

EXHIBIT 1

Liquidation Trust Agreement

LIQUIDATION TRUST AGREEMENT

LIQUIDATION TRUST AGREEMENT, dated as of [____], 2010 (the "Liquidation Trust Agreement" or the "Agreement"), between SP Wind Down Inc. and its affiliates (together with SP Wind Down, the "Debtors" or the "Reorganized Debtors", as applicable) and Walter A. Jones as Liquidation Trustee of the SP Wind Down Trust (the "Liquidation Trustee").

R E C I T A L S :

WHEREAS, on February 3, 2010, the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), Case No. 10-10352 (KG) (Jointly Administered) (the "Bankruptcy Cases"); and

WHEREAS, on or about July 13, 2010, the Debtors filed with the Bankruptcy Court the *First Amended Joint Liquidation Plan of SP Wind Down Inc., f/k/a Spheris Inc., and its Affiliated Debtors* (as confirmed, the "Plan"); and

WHEREAS, the Plan, among other things, provides for the creation of a liquidation trust (the "SP Wind Down Trust") and the appointment of a Liquidation Trustee for such trust; and

WHEREAS, the primary purposes of the SP Wind Down Trust are to (a) make Distributions to holders of Allowed Claims under the Plan, (b) resolve Disputed Claims in accordance with the Plan, (c) liquidate the Liquidation Trust Assets, and (d) wind-down the affairs of the Reorganized Debtors and dissolve such Reorganized Debtors and Spheris Holding III Inc. ("Holding III"); and

WHEREAS, the Plan provides for the appointment of the Liquidation Trustee for the purposes set forth herein, and the Liquidation Trustee has accepted such appointment and has agreed to serve in such capacity under the terms and conditions set forth herein; and

WHEREAS, in consideration of the premises and mutual covenants and agreements contained herein, the Liquidation Trust Advisory Board and the Liquidation Trustee agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 *Certain Terms Defined.* Capitalized Terms not otherwise defined herein shall, when used herein (including in the Recitals hereto), have the meanings ascribed to such terms in the Plan.

“Administrative Expense Claim” shall have the meaning ascribed to such term in the Plan.

“Allowed” shall have the meaning ascribed to such term in the Plan.

“Available Cash” shall mean all Cash in the possession of the Debtors or the SP Wind Down Trust on and after the Effective Date.

“Avoidance Actions” shall mean all Causes of Action of the Estates that arise under chapter 5 of the Bankruptcy Code, including, but not limited to, all preference, fraudulent transfer, and other avoidance claims and causes of action.

“Avoidance Actions Proceeds” shall mean any and all Cash or other consideration received by the Debtors or the SP Wind Down Trust from any settlement, judgment or other disposition of the Avoidance Actions.

“Bankruptcy Court” shall mean the United States Bankruptcy Court for the Bankruptcy of Delaware or such other court as may hereafter be granted jurisdiction.

“Beneficial Interests” shall have the meaning set forth in Section 4.2 hereof.

“Beneficiaries” shall have the meaning set forth in Section 4.1 hereof.

“Business Days” shall mean any day except a Saturday, Sunday or “legal holiday” as such term is defined in Bankruptcy Rule 9006(a).

“Cash” means legal tender of the United States of America or readily marketable direct obligations of, or obligations guaranteed by, the United States of America.

“Cause of Action” or “Causes of Action” individually or collectively, as the case may be, means or mean all claims, rights, actions, causes of action, liabilities, obligations, suits, debts, remedies, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages or judgments, whether known or unknown and

whether asserted or unasserted (including, without limitation, any claim of setoff, right of subrogation or recoupment of any kind).

“Claim” shall have the meaning ascribed to such term in the Plan.

“Claims Objections” shall mean objections and/or motions to recharacterize or subordinate Claims filed or which may be filed with the Bankruptcy Court.

“Confirmation Order” shall mean a Final Order confirming the Plan.

“Disputed Claim” shall have the meaning ascribed to such term in the Plan.

“Disputed Trust Asset” shall mean any asset, including, without limitation, any escrow account, contract, lease, account receivable, insurance proceeds, inventory, property, deposit, claim, rebate, refund, prepaid expense, advance, prepayments, deferred charges, and any collateral pledged for workers’ compensation, which the SP Wind Down Trust claims an ownership interest in and which ownership interest is disputed by another party.

“Disbursing Agent” shall mean the Liquidation Trustee.

“Distribution” shall have the meaning ascribed to such term in the Plan.

“Distribution Date” shall have the meaning ascribed to such term in the Plan.

“Effective Date” shall have the meaning ascribed to such term in the Plan.

“Estate” shall mean the estate of any Debtor created by section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Cases.

“Final Order” shall have the meaning ascribed to such term in the Plan.

“First Priority Expenses” shall have the meaning ascribed to it in section 6.5 hereof.

“Holding II” shall mean SP Wind Down Holding II, Inc. f/k/a Spheris Holding II, Inc.

“Indemnified Parties” shall mean, individually and collectively, each of (i) the Liquidation Trustee, and its employees, affiliates, officers, directors, principals, attorneys, accountants, experts, agents, and their respective affiliates, (ii) the

Liquidation Trust Advisory Board, and its employees, affiliates, officers, directors, principals, attorneys, accountants, experts, agents, and their respective affiliates, and (iii) the members or designees of the Liquidation Trust Advisory Board, and their employees, affiliates, officers, directors, principals, attorneys, accountants, experts, agents, and their respective affiliates.

“Liquidation Trust Advisory Board” shall have the meaning ascribed to such term in the Plan.

“Liquidation Trustee Letter Agreement” shall have the meaning ascribed to such term in Section 7.5 hereof.

“LT Reserve” shall have the meaning ascribed to such term in the Plan.

“Permitted Investments” shall have the meaning ascribed to such term in Section 6.3 hereof.

“Pro Rata Share” shall mean the proportion that the amount an Allowed Claims bears to the aggregate amount of all Claims in a particular Class, including Disputed Claims, but not including Disallowed Claims, (i) as calculated by the Disbursing Agent on or before any Distribution Date; or (ii) as determined by the Bankruptcy Court.

“Proceeds” shall mean the net amount of any and all of the proceeds of or recoveries from the Avoidance Actions and any income earned from Permitted Investments.

“Register” shall have the meaning ascribed to it in section 4.4 hereof.

“Remaining Assets” shall mean all Assets of the Debtors as of the Effective Date.

“Second Priority Expenses” shall have the meaning ascribed to it in section 6.5 hereof.

“SP Wind Down Trust” or “Trust” shall mean the trust created by this Agreement.

“SP Wind Down Trust Expenses” shall have the meaning ascribed to such term in Section 6.4 hereof.

“SP Wind Down Trust Obligations” shall mean any and all financial obligations of the SP Wind Down Trust, including, but not limited to, SP Wind Down Trust Expenses.

“SP Wind Down Trust Termination Date” shall have the meaning ascribed to it in section 2.7 hereof.

“Trust Assets” shall mean all of the assets of the SP Wind Down Trust, including the Debtors’ right, title and interest of any nature in the transferred property, wherever located, as specified in section 541 of the Bankruptcy Code on the day before the Confirmation Order is entered.

“Unsecured Claim” shall mean all Allowed Claims in Class 3 and Class 4 of the Plan.

ARTICLE II

CREATION/TERMINATION OF LIQUIDATION TRUSTEE

Section 2.1 *Creation of the SP Wind Down Trust.* The SP Wind Down Trust is hereby constituted and created, in accordance with Treasury Regulations Section 301.7701-4(d) to (i) investigate and prosecute Avoidance Actions, (ii) object to and/or resolve Disputed Claims in accordance with the Plan, (iii) liquidate the Remaining Assets; (iv) make distributions under the Plan; (v) make distributions of the Trust Assets to the Beneficiaries; and (vi) take such other action, consistent with the terms of this Agreement or as directed by the Liquidation Trust Advisory Board, as is necessary and appropriate to administer and implement the Plan, including, without limitation, winding up the Debtors’ Estates and dissolving the Reorganized Debtors and, if requested by Holding III, Holding III.

