

ORIGINAL

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

Taylor Wharton International LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 15-12075 (BLS)

(Jointly Administered)

Re: Docket Nos. 15

ORDER (I) AUTHORIZING THE SALE OF THE DEBTORS' CRYOSCIENCE BUSINESS AND CERTAIN OTHER ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS; (II) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (III) GRANTING CERTAIN RELATED RELIEF

Upon consideration of the motion (the "Motion")² dated October 7, 2015 of the above-captioned debtors and debtors-in-possession (the "Debtors") pursuant to §§ 105, 363, and 365 of title 11 of the United States Code, §§ 101 et seq. (as amended, the "Bankruptcy Code"), and Rules 2002, 6004, and 6006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for, among other things, entry of an order (the "Order") (i) approving the sale of the Debtors' CryoScience Business and certain other assets (the "Sale Transaction") free and clear of all claims,³ liabilities, interests, encumbrances, liens, financing statements, mortgages, mechanics' liens, lis pendens, and all other documents or agreements evidencing interests in and/or claims against such assets (collectively, the "Encumbrances"), except to the extent set forth in the Worthington APA (as hereinafter defined), (ii) authorizing the assumption and

¹ The Debtors and the last four digits of their respective U.S. federal taxpayer identification numbers are as follows: Taylor Wharton International LLC (1577) and Taylor Wharton Cryogenics LLC (1713). The headquarters for the above-captioned Debtors is located at 5600 Rowland Rd., Minnetonka, MN 55343.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion or the Worthington APA (as defined herein), as applicable.

³ For purposes of this Order, the term "claim" shall have the meaning ascribed to such term in Bankruptcy Code section 101(5).

assignment of certain executory contracts and unexpired leases (the “Assumed Contracts”) identified by the Debtors and more fully described in the Asset Purchase Agreement dated as of November 20, 2015 (as amended from time to time and Notice thereof filed in these cases as Docket No. 254, the “Worthington APA”) by and between Taylor Wharton Cryogenics, LLC (the “Seller”), on the one hand, and Worthington Cylinder Corporation (“Buyer”) and/or their designees, on the other hand, for the purchase of the Transferred Assets⁴ and the assumption of the Assumed Liabilities (as defined in the Worthington APA), and (iii) granting certain related relief; and the Court having held a hearing on November 20, 2015 (the “Sale Hearing”) to approve the Sale Transaction; and the Court having reviewed and considered (a) the Motion, (b) the declarations filed by the Debtors in support of the Motion, (c) the objections to the Motion, (d) all responses to any objections and replies in further support of the Motion, and (e) the arguments of counsel made, and the evidence proffered or adduced, at the Sale Hearing; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates and creditors, and other parties in interest; and upon the record of the Sale Hearing and the Chapter 11 Cases; and after due deliberation thereon; and good cause appearing therefore, it is hereby

FOUND, CONCLUDED AND DECLARED THAT:⁵

A. **Jurisdiction and Venue.** The court has jurisdiction over the Motion pursuant to 28 U.S.C. § 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

⁴ The Transferred Assets consist of substantially all of the assets of the Seller related to the CryoScience Business and certain other assets other than the Excluded Assets referenced in section 1.2 of the Worthington APA.

⁵ The findings and conclusions set forth herein constitute this Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent 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.

B. **Statutory Predicates.** The statutory predicates for the relief sought in the Motion are sections 105, 363, and 365 of the Bankruptcy Code, and Bankruptcy Rules 2002, 6004, and 6006.

C. **Petition Date.** On October 7, 2015 (the "Petition Date"), Taylor Wharton International LLC and Taylor Wharton Cryogenics, LLC (together, the "Debtors") each commenced a case by filing a petition for relief under chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered by order of the Court.

D. **Entry of Sale Procedures Order.** On October 29, 2015, this Court entered an Order (I) Establishing Sale Procedures Relating To The Sale Of (A) The Debtors' Cryoscience Business And (B) Any Or All Of The Debtors' Assets; (II) Approving Bid Protections In Connection With The Sale Of The Debtors' Cryoscience Business; (III) Establishing Procedures Relating To The Assumption And Assignment Of Certain Executory Contracts And Unexpired Leases, Including Notice Of Proposed Cure Amounts; (IV) Approving Form And Manner Of Notice Of All Procedures, Protections, Schedules, And Agreements; (V) Scheduling A Hearing To Consider The Proposed Sales; And (VI) Granting Certain Related Relief [Docket No. 142] (the "Sale Procedures Order")

E. **Compliance with Sale Procedures Order.** As demonstrated by (i) the First Day Declaration [Docket No. 14], (ii) the testimony and other evidence proffered or adduced at the Hearing to approve the Sale Procedures Order on October 28, 2015, (iii) the testimony and other evidence proffered or adduced at the Sale Hearing, and (iv) the representations of counsel made on the record at the Sale Hearing, the Debtors have marketed the Transferred Assets and conducted the sale process in compliance with the Sale Procedures Order, and the Auction was duly noticed and conducted in a non-collusive, fair, and good faith manner. The Debtors and

their professionals have actively marketed the Transferred Assets and conducted the sale process in compliance with the Sale Procedures Order, and have afforded potential purchasers a full and fair opportunity to make higher and better offers. The Buyer, the DIP Agent and the Prepetition Agent (as defined below) acted in compliance with the terms of the Sale Procedures. In accordance with the Sale Procedures, the Debtors determined that the bid submitted by the Buyer and memorialized by the Worthington APA is the Successful Bid (as defined in the Sale Procedures).

F. **Notice.** As evidenced by the affidavits of service and publication previously filed with the Court, and based on the representations of counsel at the Sale Hearing, (i) proper, timely, adequate, and sufficient notice of the Motion, the Sale Hearing, the Sale Transaction, the Assumption and Assignment Procedures (including the objection deadline with respect to any Cure Amount) and the assumption and assignment of the Assumed Contracts and the Cure Amounts has been provided in accordance with §§102(1), 363, and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, and 6006 and in compliance with the Sale Procedures Order, (ii) such notice was good, sufficient, and appropriate under the particular circumstances, and (iii) no other or further notice of the Motion, the Sale Hearing, the Sale Transaction, or the assumption and assignment of the Assumed Contracts or the Cure Amounts is or shall be required. With respect to entities whose identities are not reasonably ascertained by the Debtors, publication of the Sale Notice (as defined in the Motion) in the Mobile Press Register on November 6, 2015, was sufficient and reasonably calculated under the circumstances to reach such entities.

