardless of when they are Filed.

D. Subject to the provisions of any contract, certificate, bylaws, instrument, release or other agreement or document entered into in connection with the Plan, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, federal law, including the Bankruptcy Code and Bankruptcy Rules.

E. This Plan is the product of extensive discussions and negotiations between and among, inter alia, the Debtors and certain other creditors and constituencies. Each of the foregoing was represented by counsel who either (a) participated in the formulation and documentation of or (b) was afforded the opportunity to review and provide comments on, the

Plan, the Disclosure Statement, and the documents ancillary thereto. Accordingly, unless explicitly indicated otherwise, the general rule of contract construction known as “*contra proferentum*” shall not apply to the construction or interpretation of any provision of this Plan, the Disclosure Statement, any of the exhibits to the Plan, or any contract, instrument, release, indenture, or other agreement or document generated in connection herewith.

**1.4 Computation of Time.** In computing any period of time prescribed or allowed by the Plan, unless otherwise expressly provided, the provisions of Federal Bankruptcy Rule 9006(a) shall apply.

## ARTICLE 2

### SUBSTANTIVE CONSOLIDATION OF ESTATES FOR DISTRIBUTION PURPOSES

As of the Petition Date, there were twelve separate Debtor entities. For the reasons set forth herein, this Plan provides for the deemed substantive consolidation of the Debtors only with respect to Distributions to Holders of Allowed Claims. In bankruptcy cases with affiliated debtors, a bankruptcy court may exercise its equitable powers to authorize the “substantive consolidation” of the estates of the debtor affiliates for purposes of the plan of reorganization. Generally, all of the debtors in the substantively consolidated group are treated as if they were a single corporate entity and economic entity. As set forth above and pursuant to the Plan, the Proponents seek deemed substantive consolidation of the separate Debtors under the Plan only with respect to Distributions to Holders of Allowed Claims under the Plan. As a result of such deemed substantive consolidation, the Plan will treat Allowed Claims in respect of each of the Debtors the same for Distribution purposes.

Section 105(a) of the Bankruptcy Code empowers a bankruptcy court to authorize substantive consolidation. In support of such substantive consolidation, the Proponents assert that many of the factors set forth in the applicable decisional law supporting limited substantive consolidation as proposed in the Plan are present in these Chapter 11 Cases. See Eastgroup Props. v. Southern Motel Assocs., Ltd., 935 F.2d 245 (11<sup>th</sup> Cir. 1991) (movant must demonstrate that (i) there is a substantial identity between entities to be consolidated, and (ii) consolidation is necessary to avoid some harm or to realize some benefit); In re Avery, 377 B.R. 264, 268 (Bankr. D. Alaska 2007) (“A bankruptcy court has discretion to order *nunc pro tunc* consolidation. This may enable a trustee to preserve fraudulent transfer and avoidance proceedings with regard to related entities which might otherwise be barred due to statutes of limitation.”); Alexander v. Compton (In re Bonham), 229 F.3d 750, 769-70 (9th Cir. 2000); see also In re Creditors Serv. Corp., 195 B.R. at 689 (“Substantive consolidation may be limited to certain classes of claims, specific property, or may be appropriately conditioned.”); Matter of Steury, 94 B.R. 553, 556 (Bankr. N.D. Ind. 1988).

The Proponents’ decision to seek substantive consolidation pursuant to the Plan is based on, among other factors, the fact that the Wind-Down Funding is limited, will be kept in one fund, and substantial consolidation will benefit all parties. Such facts and circumstances overwhelmingly support the deemed substantive consolidation of the Debtors as proposed in the Plan.

For the reasons set forth herein, the Debtors believe that the requirements for deemed substantive consolidation of the Debtors only with respect to Distributions to Holders on Allowed Claims under the Plan have been met.

The entry of the Confirmation Order shall constitute approval by the Bankruptcy Court, pursuant to sections 105(a) and 1123(c)(5)(C) of the Bankruptcy Code, effective as of the Effective Date, of the deemed substantive consolidation of the Debtors and their respective Estates, solely for purposes of distributions on Allowed Claims under the Plan and for no other purpose.

Notwithstanding the deemed substantive consolidation of the Debtors as provided herein, the deemed substantive consolidation shall be solely for purposes of Distributions to Holders of Allowed Claims under the Plan and specifically shall not:

- (a) affect the legal and organizational structure of each such Debtor from and after the Effective Date;
- (b) affect or change any Cause of Action or other claim that any Debtor would possess had any of the Chapter 11 Cases not been deemed substantively consolidated as provided herein or any defenses that any defendant in respect of such Causes of Action would have in connection therewith;
- (c) destroy or otherwise affect the separate corporate existence of each Debtor and the ownership interest in each Debtor;
- (d) divest any Debtor of any tax attributes; or
- (e) affect any Statutory Fees paid by any Debtor to the U.S. Trustee or the Clerk of the Bankruptcy Court from the Petition Date through the Effective Date.

### ARTICLE 3

#### TREATMENT OF ADMINISTRATIVE EXPENSE CLAIMS, PRIORITY TAX CLAIMS AND STATUTORY FEES

**3.1 Administrative Expense Claims.** Each Holder of an Allowed Administrative Expense Claim shall receive on account of the Allowed Administrative Expense Claim and in full satisfaction, settlement and release of and in exchange for such Allowed Administrative Expense Claim, Cash equal to the unpaid portion of such Allowed Administrative Expense Claim, as soon as practicable upon the earlier to occur of the Effective Date or ten (10) Business Days after the entry of a Final Order allowing such Administrative Expense Claim; *provided, however,* that Administrative Expense Claims with respect to liabilities incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases shall be paid in the ordinary course of business in accordance with the terms and conditions of any agreement or course of dealing relating thereto. Administrative Expense Claims must be filed on or before the Administrative Expense Claims Bar Date. Administrative Expense Claims are Unimpaired.

**3.2 Statutory Fees.** On or before the Effective Date, all fees due and payable pursuant to 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid in full, in Cash.

