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9 IN THE UNITED STATES BANKRUPTCY COURT  
10 FOR THE DISTRICT OF OREGON

11 In re

12 The Marshall Group, LLC,

13 Debtor.  
14

Case No. 08-34585-rld11

TRUSTEE'S PLAN OF REORGANIZATION

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Conrad Myers, Chapter 11 Trustee ("Trustee") for The Marshall Group, LLC ("Debtor") proposes the following plan of reorganization ("Plan") pursuant to Chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 1101 *et seq.*

## ARTICLE I

### DEFINITIONS

#### 1.1 Scope of Definitions; References to Plan; Rules of Construction.

For purposes of this Plan, except as expressly otherwise provided or unless the context otherwise requires, all capitalized terms not otherwise defined shall have the meanings assigned to them in this Article I. Whenever the context requires, such terms shall include the plural number as well as the singular and the female gender as well as the male. All references in this Plan to an "**Article**," "**Section**" or "**Exhibit**" shall, unless otherwise indicated, be deemed to refer to the indicated Article or Section or Exhibit to this Plan. Terms defined in the Bankruptcy Code and not otherwise defined in this Plan shall have the meanings given to them in the Bankruptcy Code. The rules of construction contained in Section 102 of the Bankruptcy Code shall apply to the construction of this Plan. The headings in this Plan are for convenience of reference only and shall not limit or otherwise affect the provisions of this Plan.

#### 1.2 Definitions.

"**Administrative Bar Date**" means and refers to the deadline, 60 days after the Effective Date, established in Section 2.1.3 for the filing of (i) applications for compensation or expense reimbursement by Professional Persons or other Persons claiming to have made a substantial contribution to the Case pursuant to section 503(b) of the Code and (ii) Claims for any other Administrative Expenses (other than for Claims of Administrative Expenses incurred in the ordinary course of business and Claims under 28 U.S.C. § 1930).

"**Administrative Expense**" means and refers to a Claim for payment of an administrative expense of the kind specified in section 503(b) of the Code and referred to in section 507(a)(1) of the Code, including, without limitation, the actual, necessary costs and

1 expenses of preserving the Debtor's estate and operating the Debtor's business, including wages,  
 2 salaries, and commissions for services rendered after the commencement of the Case,  
 3 compensation for legal and other services and reimbursement of expenses awarded under section  
 4 330(a) of the Code in respect of the Debtor's Case, and all fees and charges assessed against the  
 5 Debtor's estate under chapter 123 of Title 28 of the United States Code; provided, however, that  
 6 Administrative Expense shall not include any interest earned on a Secured Claim during the  
 7 period from the Petition Date through the Effective Date.

8 **"Advisory Committee"** means the advisory committee for Reorganized Debtor  
 9 consisting of the three largest unsecured creditors or their designee who choose to serve.

10 **"Allowed Claim"** means and refers to the amount of a Claim with respect to which  
 11 (I)(A) no proof of claim has been filed that is listed by the Debtor in the Schedules as not being  
 12 disputed, contingent, or unliquidated, (B) if a proof of claim has been filed (i) the amount of the  
 13 Claim as set forth on the proof of claim if no objection has been interposed within any period of  
 14 limitation fixed by the Code or the rules or orders of the Court, or (ii) if an objection has been  
 15 interposed, (x) the amount determined by a Final Order with respect to such Claim or (y) the  
 16 amount set forth in this Plan as the allowed amount of such Claim or (C) a Final Order allowing  
 17 such Claim in such amount has been entered, and (II) the obligation to make payment on such  
 18 Claim has not been assumed by a third party.

19 **"Allowed [\_\_\_\_\_] Claim"** means a Claim of the indicated Class or type that  
 20 is or has become an Allowed Claim.

21 **"Assumed Administrative Expenses"** means and refers to all Administrative  
 22 Expense Claims that are not paid within ten (10) days of the Effective Date, regardless of when  
 23 the same may be Allowed.

24 **"Assumed Priority Claims"** means and refers to all Priority Claims that are not  
 25 paid as a part of the Priority Creditors Distribution, regardless of when the same may be  
 26 Allowed.

1           "**Business Day**" means and refers to any day except Saturday, Sunday, and any  
2 other day on which commercial banks in Portland, Oregon are authorized by law to close.

3           "**Buyer**" means the third party purchaser of Debtor's business.

4           "**Case**" means the Debtor's case under Chapter 11 pending in the Court.

5           "**Cash**" means cash, cash equivalents and other readily marketable direct  
6 obligations of the United States of America.

7           "**Chapter 7**" means and refers to chapter 7 of the Code.

8           "**Chapter 11**" means and refers to chapter 11 of the Code.

9           "**Claim**" means and refers to any claim as defined in section 101(5) of the Code,  
10 whether or not asserted, against the Debtor.

11           "**Claimant**" means and refers to the holder of a Claim.

12           "**Class**" means and refers to a class of Claims or Interests described in Article III.  
13 Within certain Classes, certain Claims are classified into sub-classes.

14           "**Clinics**" means the McMinnville Clinic and the Redmond Clinic.

15           "**Code**" means and refers to Title I of the Bankruptcy Reform Act of 1978, Public  
16 Law 95 598, codified in Title 11 of the United States Code, as amended, 11 U.S.C. §§ 101 *et seq.*

17           "**Collateral**" means, with respect to any Allowed Secured Claim, the property  
18 that secures such claim.

19           "**Committee**" means and refers to the Official Committee of Unsecured Creditors  
20 appointed by the U.S. Trustee in the Case, as constituted from time to time.

21           "**Confirmation Date**" means and refers to the date of entry of the Confirmation  
22 Order.

