

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

<b>In re:</b>	<b>§</b>	<b>Chapter 11</b>
	<b>§</b>	
<b>HII TECHNOLOGIES, INC., et al.<sup>1</sup></b>	<b>§</b>	<b>15-60070 (DRJ)</b>
<b>Debtors</b>	<b>§</b>	<b>(Jointly Administered)</b>

**DEBTORS' APPLICATION PURSUANT TO 11 U.S.C. §§ 327, 330 AND 1107(b) TO  
RETAIN INDEGLIA & CARNEY LLP AS CORPORATE AND SECURITIES  
COUNSEL, NUNC PRO TUNC TO THE PETITION DATE**

**THIS APPLICATION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE APPLICATION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 23 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE APPLICATION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE APPLICATION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE APPLICATION AT THE HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

HII Technologies, Inc. ("HII") and its subsidiaries, as debtors and debtors-in-possession in these chapter 11 cases (collectively, the "Debtors") file this application (the "Application")

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's tax identification number, are: (i) Apache Energy Services, LLC (4404); (ii) Aqua Handling of Texas, LLC (4480); (iii) HII Technologies, Inc. (3686); (iv) Sage Power Solutions, Inc. fka KMHVC, Inc. (1210); and (v) Hamilton Investment Group, Inc. (0150).

pursuant to Sections 327, 330 and 1107(b) of title 11 of the United States Code, 11 U.S.C. § 101 - 1532 (as amended, the “Bankruptcy Code”) and Rules 2014, 2016 and 6003 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for authorization to retain Indeglia & Carney LLP (“Indeglia and Carney”), as corporate and securities counsel, to the Debtors. In support of the Application, the Debtors rely upon the agreement between Indeglia & Carney and the Debtors, attached at Exhibit A containing Indeglia & Carney’s Standard Terms of Engagement for Legal Services (such Standard Terms, the “Engagement Agreement”), as amended by this Application<sup>2</sup>, and the Declaration of Marc A. Indeglia in support of the Application, attached as Exhibit B (the “Indeglia Declaration”), and respectfully states as follows:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue of the Debtor's chapter 11 case (the “Chapter 11 Case”) in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

2. The statutory predicate for the relief sought hereby is Sections 327, 330 and 1107(b) of the Bankruptcy Code and Rules 2014, 2016, and 6003 of the Bankruptcy Rules.

### **BACKGROUND**

3. On September 18, 2015 (the “Petition Date”), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, with the United States Bankruptcy Court for the Southern District of Texas, Victoria Division (the “Bankruptcy Court”).

---

<sup>2</sup> The Engagement Agreement was last executed on February 18, 2014. Since that time, Indeglia & Carney’s rates have been adjusted. The Debtors and Indeglia & Carney have agreed upon the rates as set forth in this Application.

4. The Debtors continue to administer their assets as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Debtor's bankruptcy case and no official committee of unsecured creditors has been established.

5. This court approved the Debtors' motion requesting joint administration of these chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") on September 21, 2015 [Dkt. No. 18].

6. HII is a Houston, Texas based oilfield services company with operations in Texas, Oklahoma, Ohio, and West Virginia focused on commercializing technologies and providing services in frac water management, safety services and portable power used by exploration and production companies in the United States. Additional background information on the Debtors may be found in the *Debtors' Emergency Application to Employ and Retain (I) Stout Risius Ross, Inc. to Provide Management and Restructuring Services to the Debtors and (II) Loretta Cross as Chief Restructuring Officer*, [Dkt No. 8].

7. HII is a publicly traded company. The common stock of HII is registered under Section 12(g) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and is traded on the OTCQB tier of the OTC Markets under the ticker HIITQ. As a company whose securities are so registered, HII is obligated to file current and periodic reports (the "SEC Reports") with the United States Securities & Exchange Commission (the "SEC") pursuant to Section 13 of the Exchange Act. Although HII has filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, it is not relieved from its reporting obligations under the Exchange Act, which are and will be ongoing throughout the pendency of these proceedings. HII is currently not in compliance with its reporting obligations under the Exchange Act, and it is

legally required to remedy its non-compliance by filing the delinquent SEC Reports.

8. In addition, on June 18, 2015, HII filed a registration statement on Form S-1 (the Pending S-1”) to register the public resale of certain shares of its common stock under the Securities Act of 1933, as amended (the “Securities Act”). HII is required under the Securities Act to either complete the registration process or seek permission from the SEC to withdraw the Pending S-1.

9. In light of their current financial condition, the Debtors determined that the maximum value will be realized for creditors through a Bankruptcy Code Section 363 sale of the Debtors’ assets and operations. Accordingly, the Debtors filed these chapter 11 cases in order to complete a sale of substantially all of their assets through a court-approved auction. Certain parties have expressed interest in merging into or otherwise reorganizing with HII in order to take advantage of certain tax benefits as well as to succeed to HII’s SEC registration and status as a publicly-traded company.