**3.3 Professional Claims.** On or prior to the deadline set by the Bankruptcy Court for Professionals to file final fee applications, each Professional shall File with the Bankruptcy Court its final fee application seeking final approval of all fees and expenses from the Petition Date through the Effective Date. Within ten (10) days after entry of a Final Order with respect to its final fee application, as applicable, Berger Singerman shall pay the Allowed Claims of each Professional from Cash in the Professional Expense Escrow or the Plan Administrator shall pay the Allowed Claims of each Professional from the balance of the Wind-Down Funding.

**3.4 Priority Tax Claims.** With respect to each Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim shall be entitled to receive on account of such Allowed Priority Tax Claim, in full satisfaction, settlement and release of and in exchange for such Allowed Priority Tax Claim, payment in full in Cash on the Effective Date or as soon thereafter as is practicable in recognition of the applicable claims resolution process set forth herein. All Priority Tax Claims must be filed by the Bar Date for Governmental Unit Claims. Priority Tax Claims are Unimpaired.

#### ARTICLE 4

#### CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS

**4.1 General.** Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of the Classes of Claims and Interests in the Debtors. A Claim or Interest is placed in a particular Class only to the extent that such Claim or Interest falls within the description of that Class. A Claim or Interest is also placed in a particular Class for purposes of receiving a distribution under the Plan, but only to the extent such Claim or Interest is an Allowed Claim or Interest and has not been paid, released, or otherwise settled prior to the Effective Date. Except as otherwise expressly set forth in this Plan, a Claim or Interest which is not an Allowed Claim or Allowed Interest shall not receive any payments, rights or distributions under this Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims of the kinds specified in section 507(a)(2) and Priority Tax Claims of the kinds specified in section 507(a)(8) of the Bankruptcy Code have not been classified and are treated as set forth in Article 3 above.

**4.2 Classification.** As stated above, the Plan is premised on the deemed substantive consolidation of the Debtors with respect to Distributions to Holders of Allowed Claims under the Plan, as provided below. The following summary is for the convenience of all interested parties and is superseded for all purposes by the classification, description and treatment of Claims and Interests in Articles 5 and 6 of the Plan.

**4.2.1 Class 1: Allowed Priority Claims.** Class 1 consists of all Allowed Priority Claims. Priority Claims are all Claims against the Debtors entitled to priority under sections 507(a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7) or (a)(9) of the Bankruptcy Code, that are not Priority Tax Claims.

**4.2.2 Class 2: Allowed Secured Tax Claims.** Class 2 consists of all Allowed Secured Tax Claims. “Secured Tax Claims” are all Claims against the Debtors that are secured by a Lien on, or security interest in, real property of any Debtor, or that has the benefit of rights of setoff under section 553 of the Bankruptcy Code, but only to the extent of the value of the creditor’s interest in the Debtors’ interest in such property, or to the extent of the amount subject to setoff, which value shall be determined as provided in section 506 of the Bankruptcy Code.

**4.2.3 Class 3: Allowed Miscellaneous Secured Claims.** Class 3 consists of all Allowed Miscellaneous Secured Claims. “Miscellaneous Secured Claims” are all Claims (excluding Class 2 Allowed Secured Tax Claims) against the Debtors that are secured by a Lien on, or security interest in, property of any Debtor, or that have the benefit of rights of setoff under section 553 of the Bankruptcy Code, but only to the extent of the value of the creditor’s interest in the Debtors’ interest in such property, or to the extent of the amount subject to setoff, which value shall be determined as provided in Section 506 of the Bankruptcy Code.

**4.2.4 Class 4: Allowed Deficiency Claim of First Lien Lenders.** Class 4 consists of the Allowed Deficiency Claim of First Lien Lenders. The Deficiency Claim of First Lien Lenders is an Unsecured Claim held by the First Lien Agent on behalf of itself and the other First Lien Lenders.

**4.2.5 Class 5: Allowed Deficiency Claim of Second Lien Lenders.** Class 5 consists of the Allowed Deficiency Claim of Second Lien Lenders. The Deficiency Claim of Second Lien Lenders is an Unsecured Claim held by the Second Lien Agent on behalf of itself and the other Second Lien Lenders.

**4.2.6 Class 6: General Unsecured Claims.** Class 6 consists of all General Unsecured Claims.

**4.2.7 Class 7: Interests.** Class 7 consists of all Interests.

## ARTICLE 5

### IDENTIFICATION OF CLASSES OF CLAIMS AND INTERESTS IMPAIRED AND NOT IMPAIRED BY THE PLAN

**5.1 Unimpaired Classes of Claims and Interests.** Classes 1, 2 and 3 are Unimpaired and are not entitled to vote.

**5.2 Impaired Classes of Claims and Interests.** Classes 4, 5 and 6 Claims and Class 7 Interests are Impaired by the Plan. Classes 4, 5 and 6 are entitled to vote. Holders of Interests in Class 7 are deemed to have rejected the Plan and are therefore not entitled to vote.

## ARTICLE 6

### PROVISIONS FOR TREATMENT OF CLAIMS AND INTERESTS

**6.1 Class 1 (Allowed Priority Claims).** Each Holder of an Allowed Priority Claim shall receive on account of such Claim, Cash equal to the amount of such Allowed Priority

Claim, without post-petition interest or penalty, on the later of (i) the Effective Date or as soon as practicable thereafter or (ii) the date that is ten (10) Business Days after an order of the Bankruptcy Court allowing such Priority Claim becomes a Final Order. The Debtors believe that all Priority Claims have been paid in full.

**6.2 Class 2 (Allowed Secured Tax Claims).** Each Holder of an Allowed Secured Tax Claim shall receive on account of such Claim, Cash equal to the amount of such Allowed Secured Tax Claim, without post-petition interest or penalty, on the later of (i) the Effective Date or as soon as practicable thereafter or (ii) the date that is ten (10) Business Days after an order of the Bankruptcy Court allowing such Allowed Secured Tax Claim becomes a Final Order. To the extent that a claim is filed as a Secured Tax Claim, but does not have a valid lien on any property of the estate, then the claim shall be paid as an unsecured tax claim according to its priority.

**6.3 Class 3 (Allowed Miscellaneous Secured Claims).** Each Holder of an Allowed Miscellaneous Secured Claim shall receive on account of such Claim, Cash equal to the amount of such Allowed Miscellaneous Secured Claim, or the return of such Holder's Collateral on the later of (i) the Effective Date or as soon as practicable thereafter or (ii) the date that is ten (10) Business Days after an order of the Bankruptcy Court allowing such Allowed Miscellaneous Secured Claim becomes a Final Order. The Debtors do not believe that there are any valid Miscellaneous Secured Claims.

