

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE: )  
American Diagnostic Medicine Inc. ) CASE NO. 11- 3368  
) CHAPTER 11  
) Judge Doyle  
Debtor. )

**FINAL ORDER AUTHORIZING THE DEBTOR'S USE OF  
CASH COLLATERAL RETROACTIVE TO JANUARY 28, 2011**

This matter is before the Court on the motion (the "Motion") of American Diagnostic Medicine, Inc., the debtor and debtor-in-possession ("ADM" or the "Debtor"), by and through its proposed counsel, Springer, Brown, Covey, Gaertner & Davis, LLC, for authority to use cash collateral pursuant to 11 U.S.C. § 363(c) and Fed. R. Bankr. P. 4001(d). The Secured Creditors (as defined below) and the Debtor have represented to the Court as follows:

A. Notice and Hearing. Notice of the Motion was been served in accordance with 11 U.S.C. § 102(1) and Fed. R. Bankr. P. 4001(d), which notice is appropriate in the particular circumstances and is sufficient for all purposes under the Bankruptcy Code and the applicable Bankruptcy Rules regarding the relief requested in order to avoid serious and irreparable harm to the debtor's estate.

B. Chapter 11 Filed. The Debtor filed its petition under Chapter 11, Title 11 of the United States Code (the "Bankruptcy Code") on January 28, 2011 (the "Petition Date") and is currently operating as a debtor-in-possession in accordance with sections 1107 and 1108 of the Bankruptcy Code.

C. Prepetition Debt and Collateral.

1. Prior to the Petition Date, ADM borrowed certain sums of money from Cole Taylor Bank (collectively, inclusive of its successors and assigns, "Cole Taylor"), pursuant to certain promissory notes, letter agreements, loan agreements, security agreements, pledge

agreements, collateral assignments, and other agreements, instruments, certificates and documents (collectively, the "Cole Taylor Prepetition Loan Documents"), as more particularly set forth on Exhibit 1 attached hereto.

2. Prior to the Petition Date, ADM borrowed certain sums of money from Cardinal Health 414, LLC (collectively, with its successors and assigns, "Cardinal Health" and sometimes, together with Cole Taylor, the "Secured Creditors"), pursuant to certain promissory notes, letter agreements, loan agreements, security agreements, pledge agreements, collateral assignments, and other agreements, instruments, certificates and documents (collectively, the "Cardinal Health Prepetition Loan Documents" and sometimes, together with the Cole Taylor Prepetition Loan Documents, the "Prepetition Loan Documents"), as more particularly set forth on Exhibit 2 attached hereto.

3. As of the Petition Date, there was and remains due and owing from the Debtor to Cole Taylor, under the Cole Taylor Prepetition Loan Documents, the principal sum of \$818,112.49, together with interest of \$11,373.47 due through 1/28/11, for a total due to Cole Taylor (exclusive of accrued and unpaid fees and costs), as of the Petition Date, of \$829,485.96 (the "Cole Taylor Prepetition Debt").

4. As of the Petition Date, there was and remains due and owing from the Debtor to Cardinal Health under the Cardinal Health Prepetition Loan Documents, the principal sum of \$2,600,000 with interest due through 1/28 of \$32,193.75; and principal due under Supply Agreement of \$730,199.97, for a total due to Cardinal Health (exclusive of accrued and unpaid fees and costs), as of the Petition Date, of \$3,362,393.72 (the "Cardinal Health Prepetition Debt").

5. As of the Petition Date, Cole Taylor was the Debtor's primary secured creditor, asserting a perfected first priority lien on and security interest in substantially all of the

Debtor's pre-petition assets, including, but not limited to, cash on hand, inventory, accounts receivable, equipment and general intangibles, together with the proceeds thereof (the "Cole Taylor Collateral"). Cole Taylor has, and the Debtor has acknowledged and agreed that Cole Taylor has, as of the Petition Date, a valid and subsisting first lien on and security interest in the Cole Taylor Collateral securing the Cole Taylor Prepetition Debt and that said debt is an allowed, fully secured claim under sections 506(a) and 502 of the Bankruptcy Code. Said determination shall be binding upon the Debtor but shall not bind the Official Committee of Unsecured Creditors (the "Committee"), which shall have seventy-five (75) days after appointment (the "Challenge Period") to contest the scope, validity, perfection and/or amount of the Cole Taylor Prepetition Debt (and, after such seventy-five (75) day Challenge Period, the Committee shall also be bound, unless the Court orders otherwise). Cole Taylor asserts, and the Debtor acknowledges, that Cole Taylor's security interests in the Debtor's assets were perfected more than 90 days before the Petition Date.