10. HII is legally obligated to prepare and file its delinquent SEC Reports and to prepare and file its SEC Reports as they become due under the Exchange Act. HII is subject to cease and desist proceedings, injunctive relief, civil penalties, disgorgement, and interest if it fails to comply with the reporting requirements of the Exchange Act. Further, the SEC has the authority to suspend or revoke the registration of HII’s common stock for failure to comply with the reporting requirements of the Exchange Act.

11. In addition to its legal exposure for failure to comply with the federal securities laws, HII’s potential to successfully reorganize following a Bankruptcy Code Section 363 sale will be materially diminished if it loses the potential value of the tax benefits or its registration with the SEC. HII must retain corporate and securities counsel in order to prepare and file its

delinquent and ongoing SEC Reports, address the Pending S-1, to preserve the value of its assets, and to assist in the structuring and documentation of any post Section 363 sale reorganization.

12. In addition, HII must retain corporate and securities counsel to address its general corporate obligations, corporate formalities, and its fiduciary and other corporate obligations.

13. Since 2002, Indeglia & Carney has acted as HII's corporate and securities counsel. They have participated in all of HII's SEC Reports since 2002 and are familiar with the Debtors' businesses. They are most able to assist HII with its corporate and securities law obligations.

### **RELIEF REQUESTED**

14. The Debtors request that the Court enter an order substantially in the form of the proposed order attached hereto authorizing the Debtors to retain Indeglia & Carney as corporate and securities counsel, *nunc pro tunc* to the Petition Date.

### **BASIS FOR RELIEF**

15. The bases for the relief requested are sections 327, 330 and 1107(b) of the Bankruptcy Code, and Rules 2014, 2016 and 6003 of the Bankruptcy Rules, and Bankruptcy Local Rule 2014-1.

16. Section 327(a) of the Bankruptcy Code authorizes a debtor-in-possession to employ professionals that do not hold or represent an interest adverse to its estate and that are disinterested persons to assist the debtor-in-possession with its duties under the Bankruptcy Code. Additionally, section 327(e) provides that a debtor in possession may employ for a specified purpose, other than to represent the debtor in possession in conducting the case, an attorney that has previously represented the debtor if in the best interest of the estate, and if such attorney does not represent or hold any interest adverse to the debtor or the estate with respect to

the matter on which the attorney is to be employed. Section 1107(b) further provides that notwithstanding section 327(a), a person is not disqualified for employment solely because of such person's representation of the debtor before the commencement of the case.

17. Bankruptcy Local Rule 2014-1(b) provides that if an application for approval of employment is made with 30 days of the commencement of the provision of services, it is deemed contemporaneous.

**A. Indeglia & Carney's Qualifications and Scope of the Engagement**

18. The Debtors seek to retain Indeglia & Carney based on the firm's extensive experience and knowledge in the field of corporate securities law.

19. The Debtors' retention of Indeglia & Carney is essential to enable the Debtors to comply with their corporate and securities law obligations, including, without limitation, compliance with the Securities Act and the Exchange Act, and preserve the value of their assets, and is in the best interest of the Debtor's estate. Since 2002, Indeglia and Carney has acted as HII's corporate and securities counsel. The attorneys at Indeglia & Carney have substantial experience with HII and its filing requirements under the federal securities laws. Indeglia & Carney possesses the experience, ability, and resources necessary to provide the full range of corporate and securities services the Debtors will need during the pendency of the these chapter 11 cases. Biographies of the key attorneys at Indeglia & Carney who will be working on this case are attached hereto as Exhibit C.

**B. Compensation**

20. Subject to this Court's approval, Indeglia & Carney will seek approval of payment of compensation and reimbursement of actual, necessary expenses and other charges upon Indeglia & Carney's filing of appropriate applications for the allowance of interim and final

compensation and reimbursement of expenses pursuant to Sections 330 and 331 of the Bankruptcy Code. The Debtors request that Indeglia & Carney be compensated on an hourly basis and reimbursed for the actual, necessary expenses it incurs.

21. The primary attorneys within Indeglia & Carney who will represent the Debtor and their hourly rates for representing the Debtor are set forth below:

Marc A. Indeglia	\$475 per hour
Gregory R. Carney	\$445 per hour
E. Jayson Nayagam	\$175 per hour

22. The hourly rates for the attorneys set forth above are set at a level designed to compensate Indeglia & Carney fairly for the work of its attorneys and paralegals and to cover fixed and routine overhead expenses.

23. Consistent with historical firm practice, the hourly rates set forth above are subject to adjustments on January 1<sup>st</sup> of each year (beginning January 1, 2016) to reflect economic and other conditions.

24. It is Indeglia & Carney's policy to charge its clients for all additional expenses incurred in connection with the client's case. The expenses charged to clients include, among other things, telephone and telecopier toll and other charges, mail and express mail charges, special or hand delivery charges, document processing, photocopying charges, travel expenses, expenses for working meals, computerized research, and other expenses. Indeglia & Carney will charge the Debtors for these expenses in a manner and at rate consistent with charges made generally to Indeglia & Carney's other clients and consistent with applicable U. S. Trustee guidelines.

