

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	Case No. 05-20050 (CSS)
	)	
NOBEX CORPORATION,	)	Chapter 11
	)	
Debtor.	)	
	)	

**ORDER (A) APPROVING THE SALE OF CERTAIN ASSETS OF THE  
DEBTOR FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES  
PURSUANT TO 11 U.S.C. § 363, (B) AUTHORIZING THE ASSUMPTION  
AND ASSIGNMENT OF CERTAIN UNEXPIRED LEASES AND  
EXECUTORY CONTRACTS, (C) AUTHORIZING THE REJECTION OF  
CERTAIN UNEXPIRED LEASES AND EXECUTORY CONTRACTS  
AND (D) GRANTING RELATED RELIEF [RE: D.I. 13, 180, 195, 196, 262, 271]**

On consideration of the motion dated December 2, 2005 (the "Sale Motion"), of Nobex Corporation (the "Debtor"), as debtor in possession, for an order (the "Order"), *inter alia*, pursuant to sections 105, 363 and 365 of the United States Bankruptcy Code (the "Bankruptcy Code") and Bankruptcy Rules 6004 and 6006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") authorizing and approving (a) the sale of certain assets relating to the Debtor's business (the "Purchased Assets") described in and pursuant to the terms and conditions of an executed Asset Purchase Agreement, dated as of December 1, 2005 (collectively with all exhibits thereto, the "Original Purchase Agreement") by and between the Debtor, as seller (the "Seller"), and Biocon Limited (the "Purchaser"), subject to higher and better offers and (b) the assumption and assignment of various contracts and leases identified in connection with the Original Purchase Agreement; and a hearing on the Sale Motion having been held on March 20, 2006 (the "Sale Hearing"); and the Court having jurisdiction to consider and determine the Sale Motion in accordance with 28 U.S.C. §§ 157 and 1334; and due notice of the Sale Motion having

been provided, and it appearing that no other or further notice need be provided; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY FOUND AND DETERMINED:

**General**

A. All capitalized terms not otherwise defined in this Order have the meanings ascribed to such terms in the Sale Motion or the Purchase Agreement (defined below).

B. The Court has jurisdiction to consider the Sale Motion and the relief requested therein under 28 U.S.C. §§ 157 and 1334. The Sale Motion is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue is proper in the Court under 28 U.S.C. §§ 1408 and 1409.

C. The statutory predicates for the relief sought in the Sale Motion are sections 105(a), 363(b), (f), and (m) and 365(a), (b) and (f) of the Bankruptcy Code and Bankruptcy Rules 6004 and 6006.

D. On January 23, 2006, the Court entered the Order (A) Establishing Bidding Procedures In Connection With Sale Of Substantially All Of The Assets Of The Debtor, Including Certain Buyer Protections, (B) Approving The Form And Manner Of Notices, (C) Approving The Form Of The Purchase Agreement, (D) Setting A Sale Hearing, And (E) Granting Related Relief (D.I. 180) (the "Sale Procedures Order"), pursuant to which the Court, *inter alia*, authorized the Debtor to conduct an auction involving the Purchased Assets (the "Auction") and approved the bidding procedures annexed to the Sale Procedures Order (the "Bidding Procedures"). The Sale Procedures Order and the Final Order (A) Authorizing Postpetition Financing and Granting Security Interests and Superpriority Administrative Expense Status Pursuant to 11 U.S.C. §§361, 362, and 364; (B) Authorizing Use of Cash Collateral; and

(C) Modifying the Automatic Stay Pursuant to 11 U.S.C. §362 (D.I. 181) (the “Final Financing Order”) each recited certain amendments (the “January Amendments”) to the Original Purchase Agreement (as thereby amended, the “Pre-Auction Purchase Agreement”).