23           "**Confirmation Hearing**" means and refers to the hearing at which the Court is  
24 asked to enter the Confirmation Order, as the same may be continued from time to time.

25           "**Confirmation Order**" means the Court order confirming the Plan pursuant to  
26 Section 1129 of the Bankruptcy Code.

1           **"Convenience Claim"** means and refers to (i) any Allowed Unsecured Claim in an  
2 amount equal to or less than \$100.00 and (ii) any Allowed Unsecured Claim in an amount in  
3 excess of \$100.00, the holder of which elects to reduce its Claim to \$100.00 prior to the Voting  
4 Deadline by completing the appropriate space on its ballot to accept or reject this Plan.

5           **"Court"** means and refers to the United States Bankruptcy Court for the District  
6 of Oregon and any court having competent jurisdiction to hear appeals or certiorari proceedings  
7 therefrom, or any successor thereto that may be established by any act of Congress, or otherwise,  
8 and which has competent jurisdiction over the Case or this Plan.

9           **"Debtor"** means and refers to The Marshall Group, LLC, whether as Debtor or as  
10 Debtor-in-Possession.

11           **"Disallowed Claim"** means and refers to any Claim or portion thereof that has  
12 been disallowed pursuant to a Final Order.

13           **"Disclosure Statement"** means and refers to the Trustee's Disclosure Statement  
14 for Plan of Reorganization (including all exhibits and schedules thereto), together with any  
15 modifications which may be made from time to time.

16           **"Disputed Claim"** means and refers to any Claim against the Debtor that is not an  
17 Allowed Claim or a Disallowed Claim.

18           **"Distribution Record Date"** means and refers to the close of business on the  
19 Effective Date.

20           **"Effective Date"** means the day 11 days after the Confirmation Date, provided no  
21 order has been entered staying, vacating or reversing the Confirmation Order.

22           **"Estate"** means the estate of the Debtor created by Section 541 of the Bankruptcy  
23 Code.

24           **"Farleigh"** means Farleigh Wada Witt.

25           **"Final Order"** means an order or judgment of the Court that has not been  
26 reversed, stayed, modified or amended and as to which the time to appeal or seek review,

1 rehearing, reargument or certiorari has expired and as to which no appeal or petition for review,  
2 rehearing, reargument, stay or certiorari is pending, or as to which any right to appeal or to seek  
3 certiorari, review or rehearing has been waived, or if an appeal, reargument, petition for review  
4 or certiorari or rehearing has been sought, the order or judgment of the Court has been affirmed  
5 by the highest court to which the order was appealed or from which the reargument, review or  
6 rehearing was sought, or certiorari has been denied, and as to which the time to take any further  
7 appeal, or seek further reargument, review or certiorari or rehearing has expired.

8 **"Free Cash Flow"** means Reorganized Debtor's surplus working capital such that  
9 the operating account contains not less than \$60,000.00 or such greater sum as is reasonably  
10 necessary in the Liquidating Trustee's discretion for protection against disruption of Reorganized  
11 Debtor's operations.

12 **"Impaired Claims"** means and refers collectively to Claims in Classes 1 through  
13 6.

14 **"Interest Holder"** means any Person holding an Interest.

15 **"Interests"** mean all equity interests in the Debtor (including common and  
16 preferred stock, membership interests, options to purchase such stock or interests or any unpaid  
17 dividends or distributions thereon).

18 **"IRS"** means the Internal Revenue Service.

19 **"Keeton-King"** means Keeton-King Construction, Inc., Arland Keeton, and Jean  
20 Keeton.

21 **"Leased Equipment"** means certain medical equipment leased from Summit  
22 Leasing, Inc. pursuant to two expired commercial leases wherein Debtor was lessee.

23 **"Liquidating Trust"** means the liquidating trust created on the Effective Date.

24 **"Liquidating Trustee"** means the trustee of the Liquidating Trust.

25 **"Manager"** means Performance Improvement Resources, and any successor  
26 manager of Reorganized Debtor from time to time.



1           **"Marshalls"** means Mark and Cathy Jo Marshall.

2           **"McMinnville Property"** means that certain real property owned by the Debtor  
3 located in McMinnville, Oregon at which the urgent care clinic is operated.

4           **"McMinnville Clinic"** refers to the urgent care clinic owned and operated by the  
5 Debtor in McMinnville, Oregon.

6           **"Medicare Receivables"** means receivables that Debtor was owed by the Federal  
7 Government (primarily Medicare) as of the Petition Date.

8           **"Myers"** means Conrad Myers.

9           **"Net Funds"** means Sale Proceeds less costs and expenses of Sale of Business.

10          **"ODR"** means the Oregon Department of Revenue.

11          **"Operating Period"** means the time period following the Effective Date and prior  
12 to the Sale of Business.

13          **"Perkins"** means Perkins Coie LLP.

14          **"Person"** means an individual, corporation, partnership, limited liability  
15 company, joint venture, association, joint stock company, trust, estate, unincorporated  
16 organization, government (or agency or political subdivision thereof) or other entity.

17          **"Petition Date"** means September 4, 2008.

18          **"Plan"** means this plan of reorganization and all exhibits hereto, which are  
19 incorporated by reference, together with any modifications which may be made from time to  
20 time in accordance with 11 U.S.C. §1127.

21          **"Priority Claim"** means a claim having priority as defined in 11 U.S.C. § 507,  
22 other than a Claim entitled to priority pursuant to section 507(a)(1), 507(a)(2) or 507(a)(8) of the  
23 Code.