**6.4 Class 4 (Allowed Deficiency Claim of First Lien Lenders).** Each Holder of an Allowed Deficiency Claim of First Lien Lenders shall not receive any Distribution under the Plan.

**6.5 Class 5 (Allowed Deficiency Claim of Second Lien Lenders).** Each Holder of an Allowed Deficiency Claim of Second Lien Lenders shall not receive any distribution from the Carve-Out set aside for Class 6 Creditors. If Cash in addition to the Carve-Out is available for a Distribution to Class 6 Creditors, then each Holder of an Allowed Deficiency Claim of Second Lien Lenders shall receive a Distribution from the Plan Administrator of its share of that additional Distribution allocable on account of its Allowed Deficiency Claim of Second Lien Lenders, shared Pro Rata with the other Holders of Allowed Deficiency Claims of Second Lien Lenders and Holders of Allowed General Unsecured Claims. It is not anticipated that there will be funds available for a Distribution to Holders of Class 5 Claims.

**6.6 Class 6 (General Unsecured Claims).** The Carve-Out shall be allocated Pro Rata among holders of Allowed General Unsecured Claims. Each Holder of an Allowed General Unsecured Claim shall receive a one-time Distribution from the Plan Administrator of its share of the Carve-Out allocable on account of its Allowed General Unsecured Claim, shared Pro Rata with the other Holders of Allowed General Unsecured Claims. If Cash in addition to the Carve-Out is available for a Distribution to Class 6 Creditors, then each Holder of an Allowed General Unsecured Claim shall receive a Distribution from the Plan Administrator of its share of that additional Distribution allocable on account of its Allowed General Unsecured Claim, shared Pro Rata with the other Holders of Allowed General Unsecured Claims and Holders of Allowed Deficiency Claims of Second Lien Lenders. It is not anticipated that there will be funds available for a Distribution to Holders of Class 6 Claims other than from the Carve-Out.

**6.7 Class 7 (Interests).** Holders of Interests will receive no distributions on account of such Holder's Interests. On the Effective Date, all Interests of the Debtors will be cancelled.

## ARTICLE 7

### MEANS FOR EXECUTION AND IMPLEMENTATION OF THE PLAN

**7.1 Appointment of a Plan Administrator.** On or prior to the Effective Date, the Debtors shall appoint the Plan Administrator. The Plan Administrator shall perform those duties reserved for such person in the Plan.

**7.2 No Revesting of Assets.** On the Effective Date of the Plan, all of the Post Confirmation Debtor Assets shall vest in and be retained under the sole and exclusive control of the Plan Administrator solely for the benefit of all Holders of Allowed Claims against the Debtors pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The Plan contemplates the liquidation of the remaining Post Confirmation Debtor Assets for the benefit of the Holders of Allowed Claims.

**7.3 Post-Confirmation Funding of Plan.** The Plan will be funded with, among other things, (a) the balance of the Wind-Down Funding, (b) all proceeds of the garnishment action set forth in the Iwamoto Complaint that are returned to the Debtors' estates, and (c) the Professional Expense Escrow to the extent set forth in the Approved Wind-Down Budget.

The Wind-Down Funding, other than the Carve-Out, shall be used to satisfy any statutory fees owed to the Office of the United States Trustee or clerk of the Bankruptcy Court, Allowed Administrative Expense Claims, Professional Claims, Allowed Priority Tax Claims, Allowed Priority Claims, Allowed Deficiency Claims of Second Lien Lenders, Allowed Secured Tax Claims and Allowed Miscellaneous Secured Claims. The Carve-Out shall be used solely to fund distributions to Holders of Allowed Class 6 General Unsecured Claims.

On the Effective Date, the Plan Administrator shall be authorized to pay from the Wind-Down Account all statutory fees any statutory fees or Allowed Claims in accordance with the terms of the Plan.

**7.4 Powers and Obligations of the Plan Administrator.** As of the Effective Date, the Plan Administrator shall act in a fiduciary capacity for the Holders of all Allowed Claims hereunder and shall have only those rights, powers and duties conferred to him by the Plan, as well as the rights and powers of a trustee under sections 542 through 552 of the Bankruptcy Code and the duties of a trustee under sections 704(1), (2), (4), (5), (7) and (9) of the Bankruptcy Code. The Plan Administrator shall administer the Plan subject to the foregoing duties and powers, which shall include the following:

(a) To prosecute, compromise or settle Objections and to make or direct that Distributions be made to Holders of Allowed Claims;

(b) To make decisions regarding the retention or engagement of Professionals and to pay all reasonable fees and expenses incurred after the Effective Date;



(c) To make or direct Distributions to Holders of Allowed Claims and to otherwise implement and administer the Plan;

(d) To pursue, litigate or settle all Causes of Action;

(e) To file with the Bankruptcy Court the reports and other documents and to pay any and all fees required by the Plan or otherwise required to close the Chapter 11 Cases, including the preparation and filing of a motion for a final decree;

(f) To set off amounts owed to any Debtor against any and all amounts otherwise due to be distributed to the Holder of an Allowed Claim hereunder; and

(g) To take all other actions not inconsistent with the provisions of the Plan deemed necessary or desirable in connection with administering the Plan.

**7.5 Engagement of Post Confirmation Professionals and Compensation to Plan Administrator and Post Confirmation Professionals.** The Plan Administrator shall be compensated from the Professional Expense Escrow. The Plan Administrator shall be entitled to bill for his services and shall be compensated for such services at an amount not to exceed \$10,000 per month. The Plan Administrator may engage counsel and other professionals to represent him in connection with his duties hereunder (the "Post Confirmation Professionals"); *provided, however*, that Post Confirmation Professionals shall not be precluded from representing the Plan Administrator to the extent that certain of their Administrative Expense Claims remain unpaid from the Debtors' Estates. Any fees and expenses of such Post Confirmation Professionals shall constitute "Post Confirmation Administrative Expense Claims."