E. As evidenced by the certificates of service and publication filed with the Court, and based on the representations of counsel at the hearing, (i) proper, timely, adequate, and sufficient notice of the Sale Motion, the transactions contemplated therein (including the assumption and assignment of the Assumed Contracts (as defined herein)), the Sale Procedures Order, the Bidding Procedures, the Auction and the Sale Hearing has been provided in accordance with sections 102, 105, 363 and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006 and 9014; (ii) such notice was good and sufficient and appropriate under the particular circumstances; and (iii) no other or further notice of the Sale Motion, the transactions contemplated therein (including the assumption and assignment of the Assumed Contracts), the Sale Procedures Order, the Bidding Procedures, the Auction, the Sale Hearing and the entry of this Order is required.

F. A reasonable opportunity to object or be heard with respect to the Sale Motion and the relief requested therein has been afforded to all interested persons and entities, including, but not limited to: (i) the Office of the United States Trustee; (ii) counsel for the Debtor; (iii) any statutory official committees appointed in the Debtor’s bankruptcy case; (iv) all known persons holding a lien, claim, encumbrance or other interest in, to or against any of the Purchased Assets; (v) all parties to the Assumed Contracts; (vi) all known parties who have made written expressions of interest in acquiring the Purchased Assets; (vii) all applicable federal, state and local taxing authorities; (viii) all applicable federal, state and local

governmental units; and (ix) all entities who have filed a notice of appearance and request for service of papers in the Debtor's bankruptcy case pursuant to Bankruptcy Rule 2002.

### **The Bankruptcy Case**

G. On December 1, 2005, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in this Court. The Debtor continues to operate its business as a debtor in possession under sections 1107(a) and 1108 of the Bankruptcy Code.

### **The Sale Process for the Purchased Assets**

H. The Debtor has marketed the Purchased Assets diligently, in good faith and in a commercially reasonable manner to secure the highest and best offer or offers therefor by, among other things, delivering offering materials to potential purchasers and inviting potential purchasers to meet with management and the Debtor's professionals and providing potential purchasers with the opportunity to conduct extensive due diligence. In addition, the Debtor delivered the Bidding Procedures Order, the Bidding Procedures, the Sale Notice and the Motion to each of the entities that had previously expressed an interest in the Purchased Assets.

I. At the Auction, Purchaser made amendments to the Pre-Auction Purchase Agreement (the "Auction Amendments"). The Auction Amendments eliminated Section 1.1(j)(i) thereof (providing for an assignment to Purchaser of avoidance claims against it and any entity it designates) and added the following new section:

#### **1.4. Waiver and Release of Avoidance Claims Against Purchaser.**

As of the Closing, Seller, acting on behalf of itself and its successors and assigns, hereby waives, releases and forever discharges any and all avoidance actions, including, without limitation, those under Sections 542-544, 547-551 and 553 of the Bankruptcy Code, against Purchaser and its affiliates arising out of occurrences before the Closing Date.

Such amendment caused the U.S. Trustee to withdraw its objection to the Sale Motion. The Auction Amendments further encompass and made improvements to the terms of the Pre-

Auction Purchase Agreement in various respects including an increase in the consideration to be paid to the Debtor thereunder to include \$600,000 additional cash at the Closing (defined herein below), and subject to this Court's approval of a related settlement and a Term Sheet (the "Term Sheet"), dated March 15, 2006 by and among the Debtor, the Purchaser, and the Official Committee of Unsecured Creditors of the Debtor, to include certain royalties and a prepayment thereof in the amount of \$500,000 cash payable at the Closing. The related settlement and the Term Sheet were approved by the Order Approving Joint Motion of Nobex Corporation and Official Committee of Unsecured Creditors of Nobex Corporation To Approve Compromise of the Above-Captioned Adversary Proceeding and Term Sheet (D.I. 288), dated March 20, 2006 and entered on the docket March 21, 2006 in Adversary Proceeding number 06-50521 (CSS). The Pre-Auction Purchase Agreement after such modifications at the Auction is referred to herein as the "Purchase Agreement."

J. The Purchaser submitted the highest and best offer for the Purchased Assets on terms and conditions set forth in the Purchase Agreement. Purchaser's status as the highest bidder caused it to withdraw any objection to the Sale Motion as to the bid of Purchaser.