24          **"Priority Tax Claim"** means an unsecured Claim of a governmental unit entitled  
25 to priority under section 507(a)(8) of the Code. Priority Tax Claims shall include only such  
26 Claims for penalties that are related to a Claim specified in section 507(a)(8) of the Code and

1 that seek compensation for actual pecuniary loss.

2 **"Professional Persons"** means and refers to all attorneys, accountants, financial  
3 advisors, investment bankers, appraisers, consultants, and other professionals retained or to be  
4 compensated pursuant to an order of the Court entered under section 327, 328, 330, 331, 503(b)  
5 or 1103 of the Code.

6 **"Pro Rata"** means and refers to a proportionate distribution, or to the ratio of the  
7 amount of proceeds on account of a particular Allowed Claim to the total amount of all Allowed  
8 Claims of the Class in which the particular Claim is included.

9 **"Reorganized Debtor"** means the Debtor after the Confirmation Date.

10 **"Redmond Clinic"** means the urgent care clinic owned and operated by the  
11 Debtor in Redmond, Oregon.

12 **"Sale of Business"** means the closing date(s) of the sale of Debtor's Clinics.

13 **"Sale Proceeds"** means the Net Funds received upon Sale of Business.

14 **"Scharff"** means Gary Scharff.

15 **"Schedules"** means and refers to the Statements of Liabilities filed with the Court  
16 in the Case, as amended from time to time in accordance with Rule 1009 of the Federal Rules of  
17 Bankruptcy Procedure.

18 **"Secured Claim"** means and refers to a Claim, to the extent such Claim is secured  
19 by a valid lien, security interest, or other interest in property in which the Debtor has an interest,  
20 that has been perfected properly as required by applicable law and is not otherwise avoidable by  
21 the Debtor as Debtor-in-Possession, but only to the extent of the value of the Debtor's interests in  
22 such property, determined in accordance with section 506(a) of the Code.

23 **"Summit Leasing"** means Summit Leasing, Inc.

24 **"Trustee"** means and refers to Conrad Myers, in his capacity as trustee of Debtor  
25 in this Case, and any successor trustee of the Debtor from time to time.

26 **"Unsecured Claim"** means a Claim other than a Claim for payment of an

Administrative Expense, a Priority Claim, a Priority Tax Claim, a Secured Claim.

"*U.S. Trustee*" means and refers to the United States Trustee for the District of Oregon.

## ARTICLE II

### TREATMENT OF ADMINISTRATIVE EXPENSE CLAIMS AND PRIORITY CLAIMS

#### 2.1 Administrative Expense Claims.

##### 2.1.1 Non-Professional Fee Claims.

Each Person holding an Allowed Claim entitled to administrative expense priority under 11 U.S.C. § 507(a)(1) or (2) that arose in the ordinary course of Debtor's operations shall be paid in accordance with their agreement with the Debtor.

##### 2.1.2 Professional Fee Claims.

Trustee shall pay Allowed Administrative Expense Claims for Professional Fees within six (6) months following the Effective Date, as follows: (i) Trustee, Farleigh, and Perkins shall receive the lesser of 50% of their Professional Fees on the Effective Date, or such amount as can be paid such that sufficient cash exists in order to make all payments due under Plan on the Effective Date plus retaining a sufficient working reserve, with the remaining balance of such Professional Fees paid in six (6) monthly payments following the Effective Date; and (ii) Scharff shall receive the unpaid balance of his Professional Fees in four (4) equal monthly payments beginning on the third month following the Effective Date and ending on the sixth month following the Effective Date.

##### 2.1.3 Bar Date for Administrative Expense Claims.

All applications for final compensation of Professional Persons for services rendered and reimbursement of expenses incurred on or before the Effective Date and all other requests for payment of administrative costs and expenses incurred on or before the Effective Date under section 507(a)(1) or 507(b) of the Code (except for Claims for Administrative Expenses incurred in the ordinary course of business and Claims under 28 U.S.C. § 1930) shall

be filed no later than 60 days after the Effective Date or shall forever be barred from recovery against the Debtor, Reorganized Debtor, any property of the Debtor, or any distributions under this Plan.

## 2.2 Priority Tax Claims.

Priority Tax Claims shall be paid in full to IRS and ODR over a period not to exceed five (5) years after the Petition Date as provided in Section 1129(a)(9)(C) of the Code. Once the Allowed Administrative Expense Claims are paid in full as set forth in Section 2.1.2, the Priority Tax Claim amounts due shall be amortized over the period beginning with the commencement date of payments as set forth below and ending September 8, 2013. The payment of such Priority Tax Claims, including simple interest at the applicable statutory rate, shall be made in equal monthly payments (i) beginning in the first full month following the payment in full of all Allowed Administrative Expense Claims as set forth in Section 2.1.2; and (ii) ending no later than September 8, 2013. IRS's Secured Tax Claim shall be treated as set forth in Section 3.2.

# ARTICLE III

## CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

### 3.1 Classification and Treatment.

All Claims (except those treated under Article 2 of this Plan) and Interests are placed in the following classes for all purposes, including voting, confirmation and distribution pursuant to this Plan. A Claim is classified in a particular Class only to the extent that the Claim qualifies within the description of that Class and is classified in other Classes only to the extent that any remainder of the Claim qualifies within the description of such other Classes. A Claim is in a particular Class only to the extent that the Claim is an Allowed Claim in that Class and has not been paid or otherwise satisfied prior to the Effective Date. The treatment of and consideration to be received by Persons holding Allowed Claims pursuant to this Plan shall be in full settlement, release, and discharge of their respective Allowed Claims unless otherwise

1 specified herein.

2 3.2 Class 1 – Allowed Secured Claim of IRS.