25. Pursuant to Bankruptcy Rule 2016(b), Indeglia & Carney has not shared nor agreed to share (a) any compensation it has received or may receive with another party or person, other than with the members, counsel, associates and contract attorneys associated with Indeglia & Carney, or (b) any compensation another person or party has received or may receive. As of the Petition Date, the Debtors owed Indeglia & Carney \$119,709.43 for legal services rendered before the Petition Date.

26. Indeglia & Carney has been paid \$259,120.80 during the one year period prior to the Petition Date (which amount includes approximately \$13,500 of common stock pursuant to a stock award granted under HII's Stock Incentive Plan) as compensation for services rendered and costs incurred.

**INDEGLIA & CARNEY'S DISINTERESTEDNESS AS SPECIAL COUNSEL**

27. To the best of the Debtors' knowledge, the members and other attorneys and professionals at Indeglia & Carney do not have any interest adverse to the Debtors in respect of the matters on which it is to be retained, or any professional relationship with the creditors, directors or officers of the Debtors, or other significant parties in interest, or their respective attorneys and accountants, except as set forth in the Indeglia Declaration.

28. Based upon the Indeglia Declaration, the Debtors submit that Indeglia & Carney holds no interest adverse to the Debtors or to the estates in respect of the matters upon which it is to be retained. The Debtors have been informed that Indeglia & Carney will conduct an ongoing review of its files to ensure that no disqualifying circumstances arise, and if any new relevant facts or relationships are discovered, Indeglia & Carney will supplement its disclosure to the Court. Based on the Indeglia Declaration, the Debtors believe that Indeglia & Carney is in compliance with the requirements of §§ 327(a)(e), 329 and 504 of the Bankruptcy Code and



Bankruptcy Rules 2014 and 2016.

**NOTICE**

29. The Debtors will provide notice of this Motion to all parties on the Debtors' Master Service List. The Debtors submit that no further notice of this Motion is required.

WHEREFORE, the Debtors respectfully request that the Court enter an order, (i) authorizing the Debtors to retain Indeglia & Carney as Debtors' corporate and securities counsel, *nunc pro tunc* to the Petition Date, and (b) granting such further relief as may be just and necessary under the circumstances.

Respectfully submitted this 8th day of October 2015.

**McKOOL SMITH, P.C.**

By: /s/ Christopher D. Johnson

Hugh M. Ray, III  
State Bar No. 24004246  
Christopher D. Johnson  
State Bar No. 24012913  
Benjamin W. Hugon  
State Bar No. 24078702  
600 Travis, Suite 7000  
Houston, Texas 77002  
Tel: 713-485-7300  
Fax: 713-485-7344

***Proposed Counsel for the Debtors-in-Possession***

# INDEGLIA & CARNEY LLP

E-Mail: [marc@indegliacarney.com](mailto:marc@indegliacarney.com)

February 18, 2014

Mr. Matthew Flemming  
Chief Executive Officer  
HII Technologies, Inc.  
710 N. Post Oak Road, Suite 400  
Houston, Texas 77024

Re: **Engagement of Indeglia & Carney LLP**

Dear Matt:

We are delighted that you have asked Indeglia & Carney LLP ("us," "we," or the "Firm") to represent HII Technologies, Inc. ("you" or the "Client"). This letter (the "Agreement") will confirm the terms of your engagement (the "Engagement") of our Firm to provide this representation. If these terms are acceptable, we ask you to sign and return a copy of this letter to indicate your agreement to them.

1. **Scope of Engagement.** We will represent the Client with respect to (a) general matters of corporate and securities law applicable to the Client, (b) the Client's various reports and statements (the "SEC Reports") with the Securities and Exchange Commission ("SEC") as required by the federal securities laws, (c) the establishment and administration of equity compensation plans for the Client, (d) private offerings of the Client's securities, and (e) registered offerings of the Client's securities (the "Matters"). The services to be provided by us in connection with this Engagement will encompass all services normally and reasonably associated with this type of representation that we are requested and are able to provide and that are consistent with our ethical obligations. While we are pleased to provide representation or advice on any additional matters upon request (which matters would become part of the definition of "Matters"), we are not providing representation in connection with any other matter at this time, and we should not be considered your general counsel. We reserve the right to accept or decline any additional requested service in our sole discretion. If we accept a request to provide additional services, this Agreement will apply to those services unless a new agreement is made.

2. **Staffing.** We anticipate that Marc Indeglia and Greg Carney will be the attorneys at the Firm primarily responsible for your Matters. However, as you are retaining a law firm and not any particular attorney, the attorney services to be provided will not necessarily be performed by any particular attorney. We may utilize the services of other attorneys, corporate paralegals, or legal assistants as required.

3. **Fees and Rates.** The Client agrees to pay the Firm by the hour at the Firm's prevailing rates for all time spent on Client's matters by the Firm's legal personnel. Currently, Mr. Indeglia's hourly rate is \$430 per hour and Mr. Carney's rate is \$405 per hour. Any other lawyers, paralegals, and legal assistants will be billed at our standard hourly rates, which will be provided upon request. We usually adjust our rates at the beginning of each calendar year. Any rate adjustments will apply to work done after the date of the change.