Section 2.2 *Appointment and Acceptance of Liquidation Trustee.* Walter A. Jones is hereby appointed as Liquidation Trustee, to act and serve as Liquidation Trustee of the SP Wind Down Trust. The Liquidation Trustee hereby accepts the appointment as the Liquidation Trustee of the SP Wind Down Trust, and in such capacity agrees to hold the Trust Assets and to administer the SP Wind Down Trust pursuant to the terms and conditions of this Agreement and the Plan.

Section 2.3 *Name of the Trust.* The SP Wind Down Trust established hereby shall bear the name “SP Wind Down Trust”. In connection with the exercise of its powers as the Liquidation Trustee hereunder, the Liquidation Trustee may use this name or such variation thereof as the Liquidation Trustee sees fit.

Section 2.4 *Transfer of Property to the Trust.* Pursuant to the Plan and the Confirmation Order, on the Effective Date, all of the Debtors’ assets, other than (a) cash amounts reserved for payment of professional expenses pursuant to Section 2.03 of the Plan, and (b) Interests in Debtors other than Holding II, shall be unconditionally and irrevocably transferred, assigned and delivered to the SP Wind Down Trust to be administered for the benefit of the holders of Allowed Claims free and clear of any lien, Claim or equity interest in such property except as provided in the Plan or Confirmation Order. Any Cash or other property received from third parties from the prosecution, settlement or compromise of any Claims, Avoidance Actions or other Causes of Actions

shall constitute Trust Assets for purposes of distributions under this Agreement. Upon the transfer of the Trust Assets, the SP Wind Down Trust shall succeed to all of the Debtors' right, title and interest in the Trust Assets, and the Debtors will have no further interest in or with respect to the Trust Assets or the SP Wind Down Trust.

Section 2.5 *Maintenance of Cash and Proceeds.* Any and all Available Cash and Proceeds shall be maintained by the Liquidation Trustee in an account designated for such purposes.

Section 2.6 *Fiscal Year.* The fiscal year of the SP Wind Down Trust shall be the calendar year.

Section 2.7 *Termination of SP Wind Down Trust.* The SP Wind Down Trust shall automatically terminate upon the date (the "SP Wind Down Trust Termination Date") that all of the following have occurred: (i) the final distribution of Available Cash, if any, to the Beneficiaries pursuant to Plan, the Confirmation Order and this Agreement and (ii) the preparation and delivery of a final report regarding the Trust Assets to the Liquidation Trust Advisory Board and all holders of Allowed Claims that have requested notice pursuant to Section 6.12 hereof; provided, however, that the SP Wind Down Trust shall be dissolved no later than five (5) years from the Effective Date, unless the Bankruptcy Court orders otherwise in accordance with Section 5.02(i) of the Plan. The Liquidation Trustee shall liquidate the Trust Assets in an orderly and expeditious manner in accordance with this Agreement and the Plan.

Section 2.8 *Creation of LT Reserve.* The SP Wind Down Trust shall establish an LT Reserve on account of Disputed Claims. The SP Wind Down Trust may, for U.S. federal income tax purposes (and, to the extent permitted by law, for state and local income tax purposes), (i) make an election pursuant to Treasury Regulation section 1.468B-9 to treat the LT Reserve as a "disputed ownership fund" within the meaning of that section, (ii) allocate taxable income or loss to the LT Reserve, with respect to any given taxable year (but only for the portion of the taxable year with respect to which such Claims are Disputed Claims), and (iii) distribute assets from the LT Reserve as, when, and to the extent, such Disputed Claims cease to be Disputed Claims, whether by virtue of becoming Allowed or otherwise resolved. The SP Wind Down Trust Beneficiaries shall be bound by such election, if made by the Liquidation Trustee, and as such shall, for U.S. federal income tax purposes (and, to the extent permitted by law, for state and local income tax purposes), report consistently therewith.

ARTICLE III

LIQUIDATION TRUST ADVISORY BOARD

Section 3.1 *Liquidation Trust Advisory Board.*

(a) There is hereby established and created a special advisory board (the "Liquidation Trust Advisory Board") to monitor the Liquidation Trustee, and all liquidation, distribution and other activities required in connection with the management

of the Trust Assets and the performance of the Liquidation Trustee of his obligations hereunder. Subject to the provisions of Article VIII, the Liquidation Trust Advisory Board shall be responsible for any termination and replacement of the Liquidation Trustee pursuant to the terms of this Agreement.

(b) The members of the Liquidation Trust Advisory Board shall initially consist of one representative from each of (i) Bennett Restructuring Fund I, LP and (ii) AIG Asset Management (U.S.), LLC, as investment advisor. Any or all members of the Liquidation Trust Advisory Board may resign from the Liquidation Trust Advisory Board at any time by written notice of resignation to the Liquidation Trustee. In the event that a Liquidation Trust Advisory Board member sells, transfers or assigns all of its rights to or interest in its Claims and no longer holds such Claim, dies, resigns, becomes incapacitated or otherwise fails or refuses to serve, that member shall be immediately removed. In the event of a member's resignation or removal, the remaining Liquidation Trust Advisory Board members may, but are not required to, elect a replacement member from among the remaining holders of Allowed Unsecured Claims. In the event that there are no members of the Liquidation Trust Advisory Board, the holders of a majority in amount of Claims (excluding Disallowed Claims) may appoint a person to the Liquidation Trust Advisory Board. There shall be no minimum number of members of the Liquidation Trust Advisory Board to retain its function; provided, however, if there shall have been no Liquidation Trust Advisory Board for a period of thirty (30) consecutive days, then the Liquidation Trustee may, during such vacancy, and thereafter, ignore any reference in the Plan, this Agreement or the Confirmation Order to the Liquidation Trust Advisory Board, and all such references in the Plan, this Agreement or the Confirmation Order shall be null and void. Any deadlock in a vote by the members of the Liquidation Trust Advisory Board may be broken by a vote by the Liquidation Trustee.

(c) The Liquidation Trustee shall provide the Liquidation Trust Advisory Board with such reports as the Liquidation Trust Advisory Board shall reasonably request from time to time. Members of the Liquidation Trust Advisory Board shall be entitled to reimbursement of reasonable expenses incurred in serving on the Liquidation Trust Advisory Board. The Liquidation Trust Advisory Board may, but shall not be required to, adopt by-laws addressing its conduct.

(d) Neither the Liquidation Trust Advisory Board, nor any of its members or designees, attorneys, accountants or other professionals nor any duly designated agent or representative of the Liquidation Trust Advisory Board, nor their respective employees, shall be liable for any act or omission of any other member, designee, agent or representative of the Liquidation Trust Advisory Board, nor shall any member be liable for any act or omission taken or to be taken in its capacity as a member of the Liquidation Trust Advisory Board, other than acts resulting from such member's willful misconduct or gross negligence. The Liquidation Trust Advisory Board may, in connection with the performance of its functions, and in its sole and absolute discretion, consult with counsel, accountants and its agents, and shall not be liable for any act taken, omitted to be taken or suffered to be done in accordance with advice or opinions rendered by such professionals, regardless of whether such advice or opinions are provided in

writing. Notwithstanding such authority, the Liquidation Trust Advisory Board shall be under no obligation to consult with counsel, accountants or its agents, and its determinations to not do so shall not result in the imposition of liability on the Liquidation Trust Advisory Board or its members or designees, unless such determination is based on willful misconduct or gross negligence.

(e) The Liquidation Trust Advisory Board and its members or designees shall be indemnified by the SP Wind Down Trust from any losses, claims, damages, liabilities or expenses (including, without limitation, reasonable attorneys' fees, disbursements and related expenses) which such parties may incur or to which such parties may become subject in connection with any action, suit, proceeding or investigation brought by or threatened against such parties arising out of or due to their acts or omissions, or consequences of such actions or omissions, with respect to the implementation or administration of this Agreement or the Plan or the discharge of their duties hereunder; provided, however, that the SP Wind Down Trust shall not be liable to indemnify such parties for any of their acts or omissions constituting gross negligence or willful misconduct.