G. **Corporate Authority.** The Seller (i) has full corporate power and authority to execute the Worthington APA and all other documents contemplated thereby, and the Sale of the

Transferred Assets by the Seller has been duly and validly authorized by all necessary corporate action of the Seller, (ii) has all of the corporate power and authority necessary to consummate the transactions contemplated by the Worthington APA, (iii) has taken all corporate action and formalities necessary to authorize and approve the Worthington APA and the consummation by the Seller of the transactions contemplated thereby, including, without limitation, as required by their respective organizational documents, and (iv) no governmental, regulatory or other consents or approvals, other than those expressly provided for in the Worthington APA, are required for the Seller to enter into the Worthington APA and consummate the Sale Transaction.

H. **Opportunity to Object.** A fair and reasonable opportunity to object or be heard with respect to the Motion and the relief requested therein has been afforded to all interested persons and entities, including:

- i) counsel to the Stalking Horse Buyer;
- ii) counsel to the official committees of unsecured creditors appointed in these cases (the "Committee"),
- iii) counsel to the Debtors' DIP Agent;
- iv) counsel to the Debtors' Prepetition Agent;
- v) any party who, in the past year, expressed in writing to the Debtors an interest in the Assets or the Debtors' other assets;
- vi) non-debtor parties to the Anticipated Assumed Contracts;
- vii) all parties who are known or reasonably believed to have asserted a lien, encumbrance, claim or other interest in the Transferred Assets or the Debtors' other assets;
- viii) the Internal Revenue Service;
- ix) all federal, state, local and foreign regulatory or taxing authorities or

recording offices that have a reasonable known interest in the relief requested by the Motion;

- x) the United States Attorney's Office for the District of Delaware
- xi) all persons or entities that have requested notice in these Chapter 11 cases under Bankruptcy Rule 2002; and
- xii) the United States Trustee.

I. **Sale in Best Interest.** Consummation of the Sale Transaction at this time is in the best interests of the Debtors, their creditors, their estates, and all other parties in interest.

J. **Business Justification.** Sound business reasons exist for the Sale Transaction. Entry into the Worthington APA, and the consummation of the transactions contemplated thereby, including the Sale of the Transferred Assets and the assumption and assignment of the Assumed Contracts, constitutes each Debtor's exercise of sound business judgment and such acts are in the best interests of each Debtor, its estate, and all parties in interest. The Court finds that each Debtor has articulated good and sufficient business reasons justifying the Sale Transaction. Such business reasons include, but are not limited to, the following: (i) the Sale Transaction is the only viable alternative to liquidation; (ii) the Worthington APA constitutes the highest and best offer for the Transferred Assets; (iii) the Worthington APA and the closing thereon will present the best opportunity to realize the value of the Transferred Assets on a going concern basis and avoid decline and devaluation of the Transferred Assets; (iv) unless the Sale Transaction and all of the other transactions contemplated by the Worthington APA are concluded expeditiously, as provided for in the Motion and pursuant to the Worthington APA, recoveries to creditors may be diminished; and (v) any plan likely would not have yielded as favorable an economic result.

K. **Fair and Reasonable.** The terms and conditions of the Worthington APA,

including, without limitation, the consideration to be realized by the Debtors, are fair and reasonable. Approval of the Motion, the Worthington APA, and the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, is in the best interests of the Debtors, their estates and creditors, and all other parties in interest.

L. **Arms-Length Sale.** The Worthington APA was negotiated, proposed, and entered into by the Debtors and the Buyer without collusion, in good faith, and from arm's-length bargaining positions. Neither the Debtors nor the Buyer have engaged in any conduct that would cause or permit the Worthington APA to be avoided under §363(n) of the Bankruptcy Code. Specifically, the Buyer has not acted in a collusive manner with any person and the purchase price was not controlled by any agreement among bidders. The Buyer is not an "Insiders" of any Debtors as defined in §101(31) of the Bankruptcy Code.

M. **Good Faith Purchaser.** The Buyer is a good faith purchaser for value and, as such, is entitled to all of the protections afforded under §363(m) of the Bankruptcy Code and any other applicable or similar bankruptcy and non-bankruptcy law. Specifically: (i) the Buyer recognized that the Debtors were free to deal with any other party interested in purchasing the Transferred Assets; (ii) the Buyer complied in all respects with the provisions in the Sale Procedures Order; (iii) the Buyer agreed to subject their bid to the competitive bid procedures set forth in the Sale Procedures Order; (iv) all payments to be made by the Buyer in connection with the Sale Transaction have been disclosed; (v) no common identity of directors, or officers exists among the Buyer and the Debtors; (vi) the negotiation and execution of the Worthington APA was at arm's-length and in good faith, and at all times each of the Buyer and the Debtors were represented by competent counsel of their choosing; (vii) the Buyer did not in any way induce or

cause the chapter 11 filing of the Debtors; and (viii) the Buyer have not acted in a collusive manner with any person. The Buyer will be acting in good faith within the meaning of §363(m) of the Bankruptcy Code in closing the transactions contemplated by the Worthington APA.

N. **Free and Clear.** The Debtors may sell the Transferred Assets free and clear of all obligations and Encumbrances (other than Permitted Liens and the Assumed Liabilities) because, with respect to each creditor asserting a lien, claim, encumbrance, or interest, one or more of the standards set forth in §363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Those holders of Encumbrances who did not object or withdrew objections to the Sale Transaction are deemed to have consented to the Sale Transaction pursuant to §363(f)(2) of the Bankruptcy Code. Those holders of Encumbrances who did object fall within one or more of the other subsections of §363(f) of the Bankruptcy Code and are adequately protected by having their interests and/or claims, if any, attach to the cash proceeds of the Sale Transaction ultimately attributable to the property against or in which they assert an interest or Encumbrance with the same priority, validity, force, and effect as they attached to such property immediately before the Closing Date.

O. The transfer of the Transferred Assets to the Buyer will be a legal, valid, and effective transfer of the Transferred Assets, and in the case of the Transferred Assets, will vest the Buyer with all right, title, and interest to such assets free and clear of any and all Encumbrances, including without limitation, any and all liens, claims, interests, and encumbrances of any type whatsoever (whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, whether arising prior to or subsequent to the commencement of the chapter 11 cases, and whether imposed by agreement,

understanding, law, equity, or otherwise, including claims otherwise arising under doctrines of successor liability), including but not limited to those (i) that purport to give to any party a right or option to effect any forfeiture, modification, right of first refusal, or termination of the Debtors' or the Buyer's interest in the Transferred Assets, or any similar rights, and (ii) relating to taxes arising under or out of, in connection with, or in any way relating to the operation of the Business prior to the Closing Date or to transaction contemplated by the Worthington APA that occurs on the Closing Date, other than the Assumed Liabilities.