3 Class 1 consists of the Allowed Secured Claim of IRS. The IRS has an Allowed  
4 Secured Claim arising from offset rights on the Medicare Receivables. The Trustee estimates the  
5 amount of the IRS' Allowed Secured Claim will be approximately \$32,000.00 on the Effective  
6 Date. IRS will receive \$10,000.00 within 10 days of the Effective Date, and the balance shall be  
7 paid in six equal monthly installments with interest at the statutory rate of interest commencing  
8 on the 60<sup>th</sup> day after the Effective Date.

9 3.3 Class 2 – Allowed Secured Claim of Keeton-King.

10 Trustee anticipates that a motion to sell the McMinnville Property free and clear  
11 of liens under Code Section 363(f) will be filed prior to the Confirmation Hearing seeking  
12 approval to sell the McMinnville Property to Keeton King on a credit bid basis under Section  
13 363(k). If the sale is approved and the sale transaction is consummated then Keeton-King will  
14 have no further Allowed Secured Claim. If the sale has not been approved the confirmation of  
15 the Plan shall constitute approval of the sale of the McMinnville Property to Keeton-King free  
16 and clear of all monetary liens and encumbrances other than real estate taxes and any other lien  
17 of superior priority to Keeton-King's lien on the McMinnville Property. After transfer of the  
18 McMinnville Property to Keeton-King, the Debtor or the Reorganized Debtor will enter into a  
19 lease of the McMinnville Property on terms mutually acceptable to Keeton-King and the Trustee.

20 3.4 Class 3 – Allowed Secured Claim of Summit Leasing.

21 Class 3 consists of the Allowed Secured Claim of Summit Leasing in the total  
22 amount of \$37,000.00. This claim arises from expired leases for the Leased Equipment. Trustee  
23 has been paying Summit Leasing monthly payments of \$1,000.00 since July 2009; therefore, it is  
24 estimated the unpaid amount of the Allowed Secured Claim will be \$30,000.00 on the Effective  
25 Date. Trustee shall execute a promissory note and security agreement on behalf of the  
26 Reorganized Debtor in favor of Summit Leasing in the amount of \$30,000, and Summit Leasing

1 shall execute a bill of sale to the Reorganized Debtor for the leased equipment. Summit will  
 2 receive payment on its Allowed Secured Claim as follows: (i) payment of \$1,000.00 per month  
 3 until the Effective Date; and (ii) monthly payments of \$1,500.00 following the Effective Date.  
 4 Such payments will be in full satisfaction of any administrative claim, but Summit shall have the  
 5 right to file an amended claim seeking payment of its remaining balance as a Class 4 creditor.

6 3.5 Class 4 – General Unsecured Claims.

7 Class 4 consists of all Allowed Unsecured Claims other than those set forth in  
 8 Class 5. Unsecured creditors will be paid from two sources:

9 (1) Payments From Free Cash Flow: To the extent the Clinics generate Free Cash  
 10 Flow during the Operating Period, the Reorganized Debtor shall make disbursements to the Class  
 11 4 creditors on a periodic basis, but not more often than every 3 months. No such payments shall  
 12 be made until all Administrative Claims are paid in full and Priority Tax Claimants have  
 13 received at least three (3) monthly payments on account of their Allowed Priority Tax Claims as  
 14 set forth in Section 2.2; and

15 (2) Net Proceeds from Sale of Business: After the Allowed IRS Secured Claim,  
 16 Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Summit  
 17 Leasing Secured Claim and Costs of Sale have been paid in full, the remaining Net Proceeds  
 18 from the Sale of Business shall be paid to holders of Allowed Unsecured Claims on a Pro Rata  
 19 basis.

20 3.6 Class 5 – Allowed Convenience Claims.

21 Class 5 consists of all Allowed Convenience Claims. On or before 30 days from  
 22 the Effective Date, Trustee shall send a letter to potential claimants listed in (a) Debtor's  
 23 Schedule F who are owed \$100.00 or less, or (b) in Debtor's Account Receivable Records as  
 24 being entitled to a refund, to apprise them of the following: A reserve fund in the amount of  
 25 \$14,000.00 shall be set aside for payment of Allowed Convenience Claims. Each Person holding  
 26 an Allowed Unsecured Claim in an amount equal to or less than \$100.00, or holding an Allowed

Unsecured Claim in excess of \$100.00 who wishes to reduce such claim to \$100.00, must elect to assert such Allowed Convenience Claim on or before 90 days from the Effective Date by following the process set forth below.

Distributions shall be made as follows: (a) each Person holding an Allowed Convenience Claim may elect to receive in complete settlement, satisfaction and discharge of its Claim a cash payment equal to 20% of such Allowed Convenience Claim, such payment to be made within 30 days of the date the election is received by the Liquidating Trustee; or (b) alternatively, each Person holding an Allowed Convenience Claim may choose to receive a certificate for medical services at the Redmond Facility or McMinnville Facility equivalent to the greater of 50% of their Allowed Convenience Claim or \$15.00. An election to reduce an Allowed Unsecured Claim is irrevocable and the Person who made such election may not seek treatment or vote as a member of Class 4. All Claimants holding Unsecured Claims that elect to reduce their Class 4 Claims as described herein are members of Class 5 for voting and distribution purposes. Notwithstanding anything to the contrary, no distribution shall be made on any claim of less than \$5.00.

The Class 5 claimants must provide the Liquidating Trustee with the Convenience Claim election by either (1) going to the Redmond Facility or McMinnville Facility, showing identification and receiving a certificate for medical services or refund; or (2) mailing a signed copy of the letter, with a signature notarized requesting a certificate for medical services or refund. Any such election must be made within 90 days of the Effective Date or the claim shall be deemed waived. Any letter making such election must be postmarked no later than the 90<sup>th</sup> day following the Effective Date.

