

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

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In re: : Chapter 11
SCH Corp., et al.,¹ : Case No. 09-10198 (BLS)
Debtors. : (Jointly Administered)
Re: **D.I. 202**
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**ORDER (I) AUTHORIZING AND APPROVING
SALE OF SUBSTANTIALLY ALL OF THE
DEBTORS' ASSETS FREE AND CLEAR OF ALL
LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES,
(II) AUTHORIZING PAYMENT OF THE DEBTORS'
LENDER WITH THE CASH PROCEEDS
THEREFROM, (III) APPROVING CREDIT BID OR
WINNING BID AT THE AUCTION, AS APPROPRIATE,
AND (IV) AUTHORIZING THE ASSUMPTION AND
ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS
AND UNEXPIRED LEASES AND FIXING CURE COSTS
ASSOCIATED THEREWITH IN CONNECTION WITH THE SALE**

Upon the motion (the "Sale Motion") of the above-captioned debtors and debtors-in-possession (collectively, the "Debtors" or "Sellers") requesting entry of an order (I) authorizing and approving the sale (the "Sale") of substantially all of the assets of the Debtors, including, but not limited to, leases and contracts designated by any potential bidder (the "Purchased Assets"), to Levine Leichtman Capital Partners III, L.P. ("LLCP") or its assignee pursuant to that certain Asset Purchase Agreement, dated as of March 19, 2009, between the Debtors and LLCP, or any asset purchase agreement between the Debtors and any other party

¹ The Debtors in these cases, along with each Debtor's federal tax identification number, are: SCH Corp. (20-1829454); American Corrective Counseling Services, Inc. (33-0656885); and ACCS Corp. (20-1829485). For purposes of these chapter 11 cases, the address for all Debtors is: 180 Avenida LaPata, San Clemente, CA 92673.

who submitted the highest and best bid (the "Alternative Purchaser") at the Auction (defined below) (in either instance, the "Purchase Agreement"), free and clear of all liens, claims, interests, and encumbrances (as contemplated in the Purchase Agreement), including any liabilities that arose prior to the closing (except as otherwise provided in the Purchase Agreement), (II) payment of LLC (the Debtors' prepetition and postpetition lender) with any cash proceeds therefrom, (III) approving, as appropriate, the credit bid by LLC or the winning bid submitted by the Alternative Purchaser at the Auction, and (IV) authorizing the assumption and assignment of certain executory contracts and unexpired leases of nonresidential real property (each an "Assumed Executory Contract")² and fixing cure costs associated therewith, in connection with the Sale of the Purchased Assets; and the Sale Motion having been made pursuant to Sections 105, 363, and 365 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 6004 and 6006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Local Rule 6004-1(b); and the Court having entered an Order Approving Bidding Procedures (the "Bidding Procedures") and Payment of Investment Banker Fees, and Granting Related Relief [Docket No. 112] (the "Bidding Procedures Order") on February 10, 2009; and the Court having entered an Order (I) Approving Forms of Notice of (A) Proposed Sale of Substantially All of the Debtors' Assets Free and Clear of All Liens, Claims, and Encumbrances and (B) Proposed Assumption and Assignment of Certain Executory Contracts and Unexpired Leases and Related Cure Costs in Connection Therewith; (II) Protecting Certain Sensitive Information; and (III) Declaring that No Consumer Privacy Ombudsman Need Be Appointed [Docket No. 218] (the "Notice Approval Order") on March 5,

²The term "Assumed Executory Contracts" shall be deemed to include the written agreements indicated in the Assumption and Assignment Notice (defined below) and any existing amendments, modifications or other related agreements with respect thereto.