P. The Buyer would not have entered into the Worthington APA and would not consummate the transactions contemplated hereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, (i) if the transfer of the Transferred Assets were not free and clear of all liens, claims, encumbrances, and other interests of any kind or nature whatsoever (subject only, in the case of the Buyer with respect to the Transferred Assets, to the Permitted Liens and the Assumed Liabilities), including, without limitation, rights or claims based on any taxes or successor or transferee liability or (ii) if the Buyer would, or in the future could, be liable for any such liens, claims, encumbrances, and other interests, including, without limitation, rights or claims based on any taxes or successor or transferee liability (subject only, in the case of the Buyer with respect to the Transferred Assets, to the Permitted Liens, and the Assumed Liabilities). The Buyer will not consummate the transactions contemplated by the Worthington APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, unless this Court expressly orders that none of the Buyer, their affiliates, their present or contemplated members or shareholders, or the Transferred Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise,

directly or indirectly, any liens, claims, encumbrances, and other interests, including, without limitation, rights or claims based on any taxes, successor or transferee liability.

Q. Not transferring the Transferred Assets free and clear of all liens, claims, encumbrances, and other interests of any kind or nature whatsoever (subject only, in the case of the Buyer with respect to the Transferred Assets, to the Permitted Liens) including, without limitation, rights or claims based on any taxes, successor, or transferee liability, would adversely impact the Debtors' efforts to maximize the value of their estates, and the transfer of the Transferred Assets other than pursuant to a transfer that is free and clear of all liens, claims, encumbrances, and other interests of any kind or nature whatsoever would be of substantially less benefit to the Debtors' estates.

R. Without limiting the generality of the foregoing and except as specified in the Worthington APA, none of the Buyer, their affiliates, their respective present or contemplated members or shareholders, or the Transferred Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or in equity, or by payment, setoff (to the extent not taken prepetition), or otherwise, directly or indirectly, any liens, claims, encumbrances, and other interests relating to any federal, state, local, or foreign income tax liabilities, that the Debtors incur in connection with the consummation of the transactions contemplated by the Worthington APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, other than Assumed Liabilities.

S. **Assumption of Executory Contracts and Unexpired Leases.** Without in any way limiting any lease or contract counterparty's rights under §365 of the Bankruptcy Code, the (i) transfer of the Transferred Assets to the Buyer and (ii) assignment to the Buyer of the Assumed Contracts, will not subject the Buyer to any liability whatsoever prior to the Closing

Date (defined below) or by reason of such transfer under the laws of the United States, any state, territory, or possession thereof, or the District of Columbia, based, in whole or in part, directly or indirectly, on any theory of law or equity, including, without limitation, any theory of equitable law, including, without limitation, any theory of antitrust, successor or transferee liability. The Debtors have demonstrated that it is an exercise of their sound business judgment to assume and assign the Assumed Contracts to the Buyer in connection with the consummation of the Sale Transaction, and the assumption and assignment of the Assumed Contracts is the best interests of the Debtors, their estates, and their creditors. The Assumed Contracts being assigned to the Buyer are an integral part of the Transferred Assets being purchased by the Buyer and, accordingly, such assumption and assignment of Assumed Contracts is reasonable, enhances the value of the Debtors' estates, and does not constitute unfair discrimination.

T. **Cure/Adequate Assurance.** The Debtors have (i) cured and/or provided adequate assurance of cure upon Closing, of any default existing prior to the date of Closing under any of the Assumed Contracts, within the meaning of §365(b)(1)(A) of the Bankruptcy Code, set forth on Schedule 1.1(b) of the Worthington APA and as the proposed cure identified on the *Notice of Assumption and Assignment of and Amounts Necessary to Cure Defaults Under Contracts and Leases to be Assumed and Assigned to Successful Purchaser* [Docket No.; 149], and (ii) provided compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the date of Closing under any of the Assumed Contracts within the meaning of §365(b)(1)(B) of the Bankruptcy Code. The Buyer has provided or will provide adequate assurance of future performance of and under the Assumed Contracts within the meaning of §365(b)(1)(C) of the Bankruptcy Code. Pursuant to §365(f) of the Bankruptcy Code, the Assumed Contracts to be assumed and assigned under the

Worthington APA shall be assumed and assigned to, and remain in full force and effect for the benefit of, the Buyer notwithstanding any provision in such contracts or other restrictions prohibiting their assignment or transfer. In connection with the assignment and assumption of the Assumed Contracts, the Debtors shall cure any defaults under the Assumed Contracts by payment of any Cure Amounts as ordered by the Bankruptcy Court; provided, however, that if the Debtors fail to pay any Cure Amount, such Cure Amount shall reduce the Purchase Price under the Worthington APA in accordance with Section 1.6(b) thereof and the Buyer shall promptly use the amounts derived from the reduction in the Purchase Price to pay such Cure Amounts.

U. **Prompt Consummation.** The sale of the Transferred Assets must be approved and consummated promptly in order to preserve the value of the Transferred Assets. Therefore, time is of the essence in consummating the Sale Transaction, and the Seller and the Buyer intend to close the Sale Transaction as soon as reasonably practicable.

V. The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the immediate approval and consummation of the transaction contemplated by the Worthington APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, prior to, and outside of, a chapter 11 plan of reorganization. Confirmation of a chapter 11 plan at this time is not feasible, and the Debtors' estates will suffer irreparable harm if the relief requested in the Motion is not granted on an expedited basis. In addition, consummation of the Sale Transaction will prevent the continuing accrual of interest and fees to the Debtors' postpetition lenders.

W. **Not a *Sub Rosa* Plan.** The Sale Transaction does not constitute a *sub rosa* chapter 11 plan for which approval has been sought without the protections that a disclosure statement

would afford. The Sale Transaction neither impermissibly restructures the rights of the Debtors' creditors, nor impermissibly dictates a plan of reorganization or liquidation for the Debtors.

X. **No Fraudulent Transfer.** The Worthington APA was not entered into for the purpose of hindering, delaying, or defrauding creditors under the Bankruptcy Code or under the laws of the United States, any state, territory, possession, or the District of Columbia. The Buyer is not a mere continuation, and is not holding itself out as a mere continuation, of any of the Debtors or their respective estates and there is no continuity between the Buyer and the Debtors. The Sale Transaction does not amount to a consolidation, merger or de facto merger of the Buyer and any of the Debtors.