The Post Confirmation Professionals shall be paid 90% of their fees and 100% of their costs on a monthly basis from the Professional Expense Escrow. Post Confirmation Professionals shall file fee applications no less frequently than every 120 days seeking approval of fees and expenses to be awarded by the Bankruptcy Court, including approval of the amounts paid on a monthly basis. A Post Confirmation Professional who fails to file an application seeking approval of compensation and expenses previously paid when such application is due every 120 days shall preclude such Post Confirmation Professional from being paid monthly as provided herein until an interim fee application has been filed and heard by the Bankruptcy Court. Upon the filing of each such application, the Post Confirmation Professionals shall be entitled to request the payment of some or all of any pending holdbacks in fees. The Bankruptcy Court shall retain jurisdiction to allow or disallow all Post Confirmation Administrative Expense Claims of the Plan Administrator and the Post Confirmation Professionals. The invoices for services rendered and out-of-pocket expenses incurred which are to be submitted shall be sufficiently detailed to identify the hours worked, the rates charged and the work performed.

The Plan Administrator may employ such staff as is reasonably necessary to carry out his/her functions and duties, store the books and records of the Debtors and compensate such staff and pay for such premises from the Wind-Down Account.

**7.6 Bond.** The Plan Administrator shall post a bond in favor of the Debtors in an amount equal to 100% of the book value of the Post Confirmation Debtor Assets; *provided*,

*however*, that the book value of the Causes of Action for purposes of the bond shall be zero. The cost of such bond is payable from the Post Confirmation Debtor Assets.

**7.7 Resignation, Death or Removal of the Plan Administrator.** The Plan Administrator may resign at any time; *provided, however*, that he shall file a motion with the Bankruptcy Court in connection therewith and request that a successor or replacement be appointed in accordance herewith, which motion shall be on notice to the top twenty (20) unsecured creditors holding Allowed Claims and the Office of the United States Trustee. The Office of the United States Trustee or any party in interest, by motion filed with the Bankruptcy Court, or the Bankruptcy Court on its own order to show cause, may seek to remove the Plan Administrator for cause, including under section 324 of the Bankruptcy Code, for the violation of any material provision of the Plan, or in the event the Plan Administrator becomes incapable of acting hereunder as a result of physical or mental disability and such physical or mental disability continues for a period in excess of thirty (30) days (except in the case of death, in which instance the procedures for replacement will begin immediately). In the event of a resignation or removal, the Plan Administrator, unless he is incapable of doing so, shall continue to perform his duties hereunder until such a time as a successor is approved by a Final Order of the Bankruptcy Court. In the event the Plan Administrator resigns or is removed, the successor shall be elected in the manner prescribed by section 1104(b) of the Bankruptcy Code.

**7.8 Substantive Consolidation of Claims against Debtors for Plan Purposes Only.** The Plan is premised on the deemed substantive consolidation of all of the Debtors with respect to Distributions to Holders of Allowed Claims under the Plan. This Plan shall serve as a request by the Debtors, in lieu of a separate motion, to the Bankruptcy Court that it grant deemed substantive consolidation with respect to Distributions to Holders of Allowed Claims under the Plan.

**7.9 Dissolution of the Debtor Entities.** As soon as practicable on or after the Final Decree, each of the Debtors will be dissolved for all purposes without the necessity for any other or further actions to be taken by or on behalf of the Debtors or payments to be made in connection therewith.

**7.10 Closing of the Chapter 11 Cases.** Notwithstanding anything to the contrary in the Bankruptcy Rules providing for earlier closure of the Chapter 11 Cases, when all Assets have been liquidated and converted into Cash (other than those Assets abandoned by the Plan Administrator), and such Cash has been distributed in accordance with this Plan, the Plan Administrator shall seek authority from the Bankruptcy Court to close the Chapter 11 Cases in accordance with the Bankruptcy Code and the Bankruptcy Rules.

**7.11 Post-Effective Date Litigation Claim Settlements.** Except as otherwise set forth in this Plan or the Confirmation Order, on and after the Effective Date, the Plan Administrator shall obtain approval of the Bankruptcy Court to settle Litigation Claims, if any.

**7.12 Post-Effective Date Reporting.** As promptly as practicable after the making of any distributions that are required under this Plan to be made on the Effective Date or as soon as practicable thereafter in recognition of the applicable claims reconciliation process, but in any event no later than ten (10) Business Days after the making of such distributions, the Plan

Administrator shall File with the Bankruptcy Court and serve on the Office of the United States Trustee a report setting forth the amounts and timing of all such distributions and the recipients thereof. Thereafter, the Plan Administrator shall File with the Bankruptcy Court and serve on the Office of the United States Trustee quarterly reports summarizing the disbursements of the Debtors for the immediately preceding three-month period. Quarterly reports shall be provided no later than the twentieth (20th) day of each January, April, July and October until all Final Distributions under this Plan have been made.

## ARTICLE 8

### TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; BENEFIT PROGRAMS

**8.1 Treatment of Executory Contracts and Unexpired Leases.** On the Effective Date, all executory contracts and unexpired leases that exist between the Debtors and any Entity which (i) have not previously been assumed and assigned to the Purchaser pursuant to the terms of the Sale Order and Asset Purchase Agreement or (ii) are not the subject of pending motions to assume, assume and assign or reject as of the Confirmation Date, will be deemed rejected in accordance with the provisions and requirements of section 365 of the Bankruptcy Code. The Confirmation Order (except as otherwise provided therein) shall constitute an order of the Bankruptcy Court pursuant to section 365 of the Bankruptcy Code, effective as of the Effective Date, approving such rejections. The listing of a contract or lease to be rejected pursuant to this **Section 8.1** shall not constitute an admission by the Debtors that such contract or lease is an executory contract or unexpired lease or that the Debtors have any liability thereunder.