2009; and an auction in respect of the Purchased Assets having been held on March 30, 2009 (the "Auction"); and LLCP having submitted the highest and best offer for the Purchased Assets (the "Purchaser"); and this Court finding that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, that the Sale Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O), that venue of this proceeding and the Sale Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409, and that the relief requested in the Sale Motion is in the best interests of the Debtors' estates, their creditors and other parties in interest; and the Court having determined that the legal and factual bases set forth in the Sale Motion establish just cause for the relief granted herein, that adequate notice of the Sale Motion and the relief requested therein has been given in accordance with the Bidding Procedures Order, the Notice Approval Order, and applicable law, and that no other notice need be given; and the Court having conducted a hearing on March 31, 2009 (the "Sale Hearing") to consider approval of the Sale Motion; and upon all proceedings had before the Court; after due deliberation and cause appearing therefor; the Court hereby

FINDS, DETERMINES AND CONCLUDES THAT:

A. The findings and conclusions contained herein and stated on the record of the Sale Hearing constitute the findings of fact and conclusions of law required to be entered by this Court with respect to the Sale Motion pursuant to Rule 52 of the Federal Rules of Civil Procedure, as made applicable herein by Bankruptcy Rule 7052.

B. To the extent any of the findings herein or made by the Court during the Sale Hearing constitute conclusions of law, they are adopted as such. To the extent any of the conclusions of law herein or made by the Court during the Sale Hearing constitute findings of fact, they are adopted as such.

C. Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Sale Motion and the Purchase Agreement.

D. Notice of the Sale Motion, the Auction, the assumption and assignment of the Assumed Executory Contracts and the Sale Hearing has been given in accordance with Bankruptcy Rules 2002, 6004 and 6006, Local Rule 6004-1(b), the Notice Approval Order and, to the extent applicable, the Bidding Procedures Order. The foregoing notice constitutes good, appropriate and sufficient notice of the Sale Motion, the Auction, the assumption and assignment of the Assumed Executory Contracts and the Sale Hearing, and no other or further notice thereof or of the entry of this Order need be given.

E. In the event of any inconsistency or conflict between the Purchase Agreement and this Order, this Order shall govern.

F. The provisions of Sections 363(b), 363(f) and 365 of the Bankruptcy Code have been complied with and are applicable as to the Purchased Assets.

G. The Debtors' proposed sale of the Purchased Assets pursuant to the Purchase Agreement and all transactions contemplated by the Purchase Agreement and other related documents are properly authorized under Sections 105, 363, and 365 of the Bankruptcy Code.

H. The Debtors have made significant and satisfactory efforts to realize the highest or best value for the Purchased Assets. The Purchase Agreement was the result of arm's length negotiations between the parties and sufficient evidence thereof was provided in the Sale Motion and at the Sale Hearing. In accordance with the Bidding Procedures Order, an Auction in respect of the Purchased Assets was held on March 30, 2009. Purchaser's offer was and is the highest and best offer received by the Debtors for the Purchased Assets. Purchaser was the Successful Bidder. The Debtors' selection of Purchaser's bid as the highest or otherwise best

offer for the Purchased Assets is the result of a fair and open bidding process, conducted at public auction, and represents the sound business judgment of the Debtors.

I. Consummation of the sale pursuant to the Purchase Agreement will result in maximization of the value of the Debtors' estates and is in the best interests of the Debtors, their estates, their creditors, and other parties in interest.

J. The Purchase Agreement represents the highest or otherwise best offer received for the Purchased Assets resulting from a sale process reasonably calculated to yield the highest or otherwise best offer for the Purchased Assets.

K. Except as expressly permitted or otherwise specifically provided by the Purchase Agreement or this Order, the sale, conveyance and assignment of the Purchased Assets pursuant to the Purchase Agreement, shall be free and clear of all liens, claims (as defined in the Bankruptcy Code), interests, and Encumbrances (as defined in the Purchase Agreement), including any liabilities including, without limitation, mortgages, security interests, any rights of first offer or first refusal, reservations of title pursuant to conditional sale agreements, title retention agreements, pledges, liens, judgments, demands, encumbrances, easements, restrictions, and constructive or resulting trusts, that arose prior to the closing (except as otherwise provided in the Purchase Agreement), whether imposed by an agreement, understanding, law, equity or otherwise, and whether arising prior to or after the commencement of the Debtors' chapter 11 cases (the foregoing collectively referred to as "Liens"), with all Liens to transfer and attach to any remaining cash proceeds after payment of the Rolled-Up Indebtedness with the same validity, priority, force, and effect that such liens, claims, interests, and encumbrances had on the Purchased Assets immediately prior to the Closing.