Y. The consideration provided by the Buyer for the Transferred Assets pursuant to the Worthington APA (i) is fair and reasonable, (ii) is the highest and best offer for the Transferred Assets, (iii) will provide a greater recovery for the Debtors' creditors than would be provided by any other practical available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia (including, without limitation, the Uniform Fraudulent Conveyance Act and the Uniform Fraudulent Transfer Act, as in effect in any jurisdiction of the United States).

Z. **Buyer Is Not An Insider and No Successor Liability.** The Buyer is not an "insider" or "affiliate" of any Debtor, as those terms are defined in the Bankruptcy Code, and there has been no common identity of incorporators or directors existing between the Buyer and any Debtor. The transfer of the Transferred Assets and the assumption of the Assumed Liabilities (including any individual elements of the Sale Transaction) to the Buyer, except as otherwise set forth in the Worthington APA, does not, and will not, subject the Buyer to any liability

whatsoever, with respect to the operation of the Debtors' businesses prior to the closing of the Sale Transaction or by reason of such transfer under the laws of the United States, any state, territory, or possession thereof, or the District of Columbia, based, in whole or in part, directly or indirectly, in any theory of law or equity including, without limitation, any laws affecting antitrust, successor, transferee, or vicarious liability. Pursuant to the Worthington APA, the Buyer is not purchasing all of the Debtors' assets in that, among other things, the Buyer is not purchasing any of the Excluded Assets or assuming the Excluded Liabilities, and the Buyer is not holding themselves out to the public as a continuation of the Debtors. The Sale Transaction does not amount to a consolidation, merger, or de facto merger of the Buyer and the Debtors and/or the Debtors' estates. There is no substantial continuity between the Buyer and the Debtors, and there is no continuity of enterprise between the Debtors and the Buyer. The Buyer is not a mere continuation of the Debtors or the Debtors' estates, and the Buyer does not constitute successors to the Debtors or the Debtors' estates.

AA. Legal, Valid Transfer. The transfer of the Transferred Assets to the Buyer will be a legal, valid, and effective transfer of the Transferred Assets, and will vest the Buyer with all right, title, and interest of the Debtors to the Transferred Assets free and clear of all Encumbrances (other than Permitted Encumbrances and Assumed Liabilities), as set forth in the Worthington APA. The Transferred Assets constitute property of the Debtors' estates and good title is vested in the Debtors' estate within the meaning of section 541(a) of the Bankruptcy Code. The Debtors are the sole and rightful owners of the Transferred Assets.

BB. Worthington APA Not Modified. The terms of the Worthington APA, including any amendments, supplements, and modifications thereto, are fair and reasonable in all respects and the terms of the Order shall not modify the terms of the Worthington APA.

CC. **Legal and Factual Bases.** The legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein.

It is therefore **ORDERED, ADJUDGED, AND DECREED THAT:**

GENERAL PROVISIONS

1. The Motion is GRANTED and APPROVED, as set forth herein.
2. All objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are overruled on the merits and denied with prejudice.

APPROVAL OF THE SALE OF THE TRANSFERRED ASSETS

3. The Worthington APA, including any amendments, supplements and modifications thereto, and all transaction related documents and all of the terms and conditions therein, is hereby approved.

4. Pursuant to §363(b) of the Bankruptcy Code, the sale of the Transferred Assets to the Buyer free and clear of all obligations and Encumbrances (except Permitted Liens and the Assumed Liabilities), and the transactions contemplated thereby is approved in all respects.

SALE AND TRANSFER OF TRANSFERRED ASSETS

5. Pursuant to §363(b) of the Bankruptcy Code, the Debtors are hereby authorized and directed to sell the Transferred Assets to the Buyer and consummate the Sale Transaction in accordance with, and subject to the terms and conditions of, the Worthington APA, and to transfer and assign all right, title, and interest (including common law rights) to all property, licenses, and rights to be conveyed to the Buyer in accordance with and subject to the terms and conditions of the Worthington APA, and are further authorized and directed to execute and deliver, and are empowered to perform under, consummate, and implement, the Worthington

APA together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Worthington APA, including, without limitation, the related documents, exhibits, and schedules, and to take all further actions as may be reasonably requested by the Buyer for the purposes of assigning, transferring, granting, conveying, and conferring the Transferred Assets to the Buyer, or as may be necessary or appropriate to the performance of the Debtors' obligations as contemplated by the Worthington APA.

6. Pursuant to §§363 (b) and 363(f) of the Bankruptcy Code, the Transferred Assets shall be transferred to the Buyer upon the Closing Date free and clear of all obligations and Encumbrances (except for Permitted Liens and the Assumed Liabilities) of any kind or nature whatsoever, including without limitation, pension obligations or other obligations or Encumbrances arising under ERISA, rights or claims based on any taxes or successor or transferee liability, including, without limitation, all claims arising in any way in connection with any agreements, acts, or failures to act, of any of the Debtors or any of the Debtors' predecessors or affiliates, whether known or unknown, contingent or otherwise, whether arising before or subsequent to the commencement of these Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity or otherwise, including, without limitation, claims otherwise arising under federal, state, or foreign tax laws or doctrines of successor or transferee liability, with all such Encumbrances to attach to the cash proceeds of the Sale Transaction in the order of their priority, with the same validity, force, and effect which they now have as against the Transferred Assets, subject to any claims and defenses the Debtors may possess with respect thereto.

7. Following the Closing, the Debtors and/or the Buyer are authorized to execute and file a certified copy of this Order, which, once filed, registered, or otherwise recorded, shall

constitute conclusive evidence of the release of all obligations, and Encumbrances in the Transferred Assets of any kind or nature whatsoever. On the Closing Date, this Order will be construed, and constitute for any and all purposes, a full and complete general assignment, conveyance, and transfer of the Transferred Assets and/or a bill (or bills) of sale transferring good and marketable title in such Transferred Assets to the Buyer. On the Closing Date, this Order also shall be construed as, and constitute for any and all purposes, a complete and general assignment of all right, title, and interest of the Debtors and each bankruptcy estate to the Buyer in the Assumed Contracts. Each and every federal, state, local, and foreign governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Worthington APA.

8. All entities who are presently, or on the Closing Date may be, in possession of some or all of the Transferred Assets are hereby directed to surrender possession of the Transferred Assets to the Buyer on the Closing Date.

9. All persons and entities are prohibited and enjoined from taking any action to adversely affect or interfere with the ability of the Debtors to transfer the Transferred Assets to the Buyer in accordance with the Worthington APA and this Order; provided, however, that the foregoing restriction shall not prevent any party from appealing this Order in accordance with applicable law or opposing any appeal of this Order, or from enforcing its rights under §365 of the Bankruptcy Code.