### 3.7 Class 6 – Interest Holders.

Class 6 consists of the Interests in the Debtor. On the Effective Date, the Interests of the Marshalls shall be cancelled and re-issued to the Liquidating Trust. As of the Effective Date, the sole member of Debtor shall be the Liquidating Trust. The Marshalls shall receive no

1 payment for their Interests. The membership unit shall be reissued to the Liquidating Trust for  
2 the benefit of priority and unsecured claims.

3 3.8 Impairment of Classes.

4 3.8.1 Unimpaired Classes.

5 There are no unimpaired classes.

6 3.8.2 Impaired Classes.

7 Classes 1 through 6 are impaired by this Plan and the holders of such  
8 Claims are entitled to vote to accept or reject this Plan.

9 3.8.3 Confirmation Notwithstanding Rejection by a Class.

10 In the event that an impaired Class of Claims fails to accept this Plan in  
11 accordance with Section 1129(a) of the Code, Proponents may request that the Court confirm  
12 this Plan in accordance with Section 1129(b) of the Code.

13 **ARTICLE IV**

14 **TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

15 4.1 Assumption.

16 The Trustee shall not assume any of the Debtor's executory contracts and  
17 unexpired leases (including all amendments, extensions or renewals and replacements thereof).

18 4.2 Rejection.

19 All executory contracts and unexpired leases to which the Debtor is a party that  
20 are not assumed by operation of Section 4.1 are rejected pursuant to the provisions of Code  
21 Sections 365 and 1123(b)(2) except those which have been assumed by Court order prior to the  
22 entry of the Confirmation Order. Any claim for damages arising by reason of the rejection of  
23 any executory contract or lease shall be treated as a Class 4 claim; any such claim shall be  
24 disallowed unless proof of which is filed with the Court within sixty (60) days after the Effective  
25 Date of the Plan or such claim shall be forever barred. All such claims with respect to which a  
26 proof of claim is timely filed will be treated as Class 4 Claims.



1 **ARTICLE V**

2 **MEANS FOR IMPLEMENTATION OF THE PLAN**

3 5.1 Post-Confirmation Operations.

4 After the Effective Date, the Reorganized Debtor shall operate its business subject  
5 to its obligations under this Plan, with all corporate powers allowed under applicable state law,  
6 without prejudice to any right to alter or terminate such existence (whether by merger or  
7 otherwise) under such applicable law. Except as otherwise expressly provided in this Plan, on  
8 the Effective Date the Reorganized Debtor will be vested with all of the property of its estate free  
9 and clear of all claims, liens, encumbrances, charges and other interests of creditors, and may  
10 operate its business free of any restrictions imposed by the Code or by the Court.

11 The Reorganized Debtor will continue operations for a period of not less than 12  
12 months following the Confirmation Date. The precise duration of the Operating Period is within  
13 the discretion of the Liquidating Trustee, and the Liquidating Trustee shall exercise reasonable  
14 business judgment to determine when to sell Reorganized Debtor's business to a third party.

15 5.2 Liquidating Trust

16 5.2.1 Transfer of Estate Assets to Debtor.

17 On the Effective Date, all assets of the Estate will vest in the Reorganized  
18 Debtor.

19 5.2.2 Issuance of Membership Interests to the Liquidating Trust

20 On the Effective Date, the Debtor's membership units will be issued in the  
21 name of the Liquidating Trust. The Liquidating Trust shall be administered in accordance with  
22 the Liquidating Trust Agreement. A copy of the Liquidating Trust Agreement shall be filed with  
23 the Court prior to the Confirmation Hearing.

24 5.3 Management of Reorganized Debtor.

25 5.3.1 Manager.

26 During the Operating Period the Reorganized Debtor will be managed by

the Manager. The Manager shall continue to be Performance Improvement Resources, whose management services were previously approved by the Court in this Case on the same terms as provided for under its current contract for 180 days after the Effective Date. Thereafter, the Liquidating Trustee shall have the right to select and employ a different manager.

#### 5.3.2 Advisory Committee.

An Advisory Committee shall be appointed for Reorganized Debtor and shall consist of the three (3) largest unsecured creditors, or their designee, who choose to serve. The Advisory Committee shall meet quarterly with the Liquidating Trustee to review the Reorganized Debtor's operations. The Advisory Committee will have authority to act as an advisory board of directors, and shall have powers of oversight of the Liquidating Trustee and Manager. The Liquidating Trustee shall have the powers and duties set forth in Section 5.3.3.

#### 5.3.3 Liquidating Trustee Powers and Duties.

The Liquidating Trustee shall be empowered and directed to exercise such powers which the Liquidating Trustee in his discretion deems reasonably necessary to effectuate this Plan and to directly supervise the Manager. The Liquidating Trustee must obtain Advisory Committee approval (by a majority vote of the Advisory Committee) for the following:

- (a) The sale of the Business to a third party;
- (b) Compromise of any Claims over \$20,000.00;
- (c) Compromise of any Avoidance Claims if the proposed settlement in excess of \$20,000.00;
- (d) Capital expenditures over \$10,000.00; and
- (e) Relocation of Reorganized Debtor or opening of new business.

#### 5.3.4 Liquidating Trustee Engagement.

Myers shall be engaged as Liquidating Trustee of the Liquidating Trust on the Effective Date. Myers shall receive compensation of \$3,000.00 per month and shall serve as

Liquidating Trustee until the Administrative Expense Claims are paid in full. Upon payment of the Administrative Expense Claims in full, (a) the Advisory Committee may choose to elect a new Liquidating Trustee; or (b) Myers may resign as Liquidating Trustee by providing ten (10) days notice to the Advisory Committee. The full powers and duties of the Liquidating Trustee shall be set forth in the Liquidating Trust Agreement.

