

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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:
In re : Chapter 11
:
IMRIS, Inc., *et al.*,¹ : Case No. 15-11133 (_____)
:
Debtors. : (Joint Administration Requested)
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MOTION OF THE DEBTORS AND DEBTORS IN POSSESSION PURSUANT TO SECTIONS 105(A), 363 AND 365 OF THE BANKRUPTCY CODE FOR AN ORDER (I)(A) APPROVING PROCEDURES IN CONNECTION WITH THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS; (B) SCHEDULING THE RELATED AUCTION AND HEARING TO CONSIDER APPROVAL OF SALE; (C) APPROVING PROCEDURES RELATED TO THE ASSUMPTION OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (D) APPROVING THE FORM AND MANNER OF NOTICE THEREOF; (E) APPROVING EXPENSE REIMBURSEMENT; AND (F) GRANTING RELATED RELIEF; AND (II)(A) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (B) APPROVING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES RELATED THERETO; AND (C) GRANTING RELATED RELIEF

The above-captioned debtors and debtors in possession (the "Debtors") hereby move the Court (the "Motion") for the entry of an order pursuant to sections 105(a), 363 and 365 title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 6004, 6006, 9007 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 2002-1 and 6004-1 of the Local Rules Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules") for an order (i)(a) approving procedures in

¹ The Debtors are the following three entities: IMRIS Inc. (Canadian corporation number 434265-8), IMRIS, Inc. (taxpayer identification number 98-0462325) and NeuroArm Surgical Ltd. (Canadian corporation number 751695-9). The mailing address of each of the Debtors, solely for purposes of notices and communications, is 5101 Shady Oak Rd., Minnetonka, MN 55343.



connection with the sale of substantially all of the Debtor's assets; (b) scheduling the related auction and hearing to consider approval of sale; (c) approving procedures related to the assumption of certain executory contracts and unexpired leases; (d) approving the form and manner of notice thereof; (e) approving expense reimbursement; and (f) granting related relief; and (ii)(a) authorizing the sale of such assets free and clear of liens, claims, encumbrances and other interests, except as provided in an Purchase Agreement (as defined below); (b) approving the assumption and assignment of certain of the Debtors' executory contracts and unexpired leases related thereto; and (c) granting relief related relief. In support of this Motion, the Debtors respectfully state as follows:

Jurisdiction and Venue

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

Background

2. On May 25, 2015 (the "Petition Date"), each of the Debtors filed with this Court voluntary petitions for relief under the Bankruptcy Code.

3. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or official committee of unsecured creditors has been appointed in the Debtors' chapter 11 cases.

4. The Debtors and their non-debtor affiliate companies (collectively, "IMRIS" or the "Company") throughout the world design, manufacture and market image-guided therapy systems that enhance the effectiveness on a cost-efficient basis of therapy delivery, which include multiple field strength Magnetic Resonance systems, X-Ray Fluoroscopy systems, and

Computed Tomography (CT) systems. All of these imaging capabilities are marketed by the Debtors as the VISIUS Surgical Theatre™, which combines their visualization technology products with therapy delivery products in a single integrated system that has the ability to provide timely information to clinicians to properly assess the treatment plan at the point of therapy delivery. The Company's portfolio of products currently includes VISIUS Surgical Theatres, service and extended maintenance contracts, accessories and disposables relating to the Company's installations.

5. In 2010, IMRIS expanded its business beyond the imaging and service business platforms when the Company acquired Debtor NeuroArm Surgical Limited ("NASL") and all of its intellectual property. Since then, the Company has been developing the SYMBIS Surgical System™, a surgeon-controlled surgical robot designed to enable minimally invasive procedures with more precise placement of instruments. This system consists of MR compatible robot arms and a surgical control console integrated together in the VISIUS Surgical Theatre. The SYMBIS Surgical System is designed to be installed in both existing VISIUS Surgical Theatre systems, and in new installations.

6. The purchase and installation of a VISIUS Surgical Theatre represents a significant capital project for the Company's customers, with the cost of an integrated VISIUS Surgical Theatre ranging from approximately \$1.5 million to \$12 million depending on the product selected, the room configuration and the level of integration services requested. Owing to the costs of these projects and to the number of healthcare stakeholders involved, the Company's sales cycle is both complex and lengthy, typically lasting more than 12 months from initial customer engagement to receipt of a purchase order.

7. This lengthy sales cycle, along with the continued extensive capital expenditures required to enhance new product offerings and increased competition from well-capitalized market participants, has led to continued financial losses, which has significantly affected the Company's liquidity and ability to pay its debts as they become due.

8. Prior to filing these chapter 11 cases, the Company undertook a focused marketing process to explore a broad range of strategic financing and sale options for the Company and its various business units, focusing on (a) the surgical theatre, (b) service and (c) robotics business platforms. After careful evaluation and further negotiation with the Company's stakeholders, it was determined that the structure and financial support through securing debtor-in-possession financing as well as the ability of the Debtors to conduct an auction in this Court and subsequently consummate a sale transaction, presented the best option for the Company. An expedited sale of the Debtors' businesses is essential to not only preserve the underlying value of their operations by providing customers and employees with a clear path forward, but also to maximize the value of the Debtors' assets for the benefit of the Debtors' creditors.

Preliminary Statement

9. The Debtors have determined, after the exercise of due diligence and in consultation with their investment banker, Imperial Capital, LLC ("Imperial"), that maximizing the value of the Debtors' estates is best accomplished through the sale, free and clear of liabilities, of substantially all of their assets (as described more fully herein, the "Offered Assets").

10. The Debtors are party to that certain Facility Agreement (the "Facility Agreement") with (i) Deerfield Private Design Fund II, L.P. ("Fund II"), (ii) Deerfield Private Design International II, L.P. ("International") and (iii) Deerfield Special Situations Fund, L.P.

(together with Fund II and International, the “Stalking Horse Related Entities”) pursuant to which the Sellers owe the Stalking Horse Related Entities \$26,874,162 (the “Claim Amount”) consisting of (a) principal, (b) accrued, but unpaid interest to, but not including, the date hereof and (c) related fees and expenses incurred in connection with the Facility Agreement

11. The Debtors entered into that certain asset purchase agreement, dated May 25, 2015, between the Debtors on the one hand and Deerfield Acquisition Corp. (the “Stalking Horse Purchaser”), pursuant to which the Stalking Horse Purchaser shall acquire the Offered Assets on the terms and conditions specified therein (together with the schedules and related documents thereto, the “Stalking Horse Agreement,” a copy of which is attached hereto as Exhibit B).² The sale transaction pursuant to the Stalking Horse Agreement is subject to competitive bidding as set forth herein. Pursuant to the terms of the Stalking Horse Agreement, the Stalking Horse Purchaser has agreed to purchase the Offered Assets for the assumption of certain liabilities and an amount equal to \$9,500,000.00 (the “Stalking Horse Purchase Price”), consisting of (i) \$2,500,000.00 for the Offered Assets of the Robotics Business (defined below) and \$7,000,000.00 for the Offered Assets of the Imaging and Service Business (defined below), not in cash, but in the form of a reduction, pursuant to Section 363(k) of the Bankruptcy Code, in the Claim Amount. The Stalking Horse Purchaser, in making this offer, has relied on promises by the Debtors to seek the Court’s approval of reimbursement of the reasonable fees, costs, and expenses incurred by the Stalking Horse Purchaser and its affiliates in connection with the transactions contemplated by the Stalking Horse Agreement through the date of termination, subject to a cap of \$1,000,000 (the “Expense Reimbursement”), and in reasonable

² Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Stalking Horse Agreement.

expectation that this Court would enter an order providing such relief. The Debtors, in the exercise of their business judgment, believe that the Expense Reimbursement is a necessary inducement for the Stalking Horse Purchaser, and thus, necessary to establish a “floor” for the sale of the Offered Assets and ultimately encourage competitive bidding and realization of the highest value for the Offered Assets.

12. The Debtors believe that the sale of the Offered Assets pursuant to the procedures and on the timeline proposed herein presents the best opportunity to maximize the value of the Offered Assets for all interested parties. Moreover, the Debtors believe the rapid transition to new ownership will maximize the value of the Offered Assets.

Relief Requested³

13. *First*, the Debtors request entry of an order, substantially in the form attached hereto as Exhibit C (the “Bidding Procedures Order”): (A) approving procedures (the “Bidding Procedures,” the form of which is attached thereto as Exhibit 1) for (i) submitting bids for any or all of the Offered Assets of the Debtors and (ii) conducting an auction (the “Auction”) with respect to the Offered Assets in the event the Debtors receive at least one bid in addition to that submitted by the Stalking Horse Purchaser; (B) scheduling the Auction for July 23, 2015 at 10:00 a.m. (Eastern) at the offices of DLA Piper LLP (US), 1251 Avenue of the Americas, 27th Floor, New York, NY 10020, or at such other place, date and time as may be designated by the Debtors; (C) scheduling a hearing to approve any sale of Offered Assets with respect to any bid(s) accepted by the Debtors on or before July 27, 2015 (the “Sale Hearing”); (D) approving procedures (the “Cure Procedures”), as set forth below, for the assumption and assignment of

³ In compliance with Local Rule 6004-1 and for the convenience of the reader, the salient terms of the transaction as currently set forth in the Purchase Agreement have been summarized and are attached hereto as Exhibit A.

certain executory contracts (the “Contracts”) and unexpired leases (the “Leases”) of the Debtors to any purchaser(s) of the Offered Assets, and to resolve any objections thereto; and (E) approving (i) the form of notice of the Auction and Sale (the “Procedures Notice”), attached to the Bid Procedures Order as Exhibit 3, to be served on the Procedures Notice Parties (as defined below) and (ii) the form of notice to parties holding Contracts and Leases likely to be assumed and assigned in connection with the sale of Offered Assets, in the form attached to the Bid Procedures Order as Exhibit 4 (the “Cure Notice”).

14. *Second*, the Debtors request entry of an order in substantially the form attached hereto as Exhibit D (the “Sale Order”), pursuant to sections 105, 363 and 365 of the Bankruptcy Code: (i) approving the sale of the Offered Assets of the Debtors to the purchaser or purchasers (the “Sale”), free and clear of all liens, claims, encumbrances and liabilities, except as provided in the Purchase Agreement, and (ii) authorizing the Debtors to consummate the Sale and all documents, agreements and contracts executed in conjunction therewith.

I. PROPOSED BID AND SALE PROCEDURES

Assets to be Sold

15. As noted above, the Debtors seek to complete the Sale of Offered Assets, which fall into two broad business lines of the Debtors. There are Offered Assets related to the surgeon-controlled surgical robot design and manufacture business (the “Robotics Business”) and Offered Assets related to the image guided therapy systems and maintenance service business (the “Imaging and Service Business”).

Summary of Proposed Bidding Procedures

16. Except as otherwise provided in the Purchase Agreement, all of the Debtors’ rights, title and interest in all of the Offered Assets shall be sold free and clear of any liens, security interests, claims, charges or encumbrances in accordance with section 363 of the

Bankruptcy Code. The Debtors propose that any such liens, security interests, claims, charges or encumbrances shall attach to the amounts payable to the Debtors' estates resulting from the Sale, net of any transaction fees (the "Sale Proceeds"), in the same order of priority and subject to the rights, claims, defenses, and objections, if any, of all parties with respect thereto, subject to any further order of the Court.

17. In order to ensure that the Debtors receive the maximum value for the Offered Assets, the Stalking Horse Agreement is subject to higher or better offers, and, as such, the Stalking Horse Agreement will serve as the "stalking horse" bid for the Offered Assets. The Stalking Horse Agreement provides the Stalking Horse Purchaser with the option of requiring the Debtors to file a Chapter 11 plan of reorganization that provides for the conversion of the Claim Amount into equity interests of the Debtors or certain subsidiaries of the Debtors. The Bidding Procedures likewise allow Qualified Bidders (defined below) to bid to purchase all or a portion of the Offered Assets either (i) in a sale pursuant to Section 363 of the Bankruptcy Code or (ii) in the form of a recapitalization transaction effectuated through a plan of reorganization (a "Chapter 11 Plan Bid").

A. Provisions Governing Qualifications of Bidders

18. Unless otherwise ordered by the Court, in order to participate in the bidding process, prior to the Bid Deadline (defined below), each person, other than the Stalking Horse Purchaser, who wishes to participate in the bidding process (a "Potential Bidder") must deliver the following to the Notice Parties (as defined below):

- (a) a written disclosure of the identity of each entity that will be bidding for the Offered Assets or otherwise participating in connection with such bid; and
- (b) an executed confidentiality agreement (to be delivered prior to the distribution of any confidential information by the Debtors to a Potential Bidder) in form and substance satisfactory to the Debtors and which shall

inure to the benefit of any purchaser of the Offered Assets; without limiting the foregoing, each confidentiality agreement executed by a Potential Bidder shall contain standard non-solicitation provisions.

19. A Potential Bidder that delivers the documents and information described above and that the Debtors determine in their reasonable business judgment, after consultation with their advisors, is likely (based on availability of financing, experience and other considerations) to be able to consummate the sale, will be deemed a “Qualified Bidder.” The Debtors will limit access to due diligence to those parties it believes, in the exercise of its reasonable judgment are pursuing the transaction in good faith.

20. As promptly as practicable after a Potential Bidder delivers all of the materials required above, the Debtors will determine and will notify the Potential Bidder if such Potential Bidder is a Qualified Bidder.

B. Due Diligence

21. The Debtors will afford any Qualified Bidder such due diligence access or additional information as the Debtors, in consultation with their advisors, deems appropriate, in their reasonable discretion. The due diligence period shall extend through and include the Auction date; provided, however, that any Qualified Bid (as defined below) submitted shall be irrevocable until the selection of the Successful Bidder (defined below).

C. Provisions Governing Qualified Bids

22. A bid submitted will be considered a Qualified Bid only if the bid is submitted by a Qualified Bidder and complies with all of the following (a “Qualified Bid”):

- (a) it states that the applicable Qualified Bidder offers to purchase any or all of the Offered Assets either (i) in cash or (ii) through a recapitalization transaction effectuated through a plan of reorganization;
- (b) it includes a signed writing that the Qualified Bidder’s offer is irrevocable until the selection of the Successful Bidder and the Back-Up Bidder (defined below), provided that if such bidder is selected as the Successful

Bidder or the Back-Up Bidder then (x) if the Successful Bid concerns an asset sale, the offer shall remain irrevocable until the earlier of (i) the closing of the transaction with the Successful Bidder and (ii) the date that is fifteen (15) business days after entry of the Sale Order with respect to the Successful Bidder and sixteen (16) business days after entry of the Sale Order with respect to the Back-Up Bidder and (y) if the Successful Bid is a Chapter 11 Plan Bid and such bidder is the Successful Bidder, its offer shall remain irrevocable until the confirmation of such plan of reorganization (For the avoidance of doubt, there will be no Back-Up Bidder if the Successful Bid is a Chapter 11 Plan Bid.);

- (c) confirmation that there are no conditions precedent to the Qualified Bidder's ability to enter into a definitive agreement and that all necessary internal and shareholder approvals have been obtained prior to the bid;
- (d) it sets forth each regulatory and third-party approval required for the Qualified Bidder to consummate the transaction and the time period within which the Qualified Bidder expects to receive such approvals;
- (e) it includes a duly authorized and executed copy of a purchase or acquisition agreement (a "Purchase Agreement"), including the purchase price for the Offered Assets expressed in U.S. Dollars, or, in the case of a Chapter 11 Plan Bid, the amount of the capital investment contemplated by such bid (the "Purchase Price"), together with all exhibits and schedules thereto, together with copies marked ("Marked Agreement") to show any amendments and modifications to the Stalking Horse Agreement and the proposed order to approve the sale by the Court;
- (f) it includes written evidence of a firm, irrevocable commitment for financing, or other evidence of ability to consummate the proposed transaction, that will allow the Debtors to make a reasonable determination as to the Qualified Bidder's financial and other capabilities to consummate the transaction contemplated by the Purchase Agreement;
- (g) if the bid is for all or substantially all of the Offered Assets (or in the case of a Chapter 11 Plan Bid, a bid for the equity of the reorganized Debtors), it must have a value to the Debtors, in the Debtors' exercise of their reasonable business judgment, after consultation with their advisors, that is greater than or equal to the sum of the value offered under the Stalking Horse Agreement, the amount of the Expense Reimbursement and \$100,000. If the bid is for less than all or substantially all of the Offered Assets, it must have a value to the Debtors, in the Debtors' exercise of their reasonable business judgment, after consultation with their advisors, that is greater than or equal to the sum of the value offered under the Stalking Horse Agreement for the Offered Assets sought in the bid and the portion of the Expense Reimbursement allocable to the Offered Assets sought in the bid plus \$100,000;

- (h) it identifies with particularity which executory contracts and unexpired leases the Qualified Bidder wishes to assume and provides for the Qualified Bidder to pay related cure costs;
- (i) it contains sufficient information concerning the Qualified Bidder's ability to provide adequate assurance of performance with respect to executory contracts and unexpired leases;
- (j) it includes an acknowledgement and representation that the bidder: (A) has had an opportunity to conduct any and all required due diligence regarding the Offered Assets prior to making its offer; (B) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Offered Assets in making its bid; (C) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the Offered Assets or the completeness of any information provided in connection therewith or with the Auction (defined below), except as expressly stated in the Purchase Agreement; and (D) is not entitled to any expense reimbursement, break-up fee, or similar type of payment in connection with its bid;
- (k) it includes evidence, in form and substance reasonably satisfactory to the Debtors, of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the Purchase Agreement;
- (l) it is accompanied by a good faith deposit in the form of a wire transfer (to a bank account specified by the Debtors), certified check or such other form acceptable to the Debtors, payable to the order of the Debtors (or such other party as the Debtors may determine) in an amount equal to ten percent (10%) of the Purchase Price;
- (m) it contains a detailed description of how the Qualified Bidder intends to treat current employees of the Sellers;
- (n) it contains such other information reasonably requested by the Debtors; and
- (o) it is received prior to the Bid Deadline.

23. Notwithstanding the foregoing, the Stalking Horse Purchaser is deemed a Qualified Bidder and the Stalking Horse Agreement is deemed a Qualified Bid, for all purposes in connection with the Bidding Process, the Auction, and the Sale.

24. The Debtors shall notify the Stalking Horse Purchaser and all Qualified Bidders in writing as to whether or not any bids constitute Qualified Bids (and with respect to each Qualified Bidder that submitted a bid as to whether such Qualified Bidder's bid constitutes a Qualified Bid) no later than two (2) business days following the expiration of the Bid Deadline.

D. Bid Deadline

25. A Qualified Bidder that desires to make a bid will deliver written copies of its bid to the following parties (collectively, the "Notice Parties"): (i) counsel to the Debtors: DLA Piper LLP (US), 203 N. LaSalle Street, Suite 1900, Chicago, Illinois 60601 (Attn: Richard A. Chesley, Esq. (richard.chesley@dlapiper.com)), (ii) counsel to the Stalking Horse Purchaser: Willkie Far & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019 (Attn: Steven J. Gartner (sgartner@willkie.com) John C. Longmire (jlongmire@willkie.com)), (iii) the Office of the United States Trustee (the "US Trustee"): US Trustee, 844 King Street, Suite 2207, Lockbox #35, Wilmington, Delaware, 19899-0035 (Fax: 302-573-6497) (Attn: Linda Casey, Esq.) (linda.casey@usdoj.gov), so as to be received by the Debtors not later than July 20, 2015 at 9:00 a.m. (prevailing Eastern Time) (the "Bid Deadline").

E. Credit Bidding

26. The Stalking Horse Purchaser holds a security interest in the Offered Assets and has submitted a credit bid for the Offered Assets. It may submit additional credit bids for the Offered Assets as it deems necessary and desirable. Accordingly, the Debtors seek the Court's allowance of credit bidding in connection with the Sale to the full extent of Bankruptcy Code section 363(k).

F. Evaluation of Competing Bids

27. A Qualified Bid will be valued based upon several factors including, without limitation, (1) the amount of such bid, (2) the risks and timing associated with consummating

such bid, (3) any proposed revisions to the form of Stalking Horse Agreement, and (4) any other factors deemed relevant by the Debtors in their reasonable discretion.

G. No Qualified Bids

28. If the Debtors do not receive any Qualified Bids other than the Stalking Horse Agreement, the Debtors will not hold an auction and the Stalking Horse Purchaser will be named the Successful Bidder for the Offered Assets.

H. Auction Process

29. If the Debtors receive one or more Qualified Bids in addition to the Stalking Horse Agreement, the Debtors will conduct the Auction of the Offered Assets, which shall be transcribed at July 23, 2015 at 10:00 a.m. (prevailing Central Time), at the offices of DLA Piper LLP (US), 1251 Avenue of the Americas, 27th Floor, New York, NY 10020, or such other location as shall be timely communicated to all entities entitled to attend the Auction. The Auction shall run in accordance with the following procedures:

- (a) only the Debtors, the Stalking Horse Purchaser, Qualified Bidders who have timely submitted a Qualified Bid, and the official committee of unsecured creditors that is appointed in these cases, if any (the “Official Committee of Unsecured Creditors”), and their respective advisors may attend the Auction;
- (b) only the Stalking Horse Purchaser and the Qualified Bidders who have timely submitted a Qualified Bid will be entitled to make any subsequent bids at the Auction;
- (c) each Qualified Bidder shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the sale;
- (d) at least one (1) business day prior to the Auction, each Qualified Bidder who has timely submitted a Qualified Bid must inform the Debtors whether it intends to attend the Auction; provided that in the event a Qualified Bidder elects not to attend the Auction, such Qualified Bidder’s Qualified Bid shall nevertheless remain fully enforceable against such Qualified Bidder until the date of the selection of the Successful Bidder and the Back-Up Bidder (defined below) at the conclusion of the Auction. At least one (1) business day prior to the Auction, the Debtors will provide

copies of the Qualified Bid or combination of Qualified Bids which the Debtors believe in their reasonable discretion is the highest or otherwise best offer (the “Starting Bid”) to all Qualified Bidders;

- (e) all Qualified Bidders who have timely submitted Qualified Bids will be entitled to be present for all Subsequent Bids (as defined below) at the Auction and the actual identity of each Qualified Bidder will be disclosed on the record at the Auction; provided that all Qualified Bidders wishing to attend the Auction must have at least one individual representative with authority to bind such Qualified Bidder attending the Auction in person;
- (f) the Debtors, after consultation with their advisors, may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances for conducting the Auction, provided that such rules are (i) not inconsistent with the Bidding Procedures, the Bankruptcy Code, or any order of the Court entered in connection herewith, and (ii) disclosed to each Qualified Bidder at the Auction; and
- (g) bidding at the Auction will begin with the Starting Bid and continue in bidding increments (each a “Subsequent Bid”) providing a net value to the estate of at least an additional \$100,000 above the prior bid. After the first round of bidding and between each subsequent round of bidding, the Debtors shall announce the bid that it believes to be the highest or otherwise better offer (the “Leading Bid”). A round of bidding will conclude after each participating Qualified Bidder has had the opportunity to submit a Subsequent Bid with full knowledge of the Leading Bid. Qualified Bidders will not have the opportunity to pass. Except as specifically set forth herein, for the purpose of evaluating the value of the consideration provided by Subsequent Bids, the Debtors will give effect to the Expense Reimbursement payable to the Stalking Horse Purchaser as well as any additional liabilities to be assumed by a Qualified Bidder and any additional costs which may be imposed on the Debtors.

I. Selection of Successful Bid

30. Prior to the conclusion of the Auction, the Debtors, in consultation with their advisors, will review and evaluate each Qualified Bid in accordance with the procedures set forth herein and determine which offer or offers are the highest or otherwise best from among the Qualified Bidders submitted at the Auction (one or more such bids, collectively the “Successful Bid” and the bidder(s) making such bid, collectively, the “Successful Bidder”), and communicate to the Qualified Bidders the identity of the Successful Bidder and the details of

the Successful Bid. The determination of the Successful Bid by the Debtors at the conclusion of the Auction shall be final, subject only to approval by the Court.

31. Unless otherwise agreed to by the Debtors and the Successful Bidder, within two (2) business days after adjournment of the Auction, the Successful Bidder shall complete and execute all agreements, contracts, instruments and other documents evidencing and containing the terms and conditions upon which the Successful Bid was made. Within one (1) business day following the adjournment of the Auction, the Debtors shall file a notice identifying the Successful Bidder with the Court and shall serve such notice by fax, email or overnight mail to all counterparties whose contracts are to be assumed and assigned.

32. The Debtors will sell the Offered Assets to the Successful Bidder pursuant to the terms of the Successful Bid upon the approval of such Successful Bid by the Court at the Sale Hearing. In the event that the Successful Bid is a Chapter 11 Plan Bid, the Sale Hearing will not go forward and the Debtors will seek to prosecute confirmation of the plan of reorganization proposed by such Chapter 11 Plan Bid.

J. Return of Deposits

33. All deposits shall be returned to each bidder not selected by the Debtors as the Successful Bidder or the Back-Up Bidder (as defined below) no later than five (5) business days following the conclusion of the Auction.

K. Back-Up Bidder

34. If an Auction is conducted and the Successful Bid is not a Chapter 11 Plan Bid, the Qualified Bidder or Qualified Bidders with the next highest or otherwise best Qualified Bid to the Successful Bidder, as determined by the Debtors in the exercise of their business judgment, at the Auction shall be required to serve as a back-up bidder (the “Back-Up Bidder”) and keep such bid open and irrevocable until sixteen (16) business days after the Sale Hearing

(or, if the Successful Bid is a Chapter 11 Plan Bid, until confirmation of such plan of reorganization). If the Successful Bidder fails to consummate the approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Back-Up Bidder will be deemed to be the new Successful Bidder, and the Debtors will be authorized, but not required, to consummate the sale with the Back-Up Bidder without further order of the Court. For the avoidance of doubt, there will be no Back-Up Bidder if the Successful Bid is a Chapter 11 Plan Bid.

L. Expense Reimbursement

35. In recognition of expenditure of time, energy, and resources, the Debtors have agreed that if the Stalking Horse Purchaser is not the Successful Bidder, the Debtors will pay the Stalking Horse Purchaser the Expense Reimbursement, subject to a cap of \$1,000,000. The Stalking Horse Purchaser shall provide reasonable documentation of the Expense Reimbursement to the Debtors and the Office of the United States Trustee. The Expense Reimbursement shall be payable as provided for pursuant to the terms of the Stalking Horse Agreement.

36. The Debtors have further agreed that their obligation to pay the Expense Reimbursement pursuant to the Stalking Horse Agreement shall survive termination of the Stalking Horse Agreement, shall, to the extent owed by the Debtors, constitute an administrative expense claim under section 503(b) of the Bankruptcy Code and shall be payable within two (2) business days under the terms and conditions of the Stalking Horse Agreement and the Bid Procedures Order, notwithstanding section 507(a) of the Bankruptcy Code.

M. Sale Hearing

37. The Debtors will seek entry of an order from the Court at the Sale Hearing to begin on or before July 27, 2015, to approve and authorize the sale transaction to the Successful

Bidder on terms and conditions determined in accordance with the Bid Procedures. If, however, the Successful Bid is a Chapter 11 Plan Bid, the Sale Hearing will not go forward and the Debtors will seek to prosecute confirmation of the plan of reorganization proposed by such Chapter 11 Plan Bid.

Notice of Sale Hearing

38. As stated above, the Debtors request that this Court schedule the Sale Hearing for July 27, 2015. The Debtors propose that any objections to the Sale be filed by 4:00 p.m. (prevailing Eastern Time) on July 24, 2015 (the “Sale Objection Deadline”).

39. The Debtors also request that the Court approve the form of the Procedures Notice, substantially in the form of Exhibit 3 to the Bid Procedures Order. The Debtors will serve a copy of the Procedures Notice on the following parties: (a) the US Trustee, (b) the Official Committee of Unsecured Creditors, (c) any parties requesting notices in these cases pursuant to Bankruptcy Rule 2002, (d) counsel to the Stalking Horse Purchaser, and (e) all Potential Bidders (collectively with the parties specified in this paragraph, the “Procedures Notice Parties”).

40. The Debtors propose to serve the Procedures Notice within two (2) business days following entry of the Bidding Procedures Order, by first-class mail, postage prepaid on the Procedures Notice Parties. The Procedures Notice provides that any party that has not received a copy of the Motion or the Bidding Procedures Order that wishes to obtain a copy of the Motion or the Bidding Procedures Order, including all exhibits thereto, may make such a request in writing to DLA Piper LLP (US), Attn: David Avraham, DLA Piper LLP (US), 203 North LaSalle Street, Suite 1900, Chicago, IL 60601 or by emailing david.avraham@dlapiper.com.

41. In the event that the Successful Bid is determined to be a Chapter 11 Plan Bid, the Debtors will as soon as possible after such determination, file and serve a notice on the Procedures Notices Parties indicating that the Sale Hearing will not forward and that the Debtors will seek to prosecute confirmation of the plan of reorganization proposed by such Chapter 11 Plan Bid.

42. The Debtors submit that the foregoing notices comply fully with Bankruptcy Rule 2002 and are reasonably calculated to provide timely and adequate notice of the Bidding Procedures, Auction and Sale, and Sale Hearing to the Debtors' creditors and other parties in interests as well as to those who have expressed an interest or are likely to express an interest in bidding on the Offered Assets. Based on the foregoing, the Debtors respectfully request that this Court approve these proposed notice procedures.