Mr. Matthew Flemming  
HII Technologies, Inc.  
February 18, 2014  
Page 2

4. **Costs and Other Expenses.** In addition to our fees for professional services, the Client agrees to pay for items of cost and expense incurred on the Client's behalf. Items which will be charged separately include filing fees, postage and express services, messenger services, travel expenses, photocopying (if it generates a large quantity of paperwork or is sent to a third-party copying service), long distance and cellular telephone calls, computerized legal research, computer-assisted document preparation, file scanning or micro-filming (if our work for you generates a large quantity of paperwork), and similar items. Unless special arrangements are otherwise made, you agree to pay significant costs to third-party providers directly and to pay significant travel expenses in advance.

5. **Retainer Deposit.** It is our policy to obtain an advance retainer payment against which fees and expenses, if not timely paid, will be charged. However, because of our long-standing relationship with you, we have agreed with you that no retainer will be required so long as all of our statements relating to the Matters are timely paid. If payment should become overdue on any statement, we may request that a reasonable retainer be advanced by you, as a condition of our further representation of you hereunder.

6. **Billing Statements.** We will send monthly or other appropriate billing statements to you for our fees and costs incurred. Our invoices are due and payable upon receipt. Client is entitled to a **five percent (5%) discount** on the fees for professional services if payment is made within fifteen (15) days of receipt of the invoice. Any invoices not paid within thirty (30) days will be subject to a late charge of ten percent (10%) per annum until paid. You agree that, consistent with our ethical obligations, we may cease work on Client's Matter(s) if Client is more than sixty (60) days in arrears in the payment of our statements.

7. **Client Responsibilities.** In order to allow us to effectively represent you, it is essential that you are truthful, candid, and cooperative with us and keep us informed with complete and accurate factual information, documents, and other communications relevant to the Matter(s). In addition, we must be able to communicate with you in order to adequately represent you, so you agree to inform us, in writing, of any changes in the Client's address, telephone, facsimile numbers, and e-mail addresses, or any other relevant changes regarding our ability to communicate with you. You also agree to advise us immediately of any problems or developments relating to the Matter(s).

8. **Disclaimer of Guarantee.** The Firm cannot make any representation as to the actual, final amount the Client will incur for attorneys' fees and expenses in the Firm's work for the Client, as the amount will depend on the time and effort devoted. This is determined by many factors outside of the Firm's control, including the complexity of the issues as they develop, the extent and nature of any negotiations required, the approach taken by other parties, and so forth. It is, therefore, important for the Client to understand that if, at any time, the Firm gives an estimate of the fees or expenses anticipated, it is no more than that, merely an estimate. The factors mentioned above may cause the actual fees and expenses to vary substantially from any such estimates. In addition, nothing in this Agreement and nothing in the Firm's statements to the Client shall be construed as a promise or guarantee about the outcome of the Client's Matter(s). The Firm makes no such promises or guarantees. The Firm's comments about the potential outcome of the Client's Matter(s) are expressions of the Firm's impressions at various points in time only.

9. **Termination of Representation.** You have the right to terminate the Firm's representation at any time and for any reason. The Firm has the right to terminate this Engagement in any manner consistent with ethical obligations imposed on us by rule or law. Unless specifically agreed by

Mr. Matthew Flemming  
HII Technologies, Inc.  
February 18, 2014  
Page 3

the Firm and the Client, and consistent with ethical obligations imposed on us by rule or law, upon termination, the Firm will provide no further services and advance no further costs on the Client's behalf. If the Firm is the Client's attorney of record in any proceeding, the Client will execute and return a substitution-of-attorney form immediately on its receipt from the Firm. Notwithstanding the termination (whether by discharge or withdrawal), the Client will remain obligated to pay the Firm all attorneys fees required under the terms of this Agreement and to reimburse the Firm for all costs advanced.

10. **Client's Papers and Property.** At the termination of services under this Agreement, the Firm will release to you on request all original documents that the Client has made available to the Firm, together with copies of any other papers and property relating to this Engagement, which copies will be provided at the Client's expense. After five (5) years have passed since the termination of services under this Agreement, the Firm may dispose of the Client's papers and property. If you desire to have the Firm retain Client's papers and property beyond five (5) years after the termination of services, you must initiate and make separate arrangements with the Firm.

11. **Lien.** The Client hereby grants the Firm a lien, fully perfected, for all sums owed to the Firm, on all matters, claims, or causes of action that are the subject of the Firm's representation of the Client under this Agreement. The lien attaches to all proceeds of any recovery or gain obtained by the Client, in any way or in any form, arising out of or relating to the Firm's representation of the Client under this Agreement, whether by settlement, award, order, judgment, gift, financing, or any other transaction. Client agrees that the Firm may notify a third-party that is making payment of such proceeds to the Client (including, without limitation, an investor, lender, placement agent, underwriter, escrow agent, transfer agent, defendant, or insurance company) of the existence of this lien on such proceeds and the amount of the lien. The effect of the lien is that the Firm may be able to delay payment of any recovery, gain, funds, or property to Client until any disputes with the Firm about unpaid attorney fees and costs advanced have been resolved. The lien grants the Firm the ability to detain all or part of the proceeds of the Client's recovery or gain, such as proceeds of a loan or other financing when the Firm has participated in the Client's efforts to obtain the loan or other financing, whenever a dispute arises over the lien's existence or its scope. As this lien may affect Client's property rights, the Client may seek the advice of independent counsel of the Client's choice about granting the Firm this lien. By signing this Agreement and returning it to the Firm, the Client represents that the Client has had a reasonable opportunity to consult such an independent counsel and, whether or not Client has chosen to consult such an independent counsel, Client agrees that the Firm will have a lien as specified above.