K. The Bidding Procedures afforded a full, fair and reasonable opportunity for any entity to make a higher or better offer to purchase the Purchased Assets and no higher or better offer has been made than that of the Purchaser.

L. The Debtor and the Purchaser have complied with the Sale Procedures Order and the Bidding Procedures in all respects.

**The Sale of the Purchased Assets to the Purchaser**

M. The transactions effectuating, and the terms and conditions governing, the sale of the Purchased Assets to the Purchaser are embodied in the Original Purchase Agreement,

which is attached hereto as Exhibit A as amended and improved by the January Amendments contained in the Sale Procedures Order, Final Financing Order and the Auction Amendments. A description of the Purchased Assets is contained in the Purchase Agreement. Moreover, Exhibit B sets forth a description of the executory contracts and unexpired leases that the Debtor shall assume and assign to the Purchaser (the "Exhibit B Contracts"). In addition to the Exhibit B Contracts, Purchaser may designate additional executory contracts and unexpired leases for assumption and assignment through the closing of the sale (together with the Exhibit B Contracts, the "Assumed Contracts"). The Debtor shall notify all parties to an Assumed Contract of such assumption by sending written notice to such parties within three business days after the closing of the sale. Such notice shall also be filed with the Court. Presently, the Purchaser has not proposed to assume any contracts with any entities with "Cardinal Health" or "Magellan" as part of their name (such entities are hereinafter referred to as "Cardinal Health") and, based thereupon, Cardinal Health withdrew its objection to the Sale Motion, provided that the Debtor and Purchaser acknowledged that if any Cardinal Health contract were added before the Closing to the list of contracts to assume and assign at the Closing ("Assignment Schedule"), such assumption and assignment would require either Cardinal Health's consent or a motion to assume and assign such contract(s) would have to be brought and approved.

N. The Purchase Agreement contemplates that the sale of the Purchased Assets shall be free and clear of all liens, claims, interests, and other encumbrances within the meaning of section 363(f) of the Bankruptcy Code (collectively, "Liens"), except as expressly permitted by the Purchase Agreement; provided, however, that all Liens (in the same priority as exists pre-Closing) will attach to the proceeds of the Sale, including the Adjusted Purchase Price (as defined in the Purchase Agreement). An objection to the Sale Motion had been filed by

Steven Helms, Robert Peters, Reuben Peters, Marc Cannon, Anthony Kamin, Andrew Gladney, LaSalle Biotechnology, Ltd., Warren Stern, John P. Bennett and Nnochiri Ekwuribe (the "Founders Group"), which objection opposed the request in the Sale Motion for such free and clear determinations and, among other things, contested whether certain assets could be sold by the Debtor. The details of arrangements reached outside of this proceeding between the Founders Group and the Purchaser were recited at the Sale Hearing and, at the Sale Hearing, the Founders Group withdrew their objections to the Sale Motion in all respects, including any objection to this Court's free and clear determinations or to the sale of the assets under the Purchase Agreement.

O. The Purchaser's obligation to consummate the transactions contemplated in the Purchase Agreement are subject to the specific conditions outlined in that contract, including Bankruptcy Court approval. As of the date of entry of this Order, there has been no failure of any condition under the Purchase Agreement to the Purchaser's obligation to consummate the Sale that would entitle the Purchaser not to consummate the Sale pursuant to the Purchase Agreement or to terminate the Purchase Agreement.

P. The Purchase Agreement was negotiated, proposed, and entered into by and between the Purchaser and the Debtor without collusion, in good faith, and from arm's length bargaining positions. Neither the Debtor nor the Purchaser has engaged in any conduct that would cause or permit the application of section 363(n) of the Bankruptcy Code to the Sale, including having the Purchase Agreement voided.

Q. The Purchaser is a good faith purchaser in accordance with section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby. Absent a stay of the effectiveness of this Order, if any, the Purchaser will be acting in good faith

within the meaning of section 363(m) of the Bankruptcy Code in closing the transaction under the Purchase Agreement, including the assumption and assignment of the Assumed Contracts, at any time after the expiration of any stay of this Order, whether pursuant to Bankruptcy Rule 6004(g) or otherwise.