ARTICLE IV

BENEFICIARIES

Section 4.1 *Beneficiaries.* Holders of (i) Allowed Administrative Expense Claims, (ii) Allowed Indenture Trustee Fee Claims, (iii) Allowed Priority Tax Claims, (iv) Allowed Non-Tax Priority Claims, (v) Allowed Other Secured Claims (collectively, "Full Payment Beneficiaries"), and (vi) Allowed General Unsecured Claims ("Unsecured Beneficiaries" and, collectively with the Full Payment Beneficiaries, the "Beneficiaries") against the Debtors shall be Beneficiaries of the SP Wind Down Trust.

Section 4.2 *Interests of Beneficiaries.* The Beneficiaries shall have undivided beneficial interests in the Trust Assets (the "Beneficial Interests"). The ownership of a Beneficial Interest hereunder shall not entitle any Beneficiary to any title in or to the Trust Assets or to any right to call for a partition or division of Trust Assets or to require an accounting.

Section 4.3 *No Suits by Beneficiaries.* No Beneficiary shall have any right by virtue of any provision of this Agreement to institute any action or proceeding at law or in equity against any Person with respect to the Trust Assets, any Avoidance Actions or Claims Objections; provided, however, that a Beneficiary shall be permitted to institute an action or proceeding in law or in equity against the Liquidation Trustee with respect to this Agreement, the Plan, the Confirmation Order or the Trust Assets for acts or omissions arising from the Liquidation Trustee's willful misconduct.

Section 4.4 *Recording of Beneficial Interests in Trust Assets.* As soon as practical after the creation of the SP Wind Down Trust, the Liquidation Trustee or its duly authorized agent shall record all ownership and transfers of Beneficial Interests in a

register (the "Register") maintained by the Liquidation Trustee (or a duly authorized agent of the Liquidation Trustee) for such purpose.

Section 4.5 *Non-Transferability of Liquidating Trust Interests.* The Beneficial Interests in the SP Wind Down Trust shall not be certificated and no physical certificates shall be issued representing the Beneficial Interests. The Beneficial Interests shall not be transferable, assignable, pledged, sold or hypothecated, in whole or in part, except with respect to a transfer by will or under the laws of descent and distribution. Any such transfer, however, will not be effective until and unless the Liquidation Trustee receives written notice of such transfer. Neither the Liquidation Trustee nor any persons affiliated with the SP Wind Down Trust or the Reorganized Debtors will take any action to cause, facilitate or encourage any trading in or transfer of the Beneficial Interests in the Liquidating Trust or any instrument or interest tied to the value of the Beneficial Interests.

Section 4.6 *Notice of Change of Address; Undeliverable Property.* Each Beneficiary shall be responsible for providing the Liquidation Trustee with written notice of any change in address. The Liquidation Trustee is not obligated to make any effort to determine the correct address of a Beneficiary.

(a) Subject to Bankruptcy Rule 9010, all distributions under the Plan and this Agreement shall be made to the holder of each Allowed Claim at the address of such holder as listed on the Schedules (as defined in the Plan) as of the Distribution Record Date (as defined in the Plan), unless the Reorganized Debtors and the Liquidation Trustee have been notified in writing of a change of address, including, without limitation, by the timely filing of a proof of claim by such holder that provides an address for such holder different from the address reflected on the Schedules. In the event that any distribution to any such holder is returned as undeliverable, no distribution to such holder shall be made unless and until the appropriate Disbursing Agent has been notified of the then current address of such holder, at which time or as soon as reasonably practicable thereafter, such distribution shall be made to such holder without interest. Undeliverable distributions shall remain in the possession of the SP Wind Down Trust until the earlier of (i) such time as the relevant distribution becomes deliverable and (ii) the time period specified in subsection (b) hereof.

(b) At the later of the expiration of one (1) year from the Effective Date and the date a Claim becomes an Allowed Claim, any undeliverable distribution shall be deemed unclaimed property and shall revert in the SP Wind Down Trust and be distributed to other Beneficiaries, in accordance with the Plan, this Agreement or otherwise ordered by the Bankruptcy Court.

Section 4.7 *Notice to Holders of Beneficial Interests in connection with a Written Consent; Subsequent to an Action By Written Consent.* Notice shall be delivered to a holder of Beneficial Interests in SP Wind Down Trust prior to, or in connection with, any solicitation of such holder's written consent under this Agreement. If an action is taken under this Agreement pursuant to the written consent of the holders of Beneficial Interests in SP Wind Down Trust, subsequent notice of such action shall be

delivered to each holder of a Beneficial Interests in SP Wind Down Trust that did not consent to such action. Any notice delivered pursuant to this section shall be delivered to the address on record with the Liquidation Trustee of such holder and shall constitute proper notice hereunder.

ARTICLE V

TAX AND SECURITIES MATTERS

Section 5.1 *Tax Treatment.* The SP Wind Down Trust is established for the sole purpose of distributing the Trust Assets, and any proceeds therefrom, in accordance with Treasury Regulation section 301.7701-4(d) and Revenue Procedure 94-45, with no objective to continue or engage in the conduct of a trade or business. The SP Wind Down Trust is intended to qualify as a liquidating trust for U.S. federal income tax purposes. In general, a liquidating trust is not a separate taxable entity for U.S. federal income tax purposes, but is instead treated as a grantor trust, *i.e.*, pass-through entity. All parties must treat the transfer of the portion of the Trust Assets attributable to the Beneficiaries as a transfer of such assets directly to the Beneficiaries. Consistent therewith, all parties must treat the SP Wind Down Trust as a grantor trust of which the Beneficiaries are the owners and grantors. [The Liquidation Trustee shall determine the fair market value of the Trust Assets as soon as possible after the Effective Date, and the Beneficiaries and the Liquidation Trustee shall consistently use this valuation for all U.S. federal income tax purposes, including for determining gain, loss or tax basis.]

Section 5.2 *Tax Basis.* For all federal income tax purposes, a Distribution will be allocated to the principal amount of a Claim first and then, to the extent the Distribution exceeds the principal amount of the Claim, to the portion of the Claim representing accrued but unpaid interest.

Section 5.3 *Tax Identification Numbers.* The Liquidation Trustee may require any Beneficiary to furnish to the Liquidation Trustee necessary information for tax and reporting purposes, including such Beneficiary's Employer or Taxpayer Identification Number as assigned by the Internal Revenue Service or the Social Security Administration, as the case may be, and the Liquidation Trustee may condition any Distribution to any Beneficiary upon the receipt of such information.

Section 5.4 *Withholding Taxes.* Any federal, state, or local withholding taxes or other amounts required to be withheld under applicable law shall be deducted from Distributions hereunder. All Beneficiaries shall be required to provide any information necessary to effect the withholding of such taxes.

Section 5.5 *Securities Laws.* Under section 1145 of the Bankruptcy Code, the issuance of Beneficial Interests in the SP Wind Down Trust under the Plan shall be exempt from registration under the Securities Act of 1933, as amended, and applicable state and local laws requiring registration of securities. If the Liquidation Trustee determines, with the advice of counsel and in consultation with the Liquidation Trust Advisory Board, that the SP Wind Down Trust is required to comply with the

registration and reporting requirements of the Securities Exchange Act of 1934, as amended, or the Investment Company Act of 1940, as amended, then the Liquidation Trustee shall take any and all actions to comply with such reporting requirements and file periodic reports with the Securities and Exchange Commission.