12. **Billing and Payment Disputes.** If a dispute arises between the Firm and the Client regarding attorney fees or costs under this Agreement, the Client has a right to have the dispute resolved through arbitration before the California State Bar or a local bar association under California's Mandatory Fee Arbitration Act (Business and Professions Code §§6200-6206) (the "MFAA"). Except to the extent that a dispute between the Firm and the Client about attorney fees or costs may be subject to the MFAA, the Firm and the Client hereby irrevocably submit to the exclusive jurisdiction of the state and federal courts sitting in the county of Los Angeles, State of California, for the adjudication of any and all disputes arising between the Firm and the Client regarding attorney fees or costs under this Agreement, including any suit, action, or proceeding to collect unpaid fees and costs. The Firm and the Client hereby irrevocably waive, and agree not to assert in any suit, action, or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, or that such suit, action, or proceeding is improper. The Client further agrees that personal jurisdiction over it may be effected by service of process by registered or certified mail or by Federal Express addressed to the Client's last known address on file with the Firm, and that when so made shall be as if served upon it personally within the State of



Mr. Matthew Flemming  
HII Technologies, Inc.  
February 18, 2014  
Page 4

California. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. The prevailing party in any suit, action, or proceeding brought pursuant to this Section 9 shall be entitled to reasonable attorney fees (whether the Firm chooses to represent itself or engage other counsel), costs of the arbitration (including fees of the arbitrator), and costs incurred in enforcing any arbitration award or engaging in any court proceedings.

13. **Arbitration of Professional Liability Claims and Other Disputes.** If a dispute arises between the Firm and the Client over any other aspect of the attorney-client relationship, including claims for breach of professional duty or attorney malpractice, the Firm and the Client agree to submit to binding arbitration in Los Angeles County, California, before one arbitrator, all disputes arising between the Firm and the Client under this Agreement, or about this Agreement itself, or about any other claim (including a claim of attorney malpractice) relating to the Client's legal matter which arises out of the Firm's legal representation of the Client. The arbitration shall be administered by JAMS (Judicial Arbitration and Mediation Services) pursuant to its Streamlined Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. No action at law or in equity based upon any claim arising out of or related to this Agreement (other than a claim governed by Section 12) shall be instituted in any court by the Firm or the Client except (a) an action to compel arbitration pursuant to this section or (b) an action to enforce an award obtained in an arbitration proceeding in accordance with this section. The Client hereby consents to the exclusive jurisdiction of the state and federal courts sitting in Los Angeles County, California in any such action. The Client further agrees that personal jurisdiction over it may be effected by service of process by registered or certified mail or by Federal Express addressed to the Client's last known address on file with the Firm, and that when so made shall be as if served upon it personally within the State of California. The Client and the Firm understand and acknowledge that, by agreeing to binding arbitration, they waive the right to submit the dispute for determination by a court and thereby also waive the right to a jury or court trial.

14. **Entire Agreement; Modifications.** This Agreement, together with any addenda hereto, and any exhibits thereto, contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties. The Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by all parties.

15. **Severability.** In the event that any one or more of the provisions contained in this Agreement, any addendum hereto, or any exhibit thereto, shall, for any reason, be declared in a legal forum to be invalid, illegal, ineffective or unenforceable in any respect, such invalidity, illegality, ineffectiveness or unenforceability shall not affect any other provision of this Agreement, which Agreement shall remain in full force and effect, valid and binding upon the parties, and each of the provisions of this Agreement shall be enforceable independently of any other provision of this Agreement and independently of any other claim or cause of action.

16. **Governing Law.** The Client agrees that this Agreement shall be governed by, and construed in accordance with, the laws of the State of California, without regard to its principles of conflicts of laws.

17. **Effectiveness of Agreement.** This Agreement will take effect when the Client returns a signed copy of this Agreement (and any addenda hereto and exhibits thereto), at which time this Agreement will be deemed to be retroactive to the date the Firm first performed services to the Client.

Mr. Matthew Flemming  
HHI Technologies, Inc.  
February 18, 2014  
Page 5

18. **Execution.** This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by facsimile, digital, or scanned transmission, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) the same with the same force and effect as if such facsimile, digital, or scanned signature page were an original thereof.

Thank you again for the opportunity to represent you. We ask that you sign, date, and return one copy of this letter. Please keep a copy for your files.

Very truly yours,

INDEGLIA  
& CARNEY LLP

/s/ Marc A. Indeglia

Marc A. Indeglia

MAI:mi

AGREED AND APPROVED:

CLIENT:

HHI Technologies, Inc.