L. Purchaser is a "good faith purchaser" within the meaning of Section 363(m) of the Bankruptcy Code, and Purchaser and the Debtors are, therefore, entitled to the

protections of such provision. The good faith of Purchaser is evidenced by, among other things, the following facts:

- (i) The Debtors and Purchaser and their respective advisers have engaged in substantial arm's length negotiations, in good faith. The Purchase Agreement and related documents are the product of such bargaining among the parties.
- (ii) The Debtors conducted the bidding process and Auction pursuant to the Bidding Procedures Order. The Purchased Assets were broadly and adequately shopped by a nationally recognized investment banker. Each bidder at the Auction was permitted to participate in the bidding and was provided an opportunity to clarify or improve its bid. The other bidders who attended the Auction declined to submit a bid at the Auction that exceeded the bid submitted by Purchaser.
- (iii) At the Auction, Purchaser was the Successful Bidder. The Debtors, with the assistance of their advisors, determined that Purchaser's bid was the highest or otherwise best offer for the Purchased Assets.
- (iv) The Purchase Agreement provides the Debtors with the highest or otherwise best offer received for the Purchased Assets.
- (v) All payments to be made by Purchaser in connection with the Purchase Agreement have been disclosed.
- (vi) All future or proposed arrangements between the Purchaser and an insider have been disclosed.

- (vii) Any proposed employment arrangements for the Debtors' services has been or will be fully disclosed.
- (viii) Neither the Debtors nor Purchaser has engaged in any conduct that would permit the Purchase Agreement to be avoided under Section 363(n) of the Bankruptcy Code or any other applicable law.

M. The Debtors have satisfied the standard set forth in Section 363(f) of the Bankruptcy Code for selling the Purchased Assets free and clear of all Liens, claims, Encumbrances and interests, inasmuch as the Permitted Encumbrances of LLC, the only party known to have a security interest in the Purchased Assets, has consented to the Sale, and such Liens will be released from the Purchased Assets upon payment of the Rolled-Up Indebtedness to LLC contemporaneously with the Sale, and as to any other party that might hold a Lien (the "Other Liens") in the Purchased Assets, (a) the entity holding such Other Liens consents, by failing to object or waiving its objection to the motion, or otherwise; (b) applicable non-bankruptcy law permits the sale of such property free and clear of such Other Liens; (c) the price at which the respective Purchased Assets are sold exceeds the value of all Liens on such Purchased Assets; (d) such entity could be compelled to accept a money satisfaction of such Other Liens; or (e) such Other Liens are in bona fide dispute.

N. The payment of the Rolled-Up Indebtedness to LLC being made contemporaneously with the Closing of the Sale is appropriate because, inter alia, (a) it was a precondition to LLC's consent to the Sale as required by 363(f)(2), (b) the Debtors could not otherwise adequately protect LLC's Liens in the cash proceeds of their collateral, (c) it would make no economic sense for the Debtors or their estates to retain the proceeds in escrow and continue to incur the substantial ongoing interest accruals and "negative carry" with respect to the DIP Indebtedness held by LLC and (d) such payment is expressly required by the

provisions of the Final Cash Collateral/DIP Order (and the failure to honor these provisions would immediately terminate the Debtors' right to use cash collateral).

O. Except as expressly permitted or otherwise specifically provided by the Purchase Agreement or this Order, with the sole exception of the Assumed Liabilities, Purchaser is not expressly or impliedly agreeing to assume any of the liabilities or obligations of the Debtors.

P. The sale does not amount to a consolidation, combination, merger, de facto merger or similar restructuring of Purchaser and the Debtors. The Purchaser is not a mere continuation of the Debtors, there is not substantial continuity between the Purchaser and the Debtors, and there is no continuity of enterprise between the Debtors and the Purchaser.

Q. The Purchaser shall not be considered a successor to the Debtors.

R. Purchaser is a third party purchaser unrelated to any of the Debtors.

Immediately prior to the Closing, Purchaser was not an insider or affiliate (as such terms are defined in Section 101 of the Bankruptcy Code) of the Debtors, and had no common identity of incorporators, directors, or stockholders with the Debtors. The Purchaser is not purchasing all of the Debtors' assets, is not holding itself out to the public as a continuation of the Debtors, and all employees of the Debtors to be hired will be hired under new employment contracts or other arrangements to be effective at Closing.