6. As of the Petition Date, Cardinal Health was a junior secured creditor of the Debtor, asserting a perfected junior priority lien on and security interest in substantially all of the Debtor's prepetition assets, including, but not limited to, cash on hand, inventory, accounts receivable, and general intangibles, together with the proceeds thereof (the "Cardinal Health Collateral" and, sometimes, together with the Cole Taylor Collateral, the "Cole Taylor and Cardinal Health Collateral"). Cardinal Health has, and the Debtor has acknowledged and agreed that Cardinal Health has, as of the Petition Date, a valid and subsisting junior lien on and security interest in the Cardinal Health Collateral securing the Cardinal Health Prepetition Debt and that said debt is an allowed, secured claim under sections 506(a) and 502 of the Bankruptcy Code. Said determination shall be binding upon the Debtor but shall not bind the Committee, which shall have seventy-five (75) days after appointment to contest the scope, validity, perfection

and/or amount of the Cardinal Health Prepetition Debt (and, after such seventy-five (75) day Challenge Period, the Committee shall also be bound, unless the Court orders otherwise). For the sake of clarity, the Committee will not be bound by any representations, stipulations, or acknowledgements set forth herein until the expiration of the Challenge Period, and then will only be bound to the extent specifically provided herein. Cardinal Health asserts, and the Debtor acknowledges, that Cardinal Health's security interests in the Debtor's assets were perfected more than 90 days before the Petition Date. (The Cardinal Health Prepetition Debt and the Cole Taylor Prepetition Debt are sometimes referred to collectively herein as the "Prepetition Debt.")

D. Debtor Representations. The Debtor represents, stipulates, acknowledges, and agrees that:

(i) the Prepetition Debt is (a) legal, valid, binding, and enforceable against the Debtor; and (b) not subject to any contest, objection, recoupment, defense, counterclaim, offset, claim of subordination, claim of recharacterization, claim of avoidance of any nature, attack or challenge under the Bankruptcy Code, other applicable non-bankruptcy law, or otherwise;

(ii) all the Prepetition Debt is secured by the security interests in and liens on the Cole Taylor Collateral and the Cardinal Health Collateral, as previously granted under the Cole Taylor Prepetition Loan Documents and the Cardinal Health Prepetition Loan Documents, respectively; that Cole Taylor and Cardinal Health have, and will continue to have, after entry of this Order, legal, valid, enforceable, non-avoidable and continuing duly-perfected security interests in, and liens on, their respective Collateral, as more fully described and defined in the Cole Taylor and Cardinal Health Prepetition Loan Documents, as the same existed on or at any time prior to the Petition Date, together with all cash and non-cash proceeds thereof (and such security interests and liens shall sometimes be referred to collectively herein as the "Prepetition

Liens”), subject to no liens or security interests other than the liens or security interests expressly permitted under the Prepetition Loan Documents and valid, prior liens of record;

(iii) nothing contained herein in any way impairs Cole Taylor’s first priority lien status respecting the Cole Taylor Collateral or Cardinal Health’s junior lien status respecting the Cardinal Health Collateral;

(iv) as of the Petition Date, and without giving effect to this Order, the Debtor is not aware of any liens or security interests having priority over the Prepetition Liens, except certain liens and encumbrances as permitted pursuant to the Cole Taylor Prepetition Loan Documents or the Cardinal Health Prepetition Loan Documents, or valid, prior liens of record;

(v) the Prepetition Liens were granted to Cole Taylor and Cardinal Health, respectively, for fair consideration and reasonably equivalent value, and were granted contemporaneously with the making of the loans secured thereby; and

(vi) all cash of the Debtor wherever located on the Petition Date represents either proceeds of loans under the Cole Taylor and/or the Cardinal Health Prepetition Loan Documents or proceeds of their respective Collateral; and pursuant to the Cole Taylor and the Cardinal Health Prepetition Loan Documents and section 552(b) of the Bankruptcy Code, Cole Taylor and Cardinal Health have valid, duly perfected liens upon and security interest in and to all of the cash of the Debtor, and these funds, along with the proceeds of the Cole Taylor and the Cardinal Health Collateral, constitute “cash collateral” within the meaning of section 363(a) of the Bankruptcy Code (the “Cash Collateral”).

(vii) The Debtor agrees that neither Cole Taylor nor Cardinal Health shall be deemed to be in control of the Debtor or its operations or to be acting as a “responsible person,” “managing agent,” or “owner or operator” with respect to the operation or management of the Debtor.

(viii) The Debtor agrees that, within the applicable limitations period, it shall file and prosecute to conclusion an Adversary Proceeding seeking, *inter alia*, to avoid and set aside any purported liens or security interests of the Settling Defendants, as such term is defined in that certain Settlement Agreement, entered into and effective as of June 9, 2010, between ADM, Sam Kancherlapalli, Vicky Kancherlapalli and Janet Hausenbauer, on the one hand, and Michelle Draper, Meriwether Lewis Garing, Jr. , John Valenton, Robert Erskine, Flora Yu, Jonathan D. Singleton, and Quinn Ranson, on the other hand.

E. Necessity and Best Interest.

1. The Debtor has a continuing need to use Cash Collateral and obtain funds in order to permit, among other things, the orderly continuation of the operation of its business, to maintain business relationships with vendors, suppliers and customers, to meet payroll, and to satisfy other working capital and operational needs. Good cause has been shown for the entry of this Order. The Debtor's use of Cash Collateral is vital to avoid immediate and irreparable harm to Debtor's estate pending a final hearing.

2. The Debtor has requested that Cole Taylor and Cardinal Health consent to the use of their respective Cash Collateral. The Debtor's ability to continue its businesses and reorganize under chapter 11 of the Bankruptcy Code depends upon the Debtor using such Cash Collateral.

3. The adequate protection provided herein and other benefits and privileges contained herein are consistent with and authorized by the Bankruptcy Code, Bankruptcy Rules 4001 and 6003 and United States Bankruptcy Court Northern District of Illinois Local Bankruptcy Rules 4001-2 and serve to adequately protect Cole Taylor's and Cardinal Health's interests in their respective Collateral, securing their claims under their respective Prepetition Loan Documents.

NOW, THEREFORE, IT IS HEREBY ORDERED RETROACTIVE TO JANUARY 28, 2011

1. The Motion is hereby granted as follows:

**Authorization to Use Cash Collateral and DIP Accounts**

2. Subject to the terms and conditions set forth in this Order, the Debtor is authorized, pursuant to section 363(c) of the Bankruptcy Code, to use Cash Collateral from April 29, 2011 through the earlier of either August 1, 2011, or the Termination Date (as defined below).

3. The Debtor shall maintain two debtor-in-possession accounts, each at Cole Taylor Bank, as follows:

- (a) The Designated Proceeds DIP Account. This account (the "Designated Proceeds DIP Account") shall be comprised solely of the cash collateral the Debtor has on the Petition Date comprised solely of the proceeds of the Debtor's present and future accounts receivable, all of which shall be deposited into the Designated Proceeds DIP Account. No other funds shall be deposited into the Designated Proceeds DIP Account, and the Debtor shall not commingle any assets or funds with those in the Designated Proceeds DIP Account.

- (b) The Secondary DIP Account. This account (the "Secondary DIP Account") shall be comprised of all other cash and cash proceeds of the Debtor, except those to be deposited into the Designated Proceeds DIP Account, which shall consist of but not be limited to all proceeds from the sale of equipment.

The Debtor shall use only the proceeds from the Designated Proceeds DIP Account and the Debtor shall only be allowed to use the proceeds existing in the Secondary DIP Account upon

prior, written consent of the Secured Creditors and the Committee, provided that such use is consistent with paragraphs 3(a) and (b) above. Under no circumstances shall the Debtor establish or maintain any other DIP bank accounts without the prior, written consent of the Secured Creditors and the Committee.

4. The Debtor shall use Cash Collateral only for (a) working capital, (b) other general corporate purposes of the Debtor (including, without limitation, the making of Adequate Protection Payments (as defined below)), and (c) the costs of administration of this chapter 11 case, such as any fees owing to the clerk of the Court or payable to the Office of the United States Trustee, with each of the foregoing in compliance with and limited by terms of this Order and the budget (the "Budget"), which is annexed hereto as Exhibit 3 and incorporated herein by reference, subject to the permitted variances as provided in this Order. The Debtor shall not (x) take any action outside the ordinary course of business, including, without limitation, the settlement of accounts receivable for less than face value except as is customary and in conformity with its past business practice, without the prior written approval of Cole Taylor, Cardinal Health and the Committee, or (y) grant, permit or suffer to exist any lien upon or security interest in its assets (other than liens and security interests in existence on the Petition Date) during the term of this Order without the prior written approval of the Secured Creditors and the Committee.

5. Debtor shall not, without the prior written consent of Cole Taylor and Cardinal Health, use Cash Collateral in excess of the amounts set forth in the Budget for each item in the Budget (a "Budget Item"). If the actual amount paid by the Debtor on account of a particular Budget Item is less than the amount budgeted for such Budget Item, then such excess may be



used by the Debtor for any other Budget Item, upon prior written notice to the Secured Creditors and the Committee.

6. Notwithstanding anything herein to the contrary, no Cash Collateral may be used by the Debtor (or any subsequent trustee), the Committee, or any other person or entity (i) to object to or contest in any manner, or raise any defense or contest the validity, perfection, priority or enforceability of the Prepetition Debt, the Prepetition Liens, and/or the Prepetition Loan Documents, or (ii) to assert or prosecute any action for preferences, fraudulent conveyances, other avoidance power claims (whether under chapter 5 of the Bankruptcy Code or otherwise) or any other claims or causes of action against Cole Taylor or Cardinal Health, including, without limitation, for lender liability or pursuant to sections 105, 510, 544, 547, 548, 549, or 550 of the Bankruptcy Code; or (iii) to modify the rights of Cole Taylor or Cardinal Health under this Order unless such use of Cash Collateral is specifically authorized by Court Order on duly filed Motion by the applicable affected Party in Interest. Notwithstanding anything set forth herein to the contrary, nothing in this order shall prohibit the use of Cash Collateral by the Committee to investigate the validity, perfection, priority or enforceability of the Prepetition Debt, the Prepetition Liens and/or the Prepetition Loan Documents.

**Reporting; Certain Deliverables**

7. The Debtor shall furnish to Cole Taylor, Cardinal Health, and the Committee weekly reconciliation reports by 5:00 p.m. on Tuesday following the end of the week being reported, comparing actual results and expenditures to the Budget for such period and on a cumulative basis, and an explanation of all variances, in form and substance satisfactory to Cole Taylor, Cardinal Health, and the Committee. The first weekly reconciliation report shall cover the week ending on February 5, 2011.

8. The Debtor shall provide Cole Taylor, Cardinal Health, and the Committee prior to 5:00 p.m. on Tuesday following the week being reported, the following written reports, in form and substance satisfactory to Cole Taylor and Cardinal Health: (i) a daily reconciliation report of cash available to the Debtor compared to actual cash available through all bank accounts (for the avoidance of doubt, the reconciliation will be a reconciliation of “book cash” to “bank cash”), (ii) an accounts receivable aging report, (iii) an accounts payable aging report, and (iv) an inventory report. The Debtor shall also deliver to Cole Taylor, Cardinal Health, and the Committee, prior to 5:00 p.m., each business day, for the immediately preceding business day, (a) a report setting forth the amount and source of cash receipts for such day and the related deposits of such cash into each of the Designated Proceeds DIP Account and the Secondary DIP Account, (b) a report setting forth the sales for such day, (c) back-up documentation relating to the shipment of goods by the Debtor during such day, including, without limitation, shipping documentation relating to each item of inventory shipped to a customer during such day, and (d) new sale/purchase orders received during such day, all of which shall be in form and substance satisfactory to Cole Taylor, Cardinal Health, and the Committee.

9. In addition, and without limiting the foregoing or any other reporting requirement contained hereunder, the Debtor shall prepare and submit to Cole Taylor and Cardinal Health all reports required to be delivered to each Secured Creditor pursuant to their respective Prepetition Loan Documents, along with any other or further reports reasonably requested by Cole Taylor and Cardinal Health, copies of which will also be contemporaneously provided to the Committee.

10. The Debtor shall periodically deliver to Cole Taylor and Cardinal Health documentation confirming that the Debtor has secured and maintains property, liability and

workmen's compensation insurance, in amounts and with insurers that are reasonably acceptable to Cole Taylor and Cardinal Health and that name Cole Taylor and Cardinal Health as lender loss payee and additional insured, as applicable.