By: 

Name: Matthew Flemming

Title: Chief Executive Officer

Dated: Feb 24 / 2014

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

<b>In re:</b>	§	<b>Chapter 11</b>
	§	
<b>HII TECHNOLOGIES, INC., et al.<sup>1</sup></b>	§	<b>15-60070 (DRJ)</b>
<b>Debtors</b>	§	<b>(Jointly Administered)</b>

**DECLARATION OF MARC A. INDEGLIA IN SUPPORT OF DEBTORS’  
APPLICATION TO EMPLOY INDEGLIA & CARNEY LLP AS CORPORATE AND  
SECURITIES COUNSEL NUNC PRO TUNC TO THE PETITION DATE**

I, Marc A. Indeglia, declare under penalty of perjury as follows:

1. I am an attorney at law duly admitted and in good standing to practice in the State of California. I am a partner in the Los Angeles office of the law firm of Indeglia & Carney LLP (“Indeglia & Carney” or the “Firm”), located at 11900 Olympic Boulevard, Suite 770, Los Angeles, CA 90064.

2. I make this declaration in support of Debtors’ Application Pursuant to 11 U.S.C. §§ 327, 330 and 1107(b) to Retain Indeglia & Carney LLP as Corporate and Securities Counsel, *Nunc Pro Tunc* to the Petition Date (the “Application”).

3. Unless otherwise indicated, capitalized terms have the meanings ascribed to them in the Application.

4. Except as otherwise noted, all facts set forth in this declaration are based upon my personal knowledge, upon the client and matter records of Indeglia & Carney reviewed by other

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s tax identification number, are: (i) Apache Energy Services, LLC (4404); (ii) Aqua Handling of Texas, LLC (4480); (iii) HII Technologies, Inc. (3686); (iv) Sage Power Solutions, Inc. fka KMHVC, Inc. (1210); and (v) Hamilton Investment Group, Inc. (0150).

lawyers and paraprofessionals at Indeglia & Carney under my direction, or derived from information available to me, which I believe to be true and correct.

A. **Retention, Prior Representation, and Scope of Services**

5. Indeglia & Carney was first retained to represent HII Technologies, Inc. (“HII” or the “Debtor”) in 2002 (when its corporate name was “Excalibur Industries, Inc.”) to provide legal advice and services to HII regarding its corporate and securities obligations. The Firm has been retained continuously since that time advising HII’s board of directors and management. Throughout the representation, the Firm has gained substantial knowledge of the Debtors’ business, operations, capital structure, and key commercial and financial issues.

6. On a post-petition basis, the Firm will serve as corporate and securities counsel to the Debtors. These services include or are expected to continue to include the following:

- a. Representation with respect to the Pending S-1;
- b. Representation with respect to the delinquent SEC Reports;
- c. Representation with respect to SEC Reports required to be filed during the pendency of this case;
- d. Representation with respect to outstanding SEC comments on prior SEC Reports;
- e. Representation with respect to possible amendments with respect to prior SEC Reports;
- f. Representation with respect to general corporate obligations, corporate formalities, and its fiduciary and other corporate obligations;
- g. Representation with respect to federal securities law issues anticipated to arise in connection with this case; and
- h. Representation with respect to the structuring and documentation of any post Section 363 sale reorganization.

7. This foregoing non-exclusive list describes services essential to the Debtors in these chapter 11 cases.

B. **Qualifications, Proposed Compensation, and Pre-Petition Compensation**

8. The Indeglia & Carney attorneys who will make up the team representing the Debtors have long-standing experience serving as corporate and securities counsel. Indeglia &



Carney's experience and expertise will substantially benefit the Debtors' estates because Indeglia & Carney's services will assist in preserving the tax benefits and HII's SEC registration and status as a publicly-traded company in connection with a post Section 363 sale reorganization with interested parties.

9. The Indeglia & Carney team for this engagement will be led by me and will also include Gregory R. Carney and E. Jayson Nayagam. The professional biographies of each of these attorneys are provided at Exhibit C to the Application, and are incorporated as if set forth fully herein.

10. Subject to Court approval, the Debtors' employment of Indeglia & Carney will be governed by the Engagement Agreement attached to the Application. Compensation and reimbursement of expenses will be made by Debtors pursuant to the Engagement Agreement and upon Court approval pursuant to section 330 of the Bankruptcy Code. The Firm anticipates seeking interim compensation pursuant to section 331 of the Bankruptcy Code and any appropriate order of the Court.

11. The current standard hourly rates charged by Indeglia & Carney members and counsel ranges from \$175 to \$475 per hour. The following is a list of the Indeglia & Carney attorneys who will primarily be providing services for the Debtors, as well as their standard hourly rates currently in effect:

Marc A. Indeglia	\$475 per hour
Gregory R. Carney	\$445 per hour
E. Jayson Nayagam	\$175 per hour

Other Indeglia & Carney attorneys and paraprofessionals may also assist in the representation of the Debtors in these cases, and such time will be billed at the standard rate of such attorneys and paraprofessionals for their experience level, subject to ultimate approval by the Court.