5.3.5 Membership Interests.

On the Effective Date, the Interests of the Marshalls shall be cancelled and re-issued to the Liquidating Trust, which shall be the Debtor's sole member.

5.4 Leases.

5.4.1 McMinnville Property.

Reorganized Debtor will enter into a lease with Keeton-King prior to the Confirmation Date for tenancy in the McMinnville Property, which lease shall be fully assignable to Buyer upon Sale of Business.

5.4.2 Redmond Property.

Reorganized Debtor will enter into a lease with David Mazzocco for tenancy in the Redmond Property, which lease shall be fully assignable to Buyer upon Sale of Business.

5.5 Sale of Business.

It is anticipated that Reorganized Debtor's business shall be sold within 24-48 months, at the discretion of the Liquidating Trustee and Advisory Committee. The Sale Proceeds received upon Sale of Business shall be used to pay outstanding Claims as set forth in Articles II and III.

5.6 General Account.

The Debtor shall maintain its existing bank accounts, but following the Effective Date, the reference to "debtor-in-possession" shall be removed. Such accounts shall be used to pay all ordinary and necessary post-confirmation operating expenses of the Reorganized Debtor,

1 including payment of the Manager and other Professional Persons' reasonable compensation.

2 5.7 Retention of Avoidance Claims.

3 Third Party Claims, if any, are retained. Any recovery from claims against third  
4 parties, after payment of any costs and expenses associated with such recovery, shall inure to the  
5 benefit of the Reorganized Debtor. Any holder of a claim against the Reorganized Debtor shall  
6 automatically have such claim disallowed without further action by the Reorganized Debtor or  
7 order of this court if the holder of a claim fails to repay Reorganized Debtor any sum that may be  
8 recoverable by Reorganized Debtor under 11 U.S.C. §§ 522(f), 522(h), 542, 543, 544, 545, 547,  
9 548, 549, 550, or 724(a) within ten (10) days of a final judgment in Reorganized Debtor's favor  
10 against such claim holder, unless such creditor has posted a supersedeas bond for the entire  
11 amount of Reorganized Debtor's judgment.

12 5.8 Fees Payable Under 28 U.S.C. § 1930.

13 All fees payable under 28 U.S.C. § 1930, as determined by the court, shall be paid  
14 on or before the Effective Date. All post-petition fees payable under 28 U.S.C. § 1930 shall be  
15 paid when due. Until the case is closed, the Debtor will provide quarterly statements of  
16 disbursements to the U.S. Trustee.

17 5.9 Continuation of Retiree Benefits.

18 Retiree benefits, if any (and Trustee believes there are none), shall be continued  
19 after the Effective Date without modification at the level established pursuant to 11 U.S.C. §  
20 1114(e)(1)(B) for the duration of the period that the Debtor has obligated itself to provide such  
21 benefits.

22 5.10 Compliance with this Plan.

23 The Debtor, creditors, and all other parties in interest shall take all actions  
24 necessary to effectuate the terms of this Plan.

25

26

1 **ARTICLE VI**

2 **DISTRIBUTION PROCEDURES**

3 Distributions to be made by the Reorganized Debtor.

4 6.1 Continued Expenses.

5 Before and after the Effective Date, Debtor shall continue to make certain  
6 monthly and other payments, generally consisting of wages to its employees, materials costs,  
7 lease payments for the Redmond Property and McMinnville Property, and other operating and  
8 general business costs.

9 6.2 Subsequent Distributions.

10 Beginning on the Effective Date, the Reorganized Debtor will distribute to  
11 holders of Allowed Claims (a) periodic payments during the Operating Period; and/or (b)  
12 payment upon Sale of Business, based on the treatment afforded each particular Class of Claims  
13 under the Plan.

14 6.3 Form of Payments.

15 Distributions to be made by the Reorganized Debtor under the Plan will ordinarily  
16 be made by check drawn on a domestic bank.

17 6.4 Delivery of Distributions.

18 Distributions to be made by the Reorganized Debtor to holders of Allowed Claims  
19 pursuant to the Plan may be delivered by regular mail, postage prepaid, in an envelope addressed  
20 as directed in a request served on the Reorganized Debtor as provided in section 10.2 of the Plan,  
21 but if no such request is made, to the address shown in Debtor's bankruptcy schedules, as they  
22 may from time to time be amended in accordance with Bankruptcy Rule 1009, or, if a different  
23 address is stated in a proof of claim duly filed with the Court, to such address.

24 6.5 Time Bar to Cash Payments.

25 Checks issued by the Reorganized Debtor with respect to Allowed Claims will  
26 become null and void if not negotiated within 90 days after the date of issuance thereof.

1 Requests for re-issuance of any check must be made to Debtor within 90 days following the date  
2 of the Plan distribution pursuant to which the check was issued. After such date, (i) the holder of  
3 any such Claim who has failed to make a timely request for re-issuance of such a voided check  
4 will not be entitled to any other or further distribution under the Plan on account of such voided  
5 check or such Claim; and (ii) the Unclaimed Property held on account of such voided check or  
6 such Claim shall be returned to the Reorganized Debtor.

7           6.6    Minimum Distribution.