**Adequate Protection**

11. As adequate protection for the use of Cash Collateral, Cole Taylor and Cardinal Health shall receive:

(i) adequate protection payments ("Adequate Protection Payments") in amounts as set forth in the Budget, provided, only in the event that it is determined that the claims of Cole Taylor and/or Cardinal Health are not fully secured, the Adequate Protection Payments shall be subject to reallocation, recharacterization, or disgorgement, after notice and a hearing before the Court, and the acceptance by Cole Taylor and/or Cardinal Health of the Adequate Protection Payments as set forth in the Budget annexed hereto shall not prevent Cole Taylor and/or Cardinal Health from seeking to increase (or obtain) such Adequate Protection Payments after May 29, 2011;

(ii) for any diminution in the value of Cole Taylor's and/or Cardinal Health's interests in the Cash Collateral from and after the Petition Date, (a) replacement security interests in and liens upon all of the Debtor's assets in which Cole Taylor or Cardinal Health had liens as of the Petition Date (including, without limitation, cash and receivables and the proceeds thereof to the extent such liens existed prior to the Petition Date), whether existing on or acquired after the Petition Date, subject, however, to the same lien priorities as between Cole Taylor and Cardinal Health as existed prior to the Petition Date; (b) first priority security interests in and liens upon any and all unencumbered assets of the Debtor, including, without limitation, the Designated Proceeds DIP Account, the Secondary DIP Account and any and all present and

future deposit accounts and the funds in each such deposit account, subject, however, to the same lien priorities as between Cole Taylor and Cardinal Health as existed prior to the Petition Date, and (c) junior liens on all other encumbered assets which were not otherwise subject to Cole Taylor's or Cardinal Health's liens as of the Petition Date subject, however, to the same lien priorities as between Cole Taylor and Cardinal Health as existed prior to the Petition Date; (collectively, the "Adequate Protection Liens"); provided, however, that the Adequate Protection Liens shall neither prime nor impair any perfected liens or perfected security interests in the same collateral that are senior in rank and priority to the Prepetition Liens or the Adequate Protection Liens under applicable nonbankruptcy law as of the Petition Date; and provided further, however, except as expressly set forth in this Order, the Adequate Protection Liens granted herein shall not be subject to any liens that are avoided and preserved for the benefit of the Debtor's estate under section 551 of the Bankruptcy Code; and

(iii) for any diminution in the value of Cole Taylor's and/or Cardinal Health's interests in the Cash Collateral from and after the Petition Date, an administrative expense claim pursuant to section 507(b) of the Bankruptcy Code (the "Adequate Protection Claim"),

13. The Adequate Protection Liens on property of the Debtor's estate granted herein, including, without limitation, the security interests in and liens on post-petition cash and receivables, deposit accounts, including the Designated Proceeds DIP Account and the Secondary DIP Account, are valid, binding, effective, enforceable, and fully perfected, and no filing or recordation or other act in accordance with any applicable local, state, or federal law, rule, or regulation, is necessary to create or perfect such Adequate Protection Liens. The above provision notwithstanding, Debtor shall cooperate with Cole Taylor and Cardinal Health to execute or cause to be executed such documents and instruments, and do such other things as Cole Taylor and/or Cardinal Health may reasonably request, to evidence and perfect such

Adequate Protection Liens for the convenience and information of third parties, and to evidence the obligations undertaken by the Debtor hereunder.

14. With respect to the use of Cash Collateral hereunder, each of the following shall constitute a "Termination Event":

- (i) the closing or dismissal of the chapter 11 case;
- (ii) the conversion of the Debtor's chapter 11 case to a case under chapter 7 of the Bankruptcy Code;
- (iii) non-compliance by the Debtor with any material terms or provisions of this Order;
- (iv) non-compliance by the Debtor with any material terms or conditions of the Prepetition Loan Documents, with the exception of the financial covenants set forth in sections 5.19(a) – (c) and (f), inclusive, of the Cole Taylor Prepetition Documents;
- (v) if the Debtor's actual cumulative cash surplus each week during the Budget period is less than 90% of the cumulative cash surplus for such week, as set forth in the Budget; the Debtor shall report such week-ending cumulative cash position in a writing certified by the Debtor's president or chief financial officer by Tuesday of each week for the immediately preceding week and provide a comparison to the amounts reflected in the Budget, with a narrative explaining any deviations, which documents will be provided to the Secured Creditors and the Committee;
- (vi) if, on a cumulative basis, measured every week during the Budget Period, actual sales are less than 90% of the sales reflected in the Budget; the Debtor shall report such sales in a writing certified by the Debtor's president or chief financial officer by Tuesday of each week for the immediately preceding week and provide a comparison to the amounts reflected in the Budget, with a narrative explaining the reasons for any deviations; provided, however, that