12. The rate of each professional working on this case will be clearly reflected in Indeglia & Carney's invoices and fee applications. The Firm will maintain detailed records of costs and expenses incurred in connection with its legal services and these will be set forth in detail as part of the monthly invoice and fee applications.

13. I believe these rates are reasonable and consistent with the rates charged by professionals with comparable experience in the Houston, Texas legal market (as well as in the Los Angeles, California legal market).

14. The above-outlined hourly rates are subject to periodic review (generally annually) to reflect changes in the economy, experience, and other factors.

15. Other than the Debtors' agreement to compensate Indeglia & Carney at its regular hourly rates and to reimburse the Firm for the reasonable and necessary expenses incurred, Indeglia & Carney has not received any promises from the Debtors or any other person to compensate or reimburse the Firm in connection with the Debtors' cases.

16. Neither Indeglia & Carney nor any members or other attorneys of the Firm have divided, paid over or shared, or agreed to divide, pay over or share, (a) any compensation it has or they have received or may receive for services rendered or expenses incurred in connection with the Debtors' cases with another party or person (except as among the members, counsel and associates of Indeglia & Carney), or (b) any compensation another party or person has received or may receive for services rendered or expenses incurred in connection with these cases.

17. As of the Petition Date, the Debtors owed Indeglia & Carney \$119,709.43 for legal services rendered before the Petition Date.

- a. Since 2002, Indeglia & Carney has provided Debtors with invoices for professional fees and reimbursable expenses. The total amount of these invoices for the period beginning on September 18, 2014 through the morning of the Petition Date was \$342,207.42.
- b. The total of the pre-petition invoices accounts for all amounts owed by the Debtors to the Firm on account of pre-petition services since September 1, 2014.
- c. The Firm has been paid \$259,120.80 during the one year period prior to the Petition Date (which amount includes approximately \$13,500 of common stock pursuant to a stock award granted under HII's Stock Incentive Plan) as compensation for services rendered and costs incurred.
- d. As of the Petition Date, there was \$119,709.43 due in respect of pre-petition services, and the Firm's trust accounts had a balance of \$0.00.

**C. Eligibility and Disinterestedness as Special Counsel**

18. Indeglia & Carney performed the following actions to determine whether the Firm or any of its attorneys has any conflict of interest or connection that would preclude it from serving as the Debtors' counsel in these chapter 11 cases:

- a. Generally, Indeglia & Carney's conflicts procedure involves obtaining a list of adverse parties from our client and running those names (together with the names of any other adverse parties of which the Firm becomes aware) through its conflict data base to determine whether the Firm is then representing (or formerly represented) any such persons. If Indeglia & Carney is then representing an adverse party in another matter, the Firm seeks appropriate conflict waivers. If an adverse party is a former client, Indeglia & Carney assesses whether conflict waivers are necessary or appropriate and, if so, would seek appropriate conflict waivers.
- b. In connection with the Debtors' bankruptcy, Indeglia & Carney ran a conflict check on each of the names on the Master Service List.

19. Indeglia & Carney is a creditor of the Debtors.

20. IC Capital Fund (the “Fund”) is the investment fund of the “Firm”. The Fund is used to invest in clients of the Firm, and the contributions come both from the Firm’s partners and from the Firm directly where the Fund acts as the designee and nominee for the Firm for securities received as payment for services rendered by the Firm. In the case of HII, the Firm designated the Fund as nominee of the Firm to receive 25 Shares of Series B Preferred Stock of HII as satisfaction of \$25,000 owed to the Firm for legal services rendered.

21. To the best of my knowledge, neither I, Indeglia & Carney, nor any member, counsel or associate thereof, insofar as I have been able to ascertain, represents any interest adverse to that of the estates, the creditors, any other party-in-interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee in the matters upon which Indeglia & Carney is to be engaged.

22. To the best of my knowledge, neither I, Indeglia & Carney, nor any member, counsel or associate thereof, insofar as I have been able to ascertain, has any professional relationship with the creditors, any other party-in-interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, except as follows:

- a. I am the son-in-law of Frank Marshik, a holder of common stock and Series B Preferred Stock of HII.

23. Based upon the review of the list of creditors by me and by another member of the firm with extensive knowledge of Indeglia & Carney’s clients, we are not aware of any other representation by the Firm of any persons with claims against or interests in the Debtors. However, Indeglia & Carney, its members, counsel and associates may have in the past represented, currently represent and may in the future represent, in matters totally unrelated to the pending bankruptcy case, other entities that hold claims against the Debtors. The Firm has a

large and diversified legal practice that encompasses the representation of many individuals, financial institutions and commercial corporations, some of which may be claimants in the Debtors' bankruptcy cases or otherwise have an interest in such cases. As part of its practice, Indeglia & Carney appears in cases, proceedings and transactions involving many different attorneys and accountants, some of whom may represent claimants and parties in interest in these bankruptcy cases. Indeglia & Carney does not represent any such entity in connection with the pending bankruptcy cases or have any relationship with any such entity, attorneys, or accountants that would be adverse to the estates.

24. Based on the foregoing, to the best of my knowledge, neither I, nor the Firm, nor any of its members, counsel or associates, insofar as I have been able to ascertain, represents any interest adverse to the Debtors in the matters upon which Indeglia & Carney is to be engaged.