ARTICLE VI

POWERS OF AND LIMITATIONS ON THE LIQUIDATION TRUSTEE

Section 6.1 *Powers of the Liquidation Trustee.* In connection with the administration of the SP Wind Down Trust, the Liquidation Trustee is authorized to perform any and all acts necessary and desirable to accomplish the purposes of the SP Wind Down Trust. Without limiting, but subject to, the foregoing, the Liquidation Trustee shall be expressly authorized to:

- (a) prosecute, collect, compromise and settle any Avoidance Action in accordance herewith and without further approval of or application to the Bankruptcy Court (except to the extent required by the Plan or the Confirmation Order);
- (b) file, prosecute, compromise and settle Disputed Claims in accordance with the Plan without further approval of or application to the Bankruptcy Court, except as otherwise provided herein;
- (c) appear and have standing in the Bankruptcy Court to be heard with regard to Claim Objections;
- (d) open and maintain bank accounts in the name of the SP Wind Down Trust, draw checks and drafts thereon on the sole signature of the Liquidation Trustee, and terminate such accounts as the Liquidating Trustee deems appropriate;
- (e) liquidate the Remaining Assets;
- (f) execute any documents and pleadings, and take any other actions related to, or in connection with, the liquidation of the Trust Assets and the exercise of the Liquidation Trustee's powers granted herein, including, but not limited to the exercise of the Debtors' rights to conduct discovery and oral examination of any Person under Rule 2004 of the Federal Rules of Bankruptcy Procedure;
- (g) hold legal title to any and all rights of the Beneficiaries in or arising from the Trust Assets, including but not limited to, the right to vote any claim or interest in a case under the Bankruptcy Code and receive any distribution thereon;
- (h) protect and enforce the rights to the Trust Assets vested in the SP Wind Down Trust by this Agreement by any method deemed appropriate including, without limitation, by judicial proceedings or pursuant to any applicable bankruptcy, insolvency, moratorium or similar law and general principles of equity;

- (i) make Distributions, in consultation with the Liquidation Trust Advisory Board, to holders of Allowed Claims and deliver Distributions on account of the Beneficial Interests or such other Distributions as may be authorized by Final Order of the Bankruptcy Court, this Agreement and/or the Plan to the Beneficiaries in accordance with this Agreement;
- (j) file, if necessary, any and all tax returns with respect to the SP Wind Down Trust, pay taxes, if any, properly payable by the SP Wind Down Trust, and make distributions to the Beneficiaries net of such taxes, and comply with the requirements of Article V hereof;
- (k) make all necessary filings in accordance with any applicable law, statute or regulation;
- (l) determine and satisfy any and all uncontested liabilities created, incurred or assumed by the SP Wind Down Trust;
- (m) pay all expenses and make all other payments relating to the SP Wind Down Trust;
- (n) in consultation with the Liquidation Trust Advisory Board, retain professionals, if any, including but not limited to, counsel, accountants, investment advisors, auditors and other agents on behalf of the SP Wind Down Trust necessary or desirable to carry out the obligations of the Liquidation Trustee hereunder. A law firm shall not be disqualified from serving as counsel to the Liquidation Trustee solely because of its prior retention by the Debtors, Creditors' Committee, or a member of the Committee;
- (o) pay, without application to the Bankruptcy Court or any other court of competent jurisdiction, professionals retained by the Liquidation Trustee, provided, however, that the Liquidation Trustee shall notify the Liquidation Trust Advisory Board prior to making any such payment;
- (p) invest moneys received by the SP Wind Down Trust or otherwise held by the SP Wind Down Trust in accordance with Section 6.3 hereof;
- (q) in the event that the Liquidation Trustee determines that the Beneficiaries or the SP Wind Down Trust may, will or have become subject to adverse tax consequences, in the Liquidation Trustee's sole discretion, take such actions that will, or are intended to, alleviate such adverse tax consequences;
- (r) assign, in whole or part, the right to prosecute any Avoidance Action to another individual or entity and to negotiate, in its sole discretion, an allocation of the costs, expenses and fees of prosecuting such assigned Avoidance Action and an allocation of the net proceeds of such Avoidance Action between such other individual or entity and the SP Wind Down Trust;

(s) utilize Trust Assets to purchase or create and carry all appropriate insurance policies and pay all insurance premiums and costs he deems necessary or advisable to insure the acts and omissions of the Liquidation Trustee, and if the Liquidation Trust Advisory Board deems appropriate, the Liquidation Trust Advisory Board;

(t) exercise any and all powers granted to the Liquidation Trustee under the Plan or Confirmation Order;

(u) employ such employees as the Liquidation Trustee, in consultation with the Liquidation Trust Advisory Board, may deem necessary or appropriate to assist the Liquidation Trustee in carrying out his powers and duties under this Agreement;

(v) pay all fees payable pursuant to section 1930 of chapter 123 of title 28 of the United States Code until such time as the Bankruptcy Court enters a final decree closing each of the Debtors' Bankruptcy Cases;

(w) do all other acts or things not inconsistent with the provisions of the Plan and this Agreement that the Liquidation Trustee deems reasonably necessary or desirable to further the purposes of the SP Wind Down Trust;

(x) merge, consolidate or dissolve the Debtors or Reorganized Debtors; and

(y) sell any Trust Assets, individually or as a bulk sale, without Bankruptcy Court approval but consistent with the provisions herein.

Section 6.2 *Limitations on Liquidation Trustee.* The Liquidation Trustee shall not at any time, on behalf of the SP Wind Down Trust or the Beneficiaries, (i) enter into or engage in any trade or business, or (ii) take any actions which are not related, directly or indirectly, to the purposes of this Agreement and the SP Wind Down Trust or the administration or implementation of the terms hereof.

Section 6.3 *Investment of Trust Monies.* The Liquidation Trustee shall invest any funds held by the Liquidation Trustee pending the distribution of such funds pursuant to this Agreement in short-term, tax-exempt investments ("Permitted Investments"). Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the receipt by the Liquidation Trustee of a private letter ruling if the Liquidation Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Liquidation Trustee), the Liquidation Trustee shall (a) treat the funds and other property held by it as held in a single trust for federal income tax purposes in accordance with the trust provisions of the Internal Revenue Code (sections 641 *et seq.*), and (b) to the extent permitted by applicable law, report consistently with the foregoing for state and local income tax purposes.

Section 6.4 *Payment of Claims, Expenses and Liabilities of the SP Wind Down Trust.* The Liquidation Trustee shall pay from the Trust Assets the

following claims, expenses and liabilities (collectively, the “SP Wind Down Trust Expenses”): (a) all claims, fees, expenses, charges, liabilities and obligations of the SP Wind Down Trust as contemplated by this Agreement and as required by law, (b) compensation to, and reimbursement of expenses incurred (or to be incurred) by, the Liquidation Trustee, and all professionals retained by the SP Wind Down Trust in connection with the performance of their duties under this Agreement, including, but not limited to, the reasonable fees, disbursements, advances and related expenses of the Liquidation Trustee’s agents, advisors, professionals and experts, (c) all claims, fees, expenses, charges, liabilities and obligations of the SP Wind Down Trust as set forth in this Agreement for the benefit of an Indemnified Party, and (d) any costs and expenses of winding down the Estates, the Debtors and/or the Reorganized Debtors and Holding III (to the extent unpaid by Holding III) after the Effective Date, including, without limitation, and payment of statutory fees and taxes required to be paid in connection with dissolving each of the Reorganized Debtors and Holding III, as applicable.

Section 6.5 *Application of Trust Assets.* The Liquidation Trustee shall apply all Trust Assets, or the proceeds thereof, as follows:

First: to pay, in full, to the extent unpaid, the Allowed Administrative Expense Claims, the Allowed Indenture Trustee Fee Claims, the Allowed Fee Claims (including the Holdback Amount (as defined in the Plan)) and U.S. Trustee Fees (the “First Priority Expenses”); and

Second: to pay, in full, to the extent unpaid, the Non-Tax Priority Claims, the Priority Claims, and the Other Secured Claims (the “Second Priority Expenses”); and

Third: to pay, in full, the SP Wind Down Trust Expenses (the “Third Priority Expenses”); and

Fourth: to the extent available after paying or creating a reasonable reserve approved by the Liquidation Trust Advisory Board to pay the First Priority Expenses, the Second Priority Expenses, and Third Priority Expenses in full, to satisfy the Allowed Claims of General Unsecured Claims and Senior Subordinated Note Claims pursuant to the terms of the Plan and this Agreement (the “Fourth Priority Expenses”).