10. This Order (a) shall be effective as a determination that, upon the Closing of the Sale Transaction, all interests, claims, and Encumbrances of any kind or nature whatsoever existing as to the Transferred Assets prior to the Closing of the Sale Transaction have been unconditionally released, discharged, and terminated (other than any Permitted Liens or

Assumed Liabilities), and that the conveyances described herein have been effected and (b) shall be binding upon and shall govern the acts of all entities including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, local, and foreign officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Transferred Assets.

11. Except as expressly permitted by the Worthington APA or this Order, all persons and entities, including, but not limited to, all debt holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade creditors, dealers, employees, litigation claimants, and other creditors, holding Encumbrances or other interests of any kind or nature whatsoever, including, without limitation, rights or claims based on any taxes or successor or transferee liability, against or in a Debtor or the Transferred Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or noncontingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to, the Debtors, the Transferred Assets or the operation of the Transferred Assets before the Closing Date, or the transactions contemplated by the Worthington APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, are forever barred, estopped, and permanently enjoined from asserting against the Buyer, their successors and assigns, their respective property and the Transferred Assets, such persons' or entities' Encumbrances or other interests of any kind or nature whatsoever, including, without limitation, rights or claims based on any taxes or successor or transferee liability.

12. On the Closing Date, each of the Debtors' creditors is authorized and directed to execute such documents and take all other actions as may be necessary to release its Encumbrances on the Transferred Assets, if any, as such Encumbrances may have been recorded or otherwise exist.

13. To the extent provided by §525 of the Bankruptcy Code, no governmental unit may deny, revoke, suspend, or refuse to renew any permit, license, or similar grant relating to the operation of the Transferred Assets on account of the filing or pendency of the Chapter 11 Cases or the consummation of the transactions contemplated by the Worthington APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts.

14. Subject to the terms and conditions of this Order, the transfer of the Transferred Assets to the Buyer pursuant to the Worthington APA constitutes a legal, valid, and effective transfer of the Transferred Assets, and shall vest the Buyer with all right, title, and interest of the Debtors in and to the Transferred Assets free and clear of all Encumbrances of any kind or nature whatsoever (other than Permitted Liens and the Assumed Liabilities).

NO SUCCESSOR LIABILITY

15. The Buyer is not a "successor" to the Debtors or their estates by reason of any theory of law or equity, and the Buyer shall not assume, or be deemed to assume, or in any way be responsible for any liability or obligation of any of the Debtors and/or their estates, other than the Assumed Liabilities, with respect to the Transferred Assets or otherwise, including, but not limited to, under any bulk sales law, doctrine or theory of successor liability, or similar theory or basis of liability. Except to the extent the Buyer assumes Assumed Liabilities and the Buyer is ultimately permitted to assume the Assumed Contracts pursuant to the Worthington APA, neither

the purchase of the Transferred Assets by the Buyer nor the fact that the Buyer is using any of the Transferred Assets previously operated by the Debtors will cause the Buyer to be deemed a successor in any respect to the Debtors' businesses or incur any liability derived therefrom within the meaning of any foreign, federal, state, or local revenue, pension, ERISA, tax, labor, employment, environmental, or other law, rule or regulation (including, without limitation, filing requirements under any such laws, rules or regulations), or under any products liability law or doctrine with respect to the Debtors' liability under such law, rule, or regulation or doctrine.

16. The Buyer has given substantial consideration under the Worthington APA, which consideration shall constitute valid and valuable consideration for the releases of any potential claims of successor liability against the Buyer and which shall be deemed to have been given in favor of the Buyer by all holders of Encumbrances (except for Permitted Liens and the Assumed Liabilities) in or against the Debtors or the Transferred Assets. Upon consummation of the Sale Transaction, the Buyer shall not be deemed to (a) be the successor to the Debtors, (b) have, de facto or otherwise, merged with or into the Debtors, or (c) be a mere continuation, alter ego, or substantial continuation of the Debtors.

17. Except to the extent the Buyer otherwise specifically agreed in the Worthington APA or this Order with respect to an Assumed Liability, the Buyer shall not have any liability, responsibility, or obligation for any claims, liabilities, or other obligations of the Debtors or their estates, including without limitation, any claims, liabilities, or other obligations related to the Transferred Assets prior to Closing Date. Under no circumstances shall the Buyer be deemed successors of or to the Debtors for any Encumbrances (except for Permitted Encumbrances and the Assumed Liabilities) against, in, or to the Debtors or the Transferred Assets. For the purposes of paragraphs 15 through 17 of this Order, all references to the Buyer shall include their

affiliates, subsidiaries, and shareholders.

GOOD FAITH

18. The transactions contemplated by the Worthington APA are undertaken by the Buyer in good faith, as that term is used in §363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein by this Order to consummate the Sale Transaction shall not affect the validity of the sale of the Transferred Assets to the Buyer. The Buyer is a purchaser in good faith of the Transferred Assets and are entitled to all of the protections afforded by §363(m) of the Bankruptcy Code.

19. As a good faith purchaser of the Transferred Assets, the Buyer has not entered into an agreement with any other potential bidders prior to or at the Auction, and has not colluded with any other bidders, potential bidders, or any other parties interested in the Transferred Assets, and, therefore, neither the Debtors nor any successor in interest to the Debtors' estates shall be entitled to bring an action against the Buyer, and the Sale Transaction may not be avoided pursuant to §363(n) of the Bankruptcy Code.

ASSUMPTION AND ASSIGNMENT OF ASSUMED CONTRACTS

20. Pursuant to §§105(a) and 365 of the Bankruptcy Code, and subject to and conditioned upon the closing of the Sale Transaction, the Debtors' assumption and assignment to the Buyer, and the Buyer' assumption on the terms set forth in the Worthington APA, of the Assumed Contracts is hereby approved, and the requirements of §§365(b)(1) and 365(f) of the Bankruptcy Code with respect thereto are hereby deemed satisfied. The Buyer shall pay all Cure Claims related to Assumed Contracts.

21. The Debtors are hereby authorized and directed in accordance with §§105(a), 363, and 365 of the Bankruptcy Code to (a) assume and assign to the Buyer, effective upon the

Closing Date of the Sale Transaction, the Assumed Contracts free and clear of all Encumbrances of any kind or nature whatsoever (except for Permitted Liens) and (b) execute and deliver to the Buyer such documents or other instruments as may be necessary to assign and transfer the Assumed Contracts to the Buyer.

22. The Assumed Contracts shall be transferred to, and remain in full force and effect for the benefit of, the Buyer in accordance with their respective terms, notwithstanding any provision in any such Assumed Contract (including those of the type described in §§365(b)(2) and (f) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or transfer and, pursuant to §365(k) of the Bankruptcy Code, the Debtors shall be relieved from any further liability with respect to the Assumed Contracts after such assignment to and assumption by the Buyer.

23. Upon the Debtors' assumption and assignment of the Assumed Contracts under the provisions of this Order, no default shall exist under any Assumed Contract and no counterparty to any such Assumed Contract shall be permitted to declare or enforce a default by the Debtors thereunder or otherwise take action against the Buyer as a result of any of the Debtors' financial condition, change in control, bankruptcy, or failure to perform any of its obligations under the relevant Assumed Contract. Any provision in an Assumed Contract that prohibits or conditions the assignment or sublease of such Assumed Contract (including the granting of a lien therein) or allows the counterparty thereto to terminate, recapture, impose any penalty, condition on renewal or extension, or modify any term or condition upon such assignment or sublease, constitutes an unenforceable anti-assignment provision that is void and of no force and effect only in connection with the assumption and assignment of such Assumed Contract to the Buyer. The failure of the Debtors or the Buyer to enforce at any time one or more

terms or conditions of any Assumed Contract shall not be a waiver of such terms or conditions, or of the Debtors' and the Buyer's rights to enforce every term and condition of the Assumed Contract. Upon the terms and subject to the conditions of the Worthington APA, as of the Closing, the Buyer shall assume, discharge and perform those obligations of the Debtor that first arise after Closing under the Assumed Contracts.

24. All defaults or other obligations of the Debtors under the Assumed Contracts arising or accruing prior to the Closing Date (without giving effect to any acceleration clauses or any default provisions of the kind specified in §365(b)(2) of the Bankruptcy Code) shall be cured on the Closing Date or as soon thereafter as reasonably practicable.

25. Each non-Debtor party to a Assumed Contract hereby is forever barred, estopped, and permanently enjoined from raising or asserting against the Debtors or the Buyer, or the property of any of them, any assignment fee, default, breach, or claim of pecuniary loss, or condition to assignment, arising under or related to the Assumed Contracts, existing as of the date of the Sale Hearing, or arising by reason of the consummation of transactions contemplated by the Worthington APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts. Any party that may have had the right to consent to the assumption and assignment of a Assumed Contract is deemed to have consented to such assignment for purposes of §365(e)(2)(A)(ii) of the Bankruptcy Code and otherwise if such party failed to object to the assumption and assignment of such Assumed Contract.

26. To the extent a counterparty to an Assigned Contract failed to timely object to a Cure Amount, such Cure Amount shall be deemed to be finally determined and any such counterparty shall be prohibited from challenging, objecting to, or denying the validity and finality of the Cure Amount at any time, and such Cure Amount, when paid, shall completely

revive any Assumed Contract to which it relates.

27. Prior to the objection deadline for the Motion, the following objections were filed with the Court (collectively, the "Objections"):

A. Cure Amount/Assignment Objection by Microsoft [D.I. 203] filed by Microsoft Corporation and Microsoft Leasing, GP (together, "Microsoft"), objecting to the assumption and assignment of the following agreements allegedly among Microsoft and the Debtors: (a) Microsoft Business Agreement #U8182098; (b) Microsoft Enterprise 6 Agreement #E2521198; and (c) Microsoft Enterprise 6 Enrollment #68560315;

B. Objection of Samuel Pressure Vessel Group Inc. to Debtors' Notice of Assumption and Assignment of and Amounts Necessary to Cure Defaults Under Contracts and Leases To Be Assumed and Assigned to Successful Purchaser [D.I. 213] filed by Samuel Pressure Vessel Group Inc. ("SPVG"), objecting to the assumption and assignment of the following agreement allegedly among SPVG and the Debtors: Consignment Security Agreement dated May 16, 2014 ("SPVG Consignment Agreement");

C. Objection of Samuel, Son & Co. Inc. to Debtors' Notice of Assumption and Assignment of and Amounts Necessary to Cure Defaults Under Contracts and Leases To Be Assumed and Assigned to Successful Purchaser [D.I. 214] filed by Samuel, Son & Co. Inc. ("SSC"), objecting to the assumption and assignment of the following agreement allegedly among SSC and the Debtors: Consignment Security Agreement dated August 16, 2013 ("SAS Consignment Agreement");

D. Oracle's Limited Objection to and Reservation of Rights Regarding (1) Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a), 363, 365 and Fed. R. Bankr. P. 2002, 6004, 6006 for an Order (I) Authorizing the Sale of the Debtors' Assets Free and Clear of all Liens,

Claims, Encumbrances, and Interests; (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (III) Granting Certain Related Relief; and (2) Notice of Assumption and Assignment of and Amounts Necessary to Cure Defaults Under Contracts and Leases To Be Assumed and Assigned to Successful Purchaser [D.I. 216] filed by Oracle America, Inc., objecting to the assumption and assignment of any agreements allegedly with the Debtors, specifically referencing only one agreement among Dimension Systems Inc., allegedly a reseller for Oracle, and the Debtors, described by the Debtors as “JD Edwards Term: 10/02/2013 to 10/02/2014”; and

E. Objection of Verizon Communications Inc., Verizon Business Global LLC, Verizon Network Integration Corp., and Celco Partnership d/b/a Verizon Wireless to Proposed Cure Amounts in Notice of Assumption and Assignment of and Amounts Necessary to Cure Defaults Under Contracts and Leases To Be Assumed and Assigned to Successful Purchaser [D.I. 217] filed by Verizon Communications Inc., Verizon Business Global LLC, Verizon Network Integration Corp., and Celco Partnership d/b/a Verizon Wireless (collectively, “Verizon”), objecting to the assumption and assignment of unspecified “numerous telecommunications contracts” allegedly among Verizon and the Debtors.

28. None of the agreements that are the subject of the Objections are listed on Schedule 1.1(b) of the Worthington APA as executory contracts to be assumed by the Debtors and assigned to the Buyer. Therefore, all of the Objections are moot for purposes of the Sale Motion as it relates to the Buyer under the Worthington APA. Notwithstanding anything to the contrary in the Motion, the Worthington APA, or this Order, (i) Assumed Contracts shall not include any of the contracts that are the subject of the Objections; and (ii) all of the contracts that are the subject of the Objections shall be Excluded Assets.

29. Notwithstanding anything to the contrary in this Order, the Motion, the Worthington APA or the Transition Services Agreement, any agreements between Oracle America, Inc. (including, in its capacity as successor in interest to JD Edwards and Hyperion Solutions, collectively, "Oracle"), on the one hand, and one or more of the Debtors, on the other hand, (collectively, the "Oracle Agreements") shall not be assumed and/or assigned to the Buyer, absent a further order of the Court or agreement between the parties. Moreover, none of the Oracle Agreements nor any Oracle software shall be transferred to the Buyer nor subject to use by the Buyer, pursuant to any Transition Services Agreement between the Buyer and Debtors, absent Oracle's prior consent or further order of court. The Oracle Objection (D.E. 216) is hereby deemed resolved.

30. Nothing in this order or in the Worthington APA purports to or does convey, sell or transfer title of any material subject to the terms of the SAS Consignment Agreement or otherwise delivered or provided to a Debtor by Samuel, Son & Co. Inc. ("Consigned Material"), and such Consigned Material is not included among the Transferred Assets. Following closing and consummation of the sale of the Transferred Assets to Worthington, Debtors will retain at all times possession of or reasonable access to the Consigned Material. The Debtors withdraw the Sale Motion with respect to the SPVG Consignment Agreement and the SAS Consignment Agreement and therefore all of the Objections of Samuel Pressure Vessel Group Inc. and objections of Samuel, Son & Co. Inc. are moot.

31. Notwithstanding anything to the contrary in the Motion, the Worthington APA, or this Order, (i) Transferred Assets shall not include any insurance policies and any related agreements issued by ACE American Insurance Company and its affiliates, including ESIS, Inc., (collectively, the "ACE Companies") and/or any rights, benefits, claims, rights to payments

and/or recoveries under such insurance policies and related agreements and (ii) all of the insurance policies and any related agreements issued by the ACE Companies and/or any rights, benefits, claims, rights to payments and/or recoveries under such insurance policies and related agreements shall be Excluded Assets.

ADDITIONAL PROVISIONS

32. The Stalking Horse Buyer shall be and hereby is designated as the Back Up Bidder for the assets enumerated in the Stalking Horse APA, on the terms articulated in the Stalking Horse APA (with the exception of the adjustment of the Purchase Price as stated as part the last bid submitted by the Stalking Horse Buyer at the Auction held on November 16, 2015).

33. Pursuant to the Sale Procedures Order and the Stalking Horse APA, the Stalking Horse Buyer is entitled to a Break-Up Fee in the amount of Eight Hundred Seventy-Five Thousand United States Dollars (\$875,000), which the Debtors shall pay or cause to be paid in full upon the Closing by wire transfer of immediately available funds to such account as is designated by the Stalking Horse Buyer. In addition, upon the Closing, the Debtors shall prepare and deliver, together with the Stalking Horse Buyer, a joint written notice to the Deposit Escrow Agent (as defined in the Stalking Horse APA) instructing the Deposit Escrow Agent to release and disburse the Deposit (as defined in the Stalking Horse APA), together with all accrued interest and other earnings thereon, by wire transfer of immediately available funds to such account as is designated by the Stalking Horse Buyer.

34. The consideration provided by the Buyer for the Transferred Assets under the Worthington APA shall be deemed to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia.

35. On the Closing Date, the Debtors and the Buyer are authorized to take such actions as may be necessary to obtain a release of any and all Encumbrances (other than Permitted Liens and the Assumed Liabilities) on the Transferred Assets. This Order (a) shall be effective as a determination that, on the Closing Date, all Encumbrances of any kind or nature whatsoever existing as to the Transferred Assets prior to the Closing Date have been unconditionally released, discharged, and terminated as to those Transferred Assets, and that the conveyances described herein have been effected, and (b) to the greatest extent permitted by applicable law, shall be binding upon and shall govern the acts of all entities including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, local, and foreign officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Transferred Assets. The Buyer and the Debtors shall take such further steps and execute such further documents, assignments, instruments, and papers as shall be reasonably requested by the other to implement and effectuate the transactions contemplated in this paragraph. All interests of record as of the date of this Order shall be forthwith deemed removed and stricken as against the Transferred Assets. All entities described in this paragraph are authorized and specifically directed to strike all such recorded liens, claims, rights, interests, and encumbrances against the Transferred Assets (other than any Permitted Encumbrances or Assumed Liabilities) from their records, official and otherwise.

36. If any person or entity that has filed statements or other documents or agreements

evidencing Encumbrances or interests in any of the Transferred Assets (other than any Permitted Liens or Assumed Liabilities) does not deliver to the Debtors or the Buyer prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of liens and easements, and any other documents necessary for the purpose of documenting the release of all Encumbrances and other interests that the person or entity has or may assert with respect to any of the Transferred Assets, the Debtors and/or the Buyer are hereby authorized to execute and file such statements, instruments, releases, and other documents on behalf of such persons or entity with respect to any of the Transferred Assets.

37. Subject to Paragraph 31 above with respect to the payment of the Break-Up Fee to the Stalking Horse Buyer and the establishment of the Escrow Amount held by the Indemnity Escrow Agent (under the Worthington APA), on the Closing Date, all other cash proceeds of the Sale Transaction payable at closing, or at such time as released and payable to the Debtors, shall be paid in cash directly to the DIP Agent to be held, used and applied by the DIP Agent pursuant to the Final Order (I) Authorizing Debtors To Obtain Postpetition Financing Pursuant To Section 364 Of The Bankruptcy Code, (II) Authorizing The Use Of Cash Collateral Pursuant To Section 363 Of The Bankruptcy Code, (III) Granting Adequate Protection To The Prepetition Secured Parties Pursuant To Sections 361, 362, 363 And 364 Of The Bankruptcy Code, (IV) Granting Liens And Superpriority Claims, And (V) Modifying The Automatic Stay [Docket No. 168] ("DIP Order") and the DIP Credit Agreement (as defined in the DIP Order), subject to the rights and reservations of the Committee in the DIP Order. Nothing herein shall affect the right or obligations of any party under the DIP Order

38. The Debtors will cooperate with the Buyer and the Buyer will cooperate with the

Debtors, in each case to ensure that the transaction contemplated in the Worthington APA is consummated, and the Debtors will make such modifications or supplements to any bill of sale or other document executed in connection with the closing to facilitate such consummation as contemplated by the Worthington APA (including, without limitation, adding such specific assets to such documents as may be reasonably requested by the Buyer pursuant to the terms of the Worthington APA).

39. The terms and provisions of the Worthington APA and this Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtors and their respective affiliates, successors, assigns, estates, and creditors; the Buyer and their respective affiliates, successors, and assigns; and any affected third parties including, but not limited to, all persons asserting Encumbrances on the Transferred Assets to be sold to the Buyer pursuant to the Worthington APA, notwithstanding any subsequent appointment of any trustee(s) under any chapter of the Bankruptcy Code, as to which trustee(s) such terms and provisions likewise shall be binding.

40. The failure specifically to include any particular provisions of the Worthington APA in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Worthington APA be authorized and approved in its entirety.

41. The Worthington APA and any related agreements, documents or other instruments may be modified, amended, or supplemented by the parties thereto, in a writing signed by both parties, and 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' estates or implicate § 1146(a) of the Bankruptcy Code.

42. Nothing contained in any plan of reorganization or liquidation confirmed in these Chapter 11 Cases or any order of this Court confirming such plans or in any other order in these

Chapter 11 Cases, including any order entered after any conversion of these Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, shall alter, conflict with, or derogate, the provisions of the Worthington APA or the terms of this Order. The provisions of this Order and the Worthington APA and any actions taken pursuant hereto or thereto shall survive entry of any order which may be entered confirming or consummating any plan of reorganization of the Debtors, or which may be entered converting these Chapter 11 Cases from chapter 11 to chapter 7 of the Bankruptcy Code, and the terms and provisions of the Worthington APA as well as the rights and interests granted pursuant to this Order and the Worthington APA shall continue in these Chapter 11 Cases or any superseding case and shall be specifically performable and enforceable against and binding upon the Debtors and their estates and the Buyer and their respective successors and permitted assigns, including any trustee, responsible officer, or other fiduciary hereafter appointed as a legal representative of the Debtors under chapter 7 or chapter 11 of the Bankruptcy Code.

43. The provisions of this Order are nonseverable and mutually dependent.

44. To the extent applicable, the automatic stay pursuant to §362 of the Bankruptcy Code is hereby lifted, without further order of the court, to the extent necessary (a) to allow the Buyer to give the Debtors any notice provided for in the Worthington APA, and (b) to allow the Buyer to take any and all actions permitted by the Worthington APA.

45. Compliance with Laws relating to bulk sales and transfers is not necessary or appropriate under the circumstances.

46. The Debtors and each other person having duties or responsibilities under the Worthington APA or this Order, and their respective agents, representatives, and attorneys, are authorized and empowered to carry out all of the provisions of the Worthington APA, to issue,

execute, deliver, file, and record, as appropriate, the Worthington APA and any related agreements, and to take any action contemplated by the Worthington APA or this Order, and to issue, execute, deliver, file, and record, as appropriate, such other contracts, instruments, releases, deeds, bills of sale, assignments, or other agreements, and to perform such other acts as are consistent with, and necessary or appropriate to, implement, effectuate and consummate the Worthington APA and this Order and the transactions contemplated thereby and hereby, all without further application to, or order of, the Court. Without limiting the generality of the foregoing, this Order shall constitute all approvals and consents, if any, required by applicable business corporation, trust and other laws of applicable governmental units with respect to the implementation and consummation of the Worthington APA and this Order and the transactions contemplated thereby and hereby.

47. Notwithstanding the provisions of Bankruptcy Rules 6004 and 6006 or any applicable provisions of the Local Rules, this Order shall not be stayed for fourteen (14) days after the entry hereof, but shall be effective and enforceable immediately upon entry, and the fourteen (14) day stay provided in such rules is hereby expressly waived and shall not apply. Any party objecting to this Order must exercise due diligence in filing an appeal and pursuing a stay within the time prescribed by law and prior to the Closing Date, or risk its appeal being foreclosed as moot.

48. This Court shall retain exclusive jurisdiction to enforce and implement the terms and provisions of the Worthington APA, all amendments thereto, any waivers and consents thereunder, and of each of the agreements executed in connections therewith in all respects, including, but not limited to, retaining jurisdiction to (a) compel delivery of the Transferred Assets to the Buyer free and clear of Encumbrances (other than Permitted Liens), or compel the

performance of other obligations owed by the Buyer or the Debtors, (b) compel delivery of the purchase price or performance of other obligations owed to the Debtors, (c) resolve any disputes arising under or related to the Worthington APA, except as otherwise provided therein, (d) interpret, implement, and enforce the provisions of this Order, and (e) protect the Buyer against (i) claims made related to any of the Excluded Liabilities, (ii) any claims of successor or vicarious liability related to the Transferred Assets or Assumed Contracts, or (iii) any Encumbrances asserted on or in the Debtors or the Transferred Assets, of any kind or nature whatsoever.

49. To the extent that any provision of the Worthington APA conflicts with or is in any way inconsistent with any provision of this Order, this Order shall govern and control.

50. Nothing in this Order or the Worthington APA releases, nullifies, precludes, or enjoins the enforcement of any environmental liability to a governmental unit that any entity would be subject to as the owner or operator of property after the date of entry of this Order. Nothing in this Order or the Worthington APA authorizes the transfer or assignment of any governmental (a) license, (b) permit, (c) registration, (d) authorization or (e) approval, or the discontinuation of any obligation thereunder, without compliance with all applicable legal requirements under police or regulatory law. Nothing in this Order divests any tribunal of any jurisdiction it may have under environmental law to interpret this Order or to adjudicate any defense asserted under this Order.

51. **Books and Records.** The Buyer shall retain all financial and other books and records which comprise the acquired assets identified in § 1.1(g) of the Worthington APA (the “Books and Records”) for a period of two (2) years following the Closing Date (the “Books and Records Retention Period”). On or after the end of the Books and Records Retention Period, the

Buyer shall provide the Debtors, their respective assigns, successors, including any subsequently appointed trustee, along with their professionals (collectively, "Permitted Access Parties") and Northwestern Medical Faculty Foundation and their professionals (at the addresses provided by such parties to the Buyer) with at least twenty-one (21) days written notice before destroying any such Books and Records ("Books and Records Notice Period"), during the Books and Records Notice Period the Permitted Access Parties can elect to take possession of the Books and Records. In order to facilitate the Permitted Access Parties' efforts to administer and close the Chapter 11 Cases, the Buyer shall permit the Permitted Access Parties to access the Books and Records during regular business hours upon reasonable notice to the Buyer; provided, however, that the foregoing right of access shall not be exercisable in such a manner as to interfere with the normal operations of the Buyer's business and the requesting Permitted Access Party shall agree to indemnify the Buyer for all costs associated with such request and, both the requesting Permitted Access Party and Buyer agree that any disputes with respect to such request shall be resolved in the exclusive jurisdiction of the Bankruptcy Court (pursuant to the Bankruptcy Court's core jurisdiction).

Dated: November 23, 2015
Wilmington, Delaware


UNITED STATES BANKRUPTCY JUDGE