8           If a distribution to be made to any holder of an Allowed Claim on any  
9 Distribution Date, including the final Distribution Date, is \$5.00 or less in the aggregate, then,  
10 notwithstanding any contrary provision in the Plan, the Reorganized Debtor will not be obligated  
11 to make such distribution to such holder unless a request therefore is made in writing to the  
12 Reorganized Debtor in accordance with the notice provisions of section 10.2 of the Plan.  
13 Distributions that are so withheld will become Available Cash.

14           6.7    Post-Petition Interest.

15           Except as specifically provided for in the Plan or in the Confirmation Order,  
16 interest will not accrue on Claims and no holder of a Claim will be entitled to interest accruing  
17 on or after the Petition Date on any Claim. Interest will not accrue or be paid upon any Disputed  
18 Claim in respect of the period from the Petition Date to the date a distribution is made thereon if  
19 and after such Disputed Claim becomes an Allowed Claim.

20           6.8    Disputed, Contingent and Unliquidated Claims.

21           Trustee or Reorganized Debtor may dispute some of the Proofs of Claim filed in  
22 the Bankruptcy Case even if the Debtor did not list the associated debt as disputed in his  
23 bankruptcy schedules, as amended. In addition, Trustee or Reorganized Debtor may dispute  
24 some of the claims it listed on its bankruptcy schedules even if it did not list the associated debt  
25 as disputed, contingent or unliquidated. Notwithstanding any other provision of the Plan, no  
26 Cash or other property will be distributed under the Plan on account of any Disputed Claim, or

any Claim that is contingent or unliquidated, until such Claim becomes an Allowed Claim. From and after the Effective Date, only Reorganized Debtor will have the right (except as to applications or requests for allowances of compensation and reimbursement of expenses in favor of professionals) to make and file objections to Claims. Within 90 days after the Effective Date, unless such period is extended by Court order, all objections to Claims must be served and filed. At such time as a Disputed Claim becomes an Allowed Claim, the holder of such Allowed Claim will receive the distribution, if any, to which such holder is then entitled under the Plan as soon as practicable after the Final Order of the Court allowing such Claim.

6.9 Post-Confirmation Date Fees and Expenses of Professional Persons.

After the Confirmation Date, Reorganized Debtor shall, in the ordinary course of business and without the necessity for Court approval, pay the reasonable fees and expenses of the Professional Person or entities it employs in connection with the implementation, consummation and performance of the Plan or with other matters as to which such professionals may be reasonably engaged, except all such professional fees and expenses to which Court approval was previously required shall still be required for all such fees and expenses up through the Confirmation Date.

## ARTICLE VII

### EFFECT OF PLAN CONFIRMATION

7.1 Injunction.

Except as otherwise specifically provided in this Plan or in the Confirmation Order, confirmation of the Plan shall act as a permanent injunction applicable to all entities against (i) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative or other action or proceeding against the Debtor that was or could have been commenced before the entry of the Confirmation Order, in each case on account of any Claim (other than actions or proceedings brought to enforce any rights or obligations under this Plan or appeals, if any, from the Confirmation Order or with respect to such Claims); (ii) the

enforcement against the Debtor of any judgment, award, decree or order obtained before the Petition Date, in each case on account of any Claim; (iii) any act to obtain possession of, or to exercise control over, or to create, perfect or enforce a lien upon, any of the Property, on account of any Claim; (iv) the assertion of any setoff, right of subrogation, reimbursement or recoupment of any kind, directly or indirectly, against any obligation due the Debtor or the Estate on account of any Claim; and (v) the exercise of any provision contained in any contract, lease or instrument which is or was entered into or issued by the Debtor prior to the Petition Date and which is not cancelled or rejected under the Plan that allows a Creditor to declare, or that declares, a default based upon the filing of the petition in this Chapter 11 case, the insolvency or financial condition of the Debtor or the subjective insecurity of such Creditor.

#### 7.2 Binding Effect.

Except as otherwise specifically provided in this Plan or in the Confirmation Order, on and after the Confirmation Date, the provisions of this Plan shall bind each Holder of a Claim or Interest, and each of their respective successors, heirs, legal representatives and assigns, whether or not the Claim or Interest of such Holder is impaired under this Plan and whether or not such Holder has filed a proof of claim with the Court or has accepted this Plan.

### **ARTICLE VIII**

#### **DEFAULT**

#### 8.1 Default.

Except as otherwise provided in the Plan, in the event Debtor shall default in the performance of any of its obligations under the Plan and Debtor fails to cure such default within thirty (30) days after written notice delivered as set forth in paragraph 10.2 below, then a claimant may pursue such remedies as are available at law or in equity. An event of default occurring with respect to one Allowed Claim shall not be an event of default with respect to any other Allowed Claim. Nothing contained in the Plan shall limit the right of any party to reopen this case or to move to convert this case to a liquidation case under Chapter 7 of the Code if



1 cause for such relief exists.

2 **ARTICLE IX**

3 **RETENTION OF JURISDICTION**

4 9.1 Jurisdiction.

5 Notwithstanding the entry of the order confirming the Plan, the court shall retain  
6 jurisdiction of this chapter 11 case pursuant to and for the purposes set forth in 11 U.S.C. §  
7 1127(b) and (a) to classify the claim of any creditor, reexamine claims which have been allowed  
8 for voting purposes and determine any objection that may be filed to claims; (b) to determine  
9 requests for payment of claims entitled to priority under 11 U.S.C. § 507(a)(1), including  
10 compensation and reimbursement of expenses in favor of professionals employed at the expense  
11 of the estate; (c) to avoid transfers or obligations and to subordinate claims under Chapter 5 of  
12 the Code; (d) to approve the assumption, assignment or rejection of executory contracts and  
13 unexpired leases pursuant to 11 U.S.C. §§ 365 and 1123; (e) to resolve all controversies and  
14 disputes regarding the interpretation of the Plan; (f) to implement the provisions of the Plan and  
15 enter orders in aid of confirmation; (g) to adjudicate any and all adversary proceedings and  
16 contested matters pending or hereafter commenced in this chapter 11 case; and (h) to enter a final  
17 decree closing this Chapter 11 case.