25. Despite Indeglia & Carney's best efforts to identify and disclose its connections with the adverse parties in the Debtors' chapter 11 cases, the Firm is unable to state with absolute certainty that every client representation or other connection has been disclosed. In this regard, if the Firm discovers additional information that requires disclosure, it will file a supplemental disclosure with the Court.

26. The proposed retention of Indeglia & Carney is not prohibited by or improper under Bankruptcy Rule 5002. Indeglia & Carney and the professionals it employs are qualified to represent the Debtors in the matters for which Indeglia & Carney is proposed to be retained.

27. I believe that Indeglia & Carney is eligible for employment and retention by the Debtors pursuant to the Bankruptcy Code and the applicable Bankruptcy Rules.

[Remainder of Page Intentionally Left Blank]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and this declaration is executed at Los Angeles, California, on October \_\_, 2015.

By: 

Marc A. Indeglia

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

<b>In re:</b>	§	<b>Chapter 11</b>
	§	
<b>HII TECHNOLOGIES, INC., <i>et al.</i><sup>1</sup></b>	§	<b>15-60070 (DRJ)</b>
<b>Debtors</b>	§	<b>(Jointly Administered)</b>

**ORDER PURSUANT TO 11 U.S.C. §§ 327, 330 AND 1107(b) OF THE BANKRUPTCY  
CODE AUTHORIZING DEBTORS TO RETAIN INDEGLIA & CARNEY LLP AS  
CORPORATE AND SECURITIES COUNSEL, *NUNC PRO TUNC***

Upon consideration of the Application of the Debtors for entry of an order pursuant to 11 U.S.C. §§ 327, 330 and 1107(b) and Rules 2014, 2106, and 6003 of the Federal Rules of Bankruptcy Procedure authorizing the retention of Indeglia & Carney, LLP ("Indeglia & Carney") as corporate and securities counsel to the Debtors, all as more fully set forth in the Application<sup>2</sup>, and all exhibits and attachments to the Application; and upon consideration of and all proceedings before the Court related to the Application including the Court finding that: (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b); (iii) venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; (iv) the Application and the Indeglia Declaration are in full compliance with all applicable provisions of the Bankruptcy Code, Bankruptcy Rules, Local Bankruptcy Rules of the Southern District of Texas, and orders and procedures of this Court; (v) Indeglia & Carney does not represent an interest adverse to the Debtors' estates with respect to the matters upon which they are to be engaged; (vi) Indeglia & Carney is qualified to represent

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's tax identification number, are: (i) Apache Energy Services, LLC (4404); (ii) Aqua Handling of Texas, LLC (4480); (iii) HII Technologies, Inc. (3686); (iv) Sage Power Solutions, Inc. fka KMHVC, Inc. (1210); and (v) Hamilton Investment Group, Inc. (0150).

<sup>2</sup> All capitalized terms used but otherwise not defined herein shall have the same meaning assigned to them in the Application.

the Debtors' estates under § 327 of the Bankruptcy Code; (vii) the terms of Indeglia & Carney's employment have been disclosed and are reasonable under the circumstances; (viii) proper and adequate notice of the Application, the deadline to file any objections to the Application and the hearing thereon was given, and no other or further notice is necessary; (ix) the legal and factual bases set forth in the Application establish just cause for the relief granted herein; (x) the relief sought in the Application is in the best interest of the Debtors and their estates; (xi) any timely objection to the Application having been withdrawn or overruled for the reasons stated on the record at the hearing; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED THAT:

1. In accordance with sections 327(a), (e), 330 and 1107(b) of the Bankruptcy Code, the Debtors are authorized to employ and retain Indeglia & Carney as of the date of filing of the Petition Date as its corporate and securities counsel under the terms and conditions set forth in the Application and the Engagement Agreement.

2. Indeglia & Carney is authorized to perform any and all legal services for the Debtors that are necessary or appropriate in connection with these chapter 11 cases.

3. Indeglia & Carney shall be compensated for its services and reimbursed for related expenses in accordance with the terms and conditions of the Engagement Agreement, as set forth in the Application and the procedures provided in sections 330 and 331 of the Bankruptcy Code, and in accordance with applicable Federal Rules of Bankruptcy Procedure, Bankruptcy Local Rules of the Southern District of Texas, and any other applicable orders of this Court.

4. All compensation for services rendered and reimbursement for expenses incurred during these chapter 11 cases shall be paid after further application to and order of this Court, in



accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Guidelines, and orders of this Court in these chapter 11 cases.

5. This order shall be immediately effective from the Petition Date and enforceable upon entry.

6. This order, and all acts taken in furtherance or reliance thereon, shall be effective notwithstanding any objection until further order of this Court.

7. The Debtor and Indeglia & Carney are authorized to take all actions necessary to effectuate the relief granted pursuant to this order in accordance with the Application.

8. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this order.

SIGNED THIS \_\_\_\_ day of \_\_\_\_\_, 2015.

---

DAVID R. JONES  
UNITED STATES BANKRUPTCY JUDGE