Sale Hearing

43. At the Sale Hearing, the Debtors will seek Court approval of the Sale to the Successful Bidder, free and clear of all liens, claims and encumbrances pursuant to section 363 of the Bankruptcy Code, with all liens, claims and encumbrances to attach to the Sale Proceeds with the same validity and in the same order of priority as they attached to the Offered Assets prior to the Sale, including the assumption by the Debtors and assignment to the Successful Bidder of the Assumed Executory Contracts and Leases pursuant to section 365 of the Bankruptcy Code. The Debtors will submit and present additional evidence, as necessary, at the Sale Hearing demonstrating that the Sale is fair, reasonable and in the best interest of the Debtors' estates and all interested parties. If, however, the Successful Bid is a Chapter 11 Plan Bid, the Sale Hearing will not go forward and the Debtors will seek to prosecute confirmation of the plan of reorganization proposed by such Chapter 11 Plan Bid.

Procedures for the Assumption and Assignment of Assigned Contracts and Leases

44. As noted above, the Debtors will seek to assume and assign certain Contracts and Leases to be identified on schedules to the Purchase Agreement other than those agreements excluded by the Successful Bidder pursuant to such bidder's Purchase Agreement (collectively, the "Assumed Executory Contracts").

45. At least initially, the Assumed Executory Contracts will be those Contracts and Leases that the Debtors believe may be assumed and assigned as part of the orderly transfer of the Offered Assets. The Successful Bidder may choose to exclude (or to add) certain Contracts or Leases to the list of Assumed Executory Contracts, subject to further notice.

46. In the interim, the Debtors will serve the Motion and the Cure Notice, substantially in the form of Exhibit 4 to the Bid Procedures Order, upon each counterparty to the Assumed Executory Contracts by no later than July 13, 2015. The Cure Notice will state the date, time and place of the Sale Hearing as well as the date by which any objection to the assumption and assignment of Assumed Executory Contracts must be filed and served. The Cure Notice also will identify the amounts, if any, that the Debtors believe are owed to each counterparty to an Assumed Executory Contract in order to cure any defaults that exist under such contract (the "Cure Amounts"). To the extent there is a contract added to the list of contracts to be assumed by the Successful Bidder pursuant to the Successful Bidder's Purchase Agreement selected at the Auction, this Motion constitutes a separate motion to assume and assign that contract to the Successful Bidder pursuant to section 365 of the Bankruptcy Code; each such contract will be listed on an exhibit to the Successful Bidder's Purchase Agreement, and will be given a separate Cure Notice.

47. If a Contract or Lease is assumed and assigned pursuant to Court Order, then unless the Assumed Executory Contract counterparty properly files and serves an objection to

the Cure Amount contained in the Cure Notice, the Assumed Executory Contract counterparty will receive at the time of the Closing of the sale (or as soon as reasonably practicable thereafter), the Cure Amount as set forth in the Cure Notice, if any. If an objection is filed by a counterparty to an Assumed Executory Contract, the Debtors propose that such objection must set forth a specific default in the executory contract or unexpired lease, claim a specific monetary amount that differs from the amount, if any, specified by the Debtors in the Cure Notice, and set forth any reason why the counterparty believes the executory contract or unexpired lease cannot be assumed and assigned to the Successful Bidder.

48. If any counterparty objects for any reason to the assumption and assignment of an Assumed Executory Contract (a “Assumption Objection”), the Debtors propose that the counterparty must file the objection by no later than (i) 4:00 p.m. (prevailing Eastern Time) on July 24, 2015 (the “Assumption Objection Deadline”) or (ii) the date otherwise specified in the Cure Notice (or, alternatively, the date set forth in the motion to assume such Assumed Executory Contract if such contract is to be assumed and assigned after the Auction), provided, however, that any counterparty may raise at the Sale Hearing an objection to the assumption and assignment of the Assumed Executory Contract solely with respect to the Successful Bidder’s ability to provide adequate assurance of future performance under the Assumed Executory Contract. After receipt of an Assumption Objection, the Debtors will attempt to reconcile any differences in the Cure Amount or otherwise resolve the objection with the counterparty. In the event that the Debtors and the counterparty cannot resolve an Assumption Objection, and the Court does not otherwise make a determination at the Sale Hearing regarding an Assumption Objection related to a Cure Amount, the Debtors may, in its discretion, segregate any disputed

Cure Amounts pending the resolution of any such Cure Amount disputes by the Court or mutual agreement of the parties.

49. The Successful Bidder shall be responsible for satisfying any requirements regarding adequate assurance of future performance that may be imposed under section 365(b) of the Bankruptcy Code in connection with the proposed assignment of any Assumed Executory Contract, and the failure to provide adequate assurance of future performance to any counterparty to any Assumed Executory Contract shall not excuse the Successful Bidder from performance of any and all of its obligations pursuant to the Successful Bidder's Purchase Agreement. The Debtors propose that the Court make its determinations concerning adequate assurance of future performance under the Assumed Executory Contracts pursuant to section 365(b) of the Bankruptcy Code at the Sale Hearing. Cure Amounts disputed by any counterparty will be resolved by the Court at the Sale Hearing or such later date as may be agreed to or ordered by the Court.

50. Except to the extent otherwise provided in the Successful Bidder's Purchase Agreement, the Debtors and the Debtors' estates shall be relieved of all liability accruing or arising after the assumption and assignment of the Assumed Executory Contracts pursuant to section 365(k) of the Bankruptcy Code.

II. APPLICABLE AUTHORITY

A. **The Sale of the Offered Assets is Authorized by Section 363 as a Sound Exercise of the Debtors' Business Judgment**

51. In accordance with Bankruptcy Rule 6004, sales of property rights outside the ordinary course of business may be by private sale or public auction. The Debtors have determined that the Sale of the Offered Assets by public auction will enable them to obtain the highest and best offer for these assets (thereby maximizing the value of the estate) and is in the

best interests of the Debtors' creditors. In particular, the Stalking Horse Agreement is the result of comprehensive arm's length negotiations for the Sale of the Offered Assets and the Sale pursuant to the terms of the Stalking Horse Agreement, subject to higher or otherwise better offers at the Auction, will provide a greater recovery for the Debtors' creditors than would be provided by any other existing alternative.

52. Section 363 of the Bankruptcy Code provides that a trustee, "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b). Although section 363 of the Bankruptcy Code does not specify a standard for determining when it is appropriate for a court to authorize the use, sale or lease of property of the estate, a sale of a debtor's assets should be authorized if a sound business purpose exists for doing so. See, e.g., Meyers v. Martin (In re Martin), 91 F.3d 389, 395 (3d Cir. 1996); In re Abbotts Dairies of Pennsylvania, Inc., 788 F.2d 143 (2d Cir. 1986); In re Titusville Country Club, 128 B.R. 396 (W.D. Pa. 1991); In re Delaware & Hudson Ry. Co., 124 B.R. 169, 176 D. Del. 1991); see also Official Committee of Unsecured Creditors v. The LTV Corp. (In re Chateaugay Corp.), 973 F.2d 141, 143 (2d Cir. 1992); Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063, 1070 (2d Cir. 1983); Committee of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp. (In re Johns-Manville Corp.), 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986).

53. The paramount goal in any proposed sale of property of the estate is to maximize the proceeds received by the estate. See, e.g., In re Food Barn Stores, Inc., 107 F.3d 558, 564-65 (8th Cir. 1997) (in bankruptcy sales, "a primary objective of the Code [is] to enhance the value of the estate at hand"); Integrated Resources, 147 B.R. at 659 ("It is a well-established principle of bankruptcy law that the. . . [trustee's] duty with respect to such sales is to obtain the

highest price or greatest overall benefit possible for the estate.”) (quoting In re Atlanta Packaging Prods., Inc., 99 BR. 124, 130 (Bankr. N.D. Ga. 1988)). As long as the sale appears to enhance a debtor’s estate, court approval of a trustee’s decision to sell should only be withheld if the trustee’s judgment is clearly erroneous, too speculative, or contrary to the provisions of the Bankruptcy Code. GBL Holding Co., Inc. v. Blackburn/Travis/Cole, Ltd., 331 B.R. 251, 255 (N.D. Tex. 2005); In re Lajijani, 325 B.R. 282, 289 (9th Cir. B.A.P. 2005); In re WPRV-TV, Inc., 143 B.R. 315, 319 (D. P.R. 1991) (“The trustee has ample discretion to administer the estate, including authority to conduct public or private sales of estate property. Courts have much discretion on whether to approve proposed sales, but the trustee’s business judgment is subject to great judicial deference.”).

54. Applying section 363, the proposed Sale of the Offered Assets should be approved. As set forth above, the Debtors have determined that the best method of maximizing the recovery of the Debtors’ creditors would be through the Sale of the Offered Assets. The fairness and reasonableness of the consideration to be paid by the purchaser(s) will be demonstrated by adequate “market exposure” and an open and fair auction process — the best means for establishing whether a fair and reasonable price is being paid. In order to ensure a fair auction process, the Debtors have and will continue to solicit interest from numerous potential purchasers.

55. Further, the Debtors believe that the value the Debtors’ estates—and, thus, the Debtors’ creditors—will receive for the Sale of the Offered Assets exceeds any value the Debtors’ estates could get for the Offered Assets if the Debtors were required to liquidate their assets piecemeal. As assurance of value, bids will be tested through the Auction consistent with the requirements of the Bankruptcy Code, the Bankruptcy Rules, and pursuant to the Bidding

Procedures approved by the Court. Consequently, the fairness and reasonableness of the consideration to be paid by the Successful Bidder ultimately will be demonstrated by adequate “market exposure” and an open and fair auction process — the best means, under the circumstances, for establishing whether a fair and reasonable price is being paid.

56. The Debtors believe that the timeline for the marketing and sale of the Offered Assets is adequate, especially considering the marketing efforts that previously occurred with respect to the Debtors’ businesses. In addition to the Debtors’ prior efforts, since the Petition Date, the Debtors’ investment banker has been contacting potential interested parties and has provided them access to a data room that has been assembled upon the execution of an appropriate confidentiality agreement. There is a limited universe of potential acquirers of the Offered Assets, and, the Debtors and their advisors have been active discussions with most, if not all, of these potential purchasers.

B. The Bidding Procedures Are Appropriate and Will Maximize the Value Received for the Offered Assets.

57. As noted above, the paramount goal in any proposed sale of property of the estate is to maximize the proceeds received by the estate. To that end, courts uniformly recognize that procedures intended to enhance competitive bidding are consistent with the goal of maximizing the value received by the estate and therefore are appropriate in the context of bankruptcy sales. See, e.g., In re Fin’l News Network, Inc., 126 B.R. 152, 156 (Bankr. S.D.N.Y. 1991) (“court-imposed rules for the disposition of assets . . . [should] provide an adequate basis for comparison of offers, and [should] provide for a fair and efficient resolution of bankrupt estates”).

58. Procedures to dispose of assets, similar to the proposed Bidding Procedures, have been approved in other bankruptcy cases. See, e.g., In re Velti Inc., Case No. 13-12878

(PJW) (Bankr. D. Del. Nov. 20, 2013); In re Orchard Supply Hardware Stores Corp., Case No. 13-11565 (CSS) (Bankr. D. Del. Jul. 8, 2013); In re Conex Holdings LLC, Case No. 11-10501 (CSS) (Bankr. D. Del. Sept. 14, 2011); In re Barnes Bay Dev. Ltd., Case No. 11-10792 (PJW) (Bankr. D. Del. May 19, 2011); In re East West Resort Dev. V, L.P., L.L.L.P., Case No. 10-10452 (BLS) (Bankr. D. Del. March 31, 2010); In re Dana Corp., Case No. 06-10354 (Bankr. S.D.N.Y. Oct. 19, 2006); In re Delphi Corp., Case No. 05-44481 (Bankr. S.D.N.Y. June 22, 2006); In re Oxford Automotive, Inc., Case No. 04-74377 (Bankr. E.D. Mich. Jan. 24, 2005); see also In re Calpine Corp., Case No. 05-60200 (Bankr. S.D.N.Y. Dec. 6, 2006).

59. The Debtors believe that the Bidding Procedures will establish the parameters under which the value of the Offered Assets may be tested at an auction and through the ensuing Sale Hearing. Such procedures will increase the likelihood that the Debtors' creditors will receive the greatest possible consideration for their assets because they will ensure a competitive and fair bidding process. They also allow the Debtors to undertake an auction in as expeditious and efficient manner as possible, which the Debtors believe is essential to maximizing the value of the Debtors' estate for its creditors.

60. The Debtors also believe that the proposed Bidding Procedures will promote active bidding from seriously interested parties and will dispel any doubt as to the best and highest offer reasonably available for the Debtors' assets. In particular, the proposed Bidding Procedures will allow the Debtors to conduct an auction in a controlled, fair and open fashion that will encourage participation by financially capable bidders who demonstrate the ability to close a transaction.

61. In sum, the Debtors believe that the Bidding Procedures will encourage bidding for the Offered Assets and are consistent with the relevant standards governing auction

proceedings and bidding incentives in bankruptcy proceedings. Accordingly, the proposed Bidding Procedures are reasonable, appropriate and within the Debtors' sound business judgment.

C. Credit Bidding Should be Authorized

62. A secured creditor is allowed to "credit bid" the amount of its claim in a sale. Section 363(k) of the Bankruptcy Code provides, in relevant part, that in a sale under section 363 of the Bankruptcy Code, unless the court for cause orders otherwise, the holder of a claim secured by property that is the subject of the sale "may bid at such sale, and, if the holder of such claim purchases such property, such holder may offset such claim against the purchase price of such property." 11 U.S.C. § 363(k). Even if a secured creditor is undersecured, as determined in accordance with section 506(a) of the Bankruptcy Code, section 363(k) allows such secured creditor to bid the total face value of its claim on its collateralized assets and does not limit the credit bid to the claim's economic value. See Cohen v. KB Mezzanine Fund II, LP (In re Submicron Sys. Corp.), 432 F.3d 448, 459-60 (3d Cir. 2006) (explaining that "[i]t is well settled among district and bankruptcy courts that creditors can bid the full face value of their secured claims under § 363(k)").

63. Pursuant to the Bidding Procedures, the Stalking Horse Purchaser is entitled to credit bid some or all of the Claim Amount pursuant to section 363(k) of the Bankruptcy Code. Because the Claim Amount is secured by the Offered Assets, the Stalking Horse Purchaser should be allowed to credit bid up to the Claim Amount in order to purchase the Offered Assets.

D. The Sale of the Offered Assets Free and Clear of Liens and Other Interests is Authorized by Sections 363(f)

64. The Debtors further submit that it is appropriate to sell the Offered Assets free and clear of liens pursuant to section 363(f) of the Bankruptcy Code, with any such liens

attaching to the Sale Proceeds of the Offered Assets to the extent applicable. Section 363(f) of the Bankruptcy Code authorizes a trustee to sell assets free and clear of liens, claims, interests and encumbrances if:

- (1) applicable nonbankruptcy law permits the sale of such property free and clear of such interests;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest. 11 U.S.C. § 363(f).

65. This provision is supplemented by section 105(a) of the Bankruptcy Code, which provides that “[t]he Court may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a).

66. Because section 363(f) of the Bankruptcy Code is drafted in the disjunctive, satisfaction of any one of its five requirements will suffice to permit the sale of the Offered Assets “free and clear” of liens and interests. In re Dundee Equity Corp., 1992 Bankr. LEXIS 436, at *12 (Bankr. S.D.N.Y. March 6, 1992) (“[s]ection 363(f) is in the disjunctive, such that the sale free of the interest concerned may occur if any one of the conditions of § 363(f) have been met.”); In re Bygaph, Inc., 56 B.R. 596, 606 n.8 (Bankr. S.D.N.Y. 1986) (same); Michigan Employment Sec. Comm’n v. Wolverine Radio Co. (In re Wolverine Radio Co.), 930 F.2d 1132, 1147 n.24 (6th Cir. 1991) (stating that Bankruptcy Code section 363(f) is written in the disjunctive; holding that the court may approve the sale “free and clear” provided at least one of the subsections of Bankruptcy Code section 363(f) is met).

67. The Debtors believe that one or more of the tests of section 363(f) are satisfied with respect to the transfer of the Offered Assets pursuant to the Purchase Agreement. In particular, the Debtors believe that at least sections 363(f)(2) or (3) will be met in connection with the transactions proposed under the Purchase Agreement because (i) each of the parties holding liens on the Offered Assets will consent or, absent any objection to this motion, will be deemed to have consented to the Sale, and (ii) the Offered Assets will be sold at a price well in excess of the aggregate amount of any liens encumbering such assets. Any lienholder also will be adequately protected by having their liens, if any, in each instance against the Debtors or their estate, attach to the Sale Proceeds ultimately attributable to the Offered Assets in which such creditor alleges an interest, in the same order of priority, with the same validity, force and effect that such creditor had prior to the Sale, subject to any claims and defenses the Debtors may possess with respect thereto. Accordingly, section 363(f) authorizes the transfer and conveyance of the Debtors' assets free and clear of any such claims, interests, liabilities or liens.

68. Although section 363(f) of the Bankruptcy Code provides for the sale of assets "free and clear of any interests," the term "any interest" is not defined anywhere in the Bankruptcy Code. Folger Adam Security v. DeMatteis/MacGregor JV, 209 F.3d 252, 257 (3d Cir. 2000). In the case of In re Trans World Airlines, Inc., 322 F.3d 283, 288-89 (3d Cir. 2003), the Third Circuit specifically addressed the scope of the term "any interest." The Third Circuit observed that while some courts have "narrowly interpreted that phrase to mean only in rem interests in property," the trend in modern cases is towards "a more expansive reading of 'interests in property' which 'encompasses other obligations that may flow from ownership of the property.'" Id. at 289 (citing 3 Collier on Bankruptcy 15th Ed. Rev., ¶ 363.06[1] (L. King, 15th rev. ed. 1988)). As determined by the Fourth Circuit in In re Leckie Smokeless Coal Co.,

99 F.3d 573, 581-582 (4th Cir. 1996), a case cited with approval and extensively by the Third Circuit in Folger, supra, the scope of section 363(f) is not limited to in rem interests. Thus, the Third Circuit in Folger stated that Leckie held that the Debtors “could sell their assets under § 363(f) free and clear of successor liability that otherwise would have arisen under federal statute.” Folger, 209 F.3d at 258 (citing Leckie, 99 F.3d at 582).

69. Courts have consistently held that a buyer of a debtor’s assets pursuant to a section 363 sale takes such assets free from successor liability resulting from pre-existing claims. See The Ninth Avenue Remedial Group v. Allis-Chalmers Corp., 195 B.R. 716, 732 (Bankr. N.D. Ind. 1996) (stating that a bankruptcy court has the power to sell assets free and clear of any interest that could be brought against the bankruptcy estate during the bankruptcy); MacArthur Company v. Johns-Manville Corp. (In re Johns-Manville Corp.), 837 F.2d 89, 93-94 (2d Cir. 1988) (channeling of claims to proceeds consistent with intent of sale free and clear under section 363(f) of the Bankruptcy Code); In re New England Fish Co., 19 B.R. 323, 329 (Bankr. W.D. Wash. 1982) (transfer of property in free and clear sale included free and clear of Title VII employment discrimination and civil rights claims of debtor’s employees); In re Hoffman, 53 B.R. 874, 876 (Bankr. D.R.I. 1985) (transfer of liquor license free and clear of any interest permissible even though the estate had unpaid taxes); American Living Systems v. Bonapfel (In re All Am. of Ashburn, Inc.), 56 B.R. 186, 190 (Bankr. N.D. Ga. 1986) (product liability claims based on successor doctrine precluded after sale of assets free and clear); WBO P’ship v. Virginia Dept. of Medical Assistance Servs. (In re WBO P’ship), 189 B.R. 97, 104-05 (Bankr. E.D. Va. 1995) (Commonwealth of Virginia’s right to recapture depreciation is an

“interest” as used in section 363(f)).⁴ The purpose of an order purporting to authorize the transfer of assets free and clear of all “interests” would be frustrated if claimants could thereafter use the transfer as a basis to assert claims against the purchaser arising from the Debtors’ pre-sale conduct. Under section 363(f) of the Bankruptcy Code, the purchaser is entitled to know that the Debtors’ assets are not infected with latent claims that will be asserted against the purchaser after the proposed transaction is completed. Accordingly, consistent with the above-cited case law, the order approving the Sale should state that the Successful Bidder is not liable as a successor under any theory of successor liability, for claims that encumber or relate to the Offered Assets.

E. The Proposed Notice of Bidding Procedures and Auction Is Appropriate

70. The Debtors believe that it will obtain the maximum recovery for creditors of the Debtors’ estate if the Offered Assets of the Debtors are sold through a well-advertised sale and auction. The Debtors have already taken significant steps to identify potential purchasers.

71. Under Bankruptcy Rules 2002(a) and (c), the Debtors are required to notify creditors of the proposed sale of the Debtors’ assets, including a disclosure of the time and place of an auction, the terms and conditions of a sale, and the deadline for filing any objections. The Debtors submit that the notice procedures herein comply fully with Bankruptcy Rule 2002 and are reasonably calculated to provide timely and adequate notice of the sale by auction to the Debtors’ creditors and other interested parties, as well as to those parties who have expressed an interest, or may express an interest, in bidding on the Offered Assets. The proposed time frame

⁴ Some courts, concluding that section 363(f) of the Bankruptcy Code does not empower them to convey assets free and clear of claims, have nevertheless found that section 105(a) of the Bankruptcy Code provides such authority. See, e.g., Volvo White Truck Corp. v. Chambersburg Beverage, Inc. (In re White Motor Credit Corp.), 75 B.R. 944, 948 (Bankr. N.D. Ohio 1987) (stating that the absence of specific authority to sell assets free and clear of claims poses no impediment to such a sale, as such authority is implicit in the court’s equitable powers when necessary to carry out the provisions of title 11).

between the filing of this Motion, the commencement of the bidding process and the Auction should provide interested purchasers ample time to participate in the Auction.

F. The Expense Reimbursement is Appropriate Under the Circumstances

72. The Debtors submit that the Expense Reimbursement is a normal and oftentimes necessary component of sales outside the ordinary course of business under section 363 of the Bankruptcy Code. In particular, such a protection encourages a potential purchaser to invest the requisite time, money and effort to conduct due diligence and sale negotiations with a debtor despite the inherent risks and uncertainties of the chapter 11 process. See, e.g., In re Comdisco, Inc., Case No. 01 24795 (RB) (Bankr. N.D. Ill. Aug. 9, 2002) (approving a termination fee as, inter alia, an actual and necessary cost and expense of preserving the debtor's estate, of substantial benefit to the debtor's estate and a necessary inducement for, and a condition to, the proposed purchaser's entry into the purchase agreement); Integrated Resources, 147 B.R. at 660 (noting that fees may be legitimately necessary to convince a "white knight" to offer an initial bid by providing some form of compensation for the expenses such bidder incurs and the risks such bidder faces by having its offer held open, subject to higher and better offers); In re Hupp Indus., 140 B.R. 191, 194 (Bankr. N.D. Ohio 1997) (without any reimbursement, "bidders would be reluctant to make an initial bid for fear that their first bid will be shopped around for a higher bid from another bidder who would capitalize on the initial bidder's . . . due diligence"); In re Marrose Corp., 1992 WL 33848, at *5 (Bankr. S.D.N.Y. 1992) (stating that "agreements to provide reimbursement of fees and expenses are meant to compensate the potential acquirer who serves as a catalyst or 'stalking horse' which attracts more favorable offers"); In re 995 Fifth Ave. Assocs., 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989) (finding that bidding incentives may be "legitimately necessary to convince a white knight to enter the bidding by providing some form of compensation for the risks it is undertaking") (citations omitted).

73. Moreover, expense reimbursements, similar to the Expense Reimbursement sought to be approved by this Motion, have been approved in other chapter 11 cases in this Court. See, e.g., See, e.g., re Nortel Networks Inc., Case No. 09-10138 (KG) (Bankr. D. Del. Feb. 27, 2009) (approving up to \$400,000 in expense reimbursements in connection with \$17.65 million sale); In re Tallygenicom, L.P., Case No. 09-10266 (CSS) (Bankr. D. Del. Feb. 19, 2009) (approving \$750,000 expense reimbursement in connection with \$36.6275 million sale); In re Fluid Routing Solutions Intermediate Holding Corp., Case No. 09-10384 (CSS) (Bankr. D. Del. Feb. 19, 2009) (approving expense reimbursement of \$750,000 in connection with an \$11 million sale).

74. A proposed bidding incentive, such as the Expense Reimbursement, should be approved when it is in the best interests of the estate. In re S.N.A. Nut Co., 186 B.R. 98, 104 (Bankr. N.D. Ill. 1995); see also In re America West Airlines, Inc., 166 B.R. 908 (Bankr. D. Ariz. 1994); In re Hupp Indus., Inc., 140 B.R. 191 (Bankr. N.D. Ohio 1992). Typically, this requires that the bidding incentive provide some benefit to the debtor's estate. Calpine Corp. v. O'Brien Env'tl. Energy, Inc. (In re O'Brien Env'tl. Energy, Inc.), 181 F.3d 527, 533 (3d Cir. 1999) (holding even though bidding incentives are measured against a business judgment standard in non bankruptcy transactions the administrative expense provisions of Bankruptcy Code section 503(b) govern in the bankruptcy context).

75. In Calpine Corp. v. O'Brien Env'tl. Energy, Inc. (In re O'Brien Env'tl. Energy), the Third Circuit found that whether break up fees and expenses could be paid to Calpine Corp. ("Calpine") as a "stalking horse" depended on whether such fees were necessary to preserve the value of the estate. O'Brien Env'tl. Energy, 181 F.3d at 536. The court determined that Calpine's right to break up fees and expenses depended on whether it provided a benefit to the

debtor's estate by promoting competitive bidding or researching the value of the assets at issue to increase the likelihood that the selling price reflected the true value of the company. Id. at 537. The Debtors believe that approval of the Expense Reimbursement will create such a competitive bidding process.

76. The Debtors believe that the proposed Expense Reimbursement is fair and reasonably compensates the Stalking Horse Purchaser for taking actions that will benefit the Debtors' estates. The Expense Reimbursement compensates the Stalking Horse Purchaser for diligence and professional fees incurred in negotiating the terms of the Stalking Horse Agreement on an expedited timeline.

77. Next, the Debtors do not believe that the Expense Reimbursement will have a chilling effect on the sale process. Rather, the Stalking Horse Purchaser will increase the likelihood that the best possible price for the Offered Assets will be received, by permitting other qualified bidders to rely on the diligence performed by the Stalking Horse Purchaser, and moreover, by allowing qualified bidders to utilize the Stalking Horse Agreement as a platform for negotiations and modifications in the context of a competitive bidding process.

78. Finally, the Expense Reimbursement will be paid only if, among other things, the Debtors enter into a transaction for the Offered Assets with a bidder other than the Stalking Horse Purchaser. Accordingly, no Expense Reimbursement will be paid unless a higher and better offer is achieved and consummated.

79. In sum, the Expense Reimbursement is reasonable under the circumstances and will enable the Debtors to maximize the value for the Offered Assets while limiting any chilling effect in the sale process. The Expense Reimbursement not only compensates the Debtors for the risk that they assume in foregoing a known, willing and able purchaser for a new potential

acquirer, but also ensure that there is an increase in the net proceeds received by their estates, after deducting the Expense Reimbursement to be paid to the Stalking Horse Purchaser in the event of a prevailing overbid.

G. Assumption and Assignment of Certain Executory Contracts and Unexpired Leases

80. Section 365(a) of the Bankruptcy Code provides that, subject to the court's approval, a trustee "may assume or reject any executory contracts or unexpired leases of the debtor." 11 U.S.C. § 365(a). Upon finding that a trustee has exercised its sound business judgment in determining to assume an executory contract or unexpired lease, courts will approve the assumption under section 365(a) of the Bankruptcy Code. See Nostas Assocs. v. Costich (In re Klein Sleep Prods., Inc.), 78 F.3d 18, 25 (2d Cir. 1996); Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.), 4 F.3d 1095, 1099 (2d Cir. 1993).

81. Pursuant to section 365(f)(2) of the Bankruptcy Code, a trustee may assign an executory contract or unexpired lease of nonresidential real property if:

(A) the trustee assumes such contract or lease in accordance with the provisions of this section; and

(B) adequate assurance of future performance by the assignee of such contract or lease is provided, whether or not there has been a default in such contract or lease.

11 U.S.C. § 365(f)(2).

82. The meaning of "adequate assurance of future performance" depends on the facts and circumstances of each case, but should be given "practical, pragmatic construction." See Carlisle Homes, Inc. v. Arrari (In re Carlisle Homes, Inc.), 103 B.R. 524, 538 (Bankr. D.N.J. 1989); see also In re Natco Indus., Inc., 54 B.R. 436, 440 (Bankr. S.D.N.Y. 1985) (adequate assurance of future performance does not mean absolute assurance that debtor will thrive and pay rent); In re Bon Ton Rest. & Pastry Shop, Inc., 53 B.R. 789, 803 (Bankr. N.D. Ill. 1985)

(“Although no single solution will satisfy every case, the required assurance will fall considerably short of an absolute guarantee of performance.”).

83. Among other things, adequate assurance may be given by demonstrating the assignee’s financial health and experience in managing the type of enterprise or property assigned. In re Bygaph, Inc., 56 B.R. 596, 605-06 (Bankr. S.D.N.Y. 1986) (adequate assurance of future performance is present when prospective assignee of lease has financial resources and expressed willingness to devote sufficient funding to business to give it strong likelihood of succeeding; chief determinant of adequate assurance is whether rent will be paid).

84. The Debtors and the Successful Bidder will present evidence at the Sale Hearing to prove the financial credibility, willingness and ability of the Successful Bidder to perform under the Contracts or Leases. The Court and other interested parties therefore will have the opportunity to evaluate the ability of any Successful Bidder to provide adequate assurance of future performance under the Contracts or Leases, as required by section 365(b)(1)(C) of the Bankruptcy Code.

85. In addition, the Cure Procedures are appropriate and consistent with section 365 of the Bankruptcy Code. To the extent that any defaults exist under any Assumed Executory Contracts, any such defaults will be cured pursuant to the Successful Bidder’s Purchase Agreement. Except as otherwise limited by section 365 of the Bankruptcy Code, any provision in the Assumed Executory Contracts that would restrict, condition, or prohibit an assignment of such contracts will be deemed unenforceable pursuant to section 365(f)(1) of the Bankruptcy Code.

86. Accordingly, the Debtors submit that the Cure Procedures for effectuating the assumption and assignment of the Assumed Executory Contracts as set forth herein are appropriate and should be approved.

H. The Successful Bidder Should be Afforded All Protections Under Section 363(m) as A Good Faith Purchaser

87. Section 363(m) of the Bankruptcy Code protects a good-faith purchaser's interest in property purchased from the debtor's estate notwithstanding that the sale conducted under section 363(b) is later reversed or modified on appeal. Specifically, section 363(m) states that:

The reversal or modification on appeal of an authorization under [section 363(b)] . . . does not affect the validity of a sale . . . to an entity that purchased . . . such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale were stayed pending appeal.

11 U.S.C. § 363(m). Section 363(m) “fosters the ‘policy of not only affording finality to the judgment of the bankruptcy court, but particularly to give finality to those orders and judgments upon which third parties rely.’” In re Chateaugay Corp., 1993 U.S. Dist. Lexis 6130, *9 (S.D.N.Y. 1993) (quoting In re Abbotts Dairies of Penn., Inc., 788 F.2d 143, 147 (3d Cir. 1986)); see also Allstate Ins. Co. v. Hughes, 174 B.R. 884, 888 (S.D.N.Y. 1994) (“Section 363(m) . . . provides that good faith transfers of property will not be affected by the reversal or modification on appeal of an unstayed order, whether or not the transferee knew of the pendency of the appeal”); In re Stein & Day, Inc., 113 B.R. 157, 162 (Bankr. S.D.N.Y. 1990) (“pursuant to 11 U.S.C. § 363(m), good faith purchasers are protected from the reversal of a sale on appeal unless there is a stay pending appeal”).

88. The selection of the Successful Bidder will be the product of arm's-length, good faith negotiations in an anticipated competitive purchasing process. The Debtors intend to

request at the Sale Hearing a finding that the Successful Bidder is a good faith purchaser entitled to the protections of section 363(m) of the Bankruptcy Code.

I. Relief from the Fourteen Day Waiting Period Under Bankruptcy Rules 6004(h) and 6006(d) is Appropriate

89. Bankruptcy Rule 6004(h) provides that an “order authorizing the use, sale, or lease of property . . . is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Similarly, Bankruptcy Rule 6006(d) provides that an “order authorizing the trustee to assign an executory contract or unexpired lease . . . is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise.” The Debtors request that the Order be effective immediately by providing that the fourteen (14) day stays under Bankruptcy Rules 6004(h) and 6006(d) are waived.

90. The purpose of Bankruptcy Rules 6004(h) and 6006(d) is to provide sufficient time for an objecting party to appeal before an order can be implemented. See Advisory Committee Notes to Fed. R. Bankr. P. 6004(h) and 6006(d). Although Bankruptcy Rules 6004(h) and 6006(d) and the Advisory Committee Notes are silent as to when a court should “order otherwise” and eliminate or reduce the fourteen (14) day stay period, Collier suggests that the fourteen (14) day stay period should be eliminated to allow a sale or other transaction to close immediately “where there has been no objection to the procedure.” Collier on Bankruptcy P 6004.11 (Alan N. Resnick & Henry J. Sommer eds., 16th ed.). Furthermore, Collier provides that if an objection is filed and overruled, and the objecting party informs the court of its intent to appeal, the stay may be reduced to the amount of time actually necessary to file such appeal. Id.

91. The Debtors hereby request that the Court waive the fourteen-day stay periods under Bankruptcy Rules 6004(h) and 6006(d) or, in the alternative, if an objection to the Sale is

filed, reduce the stay period to the minimum amount of time needed by the objecting party to file its appeal.

Notice

92. Notice of this Motion has been provided to: (a) the US Trustee, (b) those parties requesting notice pursuant to Bankruptcy Rule 2002, (c) all creditors listed in the debtor's schedules of assets and liabilities, (d) the United States Attorney's Office for the District of Delaware, (e) the Internal Revenue Service, (f) the Securities and Exchange Commission; and (g) counsel to the Stalking Horse Purchaser. In light of the nature of the relief requested, the Debtors respectfully submits that no further notice of this Motion is required.

WHEREFORE, the Debtors respectfully requests that the Court enter orders substantially in the form attached hereto as Exhibit C and Exhibit D: (a) granting the relief requested herein and (b) granting to the Debtors such other and further relief as the Court may deem proper.

Dated: May 25, 2015
Wilmington, Delaware

Respectfully submitted,

/s/ R. Craig Martin

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Proposed Attorneys for Debtors And Debtors In Possession

Exhibit A

(Highlighted Provisions Pursuant to Del. Bankr. L.R. 6004-1)

In accordance with Local Rule 6004-1, the Debtors respectfully represents the following:

- (1) **Sale to an Insider:** The Debtors are not aware of a prospective buyer that is an Insider of the Debtors.
- (2) **Agreements with Management:** No agreements with management have been entered into in connection with the Sale.
- (3) **Releases:** No releases have been entered into in connection with the Sale.
- (4) **Private Sale/No Competitive Bidding:** The Sale is being conducted pursuant to the competitive bidding process detailed in the Motion.
- (5) **Closing and Other Deadlines:** The consummation of the transactions contemplated by the Successful Bidder's Purchase Agreement¹ shall take place at a closing to be held at the offices of DLA Piper LLP (US), 1251 Avenue of the Americas, 27th Floor, New York, NY 10020, or at such other location as deemed appropriate by the parties. In the event that the Successful Bid is a Chapter 11 Plan Bid, the Debtors will prosecute confirmation of the plan of reorganization proposed by such Chapter 11 Plan Bid.
- (6) **Good Faith Deposit:** All bidders except the Stalking Horse Purchaser will be required to post a good faith deposit in the form of a wire transfer (to a bank account specified by the Debtors), certified check or such other form acceptable to the Debtors, payable to the order of the Debtors (or such other party as the Debtors may determine) in an amount equal to ten percent (10%) of the Purchase Price.
- (7) **Interim Arrangements with Proposed Buyer:** The Debtors has not entered into any interim arrangements with any proposed buyer.
- (8) **Use of Proceeds:** Upon Closing, the sale proceeds shall be paid to the Debtors for distribution at the time of Closing in accordance with the priorities set forth in the Bankruptcy Code.
- (9) **Tax Exemption:** No tax exemptions under section 1146(a) of the Bankruptcy Code are contemplated in connection with the Sale.
- (10) **Record Retention:** The Debtors will continue to have access to its books and records related to the Offered Assets pursuant to section 5.14 of the Purchase Agreement.
- (11) **Sale of Avoidance Actions:** The Sale does not involve the sale of chapter 5 causes of action except those relating to the Successful Bidder and its affiliates,

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

contracts and leases assumed as part of the transaction and employees of the Debtors transferred as part of the transaction.

- (12) **Requested Findings as to Successor Liability:** The Successful Bidder may be undertaking certain Assumed Liabilities pursuant to the Successful Bidder's Purchase Agreement. The Successful Bidder would be assuming only those liabilities, and all other liabilities not expressly assumed by the Successful Bidder under the Successful Bidder's Purchase Agreement, whether or not incurred or accrued on or after the date on which the Sale is closed, shall be retained by the Debtors.
- (13) **Sale Free and Clear of Unexpired Leases:** The Debtors are seeking to sell the Offered Assets free and clear of liens and other interests pursuant to Section 363(f) of the Bankruptcy Code, unless otherwise provided in the Successful Bidder's Purchase Agreement.
- (14) **Credit Bid:** Credit bids shall be accepted in accordance with section 363(k) of the Bankruptcy Code. In connection with the Sale of all or any of the Offered Assets, the Stalking Horse Purchaser holds a perfected security interest in such Offered Assets and has submitted a credit bid for its collateral. It may submit additional credit bids for its collateral as it deems necessary and desirable.
- (15) **Relief from Bankruptcy Rule 6004(h):** As noted in the Motion, the Debtors are requesting relief from the 14-day stay imposed by Rules 6004(h) and 6006(d).

Exhibit B

(Stalking Horse Purchase Agreement)

EXECUTION VERSION

ASSET PURCHASE AGREEMENT

Among

IMRIS INC.,
IMRIS, INC.,
And
NEUROARM SURGICAL LIMITED

as Sellers,

And

DEERFIELD ACQUISITION CORP.,

as the Purchaser

Dated as of May 25, 2015

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT, dated as of May 25, 2015 (this “Agreement”), is made among IMRIS Inc, a Canadian corporation (the “Parent”), its wholly-owned subsidiaries, IMRIS, Inc., a Delaware corporation and NeuroArm Surgical Limited, a Canadian Corporation (together with the Parent, the “Sellers”), and Deerfield Acquisition Corp., a Delaware corporation (the “Purchaser”). Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in ARTICLE IX.

WHEREAS, the Sellers and the Non-Debtor Subs (as defined below) design, manufacture and market Image Guided Therapy Systems that enhance the effectiveness of therapy delivery (collectively, the “Business”);

WHEREAS, each Seller proposes to file a voluntary petition (collectively, the “Petitions”) for relief commencing cases (the “Chapter 11 Cases”) under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) on or before the third Business Day after the date of this Agreement (or such other date on which the Petitions are actually filed in the Bankruptcy Court, the “Petition Date”);

WHEREAS, the Sellers are party to that certain Facility Agreement (the “Facility Agreement”) with (i) Deerfield Private Design Fund II, L.P. (“Fund II”), (ii) Deerfield Private Design International II, L.P. (“International”) and (iii) Deerfield Special Situations Fund, L.P. (together with Fund II and International, the “Purchaser Related Entities”) pursuant to which the Sellers owe the Purchaser Related Entities \$26,874,162 (the “Claim Amount”) consisting of (a) principal, (b) accrued, but unpaid interest to, but not including, the date hereof and (c) related fees and expenses incurred in connection with the Facility Agreement; and

WHEREAS, the Purchaser desires to purchase and accept, and the Sellers desire to sell, convey, assign, transfer and deliver, or cause to be sold, conveyed, assigned, transferred and delivered, to the Purchaser, the Acquired Assets (as defined below), which include all of the equity interests in each Non-Debtor Sub, Parent’s direct Subsidiaries (such equity interests of all Non-Debtor Subs, collectively, the “Interests”), and the Purchaser is willing to assume, and the Sellers desire to assign and delegate to the Purchaser, the Assumed Liabilities (as defined below), all in the manner and subject to the terms and conditions set forth herein and in accordance with Sections 105, 363 and 365 of the Bankruptcy Code (such sale and purchase of the Acquired Assets and such assignment and assumption of the Assumed Liabilities, the “Acquisition”).

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I.

THE ACQUISITION

Section 1.1. Acquired Assets. On the terms and subject to the conditions set forth in this Agreement and, subject to approval of the Bankruptcy Court, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, at the Closing, the Sellers shall sell, assign, transfer, convey and deliver to the Purchaser, and the Purchaser shall purchase and accept from the Sellers, all right, title and interest of the Sellers in and to all rights, properties and assets of the Sellers, wherever located, whether tangible or intangible, as the same shall exist on the Closing Date, other than the Excluded Assets (collectively, the “Acquired Assets”), including all right, title and interest of the Sellers in and to the Acquired Assets that are listed or described below, in each case, free and clear of any and all Encumbrances of any and every kind, nature and description (other than Permitted Encumbrances):

(a) the Interests; *provided, however*, that any time prior to ten (10) days before the Closing the Purchaser, in its sole discretion, may determine that any Interests of a Non-Debtor Sub shall be an Excluded Asset for purposes of this Agreement;

(b) other than as set forth in Section 1.2. (m), all accounts receivable, notes receivable, checks, similar instruments and other amounts receivable that are owed or payable to any Seller, together with all security or other collateral therefor and any interest for unpaid financing charges accrued thereon, including any intercompany receivable from any Seller;

(c) all credits, claims for refunds, deposits for the benefit of third parties, prepaid expenses, advances, advance payments and deferred charges in favor of any Seller, including such of the foregoing as are listed and described on Schedule 1.1(c);

(d) the Assigned Contracts;

(e) all rights and remedies under all warranties, representations and guarantees made by suppliers, manufacturers and contractors;

(f) all inventory, finished goods, works in process, raw materials and packaging materials;

(g) the Assumed Leases and all rights thereunder, including all options to renew, purchase, expand or lease (including rights of first refusal, first negotiation and first offer), all credit for the prepaid rent associated therewith, and all security deposits and other deposits made in connection therewith;

(h) all machinery, equipment, property, furniture, fixtures, furnishings, vehicles, spare parts, leasehold improvements, artwork, desks, chairs, tables, computer and computer-related hardware, software and firmware, files, documents, network and internet- and information technology systems-related equipment, copiers, telephone lines and numbers, facsimile machines and other telecommunication equipment, cubicles and miscellaneous office furnishings and supplies, maintenance equipment, tools, signs and signage, marketing materials and other tangible and intangible property;

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(i) all (i) U.S. and foreign patents and patent applications, including provisionals, continuations, continuations-in-part, divisionals, substitutions, reissues, reexaminations and any extensions and supplementary protection certificates; (ii) trademarks, service marks, trade dress, trade names, logos, slogans, Internet domain names and other similar designations of source or origin, together with the goodwill symbolized by, and any registrations and applications for, the foregoing; (iii) copyrights and database rights, and any copyright registrations and applications; (iv) trade secrets, including trade secret rights in inventions, discoveries, know-how, proprietary processes, formulae, research and development information, clinical data, cell lines, manufacturing technology and data, marketing and sales information, product transport and storage technology and information, customer lists and supplier lists; and (v) any other intellectual property rights recognized in any relevant jurisdiction (collectively, “Intellectual Property”), including such of the foregoing as are listed or described on Schedule 1.1(i);

(j) all other assets, inventory, properties, and rights used or held for use by the Sellers in connection with the Business;

(k) all rights under non-disclosure or confidentiality, invention and Intellectual Property assignment, non-compete or non-solicitation agreements for the benefit of the Sellers with current or former employees and agents of the Sellers or with third parties (in the case of rights under the Parent Confidentiality Agreements, solely to the extent provided in Section 5.15. (a));

(l) all Avoidance Actions relating to the Purchaser, any Purchaser Related Entity or any of their Affiliates, any party that is the subject to Assumed Contracts or Assumed Leases or any Transferred Employee;

(m) to the extent transferable under applicable Law, all Permits (including all deposits given by or on behalf of the Sellers, including all bonds and letters of credit) and all prepaid amounts paid thereunder issued by any permitting, licensing, accrediting, certifying or planning and development agency or any other applicable Governmental Entity, and the rights of the Sellers to all data and records held by such permitting, licensing, accrediting, certifying or planning and development agencies;

(n) other than as set forth in Section 1.2. (b) or Section 1.2. (k), to the extent transferable, all insurance policies and rights thereunder;

(o) other than as set forth in Section 1.2. (f) or Section 1.2. (g), all books and records;

(p) all goodwill associated with the Business, the Acquired Assets and the Assumed Liabilities;

(q) all rights, claims, actions, refunds, causes of action, choses in action, actions, suits or proceedings, rights of recovery, rights of set off, rights of recoupment, rights of indemnity or contribution and other similar rights (known and unknown, matured and unmatured, accrued or contingent, regardless of whether such rights are currently exercisable) against any Person, including all warranties, representations, guarantees, indemnities and other

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contractual claims (express, implied or otherwise) to the extent related to the Business, the Acquired Assets or the Assumed Liabilities (for avoidance of doubt, excluding all rights, claims or causes of action of any Seller set forth in Sections 1.2(h), 1.2(i), 1.2(j) and 1.2(k));

(r) any and all insurance proceeds, condemnation awards or other compensation in respect of loss or damage to any Acquired Asset to the extent occurring after the date hereof but prior to the Closing, and all right and claim of the Sellers to any such insurance proceeds, condemnation awards or other compensation not paid by the Closing;

(s) the Benefit Plans listed or described on Schedule 1.1(r) (the “Assumed Benefit Plans”); and

(t) all the rights, properties or assets that are listed or described on Schedule 1.1(s).

EXCEPT AS SPECIFICALLY AND EXPRESSLY SET FORTH IN ARTICLE III, (I) THE SELLERS MAKE NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, RELATING TO THE BUSINESS, THE ACQUIRED ASSETS OR THE ASSUMED LIABILITIES, INCLUDING ANY REPRESENTATION OR WARRANTY AS TO VALUE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR FOR ORDINARY PURPOSES, OR ANY OTHER MATTER AND (II) THE SELLERS MAKE NO, AND HEREBY DISCLAIM ANY, OTHER REPRESENTATION OR WARRANTY REGARDING THE BUSINESS, THE ACQUIRED ASSETS OR THE ASSUMED LIABILITIES.

Section 1.2. Excluded Assets. Notwithstanding anything contained in this Agreement to the contrary, the following rights, properties and assets of the Sellers, as the same shall exist on the Closing Date (collectively, the “Excluded Assets”), (i) will not be included in the Acquired Assets, (ii) neither the Purchaser nor any Affiliate of the Purchaser shall have any liability therefor, and (iii) the Sellers shall retain all their right, title and interest in and thereto:

(a) all cash and cash equivalents necessary for the winding-down of the Sellers as provided for in any wind-down budget of the Sellers that is approved by the Bankruptcy Court;

(b) all current and prior director and officer or similar fiduciary or errors and omissions insurance policies and all rights thereunder;

(c) the Excluded Agreements and any and all rights thereunder and prepaid assets related thereto;

(d) [Reserved].

(e) any shares of capital stock or other equity interests of any Seller or any Affiliate thereof or any securities convertible into, exchangeable or exercisable for shares of capital stock or other equity interests of any Seller or any Affiliate thereof, in each case other than the Interests and any other such equity interests indirectly held in any Non-Debtor Sub;

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(f) the company seal, minute books, stock certificates, stock or equity record books, income Tax Returns and other books, records and work papers related to income Taxes paid or payable by Sellers or their Affiliates (other than any Non-Debtor Sub), work papers and such other books and records as pertain solely to the organization, qualification to do business, existence or capitalization of any Seller or any Affiliate thereof (other than any Non-Debtor Sub), books and records that the Sellers are required to retain under applicable Law and books and records that relate primarily to an Excluded Asset or Excluded Liability; provided, that copies of such books and records (other than any income Tax Returns or income Tax books, records or work papers, in each case to the extent not solely related to the Acquired Assets) shall be made available to the Purchaser upon reasonable request to the extent permitted by applicable Law;

(g) copies retained by the Sellers of original books and records included in the Acquired Assets;

(h) all Avoidance Actions, except those set forth in Section 1.1(l);

(i) all rights, claims or causes of action of any Seller arising under this Agreement or the Ancillary Documents or arising under the Parent Confidentiality Agreements (to the extent not assigned to the Purchaser pursuant to Section 5.15. (a));

(j) all rights, claims or causes of action of any Seller arising under the litigation listed or described on Schedule 1.2(j) (whether or not asserted as of the Closing Date) or the facts and circumstances underlying such litigation;

(k) all rights, claims or causes of action by or in the right of any Seller against any current or former director or officer of any Seller;

(l) the Benefit Plans other than the Assumed Benefit Plans, all assets of such Benefit Plans and all trust agreements, administrative service contracts, insurance policies and other Contracts related thereto and all rights of the Sellers with respect to any of the foregoing; and

(m) all receivables, claims or causes of action that relate primarily to any Excluded Asset or Excluded Liability.

Section 1.3. Assumed Liabilities. On the terms and subject to the conditions set forth in this Agreement, at the Closing, the Purchaser shall assume from the Sellers and thereafter pay, perform or otherwise discharge in accordance with their terms all of the liabilities and obligations (of any nature or kind, and whether based in common law or statute or arising under written Contract or otherwise, known or unknown, fixed or contingent, accrued or unaccrued, liquidated or unliquidated, real or potential) of the Sellers and their Affiliates with respect to, arising out of or relating to the following (collectively, the “Assumed Liabilities”):

(a) the ownership, possession or use of the Acquired Assets and the operation of the Business on and after the Closing Date;

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(b) all liabilities and obligations arising under the Assigned Contracts and the Assumed Leases, in each case, arising on and after the Closing Date, including Cure Costs;

(c) all liabilities in respect of trade obligations arising in the ordinary course of the Business incurred prior to the Petition Date listed or described on Schedule 1.3(c);

(d) all liabilities and obligations relating to the Assumed Benefit Plans;

(e) all Taxes that relate to the Business, the Acquired Assets or the Assumed Liabilities, for taxable periods (or portions thereof) beginning after the Closing Date;

(f) [reserved];¹

(g) the costs, fees and expenses incurred by the Sellers in connection with the administration of the Chapter 11 Cases subject to a budget to be agreed-upon by the Sellers and Purchaser pursuant to the DIP Agreement; and

(h) the liabilities or obligations described on Schedule 1.3(h).

Section 1.4. Excluded Liabilities. Notwithstanding anything contained in this Agreement to the contrary, the Purchaser shall not assume or agree to pay, perform or otherwise discharge any liabilities or obligations (of any nature or kind, and whether based in common law or statute or arising under written Contract or otherwise, known or unknown, fixed or contingent, accrued or unaccrued, liquidated or unliquidated, real or potential) of any Seller or any Affiliate thereof² other than the Assumed Liabilities (such liabilities and obligations other than Assumed Liabilities, the “Excluded Liabilities”). Without limiting the foregoing, the Purchaser does not assume or agree to pay, perform or otherwise discharge the liabilities or obligations of the Sellers with respect to, arising out of or relating to the following Excluded Liabilities:

(a) all indebtedness for borrowed money of the Sellers (for avoidance of doubt, other than obligations that constitute Assumed Liabilities with respect to capitalized leases that are Assigned Contracts);

(b) all guarantees of third party indebtedness made by the Sellers and reimbursement obligations to guarantors of the Sellers’ obligations or under letters of credit;

(c) all Actions pending on or before the Closing Date against the Sellers or to the extent against or giving rise to liabilities or obligations of the Business based on acts or omissions prior to the Closing Date even if instituted after the Closing Date;

(d) all liabilities or obligations to any current or former owner of capital stock or other equity interests of the Sellers or any securities convertible into, exchangeable or exercisable for shares of capital stock or other equity interests of the Sellers, any current or former holder of indebtedness for borrowed money of the Sellers or, in respect of obligations for

¹This clause is unnecessary as Purchaser will indirectly take on any liabilities through its purchase of the Interests.

² This language is deleted since Purchaser will not directly be assuming any liabilities of Non-Debtor Subs except to for its acquisition of the Interests.

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indemnification or advancement of expenses, any current or former officer or director of the Sellers;

(e) all drafts or checks outstanding at the Closing under which the Sellers are obligated;

(f) all obligations of the Sellers under futures contracts, options on futures, swap agreements or forward sale agreements;

(g) (i) all Taxes imposed on any Seller and (ii) all Taxes that relate to the Acquired Assets, the Business or the Assumed Liabilities for taxable periods (or portions thereof) ending on or before the Closing Date;

(h) all liabilities and obligations for, relating to, arising under or in connection with (i) the Benefit Plans other than the Assumed Benefit Plans, (ii) wages, remuneration, compensation, retention, severance, vacation or other paid time-off, (iii) the employment or termination of any current or former employee of any of the Sellers (or their beneficiaries), other than the Transferred Employees, (iv) the employment or termination of any Transferred Employee to the extent arising on or prior to the Closing Date (other than to the extent attributable to an Assumed Benefit Plan), or (v) WARN, COBRA or other Law pertaining to current or former employees (or their beneficiaries) generally;

(i) all costs, fees and expenses incurred by the Sellers in connection with the negotiation, execution and consummation of the transactions contemplated by this Agreement;

(j) all liabilities of the Sellers under this Agreement;

(k) all liabilities arising out of the infringement of a third party's Intellectual Property rights, to the extent any such infringement occurred prior to Closing;

(l) all liabilities attributable to, relating to or arising from the period prior to the Closing arising (i) under Environmental Laws, or (ii) from any Contract or other arrangement for disposal or treatment of Hazardous Substances, or for the transportation of Hazardous Substances for disposal or treatment, in each case including those liabilities arising from acts or omissions occurring or conditions in existence prior to the Closing;

(m) any liability with respect to any Seller Broker Fee;

(n) all liabilities or obligations to the extent relating to the ownership, possession or use of the Excluded Assets, including the Excluded Agreements; and

(o) any liability of a Seller not expressly included among the Assumed Liabilities or expressly assumed by Purchaser under this Agreement.

Section 1.5. Assignment of Assigned Contracts and Assumed Leases.

(a) To the maximum extent permitted by the Bankruptcy Code and subject to the other provisions of this Section 1.5, the Sellers shall sell and transfer and assign all Acquired

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Assets to the Purchaser pursuant to Sections 363 and 365 of the Bankruptcy Code as of the Closing Date. Notwithstanding any other provision of this Agreement or in any Ancillary Document to the contrary, this Agreement shall not constitute an agreement to assign any asset or any right thereunder if an attempted assignment without the consent of a third party, which consent has not been obtained prior to the Closing (or overridden by the Sale Order and the Bankruptcy Code), would constitute a breach or in any way adversely affect the rights of the Purchaser or the Sellers thereunder. If with respect to any Acquired Asset such consent is required and not obtained or overridden, then such Acquired Asset shall not be transferred hereunder and the Closing shall proceed with respect to the remaining Acquired Assets without any reduction in the Purchase Price unless there is a failure of one or more of the conditions set forth in ARTICLE VI, in which event the Closing shall proceed only if each failed condition is waived by the party entitled to the benefit thereof. In the case of Contracts and Permits included in the Acquired Assets (i) that cannot be transferred or assigned effectively without the consent of third parties, which consent has not been obtained prior to the Closing (or overridden by the Sale Order), the Sellers shall, subject to any approval of the Bankruptcy Court that may be required, use commercially reasonable efforts, and cooperate with the Purchaser, to obtain such consent and, if any such consent is not obtained, the Sellers shall, following the Closing, subject to any approval of the Bankruptcy Court that may be required, cooperate with the Purchaser in all reasonable respects to provide to the Purchaser the benefits thereof in some other manner, or (ii) that are otherwise not transferable or assignable (after giving effect to the Sale Order and the Bankruptcy Code), the Sellers shall, subject to any approval of the Bankruptcy Court that may be required, use commercially reasonable efforts and cooperate with the Purchaser to provide to the Purchaser the benefits thereof in some other manner; provided, that nothing in this Section 1.5. shall prohibit or delay any Seller or any Affiliate thereof from ceasing operations or winding up its affairs following the Closing.

(b) To the extent not prohibited by applicable Tax Laws (and to the extent consistent with the relevant arrangement agreed to by the Sellers and the Purchaser pursuant to Section 1.5. (a)), the Sellers and the Purchaser agree to treat and report, and to cause their respective Affiliates to treat and report, on their Tax Returns, the Acquired Assets that are subject to the provisions of this Section 1.5. (the “Non-Transferred Assets”) as assets owned by the Purchaser or its Affiliates. Each Seller and the Purchaser agrees to notify the other parties promptly in writing if it determines that such treatment (to the extent consistent with the relevant arrangement agreed to by the Sellers and the Purchaser pursuant to Section 1.5. (a)) is not permitted under applicable Tax Laws. Where such treatment is not permitted under applicable Tax Laws, and subject to the terms of any relevant arrangement agreed to by the Sellers and the Purchaser pursuant to Section 1.5. (a), the amount of the liability for Taxes imposed on the Sellers or any of their Affiliates with respect to any Non-Transferred Asset for any post-Closing Tax period (or portion thereof), if any, for which the Purchaser and its Affiliates are responsible shall be calculated on a “with and without” basis.

(c) If following the Closing, any Seller receives or becomes aware that it holds any asset, property or right which constitutes an Acquired Asset, then the Sellers shall transfer such asset, property or right to the Purchaser and/or one or more designee thereof as promptly as practicable for no additional consideration.

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(d) If following the Closing, the Purchaser receives or becomes aware that it holds any asset, property or right which constitutes an Excluded Asset, then the Purchaser shall transfer such asset, property or right to the Sellers or a designee thereof as promptly as practicable for no additional consideration.

Section 1.6. Purchase Price. In consideration for the Acquired Assets, the Purchaser shall, in addition to the assumption of the Assumed Liabilities, pay to the Sellers at the Closing an aggregate amount equal to \$9,500,000.00 (the “Purchase Price”), consisting of (i) \$2,500,000.00 for the Acquired Assets of the surgeon-controlled surgical robot design and manufacture business (the “Robotics Business”) and (ii) \$7,000,000.00 for the Acquired Assets of the image guided therapy systems and maintenance service business (the “Imaging and Service Business”), not in cash, but in the form of a reduction, pursuant to Section 363(k) of the Bankruptcy Code, in the Claim Amount.

Section 1.7. Additional and Eliminated Assigned Contracts and Assumed Leases. Notwithstanding anything in this Agreement to the contrary, the Purchaser may, in its sole and absolute discretion, amend or revise Schedule 1.1(d), Schedule 1.1(g) and Schedule 2.1(c) setting forth the Assigned Contracts, the Assumed Leases and the Excluded Agreements, respectively, in order to add or eliminate any Contract or Lease to such schedule no less than 2 (two) days prior to the Auction, or if no Auction occurs, no less than five (5) days before the sale hearing at the Bankruptcy Court in respect of the transactions contemplated hereby. Upon the addition of any Contract to Schedule 1.1(d) or Lease to Schedule 1.1(g), it shall be an Assigned Contract or Assumed Lease, as applicable, for all purposes of this Agreement, and upon the deletion of any Contract from Schedule 1.1(d) or deletion of any Lease from Schedule 1.1(g), it shall be added to Schedule 2.1(c) and shall be an Excluded Agreement for all purposes of this Agreement and, in either case, Sellers shall provide prompt notice of such change to all non-debtor parties to such Contract or Lease, consistent with the procedures applicable to assumption and assignment, or rejection, as the case may be, of such Contract or Lease in the Chapter 11 Cases. If the Purchaser indicates in writing to Sellers after the Closing Date that it wishes to acquire a Contract or Lease that was not an Assigned Contract or Assumed Lease on the Closing Date, the Sellers will use their reasonable best efforts to assign such Contract or Lease to Purchaser for no additional consideration.

ARTICLE II.

THE CLOSING

Section 2.1. Closing. The closing of the transactions contemplated by this Agreement (the “Closing”) shall take place at the offices of DLA Piper LLP (US), 1251 Avenue of the Americas, New York, New York, at 10:00 a.m. local time as soon as possible (and in any event within three (3) Business Days) after the conditions set forth in ARTICLE VI shall have been satisfied or waived (except for such conditions that, by their nature, are to be satisfied at the Closing, but subject to the satisfaction or waiver thereof at the Closing), unless another time, date and place shall be fixed by written agreement among the parties hereto (the date of the Closing being herein referred to as the “Closing Date”).

Section 2.2. Deliveries at Closing.

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(a) At the Closing, the Sellers shall deliver to the Purchaser:

(i) physical share certificates (if any) evidencing the Interests, which shall be either duly endorsed in blank or accompanied by duly executed stock powers or other instruments of transfer;

(ii) a duly executed bill of sale substantially in the form of Exhibit A attached hereto (the “Bill of Sale”), transferring the Acquired Assets to the Purchaser;

(iii) the Acquired Assets by making the Acquired Assets available to the Purchaser at their present location;

(iv) the assignment and assumption agreement to be entered into between the Sellers and the Purchaser substantially in the form of Exhibit B attached hereto (the “Assignment and Assumption Agreement”), duly executed by the Sellers evidencing the assignment by the Sellers and assumption by the Purchaser of the Assumed Liabilities;

(v) an assignment of the Sellers’ right, title and interest in and to Intellectual Property registrations, patents, trademarks and copyrights and applications substantially in the forms of Exhibit C hereto (the “Intellectual Property Assignment Agreements”), duly executed by the Sellers, assigning such right, title and interest in and to such Intellectual Property registrations and applications to the Purchaser, as appropriate;

(vi) an assignment of the Sellers’ right, title and interest in and to each Assumed Lease substantially in the form of Exhibit D hereto (the “Lease Assignment Agreements”), duly executed by the Sellers, assigning such right, title and interest in and to such Assumed Leases to the Purchaser;

(vii) a certificate duly executed by the Parent, in the form prescribed under Treasury Regulation Section 1.1445-2(b), that the Parent is not a foreign person within the meaning of Section 1445(f)(3) of the Code;

(viii) a certificate duly executed by an executive officer of each Seller to the effect that the conditions to the Closing set forth in Section 6.3 have been satisfied as of the Closing Date; and

(ix) such other documents reasonably satisfactory to the Purchaser as the Purchaser may reasonably request in order to give effect to the transactions contemplated hereby.

(b) At the Closing, the Purchaser shall deliver to the Sellers:

(i) the Assignment and Assumption Agreement duly executed by the Purchaser;

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(ii) the Intellectual Property Assignment Agreements, duly executed by the Purchaser;

(iii) the Lease Assignment Agreements, duly executed by the Purchaser;

(iv) a certificate duly executed by an executive officer of the Purchaser to the effect that the conditions to the Closing set forth in Section 6.2. have been satisfied as of the Closing Date; and

(v) such other documents reasonably satisfactory to the Sellers as the Sellers may reasonably request in order to give effect to the transactions contemplated hereby.

ARTICLE III.

REPRESENTATIONS AND WARRANTIES OF THE SELLERS

Except as set forth in the disclosure schedule attached hereto (which exceptions shall specifically identify a section of this Agreement to which such exception relates, it being understood and agreed that each such exception shall be deemed to be disclosed both under such section and any other section of this Agreement to which it is reasonably apparent on its face that such disclosure relates) (the “Seller Disclosure Schedule”), the Sellers represent and warrant to the Purchaser as follows:

Section 3.1. Organization. Each Seller and each Non-Debtor Sub is validly existing and in good standing under the laws of the jurisdiction of its organization and has the requisite power and authority to own, lease and operate its properties and to carry on its business as it is now being conducted, except where the failure to be so existing and in good standing or to have such power and authority would not, individually or in the aggregate, have a Material Adverse Effect. Each Seller and each Non-Debtor Sub is duly qualified or licensed to do business as a foreign entity and is in good standing in each jurisdiction in which the nature of the business conducted by it makes such qualification or licensing necessary, except where the failure to be so duly qualified, licensed and in good standing would not, individually or in the aggregate, have a Material Adverse Effect.

Section 3.2. Capitalization of Non-Debtor Subs. The authorized, issued and outstanding equity interests of each Non-Debtor Sub are set forth on Section 3.2 of the Seller Disclosure Schedule. All such equity interests are owned beneficially and of record by the Sellers as set forth on Schedule 3.2 of the Seller Disclosure Schedules. There are no existing (a) options, warrants, calls, subscriptions or other rights, agreements or commitments of any character obligating any Seller or any Non-Debtor Sub to issue, transfer or sell any equity interests in any Non-Debtor Sub or securities convertible into, exchangeable or exercisable for any of the foregoing, (b) contractual obligations of any Seller or any Non-Debtor Sub to repurchase, redeem or otherwise acquire any equity interests in any Non-Debtor Sub or (c) voting trusts or similar agreements to which any Seller or any Non-Debtor Sub is a party with respect to the voting of equity interests in any Non-Debtor Sub.

Section 3.3. Authority of the Sellers. Each Seller has all requisite entity power and authority to execute, deliver and, subject to the entry and effectiveness of the Sale Order, perform its obligations under this Agreement and each of the Ancillary Documents to which such Seller is a party. The execution, delivery and performance of this Agreement and such Ancillary Documents by each Seller and the consummation of the transactions contemplated hereby and thereby have been duly authorized and approved by all requisite entity action of such Seller. Subject to the entry and effectiveness of the Sale Order, this Agreement and each such Ancillary Document have been duly and validly executed and delivered by each Seller and (assuming this Agreement and each such Ancillary Document constitute a valid and binding obligation of the Purchaser) constitute a valid and binding obligation of each Seller enforceable against each such Seller in accordance with their terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium and other Laws affecting creditors' rights generally from time to time in effect and to general equitable principles (the "Bankruptcy and Equity Exceptions").

Section 3.4. Consents and Approvals. No material consent, approval or authorization of, or declaration, filing or registration with, any Governmental Entity is required to be made or obtained by any Seller or any Non-Debtor Sub in connection with the execution, delivery and performance of this Agreement and the Ancillary Documents to which a Seller is a party and the consummation of the transactions contemplated hereby and thereby, except (a) for consents, approvals or authorizations of, or declarations, filings or registrations with, the Bankruptcy Court or Canadian Bankruptcy Court or (b) for filings, notices and reports by the Parent under applicable securities Laws or securities exchange rules.

Section 3.5. No Violations. Assuming that the consents, approvals, authorizations, declarations, filings and registrations referred to in Sections 3.4 and 4.3 have been made or obtained and remain in full force and effect and the conditions set forth in Section 6.1. have been satisfied, neither the execution, delivery or performance of this Agreement and the Ancillary Documents by the Sellers nor the consummation by the Sellers of the transactions contemplated hereby or thereby will (a) conflict with or result in any breach of any provisions of the certificate of incorporation, bylaws or other organizational documents of any Seller or any Non-Debtor Sub, (b) with or without notice or lapse of time or both, result in any breach or violation of or constitute a default or give rise to any right of termination, acceleration, vesting, payment, exercise or revocation under, any Assigned Contract or Assumed Lease to which any of the Sellers or any Non-Debtor Sub is a party or by which any of their respective properties or assets are bound, (c) result in the creation or imposition of any Encumbrance other than Permitted Encumbrances on any properties or assets of the Sellers or any Non-Debtor Sub or (d) violate any Order or Law applicable to any Seller or any Non-Debtor Sub or their respective properties or assets, except in the case of clauses (b), (c) and (d), for breaches, violations, defaults, rights, creations or impositions that (i) would not, individually or in the aggregate, have a Material Adverse Effect or (ii) are excused by or unenforceable as a result of the filing of the Petitions or as a result of the entry or effectiveness of the Sale Order.

Section 3.6. Financial Statements; Books and Records.

(a) The Sellers have made available to the Purchaser copies of the following financial statements (collectively, the "Financial Statements"): (i) the audited consolidated balance sheet of the Parent as of December 31, 2014 and the related consolidated statements of

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operations, comprehensive income (loss), stockholders' equity (deficit) and cash flows for the fiscal year then ended; and (ii) the unaudited consolidated balance sheet of the Parent as of March 31, 2015 and the related consolidated statements of operations, comprehensive income (loss), stockholders' equity (deficit) and cash flows for the three months then ended. Subject to the notes thereto, the Financial Statements were prepared, in all material respects, in accordance with GAAP consistently applied during the periods involved and present fairly, in all material respects, the consolidated financial position, results of operations, changes in stockholders' equity (deficit) and cash flows of the Parent as of the respective dates and for the respective periods referred to in the Financial Statements (in the case of quarterly Financial Statements, subject to normal year-end adjustments).

(b) The books and records of the Sellers and the Non-Debtor Subs maintained with respect to the Business and used in the preparation of the Financial Statements accurately and fairly reflect, in all material respects, the transactions and the assets and liabilities of the Sellers and the Non-Debtor Subs with respect to the Business.

Section 3.7. Title to Property; Sufficiency of Assets.

(a) Subject to the entry of the Sale Order and any order approving the assumption and assignment of the Assigned Contracts, the Sellers (i) will have the power and right to sell, assign, transfer, convey and deliver, as the case may be, to the Purchaser the Acquired Assets and on the Closing Date will sell, assign, transfer, convey and deliver the Acquired Assets, free and clear of all Encumbrances other than Permitted Encumbrances, and (ii) have complied with all requirements of the Bankruptcy Code and Federal Rules of Bankruptcy Procedure in connection with obtaining approval of the sale of the Acquired Assets (including the assumption and assignment to the Purchaser and/or one or more designees of the Purchaser of any Assigned Contracts) to the Purchaser and/or one or more designees of the Purchaser pursuant to this Agreement.

(b) After giving effect to Section 1.5(a) and except as would not, individually or in the aggregate, be material to the Business, the Acquired Assets comprise all of the properties and assets used in the Business by the Sellers and the Non-Debtor Subs as of the Effective Date other than the Excluded Assets. The Acquired Assets constitute all of the assets necessary to perform all Assumed Liabilities and to permit the Purchaser to conduct the Business after the Closing (i) substantially in the manner in which the business of the Sellers has and is being conducted and (ii) in material compliance with all Laws.

Section 3.8. Absence of Certain Changes. Except as set forth on Section 3.8 of the Seller Disclosure Schedule, this Agreement or the transactions contemplated hereby, from March 31, 2015: (a) to the Effective Date, no Seller or Non-Debtor Sub has taken any action that, if taken after the Effective Date, would violate Section 5.1. in any material respect; (b) the Sellers have operated the Business in the ordinary course of business consistent with past practices, (c) no Material Adverse Effect has occurred; and (d) there have been no material damages or losses to of an property of the Business or the Acquired Assets.

Section 3.9. Brokers. Except for Imperial Capital, LLC ("Imperial"), no Person is entitled to any brokerage, financial advisory, finder's or similar fee or commission in connection

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with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Sellers (a “Seller Broker Fee”). Section 3.9 of the Sellers’ Disclosure Schedule sets forth a true, correct and complete copy of any Contract between any Seller or any Non-Debtor Sub, on the one hand, and Imperial, on the other.

Section 3.10. Litigation. Except for the Chapter 11 Cases: (a) there are no material Actions currently pending or, to the Knowledge of the Sellers, currently threatened, against the Sellers, any Non-Debtor Sub or any of their respective properties or assets; and (b) no Seller or Non-Debtor Sub has received written notice of, and to the Knowledge of the Sellers, there are no, Orders of a court of competent jurisdiction outstanding against any Seller or any Non-Debtor Sub or any of their respective properties or assets that restrict the operation of the Business in any material respect. There is no Action or Order pending, outstanding or, to the Knowledge of the Sellers, threatened against any Seller that seeks to restrain or prohibit or otherwise challenge the consummation, legality or validity of the transactions contemplated hereby.

Section 3.11. Intellectual Property.

(a) Section 3.11. (a) of the Seller Disclosure Schedule sets forth the material (i) patents and patent applications (with patents that are co-owned with a third party denoted on the schedule as such); (ii) trademark registrations and applications; (iii) domain names; (iv) copyright registrations and applications; (v) agreements which license any Intellectual Property; and (vi) joint development agreements that are owned by a Seller or a Non-Debtor Sub. To the Knowledge of the Sellers, all such material issued patents and trademark and copyright registrations and agreements are subsisting and have not expired, lapsed or been abandoned or cancelled.

(b) To the Knowledge of the Sellers, each Seller and Non-Debtor Sub owns or has a right to use the Intellectual Property used in the conduct of their business as currently conducted, except as would not, individually or in the aggregate, have a Material Adverse Effect. To the Knowledge of the Sellers, no Seller or Non-Debtor Sub is infringing or misappropriating any Intellectual Property of any other Person, except for such infringements and misappropriations as would not, individually or in the aggregate, have a Material Adverse Effect, and there are no material Actions currently pending or, to the Knowledge of the Sellers, currently threatened against the Sellers or any Non-Debtor Sub with respect to Intellectual Property of any such other Person.

(c) To the Knowledge of the Sellers, no Person is infringing or misappropriating any of the Intellectual Property owned by or exclusively licensed to the Sellers or any Non-Debtor Sub, except for such infringements and misappropriations as would not, individually or in the aggregate, have a Material Adverse Effect. There are no material Actions currently pending or threatened by the Sellers or any Non-Debtor Sub against any Person with respect to Intellectual Property owned by or exclusively licensed to the Sellers or any Non-Debtor Sub.

(d) There are no material judicial consents, judgments or orders, administrative decisions or litigation settlements, with respect to Intellectual Property issued against any Seller or Non-Debtor Sub or, to the Knowledge of the Sellers, that are otherwise

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binding on any Intellectual Property owned by or exclusively licensed to any Seller or Non-Debtor Sub.

(e) To the Knowledge of the Sellers, each Seller and Non-Debtor Sub has taken commercially reasonable measures to maintain the confidentiality of trade secrets of the business of the Sellers and the Non-Debtor Subs that the Sellers intend to maintain as confidential, except as would not, individually or in the aggregate, have a Material Adverse Effect.

Section 3.12. Real Property.

(a) The Sellers have, and on the Closing Date, the Sellers will sell, assign and transfer to the Purchaser a valid leasehold interest with respect to each of the Assumed Leases (other than those Assumed Leases which are subleases), and a valid subleasehold interest with respect to each of the Assumed Leases which is a sublease, free and clear of all Encumbrances other than Permitted Encumbrances. Section 3.12. (a) of the Seller Disclosure Schedule sets forth a complete and correct list of all Leases to which a Seller is a party, including, without limitation, the instruments through which the Sellers derive their leasehold and subleasehold interests in the Assumed Leases. Each Seller does not own, and has never owned, any real property.

(b) Section 3.12. (b) of the Seller Disclosure Schedule sets forth a complete and correct list of all Leases to which each Non-Debtor Sub is a party. The applicable Non-Debtor Sub has a valid leasehold or subleasehold interest with respect to each such lease or sublease, free and clear of all Encumbrances other than Permitted Encumbrances.

(c) Complete and correct copies of the real property leases, subleases, licenses and other similar occupancy contracts, together with all amendments, modifications, supplements, renewals or extensions thereof or thereto, to which any Seller and any Non-Debtor Sub is party (whether as landlord, sublandlord, tenant, or subtenant) (collectively, the “Leases”) have been made available to the Purchaser as of the Effective Date. No Seller or Non-Debtor Subsidiary owns a fee or ground leasehold interest in any Real Property other than the real property subject to the Leases (the “Leased Real Property”). Other than as set forth in Section 3.12(c) of the Seller Disclosure Schedule, no Person that is not a Seller or Non-Debtor Subsidiary has any right to possess, use or occupy the Leased Real Property. No party to a Lease has provided any Seller or Non-Debtor Subsidiary with notice that it intends to cancel, terminate, fail to renew or reduce business conducted under any Lease.

(d) No Seller or Non-Debtor Subsidiary has received any written notice of any, and, to the Knowledge of the Sellers, there is no threatened or pending, eminent domain, condemnation or rezoning proceedings, or any sale or other disposition in lieu of eminent domain or condemnation, with respect to the Leased Real Property or any part of the Leased Real Property or for the relocation of roadways or streets providing access to or egress from the Leased Real Property. There is direct access to, and egress from, the Leased Real Property from adjacent public roadways or streets abutting the Leased Real Property and, to the Knowledge of the Sellers, there is no fact or condition which may result in interference with or termination of such access.

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(e) All buildings, fixtures and improvements located on or in the Leased Real Property (x) are in good order, condition and repair in all material respects and free from structural or other material defects or damages, whether latent or otherwise, and (y) are in material compliance with all applicable Laws, including building, zoning and other applicable land use laws, ordinances, codes and regulations. No Seller or Non-Debtor Subsidiary has received notice from any insurance company, bonding company, contractor, Governmental Entity or other Person of any material defect or inadequacy in any part of the Leased Real Property.

Section 3.13. Material Contracts.

(a) Section 3.13. (a) of the Seller Disclosure Schedule sets forth, as of the Effective Date, a complete and correct list of Contracts to which any Seller or any Non-Debtor Sub is a party or by which any of their respective properties or assets are bound that meet any of the following criteria (collectively, the “Material Contracts”):

(i) requires expenditures by any Seller or any Non-Debtor Sub involving consideration in excess of \$10,000 in the next twelve (12)-month period;

(ii) provides for payments to be received by any Seller or any Non-Debtor Sub in excess of \$10,000 in any twelve (12)-month period;

(iii) relates to the incurrence by any Seller or any Non-Debtor Sub of any indebtedness for borrowed money or any capitalized lease obligations in excess of \$10,000;

(iv) guarantee of any obligation for borrowed money or otherwise;

(v) relates to the acquisition or disposition by any Seller or any Non-Debtor Sub outside the ordinary course of business of any material assets or any material business (whether by merger, sale or purchase of stock, sale or purchase of assets or otherwise) to the extent any actual or contingent material obligations of any Seller or any Non-Debtor Sub thereunder remain in effect;

(vi) is a Lease;

(vii) by its express terms prohibits the Sellers or any Non-Debtor Sub from freely engaging in business anywhere in the world, including, without limitation, competing with other entities or marketing any product, providing for “exclusivity”, “most favored nation” protection, non-solicitation requirements, or any similar requirement in favor of any Person other than the Sellers and the Non-Debtor Subs;

(viii) grants, assigns or otherwise transfers any material right, title or interest in or to any material Intellectual Property whether to the Sellers or any third-party;

(ix) [Reserved].

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(x) relates to sales and distribution activities conducted by a third party wholesaler or distributor of the Business (other than purchase and sales orders entered into in the ordinary course of business consistent with past practices and the performance of which by the parties thereto is reasonably expected to be substantially completed within thirty (30) days of the execution thereof); or

(xi) does not satisfy the criteria set forth in clause (i) through (x) above and is material to the Business.

(b) Complete and correct copies of the Material Contracts have been made available to the Purchaser as of the Effective Date.

(c) With respect to each Material Contract, assuming the due authorization, execution and delivery thereof by the other party or parties thereto, (i) each Material Contract is a valid and binding obligation of the applicable Seller or Non-Debtor Sub and, to the Knowledge of the Sellers, each other party or parties thereto, in accordance with its terms and is in full force and effect, subject to the Bankruptcy and Equity Exceptions, (ii) the applicable Seller or Non-Debtor Sub is not, and, to the Knowledge of the Sellers, no other party thereto is in default in the performance, observance or fulfillment of any obligation, covenant or condition contained in each of the Material Contracts and (iii) to the Knowledge of the Sellers, no event has occurred that would, with or without notice or lapse of time or both, result in any breach or violation of or constitute a default or give rise to any right of termination, acceleration, vesting, payment, exercise or revocation under any Material Contract, except, with respect to clauses (i), (ii) and (iii) above, where any of the foregoing would not, individually or in the aggregate, be material to the Business.

Section 3.14. Compliance with Laws; Permits.

(a) Except as would not, individually or in the aggregate, be material to the Business, no Seller or Non-Debtor Sub (i) is in violation of any applicable Law or (ii) has received, at any time since January 1, 2012, any written notice from any Governmental Entity regarding any actual or alleged violation of, or failure on the part of any Seller or any Non-Debtor Sub to comply with, any applicable Law that has not been remedied.

(b) Each of the products of the Sellers and the Non-Debtor Subs that is currently being sold by or on behalf of the Sellers or the Non-Debtor Subs is being, and at all times since January 1, 2012 has been, developed, tested, manufactured, stored, distributed, sold, advertised and marketed, as applicable, in compliance with the Federal Food, Drug and Cosmetic Act, the Public Health Service Act and applicable regulations issued by the United States Food and Drug Administration (the "FDA"), including those requirements relating to good manufacturing practice, good laboratory practice and good clinical practice.

(c) Each of the products of the Sellers and the Non-Debtor Subs that are subject to pending applications for regulatory approval, including any pending applications for Premarket Approval under Section 515 of the Federal Food, Drug and Cosmetic Act, has been, developed, tested, manufactured, and stored, as applicable, in compliance with the Federal Food, Drug and Cosmetic Act, the Public Health Service Act and applicable regulations issued by the

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FDA, including those requirements relating to good manufacturing practice, good laboratory practice and good clinical practice. The information submitted in each pending application for regulatory approval has been truthful, accurate and, to the Knowledge of the Sellers, sufficient to support the requested regulatory approval.

(d) Each of the products of the Sellers and the Non-Debtor Subs that are subject to pending requests for regulatory clearance, including any pending requests for clearance under Section 510(k) of the Federal Food, Drug and Cosmetic Act has been, developed, tested, manufactured, and stored, as applicable, in compliance with the Federal Food, Drug and Cosmetic Act, the Public Health Service Act and applicable regulations issued by the FDA, including those requirements relating to good manufacturing practice, good laboratory practice and good clinical practice. The information submitted in each pending request for regulatory clearance has been truthful, accurate and, to the Knowledge of the Sellers, sufficient to support the requested regulatory clearance.

(e) [Reserved].

(f) To the Knowledge of the Sellers, any clinical trials and human factors studies (including any post-marketing studies) conducted or sponsored by the Sellers and the Non-Debtor Subs (which, for the avoidance of doubt, shall not include investigator-initiated or investigator-sponsored trials) were at all times since January 1, 2012, and if still pending, are, being conducted in all material respects in accordance with all protocols (including any Special Protocol Assessment and meeting minutes), institutional review board requirements, informed consents and applicable requirements of the FDA.

(g) To the Knowledge of the Sellers, no Seller or Non-Debtor Sub is subject to any investigation that is currently pending or which is currently threatened, in each case by (i) the FDA or (ii) the Department of Health and Human Services Office of Inspector General or Department of Justice pursuant to the Federal Healthcare Program Anti-Kickback Statute (42 U.S.C. Section 1320a-7b(b) or the Federal False Claims Act (31 U.S.C. Section 3729).

(h) To the Knowledge of the Sellers, no Seller or Non-Debtor Sub has submitted any claim to any payment program in connection with any referrals that violated in any material respect any applicable self-referral Law, including the Federal Ethics in Patient Referrals Act (42 U.S.C. § 1395nn), or any applicable state self-referral Law.

(i) To the Knowledge of the Sellers, no Seller or Non-Debtor Sub has submitted any claim for payment to any payment program in violation of any applicable Laws relating to false claim or fraud, including the Federal False Claims Act (31 U.S.C. Section 3729) or any applicable state false claim or fraud Law, except for any such violation that would not, individually or in the aggregate, be material to the Business.

(j) No Seller or Non-Debtor Sub has failed to comply with any applicable security and privacy standards regarding protected health information under the Health Insurance Portability and Accountability Act of 1996, or any applicable state privacy Laws, except for any such failures to comply that would not, individually or in the aggregate, be material to the Business.

(k) Except as would not, individually or in the aggregate, be material to the Business, (i) each Seller and Non-Debtor Sub holds and maintains in full force and effect all Permits required to conduct its business in the manner and in such jurisdictions as it is conducted as of the Effective Date, (ii) each Seller and Non-Debtor Sub is in compliance with all such Permits and (iii) no Seller or Non-Debtor Sub has received, at any time since January 1, 2011, any written notice from any Governmental Entity regarding any actual or alleged violation of, or failure on the part of any Seller or any Non-Debtor Sub to comply with, any term or requirement of any such Permit that has not been remedied.

Section 3.15. Employee Benefit Matters.

(a) Section 3.15. (a) of the Seller Disclosure Schedule sets forth a complete and correct list of each Assumed Benefit Plan and each material Benefit Plan as of the Effective Date. The Sellers have made available to the Purchaser copies of documents embodying each of the material Benefit Plans, including each Assumed Benefit Plan. The Sellers have furnished the Purchaser with the most recent Internal Revenue Service determination or opinion letter issued with respect to each Benefit Plan subject to Section 401(a) of the Code and, to the Knowledge of the Sellers, nothing has occurred since the issuance of each such letter that could reasonably be expected to cause the loss of the tax-qualified status of any such Benefit Plan.

(b) Each Benefit Plan has in all material respects been administered in accordance with its terms and in compliance with applicable Law. None of the Benefit Plans promises or provides retiree medical or other retiree welfare benefits to any person except as required by COBRA. All contributions and payments required to be made by the Sellers or any ERISA Affiliate to any Benefit Plan have in all material respects been paid when due. No Action (other than routine claims for benefits) is currently pending or, to the Knowledge of the Sellers, is currently threatened, against or with respect to any Benefit Plan, including any audit or inquiry by the Internal Revenue Service or United States Department of Labor.

(c) No Seller or any ERISA Affiliate has ever maintained, established, sponsored, participated in, contributed to, or has been obligated to contribute to, or otherwise incurred any obligation or liability (including any contingent liability) under any “multiemployer plan” (as defined in Section 3(37) of ERISA) or to any “pension plan” (as defined in Section 3(2) of ERISA) subject to Title IV of ERISA or Section 412 of the Code. No Seller nor any ERISA Affiliate has any actual or potential withdrawal liability for any complete or partial withdrawal (as defined in Sections 4203 and 4205 of ERISA) from any multiemployer plan. None of the Acquired Assets is, or could reasonably be expected to become, subject to any Encumbrance arising under ERISA or the Code.

(d) The consummation of the Acquisition, whether alone or in combination with any other event, will not (i) entitle any current or former employee of the Sellers or any ERISA Affiliate to severance benefits or any other payment (including unemployment compensation, golden parachute, bonus or benefits) under any Benefit Plan; (ii) accelerate the time of payment or vesting of any such benefits or increase the amount of compensation due any such current or former employee under any Benefit Plan, or (iii) result in any “excess parachute payment” under Section 280G of the Code.

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(e) All Benefit Plans subject to the laws of any jurisdiction outside of the United States (i) have been maintained in all material respects in accordance with all applicable requirements, (ii) if they are intended to qualify for special tax treatment meet all requirements for such treatment in all material respects, and (iii) if they are intended to be funded and/or book-reserved are fully funded and/or book reserved, as appropriate, based upon reasonable actuarial assumptions and to the extent required by applicable Law.

Section 3.16. Labor Matters.

(a) No Seller or Non-Debtor Sub is a party to, or bound by, any agreement with respect to employees with any labor union or any other employee organization, group or association organized for purposes of collective bargaining. To the Knowledge of the Sellers, there are, and since January 1, 2013 there have been, no labor union organizing activities with respect to any employees of the Sellers or any Non-Debtor Sub. As of the Effective Date, there is no pending or, to the Knowledge of the Sellers, threatened labor strike, slowdown, lockout or work stoppage involving the Sellers, any Non-Debtor Sub or any of their respective employees, which would, individually or in the aggregate, have a Material Adverse Effect.

(b) Each Seller and Non-Debtor Sub is and, during the ninety (90)-day period prior to the date of this Agreement, has been in compliance in all material respects with the Worker Adjustment and Retraining Notification Act of 1988, as amended, and any similar state, local or foreign Law relating to plant closings or mass layoffs (collectively, "WARN").

Section 3.17. Environmental Matters.

(a) To the Knowledge of the Sellers, each Seller and Non-Debtor Sub is in compliance with all applicable Environmental Laws, including possessing and complying with all Environmental Permits.

(b) There is no Environmental Claim currently pending or, to the Knowledge of the Sellers, currently threatened against any Seller or Non-Debtor Sub that, individually or in the aggregate, would be material to the Business, and no Seller or Non-Debtor Sub is a party to any Order pursuant to applicable Environmental Law, excluding such Orders that have expired with no further obligation on the part of the Sellers or the Non-Debtor Subs.

(c) To the Knowledge of the Sellers, there has been no Release of any Hazardous Material at any property that is currently or was formerly owned, occupied, operated, leased or subleased by any Seller or Non-Debtor Sub that, individually or in the aggregate, would have a Material Adverse Effect.

Section 3.18. Taxes.

(a) (i) All income and other material Tax Returns required to be filed by or on behalf of each Non-Debtor Sub have been timely filed with the appropriate taxing authority in all jurisdictions in which such Tax Returns are required to be filed (after giving effect to any valid extensions of time in which to make such filings), and all such Tax Returns are true, complete and correct in all material respects; and (ii) all income and other material amounts of Taxes payable by or on behalf of each Non-Debtor Sub have been paid.

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(b) Except as set forth on Section 3.18(b) of the Seller Disclosure Schedule, no Non-Debtor Sub has received written notice of any material Tax deficiency outstanding, proposed or assessed nor has any Non-Debtor Sub executed any waiver of any statute of limitations in respect of material Taxes nor agreed to any extension of time with respect to a material Tax assessment or deficiency.

(c) There are no liens for Taxes other than Permitted Encumbrances upon any of the Acquired Assets.

(d) The representations and warranties set forth in this Section 3.18. are the sole and exclusive representations and warranties with respect to Taxes.

Section 3.19. Insurance. Section 3.19 of the Seller Disclosure Schedule sets forth a complete and correct list, as of the Effective Date, of all material insurance policies and bonds maintained by any Seller or any Non-Debtor Sub with respect to the Business, the Acquired Assets or the Assumed Liabilities, including in respect of properties, buildings, equipment, fixtures, employees and operations. All such policies of insurance are in full force and effect and satisfy and comply with any requirements of applicable Law and any contractual obligations of the Sellers that requires the maintenance of insurance. To the Knowledge of the Sellers, there is no material claim by the Sellers pending under any of such policies or bonds as to which coverage has been denied or disputed in writing by the underwriters of such policies or bonds. All premiums due and payable under all such policies and bonds have been paid and the Sellers are otherwise in material compliance with the terms of such policies and bonds. The Sellers do not maintain, sponsor, participate in or contribute to any self-insurance plan or program, except as required by applicable Law.

Section 3.20. State Takeover Statutes. The Board of Directors of the Parent has approved this Agreement and the Acquisition and, assuming the accuracy of the Purchaser's representation in Section 4.6, such approval constitutes approval of the Acquisition for purposes of Section 203 of the General Corporation Law of the State of Delaware and represents the only action necessary to ensure that such section does not and will not apply to the execution and delivery of this Agreement or the consummation of the Acquisition. No other state takeover or similar statute or regulation is applicable to this Agreement or the Acquisition.

Section 3.21. Customers and Suppliers. Set forth on Section 3.21 of the Seller Disclosure Schedule is a list of all customers or suppliers of the Sellers that (a) accounted (or that the Sellers expect to account) for more than \$10,000 (or the equivalent in foreign currency) of revenue or expenses of the Sellers (on a consolidated basis with their subsidiaries) during Sellers' current fiscal year, or (b) is the sole supplier of any significant material, product, service or other tangible or intangible property or license rights to the Sellers.

Section 3.22. Non-Debtor Subs.

(a) Business. Each Non-Debtor Sub (i) has not had and does not have any liabilities or obligations (including in respect of any indebtedness for borrowed money) other than (x) ancillary corporate and administrative expenses in the ordinary course of business, all of which shall be fully discharged and satisfied as of the Closing Date, and (y) liabilities and

obligations under the organizational documents of each such Non-Debtor Sub, or any indemnification agreements of each such Non-Debtor Sub, providing for indemnification and/or advancement of expenses for directors and officers of each such Non-Debtor Sub or other Persons in respect of their service by or on behalf of each such Non-Debtor Sub, all of which shall be terminated as of the Closing Date with no continuing liability of each such Non-Debtor Sub thereunder, or (ii) has not engaged in any business or other activities, and does not own any tangible property or assets, other than as set forth on Section 3.22(a)(i) of the Seller Disclosure Schedule. Set forth on Section 3.22(a)(ii) of the Seller Disclosure Schedule is a true and complete list of each Contract to which each Non-Debtor Sub is a party. A true and complete copy of each such Contract has been furnished to the Purchaser prior to the date hereof.

(b) Financial Statements. Attached to Section 3.22(b) of the Seller Disclosure Schedule are true and complete copies of the unaudited financial statements of each Non-Debtor Sub for the three (3) month period ended on March 31, 2015. Such financial statements have been prepared from, and are in accordance with, the books and records of each Non-Debtor Sub, have been prepared in accordance with GAAP applied on a consistent basis during the periods involved and fairly present in all material respects the financial position and the results of operations and cash flows of each Non-Debtor Sub as at the date thereof and for the periods presented therein (subject to the absence of footnotes).

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser represents and warrants to the Sellers as follows:

Section 4.1. Organization. The Purchaser is a corporation validly existing and in good standing under the laws of the jurisdiction of its organization and has the requisite corporate power and authority to own, lease and operate its properties and to carry on its business as it is now being conducted, except where the failure to be so existing and in good standing or to have such power and authority would not, individually or in the aggregate, materially impair or materially delay the Purchaser's ability to perform its obligations under this Agreement. The Purchaser is duly qualified or licensed to conduct business as a foreign entity and is in good standing in each jurisdiction in which the nature of the business conducted by it makes such qualification or licensing necessary, except where the failure to be so duly qualified, licensed and in good standing would not, individually or in the aggregate, materially impair or materially delay the Purchaser's ability to perform its obligations under this Agreement.

Section 4.2. Authority of the Purchaser. The Purchaser has all requisite entity power and authority to execute, deliver and perform its obligations under this Agreement and each of the Ancillary Documents to which it is a party. The execution, delivery and performance of this Agreement and such Ancillary Documents by the Purchaser and the consummation by the Purchaser of the transactions contemplated hereby and thereby have been duly authorized by all requisite entity action of the Purchaser. This Agreement and each such Ancillary Document have been duly and validly executed and delivered by the Purchaser and (assuming this Agreement and each such Ancillary Document constitute a valid and binding obligation of the

Sellers) constitute a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with their terms, subject to the Bankruptcy and Equity Exceptions.

Section 4.3. Consents and Approvals. No consent, approval or authorization of, or declaration, filing or registration with, any Governmental Entity is required to be made or obtained by the Purchaser or its Affiliates in connection with the execution, delivery and performance of this Agreement and the Ancillary Documents and the consummation of the transactions contemplated hereby and thereby, except for consents, approvals, authorizations, declarations, filings or registrations which, if not made or obtained, would not, individually or in the aggregate, materially impair or materially delay the Purchaser's ability to perform its obligations under this Agreement.

Section 4.4. No Violations. Assuming that the consents, approvals, authorizations, declarations, filings and registrations referred to in Sections 3.4 and 4.3 have been made or obtained and remain in full force and effect and the conditions set forth in Section 6.1 have been satisfied, neither the execution, delivery or performance of this Agreement or the Ancillary Documents by the Purchaser nor the consummation by the Purchaser of the transactions contemplated hereby or thereby will (a) conflict with or result in any breach of any provisions of the certificate of incorporation, bylaws or other organizational documents of the Purchaser, (b) with or without notice or lapse of time or both, result in any breach or violation of or constitute a default or give rise to any right of termination, acceleration, vesting, payment, exercise or revocation under, any Contract to which the Purchaser is a party or by which its properties or assets are bound, (c) result in the creation or imposition of any Encumbrance other than Permitted Encumbrances on any properties or assets of the Purchaser or (d) violate any Order or Law applicable to the Purchaser or its properties or assets, except in the case of clauses (b), (c) and (d), for breaches, violations, defaults, rights, creations or impositions that would not, individually or in the aggregate, materially impair or materially delay the Purchaser's ability to perform its obligations under this Agreement.

Section 4.5. Brokers. No Person is entitled to any brokerage, financial advisory, finder's or similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Purchaser or its Affiliates.

Section 4.6. Interested Stockholders. Neither the Purchaser nor any of its "affiliates" or "associates" has been an "interested stockholder" of the Parent at any time within three (3) years of the Effective Date, as those terms are used in Section 203 of the General Corporation Law of the State of Delaware.

ARTICLE V.

COVENANTS

Section 5.1. Conduct of Business Pending the Closing. The Sellers covenant and agree that, except (i) as contemplated by this Agreement or any Ancillary Document, (ii) as required by applicable Order or Law, (iii) as set forth in Section 5.1 of the Seller Disclosure Schedule, (iv) with the prior written consent of the Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed) or (v) as required by, arising out of, relating to or resulting

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from, the Petitions or otherwise approved by the Bankruptcy Court, from the Effective Date through the Closing Date:

(a) the Sellers shall, and shall cause each Non-Debtor Sub to, use commercially reasonable efforts to conduct the Business only in the ordinary course of business, including using commercially reasonable efforts to preserve the Business, the Acquired Assets and the existing business relationships of the Business, using commercially reasonable efforts to retain key employees and maintain the accounting methods and records of the Business in accordance with past practice and continue to operate the Business's billing and collection procedures, in each case, taking into account the Sellers' status as debtors in possession; and

(b) the Sellers shall not, and shall cause the other Non-Debtor Subs, as applicable, not to, take any of the following actions with respect to the Business, the Acquired Assets, the Assumed Liabilities or the Non-Debtor Subs:

(i) an amendment to the certificate of incorporation, bylaws or other organizational documents of the Non-Debtor Subs;

(ii) the issuance or sale of any shares of capital stock or equity interests, or options, warrants, calls, subscriptions or other rights, agreements or commitments of any character to acquire shares of capital stock or equity interests, of any Non-Debtor Sub, or securities convertible into, exchangeable or exercisable for any of the foregoing, other than any such issuance or sale by a Non-Debtor Sub to the Parent;

(iii) an acquisition, sale, lease, sublease, license or disposition of any of the Interests or any of the Acquired Assets or the properties or assets of any Non-Debtor Sub, in each case, other than in the ordinary course of business, taking into account the Sellers' status as debtors in possession provided that such interests or assets are, in each case, obsolete or immaterial to the Business;

(iv) enter into a plan of consolidation, merger, share exchange or reorganization with any Person or adopt a plan of complete or partial liquidation, except if required by order of the Bankruptcy Court, provided that no Seller or any Affiliate of a Seller petitioned, sought, requested or moved for such order of the Bankruptcy Court or authorized, supported or directed any other Person to petition, seek, request or move for such order of the Bankruptcy Court;

(v) the voluntary Encumbrance (other than Permitted Encumbrances) of any properties or assets, tangible or intangible, of the Business;

(vi) (A) the incurrence or assumption of any indebtedness for borrowed money or capitalized lease obligations or the issuance of any debt securities by any Non-Debtor Sub, except for borrowings from the Sellers in the ordinary course of business; or (B) the making of any loans, advances or capital contributions to, or investments in, any other Person, other than in the ordinary course of business;

(vii) the acquisition (by merger, consolidation or acquisition of stock or assets) of any corporation, partnership or other business organization or division thereof

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or any equity interest therein (other than purchases of marketable securities in the ordinary course of business);

(viii) the voluntary termination of, entry into, amendment in any material respect of, or waiver of any material rights under, any Material Contract included in the Acquired Assets or to which any Non-Debtor Sub is a party;

(ix) enter into any Contract the effect of which would be to grant to a third party any license to use any Intellectual Property;

(x) abandon or permit to lapse, to the extent within the control of the Sellers, any material Intellectual Property registration or application;

(xi) settling, compromising or waiving any Action materially affecting the value of the Business, the Acquired Assets, the Assumed Liabilities or the properties or assets of the Non-Debtor Subs;

(xii) the incurrence of any material liability that could become an Assumed Liability;

(xiii) the waiver, release or assignment of any material right or claim that would constitute an Acquired Asset;

(xiv) the redemption or repurchase of any Interests;

(xv) the failure to use reasonable best efforts to maintain existing insurance policies included in the Acquired Assets or to renew or replace existing insurance policies included in the Acquired Assets following their termination;

(xvi) the voluntary termination of, entry into or amendment of any Assumed Benefit Plan;

(xvii) with respect to the Transferred Employees, except as approved by the Bankruptcy Court, (i) the increase of compensation payable or to become payable to such employees; or (ii) the grant of any bonus, severance, retention or termination pay other than pursuant to applicable Benefit Plans in effect as of the Effective Date;

(xviii) the hiring of any employees (other than employees hired to fill vacancies created as a result of employees that cease to be employed by the Sellers following the date of this Agreement);

(xix) the entry into a collective bargaining agreement or other labor union Contract with respect to employees of the Sellers or any Non-Debtor Sub;

(xx) expend any insurance proceeds, condemnation awards or other compensation in respect of loss or damage to any Acquired Asset to the extent occurring after the date hereof but prior to the Closing Date; or

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(xxi) the authorization of or entry into an agreement to do any of the foregoing.

Section 5.2. Access and Information. The Sellers acknowledge and agree that the Purchaser's due diligence of the Business has not been completed. The Sellers shall afford to the Purchaser and its officers, employees, financial advisors, legal counsel, accountants, consultants, financing sources and other authorized representatives reasonable access during normal business hours throughout the period prior to the Closing Date to the books, records and properties of the Sellers and the Non-Debtor Subs and, during such period, shall promptly furnish to the Purchaser such information as the Purchaser may reasonably request, in each case, related to the Business, the Acquired Assets, the Assumed Liabilities or the Non-Debtor Subs for any purpose related to the consummation of the transactions contemplated by this Agreement; provided, that (a) any books and records or other information that is subject to an attorney-client or other legal privilege or obligation of confidentiality or non-disclosure shall not be made so accessible and (b) such access shall occur only following reasonable prior notice to a person designated by the Sellers and, at the Sellers' sole discretion, only if accompanied by a designee of the Sellers.

Section 5.3. Approvals and Consents; Cooperation.

(a) The parties hereto shall use their respective commercially reasonable efforts, and cooperate with each other, to obtain as promptly as practicable all consents, approvals or authorizations of Governmental Entities and to take all action necessary to cause the expiration or termination of any waiting periods under applicable Laws required in order to consummate the transactions contemplated by this Agreement; provided, that the obligations of the parties hereto to obtain any consent, approval or waiver from the Bankruptcy Court shall be governed exclusively by Section 5.7.

(b) The Sellers and the Purchaser shall take all actions necessary to file as soon as practicable all declarations, filings, registrations and other documents required to obtain all consents, approvals or authorizations from Governmental Entities, within ten (10) days after the Effective Date, and to respond as promptly as practicable to any inquiries received from any Governmental Entity for additional information or documentation or any other requests from Governmental Entities in connection therewith. The Purchaser and the Sellers shall use their commercially reasonable efforts to avoid or eliminate each and every impediment that may be asserted by any Governmental Entity so as to enable the parties hereto to close the transactions contemplated by this Agreement as promptly as practicable, provided that in no event shall the Purchaser or any Affiliate thereof be required to take any action that has a material adverse impact on the benefit that the Purchaser and its Affiliates would receive as a result of the transactions contemplated by this Agreement. The Sellers shall pay all filing fees under any Law.

Section 5.4. Additional Matters. Subject to the terms and conditions herein provided, each of the parties hereto agrees to use all reasonable best efforts to take, or cause to be taken, all action and to do, or cause to be done, all things necessary, proper or advisable under applicable Laws to consummate and make effective the transactions contemplated by this Agreement as promptly as practicable; provided, that the obligations of the parties hereto to obtain any consent, approval or waiver from the Bankruptcy Court shall be governed exclusively by Section 5.7.

Section 5.5. Further Assurances. In addition to the provisions of this Agreement, from time to time after the Closing Date, the Sellers and the Purchaser shall use commercially reasonable efforts to execute and deliver such other instruments of conveyance, transfer or assumption, as the case may be, and take such other action as may be reasonably requested to implement more effectively the conveyance and transfer of the Acquired Assets to the Purchaser and the assumption of the Assumed Liabilities by the Purchaser; provided, that nothing in this Section 5.5 shall (a) require the Sellers or any of their Affiliates to make any expenditure or incur any obligation on their own or on behalf of the Purchaser (unless funds in the full amount thereof are advanced to the Sellers in cash) or (b) prohibit or delay the Sellers or any of their Affiliates from ceasing operations or winding up its affairs following the Closing.

Section 5.6. Cure Costs. On the later of (x) the Closing and (y) the date on which any disputed Cure Cost is settled or resolved by a Final Order of the Bankruptcy Court, Purchaser shall pay (to the extent not previously satisfied), pursuant to Section 365 of the Bankruptcy Code and the Sale Order, the cure and reinstatement costs or expenses (the "Cure Costs") of or relating to the assumption and assignment of the Assigned Contracts and Assumed Leases.

Section 5.7. Bankruptcy Court Approval.

(a) The Sellers and the Purchaser acknowledge that this Agreement and the sale of the Acquired Assets are subject to Bankruptcy Court approval. The Sellers and the Purchaser acknowledge that (i) to obtain such approval, the Sellers must demonstrate that they have taken reasonable steps to obtain the highest or otherwise best offer possible for the Acquired Assets, including giving notice of the transactions contemplated by this Agreement to creditors and certain other interested parties as may be ordered by the Bankruptcy Court, and, if necessary, conducting an auction in respect of the Acquired Assets (the "Auction"), and (ii) the Purchaser must provide adequate assurance of future performance under the Assigned Contracts and Assumed Leases included in the Acquired Assets.

(b) No later than three (3) Business Days after the Effective Date, the Sellers shall file the Petitions commencing the Chapter 11 Cases with the Bankruptcy Court, together with appropriate supporting papers and notices.

(c) No later than one (1) Business Day after the Petition Date, the Sellers shall file the Motion to Approve the Bidding Procedures and Sale, in a form and substance satisfactory to the Purchaser, with the Bankruptcy Court, together with appropriate supporting papers and notices.

(d) In the event an appeal is taken or a stay pending appeal is requested, from either the Bidding Procedures Order or the Sale Order, the Sellers shall promptly notify the Purchaser of such appeal or stay request and shall promptly provide to the Purchaser a copy of the related notice of appeal or order of stay. The Sellers shall also provide the Purchaser with written notice of any motion or application filed in connection with any appeal from either of such orders.

(e) From and after the Effective Date, and if the Purchaser is the Successful Bidder at the Auction, the Sellers shall not take any action that is intended to result in, or fail to

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take any action the intent of which failure to act would result in, the reversal, voiding, modification or staying of the Bidding Procedures Order or the Sale Order.

Section 5.8. Bankruptcy Filings. From and after the Effective Date, the Sellers shall provide such prior notice as may be reasonable under the circumstances before filing any material papers in the Chapter 11 Cases. Notwithstanding the foregoing, if any such papers relate, in whole or in part, to this Agreement or to the Purchaser or any Affiliate thereof the Sellers shall provide such papers to the Purchaser before filing such papers with the Bankruptcy Court and any such papers shall be in a form and substance satisfactory to the Purchaser. The Sellers' inadvertent failure to comply with the first sentence of this Section 5.8 shall not constitute a breach under this Agreement.

Section 5.9. Expense Reimbursement. Notwithstanding anything in this Agreement to the contrary, and if approved by the Bankruptcy Court pursuant to the Bidding Procedures Order, the Sellers agree to pay the Purchaser the Expense Reimbursement Amount in accordance with Section 7.2. (b) of this Agreement and the Bidding Procedures Order.

Section 5.10. Bidding Procedures; Superior Offers. The bidding procedures to be employed with respect to this Agreement shall be those reflected in the Bidding Procedures Order. The Purchaser agrees and acknowledge that the Sellers and their representatives and Affiliates are and may continue soliciting inquiries, proposals or offers for the Business, in whole or in part, the Acquired Assets and the Interests in connection with alternative transactions pursuant to the terms of the Bidding Procedures Order and agree and acknowledge that, with the prior written consent of the Purchaser, the bidding procedures contained in the Bidding Procedures Order may be supplemented by other customary procedures not inconsistent with the matters otherwise set forth herein and the terms of this Agreement.

Section 5.11. [Reserved].

Section 5.12. Employee Matters.

(a) As of the Closing, the Purchaser shall assume the Assumed Benefit Plans and thereafter shall perform or cause to be performed all obligations of the Sellers with respect to the Assumed Benefit Plans in accordance with the terms thereof as in effect as of the Closing.

(b) With respect to each individual employed by the Sellers, Schedule 5.12 lists each such person's (i) hire date and title or job function, (ii) job designation (i.e., salaried or hourly), (iii) location of employment, (iv) employment status (i.e., actively employed or not actively at work and, if inactive, the reason therefor), and (v) annual base rate of compensation, 2015 target bonus and bonus amounts received in respect of 2014. Not later than twenty (20) days prior to the anticipated Closing Date, Sellers will provide the Purchaser with an updated Schedule 5.12. Sellers shall cooperate with and use their best efforts to make such employees reasonably accessible to the Purchaser prior to Closing.

(c) The Purchaser shall identify those individuals employed by the Sellers and listed on Schedule 5.12 (as updated in accordance with subsection (b) above) that will receive an offer of employment from the Purchaser or its Affiliates at least fifteen (15) days prior to the anticipated Closing Date and effective as of the Closing Date. Each offer of employment shall

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provide for base salary or wage rates that are not less than those in effect for each such employee immediately prior to the Closing and for employee benefits and other terms and conditions of employment as the Purchaser shall determine, in its sole discretion. Each individual shall be deemed to accept the offer of employment pursuant to the prior sentence by reporting to work at the employee's normal work location on the Closing Date or, with respect any employee who is on Seller-approved leave on the Closing Date, within ninety (90) days after the Closing Date (or if such leave is protected by applicable Law, the first business day following the end of the protected leave period) and shall be deemed a "Transferred Employee" as of the later of the Closing Date or the date of deemed acceptance. Any employee who does not report to work within the applicable time frames in the preceding sentence shall have been deemed to reject the Purchaser's (or its Affiliate's) offer of employment and shall not become a Transferred Employee. The Sellers shall cease to employ the Transferred Employees immediately prior to the Closing.

(d) The Purchaser shall, or shall cause one of its Affiliates to, provide to each Transferred Employee full credit for such Transferred Employee's service with the Sellers or any of their respective Affiliates prior to the Closing for all purposes, including for purposes of eligibility, vesting, benefit accruals and determination of the level of benefits (including vacation, severance and retirement benefits), under any benefit plan in which such Transferred Employee participates on or following the Closing to the same extent recognized by Sellers or any of their respective Affiliates immediately prior to the Closing; provided, that such service shall not be recognized to the extent that such recognition would result in a duplication of benefits or coverage. The Purchaser shall, or shall cause one of its Affiliates to, use commercially reasonable efforts to: (i) waive any limitation on health and welfare coverage of such Transferred Employees due to pre-existing conditions, waiting periods, active employment requirements, and requirements to show evidence of good health under any applicable health and welfare plan of the Purchaser or any of its Affiliates to the extent such Transferred Employees were covered under a similar Benefit Plan and (ii) credit each such Transferred Employee with all eligible payments, co-payments and co-insurance paid by such employee under any Benefit Plan prior to the Closing Date during the year in which the Closing occurs for the purpose of determining the extent to which any such employee has satisfied any applicable deductible and whether such employee has reached the out-of-pocket maximum under any benefit plan of the Purchaser or any Affiliate for such year.

(e) Sellers shall retain all obligations relating to compliance with the continuation coverage requirements of Section 4980B of the Code and Sections 601 through 608 of ERISA ("COBRA") under the Benefit Plans, regardless of whether a qualifying event occurs prior to, on or after the Closing Date. This Agreement shall not, however, limit the ability of Sellers to amend or terminate any such Benefit Plan at any time.

(f) Sellers agree to provide any required notice under and otherwise satisfy all liabilities relating to WARN with respect to any event affecting employees of the Sellers on or prior to the Closing Date.

(g) Any employment opportunity offered by the Purchaser or its Affiliates hereunder shall be "at will" and may be terminated by the Purchase or its Affiliates at any time for any reason. Nothing in this Section 5.12. shall constitute or be construed as (i) an

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amendment, termination or other modification of any employee benefit or compensation plan or arrangement, or a restriction or other limitation on the right of any party hereto to amend, terminate or otherwise modify any such plans or arrangements, (ii) a guarantee of employment for any period, or a restriction or other limitation on the right of any party hereto to terminate the employment or terms and conditions of employment of any individual at any time, or (iii) create any third party rights in any Transferred Employees or any other current or former employees of the Sellers (or beneficiaries thereof).

Section 5.13. [Reserved].

Section 5.14. Post-Closing Books and Records. For a period of four (4) years after the Closing Date (or such longer period as may be required by any Governmental Entity, applicable Order or any ongoing Action):

(a) the Purchaser shall not dispose of or destroy any of the business records and files of the Business transferred to it hereunder; and

(b) the Purchaser shall allow the Sellers and any of their directors, officers, employees, financial advisors, legal counsel, accountants, consultants and other authorized representatives access to all business records and files of the Sellers, the Non-Debtor Subs or the Business that are transferred to the Purchaser hereunder, which are reasonably required by the Sellers for purposes related to the Chapter 11 Cases, the wind-down of the operations of the Sellers, the functions of any trusts or other successors to the Sellers, Tax matters and other reasonable business purposes, during regular business hours and upon reasonable prior notice, and the Sellers shall have the right to make copies of any such records and files.

Notwithstanding the foregoing, during such period, the Purchaser may dispose of any such business records or files of the Business which are offered to, but not accepted by, the Sellers within ninety (90) days of receipt of such offer.

Section 5.15. Parent Confidentiality Agreements; Post-Closing Confidentiality.

(a) Effective at the Closing, the Parent hereby assigns to the Purchaser the rights under the Parent Confidentiality Agreements to enforce the non-use, non-disclosure and return or destruction of Evaluation Material (as such term is defined in the Parent Confidentiality Agreements) to the extent related to the Business, the Acquired Assets and the Assumed Liabilities; provided, that the Parent retains all other rights and remedies thereunder. The Parent expressly disclaims any representation or warranty as to the enforceability of any of such assigned provisions.

(b) For a period of two (2) years following the Closing Date, the Sellers shall not, and shall cause their Affiliates and their respective directors and officers not to, disclose to any Person other than the directors, officers, employees and authorized representatives of the Purchaser and its Affiliates, or use or otherwise exploit for their benefit, any Confidential Information, except (i) pursuant to any Order, as required in any Action or as otherwise required by applicable Law, (ii) to enforce its rights and remedies under this Agreement or (iii) disclosure of Confidential Information in connection with the Chapter 11 Cases shall not constitute a breach of this Section 5.15. (b). "Confidential Information" shall mean any proprietary or confidential

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information to the extent related to the Business, the Acquired Assets or the Assumed Liabilities, excluding any information that (x) is (as of the Closing Date) or becomes generally available to the public other than as a result of a breach of this Section 5.15. (b) or (y) becomes available to the Sellers, their Affiliates or their respective directors and officers after the Closing Date on a non-confidential basis from a source other than the Purchaser or its Affiliates, provided that such source is not, to the knowledge of the Sellers, bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the Purchaser or its Affiliates or any other party with respect to such information.

Section 5.16. [Reserved].

Section 5.17. Payments Received. The Sellers and the Purchaser each agree that after the Closing they will hold and will promptly transfer and deliver to the other, from time to time as and when received by them or their respective Subsidiaries, any cash, checks with appropriate endorsements (using their best efforts not to convert such checks into cash) or other property that they may receive on or after the Closing which properly belongs to the other party hereto or its Subsidiaries and will account to the other for all such receipts.

Section 5.18. Use of Names and Marks. As soon as practicable following the Closing, the Sellers shall remove "IMRIS" from their corporate name for the purposes of the Chapter 11 Cases and any additional time during which the Sellers wind down their affairs. Notwithstanding the forgoing, the Sellers shall be entitled to refer to names and marks included in the Acquired Assets in filings with Governmental Entities, for factual or historical reference and for any other purposes that do not constitute trademark infringement and are not otherwise prohibited by applicable Law.

Section 5.19. Notice of Default.

(a) The Sellers shall, promptly and in any event within three (3) Business Days of receipt thereof, provide to the Purchaser a copy of any notices of any material breach or default that any Seller or any of Affiliate thereof receives in respect of any Contract, or any notices that it receives with respect to any Permit from a Governmental Entity, and any notices of breach or default under any Contract that any of the foregoing sends to another Person, in either case after the date of this Agreement.

(b) The Sellers, on the one hand, and the Purchaser, on the other hand, shall promptly notify the other of:

(i) any notice or other communication received by any Seller or Affiliate thereof, in the case of the Sellers, or Purchaser, in the case of the Purchaser, from any Person alleging that the consent of such Person is or may be required, notwithstanding the application of the Bankruptcy Code, in connection with the transactions contemplated hereby;

(ii) any inaccuracy of any representation or warranty of such party contained in this Agreement at any time that would make such representation or warranty false in any material respect; and

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(iii) any breach of any covenant or agreement of such party contained in this Agreement at any time.

(c) Each of the Sellers and the Purchaser shall give prompt notice to the other of the occurrence or failure to occur of an event that would, or with or without notice or lapse of time or both would, cause any condition to the consummation of the transactions contemplated hereby for the benefit of the other party hereto not to be satisfied.

(d) Notwithstanding anything to the contrary in this Agreement, delivery of any notice pursuant to Section 5.19 and any access to or provision of information (including pursuant to Section 5.2) shall not modify any of the representations, warranties, covenants or agreements of the parties (or rights or remedies with respect thereto) or the conditions to the obligations of the parties under this Agreement.

Section 5.20. Plan of Reorganization. Notwithstanding anything in this Agreement to the contrary, at any time prior to ten (10) days before the Closing, any Seller or Non-Debtor Sub, as may be requested by Purchaser, in Purchaser's sole discretion, shall file a Plan of Reorganization under Chapter 11 of the Bankruptcy Code which provides for the conversion of the Claim Amount into Interests of such Seller or Non-Debtor Sub, as applicable.

ARTICLE VI.

CONDITIONS PRECEDENT

Section 6.1. Conditions Precedent to Obligation of the Sellers and the Purchaser. The respective obligations of each party hereto to effect the transactions contemplated by this Agreement shall be subject to the satisfaction at or prior to the Closing of the following conditions:

(a) the Sale Order shall have been entered by the Bankruptcy Court and shall not be subject to any effective stay;

(b) no Governmental Entity of competent jurisdiction shall have enacted, enforced or entered any Law or final and non-appealable Order that is in effect on the Closing Date and prohibits the consummation of the Closing.

Section 6.2. Conditions Precedent to Obligation of the Sellers. The obligation of the Sellers to effect the transactions contemplated by this Agreement shall be subject to the satisfaction or waiver by the Sellers at or prior to the Closing of the following conditions:

(a) the Purchaser shall have performed in all material respects all of the covenants and agreements under this Agreement required to be performed by the Purchaser at or prior to the Closing; and

(b) the representations and warranties of the Purchaser contained in this Agreement shall be true and correct as of the Closing Date as if made at and as of such date (except to the extent such representations and warranties speak as of another date, in which case such representations and warranties shall be true and correct as of such other date), except where

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the failure of such representations and warranties to be so true and correct (disregarding any exception or qualification in such representations and warranties relating to “material” or “materiality”) would not, individually or in the aggregate, materially impair or materially delay the Purchaser’s ability to perform its obligations under this Agreement.

(c) The deliveries described in Section 2.2(b) shall have been made.

Section 6.3. Conditions Precedent to Obligation of the Purchaser. The obligation of the Purchaser to effect the transactions contemplated by this Agreement shall be subject to the satisfaction or waiver by the Purchaser at or prior to the Closing of the following conditions:

(a) the Sellers shall have performed in all material respects all of the covenants and agreements under this Agreement required to be performed by the Sellers at or prior to the Closing;

(b) All consents required in connection with the transactions contemplated hereby, including the consents set forth on Schedule 6.3(b), shall have been obtained in form and substance reasonably satisfactory to Purchaser and shall be in full force and effect.

(c) The representations and warranties of the Sellers (i) set forth in Section 3.1, Section 3.2, Section 3.3, Section 3.8(b) and Section 3.22 hereof shall be true and correct in all respects as of the date of this Agreement and as of the Closing Date as if made on the Closing Date (except for any representation or warranty made as of a specified date, which shall be true and correct in all respects as of such specified date), and (ii) contained in this Agreement, other than those described in the immediately preceding clause (i), shall be true and correct in all material respects (disregarding any exception or qualification in such representations and warranties relating to “material,” “materiality” or “Material Adverse Effect”) as of the date of this Agreement and as of the Closing Date as if made on the Closing Date (except for any representation or warranty made as of a specified date, which shall be true and correct in all material respects (disregarding any exception or qualification in such representations and warranties relating to “material,” “materiality” or “Material Adverse Effect”) as of such specified date).

(d) The deliveries described in Section 2.2(a) shall have been made.

ARTICLE VII.

TERMINATION

Section 7.1. Termination Events. Anything contained in this Agreement to the contrary notwithstanding, this Agreement may be terminated at any time prior to the Closing Date:

(a) by mutual written consent of the Parent and the Purchaser;

(b) by either the Parent or the Purchaser, by giving written notice of such termination to the other, if a Governmental Entity of competent jurisdiction shall have enacted, enforced or entered any Law or a final and non-appealable Order shall be in effect that prohibits the consummation of the Closing;

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(c) by either the Parent or the Purchaser, by giving written notice of such termination to the other, if the Closing shall not have occurred prior to July 31, 2015., and as of such date all conditions to the Closing set forth in ARTICLE VI shall have been satisfied or waived or shall be capable of being satisfied at the Closing (but subject to the satisfaction or waiver at or prior to the Closing of all such conditions) , unless the failure of the Closing to occur prior to such date results from the failure of the party hereto seeking to terminate this Agreement to materially perform any of its obligations under this Agreement required to be performed by it at or prior to the Closing;

(d) by the Purchaser in the event of (i) any breach by the Sellers of any of their covenants, representations or warranties contained in this Agreement, which breach would (if occurring or continuing as of the Closing) give rise to the failure of a condition to the Closing set forth in Section 6.3. , or (ii) any material breach by the Sellers of the Bidding Procedures Order or the Sale Order, and in either case, the failure of the Sellers to cure such breach within ten (10) Business Days after receipt of notice thereof;

(e) by the Parent in the event of (i) any breach by the Purchaser of any of its covenants, representations or warranties contained in this Agreement, which breach would (if occurring or continuing as of the Closing) give rise to the failure of a condition to the Closing set forth in Section 6.2. , or (ii) any material breach by the Purchaser of the Bidding Procedures Order or the Sale Order, and in either case, the failure of the Purchaser to cure such breach within ten (10) Business Days after receipt of notice thereof;

(f) by either the Purchaser or the Parent, by giving written notice of such termination to the other, if Seller receives, other than from the Purchaser, a qualified bid that is consistent with the Bidding Procedures Order and has been finally approved by the Bankruptcy Court in the Sale Order as the bid of the Successful Bidder;

(g) by either the Purchaser or the Parent, by giving written notice of such termination to the other, if the Sellers consummate any transaction in which a material portion of the Business or the Acquired Assets are to be sold, transferred or otherwise disposed of pursuant to a qualified bid described in Section 7.1. (f);

(h) by the Purchaser, if the Petitions commencing the Chapter 11 Cases have not been filed with the Bankruptcy Court by the Sellers within three (3) Business Days after the Effective Date;

(i) by the Purchaser, if the Motion to Approve the Bidding Procedures and Sale has not been filed with the Bankruptcy Court by the Sellers within one (1) Business Day after the Petition Date;

(j) by the Purchaser, if the Bidding Procedures Order shall not have been entered by the Bankruptcy Court by the earlier of (i) seven (7) days following the formation of a Committee or (ii) fifteen (15) days after the Petition Date; or

(k) by the Purchaser, if the Sale Order shall not have been entered by the Bankruptcy Court by July 27, 2015.

Section 7.2. Effect of Termination.

(a) Except as otherwise provided in this Section 7.2., in the event of termination of this Agreement by either party hereto in accordance with Section 7.1., all rights and obligations of the parties under this Agreement shall terminate without any liability of any party to any other parties hereto, except for liability for fraud or intentional breach of this Agreement prior to such termination. The provisions of clause (a) of Section 5.2., this Section 7.2. and ARTICLE VIII (other than Sections 8.1 and 8.2) shall expressly survive the termination of this Agreement.

(b) Notwithstanding Section 7.2. (a), if this Agreement is terminated pursuant to Section 7.1. (a), Section 7.1. (b), Section 7.1. (c), Section 7.1. (d), Section 7.1. (f), Section 7.1. (g), Section 7.1. (h), Section 7.1. (i), Section 7.1. (j) or Section 7.1. (k) then the Sellers shall pay to the Purchaser the Expense Reimbursement Amount in full and complete satisfaction of all of the Sellers' obligations hereunder. The payment of the Expense Reimbursement Amount shall be made by wire transfer of immediately available funds promptly (but in any event within two (2) Business Days) following the occurrence of the relevant termination event, and shall, subject to Bankruptcy Court approval, be granted priority administrative expense status in the Chapter 11 Cases. Notwithstanding Section 7.2. (a), the Purchaser's right to receive the one-time payment of the Expense Reimbursement Amount from the Sellers as provided in this Section 7.2. (b) shall be the sole and exclusive remedy available to the Purchaser against the Sellers or any of their respective former, current or future equityholders, directors, officers, Affiliates, agents or representatives with respect to this Agreement and the transactions contemplated hereby in the event that this Agreement is terminated pursuant to Section 7.1. (d), Section 7.1. (f) or Section 7.1. (g) (including if terminated or terminable pursuant to one or more of such provisions), and upon such payment of the Expense Reimbursement Amount, none of the Sellers or any of their respective former, current or future equityholders, directors, officers, Affiliates, agents or representatives shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated hereby. The parties hereto acknowledge and agree that in no event shall the Sellers be required to pay the Expense Reimbursement Amount on more than one occasion.

ARTICLE VIII.

GENERAL PROVISIONS

Section 8.1. Tax Matters.

(a) All sales, use, excise, transfer, documentary, stamp, value added, recordation, license, conveyance and other similar Taxes ("Transfer Taxes"), if any, payable in connection with the transactions contemplated by this Agreement shall be borne equally by the Purchaser, on the one hand, and the Sellers on the other hand and paid when due; provided, however, that the parties shall reasonably cooperate in availing themselves of any available exemptions from any such Transfer Taxes. The party responsible under applicable Law shall be responsible for preparing and filing all Tax Returns with respect to Transfer Taxes and shall file all such Tax Returns when due.

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(b) As to any Acquired Asset acquired by the Purchaser, the Sellers and the Purchaser shall apportion the liability for real and personal property Taxes, ad valorem Taxes, and similar Taxes (“Periodic Taxes”) for all Tax periods including but not ending on the Closing Date applicable to such Acquired Asset (all such periods of time being hereinafter called “Proration Periods”). The Periodic Taxes described in this Section 8.1. (b) shall be apportioned between the Sellers and the Purchaser as of the Closing Date, with the Purchaser liable for that portion of the Periodic Taxes equal to the Periodic Tax for the Proration Period multiplied by a fraction, the numerator of which is the number of days remaining in the applicable Proration Period after the Closing Date, and the denominator of which is the total number of days covered by such Proration Period. The Sellers shall be liable for that portion of the Periodic Taxes for a Proration Period for which the Purchaser is not liable under the preceding sentence. The Purchaser and the Sellers shall pay or be reimbursed for Periodic Taxes (including instances in which such Periodic Taxes have been paid before the Closing Date) on this prorated basis at Closing. To the extent the liability for Periodic Taxes for a certain Proration Period is not determinable at the time of Closing or such Periodic Taxes are charged in arrears, such Periodic Taxes shall be prorated for such Proration Period, based on the most recent ascertainable full tax year without adjustment. The party hereto responsible under applicable Law for paying a Tax described in this Section 8.1. (b) shall be responsible for administering the payment of such Tax. For purposes of this Section 8.1. (b), the Proration Period for ad valorem Taxes and real and personal property Taxes shall be the fiscal period for which such Taxes were assessed by the applicable Tax jurisdiction.

(c) The Sellers, on the one hand, or the Purchaser, on the other hand, as the case may be (the “Reimbursing Party”), shall provide reimbursement for any Tax paid by the other (the “Paying Party”), all or a portion of which is the responsibility of the Reimbursing Party in accordance with the terms of this Section 8.1. or which represents an overpayment for Taxes by the Paying Party. Within a reasonable time prior to the payment of any such Tax, the Paying Party shall give notice to the Reimbursing Party of the Tax payable and the Paying Party’s and Reimbursing Party’s respective liability therefor, although failure to do so will not relieve the Reimbursing Party from its liability hereunder except to the extent the Reimbursing Party is prejudiced thereby.

Section 8.2. Bulk Sales. The Purchaser hereby waives compliance by the Sellers and their Affiliates with the requirements and provisions of any “bulk-transfer” or similar laws of any jurisdiction that may otherwise be applicable with respect to the sale, conveyance, assignment or transfer of any or all of the Acquired Assets to the Purchaser.

Section 8.3. Survival of Representations, Warranties and Covenants. No representations or warranties in this Agreement or in any Ancillary Document shall survive the Closing. No covenants in this Agreement or in any Ancillary Document shall survive the Closing except to the extent the terms thereof expressly contemplate performance following the Closing in which case such covenant shall terminate once it is fully performed.

Section 8.4. Public Announcements. Unless otherwise required by applicable Law or by obligations of the Sellers or the Purchaser or their respective Affiliates pursuant to any listing agreement with or rules of any securities exchange or in order to enforce a party’s rights or remedies under this Agreement, the Sellers and the Purchaser shall consult with each other

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before issuing any other press release or otherwise making any public statement with respect to this Agreement, the transactions contemplated hereby or the activities and operations of the other and shall not issue any such release or make any such statement without the prior written consent of the other (such consent not to be unreasonably withheld, conditioned or delayed).

Section 8.5. Notices. All notices, requests, claims, demands or other communications hereunder shall be deemed to have been duly given and made if in writing and (a) at the time personally delivered if served by personal delivery upon the party hereto for whom it is intended, (b) at the time received if delivered by registered or certified mail (postage prepaid, return receipt requested) or by a national courier service (delivery of which is confirmed), or (c) upon confirmation if sent by facsimile; in each case to the Person at the address set forth below, or such other address as may be designated in writing hereafter, in the same manner, by such Person:

(a) if to the Purchaser, to:

c/o Deerfield Management Company, L.P.
780 Third Avenue, 37th Floor
New York, NY 10017
Facsimile: (646) 536-5661
Attention: David J. Clark

with a copy (which shall not constitute notice) to:

Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, New York 10019
Facsimile: (212) 728-8111
Attention: Steven J. Gartner
John C. Longmire

and

(b) if to the Sellers, to

IMRIS INC.
5101 Shady Oak Road
Minnetonka, Minnesota 55343
Facsimile: (866) 992-3224
Attention: Jay D. Miller

with a copy (which shall not constitute notice) to:

DLA Piper LLP (US)
203 North LaSalle Street, Suite 1900
Chicago, Illinois 60601-1293
Facsimile: (312) 630-5330
Attention: Richard A. Chesley

Section 8.6. Descriptive Headings; Interpretative Provisions. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. The words “hereof”, “herein” and “hereunder” and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. References to Articles, Sections, Exhibits and Schedules are to Articles, Sections, Exhibits and Schedules of this Agreement unless otherwise specified. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein, shall have the meaning as defined in this Agreement. Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular. Where a word or phrase is defined herein, each of its other grammatical forms shall have a corresponding meaning. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”, whether or not they are in fact followed by those words or words of like import. Whenever the last day for the exercise of any right or the discharge of any duty under this Agreement falls on other than a Business Day, the party hereto having such right or duty shall have until the next Business Day to exercise such right or discharge such duty. Whenever action must be taken (including the giving of notice, the delivery of documents or the funding of money) under this Agreement, prior to the expiration of, by no later than or on a particular date, unless otherwise expressly provided in this Agreement, such action must be completed by 5:00 p.m. on such date. The time limited for performing or completing any matter under this Agreement may be extended or abridged by an agreement in writing by the parties. All references herein to time are references to New York City time, unless otherwise specified herein. Time shall be of the essence of this Agreement. Unless otherwise indicated, the word “day” shall be interpreted as a calendar day. References to “dollars” or “\$” mean United States dollars, unless otherwise clearly indicated to the contrary. No summary of this Agreement prepared by or on behalf of any party hereto shall affect the meaning or interpretation of this Agreement.

Section 8.7. No Strict Construction. The Sellers and the Purchaser participated jointly in the negotiation and drafting of this Agreement, and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the Sellers and the Purchaser, and no presumption or burden of proof shall arise favoring or disfavoring any party hereto by virtue of the authorship of any provision of this Agreement. Without limitation as to the foregoing, no rule of strict construction construing ambiguities against the draftsman shall be applied against any person with respect to this Agreement.

Section 8.8. Entire Agreement; Assignment. This Agreement and the Ancillary Documents constitute the entire agreement and supersede all other prior agreements and understandings, both written and oral, among the parties hereto or any of them, with respect to the subject matter hereof and thereof. Neither this Agreement nor any of the rights, interests or obligations under it may be directly or indirectly assigned, delegated, sublicensed or transferred by any of the parties hereto, in whole or in part, to any other Person by operation of law or otherwise, without the prior written consent of the other parties, and any attempted or purported assignment in violation of this Section 8.8. will be null and void; provided, that Purchaser may, without the consent of the Sellers, assign or transfer any or all of its right and/or obligations

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hereunder to one or more of its Affiliates. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective successors and permitted assigns. The Parties agree that the Ancillary Documents may be revised, amended and supplemented subject to further order of the Bankruptcy Court.

Section 8.9. Governing Law; Submission of Jurisdiction; Waiver of Jury Trial. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to the rules of conflict of laws of the State of Delaware or any other jurisdiction. Each of the parties hereto irrevocably and unconditionally consents to submit to the exclusive jurisdiction of the Bankruptcy Court for any litigation arising out of or relating to this Agreement and the transactions contemplated thereby (and agrees not to commence any litigation relating thereto except in the Bankruptcy Court), and waives any objection to the laying of venue of any such litigation in the Bankruptcy Court. Each party hereto hereby consents to service of process in the manner and at the address set forth in Section 8.5. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 8.10. Expenses. Except as otherwise expressly provided herein, whether or not the transactions contemplated by this Agreement are consummated, all costs and expenses incurred in connection with this Agreement and the transactions contemplated thereby shall be paid by the party hereto incurring such expenses.

Section 8.11. Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of all the parties hereto.

Section 8.12. Waiver. At any time prior to the Closing, the parties hereto may (a) extend the time for the performance of any of the obligations or other acts of the other parties hereto, (b) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto and (c) waive compliance with any of the agreements or conditions contained herein. Any agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise expressed or provided.

Section 8.13. Counterparts; Effectiveness. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement.

Section 8.14. Severability; Validity; Parties in Interest. If any provision of this Agreement or the application thereof to any Person or circumstance is held invalid or unenforceable, the remainder of this Agreement, and the application of such provision to other Persons or circumstances, shall not be affected thereby, and to such end, the provisions of this Agreement are agreed to be severable. Nothing in this Agreement, express or implied, is

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intended to confer upon any Person not a party to this Agreement any rights or remedies of any nature whatsoever under or by reason of this Agreement.

Section 8.15. Specific Performance; Sole and Exclusive Remedy for Seller Breach.

(a) The parties hereto recognize that if the Purchaser breaches this Agreement or refuses to perform under the provisions of this Agreement, monetary damages alone may not be adequate to compensate the Sellers for their injuries. The Sellers shall therefore be entitled, in addition to any other remedies that may be available, to obtain specific performance of the terms of this Agreement, without posting bond or other undertaking.

(b) Following the Petition Date, in the event of any breach prior to the Closing by any Seller of any of the Sellers' agreements, covenants, representations or warranties contained herein or in the Bidding Procedures Order or the Sale Order, including any breach that is material, the Purchaser's sole and exclusive remedy shall be to exercise the Purchaser's rights to terminate this Agreement pursuant to Section 7.1. (d), in accordance with the terms of such Section 7.1. (d), and to receive payment of the Expense Reimbursement Amount as provided in Section 7.2. (b), and the Purchaser shall not have any further cause of action for damages, specific performance or any other legal or equitable relief against the Sellers or any of their respective former, current or future equityholders, directors, officers, Affiliates, agents or representatives with respect thereto; provided, that this Section 8.15(b) shall not apply with respect to any willful breach of this Agreement by any Seller.

ARTICLE IX.

DEFINITIONS

As used herein, the terms below shall have the following meanings:

"Acquired Assets" has the meaning set forth in Section 1.1. .

"Acquisition" has the meaning set forth in the Recitals.

"Action" means any claim, charge, action, suit, arbitration, mediation, inquiry, proceeding or investigation by any Person or Governmental Entity before any Governmental Entity or any arbitrator or mediator. For the avoidance of doubt, this term includes administrative claims, charges, actions, suits, proceedings or investigations.

"Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person.

"Agreement" has the meaning set forth in the Preamble and shall include the Exhibits and Schedules annexed hereto or referred to herein.

"Ancillary Documents" means the Bill of Sale, Assignment and Assumption Agreement, Intellectual Property Assignment Agreements and each other agreement, document or instrument (other than this Agreement) executed and delivered by the parties hereto in connection with the consummation of the transactions contemplated by this Agreement.

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“*Assigned Contracts*” means, collectively, the Contracts set forth on Section 1.1. (d), as such schedule may be amended from time to time pursuant to Section 1.7 hereof.

“*Assignment and Assumption Agreement*” has the meaning set forth in Section 2.2. (a)(iv).

“*Assumed Benefit Plans*” has the meaning set forth in Section 1.1(s).

“*Assumed Leases*” means, collectively, the Leases set forth on Schedule 1.1(g), as such schedule may be amended from time to time pursuant to Section 1.7 hereof.

“*Assumed Liabilities*” has the meaning set forth in Section 1.3.

“*Auction*” has the meaning set forth in Section 5.7. (a).

“*Avoidance Action*” means claims and causes of action under Sections 544 through 553, inclusive, of the Bankruptcy Code.

“*Bankruptcy and Equity Exceptions*” has the meaning set forth in Section 3.3.

“*Bankruptcy Code*” has the meaning set forth in the Recitals.

“*Bankruptcy Court*” has the meaning set forth in the Recitals.

“*Benefit Plan*” means a plan, program, agreement or other arrangement providing for employment, compensation, retirement, deferred compensation, severance, separation, relocation, repatriation, expatriation, termination pay, performance awards, bonus, incentive, stock option, stock purchase, stock bonus, phantom stock, stock appreciation right, supplemental retirement or other pension or welfare benefits, whether written or unwritten, including each “employee benefit plan” within the meaning of Section 3(3) of ERISA, which is or has been sponsored, maintained, contributed to (or required to be contributed to by) or entered into by any of the Sellers or any of their Subsidiaries or any trade or business (whether or not incorporated) that is or at any relevant time was treated as a single employer with the Sellers or any of their Subsidiaries within the meaning of Section 414(b), (c), (m) or (o) of the Code (an “*ERISA Affiliate*”) for the benefit of any employee or former employee of the Sellers or any of their Subsidiaries.

“*Bidding Procedures*” means bid procedures in substantially the form attached hereto as Exhibit E, to be approved by the Bankruptcy Court pursuant to the Bidding Procedures Order.

“*Bidding Procedures Order*” means an Order of the Bankruptcy Court in substantially the form attached hereto as Exhibit F.

“*Bill of Sale*” has the meaning set forth in Section 2.2. (a)(ii).

“*Business*” has the meaning set forth in the Recitals.

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“*Business Day*” means any day that is not a Saturday, Sunday or other day on which banking institutions in New York City, New York are authorized or required by Law or Order to close.

“*Canada Bankruptcy Court*” means the proceedings brought by the Sellers under the Companies’ Creditors Arrangements Act in the Court of Queen’s Bench of Manitoba.

“*Chapter 11 Cases*” has the meaning set forth in the Recitals.

“*Closing*” has the meaning set forth in Section 2.1.

“*Closing Date*” has the meaning set forth in Section 2.1.

“*COBRA*” has the meaning set forth in Section 5.12(e).

“*Code*” means the Internal Revenue Code of 1986, as amended.

“*Committee*” means an official committee of unsecured creditors that is appointed in the Chapter 11 Cases, if any.

“*Confidential Information*” has the meaning set forth in Section 5.15. (b).

“*Contract*” means any loan or credit agreement, bond, debenture, note, mortgage, indenture, lease, supply agreement, license agreement, development agreement or other contract, agreement, obligation, commitment or instrument that is legally binding.

“*Cure Costs*” has the meaning set forth in Section 5.6.

“*DIP Agreement*” means that certain Senior Secured, Superpriority Debtor-In-Possession Credit Agreement by and among the Sellers, the Purchaser Related Entities and the administrative agent thereto entered into as of May [___], 2015.

“*Effective Date*” means the date as of which this Agreement was executed as set forth in the first sentence of this Agreement.

“*Encumbrance*” means any charge, lien, claim, mortgage, lease, hypothecation, deed of trust, pledge, security interest, easement, servitude, encroachment, encumbrance, conditional sales contract or other title retention agreement or other similar interest or instrument charging, or creating a security interest of any kind or any agreement, lease, license, occupancy agreement, option, easement, right of way, restriction, execution or other encumbrance of any kind affecting title to any asset or part thereof or interest therein.

“*Environmental Claim*” shall mean any Action, investigation or written notice by any Person alleging potential liability (including potential liability for investigatory costs, cleanup costs, governmental response costs, natural resources damages, property damages, personal injuries or penalties) arising out of, based on or resulting from the presence or Release of any Hazardous Materials at any location or a violation or alleged violation of applicable Environmental Laws.

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“*Environmental Laws*” shall mean Laws relating to pollution or protection of the environment or human health and safety (with respect to exposure to Hazardous Materials), including Laws relating to Releases or threatened Releases of Hazardous Materials into the indoor or outdoor environment (including ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the treatment, storage, transport or disposal of Hazardous Materials.

“*Environmental Permit*” shall mean any Permit required by or issued pursuant to an applicable Environmental Law.

“*ERISA*” means the Employee Retirement Income Security Act of 1974, as amended.

“*ERISA Affiliate*” has the meaning set forth within the definition of Benefit Plan.

“*Excluded Agreements*” means, collectively, the Contracts and Leases set forth on Section 1.1. (d), as such schedule may be amended from time to time pursuant to Section 1.7 hereof.

“*Excluded Assets*” has the meaning set forth in Section 1.2.

“*Excluded Liabilities*” has the meaning set forth in Section 1.4.

“*Expense Reimbursement Amount*” means the dollar amount equal to the lesser of (i) \$1,000,000 and (ii) the aggregate amount of all reasonable and documented out of pocket expenses and fees incurred by the Purchaser and its Affiliates in connection with the transactions contemplated by this Agreement and the Ancillary Documents, including reasonable legal, professional and financing fees, which amount shall, subject to Bankruptcy Court approval, constitute a priority administrative expense under Section 503(b)(1) of the Bankruptcy Code and shall be payable as set forth in Section 7.2. (b).

“*Facility Agreement*” has the meaning set forth in the Recitals.

“*FDA*” has the meaning set forth in Section 3.14. (b).

“*Final Order*” means an action taken or Order issued by the applicable Governmental Entity as to which: (i) no request for stay of the action or Order is pending, no such stay is in effect, and, if any deadline for filing any such request is designated by statute or regulation, it is passed, including any extensions thereof, (ii) no petition for rehearing or reconsideration of the action or Order, or protest of any kind, is pending before the Governmental Entity and the time for filing any such petition or protest is passed, (iii) the Governmental Entity does not have the action or Order under reconsideration or review on its own motion and the time for such reconsideration or review has passed, and (iv) the action or Order is not then under judicial review, there is no notice of appeal or other application for judicial review pending, and the deadline for filing such notice of appeal or other application for judicial review has passed, including any extensions thereof; provided, that a request for a stay, appeal, motion to rehear or reconsider or petition for certiorari referred to above shall be disregarded for purposes of such clause if such request for a stay, appeal, motion to rehear or reconsider or petition for certiorari

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would not, individually or in the aggregate, reasonably be expected to result in more than \$10,000 of losses to the Purchaser.

“Financial Statements” has the meaning set forth in Section 3.6. (a).

“Fund II” has the meaning set forth in the Recitals.

“GAAP” means United States generally accepted accounting principles.

“Governmental Entity” means any federal, state, provincial, local, county or municipal government, governmental, judicial, regulatory or administrative agency, commission, board, bureau or other authority or instrumentality, domestic or foreign.

“Hazardous Material” shall mean any chemicals, materials or substances defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “hazardous constituents,” restricted hazardous materials,” “extremely hazardous substances,” “toxic substances,” “contaminants,” “pollutants,” “toxic pollutants” or words of similar meaning and regulatory effect under any applicable Environmental Law.

“Imaging and Service Business” has the meaning set forth in Section 1.6.

“Imperial” has the meaning set forth in Section 3.9.

“Intellectual Property” has the meaning set forth in Section 1.1. (i).

“Intellectual Property Assignment Agreement” has the meaning set forth in Section 2.2. (a)(v).

“Interests” has the meaning set forth in the Recitals.

“International” has the meaning set forth in the Recitals.

“Knowledge of the Sellers” means the actual knowledge of to the extent any director or officer of the Sellers or any Non-Debtor Sub, as applicable, (including, but not limited to Jay Miller, Jeffrey Battles, David Graves and Blaine Hobson) (a) has actual knowledge of such fact or matter or (b) would reasonably be expected to have actual knowledge of such fact or matter after a reasonable review of such party’s books and records or reasonable inquiry of such party’s direct reports having responsibility for the subject matter in question.

“Law” means any federal, state, local or foreign statute, law, ordinance, regulation, rule or code.

“Leased Real Property” has the meaning set forth in Section 3.12. (c).

“Leases” has the meaning set forth in Section 3.12. (c).

“Lease Assignment Agreement” has the meaning set forth in Section 2.2(a)(vi).

“Lender” has the meaning set forth in Section 5.12. (a).

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“Material Adverse Effect” means any change, effect, event, occurrence, state of facts, development or condition that, individually or in the aggregate, has been or would be reasonably likely to be material and adverse to the assets, liabilities, properties, business, condition (financial or otherwise), capitalization (financial or otherwise) of the Acquired Assets, Assumed Liabilities or the Business, taken as a whole, excluding the effects of events or conditions, either alone or in combination, resulting from or arising out of (i) the Chapter 11 Cases, (iii) changes in general economic, financial or securities markets or geopolitical conditions that do not have a disproportionate impact on the Acquired Assets, the Assumed Liabilities or the Business, (iv) general changes or developments in macroeconomic conditions or the industries and markets in which the Business operates that do not have a disproportionate impact on the Acquired Assets, the Assumed Liabilities or the Business, (v) the entry into this Agreement, the announcement of the Acquisition, the identity of the Purchaser or the consummation of the transactions contemplated by this Agreement, (vi) any actions required to be taken or omitted by the Sellers under this Agreement or any action or omission by the Purchaser in breach of this Agreement, (vii) changes in (or proposals to change) any applicable Laws or applicable accounting regulations or principles or the enforcement or interpretation thereof, (viii) any outbreak or escalation of hostilities or war or any act of terrorism or natural disaster or act of God that do not have a disproportionate impact on the Acquired Assets, the Assumed Liabilities or the Business and (ix) any failure of the Business to meet any budgets, plans, projections or forecasts (internal or otherwise).

“Material Contracts” has the meaning set forth in Section 3.13. (a).

“Motion to Approve the Bidding Procedures and Sale” means the motion in form and substance reasonably acceptable to the Purchaser to be filed by the Sellers requesting that the Bankruptcy Court enter the Bidding Procedures Order and the Sale Order.

“Non-Debtor Subs” means, IMRIS (Europe) SPRL, a company organized under the laws of Belgium); IMRIS Germany GMBH, a company organized under the laws of Germany; IMRIS India Private Limited, a company organized under the laws of India; IMRIS Singapore Pte. Ltd., a company organized under the laws of Singapore; IMRIS KK, a company organized under the laws of Japan; and IMRIS Medical Technology Service Beijing Co., Ltd., a company organized under the laws of China;

“Non-Transferred Assets” has the meaning set forth in Section 1.5. (b).

“Order” means any order, injunction, judgment, decree, ruling, writ, assessment or award of a Governmental Entity.

“Parent” has the meaning set forth in the Preamble.

“Parent Confidentiality Agreements” means those agreements by and between the Parent, on the one hand, and Persons expressing an interest in acquiring an ownership interest in the Parent or the Business, on the other hand, with respect to the use and confidentiality of information about the Parent and its Affiliates and the Business and certain other obligations.

“Paying Party” has the meaning set forth in Section 8.1. (c).

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“Periodic Taxes” has the meaning set forth in Section 8.1. (b).

“Permits” means any permit, approval, concession, grant, franchise, license and other approval of or by any Governmental Entity.

“Permitted Encumbrances” means (i) liens for Taxes not yet due and payable or being contested in good faith by appropriate proceedings, (ii) statutory liens and rights of set-off of landlords, banks, carriers, warehousemen, mechanics, repairmen, workmen, suppliers and materialmen, in each case, incurred in the ordinary course of business (A) for amounts not yet overdue, (B) for amounts that are overdue and that (in the case of any such amounts overdue for a period in excess of thirty (30) days) are being contested in good faith or (C) for amounts as to which payment and enforcement is stayed under the Bankruptcy Code or pursuant to orders of the Bankruptcy Court, (iii) purchase money liens and liens securing rental payments under capitalized lease obligations, (iv) rights of setoff or banker’s liens upon deposits of cash in favor of banks or other depository institutions, (v) easements, covenants, conditions, restrictions and other similar matters of record or imperfections of title with respect to real or personal property that do not individually or in the aggregate in any material respect interfere with the present use of the property subject thereto, (vi) local, county, state and federal ordinances, regulations, building codes or permits, now or hereafter in effect, relating to real property, (vii) restrictions or requirements set forth in any Permits relating to the Business, (viii) violations, if any, arising out of the adoption, promulgation, repeal, modification or reinterpretation of any Order or Law which occurs subsequent to the Effective Date, (ix) Encumbrances caused by or resulting from the acts or omissions of the Purchaser or any of its Affiliates, employees, officers, directors, agents, contractors, invitees or licensees, (x) encroachments, overlaps, boundary line disputes and any other matters which would be disclosed by an accurate survey and inspection of real property and that do not materially impair the use of real property for its intended purpose, and (x) Encumbrances arising by operation of Law under Article 2 of any state’s Uniform Commercial Code (or successor statute) in favor of a seller of goods or buyer of goods.

“Person” means any individual, corporation, partnership, limited partnership, joint venture, limited liability company, trust or unincorporated organization or Governmental Entity or any other entity.

“Petitions” has the meaning set forth in the Recitals.

“Petition Date” has the meaning set forth in the Recitals.

“Proration Periods” has the meaning set forth in Section 8.1. (b).

“Purchase Price” has the meaning set forth in Section 1.6.

“Purchaser” has the meaning set forth in the Preamble.

“Purchaser Related Entities” has the meaning set forth in the Recitals.

“Reimbursing Party” has the meaning set forth in Section 8.1. (c).

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“Real Property” means any real estate, land, building, structure, improvement or other real property of any kind or nature whatsoever owned, leased or occupied, and all appurtenant and ancillary rights thereto, including easements, covenants, water rights, sewer rights and utility rights.

“Release” means any release, spill, emission, discharge, leaking, pumping, injection, deposit, disposal, dispersal, leaching or migration into the environment (including ambient air, surface water, groundwater and surface or subsurface strata) or into or out of any property, including the movement of Hazardous Materials through or in the air, soil, surface water, groundwater or property.

“Robotics Business” has the meaning set forth in Section 1.6.

“Sale Order” means an Order of the Bankruptcy Court in substantially the form attached hereto as Exhibit G authorizing and approving the sale of the Acquired Assets to the Purchaser on the terms and conditions set forth herein.

“Seller” and “Sellers” have the meanings set forth in the Preamble.

“Seller Broker Fee” has the meaning set forth in Section 3.9.

“Seller Disclosure Schedule” has the meaning set forth in the introductory paragraph to ARTICLE III.

“Subsidiary” means with respect to any Person, any other Person as to which it owns, directly or indirectly, or otherwise controls, more than fifty percent (50%) of the voting shares or other similar interests.

“Successful Bidder” has the meaning set forth in the Bidding Procedures.

“Tax” or “Taxes” means all taxes, assessments, duties, fees, levies, imposts or other similar charges, including all federal, state, local or foreign income, environmental, franchise, transfer, sales, gross receipt, use, ad valorem, property, excise, severance, stamp, payroll, social security, employment, unemployment, withholding, and estimated taxes, and all additions to tax, penalties, and interest related thereto.

“Tax Return” means any tax return, declaration, report, claim for refund, filing or information statement or other document filed or required to be filed with any Governmental Entity in connection with or with respect to any Tax (including any amendment thereof, or supplement, appendix, schedule or attachment thereto).

“Transferred Employee” has the meaning set forth in Section 5.12. (a).

“Transfer Taxes” has the meaning set forth in Section 8.1. (a).

“WARN” has the meaning set forth in Section 3.16(b).

(Signature Page Follows)

IN WITNESS WHEREOF, the Sellers and the Purchaser have caused this Agreement to be executed on their behalf by their officers thereunto duly authorized, as of the date first above written.

SELLERS::

IMRIS INC.,

By: _____
Name:
Title:

IMRIS, INC.,

By: _____
Name:
Title:

NEUROARM SURGICAL LIMITED

By: _____
Name:
Title:

PURCHASER:

DEERFIELD ACQUISITION CORP.

By: _____

Name:

Title:

Exhibit C

(Bidding Procedures Order)

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

-----X
In re: : Chapter 11
IMRIS, Inc., *et al.*,¹ : Case No. 15-11133 (____)
: (Joint Administration Pending)
Debtors. :
-----X

**ORDER (A) APPROVING PROCEDURES IN CONNECTION WITH THE SALE OF
SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS; (B) SCHEDULING THE
RELATED AUCTION AND HEARING TO CONSIDER APPROVAL OF SALE; (C)
APPROVING PROCEDURES RELATED TO THE ASSUMPTION OF CERTAIN
EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (D) APPROVING THE
FORM AND MANNER OF NOTICE THEREOF; (E) APPROVING EXPENSE
REIMBURSEMENT; AND (F) GRANTING RELATED RELIEF**

This matter coming before the Court on the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (the “Debtors”) for the entry of an order pursuant to sections 105(a), 363 and 365 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 6004, 6006, 9007 and 9014 of the Federal Rules of Bankruptcy Procedure (as amended from time to time, the “Bankruptcy Rules”), and Rule 6004-1 of the Local Rules of Bankruptcy Practice and Procedures of the Bankruptcy Court for the District of Delaware (the “Local Rules”) (I)(A) approving procedures in connection with the sale of substantially all of the Debtors’ assets; (B) scheduling the related auction and hearing to consider approval of sale; (C) approving procedures related to the assumption of certain executory contracts and unexpired

¹ The Debtors are the following three entities: IMRIS Inc. (Canadian corporation number 434265-8), IMRIS, Inc. (taxpayer identification number 98-0462325) and NeuroArm Surgical Ltd. (Canadian corporation number 751695-9). The mailing address of each of the Debtors, solely for purposes of notices and communications, is 5101 Shady Oak Rd., Minnetonka, MN 55343.

leases; (D) approving the form and manner of notice thereof; (E) approving expense reimbursement; and (F) granting related relief; and (II)(A) authorizing the sale of substantially all of the Debtors' assets pursuant to the successful bidder's asset purchase agreement free and clear of liens, claims, encumbrances, and other interests; (B) approving the assumption and assignment of certain executory contracts and unexpired leases related thereto; and (C) granting related relief; the Court having found that (i) the Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; (ii) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b); and (iv) notice of the Motion was sufficient under the circumstances; and after due deliberation the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates and its creditors; and good and sufficient cause having been shown;

AND IT IS FURTHER FOUND AND DETERMINED THAT:

A. The Debtors' proposed notice of the Bidding Procedures, the Cure Procedures, the Auction and the hearing to approve the sale of the Debtors' Assets (the "Sale Hearing") is appropriate and reasonably calculated to provide all interested parties with timely and proper notice, and no other or further notice is required.

B. The Bidding Procedures substantially in the form attached hereto as Exhibit 1 are fair, reasonable, and appropriate and are designed to maximize the recovery from the Sale of the Offered Assets.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

C. The findings and conclusions set forth herein 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.

D. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. All objections to the relief requested in the Motion that have not been withdrawn, waived or settled are overruled.
3. The Bidding Procedures attached hereto as Exhibit I are APPROVED.
4. Deerfield Acquisition Corp. is hereby approved to be and designated as the Stalking Horse Purchaser.
5. Subject to the Bidding Procedures and approval of the sale at the Sale Hearing, the Debtors' entry into the Stalking Horse Agreement (including any amendments thereto) attached hereto as Exhibit B³ to the Motion, is hereby approved.
6. The Expense Reimbursement is APPROVED and shall be paid when and as set forth in the Stalking Horse Agreement as an administrative claim of the estate under Sections 503(b)(1)(A) and 507(a)(2) of the Bankruptcy Code and shall not be subordinate to any other administrative expense claims against the Debtors. Notwithstanding anything to the contrary contained herein, upon timely payment of the Expense Reimbursement to the Stalking Horse Purchaser, the Debtors and their respective representatives and affiliates, on the one hand, and

³ For the convenience of parties in interest, a chart listing important dates set forth in this Order is attached hereto as Exhibit 2.

Stalking Horse Purchaser and its respective representatives and affiliates, on the other hand, will be deemed to have fully released and discharged each other from any liability resulting from the termination of the Stalking Horse Agreement, and neither Debtors and their respective representatives and affiliates, on the one hand, and Stalking Horse Purchaser and its respective representatives and affiliates, on the other hand, nor any other Person, will have any other remedy or cause of action under or relating to the Stalking Horse Agreement or any applicable law, including for reimbursement of expenses. Any Expense Reimbursement payable pursuant to the terms of the Stalking Horse Agreement shall be payable without any further order of the Bankruptcy Court.

7. The Bid Deadline shall be July 20, 2015 at 9:00 a.m. (prevailing Eastern Time).

8. The Debtors shall have the exclusive right to determine whether a bid is a Qualified Bid and shall notify Qualified Bidders whether their bids have been recognized as such as promptly as practicable after a Qualified Bidder delivers all of the materials required by the Bidding Procedures.

9. The Auction, if necessary, shall be held on July 23, 2015 at 10:00 a.m. (Central) at the offices of DLA Piper LLP (US), 1251 Avenue of the Americas, 27th Floor, New York, New York 10020, or at such other location as shall be identified in a notice filed with the Bankruptcy Court at least 24 hours before the Auction.

10. At such Auction, each Qualified Bidder shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the sale, and the Auction shall be conducted openly and transcribed.

11. The Debtors shall determine which offer is the highest and otherwise best offer for the Offered Assets, giving effect to the Expense Reimbursement payable to the Stalking

Horse Purchaser as well as any additional liabilities to be assumed by a Qualified Bidder and any additional costs which may be imposed on the Debtors.

12. The Sale Hearing shall be held on July 27, 2015 at ____:00 __.m. (prevailing Eastern Time) before this Court, the U.S. Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801, []th Floor, Courtroom []. Any objections to the Sale shall be filed and served so as to be received no later than July 24, 2015 at 4:00 p.m. (prevailing Eastern Time) by: (i) counsel to the Debtors: DLA Piper LLP (US), 203 N. LaSalle Street, Suite 1900, Chicago, Illinois 60601 (Attn: Richard A. Chesley, Esq. (richard.chesley@dlapiper.com)), (ii) counsel to the Stalking Horse Purchaser: Willkie Far & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019 (Attn: Steven J. Gartner (sgartner@willkie.com) and John C. Longmire (jlongmire@willkie.com)), (iii) the Office of the United States Trustee: US Trustee, 844 King Street, Suite 2207, Lockbox #35, Wilmington, Delaware, 19899-0035 (Fax: 302-573-6497) (Attn: Linda Casey, Esq.) (linda.casey@usdoj.gov) (collectively, the Notice Parties).

13. The Sale Hearing may be adjourned from time to time without further notice to creditors or parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing, and the Debtors, shall have the exclusive right, in the exercise of their fiduciary obligations and business judgment, to cancel the Sale at any time subject to the terms of this Order, including the payment of the Expense Reimbursement to the Stalking Horse Purchaser in accordance with the terms of this Order and the Stalking Horse Agreement.

14. The following forms of notice are approved: (a) Notice of Sale Procedures, Auction Date and Sale Hearing, in the form substantially similar to that attached hereto as

Exhibit 3 (the “Procedures Notice”) and (b) the Notice to Counterparties to Executory Contracts and Unexpired Leases of the Debtors That May Be Assumed and Assigned (the “Cure Notice”), in the form substantially similar to that attached hereto as Exhibit 4.

15. The Debtors shall, within two (2) business days after the entry of this Order, serve this Order by first class mail, postage prepaid on (a) the US Trustee, (b) the Official Committee of Unsecured Creditors, (c) any parties requesting notices in these cases pursuant to Bankruptcy Rule 2002, (d) counsel to the Stalking Horse Purchaser, and (e) all Potential Bidders collectively with the parties specified in this paragraph, the “Procedures Notice Parties”).

16. If the Successful Bidder is determined to be a Chapter 11 Plan Bid, the Debtors will as soon as possible after such determination, file and serve a notice on the Procedures Notices Parties indicating that the Sale Hearing will not go forward and that the Debtors will seek to prosecute confirmation of the plan of reorganization proposed by such Chapter 11 Plan Bid.

17. The Debtors shall serve the Motion and the Cure Notice upon each counterparty to the Assumed Executory Contracts or their counsel (if known), by no later than July 13, 2015. The Cure Notice shall state the date, time and place of the Sale Hearing as well as the date by which any objection to the assumption and assignment of Assumed Executory Contracts must be filed and served. The Cure Notice also will identify the amounts, if any, that the Debtors believe are owed to each counterparty to an Assumed Executory Contract in order to cure any defaults that exist under such contract (the “Cure Amounts”).

18. If any counterparty to an Assumed Executory Contract objects for any reason to the assumption and assignment of an Assumed Executory Contract (an “Assumption Objection”), such counterparty must file and serve such Assumption Objection so as to be

received by the Notice Parties by no later than (the “Assumption Objection Deadline”): (i) 4:00 p.m. (prevailing Eastern Time) on July 24, 2015, provided, however, that any counterparty may file and serve an objection to the assumption and assignment of the Assumed Executory Contract solely with respect to the Successful Bidder’s ability to provide adequate assurance of future performance under the Assumed Executory Contract up to the time of the Sale Hearing, or raise it at the Sale Hearing; or (ii) the date otherwise specified in the Cure Notice (or, alternatively, the date set forth in the motion to assume such Assumed Executory Contract if such contract is to be assumed and assigned after the Sale Hearing). The Court will make any and all determinations concerning adequate assurance of future performance under the Assumed Executory Contracts pursuant to sections 365(b) and (f)(2) of the Bankruptcy Code at the Sale Hearing.

19. If a Contract or Lease is assumed and assigned pursuant to Court order, then except for Disputed Cure Amounts (as defined herein), the Assumed Executory Contract counterparty shall receive no later than three (3) business days following the closing of the Sale, the Cure Amount, if any, as set forth in the Cure Notice. To the extent the Assumed Executory Contract counterparty wishes to object to the Cure Amount, if any, set forth in the Cure Notice, its Assumption Objection must set forth with specificity each and every asserted default in any executory contract or unexpired lease and the monetary cure amount asserted by such counterparty to the extent it differs from the amount, if any, specified by the Debtors in the Cure Notice.

20. In the event that the Debtors and the non-debtors party cannot resolve the Cure Amount, the Debtors shall segregate any disputed Cure Amounts (“Disputed Cure Amounts”) pending the resolution of any such disputes by the Court or mutual agreement of the parties. Assumption Objections may be resolved by the Court at the Sale Hearing, or at a separate

hearing either before or after the Sale Hearing. Any counterparty to an Assumed Executory Contract that fails to timely file and serve an objection to the Cure Amounts shall be forever barred from asserting that a Cure Amount is owed in an amount in excess of that set forth in the Cure Notice.

21. Except to the extent otherwise provided in the Successful Bidder's Purchase Agreement, the Debtors and the Debtors' estate shall be relieved of all liability accruing or arising after the assumption and assignment of the Assumed Executory Contracts pursuant to section 365(k) of the Bankruptcy Code.

22. Upon Closing of the Sale, the proceeds of the Sale shall be paid by the Successful Bidder to the Debtors.

23. To the extent the provisions of this Order are inconsistent with the provisions of any Exhibit referenced herein or with the Motion, the provisions of this Order shall control.

24. The Court shall retain jurisdiction over all matters arising from or related to the interpretation and implementation of this Order.

25. Notwithstanding the possible applicability of Bankruptcy Rules 6004, 6006, 7062, 9014 or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable.

Dated: _____, 2015
Wilmington, Delaware

United States Bankruptcy Judge

Exhibit 1

(Bidding Procedures)

BIDDING PROCEDURES

Set forth below are the bidding procedures (the “Bidding Procedures”) to be employed in connection with the sale of substantially all assets (the “Offered Assets”) of the Debtors, in connection with the chapter 11 case pending in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”), case number [15-____ (____)].

The Debtors entered into that certain asset purchase agreement, dated May 25, 2015 between the Debtors on the one hand and Deerfield Acquisition Corp. (the “Stalking Horse Purchaser”), pursuant to which the Stalking Horse Purchaser shall acquire the Offered Assets on the terms and conditions specified therein (together with the schedules and related documents thereto, the “Stalking Horse Agreement”). The sale transaction pursuant to the Stalking Horse Agreement is subject to competitive bidding as set forth herein. The Bidding Procedures provide that the Debtors may also consider bids in the form of a recapitalization transaction effectuated through a chapter 11 plan of reorganization subject to the requirements set forth herein (a “Chapter 11 Plan Bid”). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Stalking Horse Agreement

I. ASSETS TO BE SOLD

The Debtors seek to complete a sale of all or substantially all of the Offered Assets (the “Sale”). The Stalking Horse Agreement will serve as the “stalking-horse” bid for the Offered Assets.

II. THE BID PROCEDURES

In order to ensure that the Debtors receive the maximum value for the Offered Assets, it intends to hold a sale process for the Offered Assets pursuant to the procedures and on the timeline proposed herein

A. Provisions Governing Qualifications of Bidders

Unless otherwise ordered by the Court, in order to participate in the bidding process, prior to the Bid Deadline (defined below), each person, other than the Stalking Horse Bidder who wishes to participate in the bidding process (a “Potential Bidder”) must deliver the following to the Notice Parties (as defined below):

(i) a written disclosure of the identity of each entity that will be bidding for the Offered Assets or otherwise participating in connection with such bid; and

(ii) an executed confidentiality agreement (to be delivered prior to the distribution of any confidential information by the Debtors to a Potential Bidder) in form and substance satisfactory to the Debtors, which shall inure to the benefit of any purchaser of the Offered Assets; without limiting the foregoing, each confidentiality agreement executed by a Potential Bidder shall contain standard non-solicitation provisions.

A Potential Bidder that delivers the documents and information described above and that the Debtors determine in their reasonable business judgment, after consultation with their advisors, is likely (based on availability of financing, experience and other considerations) to be able to consummate the sale, will be deemed a “Qualified Bidder.” The Debtors will limit access to due diligence to those parties it believes, in the exercise of its reasonable judgment, are pursuing the transaction in good faith.

As promptly as practicable after a Potential Bidder delivers all of the materials required above, the Debtors will determine and will notify the Potential Bidder if such Potential Bidder is a Qualified Bidder.

B. Due Diligence

The Debtors will afford any Qualified Bidder such due diligence access or additional information as the Debtors, in consultation with their advisors, deems appropriate, in their reasonable discretion. The due diligence period shall extend through and include the Auction Date (as defined below); provided, however, that any Qualified Bid (as defined below) submitted shall be irrevocable until the selection of the Successful Bidder.

C. Provisions Governing Qualified Bids

A bid submitted will be considered a Qualified Bid only if the bid is submitted by a Qualified Bidder and complies with all of the following (a “Qualified Bid”):

- a) it states that the applicable Qualified Bidder offers to purchase any or all of the Offered Assets either (i) in cash or (ii) through a recapitalization transaction effectuated through a plan of reorganization;
- b) it includes a signed writing that the Qualified Bidder’s offer is irrevocable until the selection of the Successful Bidder and the Back-Up Bidder (defined below), provided that if such bidder is selected as the Successful Bidder or the Back-Up Bidder then (x) if the Successful Bid concerns an asset sale, the offer shall remain irrevocable until the earlier of (i) the closing of the transaction with the Successful Bidder and (ii) the date that is fifteen (15) business days after entry of the Sale Order with respect to the Successful Bidder and sixteen (16) business days after entry of the Sale Order with respect to the Back-Up Bidder and (y) if the Successful Bid is a Chapter 11 Plan Bid and such bidder is the Successful Bidder, its offer shall remain irrevocable until the confirmation of such plan of reorganization. (For the avoidance of doubt, there will be no Back-Up Bidder if the Successful Bidder is a Chapter 11 Plan Bid.);
- c) confirmation that there are no conditions precedent to the Qualified Bidder’s ability to enter into a definitive agreement and that all necessary internal and shareholder approvals have been obtained prior to the bid;
- d) it sets forth each regulatory and third-party approval required for the Qualified Bidder to consummate the transaction and the time period within which the Qualified Bidder expects to receive such approvals;

- e) it includes a duly authorized and executed copy of a purchase or agreement (a "Purchase Agreement"), including the purchase price for the Offered Assets expressed in U.S. Dollars, or, in the case of a Chapter 11 Plan Bid, the amount of the capital investment contemplated by such bid (the "Purchase Price"), together with all exhibits and schedules thereto, together with copies marked ("Marked Agreement") to show any amendments and modifications to the Stalking Horse Agreement and the proposed order to approve the sale by the Court;
- f) it includes written evidence of a firm, irrevocable commitment for financing, or other evidence of ability to consummate the proposed transaction, that will allow the Debtors to make a reasonable determination as to the Qualified Bidder's financial and other capabilities to consummate the transaction contemplated by the Purchase Agreement;
- g) if the bid is for all or substantially all of the Offered Assets (or in the case of a Chapter 11 Plan Bid, a bid for the equity of the reorganized Debtors), it must have a value to the Debtors, in the Debtors' exercise of their reasonable business judgment, after consultation with their advisors, that is greater than or equal to the sum of the value offered under the Stalking Horse Agreement, the amount of the Expense Reimbursement and \$100,000. If the bid is for less than all or substantially all of the Offered Assets, it must have a value to the Debtors, in the Debtors' exercise of their reasonable business judgment, after consultation with their advisors, that is greater than or equal to the sum of the value offered under the Stalking Horse Agreement for the Offered Assets sought in the bid and the portion of the Expense Reimbursement allocable to the Offered Assets sought in the bid plus \$100,000;
- h) it identifies with particularity which executory contracts and unexpired leases the Qualified Bidder wishes to assume and provides for the Qualified Bidder to pay related cure costs;
- i) it contains sufficient information concerning the Qualified Bidder's ability to provide adequate assurance of performance with respect to executory contracts and unexpired leases;
- j) it includes an acknowledgement and representation that the bidder: (A) has had an opportunity to conduct any and all required due diligence regarding the Offered Assets prior to making its offer; (B) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Offered Assets in making its bid; (C) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the Offered Assets or the completeness of any information provided in connection therewith or with the Auction (defined below), except as expressly stated in the Purchase Agreement; and (D) is not entitled to any expense reimbursement, break-up fee, or similar type of payment in connection with its bid;

- k) it includes evidence, in form and substance reasonably satisfactory to the Debtors, of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the Purchase Agreement;
- l) it is accompanied by a good faith deposit in the form of a wire transfer (to a bank account specified by the Debtors), certified check or such other form acceptable to the Debtors, payable to the order of the Debtors (or such other party as the Debtors may determine) in an amount equal to ten percent (10%) of the Purchase Price;
- m) it contains a detailed description of how the Qualified Bidder intends to treat current employees of the Debtors;
- n) it contains such other information reasonably requested by the Debtors; and
- o) it is received prior to the Bid Deadline.

Notwithstanding the foregoing, the Stalking Horse Purchaser is deemed a Qualified Bidder and the Stalking Horse Agreement is deemed a Qualified Bid, for all purposes in connection with the Bidding Process, the Auction, and the Sale.

The Debtors shall notify the Stalking Horse Purchaser and all Qualified Bidders in writing as to whether or not any bids constitute Qualified Bids (and with respect to each Qualified Bidder that submitted a bid as to whether such Qualified Bidder's bid constitutes a Qualified Bid) no later than two (2) business days following the expiration of the Bid Deadline.

D. Bid Deadline

A Qualified Bidder that desires to make a bid will deliver written copies of its bid to the following parties (collectively, the "Notice Parties"): (i) counsel to the Debtors: DLA Piper LLP (US), 203 N. LaSalle Street, Suite 1900, Chicago, Illinois 60601 (Attn: Richard A. Chesley, Esq. (richard.chesley@dlapiper.com)), (ii) counsel to the Stalking Horse Purchaser: Willkie Far & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019 (Attn: Steven J. Gartner (sgartner@willkie.com) and John C. Longmire (jlongmire@willkie.com)), (iii) the Office of the United States Trustee (the "US Trustee"): US Trustee, 844 King Street, Suite 2207, Lockbox #35, Wilmington, Delaware, 19899-0035 (Fax: 302-573-6497) (Attn: Linda Casey, Esq.) (linda.casey@usdoj.gov), so as to be received by the Debtors not later than July 20, 2015 at 9:00 a.m. (prevailing Eastern Time) (the "Bid Deadline").

E. Credit Bidding

The Stalking Horse Purchaser holds a security interest in the Offered Assets and has submitted a credit bid for the Offered Assets. It may submit additional credit bids for the Offered Assets as it deems necessary and desirable.

F. Evaluation of Competing Bids

A Qualified Bid will be valued based upon several factors including, without limitation, (1) the amount of such bid, (2) the risks and timing associated with consummating such bid, (3) any proposed revisions to the Stalking Horse Agreement, and (4) any other factors deemed relevant by the Debtors in their reasonable discretion.

G. No Qualified Bids

If the Debtors do not receive any Qualified Bids other than the Stalking Horse Agreement, the Debtors will not hold an auction and the Stalking Horse Purchaser will be named the Successful Bidder for the Offered Assets.

H. Auction Process.

If the Debtors receive one or more Qualified Bids in addition to the Stalking Horse Agreement, the Debtors will conduct an auction of the Offered Assets (the "Auction"), which shall be transcribed a July 23, 2015 (the "Auction Date") at 10:00 a.m. (prevailing Central Time), at the offices of DLA Piper LLP (US), 1251 Avenue of the Americas, 27th Floor, New York, NY 10020, or such other location as shall be timely communicated to all entities entitled to attend the Auction. The Auction shall run in accordance with the following procedures:

- a) only the Debtors, the Stalking Horse Purchaser, and Qualified Bidders who have timely submitted a Qualified Bid, and the unsecured creditors committee, and their respective advisors may attend the Auction;
- b) only the Stalking Horse Purchaser and the Qualified Bidders who have timely submitted a Qualified Bid will be entitled to make any subsequent bids at the Auction;
- c) each Qualified Bidder shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the sale;
- d) at least one (1) business day prior to the Auction, each Qualified Bidder who has timely submitted a Qualified Bid must inform the Debtors whether it intends to attend the Auction; provided that in the event a Qualified Bidder elects not to attend the Auction, such Qualified Bidder's Qualified Bid shall nevertheless remain fully enforceable against such Qualified Bidder until the date of the selection of the Successful Bidder and the Back-Up Bidder (defined below) at the conclusion of the Auction. At least one (1) business day prior to the Auction, the Debtors will provide copies of the Qualified Bid or combination of Qualified Bids which the Debtors believes in their reasonable discretion is the highest or otherwise best offer (the "Starting Bid") to all Qualified Bidders;
- e) all Qualified Bidders who have timely submitted Qualified Bids will be entitled to be present for all Subsequent Bids (as defined below) at the Auction and the actual identity of each Qualified Bidder will be disclosed on the record at the Auction; provided that all Qualified Bidders wishing to attend the Auction must have at least one individual representative with authority to bind such Qualified Bidder attending the Auction in person;

- f) the Debtors, after consultation with their advisors, may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances for conducting the Auction, provided that such rules are (i) not inconsistent with these Bidding Procedures, the Bankruptcy Code, or any order of the Court entered in connection herewith, and (ii) disclosed to each Qualified Bidder at the Auction; and
- g) bidding at the Auction will begin with the Starting Bid and continue in bidding increments (each a “Subsequent Bid”) providing a net value to the estate of at least an additional \$100,000 above the prior bid. After the first round of bidding and between each subsequent round of bidding, the Debtors shall announce the bid that it believes to be the highest or otherwise better offer (the “Leading Bid”). A round of bidding will conclude after each participating Qualified Bidder has had the opportunity to submit a Subsequent Bid with full knowledge of the Leading Bid. Qualified Bidders will not have the opportunity to pass. Except as specifically set forth herein, for the purpose of evaluating the value of the consideration provided by Subsequent Bids, the Debtors will give effect to the Expense Reimbursement payable to the Stalking Horse Purchaser as well as any additional liabilities to be assumed by a Qualified Bidder and any additional costs which may be imposed on the Debtors.

I. Selection of Successful Bid

Prior to the conclusion of the Auction, the Debtors, in consultation with their advisors, will review and evaluate each Qualified Bid in accordance with the procedures set forth herein and determine which offer is the highest or otherwise best offer from among the Qualified Bidders submitted at the Auction (one or more such bids, collectively the “Successful Bid” and the bidder(s) making such bid, collectively, the “Successful Bidder”), and communicate to the Qualified Bidders the identity of the Successful Bidder and the details of the Successful Bid. The determination of the Successful Bid by the Debtors at the conclusion of the Auction shall be final, subject only to approval by the Court.

Unless otherwise agreed to by the Debtors and the Successful Bidder, within two (2) business days after adjournment of the Auction, the Successful Bidder shall complete and execute all agreements, contracts, instruments and other documents evidencing and containing the terms and conditions upon which the Successful Bid was made. Within one (1) business day following the adjournment of the Auction, the Debtors shall file a notice identifying the Successful Bidder with the Court and shall serve such notice by fax, email or overnight mail to all counterparties whose contracts are to be assumed and assigned.

The Debtors will sell the Offered Assets to the Successful Bidder pursuant to the terms of the Successful Bid upon the approval of such Successful Bid by the Court at the Sale Hearing. In the event that the Successful Bid is a Chapter 11 Plan Bid, the Sale Hearing will not occur and the Debtors will prosecute confirmation of a plan of reorganization consistent with such Chapter 11 Plan Bid.

J. Return of Deposits

All deposits shall be returned to each bidder not selected by the Debtors as the Successful Bidder or the Back-Up Bidder (as defined below) no later than five (5) business days following the conclusion of the Auction.

K. Back-Up Bidder

If an Auction is conducted and the Successful Bid is not a Chapter 11 Plan Bid, the Qualified Bidder or Qualified Bidders with the next highest or otherwise best Qualified Bid to the Successful Bidder, as determined by the Debtors in the exercise of their business judgment, at the Auction shall be required to serve as a back-up bidder (the “Back-Up Bidder”) and keep such bid open and irrevocable until sixteen (16) business days after entry of the Sale Order (or, if the Successful Bid is a Chapter 11 Plan Bid, until confirmation of such plan of reorganization). Following the Sale Hearing, if the Successful Bidder fails to consummate the approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Back-Up Bidder will be deemed to be the new Successful Bidder, and the Debtors will be authorized, but not required, to consummate the sale with the Back-Up Bidder without further order of the Bankruptcy Court. For the avoidance of doubt, if the Successful Bid is a Chapter 11 Plan Bid, there will be no Back-Up Bidder.

L. Expense Reimbursement

In recognition of this expenditure of time, energy, and resources, the Debtors have agreed that if the Stalking Horse Purchaser is not the Successful Bidder, the Debtors will pay the Stalking Horse Purchaser an amount in cash equal to the aggregate amount of the reasonable fees, costs and expenses paid or incurred by the Stalking Horse Purchaser and its affiliates relating to or in connection with its bid (the “Expense Reimbursement”), subject to a cap of \$1,000,000. The Stalking Horse Purchaser shall provide reasonable documentation of the Expense Reimbursement to the Debtors and the Office of the United States Trustee. The Expense Reimbursement shall be payable as provided for pursuant to the terms of the Stalking Horse Agreement.

The Debtors have further agreed that their obligation to pay the Expense Reimbursement pursuant to the Stalking Horse Agreement shall survive termination of the Stalking Horse Agreement, shall, to the extent owed by the Debtors, constitute an administrative expense claim under section 503(b) of the Bankruptcy Code and shall be payable within two (2) business days under the terms and conditions of the Stalking Horse Agreement and the Bankruptcy Court’s order approving these Bidding Procedures, notwithstanding section 507(a) of the Bankruptcy Code.

III. Sale Hearing

The Debtors will seek entry of an order from the Court at the Sale Hearing to begin on or before July 27, 2015, to approve and authorize the sale transaction to the Successful Bidder on terms and conditions determined in accordance with the Bid Procedures. If, however, the Successful Bid is a Chapter 11 Plan Bid, the Sale Hearing will not go forward and the Debtors will seek to prosecute confirmation of the plan or reorganization proposed by such Chapter 11 Plan Bid.

Exhibit 2

(Significant Dates)

- **Assumption Objection Deadline:** July 24, 2015 at 4:00 p.m. (Eastern Time)
- **Bid Deadline:** July 20, 2015 at 9:00 a.m. (Eastern Time)
- **Auction:** July 23, 2015 at 10:00 a.m. (Pacific Time)
- **Sale Objection Deadline:** July 24, 2015 at 4:00 p.m. (Eastern Time)
- **Sale Hearing:** July 27, 2015 at __:00 __.m. (Eastern Time)

Exhibit 3

(Procedures Notice)

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

	X	
	:	
In re:	:	Chapter 11
	:	
IMRIS, Inc., <i>et al.</i> , ¹	:	Case No. 15-11133 (____)
	:	
	:	(Joint Administration Pending)
Debtors.	:	
	:	
	:	
	X	

**NOTICE OF SALE PROCEDURES,
AUCTION DATE AND SALE HEARING**

PLEASE TAKE NOTICE that on _____, the above-captioned debtors and debtors in possession (the “Debtors”) filed the Motion of the Debtors and Debtors in Possession Pursuant to Section 105(a), 363 and 365 of the Bankruptcy Code for an Order (I)(A) Approving Procedures in Connection with the Sale of Substantially All of the Debtors’ Assets; (B) Scheduling the Related Auction and Hearing to Consider Approval of Sale; (C) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases; (D) Approving the Form and Manner of Notice Thereof; (E) Approving Expense Reimbursement; and (F) Granting Related Relief; and (II)(A) Authorizing the Sale of Substantially All of the Debtors’ Assets Pursuant to the Successful Bidder’s Asset Purchase Agreement Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (B) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Related Thereto; and (C) Granting Related Relief (the “Motion”).² The Debtors seeks, among other things, to sell substantially all assets (the “Offered Assets”) of the Debtors to the successful bidder (the “Successful Bidder”), at an auction free and clear of all liens, claims, encumbrances and other interests pursuant to sections 363 and 365 of the Bankruptcy Code.

PLEASE TAKE FURTHER NOTICE that, on _____, 2015, the Bankruptcy Court entered an order (the “Bidding Procedures Order”) approving the Motion and the bidding procedures (the “Bidding Procedures”), which set the key dates and times related to the Sale of the Offered Assets. All interested bidders should carefully read the Bidding Procedures Order and the Bidding Procedures. To the extent that there are any inconsistencies between the

¹ The Debtors are the following three entities: IMRIS Inc. (Canadian corporation number 434265-8), IMRIS, Inc. (taxpayer identification number 98-0462325) and NeuroArm Surgical Ltd. (Canadian corporation number 751695-9). The mailing address of each of the Debtors, solely for purposes of notices and communications, is 5101 Shady Oak Rd., Minnetonka, MN 55343.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Bidding Procedures Order (including the Bidding Procedures) and the summary description of its terms and conditions contained in this Notice, the terms of the Bidding Procedures Order shall control.

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Bidding Procedures, an auction (the “Auction”) to sell the Offered Assets will be conducted on July 23, 2015 at 10:00 a.m. (Central) at the offices of DLA Piper LLP (US), 1251 Avenue of the Americas, 27th Floor, New York, NY 10020, or at such other location as shall be identified in a notice filed with the Bankruptcy Court at least 24 hours before the Auction.

PLEASE TAKE FURTHER NOTICE that a hearing will be held to approve the sale of the Offered Assets to the Successful Bidder (the “Sale Hearing”) before the _____, United States Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801, []th Floor, Courtroom [], on **July 27, 2015** at __:00 __.m. (prevailing Eastern Time), or at such time thereafter as counsel may be heard or at such other time as the Bankruptcy Court may determine. The Sale Hearing may be adjourned from time to time without further notice to creditors or parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing. Objections to the Sale shall be filed and served **so as to be received no later than 4:00 p.m. (prevailing Eastern Time) on July 24, 2015** by: (i) counsel to the Debtors: DLA Piper LLP (US), 203 N. LaSalle Street, Suite 1900, Chicago, Illinois 60601 (Attn: Richard A. Chesley, Esq. (richard.chesley@dlapiper.com)), (ii) counsel to the Stalking Horse Purchaser: Willkie Far & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019 (Attn: Steven J. Gartner (sgartner@willkie.com) and John C. Longmire (jlongmire@willkie.com)), (iii) the Office of the United States Trustee (the “US Trustee”): US Trustee, 844 King Street, Suite 2207, Lockbox #35, Wilmington, Delaware, 19899-0035 (Fax: 302-573-6497) (Attn: Linda Casey, Esq.) (linda.casey@usdoj.gov) (collectively, the Notice Parties).

PLEASE TAKE FURTHER NOTICE that this Notice of the Auction and Sale Hearing is subject to the full terms and conditions of the Motion, Bidding Procedures Order and Bidding Procedures, which Bidding Procedures Order shall control in the event of any conflict, and the Debtors encourages parties in interest to review such documents in their entirety. Any party that has not received a copy of the Motion or the Bidding Procedures Order that wishes to obtain a copy of the Motion or the Bidding Procedures Order, including all exhibits thereto, may make such a request in writing to DLA Piper LLP (US), Attn: David Avraham, DLA Piper LLP (US), 203 North LaSalle Street, Suite 1900, Chicago, IL 60601 or by emailing david.avraham@dlapiper.com.

Dated: May __, 2015
Wilmington, Delaware

Respectfully submitted,

/s/ R. Craig Martin

R. Craig Martin (DE 5032)
DLA PIPER LLP (US)
1201 North Market Street, Suite 2100
Wilmington, Delaware 19801
Telephone: (302) 468-5700
Facsimile: (302) 394-2341
Email: craig.martin@dlapiper.com

-and-

Richard A. Chesley (IL 6240877)
Daniel M. Simon (IL 6297629)
David E. Avraham (IL 6308516)
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Telephone: (312) 368-4000
Facsimile: (312) 236-7516
Email: richard.chesley@dlapiper.com
daniel.simon@dlapiper.com
david.avraham@dlapiper.com

Proposed Attorneys for Debtors And Debtors In Possession

Exhibit 4

(Cure Notice)

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

	X	
	:	
In re:	:	Chapter 11
	:	
IMRIS, Inc., <i>et al.</i> , ¹	:	Case No. 15-11133 (____)
	:	
	:	(Joint Administration Pending)
Debtors.	:	
	:	
	:	
	X	

**NOTICE TO COUNTERPARTIES TO EXECUTORY CONTRACTS
AND UNEXPIRED LEASES OF THE DEBTORS
THAT MAY BE ASSUMED AND ASSIGNED**

PLEASE TAKE NOTICE that on _____, the above-captioned debtors and debtors in possession (the “Debtors”) filed the Motion of the Debtors and Debtors in Possession Pursuant to Section 105(a), 363 and 365 of the Bankruptcy Code for an Order (I)(A) Approving Procedures in Connection with the Sale of Substantially All of the Debtors’ Assets; (B) Scheduling the Related Auction and Hearing to Consider Approval of Sale; (C) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases; (D) Approving the Form and Manner of Notice Thereof; (E) Approving Expense Reimbursement; and (F) Granting Related Relief; and (II)(A) Authorizing the Sale of Substantially All of the Debtors’ Assets Pursuant to the Successful Bidder’s Asset Purchase Agreement Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (B) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Related Thereto; and (C) Granting Related Relief (the “Motion”).²

PLEASE TAKE FURTHER NOTICE that, on _____, 2015, the Court entered an Order (the “Bidding Procedures Order”) approving, among other things, the Bidding Procedures requested in the Motion, which Bidding Procedures Order governs (i) the bidding process for the sale of substantially all of the assets (the “Offered Assets”) of the Debtors and (ii) procedures for the assumption and assignment of certain of the Debtors’ executory contracts and unexpired leases.

¹ The Debtors are the following three entities: IMRIS Inc. (Canadian corporation number 434265-8), IMRIS, Inc. (taxpayer identification number 98-0462325) and NeuroArm Surgical Ltd. (Canadian corporation number 751695-9). The mailing address of each of the Debtors, solely for purposes of notices and communications, is 5101 Shady Oak Rd., Minnetonka, MN 55343.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

PLEASE TAKE FURTHER NOTICE that the Motion also seeks Court approval of the sale (the “Sale”) of the Offered Assets to the Successful Bidder, free and clear of all liens, claims, interests and encumbrances pursuant to section 363 of the Bankruptcy Code, including the assumption by the Debtors and assignment to the buyer of certain executory contracts and unexpired leases pursuant to section 365 of the Bankruptcy Code (the “Assumed Executory Contracts”). Within 24 hours after adjournment of the Auction (if any), unless otherwise agreed to by the Debtors, but in no event, at least one (1) business day prior to the Sale Hearing, the Debtors shall file a notice identifying the Successful Bidder with the Bankruptcy Court and serve such notice by fax, email or overnight mail to all counterparties whose contracts are to be assumed and assigned.

PLEASE TAKE FURTHER NOTICE that an evidentiary hearing (the “Sale Hearing”) to approve the Sale and authorize the assumption and assignment of the Assumed Executory Contracts will be held on **July 27, 2015 at __:__.m** (prevailing Eastern Time), before the _____, United States Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801, []th Floor, Courtroom []. The Sale Hearing may be adjourned from time to time without further notice to creditors or parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing.

PLEASE TAKE FURTHER NOTICE that, consistent with the Bidding Procedures Order, the Debtors may seek to assume an executory contract or unexpired lease to which you may be a party. The Assumed Executory Contract(s) are described on Exhibit A attached to this Notice. The amount shown on Exhibit A hereto as the “Cure Amount” is the amount, if any, based upon the Debtors’ books and records, which the Debtors assert is owed to cure any defaults existing under the Assumed Executory Contract.

PLEASE TAKE FURTHER NOTICE that if you disagree with the Cure Amount shown for the Assumed Executory Contract(s) on Exhibit A to which you are a party, you must file in writing with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801, an objection on or before **July 24, 2015 at 4:00 p.m. (prevailing Eastern Time)**. Any objection must set forth the specific default or defaults alleged and set forth any cure amount as alleged by you. If a contract or lease is assumed and assigned pursuant to a Court order approving same, then unless you properly file and serve an objection to the Cure Amount contained in this Notice, you will receive at the time of the closing of the sale (or as soon as reasonably practicable thereafter), the Cure Amount set forth herein, if any. Any non-debtors party to an Assumed Executory Contract that fails to timely file and serve an objection to the Cure Amounts shall be forever barred from asserting that a Cure Amount is owed in an amount in excess of the amount, if any, set forth in the attached Exhibit A.

PLEASE TAKE FURTHER NOTICE that if you have any other objection to the Debtors’ assumption and assignment of the Assumed Executory Contract to which you may be a party, you also must file that objection in writing no later than 4:00 p.m. (prevailing Eastern Time) on **July 24, 2015 at 4:00 p.m. (prevailing Eastern Time)** provided, however, that any counterparty to an Assumed Executory Contract may file and serve an objection to the assumption and assignment of the Assumed Executory Contract solely with respect to the Successful Bidder’s ability to provide adequate assurance of future performance under the Assumed Executory Contract up to the time of the Sale Hearing, or raise it at the Sale Hearing.

PLEASE TAKE FURTHER NOTICE that any objection you may file must be served so as to be received by the following parties by the applicable objection deadline date and time (i) counsel to the Debtors: DLA Piper LLP (US), 203 N. LaSalle Street, Suite 1900, Chicago, Illinois 60601 (Attn: Richard A. Chesley, Esq. (richard.chesley@dlapiper.com)), (ii) counsel to the Stalking Horse Purchaser: Willkie Far & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019 (Attn: Steven J. Gartner (sgartner@willkie.com) and John C. Longmire (jlongmire@willkie.com)), (iii) the Office of the United States Trustee (the “US Trustee”): US Trustee, 844 King Street, Suite 2207, Lockbox #35, Wilmington, Delaware, 19899-0035 (Fax: 302-573-6497) (Attn: Linda Casey, Esq.) (linda.casey@usdoj.gov) (collectively, the Notice Parties).

PLEASE TAKE FURTHER NOTICE that the buyer shall be responsible for satisfying any requirements regarding adequate assurance of future performance that may be imposed under sections 365(b) and (f) of the Bankruptcy Code, 11 U.S.C. § 101, *et seq.*, in connection with the proposed assignment of any Assumed Executory Contract. The Court shall make its determinations concerning adequate assurance of future performance under the Assumed Executory Contracts pursuant to 11 U.S.C. §§ 365(b) and (f) at the Sale Hearing.

PLEASE TAKE FURTHER NOTICE that, in the event that the Debtors and the non-debtors party cannot resolve the Cure Amount, the Debtors shall segregate any disputed Cure Amounts (“Disputed Cure Amounts”) pending the resolution of any such disputes by the Court or mutual agreement of the parties. Assumption Objections may be resolved by the Court at the Sale Hearing, or at a separate hearing either before or after the Sale Hearing.

PLEASE TAKE FURTHER NOTICE that, except to the extent otherwise provided in the Purchase Agreement with the Successful Bidder, pursuant to section 365(k) of the Bankruptcy Code, the Debtors and the Debtors’ estate shall be relieved of all liability accruing or arising after the effective date of assumption and assignment of the Assumed Executory Contracts.

PLEASE TAKE FURTHER NOTICE that nothing contained herein shall obligate the Debtors to assume any Assumed Executory Contracts or to pay any Cure Amount.³

PLEASE TAKE FURTHER NOTICE THAT IF YOU DO NOT TIMELY FILE AND SERVE AN OBJECTION AS STATED ABOVE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITH NO FURTHER NOTICE.

ANY NON-DEBTORS PARTY TO ANY ASSUMED EXECUTORY CONTRACT WHO DOES NOT FILE A TIMELY OBJECTION TO THE CURE AMOUNT FOR SUCH ASSUMED EXECUTORY CONTRACT IS DEEMED TO HAVE CONSENTED TO SUCH CURE AMOUNT.

³ “Assumed Executory Contracts” are those Contracts and Leases that the Debtors believes may be assumed and assigned as part of the orderly transfer of the Offered Assets; however, the Successful Bidder may choose to exclude certain of the Debtors’ Contracts or Leases from the list of Assumed Executory Contracts as part of their Qualifying Bid, causing such Contracts and Leases not to be assumed by the Debtors.

Dated: _____, 2015
Wilmington, Delaware

Respectfully submitted,

/s/ R. Craig Martin

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-and-

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Proposed Attorneys for Debtors And Debtors In Possession

Exhibit A

(Assumed Executory Contracts)

Exhibit D

(Proposed Sale Order)

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

	X	
	:	
In re:	:	Chapter 11
	:	
IMRIS, Inc., <i>et al.</i> , ¹	:	Case No. 15-11133 (____)
	:	
	:	(Joint Administration Pending)
Debtors.	:	
	:	
	:	
	X	

**ORDER (A) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE
DEBTORS' ASSETS PURSUANT TO THE SUCCESSFUL BIDDER'S ASSET
PURCHASE AGREEMENT FREE AND CLEAR OF LIENS, CLAIMS,
ENCUMBRANCES, AND OTHER INTERESTS; (B) APPROVING THE ASSUMPTION
AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED
LEASES RELATED THERETO; AND (C) GRANTING RELATED RELIEF**

This matter coming before the Court on the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (the “Debtors”) for the entry of an order pursuant to sections 105(a), 363 and 365 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 6004, 6006, 9007 and 9014 of the Federal Rules of Bankruptcy Procedure (as amended from time to time, the “Bankruptcy Rules”), and Rule 6004-1 of the Local Rules of Bankruptcy Practice and Procedures of the Bankruptcy Court for the District of Delaware (the “Local Rules”) (I)(A) approving procedures in connection with the sale of substantially all of the Debtors’ assets; (B) scheduling the related auction and hearing to consider approval of sale; (C) approving procedures related to the assumption of certain executory contracts and unexpired

¹ The Debtors are the following three entities: IMRIS Inc. (Canadian corporation number 434265-8), IMRIS, Inc. (taxpayer identification number 98-0462325) and NeuroArm Surgical Ltd. (Canadian corporation number 751695-9). The mailing address of each of the Debtors, solely for purposes of notices and communications, is 5101 Shady Oak Rd., Minnetonka, MN 55343.

leases; (D) approving the form and manner of notice thereof; (E) approving expense reimbursement; and (F) granting related relief; and (II)(A) authorizing the sale of substantially all of the Debtors' assets pursuant to the successful bidder's asset purchase agreement free and clear of liens, claims, encumbrances, and other interests; (B) approving the assumption and assignment of certain executory contracts and unexpired leases related thereto; and (C) granting related relief; the Court having reviewed the Motion and the Court having found that (i) the Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; (ii) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b); (iv) notice of the Motion was sufficient under the circumstances; and after due deliberation the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates and its creditors; and good and sufficient cause having been shown;

AND IT IS FURTHER FOUND AND DETERMINED THAT:

A. The Debtors' notice of the Bidding Procedures, the Cure Procedures, the Auction and the hearing to approve any sale of the Offered Assets (the "Sale Hearing") was appropriate and reasonably calculated to provide all interested parties with timely and proper notice, and no other or further notice is required.

B. The findings and conclusions set forth herein 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.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

C. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

IT IS HEREBY ORDERED THAT:

1. As set forth below, the Motion is GRANTED.
2. All objections and responses to the Motion that have not been overruled, withdrawn, waived, settled or resolved, and all reservations of rights included therein, are hereby overruled and denied.
3. The Successful Bidder's offer for the Offered Assets, as embodied in the Successful Bidder's Purchase Agreement, is the highest and best offer for the Offered Assets and is hereby approved.
4. The Successful Bidder's Purchase Agreement annexed hereto as Exhibit 1 is hereby approved pursuant to section 363(b) of the Bankruptcy Code and the Debtors are authorized to consummate and perform all of its obligations under the Successful Bidder's Purchase Agreement and to execute such other documents and take such other actions as are necessary or appropriate to effectuate the Successful Bidder's Purchase Agreement.
5. Pursuant to section 363(f) of the Bankruptcy Code, the Offered Assets may be sold and transferred free and clear of all liens, claims, interests and encumbrances (collectively, "Liens") except as otherwise provided in the Successful Bidder's Purchase Agreement, with any and all such Liens to attach to proceeds of such sale with the same validity, priority, force and effect such Liens had on the Offered Assets immediately prior to the Sale and subject to the rights, claims, defenses, and objections, if any, of the Debtors and all interested parties with respect to any such asserted Liens.

6. Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Sale by the Debtors to the Successful Bidder of the Offered Assets and transactions related thereto, upon the closing under the Successful Bidder's Purchase Agreement, are authorized and approved in all respects.

7. Pursuant to section 365 of the Bankruptcy Code, the assignment and assumption of the Assumed Contracts and Leases of the Debtors, as identified in the Successful Bidder's Purchase Agreement, by the Successful Bidder, is hereby authorized and approved in all respects.

8. Nothing contained in any chapter 11 plan confirmed in this case or the order confirming any chapter 11 plan, nor any order dismissing any case or converting it to chapter 7 shall conflict with or derogate from the provisions of the Successful Bidder's Purchase Agreement, any documents or instrument executed in connection therewith, or the terms of this Order.

9. The stays provided for in Bankruptcy Rules 6004(h) and 6006(d) are hereby waived and this Order shall be effective immediately upon its entry.

10. The terms of this Order shall be binding on the Successful Bidder and its successors, the Debtors, creditors of the Debtors and all other parties in interest in the Bankruptcy Cases, and any successors of the Debtors, including any trustee or examiner appointed in these cases or upon a conversion of this case to chapter 7 of the Bankruptcy Code.

11. The Successful Bidder is a good faith purchaser entitled to the benefits and protections afforded by section 363(m) of the Bankruptcy Code.

12. With respect to the transactions consummated pursuant to this Order, this Order shall be sole and sufficient evidence of the transfer of title to any particular purchaser, and the

sale transaction consummated pursuant to this Order shall be binding upon and shall govern the acts of all persons and entities who maybe 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, or who may be required to report or insure any title or state of title in or to any of the property sold pursuant to this Order, including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, administrative agencies, governmental departments, secretaries of state, and federal, state, and local officials, and each of such persons and entities is hereby directed to accept this Order as sole and sufficient evidence of such transfer of title and shall rely upon this Order in consummating the transactions contemplated hereby.

13. This Court retains jurisdiction to interpret, implement and enforce the provisions of, and resolve any disputes arising under or related to, this Order and the Successful Bidder's Purchase Agreement, all amendments thereto, any waivers and consents thereunder and each of the agreements executed in connection therewith.

14. The failure specifically to include any particular provisions of the Successful Bidder's Purchase Agreement or any of the documents, agreements or instruments executed in connection therewith in this Order shall not diminish or impair the force of such provision, document, agreement or instrument, it being the intent of the Court that the Successful Bidder's Purchase Agreement and each document, agreement or instrument be authorized and approved in its entirety.

15. The Successful Bidder's Purchase Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto in accordance with the terms thereof without further order of the Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtors' estate.

Dated: _____, 2015
Wilmington, Delaware

United States Bankruptcy Judge

Exhibit 1