**8.2 Claims for Rejection Damages.** Proofs of Claim for alleged damages arising from the rejection pursuant to the Plan, the Confirmation Order or any subsequent Order of the Bankruptcy Court, of any executory contract or any unexpired lease shall be Filed with the Bankruptcy Court and served on counsel for the Debtor or the Plan Administrator not later than thirty (30) days after the service of the earlier of: (i) notice of entry of the Confirmation Order or (ii) other notice that the executory contract or unexpired lease has been rejected (including service of an Order of the Bankruptcy Court providing for such rejection). **Any Holder of a Claim arising from the rejection of any executory contract or any unexpired lease that fails to File a Proof of Claim on or before the date specified in this paragraph shall be forever barred, estopped and enjoined from asserting such Claims in any manner against the Debtors (or Filing Proofs of Claim with respect thereof) or their Property and the Debtors shall be forever discharged from all indebtedness or liability with respect to such Claims, and, if applicable, such Holders shall not be permitted to vote on the Plan or to participate in any distribution in this Chapter 11 Case on account of such Claims or to receive further notices regarding such Claims and shall be bound by the terms of the Plan.**

**8.3 Objections to and Treatment of Rejection Claims.** The Bankruptcy Court shall determine any Objections to any Proofs of Claim Filed in accordance with **Section 8.2** hereof at a hearing to be held at a date to be determined by the Bankruptcy Court. Unsecured Claims arising out of the rejection of executory contracts and unexpired leases shall, pursuant to section 502(g) of the Bankruptcy Code, be Allowed Class 6 Claims entitled to the same treatment under the Plan received by the other Allowed Class 6 Claims.

**8.4 Benefit Programs.** Except and to the extent previously assumed by the Purchaser pursuant to the Sale Order and the Asset Purchase Agreement or other order of the Bankruptcy Court on or before the Confirmation Date, all employee compensation and benefit programs of the Debtor, including programs subject to sections 1114 and 1129(a)(13) of the Bankruptcy Code, entered into before or after the Petition Date and not since terminated, shall be deemed to be rejected.

**8.5 Employment Agreements.** Notwithstanding anything in this Article 8 to the contrary, unless assumed by the Purchaser pursuant to the Sale Order and the Asset Purchase Agreement, all employment and/or compensation agreements between the Debtors and any employees shall be deemed rejected in accordance with the provisions and requirements of section 365 of the Bankruptcy Code.

## **ARTICLE 9**

### **POSTCONFIRMATION LITIGATION**

**9.1 Transfer and Enforcement of Causes in Action.** Pursuant to section 1123(b)(3) of the Bankruptcy Code, except as otherwise provided in this Plan or the Confirmation Order, the Plan Administrator will have the exclusive right to enforce any and all causes of action against any Entity and rights of the Debtors that arose before or after the Petition Date, including but not limited to the rights and powers of a trustee and debtor-in-possession, against any Entity whatsoever, including but not limited to all avoidance powers granted to the Debtors under the Bankruptcy Code and all Causes of Action and remedies granted pursuant to sections 502, 506, 510, 541, 542, 543, 544, 545, 547 through 551 and 553 of the Bankruptcy Code.

## **ARTICLE 10**

### **PROVISIONS FOR TREATMENT OF DISPUTED CLAIMS GOVERNING DISTRIBUTIONS**

**10.1 Objections to Claims.** Subject to applicable law, from and after the Effective Date, the Plan Administrator shall have the authority to File, settle, compromise, withdraw, arbitrate or litigate to judgment Objections to Claims pursuant to applicable procedures established by the Bankruptcy Code, the Bankruptcy Rules, and this Plan. Objections to any Claim other than an Administrative Expense Claim must be Filed and served on the claimant no later than the later of (x) sixty (60) days after the date the Claim is Filed or (y) one hundred twenty (120) days after the Effective Date or such other date as may be ordered from time to time by the Court (the "Claim Objection Deadline"). The Plan Administrator shall use reasonable efforts to promptly and diligently pursue resolution of any and all Disputed Claims.

**10.2 Amendments to Claims and Requests for Payment of Administrative Expense Claims; Claims Filed After the Bar Dates.** Unless otherwise provided in a Final Order of the Bankruptcy Court:

(a) after the Bar Date or Bar Date for Governmental Unit Claims, a Claim on account of which a Proof of Claim is not timely Filed in accordance with the Plan, the

Bankruptcy Code, the Bankruptcy Rules or an Order of the Bankruptcy Court, may not be Filed or amended without the authorization of the Bankruptcy Court and, even with such Bankruptcy Court authorization, may be amended by the Holder of such Claim solely to decrease, but not to increase, the face amount or priority;

(b) except as otherwise provided herein, after the Administrative Expense Claims Bar Date, a Claim on account of which a request for payment of Administrative Expense Claims is not timely Filed may not be Filed or amended without the authorization of the Bankruptcy Court and, even with such Bankruptcy Court authorization, may be amended by the Holder of such Claim solely to decrease, but not to increase, the face amount or priority; and

(c) Except as otherwise provided in the Plan, any new or amended Claim Filed after the Bar Date, Bar Date for Governmental Units or the Administrative Expense Claims Bar Date (as applicable) shall be deemed Disallowed in full and expunged without any action by the Plan Administrator, unless the Holder of such Claim has obtained prior Bankruptcy Court authorization for the Filing. The Holder of a Claim which is Disallowed pursuant to this **Section 10.2** shall not receive any distribution on account of such Claim. The Plan Administrator shall File with the Bankruptcy Court and serve on the Holder of any Claim whose Claim is deemed Disallowed pursuant to this **Section 10.2**, but whose Proof of Claim or request for payment of an Administrative Expense Claim is subsequently deemed timely File or Allowed notwithstanding this **Section 10.2** by a Final Order of the Bankruptcy Court, any Objection to such Claim or request for estimation thereof within sixty (60) days (or such later date as the Bankruptcy Court shall approve) after any such order becomes a Final Order.

**10.3 No Payment of Distribution Pending Allowance.** All references to Claims or Interests and amounts of Claims and Interests refer to the amount of the Claim or Interest Allowed by operation of law, Final Order of the Bankruptcy Court or the Plan. Accordingly, notwithstanding any other provision in the Plan, no payment or distribution shall be made on account of or with respect to any Claim to the extent it is a Disputed Claim unless and until the Disputed Claim becomes an Allowed Claim. Notwithstanding the foregoing, on or as soon as practicable after the Claim Objection Deadline, as applicable, the Plan Administrator shall make distributions to Holders of Disputed Claims to the extent, and only to the extent, the portion of such Claim is not subject to a pending Objection.

## **ARTICLE 11**

### **DISTRIBUTIONS**

**11.1 Timing of Distributions.** The distribution of Property will be made to Holders of Allowed Claims in accordance with this **Article 11** of the Plan. If a Claim is not an Allowed Claim as of the applicable Distribution Date, distributions will be made only if and when the Claim is allowed and, with respect to the cure of defaults for assumed executory contracts and unexpired leases, pursuant to **Article 8** of the Plan. The Plan Administrator shall make distributions to the Holders of various Allowed Claims as follows:

**11.1.1 Distributions to Holders of Allowed Administrative Expense Claims.** Distributions to Holders of Allowed Administrative Expense Claims will be made on the later of

(i) the Effective Date or as soon as practicable thereafter or (ii) ten (10) Business Days after the entry of a Final Order allowing such Administrative Expense Claim.

**11.1.2 Distributions to Holders of Allowed Professional Claims.** Distributions to Holders of Allowed Professional Claims will be made within ten (10) Business Days after entry of a Final Order with respect to its final fee application.

**11.1.3 Distributions to Holders of Allowed Priority Tax Claims.** Distributions to Holders of Allowed Priority Tax Claims will be made on the Effective Date or as soon thereafter as is practicable in recognition of the applicable claims resolution process set forth herein.

**11.1.4 Distributions to Holders of Allowed Priority Claims.** Distributions to Holders of Allowed Priority Claims, if any, will be made on the later of (i) the Effective Date or as soon as practicable thereafter or (ii) the date that is ten (10) Business Days after an order of the Bankruptcy Court allowing such Priority Claim becomes a Final Order.

**11.1.5 Distributions to Holders of Allowed Secured Tax Claims.** Distributions to Holders of Allowed Secured Tax Claims, if any, will be made on the later of (i) the Effective Date or as soon as practicable thereafter or (ii) the date that is ten (10) Business Days after an order of the Bankruptcy Court allowing such Secured Tax Claim becomes a Final Order.

**11.1.6 Distributions to Holders of Allowed Miscellaneous Secured Claims.** Distributions to Holders of Allowed Miscellaneous Secured Claims, if any, will be made on the later of (i) the Effective Date or as soon as practicable thereafter or (ii) the date that is ten (10) Business Days after an order of the Bankruptcy Court allowing such Miscellaneous Secured Claim becomes a Final Order.

**11.1.7 Distributions to Holders of Class 5 Claims.** Distributions to Holders of Class 5 Claims, if any, shall be made Pro Rata on the date that is ten (10) Business Days after the date that all Claims in Class 5 have been either Allowed or Disallowed.

**11.1.8 Distributions to Holders of Class 6 Claims.** Distributions to Holders of Class 6 Claims shall be made Pro Rata on the date that is ten (10) Business Days after the date that all Claims in Class 6 have been either Allowed or Disallowed.

**11.2 No Duplicate Distributions.** Unless otherwise expressly provided herein, to the extent more than one Debtor is liable for any Claim, such Claim shall be considered a single Claim and entitled only to the payment provided therefor under the applicable provisions of the Plan.

**11.3 Delivery of Distributions in General.** Distributions to Holders of Allowed Claims shall be made: (a) at the addresses set forth in the proofs of Claim Filed by such Holders; (b) at the addresses set forth in any written notices of address change filed with the Bankruptcy Court or delivered to the Plan Administrator after the date on which any related proof of Claim was Filed; or (c) at the addresses reflected in the Schedules relating to the applicable Allowed

Claim if no proof of Claim has been Filed and the Plan Administrator has not received a written notice of a change of address.

**11.4 Cash Payments.** Except as otherwise provided in the Confirmation Order, any Cash payment to be made pursuant to the Plan shall be made by check drawn on a U.S. bank or by wire transfer from a U.S. bank, at the option of the Plan Administrator.

**11.5 Interest on Claims.** Except as required by applicable bankruptcy law, postpetition interest shall not accrue or be paid on Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim. Interest shall not accrue or be paid upon any Disputed Claim in respect of the period from the Petition Date to the date a Final Distribution is made thereon if and after such Disputed Claim becomes an Allowed Claim. To the extent that any Allowed Claim entitled to a distribution, under the Plan is composed of indebtedness and accrued but unpaid interest thereon, such distribution shall, to the extent permitted by applicable law, be allocated for federal income tax purposes to the principal amount of the Allowed Claim first and then, to the extent the consideration exceeds the principal amount of the Allowed Claim, to the portion of such Allowed Claim representing accrued but unpaid interest.

**11.6 No De Minimis Distributions.** No payment of Cash in an amount of less than \$10.00 shall be required to be made on account of any Allowed Claim.

**11.7 Face Amount.** Unless otherwise expressly set forth herein with respect to a specific Claim or Class of Claims, for the purpose of the provisions of this Article, the "Face Amount" of a Disputed Claim means the amount set forth on the Proof of Claim corresponding to such Claim unless the Disputed Claim has been estimated for distribution purposes or, in the alternative, if no Proof of Claim has been timely Filed or deemed Filed, zero.

**11.8 Unclaimed Property.** Checks issued in respect of Distributions under the Plan shall be null and void if not negotiated within ninety (90) days after the date of issuance. If any Distribution remains unclaimed for a period of 90 days after it has been delivered (or attempted to be delivered) in accordance with the Plan to the Holder entitled thereto, such unclaimed property shall be forfeited by such Holder. Pursuant to Local Rule 3011-1(B)(2), unclaimed property shall be redistributed to other creditors or administrative claimants.

**11.9 Excess Funds in Wind-Down Account.** In the event that the amounts set forth in the Approved Wind-Down Budget exceed the actual expenditures made by the Debtors in accordance with the Approved Wind-Down Budget, any excess funds remaining shall be promptly remitted to the Purchaser upon the entry of a Final Decree.

**11.10 Compliance with Tax Requirements.** In connection with the Plan and the distributions made in accordance therewith, to the extent applicable, the Plan Administrator shall comply with all tax withholding and reporting requirements imposed by any Governmental Unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. The Plan Administrator shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements.