Section 6.6 *Non-Cash Trust Assets.* To the extent Trust Assets consist of property other than Cash or Permitted Investments, the Liquidation Trustee shall, with the advice of the Liquidation Trust Advisory Board, reduce such Trust Assets to cash and Permitted Investments. The Liquidation Trustee, with the advice of the Liquidation Trust Advisory Board, shall determine the preferred timing of reducing such Trust Assets to cash and Permitted Investments.

Section 6.7 *Distributions.* After the Effective Date of the Plan, on any Distribution Date (or on such other date as set forth in the Plan), but at least semi-annually, the Liquidation Trustee shall distribute from the SP Wind Down Trust to: (a) the Full Payment Beneficiaries payment on account of such Beneficiaries' Claim in accordance with the Plan; and (b) the Unsecured Beneficiaries, with the consent of the Liquidation Trust Advisory Board, such Beneficiary's Pro Rata Share of Available Cash or in the event the Liquidation Trust Advisory Board is no longer in existence, with the consent of the holders of at least a majority of the Beneficial Interests in the SP Wind Down Trust or with Bankruptcy Court approval. In the event that the Liquidation Trustee elects to make a distribution prior to the resolution of all Disputed Claims (as defined in the Plan), the Liquidation Trustee shall hold in trust any distributions with respect to Disputed Claims of parties asserting an interest in the Trust Assets until such Disputed Claims (i) become Allowed Claims that entitle the Claimant to be a Beneficiary, or (ii) become disallowed by Final Order of the Bankruptcy Court. Prior to making any distributions to the Beneficiaries, the Liquidation Trustee may retain such amounts (i) as are reasonably necessary to meet contingent liabilities and to maintain the value of the Trust Assets during the liquidation, (ii) to pay reasonable expenses (including, but not limited to, any taxes imposed on the SP Wind Down Trust or in respect of the Trust Assets), and (iii) to satisfy other liabilities incurred by the SP Wind Down Trust in accordance with the Plan and this Agreement.

Section 6.8 *Reports.* The Liquidation Trustee shall make reports to the Liquidation Trust Advisory Board as set forth in this Section 6.8(a) hereof and to Beneficiaries as required by Section 6.8(b) hereof, and at such other times as the Liquidation Trustee reasonably deems necessary or advisable:

(a) The Liquidation Trustee shall update the Liquidation Trust Advisory Board on at least a monthly basis, or such other period as subsequently agreed to between the Liquidation Trust Advisory Board and the Liquidation Trustee, as to the status of all material litigations and Claims Objections, and all other material matters affecting the SP Wind Down Trust;

(b) Within 120 days after the end of each anniversary of the Effective Date, and also upon 120 days after the SP Wind Down Trust Termination Date, the Liquidation Trustee shall prepare a non-confidential report concerning the status of all of the Avoidance Actions, material Claim Objections and the distribution of all cash and assets of the SP Wind Down Trust. The Liquidation Trustee shall also timely prepare, file and distribute such additional reports and submissions as may be necessary to cause the SP Wind Down Trust to comply with applicable law. The Liquidation Trustee shall file the report with the Bankruptcy Court and provide a copy of the report to the members of the Liquidation Trust Advisory Board, and to each Beneficiary who has requested, in writing, the receipt of the reports.

(c) In addition, the Liquidation Trustee shall prepare and deliver any and all reports that are required by the Bankruptcy Code, for Bankruptcy Court, the Plan or the Confirmation Order.

Section 6.9 *Books and Records.* The Liquidation Trustee shall maintain, in respect of the SP Wind Down Trust and the Beneficiaries, books and records relating to the assets and the income of the SP Wind Down Trust and the payment of expenses of the SP Wind Down Trust, in such detail and for such period of time as may be necessary to enable it to make full and proper reports in respect thereof in accordance with the provisions of Section 6.8 and Article V hereof. The Liquidation Trust Advisory Board shall have the right upon five (5) business days' notice to the Liquidation Trustee to inspect such books and records, subject to the Liquidation Trustee's right to deny access in a reasonable effort to preserve privileged or confidential information. Any books and records determined by the Liquidation Trustee, in his sole discretion, not to be reasonably necessary for administering the SP Wind Down Trust or for the Liquidation Trustee's compliance with this Agreement may, to the extent not prohibited by applicable law, be destroyed.

Section 6.10 *Cash Payments.* All payments required to be made by the Liquidation Trustee under the Plan, including, without limitation, all Allowed Administrative Claims, Allowed Fee Claims and Allowed Indenture Trustee Fee Claims and payments on account of SP Wind Down Trust Expenses or to Beneficiaries shall be made in either cash, check or wire transfer and, if in check form, drawn on a domestic bank selected by the Liquidation Trustee.

Section 6.11 *Settlement of Causes of Action.* The Liquidation Trustee shall be authorized to settle Causes of Action, including Avoidance Actions, in accordance with the following procedures:

(a) Where the amount sought is less than \$100,000, the Liquidation Trustee shall be authorized and empowered to settle such Cause of Action, and execute the necessary documents, including a stipulation of settlement or release, without notice to any party or approval of the Bankruptcy Court;

(b) Where the amount sought is more \$100,000, the Liquidation Trustee shall consult with the Liquidation Trust Advisory Board and shall thereafter be authorized and empowered to settle such Cause of Action and execute the necessary documents, including a stipulation of settlement or release, upon five (5) business days' notice to the Liquidation Trust Advisory Board, and if the Liquidation Trust Advisory Board does not object, without further notice to any party or approval of the Bankruptcy Court, and if no Liquidation Trust Advisory Board then exists, without notice to any party or approval of the Bankruptcy Court. If the Liquidation Trust Advisory Board objects, the Liquidation Trustee shall not be authorized to settle such Avoidance Action and execute necessary documents, unless upon entry of a Final Order by the Bankruptcy Court and upon notice to the Beneficiaries that have requested notice pursuant to Section 6.12 hereof, authorizing and approving the proposed settlement.

Section 6.12 *Notice of Reports.* As soon as practicable after the Effective Date, the Liquidation Trustee shall distribute to all Beneficiaries a form to be completed by such Beneficiary and returned to the Liquidation Trustee indicating

whether such Beneficiary would like to receive copies of reports prepared by the Liquidation Trustee in accordance with Section 6.8(b) hereof.

Section 6.13 *Claim Objections*. Pursuant to Section 8.01 of the Plan, the Liquidation Trustee shall have standing in the Bankruptcy Case to be heard with regard to any and all Claim Objections. With the consent of the Liquidation Trust Advisory Board, which consent shall not be unreasonably withheld, the Liquidation Trustee shall be authorized to compromise or settle Claim Objections related to Unsecured Claims. If the Liquidation Trust Advisory Board fails to respond to the Liquidation Trustee within five (5) business days after notice to the Liquidation Trust Advisory Board of a proposed compromise or settlement of a Claim Objection related to an Unsecured Claim, the Liquidation Trust Advisory Board shall be deemed to have consented to such proposed compromise or settlement. If the Liquidation Trust Advisory Board timely notifies the Liquidation Trustee that the Liquidation Trust Advisory Board does not consent to a proposed compromise or settlement of a Claim Objection related to an Unsecured Claim, the Liquidation Trustee shall only be authorized to effectuate such proposed compromise or settlement upon entry of a Final Order by the Bankruptcy Court approving such compromise or settlement.