“sales” shall not include any sales of any machinery, equipment, inventory other than in the ordinary course of business or any other sales of the Debtor’s assets, which documents will be provided to the Secured Creditors and the Committee;

(vii) any uninsured loss with respect to the Collateral or any other collateral subject to the Adequate Protection Liens in an amount equal to or exceeding \$25,000; or

(viii) Without limiting the generality of paragraph 3 above, the Debtor’s failure to open and utilize the Designated Proceeds DIP Account as provided in this Order, including, without limitation, the Debtor’s commingling of any funds or assets with the accounts receivables deposited and/or to be deposited into the Designated Proceeds DIP Account.

15. Following the occurrence of a Termination Event, the Debtor shall have five (5) business days after receipt of written notice from Cole Taylor and/or Cardinal Health to cure such Termination Event, if it is capable of cure (the “Cure Period”). Cole Taylor and/or Cardinal Health shall serve notice of the Termination Event on the Debtor, the U.S. Trustee, and Committee, through counsel.

16. On the earlier to occur of either (a) August 1, 2011, or (b) if upon the expiration of the Cure Period, the Debtor has not cured the Termination Event (assuming such Termination Event is curable) and any required notice referred to in paragraph 15 has not been withdrawn (herein referred to as the “Termination Date”), then the Debtor shall cease all use of Cash Collateral and any authority of Debtor under this Order to use Cash Collateral shall terminate, unless otherwise ordered by the Court.

**Protection of Secured Creditors**

17. Notwithstanding anything herein to the contrary, this Order is without prejudice to, and does not constitute a waiver, expressly or implicitly, of the rights of Cole Taylor and/or Cardinal Health to seek additional adequate protection should circumstances warrant.

18. Entry of this Order shall not in any way (i) constitute agreement, consent, or acquiescence to the terms of any plan of reorganization by virtue of any term or provision of this Order; or (ii) prevent Cole Taylor or Cardinal Health from objecting, for any reason, to any requests, motions or applications made in this Court (other than this Order), including any applications for interim or final allowances of compensation for services rendered or reimbursement of expenses incurred under sections 105(a), 330 or 331 of the Bankruptcy Code, by any party in interest.

19. The validity, priority, extent, enforceability and perfection of the Prepetition Liens and security interests shall remain subject to the rights of the Committee or any party in interest to commence an appropriate adversary proceeding or contested matter (i) objecting to the validity and amount of the Prepetition Debt or to the extent, priority, validity, perfection or non-avoidability of the Prepetition Liens, (ii) challenging any other finding or representation herein, or (iii) seeking the disgorgement or avoidance of all or part of the payment of the Debtor's liabilities and obligations under the Cole Taylor or Cardinal Health Prepetition Loan Documents, which adversary proceeding or contested matter must be filed no later than the end of the seventy-five (75) day Challenge Period (and, after the Challenge Period, such creditors' committee and any other party in interest shall also be bound, unless the Court order otherwise). If such adversary proceeding or contested matter is not timely filed within the Challenge Period, unless extended with consent of Cole Taylor and Cardinal Health, without further action by any

party or this Court, the Prepetition Liens shall be deemed legal, valid, binding, enforceable, perfected and unavoidable and the full liability and obligations of the Debtor under the Cole Taylor or Cardinal Health Prepetition Loan Documents shall be conclusively and irrevocably binding upon all parties-in-interest in this case, including the Committee.

20. The Debtor shall also provide Cole Taylor, Cardinal Health, and the Committee copies of all reports made for or documents given to the United States Trustee in this chapter 11 case (when forwarded to the United States Trustee).

21. Debtor shall permit representatives, agents, and/or employees of Cole Taylor, Cardinal Health, and/or the Committee, including professionals retained by such parties legal professionals, to have reasonable access to its premises and records during normal business hours (without unreasonable interference with the proper operation of Debtor's business) and shall cooperate, consult with, and provide to such persons all such non-privileged information as they may reasonably request.