R. The Assumed Contracts to be assumed and assigned to the Purchaser are valid and binding, in full force and effect, and enforceable in accordance with their terms, and are property of the Debtor's estate pursuant to section 541(a) of the Bankruptcy Code.

S. The terms and conditions of the Purchase Agreement: (i) are fair and reasonable, (ii) valid, binding and enforceable, (iii) constitute the highest and best offer for the Purchased Assets, (iv) will provide a greater recovery for the Debtor's creditors than would be provided by any other practical available alternative and (v) constitute reasonably equivalent value and fair consideration for the Purchased Assets.

T. The transactions contemplated by the Purchase Agreement will, upon consummation thereof (the "Closing"), (i) be a legal, valid, and effective transfer of the Purchased Assets to the Purchaser with no further action required on the part of the Debtor or their respective affiliates and (ii) vest the Purchaser with good title to the Purchased Assets free and clear of all Liens within the meaning of section 363(f) of the Bankruptcy Code, except as expressly permitted by the Purchase Agreement.

U. The Purchaser would not have entered into the Purchase Agreement and will not consummate the transactions described in the Purchase Agreement (thus adversely affecting the bankruptcy estate and its creditors) if the sale of the Purchased Assets and the assignment of the Assumed Contracts were not free and clear of all Liens, except as expressly permitted by the Purchase Agreement.



V. The relief sought in the Sale Motion, including approval of the Purchase Agreement and consummation of the transactions contemplated thereof, is in the best interests of the Debtor, its bankruptcy estate, creditors, and all parties in interest. The Sale must be approved and consummated promptly in order to preserve the viability of the Debtor's business as a going concern and to maximize the value of the Debtor's estate.

W. Upon entry of this Order, the Debtor has all the corporate or organizational power and authority necessary to consummate the transactions contemplated by the Purchase Agreement.

X. Except as otherwise provided in this Order, no consents or approvals, other than this Order and those expressly provided for in the Purchase Agreement and the Inventory Sale Agreement, are required for the Debtor to consummate the transactions contemplated by the Purchase Agreement.

Y. The Debtor has demonstrated good, sound and sufficient business purpose and justification, and it is a reasonable exercise of its business judgment, to (i) sell the Purchased Assets on the terms and conditions set forth in the Purchase Agreement; (ii) assume and assign the Assumed Contracts to the Purchaser; (iii) reject certain other executory contracts and unexpired leases; and (iv) consummate all transactions contemplated by the Purchase Agreement, and the sale, assumption and assignment of the Purchased Assets and the rejection of certain other executory contracts and unexpired leases is in the best interests of the Debtor, its estate and its creditors.

Z. The provisions of sections 363 and 365 of the Bankruptcy Code have been complied with and are applicable to the sale of the Purchased Assets.

AA. The Debtor may consummate the transactions and transfer the Purchased Assets free and clear of all Liens of any kind or nature whatsoever, except as expressly permitted by the Purchase Agreement, because one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. All parties with Liens of any kind or nature whatsoever in the Purchased Assets, except as expressly permitted by the Purchase Agreement, who did not object to the Sale Motion and the relief requested therein, or who withdrew their objections to the transactions, are deemed to have consented pursuant to sections 363(f)(2) and 365 of the Bankruptcy Code. All parties with Liens of any kind or nature whatsoever in the Purchased Assets, except as expressly permitted by the Purchase Agreement, who did object to the Sale Motion and the relief requested therein fall within one or more of the other subsections of sections 363(f) and 365 of the Bankruptcy Code and are adequately protected by having their Liens attach to the net proceeds of the transactions with the same validity, enforceability, priority, force and effect that they now have as against the Purchased Assets, subject to the rights, claims, defenses, and objections, if any, of the Debtor and all parties in interest with respect to such Liens.