Section 6.14 *Settlement and Liquidation of Disputed Trust Assets*. The Liquidation Trustee shall be authorized to settle and liquidate Disputed Trust Assets in accordance with the following procedures:

(a) Where the amount sought by the SP Wind Down Trust with respect to a Disputed Trust Asset is less than \$100,000, the Liquidation Trustee shall be authorized and empowered to settle and liquidate such Disputed Trust Asset, and execute the necessary documents, including a stipulation of settlement or release, without notice to any party or approval of the Bankruptcy Court;

(b) Where the amount sought by the SP Wind Down Trust with respect to a Disputed Trust Asset is more \$100,000, the Liquidation Trustee shall consult with the Liquidation Trust Advisory Board and shall thereafter be authorized and empowered to settle and liquidate such Disputed Trust Asset and execute the necessary documents, including a stipulation of settlement or release, upon five (5) business days' notice to the Liquidation Trust Advisory Board, and if the Liquidation Trust Advisory Board does not object, without further notice to any party or approval of the Bankruptcy Court, and if no Liquidation Trust Advisory Board then exists, without notice to any party or approval of the Bankruptcy Court. If the Liquidation Trust Advisory Board objects, the Liquidation Trustee shall not be authorized to settle such Disputed Trust Asset and execute necessary documents, unless upon entry of a Final Order by the Bankruptcy Court and upon notice to the Beneficiaries that have requested notice pursuant to Section 6.12 hereof, authorizing and approving the proposed settlement.

Section 6.15 *Minimum Distributions*. The Liquidation Trustee shall not be obligated to make any payment of Cash of less than one hundred dollars to any Beneficiary, unless such Beneficiary sends a timely written request to the Liquidation Trustee requesting that such payment be made on the next Distribution Date.

Notwithstanding anything contained in this Agreement to the contrary, if, on any Distribution Date there remains \$10,000 or less available for distribution to the Beneficiaries, such amount shall be carried forward for distribution to the next Distribution Date.

Section 6.16 *Fractional Cents*. Any other provision of this Agreement to the contrary notwithstanding, no payment of fractions of cents will be made. Whenever any payment of a fraction of a cent would otherwise be called for, the actual payment shall reflect a rounding down of such fraction to the nearest whole cent.

Section 6.17 *Set Off*. The SP Wind Down Trust may, but shall not be required to, set off against any Claim (for purposes of determining the Allowed amount of such Claim on which distribution shall be made), any Causes of Action of any nature whatsoever that the SP Wind Down Trust may have against the holder of such Claim, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Liquidation Trustee of any such Causes of Action that the SP Wind Down Trust may have against the holder of such Claim.

Section 6.18 *Estimation of Claims*. For purposes of calculating and making Distributions pursuant to Plan, the Liquidation Trustee shall be entitled to estimate, with the consent of the Liquidation Trust Advisory Board and in good faith and with due regard to litigation risks associated with Disputed Claims, the maximum dollar amount of Allowed and Disputed Claims, inclusive of contingent and/or unliquidated Claims in a particular class. The Liquidation Trustee also shall be entitled, with the consent of the Liquidation Trust Advisory Board, to seek one or more estimation orders from the Bankruptcy Court for such purposes, which requests may be joined with objections to the Claims that are subject to any such request. Appropriate Disputed Claims reserves shall be established for each category of Claims as to which estimates are utilized or sought, each with the consent of the Liquidation Trust Advisory Board. With respect to Insurance Claims, the Liquidation Trustee shall not be required to establish an LT Reserve on account of any portion of an Insurance Claim that in the Liquidation Trustee's good faith will be paid from available insurance coverage. Notwithstanding the foregoing or anything else in the Plan or the Confirmation Order: (i) neither the SP Wind Down Trust nor the Liquidation Trustee shall be obligated to physically segregate and maintain separate accounts for LT Reserves; and (ii) unless otherwise ordered by the Bankruptcy Court, no LT Reserves shall be required to be established or maintained with respect to Claims or Administrative Expense Claims filed after the applicable Bar Date. LT Reserves may be merely bookkeeping entries or accounting methodologies, which may be revised from time to time and evergreen in nature, as appropriate.

Section 6.19 *Closing of Chapter 11 Cases*. When all Disputed Claims filed against the Debtors have become Allowed Claims or have been disallowed by Final Order, and all of the Trust Assets have been distributed in accordance with the Plan, the Confirmation Order and this Agreement, the Liquidation Trustee shall seek authority from the Bankruptcy Court to close the Bankruptcy Cases in accordance with the Bankruptcy Code and the Bankruptcy Rules.

ARTICLE VII

CONCERNING THE LIQUIDATION TRUSTEE

Section 7.1 *Generally.* The Liquidation Trustee accepts and undertakes to discharge the SP Wind Down Trust created by this Agreement upon the terms and conditions hereof. The Liquidation Trustee shall exercise such of the rights and powers vested in the Liquidation Trustee by this Agreement, and use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of its own affairs. No provision of this Agreement shall be construed to relieve the Liquidation Trustee or its employees, affiliates, officers, directors, principals, attorneys, accounts, experts and agents (collectively with the Liquidation Trustee, the "Trustee Parties") from liability for the Trustee Parties' own gross negligence or willful misconduct, except that:

- (a) the Trustee Parties shall not be liable for any action taken in good faith in reliance upon the advice of professionals;
- (b) the Liquidation Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Agreement, and to the fullest extent permitted by applicable law no implied covenants or obligations shall be read into this Agreement against the Trustee Parties;
- (c) the Trustee Parties shall not be liable for any error of judgment made in good faith; and
- (d) the Trustee Parties shall not be liable with respect to any action taken, suffered or omitted to be taken by the Trustee Parties in good faith in accordance with the direction of the Liquidation Trust Advisory Board.

Whether or not therein expressly so provided, every provision of this Agreement relating to the conduct or affecting the liability of or affording protection to the Trustee Parties shall be subject to the provisions of this section.

Section 7.2 *Certain Rights of the Liquidation Trustee.* Except as otherwise provided in this Agreement:

- (a) the Liquidation Trustee may rely and shall be protected in acting upon any resolution, statement, instrument, opinion, report, notice, request, consent, order or other paper or document reasonably believed by the Liquidation Trustee to be genuine and to have been signed or presented by the proper party or parties;
- (b) the Liquidation Trustee may consult with counsel, and the advice or opinion of counsel shall be full and complete protection to the Liquidation Trustee in respect of any action taken, suffered or omitted by the Liquidation Trustee in good faith and in reliance on, or in accordance with such advice or opinion;

(c) persons dealing with the Liquidation Trustee shall look only to the Trust Assets to satisfy any liability incurred by the Liquidation Trustee to such person in carrying out the terms of this Agreement and the Liquidation Trustee shall have no personal or individual obligation to satisfy any such liability;

(d) whenever, in the administration of this Agreement, the Liquidation Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Liquidation Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on the part of the Liquidation Trustee, rely upon an opinion of counsel or certificate furnished to him by or on behalf of the Beneficiaries or the Liquidation Trust Advisory Board;

(e) the Liquidation Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, or other paper or document, but the Liquidation Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as the Liquidation Trustee may see fit, and, if the Liquidation Trustee shall determine to make such further inquiry or investigation, the Liquidation Trustee shall be entitled to examine the books, records and premises of the relevant person or entity, personally or by agent or attorney; and

(f) the Liquidation Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Liquidation Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by the Liquidation Trustee hereunder.

Section 7.3 *Liability to Third Persons.* Except with regard to Trust Assets erroneously or improperly received or held by such Beneficiary, no Beneficiary shall be subject to any personal liability whatsoever, in tort, contract or otherwise, to any person in connection with the Trust Assets or the affairs of the SP Wind Down Trust, except for such Beneficiary's own gross negligence or willful misconduct, and no Liquidation Trustee, member of the Liquidation Trust Advisory Board or agent of the SP Wind Down Trust shall be subject to any personal liability whatsoever, in tort, contract or otherwise, to any person in connection with the Trust Assets or the affairs of this Trust, except for the gross negligence or willful misconduct of such member of the Liquidation Trust Advisory Board, Liquidation Trustee or agent of the Liquidation Trustee; and all such persons shall look solely to the Trust Assets for satisfaction of claims of any nature arising in connection with affairs of the SP Wind Down Trust.