## ARTICLE 12

### CONDITIONS PRECEDENT TO EFFECTIVENESS OF PLAN

**12.1 Conditions to the Effective Date.** The Plan shall not become effective and the Effective Date shall not occur unless and until:

**12.1.1** The Bankruptcy Court shall have entered the Confirmation Order in form and substance reasonably satisfactory to the Debtors, the DIP Agent and the First Lien Agent;

**12.1.2** The Bankruptcy Court shall have approved the information contained in the Disclosure Statement as adequate pursuant to section 1125 of the Bankruptcy Code;

**12.1.3** All documents, instruments and agreements, in form and substance reasonably satisfactory to the Debtors, the DIP Agent and the First Lien Agent, provided for under this Plan or necessary to implement this Plan, shall have been executed and delivered by the parties thereto, unless such execution or delivery has been waived by the parties benefited thereby; and

**12.1.4** The Confirmation Order shall have become a Final Order.

## ARTICLE 13

### EFFECT OF CONFIRMATION

**13.1 Jurisdiction of Court.** Pursuant to sections 105(a) and 1142 of the Bankruptcy Code; and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases and the Plan to the fullest extent permitted by law, including among other things, jurisdiction over the subject matters set forth in **Article 12** of this Plan.

**13.2 Binding Effect.** Except as otherwise provided in section 1141(d) of the Bankruptcy Code, on and after the Confirmation Date, the provisions of this Plan shall bind any Holder of a Claim against or Interest in the Debtors and its respective successors and assigns, whether or not the Claim or Interest of such Holder is Impaired under this Plan and whether or not such Holder has accepted the Plan.

## ARTICLE 14

### RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order, the occurrence of the Effective Date, the transfer of the Post Confirmation Debtor Assets to the Plan Administrator and the deposit of the Wind-Down Costs into the Professional Expense Escrow, the Bankruptcy Court shall retain jurisdiction over the Chapter 11 Cases after the Effective Date to the fullest extent legally permissible, including jurisdiction to, among other things:



(a) Allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim, including the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the allowance or priority of all Claims;

(b) Hear and determine any and all Causes of Action against any Person and rights of the Debtors that arose before or after the Petition Date, including, but not limited to, the rights and powers of a trustee and debtor-in-possession, against any Person whatsoever, including, but not limited to, all avoidance powers granted to the Debtors under the Bankruptcy Code and all causes of action and remedies granted pursuant to sections 502, 506, 510, 541, 542, 543, 544, 545, 547 through 551 and 553 of the Bankruptcy Code;

(c) Grant or deny any applications for allowance of compensation for professionals authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Effective Date;

(d) Resolve any matters relating to the assumption, assumption and assignment or rejection of any executory contract or unexpired lease to which any Debtor is a party or with respect to which any of the Debtors may be liable, including, without limitation, the determination of whether such contract is executory for the purposes of section 365 of the Bankruptcy Code, and hear, determine and, if necessary, liquidate any Claims arising therefrom;

(e) Enter orders approving the Plan Administrator's post-confirmation sale or other disposition of any Post Confirmation Debtor Assets;

(f) Ensure that distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;

(g) Decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters and grant or deny any applications involving any Debtor that may be pending in the Chapter 11 Cases on the Effective Date;

(h) Hear and determine matters concerning state, local or federal taxes in accordance with sections 346, 505 or 1146 of the Bankruptcy Code;

(i) Enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and the Confirmation Order;

(j) Resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation or enforcement of the Plan or the Confirmation Order;

(k) Permit the Debtors, to the extent authorized pursuant to section 1127 of the Bankruptcy Code, to modify the Plan or any agreement or document created in connection with the Plan, or remedy any defect or omission or reconcile any inconsistency in the Plan or any agreement or document created in connection with the Plan;

(l) Issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any entity with consummation, implementation or enforcement of the Plan or the Confirmation Order;

(m) Enter and enforce such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated, or distributions pursuant to the Plan are enjoined or stayed;

(n) Determine any other matters that may arise in connection with or relating to the Plan or any agreement or the Confirmation Order or any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;

(o) Enter any orders in aid of prior orders of the Bankruptcy Court;

(p) Enter a final decree closing the Chapter 11 Cases; and

(q) Enforce the terms and provisions of the Sale Order, the Bidding Procedures Order, and the Asset Purchase Agreement in all respects and to decide any disputes concerning the Sale Order and the Asset Purchase Agreement, or the rights and duties of the parties thereunder or any issues relating to the Asset Purchase Agreement or the Sale Order including, but not limited to, the interpretation of the terms, conditions and provisions thereof, the status, nature and extent of the Purchased Assets and the Transferred Equity Interests and any Assigned Contracts and all issues and disputes arising in connection with the relief authorized therein, inclusive of those concerning the transfer of the assets free and clear of all Liens, Claims, Encumbrances, and Interests.

## ARTICLE 15

### ACCEPTANCE OR REJECTION OF THE PLAN

**15.1 Persons Entitled to Vote.** Classes 1, 2 and 3 are Unimpaired and are therefore deemed to have accepted the Plan and are not entitled to vote. Classes 4, 5 and 6 are Impaired; Classes 4 and 5 will receive no distribution, but Class 6 will receive a distribution under the Plan. Votes from Holders of Claims in Classes 4, 5 and 6 will be solicited. Class 7 Interests will be cancelled pursuant to the Plan, and Holders of such Interests are deemed pursuant to section 1126(g) of the Bankruptcy Code to have rejected the Plan. Votes from Holders of Class 7 Interests will not be solicited.

**15.2 Acceptance by Impaired Classes.** An Impaired Class of Claims shall have accepted the Plan if (i) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (ii) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

## ARTICLE 16

### EXCULPATION

**16.1 Exculpation and Limitation of Liability.** Except as otherwise provided in this Plan, the Confirmation Order, the Sale Order, the DIP Loan Order or any other Final Order of this Court, as of the Effective Date, none of the Released Parties shall have or incur any liability for any Claim, Cause of Action, or other assertion of liability for any act taken or omitted to be taken in connection with, or arising out of (i) these Chapter 11 Cases, (ii) the formulation, dissemination, confirmation, consummation, or administration of the Plan, or property to be distributed under the Plan, (iii) the Asset Purchase Agreement and the transactions contemplated thereunder, (iv) the DIP Facility, (v) the Wind-Down Stipulation and related Wind-Down Funding, or (vi) any other act or omission in connection with these Chapter 11 Cases, the Plan, the Asset Purchase Agreement, the Wind-Down Stipulation and related Wind-Down Funding, the DIP Facility or any other contract or other agreement or document related thereto or delivered thereunder; *provided, however*, that the foregoing shall not affect the liability of any Person that otherwise would result from any such act or omission to the extent that such act or omission is determined by Final Order to have constituted willful misconduct or gross negligence. Notwithstanding anything herein to the contrary, the exculpation and limitation of liability provided for herein shall not apply to any acts of omissions that occurred prior to the Petition Date.

## ARTICLE 17

### MISCELLANEOUS PROVISIONS

**17.1 Modification of the Plan.** Subject to the restrictions on Plan modifications set forth in section 1127 of the Bankruptcy Code, the Debtors reserve the right to alter, amend or modify the Plan before its substantial consummation.

**17.2 Revocation of the Plan.** The Debtors reserve the right to revoke or withdraw the Plan prior to the Confirmation Date. If the Debtors revoke or withdraw the Plan, or if Confirmation does not occur or if the Plan does not become effective, then the Plan shall be null and void, and nothing contained in the Plan or Disclosure Statement shall: (a) constitute a waiver or release of any Claims by or against, or any Interests in, the Debtors; (b) constitute an admission of any fact or legal conclusion by the Debtors or any other Entity; or (c) prejudice in any manner the rights of the Debtors in any further proceedings involving the Debtors.

**17.3 Governing Law.** Unless a rule of law or procedure is supplied by (i) federal law (including the Bankruptcy Code and Bankruptcy Rules), or (ii) an express choice of law provision in any agreement, contract, instrument or document provided for, or executed in connection with the Plan, the rights and obligations arising under the Plan and any agreements, contracts, documents and instruments executed in connection with the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida without giving effect to the principles of conflict of laws thereof.

**17.4 No Admissions.** If Confirmation or the Effective Date does not occur, nothing contained in the Plan or Disclosure Statement shall be deemed as an admission by the Debtors with respect to any matter set forth herein or therein including, without limitation, liability on any Claim or the propriety of any Claims classification.

**17.5 Severability of Plan Provisions.** If prior to Confirmation any term or provision of the Plan that does not govern the treatment of Claims or Interests is held by the Bankruptcy Court to be invalid, void or unenforceable, at the request of the Debtors the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, Impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

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

**17.7 Exemption from Certain Transfer Taxes.** Pursuant to section 1146(c) of the Bankruptcy Code, the issuance, transfer or exchange of any Security or the making or delivery of any instrument of transfer under this Plan may not be taxed under any law imposing a stamp tax, use tax, sales tax or similar tax. Any sale of any Asset occurring after or upon the Effective Date shall be deemed to be in furtherance of this Plan.

**17.8 Preservation of Rights of Setoffs.** The Debtors, through the Plan Administrator, may, but shall not be required to, set off against any Claim, and the payments or other distributions to be made pursuant to this Plan in respect of such Claim, claims of any nature whatsoever that the Debtors may have against the Holder of such Claims; but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors of any such claim that the Debtors may have against such Holder,

**17.9 Defenses with Respect to Unimpaired Claims.** Except as otherwise provided in this Plan, nothing shall affect the rights and legal and equitable defenses of the Debtors with respect to any Unimpaired Claim, including all rights in respect of legal and equitable defenses to setoffs or recoupments against Unimpaired Claims.

**17.10 No Injunctive Relief.** Except as otherwise provided in the Plan or Confirmation Order, no Claim or Interest shall under any circumstances be entitled to specific performance or other injunctive, equitable, or other prospective relief.

**17.11 Saturday, Sunday or Legal Holiday.** If any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such

payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

**17.12 Entire Agreement.** This Plan sets forth the entire agreement and undertaking relating to the subject matter hereof and supersedes all prior discussions and documents. The Debtors' Estates shall not be bound by any terms, conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof, other than as expressly provided for herein.

**17.13 Notices.** Any notice required or permitted to be provided under this Plan shall be in writing and served by either (a) certified mail, return receipt requested, postage prepaid, (b) hand delivery, or (c) reputable overnight delivery service, freight prepaid, to be addressed as follows:

Counsel for the Debtors

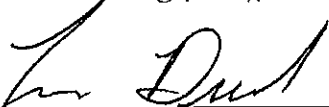
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Dated: December 17, 2010

HNI HoldCo, Inc. (f/k/a Medical Staffing  
Network Holdings, Inc.), *et al.*

By:   
Name: Lance Bressler  
Title: Vice President-Transition  
Services

**EXHIBIT 1****DEBTORS**

The Debtors in these cases, along with the last four digits of each of the Debtors' federal tax identification numbers and their respective Chapter 11 Case numbers, are:

<b>Name of Debtor</b>	<b>Last Four Digits of Debtor's Taxpayer Identification Number</b>	<b>Case Number</b>
HNI HoldCo, Inc. f/k/a Medical Staffing Network Holdings, Inc.	5171	Case No. 10-29101-EPK
HNI Staffing, Inc. f/k/a Medical Staffing Network, Inc.	9868	Case No. 10-29102-EPK
ISHC, Inc. f/k/a InteliStaf Healthcare, Inc.	7108	Case No. 10-29103-EPK
NSIL OPS, LLC f/k/a Medical Staffing Network of Illinois, LLC	4409	Case No. 10-29104-EPK
NSIL IP, LLC f/k/a Medical Staffing Network Assets, LLC	4413	Case No. 10-29105-EPK
ITSG, Inc. f/k/a InteliStaf Group, Inc.	7220	Case No. 10-29106-EPK
ITSP I, LLC f/k/a InteliStaf Partners No. 1, LLC	2832	Case No. 10-29107-EPK
HNI Holdings, LLC f/k/a Medical Staffing Holdings, LLC	2662	Case No. 10-29108-EPK
NILH, Inc. f/k/a MSN-Illinois Holdings, Inc.	4402	Case No. 10-29109-EPK
ITSP II, LLC f/k/a InteliStaf Partners No. 2, LLC	5965	Case No. 10-29110-EPK
IHCM, L.P. f/k/a InteliStaf Healthcare Management, L.P.	7958	Case No. 10-29111-EPK
ITSH, Inc. f/k/a InteliStaf Holdings, Inc.	4008	Case No. 10-29112-EPK