S. Non-Debtor parties to the Assumed Executory Contracts who, as of the date hereof, have not objected to the proposed assignment by filing an objection in writing setting forth with particularity such party's grounds for objecting, or who have waived such objection, are forever barred from asserting such objection or taking any action inconsistent with the Purchase Agreement and related documents.

T. The assumption and assignment and sale of the Assumed Executory Contracts to Purchaser pursuant to the Purchase Agreement, effective as of the Closing, is supported by sound business reasons and is in the best interest of the Debtors' estates, creditors, and other parties interest.

U. The assumption and assignment and sale of the Assumed Executory Contracts under this Order will become effective only upon the occurrence of the Closing under the Purchase Agreement. If the Closing under the Purchase Agreement does not occur, the assumption and assignment and sale of the Assumed Executory Contracts will not be effectuated, and thereafter the Debtors shall have all rights with respect to such Assumed Executory Contracts under the Bankruptcy Code.

V. Based on the absence of any objections, the Purchaser has provided adequate assurance of its future performance under the Assumed Executory Contracts and the proposed assumption and assignment thereof satisfies all requirements of the Bankruptcy Code, including, among others, Sections 365(b), (c) and (f).

W. The proposed sale in accordance with the Purchase Agreement does not constitute a de facto chapter 11 plan or an element of such a plan for any of the Debtors, as it does not: (a) propose to impair or restructure existing debt of, or equity interests in, the Debtors; (b) propose to impair or circumvent voting rights with respect to any future chapter 11 plan proposed by the Debtors; (c) propose to circumvent chapter 11 plan safeguards such as set forth in Section 1125 of the Bankruptcy Code with respect to disclosure requirements; or (d) propose to classify claims, cure defaults (except with respect to the Assumed Executory Contracts and Assumed Liabilities), compromise controversies or extend debt maturities.

X. The sale of the Purchased Assets and payment of the Rolled-Up Indebtedness to LLCP hereunder will result in substantial de-levering of the Debtors' capital structure and will materially enhance the Debtors' ability to reorganize.

Y. The Court shall retain jurisdiction, even after the closing of these chapter 11 cases, to interpret and enforce the terms and provisions of this Order and the Purchase Agreement, and to adjudicate, if necessary, any and all disputes with respect thereto, including any disputes with respect to the assumption and assignment and sale of the Assumed Executory Contracts and any alleged right, title, or property interest, including ownership claims, relating to the Purchased Assets and the proceeds thereof, as well as the extent, validity, perfection, and priority of any alleged Liens relating to the Debtors and/or the Purchased Assets; provided that the Court's jurisdiction of any proceeding to which no Debtor is a party shall be non-exclusive and concurrent with the jurisdiction of any other court that has jurisdiction in the absence of this Order.

Based on the foregoing, and after due deliberation, this Court hereby
ORDERS, ADJUDGES AND DECREES THAT:

1. The relief requested in the Sale Motion is granted and the Sale and the Purchase Agreement (and any related documents) are authorized and approved.
2. Any objections to the relief requested in the Sale Motion have been heard and considered by the Court, withdrawn or waived with prejudice and, to the extent not withdrawn or waived, are overruled with prejudice.
3. The Debtors are hereby authorized to sell the Purchased Assets to Purchaser upon the terms and conditions set forth in the Purchase Agreement and the Debtors' execution and delivery thereof is hereby approved.

4. Each of the Debtors is authorized to take any and all actions necessary or appropriate to (a) consummate the Sale pursuant to the Purchase Agreement and (b) perform and effectuate the relief requested in the Sale Motion and granted herein.

5. Each of the Debtors is hereby authorized to perform, consummate, and implement the Purchase Agreement, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement and to take any and all further actions and pay as Administrative Expenses under Sections 503 and 507 of the Bankruptcy Code any and all costs, expenses and other amounts as may be necessary or appropriate to the performance of their obligations as contemplated by the Purchase Agreement, any related documents, or this Order.

