

notice of the Sale Motion, the Sale, the Sale Hearing, the Sale of the Assets or the assumption and assignment of the Designated Executory Contracts is or shall be required.

D. A reasonable opportunity to object or be heard with respect to the Sale Motion, the Sale, the assumption and assignment of the Designated Executory Contracts and the relief requested in the Sale Motion has been afforded to all interested persons and entities, including: (i) the Office of the United States Trustee; (ii) counsel for the Purchaser; (iii) counsel for the Postpetition Agent; (iv) counsel for the Committee; (v) counsel for the Ad Hoc Committee; (vi) all entities known to have expressed an interest in a transaction with respect to the Assets; (vii) all entities known to have any Lien on or with respect to the Assets; (viii) all federal, state, and local regulatory or taxing authorities or recording offices which have a known interest in the relief requested by the Sale Motion; (ix) all state Attorneys' General which have a known interest in the relief requested by the Sale Motion; (x) all non-Debtor parties to Designated Executory Contracts; (xi) the creditors identified on the Debtor's list of creditors holding the twenty largest unsecured claims; (xii) the Office of the United States Attorney General; (xiii) the Internal Revenue Service; and (xiv) all other entities that have filed requests for notices pursuant to Bankruptcy Rule 2002.

E. As demonstrated by (i) the testimony and/or other evidence proffered or adduced at the Sale Hearing and (ii) the representations of counsel made on the record at the Sale Hearing, (a) the Debtor has adequately marketed the Assets and Designated Executory Contracts, (b) the Debtor properly conducted the sale process, and (c) the Sale was duly noticed and conducted in a non-collusive, fair and good faith manner.

F. The Debtor (i) has full corporate power and authority to execute the Purchase Agreement and any and all other documents contemplated thereby, (ii) has all of the corporate power and authority necessary to consummate the transactions contemplated by the Purchase Agreement, and (iii) has taken all corporate action necessary to authorize and approve the Purchase Agreement and the consummation by the Debtor of the transactions contemplated thereby.

G. The Debtor has demonstrated sound business justifications for the Sale pursuant to section 363(b) of the Bankruptcy Code prior to confirmation of a plan of reorganization. The Sale is in contemplation of and necessary to a plan of reorganization in this case.

H. The Purchase Agreement was negotiated, proposed and entered into by the Debtor and the Purchaser as parties thereto without collusion, in good faith, and from arm's-length bargaining positions. Neither the Debtor nor the Purchaser has engaged in any conduct that would cause or permit the Purchase Agreement to be avoided under section 363(n) of the Bankruptcy Code. The Purchaser 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.

I. The consideration provided by the Purchaser for the Assets pursuant to the Purchase Agreement (i) is fair and reasonable, (ii) is the highest or otherwise best offer for the Assets, (iii) will provide a greater recovery for the Debtor's creditors and other interested parties than would be provided by any other practical available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia.

J. The transfer of the Assets to be acquired by the Purchaser under the Purchase Agreement will be a legal, valid, and effective transfer of such Assets, and will vest in the Purchaser all right, title and interest of the Debtor in the Assets to be acquired by it under the Purchase Agreement free and clear of all Liens, with such Liens attaching to the proceeds of the Sale of the Assets to the same extent, priority and validity as such Liens existed in the Assets immediately prior to the closing (the "Closing") on the Assets.

K. The Purchaser would not have entered into the Purchase Agreement and will not consummate the transactions contemplated thereby (thus adversely affecting the Debtor, its estates and its creditors) if the Sale of the Assets to the Purchaser was not free and clear of all Liens (except to the extent said Liens are being assumed in accordance with the Purchase Agreement), or if the Purchaser would be, or in the future could be, liable for any such Liens or the obligations secured by the Liens and if the assignment of the Designated Executory Contracts could not be made under section 365 of the Bankruptcy Code.

L. The Debtors may sell the Assets free and clear of all Liens because, in each case, one or more of the standards set forth in section 363(f) of the Bankruptcy Code has been satisfied. Those (i) holders of Liens and (ii) non-Debtor parties to Designated Executory Contracts who did not object, or who withdrew their objections, to the Sale, the Sale of the Assets or the Sale Motion are deemed to have consented pursuant to 11 U.S.C. § 363(f)(2). Those (i) holders of Liens and (ii) non-Debtor parties to Designated Executory Contracts who did object fall within one or more of the other subsections of 11 U.S.C. § 363(f) and are adequately protected by having their Liens, if any, attach to the proceeds of the Sale ultimately attributable to the property against or in which they claim or may claim a Lien.

- To the extent permitted by law,
- M. The Purchaser is not a successor to the Debtor; thus, the Purchaser is not subject to successor liability claims based upon any theory of liability of any kind whatsoever.
- N. No common identity of incorporators, directors or stockholders exists between the Purchaser and the Debtor.
- O. The Purchase Agreement is not being entered into fraudulently.
- P. The consummation of the Purchase Agreement does not amount to a consolidation, merger or de facto merger of the Purchaser and the Debtor or its estate.
- Q. Purchaser is not a mere continuation of the Debtor or its estate, there is not substantial continuity between the Purchaser and the Debtor or its estate, and there is no continuity of enterprise between the Debtor and the Purchaser.
- R. There has been no adjudication, finding, conclusion or determination as to whether the Purchase Agreement or any of its terms, including without limitation Section 2.1.9 of the Purchase Agreement ("Insurance Benefits"), effectively operates to: (i) assign rights to, create rights in, or bestow rights on, the Purchaser under any insurance policy; or (ii) create obligations, or impose obligations on, any insurer under any insurance policy.
- S. Certain insurers (the "Insurers")³ have informed the Debtor that they object to any terms in the Purchase Agreement that, in the Insurers' view, may be interpreted to amend, modify or alter the terms of any of the Insurers' insurance policies, or to make an assignment of any such insurance policy to the Purchaser. The Debtor has agreed that such objection need not and

³ The insurers referred to in paragraph S to this Order consist of Continental Insurance Company, Transcontinental Insurance Company, Argonaut Insurance Company, Century Indemnity Company, Nationwide Indemnity Company as authorized agent for and on behalf of Employers Mutual Liability Insurance Company of Wisconsin, St. Paul Surplus Lines Insurance Company, The Travelers Indemnity Company, Travelers Casualty & Surety Company, American Home Assurance Company, National Union Fire Insurance Company of Pittsburgh, PA, and the respective subsidiaries or affiliates of each of the foregoing.

should not be presented or adjudicated in this proceeding, and that such objection is fully preserved. Consistent with the foregoing, no insurer has: (i) waived any objection to, or otherwise approved, acquiesced in, or consented to the Purchase Agreement, including without limitation Section 2.1.9 of the Purchase Agreement or any other terms in the Purchase Agreement relating to, or purporting to assign, transfer, create or bestow rights on the Purchaser under any insurance policy; or (ii) consented to the assignment of any insurance policy, or any rights under any insurance policy, to the Purchaser.

T. There has been no adjudication, finding, conclusion or determination as to whether any insurance policy provides coverage for any obligation undertaken by the Debtor under the Purchase Agreement.

U. The Debtor has demonstrated that it is an exercise of its sound business judgment to assume and assign the Designated Executory Contracts to the Purchaser pursuant to the Purchase Agreement in connection with the consummation of the Sale of the Assets, and the assumption and assignment of the Designated Executory Contracts pursuant to the Purchase Agreement is in the best interests of the Debtor, its estate, and its creditors. The Designated Executory Contracts being assigned to the Purchaser in accordance with the terms of the Purchase Agreement are an integral part of the Assets being purchased by the Purchaser and, accordingly, such assumption and assignment of Designated Executory Contracts is reasonable and enhances the value of the Debtor's estate.

V. ~~The Debtor and the Purchaser, in respect of the Designated Executory Contracts~~ being assigned to the Purchaser: (i) have provided adequate assurance of the Purchaser's future performance of and under such Designated Executory Contracts within the meaning of sections

365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code; (ii) will cure, or have provided adequate assurance of cure, of any default existing prior to the date hereof under any of such Designated Executory Contracts, within the meaning of section 365(b)(1)(A) of the Bankruptcy Code; and (iii) will provide compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the Closing Date under any such Designated Executory Contracts, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code.

W. Approval of the Purchase Agreement and assumption and assignment of the Designated Executory Contracts and consummation of the Sale of the Assets at this time are in the best interests of the Debtor, its creditors, its estates and other parties in interest.

NOW THEREFORE, BASED UPON THE FOREGOING FINDINGS OF FACT, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Sale Motion is granted, as designated herein.
2. All objections to the Sale Motion or the relief requested therein that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are overruled on the merits.
3. Subject to the provisions of this Order, the Purchase Agreement in the form attached hereto as Exhibit A (and all of the terms and conditions thereof) is hereby approved.
4. Pursuant to section 363(b) of the Bankruptcy Code, the Debtor is authorized and directed to consummate the Sale of the Assets, pursuant to and in accordance with the terms and conditions of the Purchase Agreement.

5. The Debtor is authorized and directed to execute and deliver, and is 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 requested by the Purchaser for the purpose of assigning, transferring, granting, conveying and conferring to the Purchaser or reducing to possession, the Assets, or as may be necessary or appropriate to the performance of the obligations as contemplated by the Purchase Agreement.

6. At the Closing on the Sale of the Assets, the Purchaser shall tender the purchase price set forth in the Purchase Agreement (net of applicable title charges, which may be paid directly to the title companies) to the Debtor and the proceeds of the Sale of the Assets shall be paid to the Postpetition Agent, in an amount sufficient to pay the Postpetition Debt in full, for provisional application in accordance with, and subject to, the Final Order Authorizing Debtor to: (A) Incur Postpetition Debt; (B) Grant Liens and Provide Security, Adequate Protection and Other Relief to Merrill Lynch Capital, a Division of Merrill Lynch Business Financial Services, Inc. ("Merrill Lynch"), as Agent; and (C) Provide Adequate Protection to the Bank of New York as Indenture Trustee ("BNY"), which this Court entered on March 25, 2004 (as amended, modified or supplemented from time to time, the "Financing Order"). As of the date of the Closing on the Sale of the Assets, Postpetition Agent's obligations to the Debtor under the Financing Order and "Postpetition Documents" (as defined in the Financing Order) shall be terminated; provided, however, Postpetition Agent shall be deemed entitled to assert any claims and/or liens with respect to the proceeds of the Sale not paid to it at the Closing on account of any accrued or accruing amounts owed to it under the Financing Order or Postpetition

Documents. Upon the Closing of the Sale of the Assets, and subject to application of Sale proceeds in accordance with the Financing Order, the amount sufficient to pay the 2005 bondholders in full (subject to a final determination as to all accrued interest and expenses), shall be set aside in a segregated account (the "2005 Account"), which shall not be used by the Debtor for any purpose and shall only be distributed pursuant to (a) further order of this Court, or (b) a confirmed plan of reorganization or liquidation; provided, however, BNY shall be entitled to assert any claims and/or liens with respect to proceeds of the Sale not deposited into the 2005 Account on account of any accrued or accruing amounts owed to it under the Financing Order or applicable loan documents. Nothing in this Order is intended to be an admission of the allowance and/or treatment of BNY's asserted claims or liens or of any defenses or counterclaims to such asserted claims or liens. All parties reserve any and all rights and defenses they may have with respect to all such matters and, except as expressly set forth herein, the Financing Order and Postpetition Documents remain in full force and effect.

7. Except as expressly permitted or otherwise specifically provided for in the Purchase Agreement or this Sale Order, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Assets to be transferred pursuant to the Purchase Agreement shall be transferred to the Purchaser pursuant to the Purchase Agreement, and, as of the Closing Date under such Purchase Agreement, shall be free and clear of all Liens, with all such Liens (subject to the applicable provisions of the Purchase Agreement) of any kind or nature whatsoever to attach to the net proceeds of the Sale of the Assets in the order of their priority, with the same validity, force and effect which they now have as against the Assets, subject to any claims and defenses of the Debtor, the Committee, the Ad Hoc Committee and the Postpetition Agent.

To the extent permitted by law,

8. The Purchaser is not a successor to the Debtor and the Purchaser shall not be subject to successor liability claims based upon any theory of liability of any kind whatsoever.
9. Nothing in this Order shall: (a) operate as, or shall be deemed to operate as, an assignment, amendment, modification or alteration of any insurance policy; (b) constitute, or be deemed to constitute, an adjudication establishing the rights or obligations of the Debtor, the Purchaser, any insurer, or any other person or entity under any insurance policy, or a construction or interpretation of any insurance policy; (c) constitute, or be deemed to constitute, a finding, conclusion or determination as to whether the Purchase Agreement or any of its terms, including without limitation Section 2.1.9 of the Purchase Agreement ("Insurance Benefits"), effectively operates to (i) assign to, create in, or bestow rights on, the Purchaser under any insurance policy or (ii) create obligations, or to impose obligations on, any insurer under any insurance policy; or (d) constitute, or be deemed to constitute, a finding, conclusion or determination as to whether any insurance policy provides coverage for any obligation undertaken by the Debtor under the Purchase Agreement.
10. Except as expressly permitted or otherwise specifically provided for in the Purchase Agreement or this Sale Order, all persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax and other regulatory authorities, lenders, trade and other creditors holding Liens (including but not limited to any claims under any applicable revenue, pension, ERISA, tax, labor, environmental or natural resource law, rule or regulation, or any products liability law) of any kind or nature whatsoever against or in the Debtor or the Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, liquidated or unliquidated, senior or subordinated), arising under or

out of, in connection with, or in any way relating to, the Debtor, the Assets, the operation of the Debtor's business prior to the Closing Date of the Sale of such Assets, or the transfer of such Assets to the Purchaser, hereby are forever barred, estopped, and permanently enjoined from asserting against the Purchaser, its successors or assigns (to the extent allowed by law), its property, its officers, directors and shareholders or the Assets, the Liens of such persons or entities.

11. The transfer of the Assets to the Purchaser pursuant to the Purchase Agreement shall constitute a legal, valid and effective transfer of the Assets, and shall vest in the Purchaser all right, title and interest of the Debtor in and to the Assets to be acquired by the Purchaser free and clear of all Liens (subject to the terms of the Purchase Agreement).

12. On the Closing Date of the Sale of any Assets and subject to the terms and conditions of the Purchase Agreement, each of the Debtor's creditors is authorized and directed to execute such documents and take all other actions as may be necessary to release its Liens in such Assets, if any, as such Liens may have been recorded or may otherwise exist, including the taking of all other actions as may be necessary to evidence the release of its Liens in such Assets.

13. If any person or entity that has filed financing statements, mortgages, mechanic's liens, lis pendens, or other documents or agreements evidencing Liens in the Debtor or any Assets shall not have delivered to the Debtor prior to the Closing Date under the Purchase Agreement transferring such Assets, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Liens which the person or entity has with respect to the Debtor or such Assets or otherwise, then (a) the Debtor is hereby authorized and directed to execute and file such statements, instruments, releases and other

documents on behalf of the person or entity with respect to such Assets and (b) the Purchaser is hereby authorized to file, register, or otherwise record a certified copy of this Sale Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all Liens in the Assets of any kind or nature whatsoever.

14. Pursuant to sections 105(a) and 365 of the Bankruptcy Code, and subject to and conditioned upon the Closing of the Sale of the Assets to be transferred pursuant to the Purchase Agreement, the Debtor's assumption and assignment to the Purchaser pursuant to such Purchase Agreement, of the Designated Executory Contracts to be transferred to it is hereby approved, and the requirements of sections 365(b)(1) and 365(f)(2) of the Bankruptcy Code with respect thereto are hereby deemed satisfied.

15. The Debtors are hereby authorized and directed, in accordance with sections 105(a) and 365 of the Bankruptcy Code, to (a) assume and assign to the Purchaser, effective upon the Closing of the Sale of the Assets, the Designated Executory Contracts to be transferred to such Purchaser free and clear of all Liens of any kind or nature whatsoever and (b) subject to the terms and conditions of the Purchase Agreement, execute and deliver to such Purchaser such documents or other instruments as may be necessary to assign and transfer such Designated Executory Contracts to the Purchaser.

16. The Designated Executory Contracts shall be transferred free and clear of all Liens of any kind or nature whatsoever to, and shall remain in full force and effect for the benefit of, the Purchaser in accordance with their respective terms, notwithstanding any provision in any such Designated Executory Contracts (including those of the type described in sections 365(b)(2) and (f)(1) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or

transfer and, pursuant to section 365(k) of the Bankruptcy Code, the Debtor and its estate shall be relieved from any liability for any breach of any such Designated Executory Contracts which occurs or arises after such assignment to and assumption by the Purchaser on the Closing Date under the Purchase Agreement transferring such Designated Executory Contracts.

17. Notwithstanding anything to the contrary in this Sale Order, under section 365 of the Bankruptcy Code, the Purchaser is only assuming those liabilities arising post Closing under the Designated Executory Contracts to be transferred to it pursuant to the Purchase Agreement.

18. Pursuant to Sections 105(a), 363 and 365 of the Bankruptcy Code, all non-Debtor parties to the Designated Executory Contracts are forever barred and enjoined from raising or asserting against the Purchaser any assignment fee, default, breach or claim or pecuniary loss, or condition to assignment, arising under or related to the Designated Executory Contracts existing as of the Closing on the Sale of the Assets or arising by reason of the Closing on the Sale of the Assets. All non-Debtor parties to the Designated Executory Contracts are deemed to have consented to the assumption and assignment of the Designated Executory Contracts for purposes of Section 365(e)(2)(A)(ii) of the Bankruptcy Code and any objections to such assumption and assignment of the Designated Executory Contracts are hereby overruled.

19. The Designated Executory Contracts will be selected by the Purchaser, prior to the Closing on the Sale of the Assets, from those contracts listed in Exhibit B to this Sale Order. The documents which comprise all of the Designated Executory Contracts are listed in Exhibit B to this Sale Order and no other document, writing, instrument, correspondence or written or oral communication of any kind shall be deemed to be a part of the Designated Executory Contracts. All non-Debtor parties to the Designated Executory Contracts shall only be entitled to receive the