Section 7.4 *Indemnity.* Indemnified Parties shall be indemnified by the SP Wind Down Trust from any losses, claims, damages, liabilities or expenses (including, without limitation, reasonable attorneys' fees, disbursements and related expenses) which the Indemnified Parties may incur or to which the Indemnified Parties may become subject in connection with any action, suit, proceeding or investigation brought by or threatened against the Indemnified Parties on account of the acts or omissions of the Liquidation Trustee in its capacity as such or in connection with any acts

performed or omissions which allegedly should have been performed on behalf of any of the Liquidating Trust's affiliates or subsidiaries, including but not limited to the Reorganized Debtors, provided, however, that the SP Wind Down Trust shall not be liable to indemnify the Indemnified Parties for any of their acts or omissions constituting gross negligence or willful misconduct, and, provided further, that nothing in this section shall be deemed to restrict and Trustee Party's right to receive an indemnity based on acts or omissions taken in accordance with the provisions of Sections 7.1 and 7.2 hereof, as applicable.

Section 7.5 *Compensation and Reimbursement.*

(a) The Liquidation Trustee shall be entitled to (i) compensation at its normal and customary hourly rates, as set from time to time by the Liquidation Trustee, for services rendered as a trustee, (ii) reimbursement of actual, reasonable and necessary out-of-pocket expenses from time to time incurred by the Trustee in rendering services as Liquidation Trustee, all as set forth in that letter agreement between the SP Wind Down Trust and the Debtors dated [], 2010, attached hereto as Exhibit A (the "Liquidation Trustee Letter Agreement").

(b) The Liquidation Trustee may retain counsel, accountants or other professionals, including but not limited to those previously retained by the Debtors or the Creditors Committee without further approval by the Bankruptcy Court, on a contingency fee basis or on such other terms, including but not limited to terms requiring payment of fees at hourly rates, as the Liquidation Trustee determines to be reasonable.

(c) Subsequent to the Effective Date, the reasonable fees and expenses of any professionals retained by the Liquidation Trustee in connection with the prosecution of the Avoidance Actions and related Claim Objections shall be (i) deemed an expense of the SP Wind Down Trust, and (ii) paid by the SP Wind Down Trust in accordance with respective retention agreements without any requirement of approval by the Bankruptcy Court of the retention, fees or expenses of such professionals.

(d) Upon the Effective Date, SP Wind Down Trust shall provide the Liquidation Trustee with a \$100,000 retainer to secure any future amounts owing to the Liquidation Trustee pursuant to the terms of this Agreement and the Liquidation Trustee Letter Agreement. Immediately prior to the termination of the SP Wind Down Trust, the Liquidation Trustee shall deduct any earned but unpaid fees and any expenses incurred through and including such date from the retainer and thereafter return any remaining amounts to the SP Wind Down Trust for Distributions pursuant to the terms of this Agreement.

Section 7.6 *Exculpatory Provisions.*

(a) If (i) in performing the Liquidation Trustee's duties under this Agreement the Liquidation Trustee is required to decide between alternative courses of action, or (ii) the Liquidation Trustee is unsure of the application of any provision of this Agreement, then the Liquidation Trustee may promptly deliver a notice to the

Bankruptcy Court and to all Beneficiaries requesting notice pursuant to Section 6.12 hereof, requesting written instructions of the Bankruptcy Court as to the course of action deemed appropriate by the Bankruptcy Court. The Bankruptcy Court shall make any determination required pursuant to this section. Alternatively, the Liquidation Trustee may seek direction and instruction from the Liquidation Trust Advisory Board with respect to any such course of action. If the Liquidation Trustee does not receive such written direction or instruction within five (5) Business Days after the Liquidation Trustee has given such notice, or such shorter period of time set forth in such notice, the Liquidation Trustee may, but shall be under no duty to, take or refrain from taking such action not inconsistent with this Agreement as the Liquidation Trustee shall deem advisable.

(b) Liquidation Trustee shall not have any obligation, responsibility or liability for:

(i) the validity, execution (except the Liquidation Trustee's own execution), enforceability, legality, or sufficiency of this Agreement; and

(ii) taking any action under this Agreement, if taking such action (x) would subject the Liquidation Trustee to a tax in any jurisdiction where the SP Wind Down Trust is not then subject to a tax, or (y) would require the SP Wind Down Trust to qualify to do business in any jurisdiction where it is not then so qualified, unless the Liquidation Trustee receives an indemnity satisfactory to the Liquidation Trustee against such tax (or equivalent liability), or any liability resulting from such qualification.

ARTICLE VIII

LIQUIDATION TRUSTEE AND SUCCESSOR LIQUIDATION TRUSTEES

Section 8.1 *Resignation or Removal.* The Liquidation Trustee may resign and be discharged by giving at least 60 days prior written notice thereof to the Liquidation Trust Advisory Board or in the event the Liquidation Trust Advisory Board is no longer in existence, each holder of a Beneficial Interest in the SP Wind Down Trust. Such resignation shall become effective on the later to occur of (a) the date specified in such written notice, or (b) the effective date of the appointment of a successor Liquidation Trustee in accordance with Section 8.3 hereof and such successor's acceptance of such appointment.

Section 8.2 *Removal.* After the payment of all outstanding fees and expenses of the Liquidation Trustee and the professionals retained by the SP Wind Down Trust through such date, the Liquidation Trustee may be removed, with or without cause, by the Liquidation Trust Advisory Board or in the event the Liquidation Trust Advisory Board is no longer in existence, by the written consent of the holders of at least [sixty-five percent (65%)] of all Beneficial Interests in the SP Wind Down Trust. Such removal

shall become effective on the later to occur of (a) the date such action is taken by the Liquidation Trust Advisory Board or the requisite holders of Beneficial Interests in the SP Wind Down Trust, as the case may be, and (b) the effective date of the appointment of a successor Liquidation Trustee in accordance with Section 8.3 hereof and such successor's acceptance of such appointment.

Section 8.3 *Appointment of Successor.* In the event of the death, resignation or removal of the Liquidation Trustee, a vacancy shall be deemed to exist and a successor shall be appointed by a vote of the Liquidation Trust Advisory Board or in the event the Liquidation Trust Advisory Board is no longer in existence, the holders of at least a majority of the Beneficial Interests in the SP Wind Down Trust may, by written consent, appoint a successor Liquidating Trustee, provided, however, such appointment shall be subject to Bankruptcy Court approval.

Section 8.4 *Acceptance of Appointment by Successor Liquidation Trustee.* The death, resignation or removal of the Liquidation Trustee shall not operate to terminate the SP Wind Down Trust created by this Agreement or to revoke any existing agency created pursuant to the terms of this Agreement or invalidate any action theretofore taken by the Liquidation Trustee. Any successor Liquidation Trustee appointed hereunder shall execute an instrument accepting its appointment and shall deliver one counterpart thereof to the Bankruptcy Court for filing, and, in case of the Liquidation Trustee's resignation or removal, to the retiring Liquidation Trustee. Thereupon, such successor shall, without any further act, become vested with all the liabilities, duties, powers, rights, title, discretion and privileges of its predecessor in the SP Wind Down Trust with like effect as if originally named Liquidation Trustee and shall be deemed appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code to retain and enforce the Avoidance Actions and Proceeds for the benefit of the Beneficiaries and to file, prosecute, settle, compromise, and to be heard with regard to Claim Objections in accordance with the Plan and this Agreement.

ARTICLE IX

MISCELLANEOUS PROVISIONS

Section 9.1 *Debtors' Further Assurances.* The Debtors and their respective officers, directors, professionals and agents will take such actions and execute such documents as are reasonably requested by the Liquidation Trustee to implement the provisions of this Agreement including, without limitation, (i) cooperating with the Liquidation Trustee's requests for books, records and both written and oral information, (ii) prosecuting or settling Claim Objections, and (iii) identifying Avoidance Actions and Proceeds and cooperating with the Liquidation Trustee to ensure that existing and future Proceeds are paid to accounts maintained by the Liquidation Trustee; provided, however, that nothing herein shall require the Debtors or Reorganized Debtors to delay the winding down of their Estates or their dissolution.