6. The Debtors are authorized to close the sale in accordance with the terms of the Purchase Agreement following the entry of this Order.

7. Except as expressly permitted or otherwise specifically provided by the Purchase Agreement or this Order, pursuant to Sections 105(a) and 363(f) of the Bankruptcy Code, upon the Closing of the Sale, good and marketable title to the Purchased Assets shall be transferred, sold and delivered to Purchaser free and clear of all Liens other than the Assumed Liabilities pursuant to the express terms of the Purchase Agreement and this Order.

8. The Sale shall be free and clear of all Liens, claims, interests, and Encumbrances, including any liabilities that arose prior to the Closing (except as otherwise provided in the Purchase Agreement), with all such Liens, claims, interests, Encumbrances and liabilities to transfer and attach to any remaining sale proceeds after payment of the Rolled-Up Indebtedness with the same validity, priority, force, and effect that such Liens, claims, interests, Encumbrances and liabilities had on the Purchased Assets immediately prior to the Closing. Purchaser shall not assume or be obligated to perform or otherwise discharge in any way (as

assignee, transferee, successor entity, due to vicarious liability, or otherwise) any claim, as defined in Section 101(5) of the Bankruptcy Code ("Claims"), that any person, entity, or Governmental Unit may have against the Debtors or the Business prior to the date of the Closing, including the Excluded Liabilities or Excluded Assets, other than Claims on account of Assumed Liabilities and for Permitted Encumbrances. The consideration given by the Purchaser shall constitute valid and valuable consideration of any potential claims of successor liability of the Purchaser, which releases shall be deemed to have been given in favor of the Purchaser by all holders of Liens against the Debtors.

9. The terms and provisions of the Purchase Agreement and all related documents, together with the terms and provisions of this Order, shall be binding on the parties thereto in all respects, including upon the Debtors, their estates, their creditors, and all parties in interest, including any and all successors and assigns (including, without limitation, any trustee appointed under any chapter of the Bankruptcy Code).

10. Except as provided in the Purchase Agreement and except with respect to the obligations arising under the Assumed Executory Contracts from and after the Closing, all entities holding Liens including, without limitation, vendors, suppliers, employees, creditors, and landlords are hereby barred and enjoined from asserting such Liens against Purchaser and/or the Purchased Assets and from interfering with Purchaser's use and enjoyment of the Purchased Assets.

11. The only liabilities of the Debtors that shall be assumed by the Purchaser or to which the Purchased Assets shall be subject shall be the Assumed Liabilities and the Purchaser shall have no obligation with respect to any other liabilities of the Debtors.

12. All persons or entities in possession of the Purchased Assets are directed to deliver the Purchased Assets to Purchaser on the Closing.

13. This Order is and shall be effective as a determination that, upon and subject to the occurrence of the Closing, (a) all of the Liens existing as to the Purchased Assets have been and hereby are adjudged and declared to be unconditionally released as to the Purchased Assets other than the Permitted Encumbrances, (b) the conveyance of the Purchased Assets has been made free and clear of all such Liens, and (c) no commission or finders fees shall be payable by any party to the Purchase Agreement or related agreements, including Purchaser or the Debtors, on account of any act or agreement of the other party.

14. This Order shall be binding upon and 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, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report on or insure any title or state of title in or to any of the Purchased Assets.

15. All recorded Other Liens shall, upon and subject to the occurrence of the Closing, be removed and stricken as against the Purchased Assets, and all the entities described in the immediately preceding paragraph of this Order are authorized and specifically directed to strike all recorded Other Liens against the Purchased Assets from their records, official and otherwise, and (b) accept for filing or recording all instruments made or delivered by or to any of the Debtors and all deeds or other documents relating to the conveyance of the Purchased Assets to Purchaser, and the Court retains jurisdiction to enforce the foregoing direction, by contempt or otherwise.

16. If any person or entity other than Purchaser that has filed statements or other documents or agreements evidencing Liens on, or interests in, the Purchased Assets shall

not have delivered to the Debtors prior to Closing, 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 Other Liens that the person or entity has or may assert with respect to the Purchased Assets, the Debtors are hereby authorized to execute and file such statements, instruments, releases, and other documents on behalf of the person or entity with respect to the Purchased Assets.

17. Except as expressly permitted or otherwise specifically provided by the Purchase Agreement or this Order, all persons and entities, including but not limited to, all debt security, equity holders, governmental, tax, and regulatory authorities, lenders, trade and other creditors, holding Liens or Encumbrances of any kind or nature against or in the Debtors and the Purchased Assets (whether legal or equitable, secured or unsecured, matured or unmatured contingent or non-contingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to, the Debtors, the Purchased Assets, the operation of the Business prior to the Closing Date, or the transfer of the Purchased Assets to the Purchaser, hereby are forever barred, estopped, and permanently enjoined from asserting against the Purchaser, its successors or assigns, its property, and the Purchased Assets such persons' or entities' Liens or Encumbrances.

18. Pursuant to Section 525 of the Bankruptcy Code, any and all Governmental Units are prohibited and enjoined from, among other things, denying, revoking, suspending, or refusing to renew any license, Permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against the Debtors or Purchaser solely because the Debtors (i) are debtors under the Bankruptcy Code, (ii) may have been insolvent before commencement of their chapter 11 cases, or (iii) may have been insolvent during the pendency of their chapter 11 cases.

19. Pursuant to Sections 105(a), 363 and 365 of the Bankruptcy Code, and subject to and conditioned upon the Closing, the Debtors' assumption, assignment and sale to the Purchaser, and the Purchaser's assumption on the terms set forth in the Purchase Agreement, of the Assumed Executory Contracts identified on Exhibit A hereto is approved, and the requirements of Section 365(b)(1) of the Bankruptcy Code with respect thereto are deemed satisfied.

20. Except as provided in the Purchase Agreement, the Debtors are authorized in accordance with Sections 105(a), 363 and 365 of the Bankruptcy Code, as applicable, to (a) assume and assign and sell to the Purchaser, conditioned and effective upon the Closing, the Assumed Executory Contracts free and clear of all Liens of any kind or nature whatsoever and (b) execute and deliver to the Purchaser such documents or other instruments as may be necessary to assign and transfer such Assumed Executory Contracts and Assumed Liabilities to the Purchaser.

21. With respect to the Assumed Executory Contracts: (a) such Assumed Executory Contracts shall be transferred and assigned to, and following the Closing of the Sale remain in full force and effect for the benefit of, the Purchaser in accordance with their respective terms, notwithstanding any provision in any such Assumed Executory Contract (including those of the type described in Sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibit, restrict, or condition such assignment or transfer and, pursuant to Section 365(k) of the Bankruptcy Code, the Debtors shall be relieved from any further liability with respect to the Assumed Executory Contracts after such assignment and sale to and assumption and purchase by the Purchaser; (b) each Assumed Executory Contract is an executory contract of the Debtors under Section 365 of the Bankruptcy Code; (c) the Debtors may assume each Assumed Executory Contract in accordance with Section 365 of the Bankruptcy Code; (d) the Debtors may

assign each Assumed Executory Contract in accordance with Sections 363 and 365 of the Bankruptcy Code, and any provisions in any Assumed Executory Contract that prohibit or condition the assignment of the Assumed Executory Contract or allow the non-Debtor party to such Assumed Executory Contract to terminate, recapture, impose any penalty, condition renewal or extension, or modify any term or condition upon the assignment of such Assumed Executory Contract (including any right of first refusal, right of first offer or similar provision, to the extent such right has not been waived or exists as a matter of applicable nonbankruptcy law notwithstanding the Court's ruling on the record at the Sale Hearing), constitute unenforceable anti-assignment provisions which are void and of no force and effect; (e) all other requirements and conditions under Sections 363 and 365 of the Bankruptcy Code for the assumption by the Debtors and assignment to the Purchaser of each Assumed Executory Contract identified on Exhibit A hereto have been satisfied and (f) upon Closing, in accordance with Sections 363 and 365 of the Bankruptcy Code, the Purchaser shall be fully and irrevocably vested in all right, title and interest of each Assumed Executory Contract.

22. Subject to the procedures set forth below in paragraph 23 hereof, all cure amounts required to be satisfied pursuant to Section 365(b)(1)(A) of the Bankruptcy Code (the "Cure Amounts") as set forth on Exhibit A hereto are the true, correct, final and fixed amounts, and only amounts, that are required to be paid upon assumption and assignment of such Assumed Executory Contracts pursuant to Section 365(b)(1)(A) and (B) of the Bankruptcy Code and the Purchaser is authorized and directed to pay such amounts under Sections 105, 363(b) and 365 of the Bankruptcy Code subject to the occurrence of the Closing under the Purchase Agreement. Except for the procedures set forth in paragraph 23 hereof, the Cure Amounts shall not be subject to further dispute or audit, including any based on performance prior to the time of assumption,

assignment and sale, irrespective of whether such Assumed Executory Contract contains an audit clause.

23. With respect to any Cure Amounts reasonably asserted by the non-Debtor party to the Assumed Executory Contract (or such lesser amount if so ordered by the Court) that remain unpaid by the Purchaser as of the date hereof (the "Disputed Cure Amounts"), Purchaser will demonstrate to the satisfaction of the Court its ability to pay the Disputed Cure Amount when resolved. The Debtors shall use commercially reasonable efforts to resolve the Disputed Cure Amounts as promptly as practicable. The Debtors and the non-Debtor counterparties to the Assumed Executory Contracts shall cooperate in good faith, including without limitation exchanging such information and documentation as is necessary to reach agreement, if possible, on the Disputed Cure Amounts. As and when Disputed Cure Amounts with respect to particular Assumed Executory Contracts are resolved (the "Resolved Amount"), the Debtors shall notify the Purchaser to pay the Resolved Amount in respect of such Assumed Executory Contract.

24. Based on the absence of any objections, Purchaser has provided adequate assurance of future performance with respect to the Assumed Executory Contracts and has satisfied the requirements of the Bankruptcy Code, including, without limitation, Section 365(b)(1) and 365(f)(2)(B) to the extent applicable.

25. There shall be no rent accelerations, assignment fees, increases or any other fees charged to Purchaser by way of setoff or otherwise as a result of the assumption, assignment and sale of the Assumed Executory Contracts. The validity of the assumption, assignment and sale to Purchaser shall not be affected by any dispute between any of the Debtors or their affiliates and another party to an Assumed Executory Contract regarding the payment of any amount, including any cure amount under the Bankruptcy Code. The Assumed Executory

Contracts, upon assignment to the Purchaser, shall be valid and binding and in full force and effect in accordance with its terms.

26. Pursuant to Sections 105(a), 363 and 365 of the Bankruptcy Code, each non-Debtor party to an Assumed Executory Contract is hereby forever barred, estopped and permanently enjoined from raising or asserting against any Debtor or the Purchaser any assignment fee, default, breach or claim or pecuniary loss, or condition to assignment, arising under or related to the Assumed Executory Contracts existing as of the Closing under the Purchase Agreement or arising by reason of the Closing under the Purchase Agreement. Any party that may have had the right to consent to the assignment of its Assumed Executory Contract is deemed to have consented to such assignment for purposes of Section 365(e)(2)(A)(ii) of the Bankruptcy Code and otherwise if it failed to object to the assumption and assignment.

27. The Debtors and their estates shall have no further liabilities or obligations with respect to any Assumed Liabilities and all holders of such claims are forever barred and estopped from asserting such claims against the Debtors, their successors or assigns, their property or their assets or estates or in any way interfering with the Purchaser's use or enjoyment of the Purchased Assets.

28. The assumption and assignment and Sale of the Assumed Executory Contracts to Purchaser shall automatically be effective on the Closing without the need for the execution of any further documents.

29. The Debtors are hereby authorized (a) to take such corporate action as may be necessary to implement the provisions of the Purchase Agreement and any other document executed by the Debtors in connection therewith and (b) to execute and file any necessary document with any appropriate secretary of state. This Order shall constitute all

approvals and consents, if any, required by the laws of any state necessary to file, record, and accept such documents.

30. This Order shall be binding in all respects upon all creditors (whether known or unknown) of any Debtor, all non-Debtor parties to the Assumed Executory Contracts, all successors and assigns of the Purchaser, the Debtors and their affiliates and subsidiaries, the Purchased Assets, and any subsequent trustees appointed in the Debtors' chapter 11 cases or upon a conversion to chapter 7 under the Bankruptcy Code, upon dismissal of the Debtors' chapter 11 cases or any subsequent chapter 7 cases, or dissolution of the Debtors, and the Purchase Agreement shall not be subject to rejection under Section 365 of the Bankruptcy Code. Nothing contained in any chapter 11 plan confirmed in these bankruptcy cases or the confirmation order confirming any such chapter 11 plan shall conflict with or derogate from the provisions of the Purchase Agreement or this Order (unless agreed otherwise in writing by the Debtors and Purchaser).

31. The Debtors are authorized to execute, acknowledge, and deliver such deeds, assignments, conveyances, and other assurances, documents, and instruments of transfer and to take such other actions as may be reasonably necessary to perform the terms and provisions of the Purchase Agreement, and all other agreements related thereto, and the Debtors shall take any other action that reasonably may be requested by Purchaser for the purpose of assigning, transferring, granting, conveying, and confirming to Purchaser good title to, delivery, and possession of any or all of the Purchased Assets. Any insurance proceeds received after the Closing that constitute Purchased Assets are not property of the Debtors' estates, are immediately payable in accordance with the Purchase Agreement to Purchaser and, until paid, shall be held in trust by the Debtors for Purchaser and shall be delivered upon receipt thereof to Purchaser.

32. Pursuant to and in accordance with the Order Approving Bidding

Procedures and Payment of Investment Banker Fees, and Granting Related Relief [D.I. 112], the

Debtors are authorized and directed to pay to William Blair & Company, L.L.C., ~~from proceeds~~

~~of the sale~~, the Investment Banker Fees in the amount of \$500,000 ^{less any retainers paid in} upon entry of ^{connection} this Order on the docket. For the avoidance of doubt, William Blair & Company, L.L.C. is not ^{with Blair's} relieved from seeking final approval of its fees pursuant to a final fee application. ^{engagement}

33. This Court retains jurisdiction, even after the closing of the Debtors' ^{in these} chapter 11 cases, to do the following: ^{chapter 11} ^{cases, at} ^{closing.}

- (a) interpret, implement, and enforce the terms and provisions of this Order, the Purchase Agreement and any related agreement executed in connection therewith;
- (b) resolve any disputes arising under or related to any provision of this Order, the Purchase Agreement and any related agreement executed in connection therewith, the sale, or Purchaser's peaceful use and enjoyment of the Purchased Assets free and clear of Liens and Encumbrances, whether or not a plan of reorganization is confirmed in the Debtors' chapter 11 cases and irrespective of the provisions of any such plan or order confirming any such plan;
- (c) adjudicate any and all issues and/or disputes relating to the Debtors' right, title, or interest in the Purchased Assets and the proceeds thereof, the Sale Motion and the Purchase Agreement;
- (d) adjudicate any and all issues concerning the Debtors' right and authority to assume and assign and sell the Assumed Executory Contracts to Purchaser and Purchaser's rights and obligations with

respect to such assignment and the existence of any default under the Assumed Executory Contract; and

- (e) protect Purchaser and its affiliates, or any of the Purchased Assets, against any Liens and Encumbrances, provided that the Court's jurisdiction of any proceeding to which no Debtor is a party shall be non-exclusive and concurrent with the jurisdiction of any other court that has jurisdiction in the absence of this Order.

34. No bulk sales law or any similar law of any state or other jurisdiction shall apply in any way to the sale.

35. The failure specifically to include any particular provisions of the Purchase Agreement in this Order shall not diminish or impair the efficacy of such provisions, it being the intent of the Court that the Debtors are authorized to enter into the Purchase Agreement and each and every provisions, term, and condition thereof in their entirety.

~~36. The stay of orders authorizing the (i) use, sale or lease of property as provided for in Bankruptcy Rule 6004(h), and (ii) assignment of an executory contract or unexpired lease as provided for in Bankruptcy Rule 6006(d) shall not apply to this Order, and this Order is immediately effective and enforceable.~~

Dated: March 31, 2009


United States Bankruptcy Judge