22. In consideration of Debtor's use of Cash Collateral, the Debtor voluntarily and knowingly releases and forever discharges Cole Taylor and Cardinal Health in all of their capacities, their predecessors, agents, attorneys, financial advisors, direct and indirect parents, subsidiaries and affiliates, members, managers, servicers, directors, officers, employees, successors and assigns from all possible claims, counterclaims, demands, actions, causes of action, damages, costs, expenses and liabilities whatsoever, known or unknown, anticipated or unanticipated, suspected or unsuspected, at law or in equity, originating in whole or in part on or before the date hereof, except for gross negligence or willful misconduct, which the Debtor may now know or hereafter come to know they have against Cole Taylor and/or Cardinal Health in all of their capacities, their predecessors, agents, attorneys, direct and indirect parents, subsidiaries



and affiliates, members, managers, servicers, directors, officers, employees, successors and assigns, if any, and irrespective of whether any such claims arise out of contract, tort, violation of law or regulations, or otherwise; provided, however, that the foregoing release shall not be effective until the expiration of the Challenge Period, and then shall only apply to matters with respect to which the Committee has not, prior to the expiration of the Challenge Period, either (i) served a written demand on Cole Taylor, Cardinal Health, and the Debtor demanding that the Debtor pursue a claim or cause of action against one or both of Cardinal Health and/or Cole Taylor (thereby preserving the Committee's right to pursue (and/or request Court authority to pursue) such a claim or cause of action if the Debtor refuses to do so) or (ii) initiated an adversary proceeding, contested matter, or other cause of action against Cardinal Health and/or Cole Taylor. For the sake of clarity, if the Committee has not taken one or more of the actions set forth in subsections (i) and (ii) above by the end of the Challenge Period, then the release and discharge language set forth above shall enter into full force and effect.

23. The provisions of this Order are binding upon all the parties-in-interest in this chapter 11 case, including, without limitation, Cole Taylor and Cardinal Health and their successors and/or assigns, and the Debtor, and shall inure to the benefit of Cole Taylor, Cardinal Health and the Debtor and, except with respect to any trustee hereafter appointed or elected for the estate of the Debtor, their respective successors and assigns; provided, however, that this Order shall not limit or affect the rights of the Debtor in its prosecution of a chapter 11 plan or the rights and defenses thereto of Cole Taylor and/or Cardinal Health.

24. **Interlocutory Order and No Modification of Creditors' Adequate Protection.**

A. This is an interlocutory order. Nothing contained herein shall be deemed or construed to bar Cole Taylor or Cardinal Health from seeking other or further relief (including, without limitation, relief from the terms of this Order) for cause shown on

appropriate notice to the Debtor and other parties-in-interest entitled to notice of same. This Order may be modified for cause shown by the Debtor, Cole Taylor and/or Cardinal Health, or any other party-in-interest on due notice. No such modification, however, shall deprive Cole Taylor or Cardinal Health of its respective interest in Debtor's property (pre-petition or post-petition).

B. Any reversal, modification, or vacation of this Order shall not affect the validity or priority of any obligation of the Debtor to Cole Taylor or Cardinal Health incurred or arising by operation of law, or any security interest or lien granted to Cole Taylor or Cardinal Health under this Order, before the effective date of such reversal, modification, or vacation. Notwithstanding the entry of any subsequent stay or any such reversal, modification, or vacation, all uses of Cash Collateral, and the security interests and liens granted to Cole Taylor and Cardinal Health by the Debtor under this Order before the effective date of such stay, reversal, modification, or vacation, shall be governed in all respects by the original provisions of this Order, and Cole Taylor and Cardinal Health shall be entitled to all the rights, privileges, and benefits with respect to all such uses, obligations, security interests and liens.

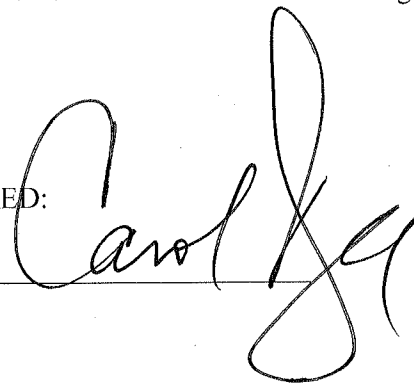
The Debtor shall immediately file with the Clerk a certificate of service of said mailing.

BE IT SO ORDERED.

Dated: This 28<sup>th</sup> of April, 2011.

ENTERED:

JUDGE



Michael J. Davis (#6197896)  
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