Section 9.2 *Attorney-Client Privileges.* Without compromising any other attorney-client privileges of the Debtors vis-à-vis other parties, any and all attorney-

client privileges, work product immunity and other privileges of the Debtors shall vest in the SP Wind Down Trust and the Liquidation Trustee. For the limited purpose of retaining the attorney-client privileges of the Debtors alone, the Liquidation Trustee shall be deemed to be an officer of each of the Debtors; as such, no communications between each of the Debtors, their officers, directors, professionals and agents on the one hand, and the Liquidation Trustee, its professionals and agents on the other, shall be deemed to have waived the attorney-client privileges held by the Debtors.

Section 9.3 *Construction.* This Agreement and the SP Wind Down Trust created hereby shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to principles of conflict of laws. The parties hereto hereby declare that it is their intention that this Agreement shall be regarded as made under the laws of the State of Delaware and that the laws of said State shall be applied in interpreting its provisions in all cases where legal interpretation shall be required. Each of the parties hereto agrees (a) that this Agreement involves at least \$100,000.00, and (b) that this Agreement has been entered into by the parties hereto in express reliance upon 6 Del. C. § 2708. Each of the parties hereto hereby irrevocably and unconditionally agrees (a) to be subject to the non-exclusive jurisdiction of the courts of the State of Delaware and of the federal courts sitting in the State of Delaware, and (b) (1) to the extent such party is not otherwise subject to service of process in the State of Delaware, to appoint and maintain an agent in the State of Delaware as such party's agent for acceptance of legal process, and (2) that, to the fullest extent permitted by applicable law, service of process may also be made on such party by prepaid certified mail with a proof of mailing receipt validated by the United States Postal Service constituting evidence of valid service, and that service made pursuant to (b) (1) or (2) above shall, to the fullest extent permitted by applicable law, have the same legal force and effect as if served upon such party personally within the State of Delaware. For purposes of implementing the parties' agreement to appoint and maintain an agent for service of process in the State of Delaware, each such party that has not as of the date hereof already duly appointed such an agent does hereby appoint RLF Service Corp., as such agent.

Section 9.4 *Jurisdiction.* The parties agree that the Bankruptcy Court shall have jurisdiction to determine all controversies and disputes arising under or in connection with this Agreement. The Liquidation Trustee shall have power and authority to bring any action in any court of competent jurisdiction to prosecute Avoidance Actions, including without limitation, the Bankruptcy Court. No provision of this Agreement is intended, and should not be construed, to limit the Liquidation Trustee's ability to commence an Avoidance Action in a court other than the Bankruptcy Court.

Section 9.5 *Severability.* In the event any provision of this Agreement shall be determined by Final Order of a court of proper jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 9.6 *Notices.* Any notice, consent, approval or other communication required or permitted to be given in accordance with this Agreement shall

be in writing and shall be deemed to have been sufficiently given, for all purposes, if delivered personally or by facsimile or mailed by first class mail to the following address (it being understood that any party may change its address by similar written notice to the other party):

- (i) if to the Liquidation Trustee:

CoMetrics Partners LLC
1411 Broadway
New York, New York 10018
Facsimile: (646) 484-3779
Attn: Walter A. Jones

With a copy to:

Richards, Layton & Finger, PA
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
Facsimile: (302) 651-7701
Attn: Russell C. Silberglied, Esq.
Lee E. Kaufman, Esq.

- (ii) if to any Beneficiary, to the address or facsimile number of such Beneficiary as reflected in the Register.
- (iii) if to the Liquidation Trust Advisory Board:

Bennett Management Corporation
Two Stamford Plaza, Suite 1501
Stamford, Connecticut 06901
Facsimile: (203) 353-3113
Attn: John V. Koerber

AIG Asset Management (U.S.), LLC
70 Pine Street, 13th Floor
New York, New York 10270
Facsimile: (212) 770-9490
Attn: Kaye Handley

As of the Effective Date, any notice required to be provided to the Creditors Committee hereunder or pursuant to the Plan shall instead be provided to the Liquidation Trustee, who shall timely provide copies to each of the members of the Liquidation Trust Advisory Board.

Section 9.7 *Entire Agreement*. This Agreement (including the recitals hereof) constitutes the entire agreement by and among the parties with respect to the subject matter hereof, and there are no representations, warranties, covenants, or obligations except as set forth herein, in the Plan and in the Confirmation Order. This Agreement (together with the Plan and the Confirmation Order) supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions, written or

oral, if any, of the parties hereto relating to any transaction contemplated hereunder. Except as otherwise specifically provided herein, nothing in this Agreement is intended or shall be construed to confer upon or to give any person other than the parties hereto and the Beneficiaries any rights or remedies under or by reason of this Agreement. This Agreement shall be binding on the parties hereto and their successors, including any chapter 11 Liquidation Trustee or chapter 7 Liquidation Trustee appointed in the Bankruptcy Case.

Section 9.8 *Relationship Created.* Nothing contained herein shall be construed to constitute any relationship created by this Agreement as an association, partnership or joint venture of any kind.

Section 9.9 *Effective Date.* This agreement shall become effective as of the Effective Date.

Section 9.10 *Amendment.* This Agreement may from time to time be amended, supplemented or modified by the Liquidation Trustee, but only with (i) the approval of the Bankruptcy Court or (ii) the written consent of the Liquidation Trust Advisory Board. The Liquidation Trustee shall provide the Liquidation Trust Advisory Board notice of any proposed amendment, supplement or modification to this Agreement at least five (5) business day prior to the effective date of such amendment, supplement or modification; provided, however, that the Liquidation Trust Advisory Board may waive the notice period contained in this section 9.10.

Section 9.11 *Headings.* The headings contained in this Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Agreement or of any term or provision hereof.

Section 9.12 *Counterparts.* This Agreement may be executed in facsimile and in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

Section 9.13 *No Bond.* The Liquidating Trustee shall serve without a bond.

Section 9.14 *Relationship to the Plan.* The principal purpose of this Agreement is to aid in the implementation of the Plan and therefore this Agreement incorporates the provisions of the Plan. To that end, the Liquidation Trustee shall have full power and authority to take any action consistent with the purpose and provisions of the Plan, and to seek any orders from the Bankruptcy Court in furtherance of the implementation of the Plan and this Agreement. If any provisions of this Agreement are found to be inconsistent with provisions of the Plan, the provisions of the Plan shall control.

Section 9.15 *Confidentiality.* The Liquidation Trustee shall, during the period that he serves as Liquidation Trustee under this Agreement and for a period of twelve (12) months following the termination of this Agreement or his removal or resignation hereunder, hold strictly confidential and not use for personal gain any

material, non-public information of or pertaining to any entity to which any of the Trust Assets relates or of which he has become aware in his capacity as Liquidation Trustee, except as otherwise required by law.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as of the date first above written.

WALTER A. JONES

By: _____
Name: Walter A. Jones

SP WIND DOWN INC., F/K/A SPHERIS INC.

By: _____
Name:
Title:

SP WIND DOWN HOLDING II, INC.,
F/K/A SPHERIS HOLDING II, INC.

By: _____
Name:
Title:

SP WIND DOWN CANADA INC.,
F/K/A SPHERIS CANADA INC.

By: _____
Name:
Title:

SP WIND DOWN LEASING LLC,
F/K/A SPHERIS LEASING LLC

By: _____
Name:
Title:

SP WIND DOWN OPERATIONS LLC,
F/K/A SPHERIS OPERATIONS LLC.

By: _____
Name:
Title:

VN WIND DOWN COMMUNICATIONS,
F/K/A VIANETA COMMUNICATIONS

By: _____
Name:
Title: