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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

	X	
In re	:	
	:	Chapter 11 Case No.
Allegiance Telecom, Inc., et al.,	:	03-13057 (RDD)
	:	
Hosting Debtors.	:	Jointly Administered
	X	

**DEBTORS' MOTION FOR ORDERS PURSUANT TO
SECTIONS 105(a), 363, 365 AND 1146(c) OF THE BANKRUPTCY
CODE: (A) FIXING THE TIME, DATE AND PLACE FOR THE
BIDDING PROCEDURES HEARING; (B) (I) ESTABLISHING
BIDDING PROCEDURES AND BID PROTECTIONS IN
CONNECTION WITH THE SALE OF CERTAIN OF THE
ASSETS OF CERTAIN DEBTORS, (II) APPROVING THE
FORM AND MANNER OF NOTICES, AND (III) SETTING A
SALE APPROVAL HEARING DATE; AND (C) (I) APPROVING
THE SALE TO WEBONTAP, INC. FREE AND CLEAR OF ALL
LIENS, CLAIMS AND ENCUMBRANCES, (II) AUTHORIZING
THE ASSUMPTION AND ASSIGNMENT OF CERTAIN
EXECUTORY CONTRACTS AND (III) GRANTING RELATED RELIEF**

TO: THE HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:

Hosting.com, Inc., Allegiance Internet, Inc., Adgrafix Corporation and Virtualis
Systems, Inc., as debtors and debtors-in-possession (collectively, the "Hosting Debtors"),
respectfully represent as follows:

Introduction

1. On May 14, 2003 (the “Commencement Date”), Allegiance Telecom, Inc. and each of its direct and indirect subsidiaries (collectively, and together with the Hosting Debtors, the “Debtors” or “Allegiance”) commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors’ chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to rule 1015(b) of the Federal Rules of Bankruptcy Procedure.

2. No trustee or examiner has been appointed in these chapter 11 cases. On May 28, 2003, pursuant to section 1102 of the Bankruptcy Code, the United States Trustee for the Southern District of New York (the “U.S. Trustee”) appointed a statutory committee of unsecured creditors (the “Creditors Committee”) in these chapter 11 cases.

3. On February 20, 2004, this Court entered an Order approving the sale to XO Communications, Inc. (“XO”) of (a) substantially all of the assets of ATI and Allegiance Telecom Company Worldwide (“ATCW”), a direct subsidiary of ATI and one of the Debtors in these chapter 11 cases, and (b) the stock of the reorganized subsidiaries of ATCW, other than the shared web hosting assets of the Hosting Debtors and Shared Technologies Allegiance, Inc. and certain other excluded assets, pursuant to that certain Asset Purchase Agreement, by and among ATI, ATCW and XO, dated February 18, 2004 (the “XO Sale Transaction”).

Jurisdiction

4. This Court has subject matter jurisdiction to consider and determine this Motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

An Overview of the Hosting Debtors' Business

5. The Hosting Debtors are engaged in the business of, among other things, providing shared web hosting services to third party users. These shared hosting customers generate approximately \$300,000 in monthly revenues and consist of approximately 4,000 shared hosting accounts.

Relief Requested

6. By this Motion, the Hosting Debtors seek the entry of two orders:

- An order pursuant to sections 105(a) and 363 of the Bankruptcy Code substantially in the form attached hereto as Exhibit A (the "Bidding Procedures Order"): (a) establishing bidding procedures and bid protections (the "Bidding Procedures") in connection with the sale of certain of the assets of the Hosting Debtors (the "Sale Assets"); (b) approving the form and manner of notices; and (c) setting a hearing date to consider approval of the Sale Transaction (as defined below) (the "Sale Approval Hearing"); and
- An order pursuant to sections 105(a), 363, 365 and 1146(c) of the Bankruptcy Code, substantially in the form attached hereto as Exhibit B (the "Sale Approval Order"): (a) approving the sale, free and clear of all liens, claims and encumbrances to the Successful Bidder (as defined below) and (b) authorizing the assumption and assignment of certain executory contracts; and (c) granting related relief (the "Sale" or "Sale Transaction").

7. After the Commencement Date, the Debtors determined that the Sale Assets were non-core assets. In August of 2003, the Debtors elected to commence a process to sell the Sale Assets. In that regard, Greenhill & Co., LLC ("Greenhill"), the Debtors' financial advisors, sent a letter to nine potential bidders (the "Potential Bidders") inviting them to submit preliminary non-binding offers for the Hosting Debtors' businesses by or before August 25, 2003. Seven of the Potential Bidders returned non-binding offers, while two declined to participate. After review of the non-binding offers, the Debtors, in consultation with Greenhill, narrowed the sale process to include three final bidders (the "Final Bidders"). The Final Bidders were provided with certain access to the Hosting Debtors' management, financial advisors and

facilities to supplement due diligence and evaluate the Hosting Debtors' businesses. Moreover, in November 2003, the Final Bidders were asked to submit an asset purchase agreement upon completion of such due diligence. Two of the three Final Bidders submitted asset purchase agreements (the "Final Bidder APAs").

8. After receipt of the Final Bidders APAs, the process for the sale of the Sale Assets was postponed as Allegiance and its advisors pursued the XO Sale Transaction. Following this Court's entry of the order approving the sale to XO, the Debtors recommended the sale of the Sale Assets and, accordingly, the Debtors reviewed the Final Bidder APAs. In connection therewith, the Debtors determined that it was in their best interests move forward with WebOnTap, Inc. ("WebOnTap" or "Buyer") to negotiate a "stalking horse" asset purchase agreement. After extensive arm's length negotiations, the Debtors and WebOnTap have finalized a definitive asset purchase agreement to purchase the Sale Assets, dated as of April 28, 2004 (the "Purchase Agreement"). A copy of the Purchase Agreement is annexed hereto as Exhibit C.¹

The Proposed Sale

9. The Purchase Agreement provides for the Sale Transaction, subject to higher or better offers, free and clear of liens, claims, interests and encumbrances. The following is a summary of certain salient provisions of the Purchase Agreement and is qualified entirely by reference to the Purchase Agreement itself:²

¹ Certain annexes and schedules to the Purchase Agreement, as well as ancillary agreements related to the Purchase Agreement, are not annexed hereto because such documents contain confidential financial and/or competitive information. Parties interested in obtaining copies of such documents should contact the attorneys for the Debtors.

² The following summary of the Purchase Agreement is provided for the convenience of the Court and parties in interest. To the extent that there are any discrepancies between this summary and the Purchase Agreement, the terms and language of the Purchase Agreement shall govern. Capitalized terms used herein but not defined herein shall have the meanings ascribed to such terms in the Purchase Agreement.

PROVISION	DESCRIPTION
<i>Purchase of the Sale Assets:</i>	At Closing, the Hosting Debtors agree to sell to the Buyer, free and clear of all Liens and Liabilities, and the Buyer agrees to purchase from the Debtors, the Sale Assets, which include, among other things, the following: (a) the Assumed Contracts (including the Customer Contracts); (b) the Equipment; (c) the Intellectual Property; (d) computer software programs, including operating systems, application software, databases, database software and architecture used by Seller, whether owned, licensed, leased, or internally developed as listed on Schedule 2.1 (e) to the Purchase Agreement; (d) any and all domain name registration accounts associated with the <www.wsmdomains.com> business, including the sale, transfer and assignment of the Hosting Debtors' reseller agreement with TUCOWS.com Inc.; (e) domain names used by the Hosting Debtors in the conduct of the Business and set forth on Schedule 2.1(g) to the Purchase Agreement; (f) lock box and toll-free customer support telephone numbers set forth on Schedule 2.1(h) to the Purchase Agreement; and (g) certain accounts receivable of the Hosting Debtors set forth on Schedule 2.1(i) to the Purchase Agreement.
<i>Excluded Assets:</i>	The Purchase Agreement provides for Excluded Assets including, among others, (a) any accounts receivable not listed on Schedule 2.1(i) to the Purchase Agreement and (b) any cash or cash equivalents.
<i>Liabilities Assumed by Buyer:</i>	On the Closing Date, the Buyer shall assume, among others, the following Liabilities of the Hosting Debtors: (a) certain Liabilities arising out of or related to the ownership of the Sale Assets, but only to the extent that the event or state of facts giving rise to such liability occurs following the Closing Date; (b) Liabilities under the Assumed Contracts, but only to the extent that the event or state of facts giving rise to such liability occurs following the Closing Date; (c) Liabilities under accounts payable related to the Business, together with any interest accrued thereon, but only to the extent that the event or state of facts giving rise to such liability occurs following the Closing Date; (d) certain Liabilities to provide web hosting and related services to existing customers; and (e) certain liabilities as set forth on Schedule 2.1(e) to the Purchase Agreement.
<i>Closing Date:</i>	The Closing shall be held at the offices of Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, New York 10022, at 10:00 a.m., local time, unless the parties hereto otherwise agree. The Closing shall take place on the first Business Day following entry of the Sale Approval Order or such other date as the Hosting Debtors and the Buyer shall mutually agree.

PROVISION	DESCRIPTION
<i>Purchase Price:</i>	In consideration for the Sale Assets, and subject to the terms and conditions of the Purchase Agreement, the Buyer shall (a) assume the Assumed Liabilities and (b) pay to the Hosting Debtors an aggregate amount of cash equal to \$1,000,000 by wire transfer to an account(s) designated by Hosting Debtors in the following manner: (a) the Initial Payment equal to 80% of the Purchase Price, less the Security Deposit, due upon the Closing Date and (b) the Final Payment equal to 20% of the Purchase Price, less any Cure Amounts, due and payable upon the Migration Date.
<i>Conditions to Obligations of the Buyer and the Hosting Debtors:</i>	<ul style="list-style-type: none"> <li data-bbox="553 636 1421 926">• <u>No Injunction</u>. No preliminary or permanent injunction or other order issued by, and no Proceeding or Order by or before any United States Governmental Entity nor any Law or Order promulgated or enacted by any United States Governmental Entity shall be in effect or pending which materially delays, restrains, enjoins or otherwise prohibits or seeks to restrain, enjoin or otherwise prohibit the transactions contemplated by the Purchase Agreement. <li data-bbox="553 961 1377 1213">• <u>The Sale Approval Order</u>. The Bankruptcy Court shall have entered the Sale Approval Order, in form and substance reasonably acceptable to the Hosting Debtors and the Buyer, which approves the Purchase Agreement and all of the terms and conditions thereof and authorizes the Hosting Debtors to consummate the transactions contemplated by the Purchase Agreement. <li data-bbox="553 1249 1406 1434">• <u>Consents and Approvals</u>. All consents, waivers, authorizations and approvals of third Persons as are necessary in connection with the transactions contemplated by the Purchase Agreement shall have been obtained, except as otherwise provided in the Purchase Agreement. <li data-bbox="553 1470 1421 1581">• <u>Trademark Assignment Agreement</u>. The Buyer and the Hosting Debtors shall have entered into the Trademark Assignment Agreement. <li data-bbox="553 1617 1425 1900">• <u>Accuracy of Representations and Warranties</u>. The representations and warranties of the Hosting Debtors contained in the Purchase Agreement therein shall be true and correct in all material respects as of the Closing Date, with the same force and effect as though such representations and warranties had been made on and as of the Closing Date, except to the extent that any such representation or warranty is made as of a specified date, in which case such representation or warranty shall have

PROVISION	DESCRIPTION
	<p>been true and correct in all material respects as of such date, except where the effect of all such inaccuracies of representations and warranties would not, in the aggregate, have a Material Adverse Effect on the Business. In the event Buyer reasonably determines, that the effect of all such inaccuracies of representations and warranties would, in the aggregate, have a Material Adverse Effect on the Business then Buyer shall have the right to terminate the Purchase Agreement.</p> <ul style="list-style-type: none"> • <u>Performance of Agreements.</u> The Hosting Debtors shall have performed in all material respects all obligations and agreements contained in the Purchase Agreement required to be performed by them prior to or at the Closing Date. • <u>Data.</u> The Hosting Debtors shall have delivered the data in accordance with the Purchase Agreement.
<i>Representations and Warranties:</i>	<p>Customary for transactions of this type, including without limitation, authority, consents, approvals, compliance with laws, litigation, title to assets, intellectual property, and contracts. The representations and warranties of the parties and the covenants to be performed on or prior to the Closing will not survive the Closing and no party to the Purchase Agreement shall be entitled to any indemnification with respect thereto.</p>
<i>Termination:</i>	<p>The Purchase Agreement may be terminated and the transactions contemplated by the Purchase Agreement abandoned at any time prior to the Closing:</p> <p><u>By the Buyer and the Hosting Debtors:</u></p> <ul style="list-style-type: none"> • by mutual written consent. <p><u>By the Buyer or the Hosting Debtors:</u></p> <ul style="list-style-type: none"> • if the Closing shall not have occurred on or before July 1, 2004; <u>provided, however,</u> that, if the Closing shall not have occurred on or before any such date due to a breach of the Purchase Agreement by Buyer or the Hosting Debtors, the breaching party may not terminate the Purchase Agreement pursuant to Section 8.1(b) of the Purchase Agreement; • <u>provided,</u> such party is not in breach of the Purchase Agreement, if there shall be any Law that makes the consummation of the transactions contemplated by the Purchase Agreement illegal or otherwise prohibited or if consummation of the transactions contemplated by the Purchase Agreement would violate any

PROVISION	DESCRIPTION
	<p>nonappealable final order, decree or judgment of any court or governmental body having competent jurisdiction;</p> <ul style="list-style-type: none"> • if any of the Hosting Debtors consummate a Competing Transaction, subject to the limitations set forth in the Bidding Procedures Order and subject to the Buyer's right to payment of the Break Up Fee; or • by the Hosting Debtors, on the one hand, or the Buyer, on the other, if the Buyer or the Hosting Debtors, as the case may be, materially breach any of its (their) obligations under the Purchase Agreement, unless such breach shall be cured within ten (10) Business Days after such other party shall have received notice of such breach in accordance with the terms of the Purchase Agreement. <p><u>By the Buyer:</u></p> <ul style="list-style-type: none"> • in the event Buyer reasonably determines, that the effect of inaccuracies of representations and warranties of the Hosting Debtors contained in Article IV of the Purchase Agreement would, in the aggregate, have a Material Adverse Effect. <p><u>By the Hosting Debtors:</u></p> <ul style="list-style-type: none"> • in the event the Hosting Debtors reasonably determine, that the effect of inaccuracies of representations and warranties of the Buyer contained in Article IV of the Purchase Agreement would, in the aggregate, have a material adverse effect on the Buyer's ability to consummate the transactions contemplated in the Purchase Agreement.
<p><i>Transition Assistance:</i></p>	<p>The parties agree to provide certain transition support services, as detailed, among other provisions, in Section 6.12 and Schedule 6.12 of the Purchase Agreement.</p> <p>The Hosting Debtors agree to use commercially reasonable efforts to migrate all Customers to Buyer's servers within forty-five (45) days of the Closing Date. During the Migration Support Period, the Hosting Debtors shall use commercially reasonable efforts to support the migration of the Customers' web sites and other applicable data, including completion of any domain name pointing adjustments as reasonably requested by Buyer, to Buyer's servers, arranging for introductions to the Customers, assisting in the explanation of the transaction to such Customers and providing technical assistance to</p>

PROVISION	DESCRIPTION
	Buyer's migration team members. The Hosting Debtors agree to make available at least two (2) employees or consultants to assist the Buyer with any post-migration related matters for a period of fifteen (15) calendar days following the Migration Support Period.
<i>Assumption and Assignment:</i>	<p>At Closing and pursuant to section 365 of the Bankruptcy Code, the Hosting Debtors shall assume and assign to the Buyer the Assumed Contracts.</p> <p>The Cure Amounts, as determined by the Bankruptcy Court, if any, necessary to cure all defaults, if any, and to pay all actual or pecuniary losses that have resulted from such defaults under the Assumed Contracts, shall be paid by the Buyer and not by the Hosting Debtors and, notwithstanding anything to the contrary contained in the Purchase Agreement, the Hosting Debtors shall have no Liability therefor, <u>provided that</u> the Buyer shall be able to set off any Cure Amounts from the Final Payment of the Purchase Price. In no event shall the Cure Amounts paid by the Buyer exceed the Final Payment.</p>

Proposed Bidding Procedures, Auction and Auction Procedures

10. Consistent with the Purchase Agreement, the Hosting Debtors are proposing the Bidding Procedures, which are designed to maximize the value of the Sale Assets for the Hosting Debtors' estates, creditors, and other interested parties. Specifically, as discussed in more detail below, Buyer is serving as a "stalking horse" bidder for a higher or better offer. In that regard, Buyer has expended considerable time, effort and resources conducting due diligence and negotiating the Purchase Agreement. Accordingly, the Hosting Debtors seek – and Buyer requires – the immediate entry of the Bidding Procedures Order. The Bidding Procedures are summarized as follows:³

³ The summary description of the Bidding Procedures provided herein is provided for the convenience of the Court and parties in interest. To the extent that there are any discrepancies between this summary and the Bidding Procedures Order, the terms and language of the Bidding Procedures Order shall govern.

PROVISION	DESCRIPTION
<i>The Stalking Horse Bid</i>	<p>Under the terms of the Purchase Agreement, the Buyer has agreed to purchase the Sale Assets for approximately \$1.0 million, plus Assumed Liabilities (the “Stalking Horse Bid”), subject to the terms of the Purchase Agreement.</p> <p>Until the entry of the Sale Approval Order, the Hosting Debtors are permitted to cause their Representatives and Affiliates to initiate contact with, solicit or encourage submission of any inquiries, proposals or offers by, any Person (in addition to Buyer and its Affiliates, agents and Representatives) in connection with any Competing Transaction, <u>provided, however</u>, that, the Hosting Debtors, their Representatives and Affiliates must reveal the existence of the Purchase Agreement to any such Person. In addition, the Hosting Debtors shall have the responsibility and obligation to respond to any inquiries or offers to purchase all or any part of the Sale Assets and perform any and all other acts related thereto which are required under the Bankruptcy Code or other applicable law, including, without limitation, supplying information relating to the Business and Assets to prospective buyers.</p>
<i>Due Diligence</i>	<p>Unless otherwise determined by the Hosting Debtors, each potential bidder (a “Potential Bidder”) must deliver (unless previously delivered) to (i) the attorneys for the Hosting Debtors, Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, NY 10022-4611 (Attn: Lisa G. Laukitis, Esq.) and (ii) the financial advisors to the Debtors, Greenhill & Co., LLC, 300 Park Avenue, 23rd Floor, New York, New York 10022 (Attn: Ryan Taylor), the following documents (the “Preliminary Bid Documents”) in order to participate in the bidding process:</p> <ul style="list-style-type: none"> a. an executed confidentiality agreement in form and substance satisfactory to the Hosting Debtors and the Creditors Committee; and b. preliminary proof by the Potential Bidder of its financial capacity to close a proposed transaction, the adequacy of which the Hosting Debtors, the Creditors Committee and their respective advisors will determine in their sole discretion. <p>Within two (2) business days after a Potential Bidder delivers the Preliminary Bid Documents, the Hosting Debtors, the Creditors Committee and their respective advisors shall determine, and shall notify the Potential Bidder, whether the Potential Bidder has submitted acceptable Preliminary Bid Documents so that such Potential Bidder may conduct due diligence with respect to the Sale</p>

PROVISION	DESCRIPTION
	Assets sought to be acquired. Only those Potential Bidders that have submitted acceptable Preliminary Bid Documents may submit bids for the Sale Assets.
<i>Bid Deadline</i>	<p>Bids for the Sale Assets must (a) be in writing; (b) at a minimum, exceed the Stalking Horse Bid by \$50,000; (c) satisfy the Bid Requirements set forth herein and (d) be received by (i) the attorneys for the Hosting Debtors, Kirkland & Ellis LLP, 153 East 53rd Street, New York, New York 10022 (Attn: Lisa G. Laukitis, Esq.), (ii) the financial advisors for the Hosting Debtors, Greenhill & Co., LLC, 300 Park Avenue, 23rd Floor, New York, New York 10022 (Attn: Ryan Taylor), (iii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 1004 (Attn: Pamela J. Lustrin, Esq.), (iv) the attorneys for the agent for the Prepetition Lenders, Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin, III, Esq.), and (v) the attorneys for the Creditors Committee, Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizengoff, Esq.), so as to be actually received no later than 4:00 p.m. (prevailing Eastern Time) on June 14, 2004 (the "Bid Deadline"). Such bids shall be deemed "Qualified Bids" and those parties submitting such Qualified Bids shall be "Qualified Bidders."</p> <p>Parties that do not submit a Qualified Bid by the Bid Deadline will not be permitted to participate at the Auction.</p>
<i>Bid Requirements</i>	<p>Qualified Bids must meet the following requirements (the "Bid Requirements"):</p> <ol style="list-style-type: none"> a. Each Qualified Bid must be on the same or more favorable terms and conditions as those terms set forth in the Purchase Agreement and the documents set forth as exhibits and schedules thereto. The Hosting Debtors shall not entertain bids for the individual assets comprising their businesses. b. Each Qualified Bid must constitute a good faith, bona fide offer to acquire the Sale Assets. c. Each Qualified Bid shall not be conditioned on obtaining any of the following: financing, regulatory approval, shareholder approval, environmental contingencies, and/or the outcome of due diligence by the bidder. d. Each Qualified Bid must remain irrevocable until the Closing.

PROVISION	DESCRIPTION
	<p>e. As a condition to making a Qualified Bid, any competing bidder must provide the Hosting Debtors on or before the Bid Deadline, with sufficient and adequate information to demonstrate, to the satisfaction of the Hosting Debtors and the Creditors Committee, that such competing bidder (i) has the financial wherewithal and ability to consummate the acquisition of the Sale Assets, and (ii) can provide all nondebtor contracting parties to the Assumed Contracts with adequate assurance of future performance as contemplated by section 365 of the Bankruptcy Code.</p> <p>f. In order for a bid to constitute a Qualified Bid, any bidder shall submit a deposit equal to \$100,000 (the "Good Faith Deposit"). The bidder shall, in immediately available funds, by wire transfer to an account or accounts designated by the Hosting Debtors, pay such amount on the date such bid is submitted.</p>
<i>Auction and Overbids</i>	<p>If no Qualified Bid is received by the Bid Deadline, the Auction will not occur and the Hosting Debtors shall promptly pursue entry of an order by the Court authorizing the Sale to the Buyer.</p> <p>If the Hosting Debtors receive a Qualified Bid by the Bid Deadline, in addition to the Stalking Horse Bid, the Hosting Debtors shall conduct an auction (the "Auction") with respect to the Sale Assets. The Auction shall commence at 10:00 a.m. (local time) on June 16, 2004, at the offices of Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, New York 10022-4611, or such later time or other place as the Hosting Debtors shall notify all Qualified Bidders who have submitted Qualified Bids. The Auction may be continued to a later date by the Hosting Debtors, with the reasonable consent of the Buyer and the Creditors Committee, by making an announcement at the Auction. No further notice of any such continuance will be required to be provided to any party.</p> <p>Subsequent bids at the Auction shall be made in increments of at least \$25,000.</p> <p>At the Auction, the Buyer shall have the right to bid all or part of the Break-Up Fee (as defined herein).</p>

PROVISION	DESCRIPTION
<i>Winning Bid</i>	Upon conclusion of the Auction, the Hosting Debtors, in the exercise of their business judgment and after consulting with their advisors and the Creditors Committee, shall identify the highest and best offer for the Sale Assets (the "Winning Bid") (the bidder having submitted a Winning Bid is the "Successful Bidder").
<i>Sale Approval Hearing</i>	The Sale Approval Hearing is presently scheduled to take place on June 18, 2004 at 10:00 a.m. (prevailing Eastern Time), before the Hon. Robert D. Drain, United States Bankruptcy Judge, in Room 610 of the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York, 10004-1408. The Sale Approval Hearing may be continued to a later date by the Hosting Debtors, with the reasonable consent of the Buyer and the Creditors Committee, by making an announcement at the Sale Approval Hearing. No further notice of any such continuance will be required to be provided to any party. At the Sale Approval Hearing, the Hosting Debtors shall present to the Bankruptcy Court for approval the Winning Bid for the Sale Assets.
<i>Return of Good Faith Deposit</i>	The Good Faith Deposit of the Successful Bidder shall be credited to the price paid for the Sale Assets. The Good Faith Deposit of any unsuccessful bidders will be returned within fifteen (15) days after the Closing Date or upon permanent withdrawal by the Hosting Debtors of the proposed sale of such assets. The deposit of the Buyer, if not chosen as the Winning Bid, shall be returned in accordance with the Purchase Agreement.
<i>Reservation of Right</i>	<p>The Hosting Debtors reserve the right to reject any (other than the Buyer's offer pursuant to the Purchase Agreement) Qualified Bid if the Hosting Debtors determine that such Qualified Bid is</p> <p>(i) inadequate or insufficient; (ii) not in conformity with the requirement of the Bankruptcy Code, any related rules or the terms set forth herein; or (iii) contrary to the best interests of the Hosting Debtors and their estates.</p> <p>Pursuant to the terms of the Purchase Agreement, the Hosting Debtors are obligated to provide the Buyer with Data (in a certain form and format) on the Closing Date. The Hosting Debtors and the Buyer have agreed to use commercially reasonable efforts to migrate all Customers to Buyer's servers within forty-five (45) days of the Closing Date.</p> <p>If the Hosting Debtors determine that accepting a Qualified Bid from a Potential Bidder would result in a delay of the receipt of such Data</p>

PROVISION	DESCRIPTION
	and therefore a delay in the migration of the Customers, the Hosting Debtors reserve the right to reject such Qualified Bid.
<i>Break-Up Fee</i>	In the event, among others set forth in the Purchase Agreement and as set forth below, that the Bankruptcy Court enters an order approving the Sale Transaction to a Successful Bidder other than Buyer, the Hosting Debtors shall pay to Buyer a break-up fee in the amount of \$37,500 (the "Break-Up Fee").

Bid Protections

11. The Break-Up Fee was a material inducement for, and a condition of, the Buyer's agreement to enter into the Purchase Agreement. The Hosting Debtors believe that the Break-Up Fee is fair and reasonable in view of, among other things, (a) the intensive analysis and negotiation undertaken by the Buyer in connection with the transactions contemplated by the Purchase Agreement and (b) the fact that the efforts of the Buyer have increased the chances that the Hosting Debtors will receive the highest or otherwise best offer for the Sale Assets by establishing a minimum bid for other bidders, subjecting the Sale Assets to an open auction and serving as a catalyst for other potential or actual bidders. Thus, the Break-Up Fee benefits the Hosting Debtors, their estates, their creditors and all other parties in interest.

12. The Buyer has proclaimed that it is unwilling to commit to hold open its offer to purchase the Sale Assets under the terms of the Purchase Agreement unless the Break-Up Fee is approved and payment of the Break-Up Fee in accordance with the Purchase Agreement is authorized. Accordingly, the Hosting Debtors request that the Court approve the Break-Up Fee and authorize payment of the Break-Up Fee pursuant to the terms and conditions of the Purchase Agreement.

Assumption and Assignment of Executory Contracts and Leases

13. In connection with the Sale Transaction, the Hosting Debtors seek authority under section 365 of the Bankruptcy Code to (a) assume and assign the Assumed Contracts, as that term is defined in Section 2.1(c) of the Purchase Agreement, effective as of the Closing, and (b) execute and deliver to the Buyer or the Successful Bidder such documents or other instruments as may be necessary to assign and transfer the Assumed Contracts thereto.

14. The Hosting Debtors believe it is necessary to establish a process by which the Hosting Debtors and the counterparties (the "Contract Parties") to the Assumed Contracts can establish the cure obligations (the "Cure Amounts"), if any, necessary to be paid in accordance with section 365 of the Bankruptcy Code for the assumption of the Assumed Contracts and for the Contract Parties to assert any objection they may have to such assumption and assignment of the Assumed Contracts.

15. To facilitate a resolution of disputes, if any, relating to the Cure Amounts, specifically, or to the assignment of the Assumed Contracts, in general, the Hosting Debtors propose the following procedures (the "Assumption and Assignment Procedures").

PROCEDURE	DESCRIPTION
<i>Notice of Assumption and Assignment Objection Deadline</i>	No later than two (2) Business Days following the entry of the Bid Procedures Order, the Hosting Debtors, or the Hosting Debtors' noticing agent, shall serve a copy of the Bidding Procedures Order together with the Notice of the Hosting Debtors' Intent to Assume and Assign Executory Contracts and Unexpired Leases (the "Contract Assignment Notice"), substantially in the form of Exhibit 2 attached to the Bidding Procedures Order, by first class mail to the Contract Parties notifying them of the Hosting Debtors' intent to assume and assign each agreement listed in Section 2.1 of the Purchase Agreement (including, but not limited to, those parties listed on the Schedules referenced in Section 2.1 of the Purchase Agreement) (as it may be modified by that time) and of the Cure Amount determined by the Hosting Debtors for each such Assumed Contract to be necessary for such assumption and assignment on the Closing Date.

PROCEDURE	DESCRIPTION
<i>Assumption and Assignment Objections</i>	Any Contract Party seeking to (a) assert a Cure Amount based on defaults, conditions or pecuniary losses under its Assumed Contract (collectively, the “Cure Obligation”) different from that set forth on any of the Contract Assignment Notices or (b) object to the potential assumption and assignment of its Assumed Contract on any other grounds, shall be required to file and serve an objection (an “Assumption and Assignment Objection”), in writing, setting forth with specificity (i) any and all Cure Obligations that the Contract Party asserts must be cured or satisfied with respect to such Assumed Contract and/or (ii) if the objection to the potential assignment of such Assumed Contract is based on adequate assurance issues, the information required regarding the Buyer to satisfy the Contract Party’s adequate assurance concerns.
<i>Assumption and Assignment Objection Deadline</i>	To be considered a timely Assumption and Assignment Objection, the Assumption and Assignment Objection must be filed with the Court and a copy delivered to (i) the attorneys for the Hosting Debtors, Kirkland & Ellis LLP, Citigroup Center, 153 East 53 rd Street, New York, NY 10022-4611 (Attn: Lisa G. Laukitis, Esq.), (ii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 1004 (Attn: Pamela J. Lustrin, Esq.), (iii) the attorneys for the agent for the Prepetition Lenders, Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin, III, Esq.), (iv) the attorneys for the Creditors Committee, Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizengoff, Esq.), (v) the attorneys for the Buyer, WebOnTap, Inc., 70 Blanchard Road, Burlington, Massachusetts 01803 (Attn: Eric S. Ritvo, Esq.) and (vi) any other party or partner set forth in the Contract Assignment Notice so as to be received no later than 15 days after service of the Contract Assignment Notice (the “Assumption and Assignment Objection Deadline”); <u>provided, however</u> , that any Assumption and Assignment Objection made on the basis of adequate assurance of future performance in the event that Buyer is not the Successful Bidder may be made at any time until one (1) Business Day prior to the commencement of the Sale Approval Hearing.
<i>Failure to File Assumption and Assignment Objection</i>	Unless an Assumption and Assignment Objection is timely filed and served by a Contract Party by the Assumption and Assignment Objection Deadline, the assumption and assignment of the applicable Assumed Contract at the Sale Approval Hearing may occur without regard to any objection such party may have or any provisions to the contrary in the applicable Assumed Contract.

PROCEDURE	DESCRIPTION
<i>Waiver of Assumption and Assignment Objection</i>	Contract Parties that fail to file and serve Assumption and Assignment Objections as provided above shall be deemed to have waived and released any and all Cure Obligations and shall be forever barred and estopped from asserting or claiming against the Hosting Debtors, the Buyer or any other Successful Bidder that any additional amounts are due or defaults exist, or prohibitions or conditions to assignment exist or must be satisfied, under such Assumed Contract for the period prior to the closing date.

16. The Hosting Debtors believe that those procedures and deadlines are fair and reasonable, and will provide sufficient notice to the Contract Parties. These procedures are designed to provide certainty to the Hosting Debtors and the Contract Parties regarding their obligations and rights in respect of Cure Amounts. Accordingly, the Hosting Debtors request that the Court approve the Assumption and Assignment Procedures.

Notice Of Sale, Auction And Bidding Procedures

17. Substantially concurrently with filing this Motion, the Hosting Debtors will serve a copy of this Motion, the Purchase Agreement, the proposed Bidding Procedures Order, the proposed Sale Approval Order and all exhibits to such orders upon the following persons by first-class mail, postage prepaid: (a) the Office of the United States Trustee; (b) the attorneys for the agent for the Prepetition Lenders; (c) the attorneys for the Creditors Committee; (d) all nondebtor contracting parties identified in Section 2.1 of the Purchase Agreement (including, but not limited to, those parties listed on the Schedules referenced in Section 2.1 of the Purchase Agreement); (e) the attorneys for the Buyer; (f) all parties who have made written expressions of interest in acquiring the Sale Assets or the Business within two (2) months prior to the date of the Motion; (g) all known persons holding a lien on any of the Sale Assets; (h) the Securities and Exchange Commission; (i) all taxing authorities that have jurisdiction over the Sale Assets; (j) all Governmental Agencies having jurisdiction over the Sale Assets with respect

to Environmental Laws, (k) the attorneys general of all states in which the Sale Assets are located; and (l) all other parties that had filed a notice of appearance and demand for service of papers in these bankruptcy cases under Bankruptcy Rule 2002 as of the date hereof (collectively, the “Bidding Procedures Parties”).

18. Assuming the Court enters the proposed Bidding Procedures Orders, the Hosting Debtors, no later than five (5) business days after entry of the Bidding Procedures Order, shall cause the Notice of Auction and Sale to Consider Approval of the Sale of Certain Assets of the Debtors (the “Notice of Auction and Sale Approval Hearing”), substantially in the form attached as Exhibit 1 to the Bidding Procedures Order, to be served, along with the Bidding Procedures Order upon the Bidding Procedures Parties (collectively, the “Auction Notice Parties”).

19. The Hosting Debtors believe that the foregoing notice to the Bidding Procedures Parties and the Auction Notice Parties is sufficient to provide effective notice of the Bidding Procedures, the Auction and the proposed Sale to potentially interested parties in a manner designed to maximize the chance of obtaining the broadest possible participation in the Sale process while minimizing costs to the estates. Accordingly, the Hosting Debtors request that the Court find that notice in this manner is sufficient and that no further notice of the Auction, the Bidding Procedures or the proposed Sale is required.

Memorandum of Points and Authorities

A. The Proposed Sale Is Within the Hosting Debtors’ Sound Business Judgment and Should Therefore Be Approved

20. The Hosting Debtors submit that ample authority exists for the approval of the Sale Transaction to Buyer pursuant to the Purchase Agreement, or to such other purchaser submitting a higher or better offer for the Sale Assets. Section 363(b)(1) of the Bankruptcy

Code, which authorizes a debtor to sell assets of the estate other than in the ordinary course of business free and clear of liens, claims, interests, and encumbrances, provides, in relevant part, as follows:

(b)(1) The trustee, after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate.

* * * *

(f) The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if

(1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;

(2) such entity consents;

(3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;

* * * *

(5) such entity could be compelled, in a legal or equitable proceeding to accept a money satisfaction of such interest.

21. This provision states the general principle that debtors in possession may sell property of the estate outside of the ordinary course of business; however, it does not set forth a standard for determining when it is appropriate for a court to authorize the sale or disposition of a debtor's assets. Courts in the Second Circuit and elsewhere have required that the decision to sell assets outside the ordinary course of business be based upon the sound business judgment of the debtor. See Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.) 722 F.2d 1063, 1071 (2d Cir. 1983) (holding that a judge determining a section 363(b) application must find from the evidence presented before him a good business reason to grant such application); In re Chateaugay Corp., 973 F.2d 141, 143 (2d Cir. 1992) (same);

Stephens Indus. v. McClung, 789 F.2d 386, 390 (6th Cir. 1986) (holding that a “bankruptcy court can authorize a sale of all of a chapter 11 debtor’s assets under section 363(b)(1) when a sound business purpose dictates such action”); Official Committee of Unsecured Creditors v. Ravtech Corp. (In re Ravtech Corp.), 190 B.R. 149, 151 (Bankr. D. Conn. 1995); In re Ionosphere Clubs, Inc., 100 B.R. 670, 674 (Bankr. S.D.N.Y. 1989) (noting that standard for determining a section 363(b) motion is “good business reason”); In re Phoenix Steel Corp., 82 B.R. 334, 335-36 (Bankr. D. Del. 1987) (stating that judicial approval of a section 363 sale requires that a good business reason exists for completing the sale).

22. As Judge Lifland stated in In re Johns-Manville Corp., “[w]here the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” 60 RR. 612, 616 (Bankr. S.D.N.Y. 1986). When a valid business justification exists, the law vests the debtor’s decision to use property out of the ordinary course of business with a strong presumption that “in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.” Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.), 147 B.R. 650, 656 (S.D.N.Y. 1992) (citations and internal quotations omitted), appeal dismissed, 3 F.3d 49 (2d Cir. 1993).

23. The Hosting Debtors submit that adequate business reasons exist to justify the Sale to the Buyer (or another Successful Bidder, as the case may be). Based upon the results of their exhaustive analysis of the Hosting Debtors’ ongoing and future business prospects, the Hosting Debtors, after consulting with their management team, advisors and major creditor constituencies, have concluded that the best means for maximizing the value of the Hosting

Debtors' estates is to sell the Sale Assets. See Lionel, 722 F.2d at 1071 (the most important factor in approving a section 363 sale whether the asset is increasing or decreasing in value).

24. In determining to sell the Sale Assets, the Hosting Debtors relied on the following facts and circumstances. First, the Hosting Debtors believe the Buyer's offer for the Sale Assets is both fair and reasonable. To dispel any doubt, the Hosting Debtors are subjecting the Sale to competing bids at the Auction, thereby assuring that the Hosting Debtors will receive the highest and best value for the Sale Assets. Consequently, the fairness and reasonableness of the consideration to be received by the Hosting Debtors will ultimately be demonstrated by a "market check" through an auction process, which is the best means for establishing whether a fair and reasonable price is being paid.

25. Second, the Hosting Debtors compared the value and certainty of the Sale Transaction with that of a stand alone restructuring for these entities and determined that the Sale Transaction would maximize the value of their estates. Third, the Hosting Debtors engaged in extensive discussions with their major creditor constituencies and, as a consequence, obtained the support of these constituencies to move forward with the Sale. Based on these considerations, the Hosting Debtors determined that the most reasonable means for maximizing value of the Hosting Debtors' estates is engaging in the process of selling the Sale Assets.

26. The Hosting Debtors' decision, of course, is subject to review and objections by interested parties and court approval. In that regard, all creditors and parties in interest will receive adequate notice of the Bidding Procedures, the Auction and the Sale. Such notice is reasonably calculated to provide timely and adequate notice to the Hosting Debtors' major creditor constituencies, those parties potentially interested in bidding on the Assets and others whose interests are potentially implicated by the proposed Sale. The Hosting Debtors

submit that such notice is sufficient, under Bankruptcy Rules 2002 and 6004, for entry of the Sale Approval Order.

27. Under the circumstances, sound business reasons exist that justify the sale of the Assets outside of the ordinary course of business. Accordingly, the Hosting Debtors submit that the proposed Sale to the Buyer pursuant to section 363 of the Bankruptcy code pursuant to the terms of the Purchase Agreement should be approved.

B. The Buyer is a Good Faith Buyer and is Entitled to the Protections of Section 363(m) of the Bankruptcy Code

28. Section 363(m) of the Bankruptcy code provides:

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

11 U.S.C. § 363(m). While the Bankruptcy Code does not define “good faith”, the Second Circuit in In re Colony Hill Associates, 11 F.3d 269 (2d Cir. 1997) held that:

The ‘good faith’ component of the test under §363(m) speaks to the equity of the [bidder’s] conduct in the course of the sale proceedings. Typically, the misconduct that would destroy a purchaser’s good faith status at the judicial sale involves fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.

11 F.3d at 276.

29. As set forth above, the Buyer was selected by the Hosting Debtors after analyzing bids made by other potential purchasers, engaging in extensive negotiations and determining that the terms of the Buyer’s bid were the most favorable submitted. The Purchase Agreement is a product of extensive arms-length negotiations and was not in any way tainted by

fraud, collusion or bad faith. Accordingly, the Hosting Debtors request that the Court make a finding that the Buyer is entitled to the protections of section 363(m) of the Bankruptcy Code.

C. The Sale Satisfies the Requirements of Section 363(f) of the Bankruptcy Code for a Sale Free and Clear of Liens, Claims, Encumbrances and Interests

30. Under section 363(f) of the Bankruptcy Code, a debtor in possession may sell property free and clear of any lien, claim, or interest in such property if, among other things:

- a. applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- b. such entity consents;
- c. such interest is a lien and the price at which such property is sold is greater than all liens on such property;
- d. such interest is in bona fide dispute; or
- e. such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f).

31. Notably, section 363(f) of the Bankruptcy Code is drafted in the disjunctive. Thus, satisfaction of any one of its five requirements will be sufficient to permit the Sale Transaction free and clear of liens, claims, encumbrances, pledges, mortgages, security interests, charges, options, and other interests (collectively, the “Interests”). Specifically, the Hosting Debtors satisfy at least one of these requirements under section 363(f) of the Bankruptcy Code. All holders of interests in the Sale Assets could be compelled to accept a money satisfaction of their interests in legal or equitable proceedings in accordance with section 363(f)(5) of the Bankruptcy Code. Such legal or equitable proceedings include proceedings to confirm a plan of reorganization, under which the holder of a lien may be compelled to accept payment in satisfaction of its lien pursuant to section 1129(b)(2)(A) of the

Bankruptcy Code. Accordingly, the Hosting Debtors submit that any existing interests in the Sale Assets will attach to the net proceeds of the sale thereof.

32. Based upon the foregoing, the Sale free and clear of liens, claims, encumbrances and interests should be approved under section 363(f) of the Bankruptcy Code.

D. The Hosting Debtors' Request for Relief from Transfer Taxes Under Section 1146(c) of the Bankruptcy Code Should be Granted

33. Pursuant to section 1146(c) of the Bankruptcy Code, the “transfer . . . or the making or delivery of an instrument of transfer under a plan confirmed under section 1129 of this title, may not be taxed under any law imposing a stamp or similar tax.” This provisions has been broadly construed to include sales and transfers that occur outside a chapter 11 plan and before or after plan confirmation, provided that such sales and transfers enable the confirmation and consummation of a chapter 11 plan for the debtor. See e.g., City of New York v. Jacoby-Bender, Inc. (In re Jacoby-Bender, Inc.), 758 F.2d 840, 842 (2d Cir. 1985); City of New York v. Smoss Enterprises Corp. (In re Smoss Enterprises Corp.), 54 B.R. 950, 951 (E.D.N.Y. 1985) (holding that section 1146(c) applied when “the transfer of property was essential to the confirmation of a plan”); In re United Press Int'l, Inc., Case No. 91-B-13955 (FSC) 1992 Bankr. LEXIS 842 at *4 (Bankr. S.D.N.Y. May 18, 1992) (finding that section 1146(c) exemption applied to section 363 sale where the value of the debtor’s assets were likely to deteriorate over the time necessary to confirm a plan). In so holding, courts have focused upon whether the sale and transfer is “necessary to the consummation of a plan.” Id. at 842. But see In re Hechinger Inv. Co. of Delaware, Inc., 335 F.3d 243 , C.A.3 (Del.),2003.

34. In the instant case, the Sale Transaction is contemplated by the Debtors Second Amended Joint Plan of Reorganization, filed with the Court on April 22, 2004, and therefore should be deemed to be “under a plan.” Accordingly, the Hosting Debtors submit that

the Sale Transaction falls within the scope of the exemption provided for under section 1146(c) of the Bankruptcy Code. See In re Permar Provisions, Inc., 79 B.R. 530, 534 (Bankr. E.D.N.Y. 1987) (sale of property one year prior to plan confirmation was exempt under section 1146(c) of the Bankruptcy Code where sale proceeds were distributed to secured and unsecured creditors) See also In re Loral Space & Com. Ltd., et al., Case No. 03-41710 (RDD) (S.D.N.Y. October 30, 2003) (order exempting sale of assets from transfer taxes).

E. The Court Should Waive or Reduce the Ten Day Stay Periods Required By Rules 6004(g) and 6006(d) of the Federal Rules of Bankruptcy Procedure

35. Pursuant to Bankruptcy Rule 6004(g), unless the court orders otherwise, all orders authorizing the sale of property pursuant to section 363 of the Bankruptcy Code are automatically stayed for 10 days after entry of the order. Fed. R. Bankr. P. 6004(g). The purpose of Bankruptcy Rule 6004(g) is to provide sufficient time for an objecting party to appeal before the order can be implemented. See Advisory Committee Notes to Fed. R. Bankr. P. 6004(g).

36. Although Bankruptcy Rule 6004(g) and the Advisory Committee Notes are silent as to when a court should “order otherwise” and eliminate or reduce the 10 day stay period, Collier suggests that the 10 day stay period should be eliminated to allow a sale or other transaction to close immediately “where there has been no objection to the procedure.” 10 Collier on Bankruptcy 15th Ed. Rev., 6064.09 (L. King, 15th rev. ed. 1988). Furthermore, Collier provides that if an objection is filed and overruled, and the objecting party informs the court of its intent to appeal, the stay may be reduced to the amount of time actually necessary to file such appeal. Id.

37. Similarly, Bankruptcy Rule 6006(d) stays all orders authorizing a debtor to assign an executory contract or unexpired lease pursuant to section 365(f) of the Bankruptcy Code for 10 days, unless the court orders otherwise.

38. To preserve the value of the Sale Assets and limit the costs of administering and preserving the Sale Assets, it is critical that the Hosting Debtors close the Sale Transaction as soon as possible after all closing conditions have been met or waived. Accordingly, the Hosting Debtors hereby request that the Court waive the 10-day stay periods under Bankruptcy Rules 6004(g) and 6006(d), or in the alternative, if an objection to the sale or to the assignment of a contract or lease is filed, reduce the stay period to the minimum amount of time needed by the objecting party to file its appeal to allow the sale to close as provided under the Purchase Agreement.

F. The Assumption and Assignment of Assigned Agreements Should Be Authorized

39. Section 365(f) of the Bankruptcy Code provides that a debtor in possession may assign an executory contract or unexpired lease of the debtor only if (a) the debtor in possession assumes such contract or lease in accordance with the provisions of section 365, and (b) adequate assurance of future performance by the assignee of such contract or lease is provided. 11 U.S.C. § 365(f)(2). Under section 365(a) of the Bankruptcy Code, a debtor, “subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor.” 11 U.S.C. § 365(a).

40. Section 365(b)(1) of the Bankruptcy Code, in turn, codifies the requirements for assuming an unexpired lease or executory lease or executory contract of a debtor. This subsection provides:

(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume

such contract or lease unless, at the time of assumption of such contract or lease, the trustee —

(A) cures or provides adequate assurance that the trustee will promptly cure, such default;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provide adequate assurance of future performance under such contract or lease.

11 U.S.C. § 365(b)(1).

41. The meaning of “adequate assurance of future payment” depends on the facts and circumstances of each case, but should be given “practical, pragmatic construction.” EBG Midtown South Corp. v. McLaren/Hart Env'tl. Engineering Corp. (In re Sanshoe Worldwide Corp.), 139 B.R. 585, 592 (S.D.N.Y. 1992) (citations omitted), aff'd, 993 F.2d 300 (2d Cir. 1993).

42. When an executory contract or lease is to be assumed and assigned, adequate assurance may be provided by, among other things, demonstrating the financial health of the assignee and its experience and ability in managing the type of enterprise or property assigned. See e.g., In re Bygaph, Inc., 56 B.R. 596, 605-06 (Bankr. S.D.N.Y. 1986) (stating that adequate assurance of future performance is present when a prospective assignee of lease from debtor has financial resources and has expressed a willingness to devote sufficient funding to the business in order to give it a strong likelihood of success).

43. To the extent that any defaults exist under any Assumed Contracts, the Buyer will cure such defaults pursuant to the procedures outlined herein and in accordance with the Purchase Agreement. Moreover, the Hosting Debtors will demonstrate facts at the Sale Approval Hearing that show the Buyer's (or the Successful Bidder's, as the case may be)

financial credibility, experience in the industry, and willingness and ability to perform under the Assumed Contracts. Therefore, the Sale Approval Hearing will provide the Court and other interested parties with an opportunity to evaluate and, if necessary, challenge the ability of the Buyer (or the Successful Bidder, as the case may be) to provide adequate assurance of future performance under the Assumed Contracts. Accordingly, the Hosting Debtors submit that the assumption and assignment of the Assumed Contracts as set forth herein should be approved.

G. Conducting an Auction Pursuant to the Bidding Procedures is in the Best Interests of the Hosting Debtors' Estates and Creditors

44. The Hosting Debtors believe that the Auction and proposed Bidding Procedures will promote active bidding from interested parties and, ultimately will realize the best or otherwise highest offer available for the Sale Assets. The proposed Bidding Procedures will allow the Hosting Debtors to conduct the Auction in a controlled, fair and open fashion that will encourage participation by financially capable bidders that demonstrate the ability to close a transaction. The Hosting Debtors believe that the Bidding Procedures will encourage, rather than hinder, bidding for the Sale Assets, are consistent with other procedures previously approved by this Court, and are appropriate under the relevant standards governing auction proceedings and bidding incentives in bankruptcy proceedings. See, e.g., In re Kmart, Case No. 02-B02474 (SPS) (Bankr. N.D. Ill. May 10, 2002); In re Global Crossing, Case No. 02-40188 (S.D.N.Y. March 25, 2002) (REG); In re Randall's Island Family Golf Center, Inc., 261 B.R. 96 (S.D.N.Y. 2001); In re Integrated Resources, Inc., 147 B.R. 650 (S.D.N.Y. 1992).

H. The Break-Up Fee is Warranted

45. To compensate the Buyer for serving as a "stalking horse," thereby subjecting its bid to better or higher offers, the Hosting Debtors and the Buyer seek authority for the Hosting Debtors to pay the Buyer the Break-Up Fee if the Buyer is not the Successful Bidder.

The Hosting Debtors and the Buyer believe that the Break-Up Fee is (a) fair and reasonable, given the benefits to the estates of having a definitive Purchase Agreement and the risk to the Buyer that a third-party offer may ultimately be accepted and (b) are necessary to preserve the value of the Hosting Debtors' estates.

46. Bidding incentives such as the Break-Up Fee encourage a potential purchaser to invest the requisite time, money and effort to conduct due diligence and sale negotiations with a debtor (or in this case a prospective debtor) despite the inherent risks and uncertainties of the chapter 11 process. See e.g., In re 995 Fifth Ave. Assocs., L.P., 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989) (finding that bidding incentives may be "legitimately necessary to convince a white knight to enter the bidding by providing some form of compensation for the risks it is undertaking") (citations omitted); In re Marrose Corp., Case Nos. 89 B 12171-12179 (B), 1992 WL 33848 at *5 (Bankr. S.D.N.Y. 1992) (stating that "[a]greements to provide breakup fees or reimbursement of fees and expenses are meant to compensate the potential acquirer who serves as a catalyst or 'stalking horse' which attracts more favorable offers").

47. The Hosting Debtors submit that break-up fees are a normal, and, oftentimes, necessary component of sales outside the ordinary course of business under section 363 of the Bankruptcy Code. See e.g., In re Kmart, Case No. 02-B02474 (SPS) (Bankr. N.D. Ill. May 10, 2002) (authorizing a termination fee and bid protections for potential bidders); In re Comdisco, Inc., Case No. 01-24795 (RB) (Bankr. N.D. Ill. Aug. 9, 2002) (approving a termination fee as, *inter alia*, an actual and necessary cost and expense of preserving the debtor's estate, of substantial benefit to the debtor's estate, and a necessary inducement for, and a condition to, the proposed purchaser's entry into the purchase agreement); In re Integrated Resources, Inc., 147 B.R. at 660 (noting that break-up fees may be legitimately necessary to convince a "white knight" to offer an initial bid by providing some form of compensation for the

expenses such bidder incurs, and the risks such bidder faces by having its offer held open, subject to higher and better offers); In re Crowthers McCall Pattern, Inc., 114 B.R. 877, 880 (Bankr. S.D.N.Y. 1990) (approving an overbid requirement in an amount equal to the approved break-up fee); In re Kupp Acquisition Corp., Case No. 96-1223 (PJW) (Bankr. D. Del. March 3, 1997).

48. Here, the proposed Break-Up Fee is of substantial benefit to the Hosting Debtors, their creditors and estates. See e.g., In re Integrated Resources Inc., 147 B.R. at 660; In re Kmart Corp., Case No. 02-B02474 (SPS) (Bankr. N.D. Ill. May 10, 2002); In re Comdisco, Inc., Case No. 01-24795 (RB) (Bankr. N.D. Ill. Aug. 9, 2002) (finding proposed termination fee to be of substantial benefit to the debtor's estate). The Break-Up Fee is 3.75% of the purchase price as provided for in the Purchase Agreement. The Hosting Debtors submit that the Break-Up Fee is reasonable and appropriate in light of the size and nature of the Sale Transaction and the efforts that have been and will be expended by the Buyer. See Consumer News and Business Channel Partnership v. Dow Jones/Group W Television Company (In re Financial News Network, Inc.), 931 F.2d 217, 219 (2nd Cir. 1991) (breakup fee of 2.8% approved); Doehring v. Crown Corporation (In re Crown Corp.), 679 F.2d 774 (9th Cir. 1982) (bid protection of 4.9% approved). Finally, the Break-Up Fee is necessary to ensure that the Buyer will continue to pursue its proposed acquisition of the Sale Assets. See 11 U.S.C. § 503(b) (defining actual and necessary costs and expenses of preserving a debtor's estate). Accordingly, the Hosting Debtors believe that the Break-Up Fee should be approved.

Waiver of Memorandum of Law

49. This Motion does not raise any novel issues of law and the relevant legal authorities are noted herein. Thus, the Hosting Debtors respectfully request that the Court waive

the requirement contained in Rule 9013-1 (b) of the Local Bankruptcy Rules for the Southern District of New York that a separate memorandum of law be submitted.

Notice

50. Notice of this Motion has been given in accordance with the notice procedures set forth herein. The Hosting Debtors respectfully submit that such notice is sufficient and request that this Court find that no further notice of the relief requested herein is required.

No Prior Request

51. No prior request for the relief sought in this Motion has been made to this or any other court.

WHEREFORE, the Hosting Debtors respectfully request entry an order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: New York, New York
May 4, 2004

Respectfully submitted,

/s/ Jonathan S. Henes
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Attorneys for Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

Allegiance Telecom, Inc., et al.,

Hosting Debtors.

**Chapter 11
Case No. 02-130507 (RDD)**

(Jointly Administered)

**ORDER (A) ESTABLISHING BIDDING PROCEDURES AND BID
PROTECTIONS IN CONNECTION WITH THE SALE OF CERTAIN
OF THE ASSETS OF CERTAIN DEBTORS, (B) APPROVING THE FORM
AND MANNER OF NOTICES, AND (C) SETTING A SALE HEARING DATE**

Upon the motion, dated May 4, 2004 (the "Motion"), of Hosting.com, Inc., Allegiance Internet, Inc., Adgrafix Corporation, and Virtualis Systems, Inc., as debtors and debtors in possession (collectively, the "Hosting Debtors"), for orders (i) establishing bidding procedures and certain protections (the "Bidding Procedures") including a break-up fee payable to WebOnTap, Inc. (the "Buyer") in connection with the sale of certain of the assets (the "Sale Assets") of the Hosting Debtors, (ii) approving the form and manner of notice related to the sale of the Sale Assets; (iii) setting a hearing date to consider approval of the sale of the Sale Assets (the "Sale Hearing"); (iv) approving the sale to the Buyer, subject to higher and better offers, free and clear of (a) all liens, claims and encumbrances and (b) certain transfer taxes; (v) authorizing the assumption and assignment of certain executory contracts; and (vi) granting certain related relief; and an interim hearing having been held (the "Procedures Hearing") in respect of the relief requested in the Motion (as described in clauses (i) – (iii) above (the "Preliminary Relief")); and it appearing that notice of the hearing has been provided to (i) the Office of

the United States Trustee; (ii) the attorneys for Prepetition Lenders¹; (iii) the attorneys for the Creditors Committee; (iv) all nondebtor contracting parties identified in Section 2.1 of the Purchase Agreement and on the Schedules referenced in Section 2.1 to the Purchase Agreement, (v) the attorneys for the Buyer; (vi) all parties who have made written expressions of interest in acquiring the Sale Assets within two (2) months prior to the date of the Motion; (vii) all known persons holding a lien on any of the Sale Assets; (viii) the Securities and Exchange Commission; (ix) all taxing authorities that have jurisdiction over the Sale Assets; (x) all Governmental Agencies having jurisdiction over the Sale Assets with respect to Environmental Laws, (xi) the attorneys general of all states in which the Sale Assets are located; and (xii) all other parties that had filed a notice of appearance and demand for service of papers in these bankruptcy cases under Bankruptcy Rule 2002 as of the date of the Motion; and it appearing that such notice constitutes good and sufficient notice of the Motion and Preliminary Relief and that no other or further notice need be provided; and upon the hearing held on May 20, 2004; and upon the Motion and the record of the Procedures Hearing and all other proceedings had before the Court; and it appearing that an order granting the Preliminary Relief is in the best interests of the Hosting Debtors and parties in interest; and it appearing that the Court has jurisdiction over this matter; and after due deliberation and sufficient cause appearing therefor;

¹ Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the Motion.

IT IS HEREBY FOUND AND DETERMINED THAT:

A. The Bidding Procedures as set forth and defined below, are fair, reasonable, and appropriate and are designed to maximize the recovery on the Sale Assets, including the Assumed Contracts.

B. The Hosting Debtors have demonstrated a compelling and sound business justification for authorizing the payment of the Break-Up Fee to the Buyer under the circumstances, timing, and procedures set forth in the Motion and the Purchase Agreement.

C. The Break-Up Fee is fair and reasonable, provides a benefit to the Hosting Debtors' estates and creditors, and was negotiated by the parties to the Purchase Agreement in good faith and at arm's-length.

D. The Hosting Debtors' payment to the Buyer (under the conditions of and as set forth in the Purchase Agreement), of the Break-Up Fee is (i) an actual and necessary cost and expense of preserving the Hosting Debtors' estates, (ii) of substantial benefit to the Hosting Debtors' estates, (iii) reasonable and appropriate, in light of, among other things, (a) the size and nature of the proposed sale under the Agreement, (b) the substantial efforts that have been and will be expended by the Buyer, and (c) the benefits the Buyer has provided to the Hosting Debtors' estates and creditors and all parties in interest herein, notwithstanding that the proposed sale is subject to higher or better offers, and (iv) necessary to ensure that the Buyer will continue to pursue its proposed acquisition of the Sale Assets. In particular, the Purchase Agreement was the culmination of a process undertaken by the Hosting Debtors and their professionals to negotiate a transaction with a bidder who was prepared to pay the highest or otherwise

best purchase price to date for the Sale Assets in order to maximize the value of the Hosting Debtors' estates.

E. The payment of the Break-Up Fee should be approved because, among other things, (i) no other party to date has entered into a definitive agreement for the acquisition of the Sale Assets on terms acceptable to the Hosting Debtors, (ii) the execution of the Purchase Agreement is a necessary prerequisite to determining whether any party other than the Buyer is willing to enter into a definitive agreement for the acquisition of the Sale Assets on terms acceptable to the Hosting Debtors and their creditor constituencies, (iii) the protections afforded to the Buyer by the Break-Up Fee were material inducements for, and express conditions of, the Buyer's willingness to enter into the Purchase Agreement, and (iv) the Buyer is unwilling to commit to hold open its offer to acquire the Sale Assets under the terms of the Purchase Agreement unless it is assured of the payment of the Break-Up Fee.

F. The assurance of the payment of the Break-Up Fee has (i) promoted more competitive bidding by inducing the Buyer's bid, which otherwise would not have been made, without which competitive bidding would be limited, and which may be the highest and best available offer for the Sale Assets, (ii) induced the Buyer to research the value of the Sale Assets and propose the transactions contemplated by the Purchase Agreement, including, among other things, submission of a bid that will serve as a minimum or floor bid on which all other bidders can rely, and (iii) provided a benefit to the Hosting Debtors' estates by increasing the likelihood that the price at which the Sale Assets are sold will reflect their true worth.

G. The payment of the Break-Up Fee is an expense necessary to maximize the value of the Hosting Debtors' estates and the entry of this Order is in the best interests of the Hosting Debtors, their estates, creditors, and all other parties in interest.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. With respect to the Preliminary Relief, the Motion is granted.
2. The Auction shall be conducted on the following terms and conditions (the "Bidding Procedures"):

PROVISION	DESCRIPTION
<i>The Stalking Horse Bid</i>	<p>Under the terms of the Purchase Agreement, the Buyer has agreed to purchase the Sale Assets for approximately \$1.0 million, plus Assumed Liabilities (the "Stalking Horse Bid"), subject to the terms of the Purchase Agreement.</p> <p>Until the entry of the Sale Approval Order, the Hosting Debtors are permitted to cause their Representatives and Affiliates to initiate contact with, solicit or encourage submission of any inquiries, proposals or offers by, any Person (in addition to Buyer and its Affiliates, agents and Representatives) in connection with any Competing Transaction, <u>provided, however, that</u>, the Hosting Debtors, their Representatives and Affiliates must reveal the existence of the Purchase Agreement to any such Person. In addition, the Hosting Debtors shall have the responsibility and obligation to respond to any inquiries or offers to purchase all or any part of the Sale Assets and perform any and all other acts related thereto which are required under the Bankruptcy Code or other applicable law, including, without limitation, supplying information relating to the Business and Sale Assets to prospective buyers.</p>

PROVISION	DESCRIPTION
<i>Due Diligence</i>	<p>Unless otherwise determined by the Hosting Debtors, each potential bidder (a "Potential Bidder") must deliver (unless previously delivered) to (i) the attorneys for the Hosting Debtors, Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, NY 10022-4611 (Attn: Lisa G. Laukitis, Esq.) and (ii) the financial advisors to the Debtors, Greenhill & Co., LLC, 300 Park Avenue, 23rd Floor, New York, New York 10022 (Attn: Ryan Taylor), the following documents (the "Preliminary Bid Documents") in order to participate in the bidding process:</p> <ul style="list-style-type: none"> a. an executed confidentiality agreement in form and substance satisfactory to the Hosting Debtors and the Creditors Committee; and b. preliminary proof by the Potential Bidder of its financial capacity to close a proposed transaction, the adequacy of which the Hosting Debtors the Creditors Committee and their respective advisors will determine in their sole discretion. <p>Within two (2) business days after a Potential Bidder delivers the Preliminary Bid Documents, the Hosting Debtors, the Creditors Committee and their respective advisors shall determine, and shall notify the Potential Bidder, whether the Potential Bidder has submitted acceptable Preliminary Bid Documents so that such Potential Bidder may conduct due diligence with respect to the Sale Assets sought to be acquired. Only those Potential Bidders that have submitted acceptable Preliminary Bid Documents may submit bids for the Sale Assets.</p>

PROVISION	DESCRIPTION
<i>Bid Deadline</i>	<p>Bids for the Sale Assets must (a) be in writing; (b) at a minimum, exceed the Stalking Horse Bid by \$50,000; (c) satisfy the Bid Requirements set forth herein and (d) be received by (i) the attorneys for the Hosting Debtors, Kirkland & Ellis LLP, 153 East 53rd Street, New York, New York 10022 (Attn: Lisa G. Laukitis, Esq.), (ii) the financial advisors for the Hosting Debtors, Greenhill & Co., LLC, 300 Park Avenue, 23rd Floor, New York, New York 10022 (Attn: Ryan Taylor), (iii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 1004 (Attn: Pamela J. Lustrin, Esq.), (iv) the attorneys for the agent for the Prepetition Lenders, Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin, III, Esq.), and (v) the attorneys for the Creditors Committee, Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizengoff, Esq.), so as to be actually received no later than 4:00 p.m. (prevailing Eastern Time) on June 14, 2004 (the "Bid Deadline"). Such bids shall be deemed "Qualified Bids" and those parties submitting such Qualified Bids shall be "Qualified Bidders."</p> <p>Parties that do not submit a Qualified Bid by the Bid Deadline will not be permitted to participate at the Auction.</p>
<i>Bid Requirements</i>	<p>Qualified Bids must meet the following requirements (the "Bid Requirements"):</p> <ul style="list-style-type: none"> a. Each Qualified Bid must be on the same or more favorable terms and conditions as those terms set forth in the Purchase Agreement and the documents set forth as exhibits and schedules thereto. The Hosting Debtors shall not entertain bids for the individual assets comprising their businesses. b. Each Qualified Bid must constitute a good faith, bona fide offer to acquire the Sale Assets. c. Each Qualified Bid shall not be conditioned on obtaining any of the following: financing, regulatory approval, shareholder approval, environmental contingencies, and/or the outcome of due diligence by the bidder. d. Each Qualified Bid must remain irrevocable until the Closing.

PROVISION	DESCRIPTION
	<p>e. As a condition to making a Qualified Bid, any competing bidder must provide the Hosting Debtors on or before the Bid Deadline, with sufficient and adequate information to demonstrate, to the satisfaction of the Hosting Debtors and the Creditors Committee, that such competing bidder (i) has the financial wherewithal and ability to consummate the acquisition of the Sale Assets, and (ii) can provide all nondebtor contracting parties to the Assumed Contracts with adequate assurance of future performance as contemplated by section 365 of the Bankruptcy Code.</p> <p>f. In order for a bid to constitute a Qualified Bid, any bidder shall submit a deposit equal to \$100,000 (the "Good Faith Deposit"). The bidder shall, in immediately available funds, by wire transfer to an account or accounts designated by the Hosting Debtors, pay such amount on the date such bid is submitted.</p>
<i>Auction and Overbids</i>	<p>If no Qualified Bid is received by the Bid Deadline, the Auction will not occur and the Hosting Debtors shall promptly pursue entry of an order by the Court authorizing the Sale to the Buyer.</p> <p>If the Hosting Debtors receive a Qualified Bid by the Bid Deadline, in addition to the Stalking Horse Bid, the Hosting Debtors shall conduct an auction (the "Auction") with respect to the Sale Assets. The Auction shall commence at 10:00 a.m. (prevailing Eastern Time) on June 16, 2004, at the offices of Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, New York 10022-4611, or such later time or other place as the Hosting Debtors shall notify all Qualified Bidders who have submitted Qualified Bids. The Auction may be continued to a later date by the Hosting Debtors, with the reasonable consent of the Buyer and the Creditors Committee, by making an announcement at the Auction. No further notice of any such continuance will be required to be provided to any party.</p> <p>Subsequent bids at the Auction shall be made in increments of at least \$25,000.</p> <p>At the Auction, the Buyer shall have the right to bid all or part of the Break-Up Fee (as defined herein).</p>

PROVISION	DESCRIPTION
<i>Winning Bid</i>	Upon conclusion of the Auction, the Hosting Debtors, in the exercise of their business judgment and after consulting with their advisors and the Creditors Committee, shall identify the highest and best offer for the Sale Assets (the "Winning Bid") (the bidder having submitted a Winning Bid is the "Successful Bidder").
<i>Sale Approval Hearing</i>	The Sale Approval Hearing is presently scheduled to take place on June 18, 2004 at 10:00 a.m. (prevailing Eastern Time), before the Hon. Robert D. Drain, United States Bankruptcy Judge, in Room 610 of the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York, 10004-1408. The Sale Approval Hearing may be continued to a later date by the Hosting Debtors, with the reasonable consent of the Buyer and the Creditors Committee, by making an announcement at the Sale Approval Hearing. No further notice of any such continuance will be required to be provided to any party. At the Sale Approval Hearing, the Hosting Debtors shall present to the Bankruptcy Court for approval the Winning Bid for the Sale Assets.
<i>Return of Good Faith Deposit</i>	The Good Faith Deposit of the Successful Bidder shall be credited to the price paid for the Sale Assets. The Good Faith Deposit of any unsuccessful bidders will be returned within fifteen (15) days after the Closing Date or upon permanent withdrawal by the Hosting Debtors of the proposed sale of such assets. The deposit of the Buyer, if not chosen as the Winning Bid, shall be returned in accordance with the Purchase Agreement.
<i>Reservation of Right</i>	<p>The Hosting Debtors reserve the right to reject any (other than the Buyer's offer pursuant to the Purchase Agreement) Qualified Bid if the Hosting Debtors determine that such Qualified Bid is (i) inadequate or insufficient; (ii) not in conformity with the requirement of the Bankruptcy Code, any related rules or the terms set forth herein; or (iii) contrary to the best interests of the Hosting Debtors and their estates.</p> <p>Pursuant to the terms of the Purchase Agreement, the Hosting Debtors are obligated to provide the Buyer with Data (in a certain form and format) on the Closing Date. The Hosting Debtors and the Buyer have agreed to use commercially reasonable efforts to migrate all Customers to Buyer's servers within forty-five (45) days of the Closing Date.</p>

PROVISION	DESCRIPTION
	If the Hosting Debtors determine that accepting a Qualified Bid from a Potential Bidder would result in a delay of the receipt of such Data and therefore a delay in the migration of the Customers, the Hosting Debtors reserve the right to reject such Qualified Bid.
<i>Break-Up Fee</i>	In the event, among others set forth in the Purchase Agreement and as set forth below, that the Bankruptcy Court enters an order approving the Sale Transaction to a Successful Bidder other than Buyer, the Hosting Debtors shall pay to Buyer a break-up fee in the amount of \$37,500 (the "Break-Up Fee").

3. Pursuant to section 363(b) of the Bankruptcy Code, the Hosting Debtors are directed to pay the Break-Up Fee by wire transfer of immediately available funds to an account designated in writing by the Buyer, in the event that the Hosting Debtors consummate a Competing Transaction as defined in the Purchase Agreement, on the second Business Day following the date of consummation of a Competing Transaction.

4. The Hosting Debtors are authorized and empowered to pay the Break-Up Fee to the Buyer, as required under and pursuant to the Purchase Agreement, without further order of the Court.

5. Pursuant to section 364(c)(1) of the Bankruptcy Code, the Break-Up Fee shall receive superpriority administrative claim status and shall have priority over any and all administrative expenses of the kinds specified in sections 503(b), 506(c), 507(a), or 507(b) of the Bankruptcy Code; provided, however, that the Break-Up Fee shall be subordinated to this carve out for professionals fees and fees under 28 U.S.C. § 1930 as provided in the Bankruptcy Court's order authorizing Hosting Debtors to use cash collateral that was entered in these cases.

6. The rights of the Buyer to the Break-Up Fee and the superpriority administrative status of such claims shall all survive rejection or breach of the Purchase Agreement, and shall be unaffected thereby.

7. Pursuant to Bankruptcy Rule 2002(a)(2), (a) the Sale Hearing shall be held on June 18, 2004, before the Hon. Robert D. Drain, United States Bankruptcy Judge, in Room 610 of the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York, 10004-1408 at 10:00 a.m. (prevailing Eastern Time), and (b) objections to approval of the relief requested in the Motion (other than the Preliminary Relief provided herein), if any, shall be in writing, shall state the name of the objecting party, shall state with particularity the reasons and basis for the objection, and shall be filed with the Court and served upon (i) the attorneys for the Hosting Debtors, Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, New York 10022 (Attn: Lisa G. Laukitis, Esq.), (ii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 1004 (Attn: Pamela J. Lustrin, Esq.), (iii) the attorneys for the agent for the Hosting Debtors' prepetition lenders, Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin, III, Esq.), (iv) the attorneys for the Creditors Committee, Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizengoff, Esq.), and (v) the Buyer, WebOnTap, Inc., 70 Blanchard Road, Burlington, Massachusetts 01803 (Attn: Eric S. Ritvo, Esq.) so as to be actually received by such persons no later than June 15, 2004 at 4:00 p.m. (prevailing Eastern Time).

8. Pursuant to Bankruptcy Rule 2002, within five (5) Business Days following entry of the Bidding Procedures Orders, the Notice of Auction and Sale Approval Hearing, substantially in the form annexed hereto as Exhibit 1, shall be sent by first class mail to: (a) the Office of the United States Trustee; (b) the attorneys for the agent for the Prepetition Lenders; (c) the attorneys for the Creditors Committee; (d) all nondebtor contracting parties identified in Section 2.1 of the Purchase Agreement (including, but not limited to, those parties listed on the Schedules referenced in Section 2.1 of the Purchase Agreement); (e) the attorneys for the Buyer; (f) all parties who have made written expressions of interest in acquiring the Sale Assets or the Business within two (2) months prior to the date of the Motion; (g) all known persons holding a lien on any of the Sale Assets; (h) the Securities and Exchange Commission; (i) all taxing authorities that have jurisdiction over the Sale Assets; (j) all Governmental Agencies having jurisdiction over the Sale Assets with respect to Environmental Laws, (k) the attorneys general of all states in which the Sale Assets are located; and (l) all other parties that had filed a notice of appearance and demand for service of papers in these bankruptcy cases under Bankruptcy Rule 2002 as of the date hereof.

9. Pursuant to Bankruptcy Rule 2002, notice of the proposed assumption and assignment of the Assumed Contracts (the "Cure Procedures"), in the form annexed hereto as Exhibit 2 which shall reflect the Cure Amounts that the Hosting Debtors believe must be paid to cure all defaults under the Assumed Contracts, shall constitute good and sufficient notice of the Hosting Debtors' intent to assume and assign the Assumed Contracts, and shall be served, at Buyer's direction, no later than two (2) Business Days following the entry of the Bid Procedures Order, to all counterparties to

the Assumed Contracts. With respect to the Assumed Contracts, Buyer shall cooperate with Sellers to provide adequate assurance of future performance as required by section 365 of the Bankruptcy Code.

10. With respect to the proposed assumption and assignment of the Assumed Contracts, Cure Amounts that must be paid to cure defaults under the Assumed Contracts shall be determined in accordance with the following procedures (the “Cure Procedures”):

PROCEDURE	DESCRIPTION
<i>Notice of Assumption and Assignment Objection Deadline</i>	No later than two (2) Business Days following the entry of the Bid Procedures Order, the Hosting Debtors, or the Hosting Debtors’ noticing agent, shall serve a copy of the Bidding Procedures Order together with the Notice of the Hosting Debtors’ Intent to Assume and Assign Executory Contracts and Unexpired Leases (the “Contract Assignment Notice”), substantially in the form of Exhibit 2 annexed hereto, by first class mail to the Contract Parties notifying them of the Hosting Debtors’ intent to assume and assign each agreement listed in Section 2.1 of the Purchase Agreement (including, but not limited to, those on the Schedules referenced in Section 2.1 of the Purchase Agreement) (as it may be modified by that time) and of the Cure Amount determined by the Hosting Debtors for each such Assumed Contract to be necessary for such assumption and assignment on the Closing Date.

PROCEDURE	DESCRIPTION
<i>Assumption and Assignment Objections</i>	Any Contract Party seeking to (a) assert a Cure Amount based on defaults, conditions or pecuniary losses under its Assumed Contract (collectively, the “Cure Obligation”) different from that set forth on any of the Contract Assignment Notices or (b) object to the potential assumption and assignment of its Assumed Contract on any other grounds, shall be required to file and serve an objection (an “Assumption and Assignment Objection”), in writing, setting forth with specificity (i) any and all Cure Obligations that the Contract Party asserts must be cured or satisfied with respect to such Assumed Contract and/or (ii) if the objection to the potential assignment of such Assumed Contract is based on adequate assurance issues, the information required regarding the Buyer to satisfy the Contract Party’s adequate assurance concerns.
<i>Assumption and Assignment Objection Deadline</i>	To be considered a timely Assumption and Assignment Objection, the Assumption and Assignment Objection must be filed with the Court and a copy delivered to (i) the attorneys for the Hosting Debtors, Kirkland & Ellis LLP, Citigroup Center, 153 East 53 rd Street, New York, NY 10022-4611 (Attn: Lisa G. Laukitis, Esq.), (ii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 1004 (Attn: Pamela J. Lustrin, Esq.), (iii) the attorneys for the Prepetition Lenders, Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin, III, Esq.), (iv) the attorneys for the Creditors’ Committee, Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizengoff, Esq.), (v) the attorneys for the Buyer, WebOnTap, Inc., 70 Blanchard Road, Burlington, Massachusetts 01803 (Attn: Eric S. Ritvo, Esq.) and (vi) any other party or partner set forth in the Contract Assignment Notice so as to be received no later than 15 days after service of the Contract Assignment Notice (the “Assumption and Assignment Objection Deadline”); <u>provided, however</u> , that any Assumption and Assignment Objection made on the basis of adequate assurance of future performance in the event that Buyer is not the Successful Bidder may be made at any time until one (1) Business Day prior to the commencement of the Sale Approval Hearing.

PROCEDURE	DESCRIPTION
<i>Failure to File Assumption and Assignment Objection</i>	Unless an Assumption and Assignment Objection is timely filed and served by a Contract Party by the Assumption and Assignment Objection Deadline, the assumption and assignment of the applicable Assumed Contract at the Sale Approval Hearing may occur without regard to any objection such party may have or any provisions to the contrary in the applicable Assumed Contract.
<i>Waiver of Assumption and Assignment Objection</i>	Contract Parties that fail to file and serve Assumption and Assignment Objections as provided above shall be deemed to have waived and released any and all Cure Obligations and shall be forever barred and estopped from asserting or claiming against the Hosting Debtors, the Buyer or any other Successful Bidder that any additional amounts are due or defaults exist, or prohibitions or conditions to assignment exist or must be satisfied, under such Assumed Contract for the period prior to the closing date.

11. The Hosting Debtors are hereby authorized to take any and all actions necessary or appropriate to implement the Bidding Procedures and Cure Procedures.

Dated: New York, New York
_____, 2004

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

Allegiance Telecom, Inc., et al.,

Hosting Debtors.

Chapter 11

Case No. 03-13057 (RDD)

(Jointly Administered)

**NOTICE OF AUCTION AND HEARING
TO CONSIDER APPROVAL OF THE
SALE OF CERTAIN ASSETS OF THE DEBTORS**

NOTICE IS HEREBY GIVEN, as follows:

1. On May 4, 2004, Hosting.com, Inc., Allegiance Internet, Inc., Adgrafix Corporation, and Virtualis Systems, Inc. (collectively, the "Hosting Debtors") filed a motion (the "Motion") with the United States Bankruptcy Court for the Southern District of New York for orders (i) establishing bidding procedures and certain protections (the "Bidding Procedures") including a break-up fee payable to the Buyer¹; (ii) approving the form and manner of notice related to the sale of the Sale Assets; (iii) setting a hearing date (the "Sale Hearing") to consider approval of the sale of certain of the assets of the Hosting Debtors as provided in the Purchase Agreement (the "Sale Assets"); (iv) authorizing the procedures for assumption and assignment of certain executory contracts in connection with the sale of the Sale Assets (the "Sale Transaction"); and (v) granting certain related relief. The Successful Bidder at the Auction will

¹ Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the Motion or that certain purchase agreement between the Hosting Debtors and WebOnTap, Inc. dated April 28, 2004 (the "Purchase Agreement"), as applicable, and as modified by this Bidding Procedures Order (as defined below), as applicable.

agree to purchase the assets to be acquired, free and clear of all liabilities, obligations, claims, liens, and encumbrances on the same or better terms and conditions as those set forth in the Purchase Agreement entered into between the Hosting Debtors and the Buyer.

2. By order dated _____, 2004 (the "Bidding Procedures Order"), the Court authorized the Hosting Debtors, among other things, to conduct an Auction of the Sale Assets, if necessary, at Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, New York 10022, on June 16, 2004 at 10:00 a.m. (prevailing Eastern Time).

3. The Auction shall be conducted on the following terms and conditions of the Bidding Procedures:

PROVISION	DESCRIPTION
<i>The Stalking Horse Bid</i>	<p>Under the terms of the Purchase Agreement, the Buyer has agreed to purchase the Sale Assets for approximately \$1.0 million, plus Assumed Liabilities (the "Stalking Horse Bid"), subject to the terms of the Purchase Agreement.</p> <p>Until the entry of the Sale Approval Order, the Hosting Debtors are permitted to cause their Representatives and Affiliates to initiate contact with, solicit or encourage submission of any inquiries, proposals or offers by, any Person (in addition to Buyer and their Affiliates, agents and Representatives) in connection with any Competing Transaction, <u>provided, however, that</u>, the Hosting Debtors, its Representatives and Affiliates must reveal the existence of the Purchase Agreement to any such Person. In addition, the Hosting Debtors shall have the responsibility and obligation to respond to any inquiries or offers to purchase all or any part of the Sale Assets and perform any and all other acts related thereto which are required under the Bankruptcy Code or other applicable law, including, without limitation, supplying information relating to the Business and Sale Assets to prospective buyers.</p>
<i>Due Diligence</i>	<p>Unless otherwise determined by the Hosting Debtors, each potential bidder (a "Potential Bidder") must deliver (unless previously delivered) to (i) the attorneys for the Hosting Debtors, Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, NY 10022-4611 (Attn: Lisa G. Laukitis, Esq.) and (ii) the financial advisors to the Debtors, Greenhill & Co., LLC, 300 Park Avenue,</p>

PROVISION	DESCRIPTION
	<p>23rd Floor, New York, New York 10022 (Attn: Ryan Taylor), the following documents (the "Preliminary Bid Documents") in order to participate in the bidding process:</p> <ol style="list-style-type: none"> a. an executed confidentiality agreement in form and substance satisfactory to the Hosting Debtors and the Creditors Committee; and b. preliminary proof by the Potential Bidder of its financial capacity to close a proposed transaction, the adequacy of which the Hosting Debtors, the Creditors Committee and their respective advisors will determine in their sole discretion. <p>Within two (2) business days after a Potential Bidder delivers the Preliminary Bid Documents, the Hosting Debtors, the Creditors Committee and their respective advisors shall determine, and shall notify the Potential Bidder, whether the Potential Bidder has submitted acceptable Preliminary Bid Documents so that such Potential Bidder may conduct due diligence with respect to the Sale Assets sought to be acquired. Only those Potential Bidders that have submitted acceptable Preliminary Bid Documents may submit bids for the Sale Assets.</p>
<i>Bid Deadline</i>	<p>Bids for the Sale Assets must (a) be in writing; (b) at a minimum, exceed the Stalking Horse Bid by \$50,000; (c) satisfy the Bid Requirements set forth herein and (d) be received by (i) the attorneys for the Hosting Debtors, Kirkland & Ellis LLP, 153 East 53rd Street, New York, New York 10022 (Attn: Lisa G. Laukitis, Esq.), (ii) the financial advisors for the Hosting Debtors, Greenhill & Co., LLC, 300 Park Avenue, 23rd Floor, New York, New York 10022 (Attn: Ryan Taylor), (iii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 1004 (Attn: Pamela J. Lustrin, Esq.), (iv) the attorneys for the agent for the Prepetition Lenders, Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin, III, Esq.), and (v) the attorneys for the Creditors Committee, Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizengoff, Esq.), so as to be actually received no later than 4:00 p.m. (prevailing Eastern Time) on June 14, 2004 (the "Bid Deadline"). Such bids shall be deemed "Qualified Bids" and those parties submitting such Qualified Bids shall be "Qualified Bidders."</p> <p>Parties that do not submit a Qualified Bid by the Bid Deadline will not be permitted to participate at the Auction.</p>

PROVISION	DESCRIPTION
<i>Bid Requirements</i>	<p>Qualified Bids must meet the following requirements (the "Bid Requirements"):</p> <ol style="list-style-type: none"> a. Each Qualified Bid must be on the same or more favorable terms and conditions as those terms set forth in the Purchase Agreement and the documents set forth as exhibits and schedules thereto. The Hosting Debtors shall not entertain bids for the individual assets comprising their businesses. b. Each Qualified Bid must constitute a good faith, bona fide offer to acquire the Sale Assets. c. Each Qualified Bid shall not be conditioned on obtaining any of the following: financing, regulatory approval, shareholder approval, environmental contingencies, and/or the outcome of due diligence by the bidder. d. Each Qualified Bid must remain irrevocable until the Closing. e. As a condition to making a Qualified Bid, any competing bidder must provide the Hosting Debtors on or before the Bid Deadline, with sufficient and adequate information to demonstrate, to the satisfaction of the Hosting Debtors and the Creditors Committee, that such competing bidder (i) has the financial wherewithal and ability to consummate the acquisition of the Sale Assets, and (ii) can provide all nondebtor contracting parties to the Assumed Contracts with adequate assurance of future performance as contemplated by section 365 of the Bankruptcy Code. f. In order for a bid to constitute a Qualified Bid, any bidder shall submit a deposit equal to \$100,000 (the "Good Faith Deposit"). The bidder shall, in immediately available funds, by wire transfer to an account or accounts designated by the Hosting Debtors, pay such amount on the date such bid is submitted.
<i>Auction and Overbids</i>	<p>If no Qualified Bid is received by the Bid Deadline, the Auction will not occur and the Hosting Debtors shall promptly pursue entry of an order by the Court authorizing the Sale to the Buyer.</p> <p>If the Hosting Debtors receive a Qualified Bid by the Bid Deadline, in addition to the Stalking Horse Bid, the Hosting Debtors shall conduct an auction (the "Auction") with respect to the Sale Assets. The Auction shall commence at 10:00 a.m. (prevailing Eastern Time) on June 16, 2004, at the offices of Kirkland & Ellis LLP, Citigroup</p>

PROVISION	DESCRIPTION
	<p>Center, 153 East 53rd Street, New York, New York 10022-4611, or such later time or other place as the Hosting Debtors shall notify all Qualified Bidders who have submitted Qualified Bids. The Auction may be continued to a later date by the Hosting Debtors, with the reasonable consent of the Buyer and the Creditors Committee, by making an announcement at the Auction. No further notice of any such continuance will be required to be provided to any party.</p> <p>Subsequent bids at the Auction shall be made in increments of at least \$25,000.</p> <p>At the Auction, the Buyer shall have the right to bid all or part of the Break-Up Fee (as defined herein).</p>
<i>Winning Bid</i>	<p>Upon conclusion of the Auction, the Hosting Debtors, in the exercise of their business judgment and after consulting with their advisors and the Creditors Committee, shall identify the highest and best offer for the Sale Assets (the "Winning Bid") (the bidder having submitted a Winning Bid is the "Successful Bidder").</p>
<i>Sale Approval Hearing</i>	<p>The Sale Approval Hearing is presently scheduled to take place on June 18, 2004 at 10:00 a.m. (prevailing Eastern Time), before the Hon. Robert D. Drain, United States Bankruptcy Judge, in Room 610 of the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York, 10004-1408. The Sale Approval Hearing may be continued to a later date by the Hosting Debtors, with the reasonable consent of the Buyer and the Creditors Committee, by making an announcement at the Sale Approval Hearing. No further notice of any such continuance will be required to be provided to any party. At the Sale Approval Hearing, the Hosting Debtors shall present to the Bankruptcy Court for approval the Winning Bid for the Sale Assets.</p>
<i>Return of Good Faith Deposit</i>	<p>The Good Faith Deposit of the Successful Bidder shall be credited to the price paid for the Sale Assets. The Good Faith Deposit of any unsuccessful bidders will be returned within fifteen (15) days after the Closing Date or upon permanent withdrawal by the Hosting Debtors of the proposed sale of such assets. The deposit of the Buyer, if not chosen as the Winning Bid, shall be returned in accordance with the Purchase Agreement.</p>

PROVISION	DESCRIPTION
<i>Reservation of Right</i>	<p>The Hosting Debtors reserve the right to reject any (other than the Buyer's offer pursuant to the Purchase Agreement) Qualified Bid if the Hosting Debtors determine that such Qualified Bid is</p> <p>(i) inadequate or insufficient; (ii) not in conformity with the requirement of the Bankruptcy Code, any related rules or the terms set forth herein; or (iii) contrary to the best interests of the Hosting Debtors and their estates.</p> <p>Pursuant to the terms of the Purchase Agreement, the Hosting Debtors are obligated to provide the Buyer with Data (in a certain form and format) on the Closing Date. The Hosting Debtors and the Buyer have agreed to use commercially reasonable efforts to migrate all Customers to Buyer's servers within forty-five (45) days of the Closing Date.</p> <p>If the Hosting Debtors determine that accepting a Qualified Bid from a Potential Bidder would result in a delay of the receipt of such Data and therefore a delay in the migration of the Customers, the Hosting Debtors reserve the right to reject such Qualified Bid.</p>
<i>Break-Up Fee</i>	<p>In the event, among others set forth in the Purchase Agreement and as set forth below, that the Bankruptcy Court enters an order approving the Sale Transaction to a Successful Bidder other than Buyer, the Hosting Debtors shall pay to Buyer a break-up fee in the amount of \$37,500 (the "Break-Up Fee").</p>

4. The Bidding Procedures Order further provides that the Sale Hearing will be held following the Auction on June 18, 2004 at 10:00 a.m. (prevailing Eastern Time), before the Honorable Robert D. Drain, United States Bankruptcy Judge, in Room 610 of the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004-1408.

5. At the Sale Hearing, the Hosting Debtors shall request that the Court enter an order, among other things, approving the Purchase Agreement with the Successful Bidder and the Sale Transaction and providing that the transfer of the Sale Assets be exempt under section 1146(c) of the Bankruptcy Code from any stamp tax or similar tax.

6. At the Sale Hearing, the Court may enter such orders as it deems appropriate under applicable law and as required by the circumstances and equities of these cases. Objections, if any, to the relief requested in the Motion, other than the relief granted in the Bidding Procedures Order, shall be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court for the Southern District of New York, shall set forth the name of the objectant, the nature and amount of any claims or interests held or asserted against the Hosting Debtors' estates or properties, the basis for the objection and the specific grounds therefor, and shall be served upon (i) the attorneys for the Hosting Debtors, Kirkland & Ellis LLP, 153 East 53rd Street, New York, New York 10022 (Attn: Lisa G. Laukitis, Esq.), (ii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 1004 (Attn: Pamela J. Lustrin, Esq.), (iii) the attorneys for the agent for the Hosting Debtors' prepetition lenders, Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin III, Esq.), (iv) the attorneys for the Creditors Committee, Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizengoff, Esq.), and (v) the Buyer, WebOnTap, Inc., 70 Blanchard Road, Burlington, Massachusetts 01803 (Attn: Eric S. Ritvo, Esq.), so as to be actually received no later than June 15, 2004 at 4:00 p.m. (prevailing Eastern Time).

7. A copy of the Purchase Agreement is annexed as Exhibit A to the Motion.

All requests for information concerning the sale of the Sale Assets should be directed by written request to Kirkland & Ellis LLP, 153 East 53rd Street, New York, New York 10022 (Attn: Lisa G. Laukitis, Esq.).

Dated: New York, New York
_____, 2004

KIRKLAND & ELLIS LLP
Matthew A. Cantor, Esq.
Jonathan S. Henes, Esq.
Lisa G. Laukitis, Esq.
Kirkland & Ellis LLP
Citigroup Center
153 East 53rd Street
New York, New York 10022-4675
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Attorneys for Debtors and Debtors in Possession

EXHIBIT 2

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

Allegiance Telecom, Inc., et al.,

Hosting Debtors.

**Chapter 11
Case No. 03-13057 (RDD)**

(Jointly Administered)

**NOTICE OF DEBTORS' INTENT TO ASSUME
AND ASSIGN CERTAIN EXECUTORY CONTRACTS**

NOTICE IS HEREBY GIVEN, as follows:

1. On May 4, 2004, Hosting.com, Inc., Allegiance Internet, Inc., Adgrafix Corporation, and Virtualis Systems, Inc. (collectively, the "Hosting Debtors") filed a motion (the "Motion") with the United States Bankruptcy Court for the Southern District of New York for an order (i) establishing bidding procedures and certain protections (the "Bidding Procedures") including a break-up fee payable to the Buyer in connection with the sale of certain of the assets of the Hosting Debtors (the "Sale Assets"); (ii) approving the form and manner of notice related to the sale of the Sale Assets; (iii) approving the Purchase Agreement,¹ subject to higher and better offers; (iv) setting a hearing date to consider approval of the sale of the Sale Assets (the "Sale Hearing"); (v) approving the sale to the Buyer, subject to higher and better offers, free and clear of (a) all liens, claims and encumbrances and (b) certain transfer taxes; (vi) authorizing the

¹ Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the Motion or Purchase Agreement, as applicable.

assumption and assignment of certain executory contracts; and (vii) granting certain related relief.

2. Pursuant to the Motion and sections 363 and 365 of the Bankruptcy Code, the Hosting Debtors intend to assume and assign to the Buyer on the Closing Date, the Assumed Contract(s) listed on Exhibit A annexed hereto.

3. The Hosting Debtors have identified on Exhibit A annexed hereto the cure amount(s) that the Hosting Debtors believe must be paid to cure all defaults under the Assumed Contracts to which you are a party (in each instance, the "Cure Amount"). The Hosting Debtors believe that there are no non-monetary defaults (other than the filing of these chapter 11 cases) that will not be cured by payment of the Cure Amount. Pursuant to the Purchase Agreement, the Buyer is responsible for any Cure Amounts; provided, however, that the Buyer shall be able to set off any Cure Amounts from the final payment of the purchase price to be paid by the Buyer under the Purchase Agreement and in no event shall the Cure Amounts paid by Buyer exceed such final payment.

4. If you seek to (a) assert a Cure Amount based on defaults, conditions or pecuniary losses under your Assumed Contract (collectively, the "Cure Obligation") different from that set forth on Exhibit A annexed hereto or (b) object to the potential assumption and assignment of your Assumed Contract on any other grounds, you are required to file and serve an objection (an "Assumption and Assignment Objection"), in writing, setting forth with specificity (i) any and all Cure Obligations that you assert must be cured or satisfied with respect to such Assumed Contract and/or (ii) if the objection to the potential assignment of such Assumed Contract is based on adequate assurance issues, the information required regarding the Buyer to satisfy your adequate assurance concerns.

5. To be considered a timely Assumption and Assignment Objection, the Assumption and Assignment Objection must be filed with the Court and a copy delivered to the attorneys for the Hosting Debtors, Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, NY 10022-4611 (Attn: Lisa G. Laukitis, Esq.), (ii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 1004 (Attn: Pamela J. Lustrin, Esq.), (iii) the attorneys for the agent of the Prepetition Lenders, Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin, III, Esq.), (iv) the attorneys for the Creditors Committee, Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizengoff, Esq.), and (v) the Buyer, WebOnTap, Inc., 70 Blanchard Road, Burlington, Massachusetts 01803 (Attn: Eric S. Ritvo, Esq.), so as to be received no later than 15 days after service of this “Notice” (the “Assumption and Assignment Objection Deadline”); provided, however, that any Assumption and Assignment Objection made on the basis of adequate assurance of future performance in the event Buyer is not the Successful Bidder may be made at any time until one (1) Business Day prior to the commencement of the Sale Approval Hearing.

6. Unless your Assumption and Assignment Objection is timely filed and served by the Assumption and Assignment Objection Deadline, the assumption and assignment of the applicable Assumed Contract at the Sale Approval Hearing may occur without regard to any objection you may have or any provisions to the contrary in the applicable Assumed Contract.

7. If you fail to file and serve Assumption and Assignment Objections as provided above you shall be deemed to have waived and released any and all Cure Obligations and shall be forever barred and estopped from asserting or claiming against the Hosting Debtors,

the Buyer or any other Successful Bidder of the relevant contract that any additional amounts are due or defaults exist, or prohibitions or conditions to assignment exist or must be satisfied, under such Assumed Contract for the period prior to the Closing Date.

8. Hearings with respect to the Assumption and Assignment Objections may be held at such other date as the Court may designate upon motion by the Hosting Debtors and the Buyer or Successful Bidder, provided, that, if the subject Assumed Contracts are assumed and assigned, the cure amount asserted by the objecting party (or such lower amount as may be agreed to by the parties or fixed by the Court) shall be deposited by Buyer, in accordance with Buyer's liabilities for Cure Amounts pursuant to the Purchase Agreement, and held in a segregated account by the Buyer, pending further order of the Court or mutual agreement of the parties. The fact that any Assumption and Assignment Objections are not resolved shall not prevent or delay the occurrence of the date of assumption and assignment of any Assumed Contracts, and the objector's only recourse after the relevant assumption date shall be to the segregated amounts.

9. If you agree that there are no cure amounts due under the Assumed Contract, and otherwise do not object to the Hosting Debtors' assumption and assignment of your Assumed Contract, you need not take any further action.

10. The Buyer reserves the right to exclude or add any Assumed Contract from or to the proposed sale and to withdraw the request to assume and assign any Assumed Contract pursuant to the terms of the Purchase Agreement.

11. The Hosting Debtors' decision to assume and assign to the Buyer the Assumed Contracts is subject to Court approval and the Closing Date. Accordingly, the Hosting Debtors shall be deemed to have assumed and assigned each of the Assumed Contracts as of the

Closing Date. Absent such Closing, any of the affected Assumed Contracts shall not be deemed assumed nor assigned, and shall in all respects be subject to further administration under the Bankruptcy Code. The inclusion of any document on the list of Assumed Contracts shall not constitute or be deemed to be a determination or admission by the Hosting Debtors or the Buyer that such document is, in fact, an executory contract within the meaning of the Bankruptcy Code (all rights with respect thereto being expressly reserved).

Dated: New York, New York
[insert date], 2004

KIRKLAND & ELLIS LLP

By: _____
Matthew A. Cantor, Esq. (MC-7727)
Jonathan S. Henes, Esq. (JH-1979)
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Attorneys for Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

Allegiance Telecom, Inc., et al.,

Hosting Debtors.

Chapter 11

Case No. 02-130507 (RDD)

(Jointly Administered)

**ORDER (I) APPROVING THE SALE OF CERTAIN ASSETS FREE AND CLEAR
OF ALL LIENS, CLAIMS AND ENCUMBRANCES TO THE SUCCESSFUL BIDDER,
(II) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN
EXECUTORY CONTRACTS AND (III) GRANTING RELATED RELIEF**

Upon the motion, dated May 4, 2004 (the "Motion") of Hosting.com, Inc., Allegiance Internet, Inc., Adgrafix Corporation, and Virtualis Systems, Inc., as debtors and debtors in possession (collectively, the "Hosting Debtors"), for an order (i) approving the sale of the Sale Assets,¹ free and clear of (a) all liens, claims and encumbrances and (b) certain transfer taxes, to the successful bidder (the "Successful Bidder"); (ii) authorizing the assumption and assignment of certain executory contracts; and (iii) granting certain related relief, and the Court having entered an order (the "Bidding Procedures Order") on [insert date]__ 2004, approving the Bidding Procedures (as defined therein); and the Court having held a hearing on June 18, 2004, to approve the relief requested in the Motion (the "Sale Hearing"); and it appearing that notice of the Sale Hearing has been provided to (i) the Office of the United States Trustee; (ii) the attorneys for the agent for the Prepetition Lenders; (iii) the attorneys for the Creditors Committee; (iv) all nondebtor contracting parties identified in Section 2.1 of the Purchase Agreement (including those parties listed on the Schedules referenced in Section 2.1 of the

¹ Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion or the Purchase Agreement, as applicable.

Purchase Agreement), (v) the attorneys for the Buyer; (vi) all parties who have made written expressions of interest in acquiring the Sale Assets within two (2) months prior to the date of the Motion; (vii) all known persons holding a lien on any of the Sale Assets; (viii) the Securities and Exchange Commission; (ix) all taxing authorities that have jurisdiction over the Sale Assets; (x) all Governmental Agencies having jurisdiction over the Sale Assets with respect to Environmental Laws, (xi) the attorneys general of all states in which the Sale Assets are located; and (xii) all other parties that had filed a notice of appearance and demand for service of papers in these bankruptcy cases under Bankruptcy Rule 2002 as of the date of the Motion; and it appearing that such notice constitutes good and sufficient notice of the Motion and Sale Hearing and that no other or further notice need be provided; and upon the Motion and the record of the Sale Hearing and all other proceedings had before the Court; and it appearing that an order approving the transaction(s) contemplated in the Purchase Agreement is in the best interests of the Hosting Debtors and all parties in interest; and it appearing that the Court has jurisdiction over this matter; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:

A. This Court has jurisdiction over the Motion under 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding under 28 U.S.C. § 157(b)(2)(A). Venue of these cases and the motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

B. The statutory predicates for the relief sought in the Motion are sections 105(a), 363(b), (f), (m), and (n) of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006, and 9014.

C. Proper, timely, adequate, and sufficient notice of the Motion and the sale set forth herein (the "Sale") has been provided in accordance with sections 105(a) and 363 of the

Bankruptcy Code and Bankruptcy Rules 2002, 2002(i), 6004, and 9014, in compliance with the Order Establishing Notice Procedures, dated May 15, 2003, and in compliance with the Bidding Procedures Order, such notice was good and sufficient, and appropriate under the particular circumstances, and no other or further notice of the Motion or the Sale Hearing is or shall be required.

D. As demonstrated by the pleadings and affidavit of publication filed herein, the Hosting Debtors have marketed the Sale Assets and conducted the sale process in compliance with the Bidding Procedures Order and have completed a full and complete auction process.

E. No consents or approvals, other than those expressly set forth in and required by the Purchase Agreement or expressly set forth herein, are required for the Hosting Debtors or Buyer to consummate the transaction(s) contemplated in the Purchase Agreement.

F. Approval of the Purchase Agreement and consummation of the transaction(s) contemplated therein at this time are in the best interests of the Hosting Debtors, their creditors, and their estates.

G. The Hosting Debtors have demonstrated both (i) good, sufficient, and sound business purpose and justification and (ii) compelling circumstances for approval of the sale transaction(s) contemplated in the Purchase Agreement pursuant to section 363(b) of the Bankruptcy Code and in connection with a plan of reorganization.

H. A 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.

I. The Purchase Agreement was negotiated, proposed, and entered into by the Hosting Debtors and Buyer, in good faith, without collusion, and from arm's-length bargaining positions. Neither the Hosting Debtors nor Buyer have engaged in any conduct that

would cause or permit the Purchase Agreement to be avoided under section 363(n) of the Bankruptcy Code. Buyer is not an “insider” of any of the Hosting Debtors, as that term is defined in Bankruptcy Code section 101.

J. Buyer is a good faith purchaser under section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby. Buyer will be acting in good faith within the meaning of section 363(m) of the Bankruptcy Code in closing the transactions contemplated by the Purchase Agreement at all times after the entry of this Order.

K. The Purchase Agreement was not entered into for the purpose of hindering, delaying, or defrauding creditors under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia.

L. The Purchase Price for the Sale Assets pursuant to the Purchase Agreement (i) is fair and reasonable, (ii) is the highest or best offer for the Sale Assets, and (iii) 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.

M. The transfer of the Sale Assets to Buyer will be a legal, valid, and effective transfer of the Sale Assets, and will vest Buyer with all rights, title, and interest in and to the Sale Assets free and clear of all liens, claims, encumbrances, and interests, which have, or could have, been asserted by the Hosting Debtors or their creditors.

**NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND
DECREEED THAT:**

1. The Motion is granted.
2. All objections to the Motion or the relief requested therein, if any, that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are hereby overruled on the merits.

Approval of the Purchase Agreement

3. The Purchase Agreement and all of the terms and conditions thereof are hereby approved.
4. Pursuant to section 363(b) of the Bankruptcy Code, the Hosting Debtors and Buyer are authorized and directed to consummate the Sale Transaction, pursuant to and in accordance with the terms and conditions of the Purchase Agreement.
5. The Hosting Debtors are authorized and directed to execute and deliver, and empowered to perform under, 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 all further actions as may be reasonably requested by Buyer as may be necessary or appropriate to the performance of the obligations as contemplated by the Purchase Agreement.

6. The Hosting Debtors have completed a full and complete auction process.

Transfer of the Sale Assets

7. Pursuant to sections 105(a), 363(b) and 363(f) of the Bankruptcy Code, the transfer of the Sale Assets to Buyer on the Closing shall vest Buyer with all rights, title, and interest in and to the Sale Assets and shall be, free and clear of all liens, claims, encumbrances,

and interests which have, or could have, been asserted by the Hosting Debtors or their creditors in connection with the Hosting Debtors' chapter 11 cases, if any, with all such liens, claims, encumbrances, and interests of any kind or nature whatsoever to attach to the net proceeds that the Hosting Debtors ultimately realize from the sale transaction contemplated herein in the order of their priority, with the same validity, force and effect which they now have as against the Sale Assets, subject to any claims and defenses the Hosting Debtors may possess with respect thereto.

8. Buyer shall have no liability or responsibility for any liability or other obligation of the Hosting Debtors arising under or related to the Sale Assets other than as expressly set forth in the Purchase Agreement and in no event shall Buyer have any liability or responsibility for any Excluded Liabilities. Without limiting the effect or scope of the foregoing, the transfer of the Sale Assets from the Hosting Debtors to Buyer does not and will not subject Buyer or its affiliates, successors or assigns or their respective properties (including the Sale Assets) to any liability for claims (as that term is defined in section 101(5) of the Bankruptcy Code) against the Hosting Debtors or the Sale Assets by reason of such transfer under the laws of the United States or any state, territory or possession thereof applicable to such transactions. Neither Buyer nor its affiliates, successors, or assigns shall be deemed, as a result of actions taken in connection with the purchase of the Sale Assets: (i) to be a successor to the Hosting Debtors (except for purposes of section 1145 of the Bankruptcy Code) or (ii) be a continuation or substantial continuation of the Hosting Debtors or any enterprise of the Hosting Debtors. Neither Buyer nor its affiliates, successors, or assigns is acquiring or assuming any liability, warranty, or other obligation of the Hosting Debtors, including, without limitation, any tax incurred but unpaid by the Hosting Debtors prior to the date of the Closing (except as expressly set forth in the Purchase Agreement), including, but not limited to, any tax, any fine or penalty

relating to a tax, or any addition to a tax, whether or not previously assessed, fixed or audited, whether or not paid, and whether or not contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction, except as otherwise expressly provided in the Purchase Agreement.

Assumption and Assignment of Assumed Contracts to Buyer

9. Pursuant to sections 105(a) and 365 of the Bankruptcy Code, on the Closing, the Hosting Debtors' assumption and assignment to Buyer and Buyer's assumption on the terms and conditions set forth in the Purchase Agreement of the Assumed Contracts is hereby approved, provided that the requirements of section 365(b)(1) of the Bankruptcy Code with are satisfied as set forth in the Hosting Debtors Notice of Intent to Assume and Assign (as defined below).

10. Subject to the Closing, the Hosting Debtors are hereby authorized and directed in accordance with sections 105(a) and 365 of the Bankruptcy Code to (a) assume and assign to Buyer the Assumed Contracts free and clear of all liens, claims, and encumbrances as well as all interests of any kind or nature whatsoever and (b) execute and deliver to Buyer such documents or other instruments as may be necessary to assign and transfer the Assumed Contracts to Buyer.

11. The Assumed Contracts shall be transferred to, and remain in full force and effect for the benefit of, Buyer in accordance with their respective terms, notwithstanding any provision in any of the Assumed Contracts (including those of the type described in sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or transfer and, pursuant to section 365(k) of the Bankruptcy Code, the Hosting Debtors shall be

relieved from any further liability with respect to the Assumed Contracts after such assignment to and assumption by Buyer.

12. All defaults or other obligations of the Hosting Debtors under the Assumed Contracts (without giving effect to any acceleration clauses or any default provisions of the kind specified in section 365(b)(2) of the Bankruptcy Code) shall be promptly cured by the Buyer as set forth in the Purchase Agreement as provided in Bankruptcy Code section 365(b)(1) and the cure amounts with respect to the Assumed Contracts will be those amounts (the “Cure Amounts”) established in accordance with the procedures set forth in the Bidding Procedures Order and Exhibit 2 thereto.

13. With the exception of the Cure Amounts, except as otherwise set forth herein, each nondebtor party to an Assumed Contract hereby will be forever barred, estopped, and permanently enjoined from asserting against the Hosting Debtors or Buyer, or the property of any of them, any default existing under the Assumed Contracts as of the Closing; or, against Buyer, any counterclaim, defense, setoff, or any other claim under the Assumed Contracts asserted or assertable against the Hosting Debtors.

14. If the Hosting Debtors receive an objection to the cure amounts (the “Cure Amount Objection”) in the Notice of Intent to Assume and Assign, they shall attempt to resolve such disputed cure amounts with the party asserting the objection. If consensual resolution of the Cure Amount Objection cannot be reached, the Buyer, as provided in the Purchase Agreement, will (i) pay in full the undisputed portion of such Cure Amount on or before the applicable date of assumption and (ii) segregate the disputed portion of such cure amount (the “Segregated Amounts”) pending the resolution of the Cure Amount Objection by this Court or by mutual agreement of the parties. In light of these procedures, the fact that any Cure Amount Objection

is not resolved shall not prevent or delay the occurrence of the date of assumption or the assumption and assignment of any Assumed Contracts, and the objectors' only recourse after the relevant date of assumption shall be to the segregated amounts.

Additional Provisions

15. Any amounts payable by the Hosting Debtors pursuant to the Purchase Agreement or any of the documents delivered by the Hosting Debtors pursuant to or in connection with the Purchase Agreement shall (i) constitute administrative priority expenses of the Hosting Debtors' estates pursuant to Bankruptcy Code sections 503(b) and 507(a)(1), except as otherwise specifically provided in the Purchase Agreement, (ii) be paid by the Hosting Debtors in the time and manner provided in the Purchase Agreement without further order of this Court, and (iii) not be discharged, modified, or otherwise affected by any plan of reorganization of any of the Hosting Debtors.

16. On the date of the Closing, each of the Hosting Debtors' creditors is authorized and directed to execute such documents and take all other actions as may be necessary to release its interest in the Sale Assets, if any, as such interests may have been recorded or may otherwise exist.

17. Regardless of whether the Hosting Debtors' creditors execute the releases set forth in the above paragraphs, this Order (a) shall be effective as a determination that, on the date of the Closing, all liens, claims, security interests, encumbrances, and interests of any kind or nature whatsoever existing with respect to the Hosting Debtors and the Sale Assets prior to the Closing have been unconditionally released, discharged and terminated, 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, 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 or insure any title or state of title in or to any of the Sale Assets.

18. Each and every federal, state, and local governmental agency or department is hereby directed to accept for filing and/or recording and approve as necessary any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement.

19. If any person or entity that has filed financing statements, mortgages, mechanic's liens, *lis pendens*, or other documents or agreements evidencing claims or interests with respect to the Hosting Debtors or the Sale Assets shall not have delivered to the Hosting Debtors prior to the date of the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all interests which the person or entity has with respect to the Hosting Debtors or the Sale Assets or otherwise, then (a) the Hosting 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 Sale Assets and (b) Buyer is hereby authorized to file, register, or otherwise record a certified copy of this Order, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all claims and interests in the Sale Assets of any kind or nature whatsoever.

20. Pursuant to sections 105(a) and 1146(c) of the Bankruptcy Code, the transfer of the Sale Assets in connection with the Bankruptcy Plan is not subject to taxation under any federal, state, local, municipal, or other law imposing or purporting to impose a stamp,

or any other similar tax on any of the Hosting Debtors' transfers or conveyances of the Sale Assets, which includes real estate, personal property, and any other assets and is deemed to be part of a plan pursuant to section 1146(c) of the Bankruptcy Code.

21. All entities who presently are in possession of some or all of the Sale Assets are hereby directed to surrender possession of the Sale Assets to the Hosting Debtors at the Closing.

22. The Hosting Debtors are hereafter not permitted to cause their Representatives to initiate contact with, solicit or encourage submission of any inquiries, proposals or offers by, any Person in connection with any inquiry, proposal, offer, sale or other disposition related to any or all of the Sale Assets.

23. This Court retains jurisdiction to enforce and implement the terms and provisions of the Purchase Agreement (including the breach of the Purchase Agreement), all amendments thereto, any waivers and consents thereunder, and of each of the agreements executed in connection therewith in all respects.

24. The transaction contemplated by the Purchase Agreement is undertaken by Buyer in good faith, as that term is used in section 363(m) of the Bankruptcy Code. Accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the transaction(s) contemplated herein shall not affect the validity of the sale of the Sale Assets to Buyer, unless such authorization is duly stayed pending such appeal. Buyer is a purchaser in good faith of the Sale Assets, and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

25. The Purchase Agreement and the transactions and instruments contemplated hereby shall be specifically performed and enforceable against and binding upon,

and not subject to rejection or avoidance by, the Hosting Debtors, and their respective affiliates, successors, and assigns, or any chapter 7 or chapter 11 trustee of the Hosting Debtors and their estates.

26. The Purchase Agreement and the transactions and instruments contemplated hereby shall be specifically performable and enforceable against and binding upon, and not subject to rejection or avoidance by, the Hosting Debtors or any chapter 7 or chapter 11 trustee of the Hosting Debtors and their estates.

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

28. The Purchase Agreement 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.

29. Notwithstanding the provisions of Bankruptcy Rules 6004(g) and 6006(d), there is no stay pursuant to Bankruptcy Rule 6004(g) and this Order shall be effective and enforceable immediately upon entry.

Dated: New York, New York
_____, 2004

UNITED STATES BANKRUPTCY JUDGE

ASSET PURCHASE AGREEMENT

BY AND AMONG

HOSTING.COM, INC.,

ALLEGIANCE INTERNET, INC.,

ADGRAFIX CORPORATION

AND

VIRTUALIS SYSTEMS, INC.

AND

WEBONTAP, INC.

SIGNING DATE: APRIL 28, 2004

ASSET PURCHASE AGREEMENT

BY AND AMONG

HOSTING.COM, INC.,

ALLEGIANCE INTERNET, INC.,

ADGRAFIX CORPORATION

AND

VIRTUALIS SYSTEMS, INC.

AND

WEBONTAP, INC.

SIGNING DATE: APRIL 28, 2004

INDEX

TAB

Asset Purchase Agreement ("Agreement") among Hosting.com, Inc., Allegiance Internet, Inc., Adgrafix Corporation and Virtualis Systems, Inc. (collectively, "Seller") and WebOnTap, Inc. ("Buyer")	1
Exhibits to the Agreement.....	2
Exhibit 7.2(f) — Trademark Assignment Agreement	
Disclosure Schedules of Seller to the Agreement	3
Disclosure Schedules of Buyer to the Agreement.....	4

EXECUTION COPY

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this "Agreement") is dated as of April __, 2004, by and among Hosting.com, Inc., a Delaware corporation, Allegiance Internet, Inc., a Delaware corporation, Adgrafix Corporation, a Delaware corporation and Virtualis Systems, Inc., a California corporation (collectively, "Seller"), and WebOnTap, Inc., a Delaware corporation ("Buyer").

WITNESSETH:

WHEREAS, each Seller is engaged in the business of providing shared web hosting services (the "Business");

WHEREAS, on May 14, 2003, each Seller, along with its Affiliates, commenced a case (the "Case") under chapter 11 of title 11 of the United States Code, 11 U.S.C. sections 101 et seq. (the "Bankruptcy Code") by filing a voluntary petition with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court");

WHEREAS, the sale of assets and liabilities of the Business are subject to the supervision and control of the Seller subject to the approval of the Bankruptcy Court; and

WHEREAS, Seller wishes to sell to Buyer and Buyer wishes to purchase from Seller certain assets and to assume from Seller certain liabilities of the Business, pursuant to, inter alia sections 363 and 365 of the Bankruptcy Code and the applicable Federal Rules of Bankruptcy Procedure.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to the terms and conditions hereof, the parties, intending to be legally bound, hereby agree as follows:

ARTICLE I
DEFINITIONS

1.1. Defined Terms. As used herein, the terms below shall have the following respective meanings:

"Affiliate" shall mean (i) any Person directly or indirectly controlling, controlled by or under common control with another person where "control" means the possession, directly or indirectly, of the power to direct the management and policies of a Person whether through the ownership of voting securities, by contract or otherwise; and (ii) any Person owning or controlling 20% or more of the outstanding voting securities of such other Person.

"Agreement" shall mean this Asset Purchase Agreement (together with all schedules and exhibits referenced herein).

"Business Day" shall mean any day other than a Saturday, Sunday or a legal holiday on which banking institutions in the State of New York are not required to open.

"Environmental Laws" means all federal, state, and local statutes, regulations and ordinances concerning the pollution or protection of the environment, including without limitation the Clean Air Act, the Clean Water Act, the Solid Waste Disposal Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Federal Insecticide, Fungicide and Rodenticide Act, and the Emergency Planning and Community Right-to-Know Act of 1986.

"Governmental Entity" shall mean any (i) federal, state, local, municipal, foreign or other government; (ii) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, or entity and any court or other tribunal); or (iii) body exercising, or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature, including any arbitral tribunal.

"Law" means any federal, state, local or foreign statute, law, ordinance, regulation, rule, code, order, principle of common law, judgment enacted, promulgated, issued, enforced or entered by any Governmental Entity, or other requirement or rule of law.

"Liabilities" shall mean, as to any Person, all debts, adverse claims, liabilities, commitments, responsibilities, and obligations of any kind or nature whatsoever, direct, indirect, absolute or contingent, of such Person, whether accrued, vested or otherwise, whether known or unknown and whether or not actually reflected, or required to be reflected, in such Person's balance sheets or other books and records.

"Lien" shall mean any claim, pledge, option, charge, hypothecation, easement, security interest, right-of-way, encroachment, mortgage, deed of trust or other encumbrance.

"Material Adverse Effect" shall mean any effect or change that would be materially adverse to the Business, taken as a whole or any development which could be reasonably expected to delay or prevent the consummation of the transactions contemplated hereby; provided that none of the following shall be deemed to constitute and none of the following shall be taken into account in determining whether there has been a Material Adverse Effect: (a) any adverse change, event, development, or effect arising from or relating to (1) general business or economic conditions, including such conditions related to the Business (2) national or international political or social conditions, including the engagement of United States in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the United States, or any of its territories, possessions, or diplomatic or consular offices or upon any military installation, equipment or personnel of the United States, (3) financial, banking, or securities markets (including any disruption thereof and any decline in the price of any security or any market index), (4) changes in United States generally accepted accounting principles, (5) changes in Law, rules, regulations, orders, or other binding directives issued by any Governmental Entity relating directly or

indirectly to the Business or (6) the taking of any action contemplated by this Agreement and the other agreements contemplated hereby, (b) any existing event, occurrence, or circumstance with respect to which Buyer has knowledge as of the date hereof which existing event, occurrence, or circumstance is included on the disclosure schedules attached hereto, (c) any adverse change in or effect on the Business arising out of or in connection with the Case, and (d) any adverse change in or effect on the Business that is cured before the earlier of (1) the Closing Date and (2) the date on which this Agreement is terminated pursuant to Article VIII hereof.

"Migration Date" shall mean the date when substantially all of the Seller's shared web site hosting Customers are Successfully Migrated to Buyer's servers.

"Order" shall mean any judgment, order, injunction, writ, ruling, decree, stipulation or award of any Governmental Entity or private arbitration tribunal.

"Person" shall mean an individual, a partnership, a joint venture, a corporation, a business trust, a limited liability company, a trust, an unincorporated organization, a joint stock company, a labor union, an estate, a Governmental Entity or any other entity.

"Post-Petition" shall mean any time after the commencement of the Case.

"Procedures Order" shall mean an Order of the Bankruptcy Court, in form and substance reasonably satisfactory to Buyer, as more particularly described in Section 6.9(b) of this Agreement.

"Proceeding" shall mean any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative, investigative, or informal) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Entity or arbitrator.

"Representative" shall mean, with respect to any Person, such Person's officers, directors, employees, agents and representatives (including any investment banker, financial advisor, accountant, legal counsel, agent, representative or expert retained by or acting on behalf of such Person or its subsidiaries).

"Sale Hearing" shall mean the hearing to be scheduled and conducted by the Bankruptcy Court to consider approval and entry of the Approval Order.

"Sale Motion" shall mean the motion or motions of Seller, in form and substance reasonably acceptable to Buyer, seeking approval and entry of the Procedures Order and the Approval Order.

"Seller's Knowledge" and any similar terms used herein means the actual knowledge of Royce J. Holland, C. Daniel Yost, Thomas M. Lord, G. Clay Myers, Christopher MacFarland and Mark B. Tresnowski, without any duty to investigate.

"Successfully Migrated" shall mean that (i) a Customer's web site has been migrated in all material respects to Buyer's designated hosting platform and such web site is operational in a manner consistent with Seller's operations on its hosting platform prior to the

Closing Date; (ii) the Seller has transferred all of the Customer's billing, Customer and support records, technical information, domain names, namesources and other applicable records to Buyer; (iii) the Customer's name server records point to Buyer's name server and Customer's web sites and mx records resolve to Buyer's servers; (iv) all Customers' incoming email requests are being routed to Buyer's servers and (v) Seller has provided the data to Buyer in accordance with Section 6.12(c).

"Tax" or "Taxes" shall mean any federal, state, county, local, foreign and other income, profits, gains, net worth, sales and use, ad valorem, gross receipts, business and occupation, license, estimated, stamp, custom duties, occupation, property (real or personal), franchise, capital stock, license, excise, value added, payroll, employees, income withholding, social security, unemployment or other tax, together with any penalty, addition or interest with respect thereto.

"Transfer Tax" or "Transfer Taxes" shall mean any federal, state, county, local, foreign and other sales, use, transfer, conveyance, documentary transfer, recording or other similar tax, fee or charge imposed upon the sale, transfer or assignment of property or any interest therein or the recording thereof, and any penalty, addition to tax or interest with respect thereto, but such term shall not include any tax on, based upon or measured by, the net income, gains or profits from such sale, transfer or assignment of the property or any interest therein.

"Web Site Hosting (Shared) Account" means the total number of accounts listed in columns B and D of Schedule 2.1(a).

1.2.Other Defined Terms. The following additional terms shall have the meanings defined for such terms in the Sections set forth below:

<u>Term</u>	<u>Section</u>
Allocation Schedule	3.4
Approval Order	7.1(b)
Assets	2.1
Assumed Contracts	2.1(c)
Assumed Liabilities	2.3
Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Break Up Fee	6.9(e)
Business	Recitals
Buyer	Preamble
Buyer Group	9.12
Case	Recitals
Claim Over	9.12
Closing	3.1(a)
Carrying Cost	6.12(b)
Closing Date	3.1(a)
Competing Transaction	6.10
Cure Amounts	2.5
Customers	2.1(a)

<u>Term</u>	<u>Section</u>
Customer Contracts	2.1(a)
Equipment	2.1(b)
Excluded Assets	2.2
Excluded Liabilities	2.4
Final Payment	3.3(b)
Intellectual Property	2.1(d)
Losses	9.12
Migration Support Period	6.12(a)
Non-Recourse Person	9.12
Overbid Procedures	6.9(d)
Proposed Agreement	6.9(c)
Purchase Price	3.3
Security Deposit	3.2
Seller	Preamble
Third Person	9.12
Trademark Assignment Agreement	7.2(f)

ARTICLE II TRANSFER OF ASSETS AND LIABILITIES

2.1.Assets to be Sold. Subject to Section 2.2, the other provisions of this Agreement and the Approval Order, at Closing, Seller shall sell, convey, assign, transfer and deliver to Buyer, and Buyer shall purchase, acquire, and accept the following assets and rights (collectively, the "Assets");

(a) Seller's shared web hosting contracts with customers as listed on Schedule 2.1(a) (such contracts, the "Customer Contracts" and such customers, the "Customers") including all relevant billing, customer, support, technical information, domain names and other applicable records relating exclusively to such customers;

(b) The equipment (i.e., servers and racks) owned by Seller, and pertaining exclusively to the operation of the Business as set forth on Schedule 2.1(b) (collectively, the "Equipment"), and all warranties, if any, express or implied, existing for the benefit of any Seller from third parties relating to the Equipment to the extent transferable;

(c) The contracts and agreements of Seller as set forth on Schedule 2.1(c) (collectively with the Customer Contracts, the "Assumed Contracts");

(d) All of Seller's right, title and interest to the name "Hosting.com" and all of Seller's right, title or interest in or to any of Seller's patents, patent registrations, patent applications, trademarks, trademark registrations, trademark applications, tradenames, copyrights, copyright applications, or copyright registrations relating exclusively to the Business as set forth on Schedule 2.1(d), and the rights to sue for, and remedies against, past, present and future infringements thereof and the rights of priority and protection of interests therein under applicable Laws (collectively, the "Intellectual Property");

(e) Computer software programs, including operating systems, application software, databases, database software and architecture used by Seller, whether owned, licensed, leased, or internally developed as listed on Schedule 2.1(e) (in each case, subject to applicable restrictions on assignment and transfer or otherwise);

(f) Any and all domain name registration accounts associated with the www.wsmdomains.com business, including the sale, transfer and assignment of Adgrafix Corporation's reseller agreement with TUCOWS.com Inc. (the "WSM Domain Business") (in each case, subject to applicable restrictions on assignment and transfer or otherwise);

(g) Domain names used by Seller in the conduct of the Business and listed on Schedule 2.1(g);

(h) The lock box and toll-free Customer support telephone numbers set forth on the attached Schedule 2.1(h); and

(i) The accounts receivable set forth on the attached Schedule 2.1(i).

2.2.Excluded Assets. Notwithstanding anything in this Agreement to the contrary, except for the Assets described above in Section 2.1, Buyer is not purchasing any other assets or any customers of Seller or assuming any liabilities of the Seller (other than the liability of Seller, subject to the terms hereof, to provide services to the Customer's listed on Schedule 2.1(a) once the Customers' sites have been Successfully Migrated to Buyer's servers and the Assumed Liabilities described below) whether in connection with the Seller's business or otherwise. The Assets shall not include any of Seller's right, title or interest in or to any assets or properties of Seller that are not expressly enumerated in Section 2.1 above (or the Schedules identified in Section 2.1 attached hereto), including but not limited to the following (collectively, the "Excluded Assets"):

(a) Any accounts receivable not listed on Schedule 2.1(i); and

(b) Any cash or cash equivalents.

2.3.Liabilities to be Assumed by Buyer. Upon the transfer of the Assets on the Closing Date, Buyer shall assume and pay when due and discharge the following Liabilities (collectively, the "Assumed Liabilities"):

(a) Liabilities arising out of or related to the ownership of the Assets, including, without limitation, Liability for personal injury of Customers, but only to the extent that the event or state of facts giving rise to such Liability occurs following the Closing Date;

(b) Liabilities under the Assumed Contracts, but only to the extent that the event or state of facts giving rise to such Liability occurs following the Closing Date;

(c) Liabilities under accounts payable related to the Business, together with any interest accrued thereon, but only to the extent that the event or state of facts giving rise to such Liability occurs following the Closing Date;

(d) Liabilities to provide web hosting and related services after the Closing Date to existing Customers that have prepaid for such services under existing Customer Contracts; and

(e) Liabilities for any of the items set forth on Schedule 2.3(e).

2.4. Excluded Liabilities. Except as otherwise set forth in this Agreement, Buyer shall not assume, and shall be deemed not to have assumed, any Liabilities except for the Assumed Liabilities, and Seller shall be solely and exclusively liable with respect to all Liabilities of Seller other than the Assumed Liabilities (collectively, the "Excluded Liabilities").

2.5. Assumed Contracts. At Closing and pursuant to section 365 of the Bankruptcy Code, Seller shall assume and assign to Buyer the Assumed Contracts. The cure amounts, as determined by the Bankruptcy Court, if any (the "Cure Amounts"), necessary to cure all defaults, if any, and to pay all actual or pecuniary losses that have resulted from such defaults under the Assumed Contracts, shall be paid by Buyer and not by Seller and, notwithstanding anything to the contrary contained herein, Seller shall have no Liability therefor; provided that Buyer shall be able to set off any Cure Amounts from the Final Payment of the Purchase Price to be paid by Buyer in accordance with Section 3.3(b) below. In no event shall the Cure Amounts paid by Buyer exceed the Final Payment.

ARTICLE III CLOSING

3.1. Closing; Purchase Price.

(a) Unless this Agreement shall have been terminated and the transactions herein contemplated shall have been abandoned pursuant to Article VIII hereof, the closing of the transactions contemplated herein (the "Closing") shall take place on the first Business Day following the entry of the Approval Order or such other date as the parties hereto shall mutually agree. The Closing shall be held at the offices of Kirkland & Ellis LLP, 153 East 53rd Street, New York, NY 10022, at 10:00 a.m. (prevailing Eastern time), unless the parties hereto otherwise agree. The actual time and date of the Closing are herein called the "Closing Date."

(b) At the Closing, Seller shall deliver to Buyer:

(i) A duly executed bill of sale in form and substance reasonably satisfactory to Buyer;

(ii) A copy of the Approval Order;

(iii) The officer's certificates required to be delivered pursuant to Section 7.2(c) hereof;

(iv) All other instruments of conveyance and transfer, in form and substance reasonably acceptable to Buyer, as may be necessary to convey the Assets to Buyer or Buyer's designee; and

(v) An executed copy of the Trademark Assignment Agreement.

(c) At the Closing, Buyer shall deliver to Seller:

(i) The Purchase Price less the amount of the Security Deposit previously delivered pursuant to Section 3.2;

(ii) All certificates required by all relevant taxing authorities that are necessary to support any claimed exemption from the imposition of Transfer Taxes;

(iii) The officer's certificate required to be delivered pursuant to Section 7.3(c) hereof;

(iv) A duly executed assumption agreement pursuant to which Buyer shall assume all Assumed Liabilities in form and substance reasonably satisfactory to Seller;

(v) All other instruments of transfer, in form and substance reasonably acceptable to Seller, as may be necessary to assume the Assumed Liabilities; and

(vi) An executed copy of the Trademark Assignment Agreement.

3.2.Security Deposit. Contemporaneously with the execution of this Agreement, Buyer shall pay to Seller in immediately available funds, by wire transfer to an account or accounts designated by Seller, a security deposit equal to ten percent (10%) of the Purchase Price (the "Security Deposit") upon the date hereof. The Security Deposit shall be deducted from the Purchase Price that is payable in accordance with Section 3.3 below. If this Agreement is terminated in accordance with Article VIII hereof, the Security Deposit will be treated as specified under that Article.

3.3.Purchase Price. In consideration for the Assets, and subject to the terms and conditions of this Agreement, Buyer shall assume the Assumed Liabilities as provided in Section 2.3 and shall pay to Seller an aggregate amount of cash equal to One Million Dollars (\$1,000,000.00) (the "Purchase Price") by wire transfer of immediately available funds to an account or accounts designated by Seller in the following manner:

(a) Initial Payment. An initial payment equal to eighty percent (80%) of the Purchase Price, less the Security Deposit, shall be due and payable upon the Closing Date.

(b) Final Payment. A final payment equal to twenty percent (20%) of the Purchase Price (the "Final Payment"), less any Cure Amounts paid by Buyer, shall be due and payable upon the Migration Date.

3.4.Allocation of Purchase Price. Buyer and Seller shall work together to prepare within one hundred and twenty (120) days after the Migration Date a schedule (the "Allocation Schedule") allocating the Purchase Price and the Assumed Liabilities among the Assets in accordance with Treas. Reg. §1.1060-1T (or any comparable provisions of state or local tax Law) or any successor provision. Buyer and Seller each shall prepare and file all Tax returns

(including amended Tax returns and claims for refund) consistent with the Allocation Schedule, and shall take no position contrary thereto or inconsistent therewith (including, without limitation, in any audits or examinations by any taxing authority or any other Proceedings). Buyer and Seller shall cooperate in the filing of any forms (including Form 8594) with respect to such allocation, including any amendments to such forms required. Notwithstanding any other provisions of this Agreement, the foregoing agreement shall survive the Closing Date without limitation.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLER

Buyer specifically acknowledges and agrees to the following with respect to the representations and warranties of Seller:

A. Buyer will not have any recourse to Seller or to any of Seller's Representatives in the event any of the representations and warranties made herein or deemed made are untrue as at any time of expression thereof, except to the extent arising out of fraud, deceit or intentional misrepresentation. The only remedy for a breach of such representations and warranties (except to the extent arising out of fraud, deceit or intentional misrepresentation) shall be Buyer's option, under certain circumstances, not to close in accordance with and subject to the limitations in Article VIII hereof and, without limiting the foregoing, Buyer shall have no remedy whatsoever for any such breach after the Closing.

B. Buyer has conducted its own due diligence investigations of the Business.

Seller hereby represents and warrants to Buyer as follows:

4.1. Existence; Good Standing and Power. Each Seller is a corporation validly existing and in good corporate standing under the laws of the State of its incorporation as specified in the Recitals, and has all requisite power and authority to own, lease and operate its Assets to be sold hereunder. Subject to entry of the Approval Order, Seller has all requisite power and authority to execute and deliver this Agreement and the other documents and instruments to be executed and delivered by Seller and to perform its obligations hereunder and thereunder.

4.2. Authority. The execution, delivery and performance of this Agreement and the consummation by Seller of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of Seller. The board of directors of the Seller has duly adopted resolutions, at a meeting or by written consent, authorizing the transactions contemplated hereby and such resolutions have not been amended or rescinded.

4.3. Execution and Binding Effect. This Agreement has been duly and validly executed and delivered by Seller and constitutes, and, following the entering of the Approval Order, this Agreement and the transactions contemplated hereby will constitute (assuming in each case the due and valid authorization, execution and delivery thereof by the other parties

hereto), a valid and legally binding obligation of Seller enforceable against Seller in accordance with its respective terms.

4.4.No Violation. Except as disclosed in Schedule 4.4, the execution, delivery and performance by Seller of this Agreement and the transactions contemplated hereby, do not and will not conflict with or result in, with or without the giving of notice or lapse of time or both, any violation of or constitute a breach or default, or give rise to any right of acceleration, payment, amendment, cancellation or termination, under (a) the certificate of incorporation or bylaws of Seller or any resolution adopted by the board of directors of Seller and not rescinded, (b) subject to entry of the Approval Order, any agreement or other instrument to which Seller is a party or by which Seller or any of its respective properties or assets is bound, (c) subject to entry of the Approval Order, any Order of any Governmental Entity to which Seller is bound or subject or (d) subject to entry of the Approval Order, any Law applicable to Seller or any of its respective properties or assets.

4.5.Third Party Approvals. Except for (i) the Procedures Order and the Approval Order and (ii) any other third party approvals as are reflected on Schedule 4.5 hereto, the execution, delivery and performance by Seller of this Agreement and the transactions contemplated hereby do not require any consents, waivers, authorizations or approvals of, or filings with, any third Persons which have not been obtained by Seller.

4.6.Brokers and Finders. Seller has engaged the firm of Greenhill & Co., LLC to assist the Seller in connection with the matters contemplated by this Agreement and will be responsible for the fees and expenses of such firm. Any such brokerage fees, commissions, finders or similar fees in connection with the transactions contemplated by this Agreement shall be the sole responsibility of Seller. Buyer shall have no liability for any such brokerage fees, commissions, finders, or similar fees.

4.7.Title to Assets. The applicable Seller has good and marketable title to, or a valid leasehold interest in, the Assets.

4.8.Compliance With Laws. Except as set forth on the attached Schedule 4.8 (and other than environmental matters addressed in Section 4.9), each Seller has complied in all material respects with all Laws relating to the operation of the Business, other than those Laws the violation of which would not reasonably be expected to have a Material Adverse Effect.

4.9.Environmental Matters. To Seller's Knowledge, except as described on the attached Schedule 4.9:

(a) Each Seller is in material compliance with all applicable Environmental Laws, except to the extent such noncompliance would not reasonably be expected to have a Material Adverse Effect.

(b) No Seller has received any written notice of any violations or liabilities, including any investigatory, remedial or corrective obligations, arising under Environmental Laws and relating to the operation of the Business, except notices of such violation or liability which would not reasonably be expected to have a Material Adverse Effect.

4.10. Intellectual Property. To Seller's Knowledge, and except as disclosed on Schedule 4.10, the conduct of the Business does not infringe or misappropriate any Intellectual Property of any Person, except to the extent such infringement or misappropriation would not be reasonably expected to have a Material Adverse Effect.

4.11. Contracts. To Seller's Knowledge, all of the Assumed Contracts are in full force and effect and remain valid, binding and enforceable in accordance with their respective terms, except as designated on Schedule 4.11 and except as such enforceability may be limited by (i) applicable insolvency, bankruptcy, reorganization, moratorium or other similar laws affecting creditors' rights generally and (ii) applicable equitable principles (whether considered in a Proceeding at Law or in equity). Except as set forth on the Schedule 4.11, Seller has not received notice that it has defaulted under or materially breached any Assumed Contract. To Seller's Knowledge, Seller has delivered or made available copies of Assumed Contracts, and any amendments or modifications thereto.

(b) Except as set forth in Schedule 4.11(a) hereto:

(i) to the Seller's Knowledge, no party has violated or breached, or declared or committed any default under, any Customer Contract; and

(ii) to the Seller's Knowledge, no event has occurred, and no circumstance or condition exists, that would (with or without notice or lapse of time) (A) result in a violation or breach of any of the provisions of any Customer Contract, (B) give any person or entity the right to declare a default or exercise any remedy under any Customer Contract, or (C) give any person or entity the right to cancel, terminate or modify any material provision of any Customer Contract.

4.12. Intentionally Omitted.

4.13. No Proceedings or Claims. Except as set forth in Schedule 4.13 hereto, (a) there are no actions, suits, legal, administrative or regulatory proceedings or investigations pending, or to the Seller's Knowledge, threatened, against or relating to the Assets or the transactions contemplated hereby; (b) in the past year, no Customer or other person or entity has asserted or to the Seller's Knowledge, threatened to assert any material claim against the Seller in connection with the Assumed Contracts or the Assets; and (c) to Seller's Knowledge, no event has occurred, and no condition exists, that would (with or without notice or lapse of time) be reasonably foreseeable to give rise to or serve as a basis for the commencement of any such proceeding or the assertion of any such claim.

4.14. Intentionally Omitted.

4.15. Full Disclosure.

(a) The Seller has provided Buyer and Buyer's representatives with full and complete access to all of the Seller's records and other documents and data exclusively related to the Assets.

(b) To Seller's Knowledge (other than facts disclosed on any of the Schedules hereto or known to Buyer) no facts exist that may have a Material Adverse Effect on the Assets.

4.16. Limitations on Seller's Representations and Warranties. Except for the representations and warranties contained in this Agreement, Seller makes no other express or implied representation or warranty, including, without limitation, representations or warranties as to the condition of the Assets, their contents, the income derived or potentially to be derived from the Assets or the Business, or the expenses incurred or potentially to be incurred in connection with the Assets or the Business. Seller is not, and will not be, liable or bound in any manner by express or implied warranties, guarantees, statements, promises, representations or information pertaining to the Assets or the Business, made or furnished by any of its Representatives or other person representing or purporting to represent Seller, unless and to the extent the same is expressly set forth in this Agreement.

ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER

Seller specifically acknowledges and agrees to the following with respect to the representations and warranties of Buyer:

A. Seller will not have any recourse to Buyer or to any of Buyer's Representatives in the event any of the representations and warranties made herein or deemed made are untrue as at any time of expression thereof, except to the extent arising out of fraud, deceit or intentional misrepresentation. The only remedy for a breach of such representations and warranties (except to the extent arising out of fraud, deceit or intentional misrepresentation) shall be Seller's option, under certain circumstances, not to close in accordance with and subject to the limitations in Article VIII hereof and, without limiting the foregoing, Seller shall have no remedy whatsoever for any such breach after the Closing.

B. Seller has conducted its own due diligence investigations in connection with the transactions contemplated hereby.

Buyer hereby represents and warrants to Seller as follows:

5.1. Existence, Good Standing and Power. Buyer is a corporation validly existing and in good corporate standing under the laws of the State of Delaware and has all requisite power and authority to own, lease and operate the property it now owns, leases and operates. Buyer has all requisite power and authority to conduct its business as presently conducted, to execute and deliver this Agreement and the other documents and instruments to be executed and delivered by Buyer pursuant hereto and to perform its obligations hereunder and thereunder. Buyer is duly authorized to transact business as a foreign corporation, and is in good corporate standing, in the states in which the Business is conducted.

5.2. Authority. The execution, delivery and performance of this Agreement and the consummation by Buyer of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of Buyer. The board of directors of Buyer has duly

adopted resolutions, at a meeting or by written consent, authorizing the transactions contemplated hereby and such resolutions have not been amended or rescinded.

5.3. Execution and Binding Effect. This Agreement has been duly and validly executed and delivered by Buyer and constitutes (assuming, in each case, the due and valid authorization, execution and delivery thereof by the other parties hereto) a valid and legally binding obligation of Buyer, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting the rights and remedies of creditors generally and to general principles of equity (regardless of whether considered in a Proceeding in equity or at Law).

5.4. No Violation. Except as disclosed in Schedule 5.4, the execution, delivery and performance by Buyer of this Agreement and the transactions contemplated hereby, do not and will not conflict with or result in, with or without the giving of notice or lapse of time or both, any violation of or constitute a breach or default, or give rise to any right of acceleration, payment, amendment, cancellation or termination, under (a) the certificate of incorporation or bylaws of Buyer or any resolution adopted by the board of directors of Buyer and not rescinded, (b) any agreement or other instrument to which Buyer is a party or by which Buyer or any of its respective properties or assets is bound, (c) any Order of any Governmental Entity to which Buyer is bound or subject or (d) any Law applicable to Buyer or any of its respective properties or assets.

5.5. Third Party Approvals. Except for any third party approvals as are reflected on Schedule 5.5 hereto, the execution, delivery and performance by Buyer of this Agreement and the transactions contemplated hereby do not require any consents, waivers, authorizations or approvals of, or filings with, any third Persons which have not been obtained by Buyer.

5.6. Brokers and Finders. Buyer has not employed any broker or finder or incurred any liability for any brokerage fees, commissions, finders, or similar fees in connection with the transactions contemplated by this Agreement. Any such brokerage fees, commissions, finders or similar fees in connection with the transactions contemplated by this Agreement shall be the sole responsibility of Buyer. Seller shall have no liability for any such brokerage fees, commissions, finders, or similar fees.

5.7. No Continuation of Business. Buyer's business is neither a continuation of, nor is it related to, the business of Seller, and Buyer covenants that it will not, in any way, represent that its business is a continuation of or related to the business of Seller. Seller acknowledges Buyer will be using the Assets in Buyer's business including, the operation of a hosting business at the hosting.com website and continued use of this brand name.

5.8. Financing. On the Closing Date and the Migration Date, Buyer will have sufficient unrestricted funds on hand to consummate the transactions contemplated by this Agreement.

5.9. Buyer Acknowledgment. Buyer acknowledges and agrees that, except to the extent specifically set forth in Article IV, Buyer is purchasing the Assets "AS IS," "WHERE IS" and "WITH ALL FAULTS" on the date hereof and on the Closing Date.

5.10. Limitations on Buyer's Representations and Warranties. Except for the representations and warranties contained in this Agreement, Buyer makes no other express or implied representation or warranty. Buyer is not, and will not be, liable or bound in any manner by express or implied warranties, guarantees, statements, promises, representations or other information pertaining to itself, made or furnished by any of its Representatives or other person representing or purporting to represent Buyer, unless and to the extent the same is expressly set forth in this Agreement.

ARTICLE VI COVENANTS OF THE PARTIES

6.1. Conduct of Business. From and after the date hereof and until the Closing Date, except as may be contemplated or permitted by this Agreement, Seller shall use commercially reasonable efforts in the context of the Case to cause the Business to be conducted in the ordinary course and consistent with the present conduct of the Business.

6.2. Access. From the date hereof until the Closing Date, Seller shall allow Buyer's employees and other Representatives during regular business hours (and in a manner so as not to interfere with the normal business operations of Seller) to make such investigation of the Business and such Seller's books and records related exclusively thereto, as Buyer reasonably deems necessary or advisable, and Seller shall instruct its employees to cooperate in any such investigation.

6.3. Public Announcements. No party shall issue a press release or otherwise make any public statements with respect to the transactions contemplated hereby, except as may be required by Law, by obligations pursuant to any listing agreement with any national securities exchange or over-the-counter market or with respect to filings to be made with the Bankruptcy Court in connection with this Agreement (in which case the party required to make such public statement shall notify the other party as promptly as practicable and prior to making such public statement), without the prior consent of the others, which consent shall not be unreasonably withheld.

6.4. Reasonable Efforts. Upon the terms and subject to the conditions herein provided, each of the parties hereto shall use its respective reasonable, good faith efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other parties hereto in doing, all things necessary, proper or advisable under applicable Laws and regulations to ensure that the conditions set forth in this Agreement are satisfied and to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, the parties hereto shall furnish to each other such necessary information and reasonable assistance, as each may request in connection with each Seller's preparation and filing of applications and motion papers, including the Sale Motion needed to obtain Bankruptcy Court approval of the transactions contemplated by this Agreement and shall execute any additional instruments necessary to consummate the transactions contemplated hereby, whether before or after the Closing. Seller agrees to cooperate and execute all necessary documents (including, but not

limited to applicable registrar forms), agreements and releases for ensuring the proper transfer of control of the domain names listed on Schedule 2.1(g).

6.5. Notification of Certain Matters. Seller shall give prompt notice to Buyer, and Buyer shall give prompt notice to Seller, of (i) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement and (ii) any written objection, litigation or administrative Proceeding that challenges the transactions contemplated hereby or the entry of the Procedures Order or the Approval Order.

6.6. Mail and Other Post Closing Inquiries. Seller authorizes and empowers Buyer on and after the Closing Date to receive and to open all mail or email, and to answer any phone calls received by Buyer relating to the Assets or the Assumed Liabilities and to deal with the contents of such communications in any proper manner. Seller shall promptly deliver to Buyer any mail or other communication received by Seller after the Closing Date pertaining to the Assets or the Assumed Liabilities and any cash, checks or other instruments of payment in respect thereof (whether related to services already performed or to be performed), including any such mail, communication, cash, checks or other instruments of payment received in the lock box listed on Schedule 2.1(h). Buyer shall promptly deliver to Seller any mail or other communication received by it after the Closing Date pertaining to the Excluded Assets or any Excluded Liabilities and any cash, checks or other instruments of payment in respect thereof (including any such items received in the lock box listed on Schedule 2.1(h)). From and after the Closing Date, Seller shall refer all inquiries with respect to the Assets and the Assumed Liabilities to Buyer, and Buyer shall refer all inquiries with respect to the Excluded Assets and the Excluded Liabilities to the Seller.

6.7. Payment of Transfer Taxes and Tax Filings.

(a) All Transfer Taxes arising out of the transfer of the Assets and any Transfer Taxes required to effect any recording or filing with respect thereto shall be borne equally by Seller and Buyer. The Transfer Taxes shall be calculated assuming that no exemption from Transfer Taxes is available, unless otherwise indicated in the Approval Order or, at Closing, Seller shall provide an appropriate resale exemption certificate or other evidence acceptable to Buyer of exemption from such Transfer Taxes. Seller and Buyer shall cooperate to timely prepare and file any returns or other filings relating to such Transfer Taxes, including any claim for exemption or exclusion from the application or imposition of any Transfer Taxes. Seller and Buyer shall be equally responsible for timely payment of any Transfer Taxes required to be paid.

(b) Each party shall furnish or cause to be furnished to the other, upon request, as promptly as practicable, such information and assistance relating to the Assets and the Business as is reasonably necessary for filing of all Tax returns, including any claim for exemption or exclusion from the application or imposition of any Taxes or making of any election related to Taxes, the preparation for any audit by any taxing authority and the prosecution or defense of any claim, suit or Proceeding relating to any Tax return.

6.8. Proration of Taxes. All real property Taxes, personal property Taxes or similar ad valorem obligations levied with respect to the Assets for any taxable period that

includes the day before the Closing Date and ends after the Closing Date, whether imposed or assessed before or after the Closing Date, shall be prorated between Seller and Buyer as of 12:01 a.m. on the Closing Date. If any Taxes subject to proration are paid by Buyer, on the one hand, or Seller, on the other hand, the proportionate amount of such Taxes paid (or in the event a refund of any portion of such Taxes previously paid is received, such refund) shall be paid promptly by (or to) the other after the payment of such Taxes (or promptly following the receipt of any such refund).

6.9. Sale Motion.

(a) As soon as commercially reasonable but in no event later than five (5) Business Days after the date hereof, Seller shall file the Sale Motion, in form and substance reasonably satisfactory to Buyer, seeking entry of the Procedures Order and the Approval Order.

(b) As soon as commercially reasonable Seller shall propose and submit to the Bankruptcy Court a "Procedures Order," in form and substance reasonably satisfactory to Buyer, that on a commercially reasonable timeline (i) approves competitive bidding and sale procedures, including the Overbid Procedures and Break Up Fee (each as defined below), and (ii) approves the form, manner and sufficiency of notice of the Sale Motion and Sale Hearing to be given and published by Seller in a manner reasonably acceptable to Buyer.

(c) The Procedures Order shall provide that (i) persons or entities wishing to make a bid for the Assets shall submit bids in the form of a written agreement of sale (the "Proposed Agreement") to the Debtors, (ii) the identity of the persons or entities that will be acquiring a portion of the Assets under, or otherwise participating in connection with such bid, must be fully disclosed, and (iii) require that any prospective bidder execute a confidentiality agreement in form and substance either (A) acceptable to Seller or, (B) identical to the confidentiality agreement signed by Buyer. The Proposed Agreement must: (1) contain substantially the same (or more favorable) terms and conditions as those contained in this Agreement, (2) comply with the Overbid Procedures and (3) provide for the purchase of not less than all of the Assets.

(d) Seller shall use its reasonable, good faith efforts to obtain prompt Bankruptcy Court approval of bidding procedures (the "Overbid Procedures"), which shall provide that, to be a qualified bid, any initial overbid for the Assets in excess of the Purchase Price hereunder (submitted by any Person other than Buyer) shall be in an aggregate amount of not less than \$50,000 and that any successive overbids (by any Person) shall be made in increments not less than \$25,000 in excess of the last submitted, highest qualified bid for the Assets.

(e) Seller shall use its reasonable, good faith efforts to obtain prompt Bankruptcy Court approval of the reimbursement of all of Buyer's expenses up to a maximum amount of \$37,500 (the "Break Up Fee"), payable to Buyer in cash, by wire transfer of immediately available funds to an account designated by Buyer, on the second Business Day following the date of consummation of a Competing Transaction, provided that neither Buyer nor any of its Affiliates is a party to such Competing Transaction.

(f) Buyer and Seller shall cooperate with filing and prosecuting the Sale Motion and obtaining entry of the Procedures Order and the Approval Order, and Seller shall deliver to Buyer prior to filing, and as early in advance as is practicable to permit adequate and reasonable time for Buyer and its counsel to review and comment, copies of all proposed pleadings, motions, notices, statements, schedules, applications, reports and other papers to be filed by Seller in connection with the Sale Motion and the relief requested therein.

(g) For the avoidance of doubt the parties hereto acknowledge and agree that any timeline or date for any act or omission set forth in this Section 6.9 shall be subject to Bankruptcy Court approval, where applicable.

6.10. Competing Transaction. From the date hereof (and any prior time) and until the entry of the Approval Order, Seller is permitted to cause its Representatives and Affiliates to initiate contact with, solicit or encourage submission of any inquiries, proposals or offers by, any Person (in addition to Buyer and its Affiliates, agents and Representatives) in connection with any sale or other disposition of the Assets (a "Competing Transaction"), provided that the Seller, its Representatives and Affiliates reveal the existence of this Agreement to any such Person. In addition, Seller shall have the responsibility and obligation to respond to any inquiries or offers to purchase all or any part of the Assets and perform any and all other acts related thereto which are required under the Bankruptcy Code or other applicable law, including, without limitation, supplying information relating to the Business and Assets to prospective buyers.

6.11. Rejected Contracts. Seller shall not reject any Assumed Contract in any bankruptcy Proceeding following the date hereof unless this Agreement is terminated in accordance with its terms.

6.12. Transition Assistance.

(a) The parties agree to use commercially reasonable efforts to migrate all Customers to Buyer's servers within forty-five (45) days of the Closing Date. Such forty-five day period commencing on the Closing Date and ending on the forty-fifth (45th) day after the Closing Date is referred to herein as the "Migration Support Period." Seller and Buyer shall use commercially reasonable efforts to support the transition of Customers to being Successfully Migrated. During the Migration Support Period, Seller shall use commercially reasonable efforts to support the migration of the Customers' web sites and other applicable data, including completion of any domain name pointing adjustments as reasonably requested by Buyer, to Buyer's servers, arranging for introductions to the Customers, assisting in the explanation of the transaction to such Customers and providing technical assistance to Buyer's migration team members. Such migration shall occur on the date(s) mutually agreed to between Buyer and Seller. During the Migration Period, Seller shall use commercially reasonable efforts to perform each of the steps and provide the transition support as required under Schedule 6.12 hereto, and shall take any other reasonable actions as and when requested by Buyer. The Seller agrees to make available at least two (2) employees or consultants to assist the Buyer with any post-migration related matters for a period of fifteen (15) calendar days following the Migration Support Period.

(b) During the Migration Support Period, Seller shall be responsible for billing and collecting all amounts due from any Customer or any account in connection with the WSM Domain Business (in each instance only to the extent not Successfully Migrated), in a manner consistent with Seller's past billing practices and procedures. Seller shall use commercially reasonable efforts to bill and collect such amounts and to provide weekly details of such billings and collections to Buyer as set forth in Section 6.13(b) below. During the Migration Support Period, on a weekly basis Seller will remit to Buyer an amount equal to (i) any gross revenues collected from such Customers *less* (ii) credit card processing, bank merchant discount charges *less* (iii) the Carrying Cost. Notwithstanding the foregoing, nothing in this Agreement is intended to create or impose upon the Seller any obligation to bill and collect amounts due from any Customer or any account in connection with the WSM Domain Business at any period of time after the earlier of (i) the forty-fifth (45th) day after the Closing Date or (ii) the Successful Migration of such Customer or account. For purposes of this Agreement, "Carrying Cost" shall be defined as an amount equal to \$3.00 per month (or, as applicable, a pro rata portion of each month) per Web Site Hosting (Shared) Account.

(c) In order to facilitate the Successful Migration of the Customers, Seller agrees: (i) within three (3) weeks from the date of this Agreement, to provide Buyer with certain mutually acceptable data for the accounts listed on Schedule 2.1(a) and (ii) on the Closing Date, to provide Buyer with data for the accounts listed on Schedule 2.1(a) in the form and manner set forth on Schedule 6.12(c).

(d) On or before the 45th day after the Closing Date, Buyer shall remove all Assets from Seller's or its successor's premises (whether such premises are owned or leased by Seller or its successor). If after such 45-day period, Buyer has any Assets located in the premises of Seller or its successor (whether owned or leased by Seller or its successor), Buyer shall pay Seller's or its successor's standard rates that Seller or its successor charges its customers for colocation space and Internet access; such arrangements will be on a month-to-month basis and under Seller's or its successor's standard terms and conditions for providing colocation and Internet access services.

(e) Buyer and Seller agree to use commercially reasonable efforts to jointly maintain a link from the hosting.com website to the Seller's (or its successor, as applicable) websites for a period of three (3) months after the Migration Date (such Seller or successor websites to be identified within seven (7) days of the Closing Date).

6.13. Receivables.

(a) Seller shall use commercially reasonable efforts to provide the Buyer with a report of all Customers that includes the following information: (i) user name and contact information including, phone numbers, email address and home address, credit card, if any, (ii) copy of any invoices sent to such Customer since January 1, 2003, (iii) accounts receivable trial balance aging report as of March 31, 2004 and as of the Closing Date, and (iv) a report of all monies received since January 1, 2003. Seller shall continue to bill and collect these amounts in accordance with its past practice, including, but not limited to, delivery of checks to the Seller's lock box for processing by the Seller.

(b) Following the Closing Date and until the Migration Date, Seller shall provide a weekly report to Buyer with respect to the Customers that have not Successfully Migrated, of (i) accounts receivable trial balance aging report, (ii) cash report of all monies received for the prior week and (iii) copies of invoices and credits, if any, sent or issued in the prior week.

(c) During the Migration Support Period, and in accordance with Section 6.12, Buyer grants the Seller permission to access, remove and deposit any and all checks and other payments sent to the Seller's lock box identified on Schedule 2.1(h).

6.14. Accounts Payable. Within five (5) Business Days of the date hereof, Seller shall deliver a listing of the amount paid in the fiscal year ending December 31, 2003 determined as of the date hereof and a good faith estimate of any outstanding accounts payable as of the date hereof, each with respect to the Assumed Contracts.

6.15. Disclosure Supplements. From time to time prior to the Closing, Seller shall supplement the Schedules hereto with respect to any matter hereafter arising or any information obtained after the date hereof of which, if existing, occurring or known at or prior to the date of this Agreement, would have been required to be set forth or described in the Schedules, or which is necessary to complete or correct any information in such schedule or in any representation and warranty of Seller which has been rendered inaccurate thereby.

6.16. Post-Closing Access to Records and Personnel. Buyer hereby acknowledges that it shall grant to Seller, from and after the Closing Date, full access, as promptly as practicable but in no event no later than one (1) day after receiving a request, to any records related to Seller's operation of the Business prior to the Closing Date upon Seller's request and Seller shall be permitted to copy, and retain a copy of, any such records. Buyer shall keep such records in a manner consistent with Buyer's past practice and such records shall not be destroyed until the later of seven years from the Closing Date or the conclusion of all bankruptcy Proceedings related to the Business.

6.17. Confidentiality. The parties acknowledge and agree that this Agreement is within the scope of the Confidentiality Agreement between the parties dated August 6, 2003. Notwithstanding anything herein or in the Confidentiality Agreement to the contrary, each party (and each Representative of such party) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transaction and all materials of any kind (including opinions or other tax analyses) that are provided to such Person relating to such tax treatment and tax structure, except to the extent necessary to comply with any applicable federal or state securities laws. In addition, subject to any confidentiality agreement executed by the parties prior to the date hereof, the parties hereto may disclose such information to their respective directors, officers, and stockholders (and each Representative of any such party) as they deem reasonably necessary as part of their regular communication to such Persons. This authorization is not intended to permit disclosure of any other information including (without limitation) (1) any portion of any materials to the extent not related to the tax treatment or tax structure of this transaction, (2) the identities of participants or potential participants in this transaction, (3) the existence or status of any negotiations, (4) any pricing or financial information (except to the extent such pricing or financial information is related to the tax

treatment or tax structure of this transaction), or (5) any other term or detail not relevant to the tax treatment or the tax structure of this transaction.