18 **ARTICLE X**

19 **MISCELLANEOUS**

20 10.1 Headings.

21 The headings in this Plan are for convenience of reference only and shall not limit  
22 or otherwise affect meanings of the Plan.

23 10.2 Notices.

24 Unless otherwise agreed to between a creditor and Debtor or otherwise stated in  
25 this Plan, all notices required or permitted to be made in accordance with the Plan shall be in  
26 writing and shall be delivered personally or by regular or certified mail, return receipt requested.

Notice to the Reorganized Debtor shall be made to Trustee, care of Peter C. McKittrick, c/o Farleigh Wada Witt, 121 SW Morrison Street, Suite 600, Portland, Oregon 97204. Notice to a holder of an Allowed Claim shall be directed to the address set forth within its proof of claim filed with the Court, or if none, to its address set forth in the schedules prepared and filed with the Court, as amended. Notices shall be deemed given upon delivery, if personally delivered, and upon mailing, if mailed. Any person may change the address at which such person is to receive notices under the Plan by sending written notice, pursuant to the provisions of this section, to the Debtor and any other person to be charged with knowledge of such change.

#### 10.3 Reservation of Rights.

Neither the filing of the Plan nor any statement nor provision contained herein, nor the taking by any creditor of any action with respect to the Plan, shall, until the Effective Date, (a) be or be deemed to be an admission against interest and (b) be or be deemed to be a waiver of any rights any creditors may have against Debtor or any of its assets or any other creditor, and, until the Effective Date, all such rights are specifically reserved. In the event that the Effective Date cannot be determined, neither the Plan nor any statement contained herein may be used or relied upon in any manner in any suit, action, proceeding or controversy within or without this Chapter 11 case involving Debtor.

#### 10.4 Computation of Time Periods.

In computing any period of time prescribed or allowed by this Plan, the day or month of the act, event or default from which the designated period of time begins to run shall not be included. The last day or month of the period so computed shall be included. In the event that the last day is a Saturday, Sunday, or legal holiday, then the period shall run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

#### 10.5 Creditor's Change of Address.

Any creditor who fails to notify Debtor in writing of that creditor's change of address, with the result that Debtor's communications to the creditor are returned by the United

1 States Postal Service for insufficient or improper address, shall forfeit that creditor's rights to  
2 distributions made during the time of such failure, but will be entitled to amounts to be  
3 distributed after notifying Debtor of the new or corrected address. Debtor need not distribute  
4 property unclaimed within three (3) months of the final distribution.

5 Dated: December 16, 2009.

6  
7 FARLEIGH WADA WITT

8  
9 By: /s/ Peter C. McKittrick  
10 Peter C. McKittrick, OSB #852816  
11 PMcKittrick@fwwlaw.com  
12 Christopher L. Parnell, OSB #054352  
13 CParnell@fwwlaw.com  
14 (503) 228-6044  
15 Of Attorneys for Conrad Myers, Chapter 11  
16 Trustee  
17  
18  
19  
20  
21  
22  
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25  
26

**CERTIFICATE OF SERVICE**

I hereby certify that on December 16, 2009 I served the foregoing **TRUSTEE'S PLAN OF REORGANIZATION** on the following parties via electronic notification, e-mail, facsimile or by depositing a true copy thereof, contained in a sealed envelope, with first-class postage prepaid, addressed to said parties at the last known address shown below and in the U.S. mail at Portland, Oregon:

F. Gordon Allen  
James Ray Streinz  
McEwen Gisvold LLP  
1100 SW 6th Ave Ste 1600  
Portland OR 97204  
***Electronic Notification***

Leon Simson  
Tonkon Torp  
1600 Pioneer Tower  
888 S.W. Fifth Avenue  
Portland, Oregon 97204  
***Electronic Notification***

Robert L. Carlton  
1000 SW Broadway, Ste. 1400  
Portland, OR 97205  
***Electronic Notification***

Alex Poust  
Schwabe Williamson Wyatt  
1211 SW Fifth Avenue, Suite 1900  
Portland, OR 97204  
***Electronic Notification***

Gary U. Scharff  
621 SW Morrison St., Ste. 1300  
Portland, OR 97205  
***Electronic Notification***

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***Electronic Notification***

Jeanette Thomas  
Perkins Coie  
1120 SW Couch 10<sup>th</sup> Fl.  
Portland, OR 97209  
***Electronic Notification***

US Trustee, Portland  
620 SW Main St., Ste. 213  
Portland, OR 97205  
***Electronic Notification***

Laura J. Walker  
Cable Huston Benedict et al.  
1001 SW Fifth Ave., Suite 2000  
Portland, OR 97204-1136  
***Electronic Notification***

Advantage Nurse Staffing, Inc.  
Attn: Michael Montana, President  
16420 SE McGillivray Blvd., Ste. 103-251  
Vancouver, WA 98683  
***First Class Mail***

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Sanofi Pasteur Inc  
Attn Paul C Izcavazzi Sr  
Discovery Dr Bldg 60  
Swiftwater, PA 18370  
***First Class Mail***

10 Dated: December 16, 2009.

11 FARLEIGH WADA WITT

12  
13 By: /s/ Christopher L. Parnell  
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15 (503) 228-6044  
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Attorneys for Chapter 11 Trustee