BB. Except as otherwise provided in the Purchase Agreement, consummation of the transactions will not subject the Purchaser to any debts, liabilities, obligations, commitments, responsibilities or claims of any kind or nature whatsoever, whether known or unknown, contingent or otherwise, existing as of the date hereof or hereafter arising, of or against the Debtor, any affiliate of the Debtor, or any other person by reason of such transfers and assignments, including, without limitation, based on any theory of antitrust or successor or transferee liability.

CC. To the extent that the Purchased Assets constitute all or substantially all of the assets of any of the Debtor, substantial and sufficient business exigencies exist that permit the Purchased Assets to be sold outside of the context of a plan of reorganization.

DD. The Debtor has (i) cured, or has provided adequate assurance of cure, of all defaults under the Assumed Contracts, if any, existing before the date of this Order, within the meaning of section 365(b)(1)(A) of the Bankruptcy Code and (ii) provided compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default before the date of this Order under the Assumed Contracts, if any, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code, and the Purchaser has provided adequate assurance of its future performance of and under the Assumed Contracts, within the meaning of section 365(b)(1)(C) of the Bankruptcy Code.

ACCORDINGLY, THE COURT HEREBY ORDERS THAT:

**General Provisions**

1. The findings of fact entered above and the conclusions of law stated herein shall constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any finding of fact shall later be determined to be a conclusion of law, it shall be so deemed, and to the extent that any conclusion of law shall later be determined to be a finding of fact, it shall be so deemed.

2. The Sale Motion is granted.

3. All parties in interest have had the opportunity to object to the relief requested in the Sale Motion and to the extent that objections to the Sale Motion or the relief requested therein have not been withdrawn, waived or settled, such objections and all

reservations of right included therein, are overruled on the merits. The parties who did not object, or who withdrew their objections, to the Sale Motion, are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code.

#### **Approval of the Purchase Agreement**

4. The Purchase Agreement and all of the terms and conditions contained therein are approved in their entirety and is binding upon the parties thereto.

5. The approval by the Debtor of the Sale of the Purchased Assets and the terms and conditions contemplated by the Purchase Agreement, including, without limitation, the closing of the transactions contemplated by the Purchase Agreement, are hereby approved pursuant to sections 105(a), 363(b) and (f) of the Bankruptcy Code.

6. The Debtor is authorized and directed, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, to perform all of its obligations pursuant to the Purchase Agreement and to execute such other documents and take such other actions as are reasonably necessary to effectuate the transactions contemplated by the Purchase Agreement.

7. The sale of the Purchased Assets, pursuant to this Order and the Purchase Agreement, will vest the Purchaser with good title to the Purchased Assets (including, without limitation, good title to the interests as to which the ability to convey good title was contested in the now withdrawn Founders Group objection) and will be a legal, valid and effective transfer of the Purchased Assets free and clear of all Liens (including, without limitation, free and clear of all matters raised in the now withdrawn objection of the Founders' Group), except as expressly permitted by the Purchase Agreement. All Liens shall attach in the same priority as currently extant to the proceeds of the Sale, subject to the rights, claims, defenses, and objections, if any, of the Debtor and all parties in interest with respect to such Liens.

**Transfer of the Purchased Assets to the Purchaser**

8. Except as expressly provided in the Purchase Agreement, pursuant to sections 105(a), 363(f), and 365 of the Bankruptcy Code, upon the Closing, the Purchased Assets shall be sold, transferred or otherwise conveyed to Purchaser free and clear of all Liens (including, without limitation, the sale, transfer and conveyance of the items as to which the now withdrawn Founders Group objection challenged the ability to sell, transfer or convey free and clear), with all such Liens to attach to the proceeds of sale of the Purchased Assets in the order of their priority, and with the same validity, priority, force and effect which they now have as against the Purchased Assets, subject to the rights, claims, defenses, and objections, if any, of the Debtor and all parties in interest with respect to such Liens.

9. All persons or entities holding Liens in, to or against the Purchased Assets shall be, and they hereby are, forever barred from asserting such Liens against Purchaser, its successors and assigns or such Purchased Assets after Closing.

**Assumption and Assignment of the Assumed Contracts**

10. Subject to and conditioned on the Closing of the transactions contemplated in the Purchase Agreement, the Debtor is authorized pursuant to section 365(a) of the Bankruptcy Code to assume and assign the Assumed Contracts. The Debtor shall notify all parties to an Assumed Contract of such assumption by sending written notice to such parties within three business days after the closing of the sale. Such notice shall also be filed with the Court. Purchaser shall not assume any Cardinal Health contract unless either Cardinal Health consents prior to such assumption or upon further order of the Court after notice and hearing.

11. Subject to and conditioned on the Closing of the transactions contemplated in the Purchase Agreement, pursuant to sections 105(a) and 365 of the Bankruptcy Code, the

Debtor's assumption and assignment to the Purchaser, and the Purchaser's assumption on the terms contained in the Purchase Agreement, of the Assumed Contracts is approved, and the requirements of section 365(b)(1) of the Bankruptcy Code with respect thereto are deemed satisfied.

12. Upon Closing pursuant to the Purchase Agreement, the Assumed Contracts shall be transferred to, and remain in full force and effect for the benefit of, the Purchaser in accordance with their terms, notwithstanding any provision in the Assumed Contracts (including, without limitation, those described in sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or transfer and, pursuant to section 365(k) of the Bankruptcy Code, the Debtor shall be relieved from any further obligation or liability for any breach of the Assumed Contracts occurring after such assumption and assignment.

13. Any undertakings (payment and/or performance) necessary to cure defaults under such Assumed Contracts (the "Cure Amounts") shall be paid by: (a) Purchaser, for the contracts which Purchaser had listed on the Assignment Schedule as of March 16, 2006 to the extent of the amounts therefore set forth in the Assignment Notice, for any contracts which Purchaser adds after the Auction to its Assignment Schedule, and for any required increase in the deposit from \$28,000 to \$50,000 required for the Debtor's real property lease; and (b) the Debtor to the extent there is any other Cure Amount due for the Debtor's real property lease or to the extent that the Cure Amount for a contract listed in the Assignment Schedule as of March 16, 2006 contract exceeds the amount listed therefor by the Debtor in the Assignment Notice. Thereafter in due course Purchaser shall pay and fully satisfy all liabilities and obligations of Seller associated with the Assumed Contracts arising after the Closing Date (the "Assumed

Liabilities”). Except as set forth in the Purchase Agreement, Purchaser has not agreed to pay, shall not be required to assume, and shall have no liability or obligation with respect to, any liability or obligation, direct or indirect, absolute or contingent, of Seller, including any liabilities or obligations associated with the Assumed Contracts arising on or before the Closing Date.

14. The Cure Amount set forth in (i) the Assignment Notice, (ii) any stipulation entered into between the Debtor and the nondebtor party to an Assumed Contract or (iii) prior Order of this Court, shall be controlling notwithstanding anything to the contrary in any Assumed Contract or other document, and the nondebtor party to each Assumed Contract shall be forever barred from asserting any other claim arising prior to the Closing against the Debtor or the Purchaser.

15. The failure of the Debtor or the Purchaser to enforce any term or condition of any Assumed Contract shall not constitute a waiver of such term or condition or of the Debtor’s or the Purchaser’s rights to enforce every term and condition of the Assumed Contracts.

16. The Debtor is authorized to reject any executory contract or unexpired lease that is not an Assumed Contract (such contracts and leases, the “Rejected Contracts”) upon the Debtor’s provision of five (5) days written notice (the “Rejection Notice”) to the counterparties to each Rejected Contract (the “Rejection Notice Period”). Upon the expiration of the Rejection Notice Period, the applicable Rejected Contract shall be deemed rejected effective as of the date of the Rejection Notice.

#### **Miscellaneous Provisions**

17. The consideration to be paid by the Purchaser for the Purchased Assets under the Purchase Agreement is fair and reasonable and may not be avoided under section 363(n) of the Bankruptcy Code.

18. This Order (a) is and shall be effective as a determination that, upon the Closing, except as expressly provided in the Purchase Agreement, all Liens existing as to the Purchased Assets prior to the Closing have been unconditionally released, discharged and terminated in each case as to the Purchased Assets and (b) shall authorize all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of fees, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities, who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments that reflect that the Purchaser is the assignee of the Purchased Assets free and clear of Liens.

19. Nothing in this Order shall be deemed to waive, release, extinguish, or stop the Debtor or its estate from asserting or otherwise impair or diminish any right (including without limitation any right of recoupment), claim, cause of action, defense, offset or counterclaim in respect of an Excluded Asset (as defined in the Purchase Agreement).

20. Except with respect to enforcing the terms of the Purchase Agreement and/or this Order, absent a stay pending appeal, no person shall take any action to prevent, enjoin or otherwise interfere with consummation of the transactions contemplated in or by the Purchase Agreement or this Order.

21. The Purchase Agreement and any related agreements, documents or other instruments may be modified, amended, or supplemented through a written document signed by the parties in accordance with the terms thereof without further order of the Court; provided, however, that any such modification, amendment or supplement is neither material nor changes the economic substance of the transactions contemplated hereby.



22. In the absence of a stay of the effectiveness of this Order, in the event that the Purchaser and the Debtor consummate the transactions contemplated by the Purchase Agreement at any time after entry of this Order, then with respect to the transactions approved and authorized herein, the Purchaser, as a purchaser in good faith within the meaning of section 363(m) of the Bankruptcy Code, shall be entitled to the protections of section 363(m) of the Bankruptcy Code in the event this Order or any authorization contained herein is reversed or modified on appeal.

23. Each and every federal, state, and local governmental agency or department is hereby authorized to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement.

24. Until this case is closed or dismissed, the Court shall retain exclusive jurisdiction (a) to enforce and implement the terms and provisions of the Purchase Agreement, all amendments thereto, any waivers and consents thereunder, and each of the agreements, documents and instruments executed therewith; (b) to compel transfer of the Purchased Assets to the Purchaser; (c) to compel the Purchaser to perform all of its obligations under the Purchase Agreement, including the payment of the Adjusted Purchase Price; (d) to resolve any disputes, controversies or claims arising out of or relating to the Purchase Agreement, including without limitation the adjudication of any cure required under Assumed Contracts; and (e) to interpret, implement and enforce the provisions of this Order.

25. The terms of this Order and the Purchase Agreement shall be binding on and inure to the benefit of the Debtor, the Purchaser and the Debtor's creditors and all other parties in interest, and any successors of the Debtor, the Purchaser and the Debtor's creditors,

including any trustee or examiner appointed in these cases or any subsequent or converted cases of the Debtor under chapter 7 or chapter 11 of the Bankruptcy Code.

26. The failure to include any particular provision of the Purchase Agreement in this Order shall not diminish or impair the effectiveness of that provision, it being the intent of the Court and the parties that the Purchase Agreement be authorized in its entirety.

27. Any conflict between the terms and provisions of this Order and the Purchase Agreement shall be resolved in favor of this Order.

28. The Debtor is hereby authorized to perform each of its covenants and undertakings as provided in the Purchase Agreement prior to closing without further order of the Court.

29. As provided by Bankruptcy Rule 7062, this Order shall be effective and enforceable immediately. The provisions of Bankruptcy Rules 6004(g) and 6006(d) staying the effectiveness of this Order for ten (10) days are hereby waived, and this Order shall be effective, and the parties may consummate the transactions contemplated by the Purchase Agreement immediately upon entry of this Order. Time is of the essence in closing the transaction and parties to the Purchase Agreement shall be authorized to close the sale as soon as possible consistent with the terms of this Purchase Agreement.

Dated: Wilmington, Delaware

March 23, 2006

  
UNITED STATES BANKRUPTCY JUDGE

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