ARTICLE VII CONDITIONS TO OBLIGATIONS OF THE PARTIES

7.1. Conditions Precedent to Obligations of Buyer and Seller. The respective obligations of Buyer, on the one hand, and Seller, on the other hand, to close under this Agreement shall be subject to the satisfaction at or prior to the Closing Date of the following conditions:

(a) No Injunction. No preliminary or permanent injunction or other order issued by, and no Proceeding or Order by or before any United States Governmental Entity nor any Law or Order promulgated or enacted by any United States Governmental Entity shall be in effect or pending which materially delays, restrains, enjoins or otherwise prohibits or seeks to restrain, enjoin or otherwise prohibit the transactions contemplated hereby.

(b) The Approval Order. The Bankruptcy Court shall have entered the Approval Order. The "Approval Order" shall be an order or orders of the Bankruptcy Court in form and substance reasonably acceptable to Seller and Buyer approving this Agreement and all of the terms and conditions hereof, and approving and authorizing Seller to consummate the transactions contemplated hereby. Without limiting the generality of the foregoing, such order shall find and provide, among other things, that (a) the Assets sold to Buyer pursuant to this Agreement shall be transferred to Buyer free and clear of all Liens and Liabilities of any Person, such Liens and Liabilities to attach to the Purchase Price payable pursuant to Section 3.3; (b) Buyer has acted in good faith within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to the protections afforded thereby, (c) this Agreement was negotiated, proposed and entered into by the parties without collusion, in good faith and from arm's length bargaining positions; (d) Buyer is not acquiring or assuming any of Seller's or any other Person's Liabilities except as expressly provided in this Agreement; (e) all Assumed Contracts shall be assumed by Seller and assigned to Buyer pursuant to section 365 of the Bankruptcy Code and, as required by this Agreement and subject to the limitations set forth in Section 2.5, Buyer shall be obligated to pay all Cure Amounts in respect thereof and Seller shall have no obligation to pay, or any Liability for, such Cure Amounts and, thereafter Seller shall have no further Liability under such Assumed Contracts pursuant to section 365(k) of the Bankruptcy Code; (f) the Bankruptcy Court shall retain jurisdiction to resolve any controversy or claim arising out of or relating to this Agreement, or the breach hereof as provided in Section 9.10 hereof and (g) this Agreement and the transactions and instruments contemplated hereby shall be specifically performable and enforceable against and binding upon, and not subject to rejection or avoidance by, Seller or any chapter 7 or chapter 11 trustee of Seller and its applicable estate.

(c) Consents and Approvals. All consents, waivers, authorizations and approvals of third Persons as are necessary in connection with the transactions contemplated by this Agreement shall have been obtained, except for such consents, waivers, authorizations and approvals which the failure to so obtain would not have a Material Adverse Effect and such

consents and approvals which are not required due to the entry by the Bankruptcy Court of the Approval Order.

7.2. Conditions Precedent to Obligations of Buyer. The obligation of Buyer to close under this Agreement is subject to the satisfaction (or waiver by Buyer) at or prior to the Closing Date of each of the following additional conditions:

(a) Accuracy of Representations and Warranties. The representations and warranties of Seller contained herein shall be true and correct in all material respects as of the Closing Date, with the same force and effect as though such representations and warranties had been made on and as of the Closing Date, except to the extent that any such representation or warranty is made as of a specified date, in which case such representation or warranty shall have been true and correct in all material respects as of such date, except where the effect of all such inaccuracies of representations and warranties would not, in the aggregate, have a Material Adverse Effect on the Business. In the event Buyer reasonably determines, that the effect of all such inaccuracies of representations and warranties would, in the aggregate, have a Material Adverse Effect on the Business then Buyer shall have the right to terminate this Agreement pursuant to Section 8.1(f).

(b) Performance of Agreements. Seller shall have performed in all material respects all obligations and agreements contained in this Agreement required to be performed by them prior to or at the Closing Date.

(c) Officer's Certificate. Buyer shall have received a certificate, dated the Closing Date, of an officer of Seller to the effect that the conditions specified in Sections 7.2(a) and (b) above have been fulfilled.

(d) Notice of Sale Motion and Hearing. Seller shall have given and published notice of the Sale Motion and Sale Hearing.

(e) Seller's Deliveries. Seller shall have delivered to Buyer all items set forth in Section 3.1(b).

(f) Trademark Assignment Agreement. Buyer and Seller shall have entered into a Trademark Assignment Agreement in the form of Exhibit 7.2(f) attached hereto (the "Trademark Assignment Agreement").

(g) Data. Seller shall have delivered the data in accordance with Section 6.12(c)(ii).

7.3. Conditions Precedent to the Obligations of Seller. The obligation of Seller to close under this Agreement is subject to the satisfaction (or waiver by Seller) at or prior to the Closing Date of each of the following additional conditions:

(a) Accuracy of Representations and Warranties. The representations and warranties of Buyer contained herein shall be true and correct in all material respects as of the Closing Date, with the same force and effect as though such representations and warranties had been made on and as of the Closing Date, except to the extent that any such representations or

warranty is made as of a specified date, in which case such representation or warranty shall have been true and correct as of such date, except where the effect of all such inaccuracies of representations and warranties would not, in the aggregate, have a Material Adverse Effect on Buyer.

(b) Performance of Agreements. Buyer shall have performed in all material respects all obligations and agreements contained in this Agreement required to be performed by it prior to or at the Closing Date.

(c) Officer's Certificate. Seller shall have received a certificate, dated the Closing Date, of an officer of Buyer to the effect that the conditions specified in Sections 7.3(a) and (b) above have been fulfilled.

(d) Delivery of Purchase Price. Seller shall have received payment of the Purchase Price pursuant to Section 3.3.

(e) Buyer's Deliveries. Buyer shall have delivered to Seller all items set forth in Section 3.1(c).

(f) Trademark Assignment Agreement. Buyer and Seller shall have entered into the Trademark Assignment Agreement.

ARTICLE VIII TERMINATION

8.1. Termination of Agreement. This Agreement may be terminated and the transactions contemplated hereby abandoned at any time prior to the Closing:

(a) By mutual written consent of Buyer and Seller;

(b) By either Buyer or Seller if the Closing shall not have occurred on or before July 1, 2004; provided, however, that if the Closing shall not have occurred on or before any such date due to a breach of this Agreement by Buyer or Seller, the breaching party may not terminate this Agreement pursuant to this Section 8.1(b);

(c) By either Buyer or Seller, provided such party is not in breach of this Agreement, if there shall be any Law that makes the consummation of the transactions contemplated hereby illegal or otherwise prohibited or if consummation of the transactions contemplated hereby would violate any nonappealable final order, decree or judgment of any court or governmental body having competent jurisdiction;

(d) By either Buyer or Seller if any Seller consummates a Competing Transaction, subject to the limitations set forth in the Procedures Order and subject to Buyer's right to payment of the Break Up Fee; or

(e) By Seller, on the one hand, or Buyer, on the other, if Buyer or Seller, as the case may be, materially breach any of its obligations under this Agreement, unless such breach

shall be cured within ten (10) Business Days after such other party shall have received notice of such breach in accordance with the terms hereof.

(f) By Buyer, in the event Buyer reasonably determines, that the effect of inaccuracies of representations and warranties of Seller contained in Article IV would, in the aggregate, have a Material Adverse Effect.

(g) By Seller, in the event Seller reasonably determines, that the effect of inaccuracies of representations and warranties of Buyer contained in Article V would, in the aggregate, have a material adverse effect on Buyer's ability to consummate the transactions contemplated herein.

8.2. No Liabilities in Event of Termination. In the event of any termination of the Agreement pursuant to Section 8.1, written notice thereof shall forthwith be given to the other party specifying the provision hereof pursuant to which such termination is made.

(a) If this Agreement is terminated pursuant to Sections 8.1(a) or 8.1(c), all obligations of the parties hereto shall terminate without liability of any party to the other, and the Security Deposit (and any interest thereon) shall be returned to Buyer.

(b) If this Agreement is terminated pursuant to Section 8.1(b), such termination is without prejudice to any other rights each party may have with respect to any breach of any representation, warranty or covenant of the other party and Buyer shall be entitled to return of the Security Deposit (and any interest thereon).

(c) If this Agreement is terminated pursuant to Section 8.1(d), Buyer shall be entitled to the Break Up Fee and return of the Security Deposit (and any interest thereon) and Buyer and Seller shall have no further liability whatsoever. In the event of any termination pursuant to Section 8.1(d), Seller shall pay these amounts to Buyer in cash, by wire transfer of immediately available funds to an account designated by Buyer, on the second Business Day following the date of consummation of the Competing Transaction, provided that neither Buyer nor any of its Affiliates is a party to such Competing Transaction.

(d) If this Agreement is terminated pursuant to Section 8.1(e), the breaching party shall remain liable to the non-breaching party for costs, expenses and damages incurred by its breach; provided that if the breaching party is Buyer, Seller shall also be entitled to retain the Security Deposit (and any interest thereon) as liquidated damages.

(e) If this Agreement is terminated pursuant to Section 8.1(f) Buyer shall be entitled to the return of the Security Deposit (and any interest thereon) and Buyer and Seller shall have no further liability whatsoever.

(f) If this Agreement is terminated pursuant to Section 8.1(g), Seller shall be entitled to retain the Security Deposit (and any interest thereon).

ARTICLE IX MISCELLANEOUS

9.1.Expenses. Except as set forth in this Agreement and whether or not the transactions contemplated hereby are consummated, each party shall bear all costs and expenses incurred or to be incurred by such party in connection with this Agreement and the consummation of the transactions contemplated hereby.

9.2.Assignment. Neither this Agreement nor any of the rights or obligations hereunder may be assigned by Seller without the prior written consent of Buyer, or by Buyer without the prior written consent of Seller; provided, however, that, Buyer may assign its rights and obligations hereunder, in whole or in part, to any wholly-owned subsidiary of Buyer, provided that no such assignment shall relieve Buyer of its liabilities and obligations hereunder if such assignee does not perform such obligations and provided, further that this Agreement may be assigned to one or more trustees appointed by the Bankruptcy Court to succeed to the rights of Seller. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, and except as otherwise expressly provided herein, no other Person shall have any right, benefit or obligation hereunder.

9.3.Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of Seller and Buyer, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement. Without limiting the foregoing, no direct or indirect holder of any equity interests or securities of Seller or Buyer (whether such holder is a limited or general partner, member, stockholder or otherwise), nor any Affiliate of Seller or Buyer, nor any director, officer, employee, representative, agent or other controlling person of each of the parties hereto and their respective Affiliates shall have any liability or obligation arising under this Agreement or the transactions contemplated thereby.

9.4.Notices. Unless otherwise provided herein, any notice, request, instruction or other document to be given hereunder by any party to any other party shall be in writing and shall be delivered in person or by courier or facsimile transmission (with such facsimile transmission confirmed by sending a copy of such notice, request, instruction or other document by certified mail, return receipt requested or overnight mail) or mailed by certified mail, postage prepaid, return receipt requested (such mailed notice to be effective on the date such receipt is acknowledged), as follows:

If to Seller:

c/o Allegiance Telecom, Inc.
9201 North Central Expressway
Dallas, TX 75231
Attention: Christopher MacFarland, SVP
Fax: (469) 259-9107

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

Kirkland & Ellis LLP
153 East 53rd
New York, NY 10022
Attention: Jonathan S. Henes, Esq.
Fax: (212) 446-4900

If to Buyer:

WebOnTap, Inc.
70 Blanchard Road
Burlington, MA 01803
Attention: CEO or General Counsel
Fax: (781) 272-2915

or to such other place and with such other copies as either party may designate as to itself by written notice to the other party. Notices sent as provided herein shall be deemed given on the date received by the recipient. If a recipient rejects or refuses to accept a notice given pursuant to this Section, or if a notice is not deliverable because of a changed address or fax number of which no notice was given in accordance with the provisions hereof, such notice shall be deemed to be received two (2) days after such notice was mailed (whether as the actual notice or as the confirmation of a faxed notice) in accordance with the terms hereof. The foregoing shall not preclude the effectiveness of actual written notice given to a party at any address or by any means.

9.5.Choice of Law. This Agreement shall be construed and interpreted, and the rights of the parties shall be determined, in accordance with the Bankruptcy Code and the substantive laws of the State of New York, in each case without regard to the conflict of law principles thereof or of any other jurisdiction.

9.6.Entire Agreement; Amendments and Waivers. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, representations, understandings, negotiations, and discussions, whether oral or written, of the parties. No supplement, modification or waiver of this Agreement (including, without limitation, any schedule hereto) shall be binding unless the same is executed in writing by all parties. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), and no such waiver shall constitute a continuing waiver unless otherwise expressly provided.

9.7.Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by telecopy shall be as effective as delivery of a manually executed counterpart of this Agreement. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom enforcement is sought.

9.8.Invalidity. If anyone or more of the provisions contained in this Agreement (other than any of the provisions contained in Article II or Article III hereof) or in any other

instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, the parties shall use their reasonable efforts, including, but not limited to, the amendment of this Agreement, to ensure that this Agreement shall reflect as closely as practicable the intent of the parties hereto on the date hereof.

9.9. Headings. The table of contents and the headings of the Articles and Sections herein are inserted for convenience of reference only and are not intended to be a part of, or to affect the meaning or interpretation of, this Agreement.

9.10. Exclusive Jurisdiction. Without limiting any party's right to appeal any order of the Bankruptcy Court, (a) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated hereby, and (b) any and all claims, actions, causes of action, suits and Proceedings related to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the parties hereby consent to and submit to the jurisdiction and venue of the Bankruptcy Court and shall receive notices at such locations as indicated in Section 9.4 hereof.

9.11. Waiver of Right to Trial by Jury. Each party to this Agreement waives any right to trial by jury in any action, matter or Proceeding regarding this Agreement or any provision hereof.

9.12. No Recourse Against Third Parties. Buyer agrees for itself and for all of its officers, directors, shareholders, Affiliates, attorneys, agents and any other parties making any claim by, through or under the rights of such persons (collectively, the "Buyer Group") that no member of the Buyer Group shall have any rights against any creditor, officer, director, shareholder (other than Seller themselves), Affiliate, attorney or agent of Seller (each, individually, a "Non-Recourse Person") for any damages, suits, claims, proceedings, fines, judgments, costs or expenses (including attorneys' fees and incidental, consequential or punitive damages) (collectively, "Losses") that any Buyer Party may suffer in connection with this Agreement. If any member of the Buyer Group makes a claim against any person or entity other than Buyer that is not a Non-Recourse Person (a "Third Person") that in any way gives rise to a claim by such Third Person against any Non-Recourse Person asserting that such Non-Recourse Person is or may be liable to such Third Person with respect to any Losses arising in connection with this Agreement (whether by way of indemnification, contribution, or otherwise on any theory whatever) (a "Claim Over"), such member of the Buyer Group shall reduce or credit against any judgment or settlement such member of the Buyer Group may obtain against such Third Person the full amount of any judgment or settlement such Third Person may obtain against the Non-Recourse Person on such Claim Over, and shall, as part of any settlement with such Third Person, obtain from such Third Person for the benefit of such Non-Recourse Person a satisfaction in full of such Third Person's Claim Over against the Non-Recourse Person. The provisions of this Section 9.12, however, shall not apply as to any fraud claims.

9.13. Specific Performance. Each of the parties hereto acknowledges that the other party hereto may be irreparably damaged in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or were otherwise breached. Accordingly, each of the parties hereto shall be entitled to seek an injunction or

injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions thereof in any action instituted in any court of the United States or any state thereof having subject matter jurisdiction, in addition to any other remedy to which the parties may be entitled, at law, in equity or pursuant to this Agreement.

9.14. Counting. If the due date for any action to be taken under this Agreement (including, without limitation, the delivery of notices) is not a Business Day, then such action shall be considered timely taken if performed on or prior to the next Business Day following such due date.

9.15. Service of Process. Each party irrevocably consents to the service of process in any action or Proceeding by receipt of mailed copies thereof by national courier service or registered United States mail, postage prepaid, return receipt requested, to its address as specified in or pursuant to Section 9.4 hereof. However, the foregoing shall not limit the right of a party to effect service of process on the other party by any other legally available method.

9.16. Exhibits and Schedules. The Exhibits and Schedules attached to, delivered with and identified to this Agreement are a part of this Agreement the same as if fully set forth herein and all references herein to any Section of this Agreement shall be deemed to include a reference to any Schedule named therein.

9.17. Interpretation.

(a) Whenever the words "include," "includes" or "including" are used in this Agreement they shall be deemed to be followed by the words "without limitation."

(b) Words denoting any gender shall include all genders. Where a word or phrase is defined herein, each of its other grammatical forms shall have a corresponding meaning.

(c) A reference to any party to this Agreement or any other agreement or document shall include such party's successors and permitted assigns.

(d) A reference to any legislation or to any provision of any legislation shall include any modification or re-enactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto.

(e) All references to "\$" and dollars shall be deemed to refer to United States currency unless otherwise specifically provided.

(f) All references to any financial or accounting terms shall be defined in accordance with United States generally accepted accounting principles as in effect from time to time.

(g) The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(h) The meanings given to terms defined herein shall be equally applicable to both singular and plural forms of such terms.

9.18. Preparation of this Agreement. Buyer and Seller hereby acknowledge that (i) Buyer and Seller jointly and equally participated in the drafting of this Agreement and all other agreements contemplated hereby, (ii) both Buyer and Seller have been adequately represented and advised by legal counsel with respect to this Agreement and the transactions contemplated hereby, and (iii) no presumption shall be made that any provision of this Agreement shall be construed against either party by reason of such role in the drafting of this Agreement and any other agreement contemplated hereby.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of Seller and Buyer as of the date first above written.

SELLER:

**HOSTING.COM, INC.
ALLEGIANCE INTERNET, INC.
ADGRAFIX CORPORATION
VIRTUALIS SYSTEMS, INC.**

By: 

Name:

Title:

Mark B. Tresnowski
Executive Vice President
and Secretary

BUYER:

WEBONTAP, INC.

By: _____

Name: Steven K. Sydness

Title: CEO

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of Seller and Buyer as of the date first above written.

SELLER:

**HOSTING.COM, INC.
ALLEGIANCE INTERNET, INC.
ADGRAFIX CORPORATION
VIRTUALIS SYSTEMS, INC.**

By: _____

Name: _____

Title: _____

BUYER:

WEBONTAP, INC.

By: _____

Name: Steven K. Sydness

Title: CEO

KIRKLAND & ELLIS LLP
Citigroup Center
153 East 53rd Street
New York, New York 10022-4675
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
Matthew A. Cantor (MC-7727)
Jonathan S. Henes (JH-1979)

Attorneys for Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

	X	
In re	:	
	:	Chapter 11 Case No.
Allegiance Telecom, Inc., <u>et al.</u> ,	:	03-13057 (RDD)
	:	
Debtors.	:	Jointly Administered
	X	

**NOTICE OF HEARING ON DEBTORS' MOTION FOR
ORDERS PURSUANT TO SECTIONS 105(a), 363, 365 AND 1146(c)
OF THE BANKRUPTCY CODE: (A) FIXING THE TIME, DATE
AND PLACE FOR THE BIDDING PROCEDURES HEARING;
(B) (I) ESTABLISHING BIDDING PROCEDURES AND BID
PROTECTIONS IN CONNECTION WITH THE SALE OF CERTAIN
OF THE ASSETS OF CERTAIN DEBTORS, (II) APPROVING THE
FORM AND MANNER OF NOTICES, AND (III) SETTING A SALE
APPROVAL HEARING DATE; AND (C) (I) APPROVING THE SALE TO
THE WEBONTAP, INC. FREE AND CLEAR OF ALL LIENS, CLAIMS
AND ENCUMBRANCES, (II) AUTHORIZING THE ASSUMPTION
AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS
AND UNEXPIRED LEASES AND (III) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that upon the annexed motion (the "Motion"), dated May 4, 2004, of Hosting.com, Inc., Allegiance Internet, Inc., Adgrafix Corporation, and Virtualis Systems, Inc. (collectively, the "Hosting Debtors"), requesting orders (i) establishing bidding procedures and certain protections including a break-up fee payable to the Buyer in connection

with the sale of certain of the assets of the Hosting Debtors (the “Sale Assets”); (ii) approving the form and manner of notice related to the sale of the Sale Assets; (iii) setting a hearing date to consider approval of the sale of the Sale Assets; (iv) approving the sale to the Buyer, subject to higher and better offers, free and clear of (a) all liens, claims and encumbrances and (b) certain transfer taxes; (v) authorizing the assumption and assignment of certain executory contracts; and (vi) granting certain related relief, as more fully set forth in the Motion, a hearing in respect of certain relief requested in the Motion (as described in clauses (i) – (iii) above (the “Preliminary Relief”)) will be held before the Hon. Robert D. Drain, United States Bankruptcy Judge, in Room 610 of the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), Alexander Hamilton Custom House, One Bowling Green, New York, New York, 10004-1408, on May 20th, 2004, at 10:00 a.m., (prevailing Eastern Time), or as soon thereafter as the Hosting Debtors are heard.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Preliminary Relief requested in the Motion shall be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of the Southern District of New York, shall set forth the name of the objectant, the nature and amount of claims or interests held or asserted by the objectant against the Hosting Debtors’ estates or property, the basis for the objection, and the specific grounds therefore, and shall be filed with the Bankruptcy Court electronically in accordance with General Order M-242 (which can be found at www.nysb.uscourts.gov) by registered users of the Bankruptcy Court’s case filing system and, by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers) and served in accordance with General Order M-242, and shall

further be served upon (a) Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, New York, New York 10022 (Attn. Lisa G. Laukitis, Esq.); (b) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn. Pamela J. Lustrin, Esq.); (c) Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn. Jesse Austin, III, Esq.); (d) Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn. Ira S. Dizengoff, Esq.); and (e) WebOnTap, Inc., 70 Blanchard Road, Burlington, Massachusetts 01803 (Attn. Eric S. Ritvo), so as to be actually received no later than May 17, 2004, at 12:00 p.m. (prevailing Eastern Time).

Dated: New York, New York
May 4, 2004

Respectfully submitted,

/s/ Jonathan S. Henes
Matthew A. Cantor (MC-7727)
Jonathan S. Henes (JH-1979)
Lisa G. Laukitis, Esq. (LG-9248)
KIRKLAND & ELLIS LLP
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153 East 53rd Street
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Facsimile: (212) 446-4900

Attorneys for Debtors and Debtors in Possession